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10/10/08

अण्डमान तथा निकोबार प्रशासन
ANDAMAN AND NICOBAR ADMINISTRATION
सचिवालय
SECRETARIAT

Contracts for Consultancy assignments

Various Departments of A&N Administration are in the process of appointing Consultants for preparing Feasibility Status, DPRs, EIA reports, etc. There is no template for entering into consultancy contracts. The quality of documentation varies from Department to Department and leaves much to be desired.

In this regard, please find attached a copy of consultancy contract signed by the Department of Health & Family Welfare, Govt of NCT of Delhi with Infrastructure Development Finance Company Ltd (IDFC) in May, 2008 by way of illustration. This document may be used as a template for future consultancy contracts with suitable modifications to suit local conditions as well as requirements of each specific project.


(Vivek Rae)
Chief Secretary
7.10.2008

UO No.11-21/2008-PL

All Secretaries/Special Secretaries/
HoDs/MD, ANIIDCO/
CPA,PMB/MD,FPDC

CONTRACT

Between

The President of India

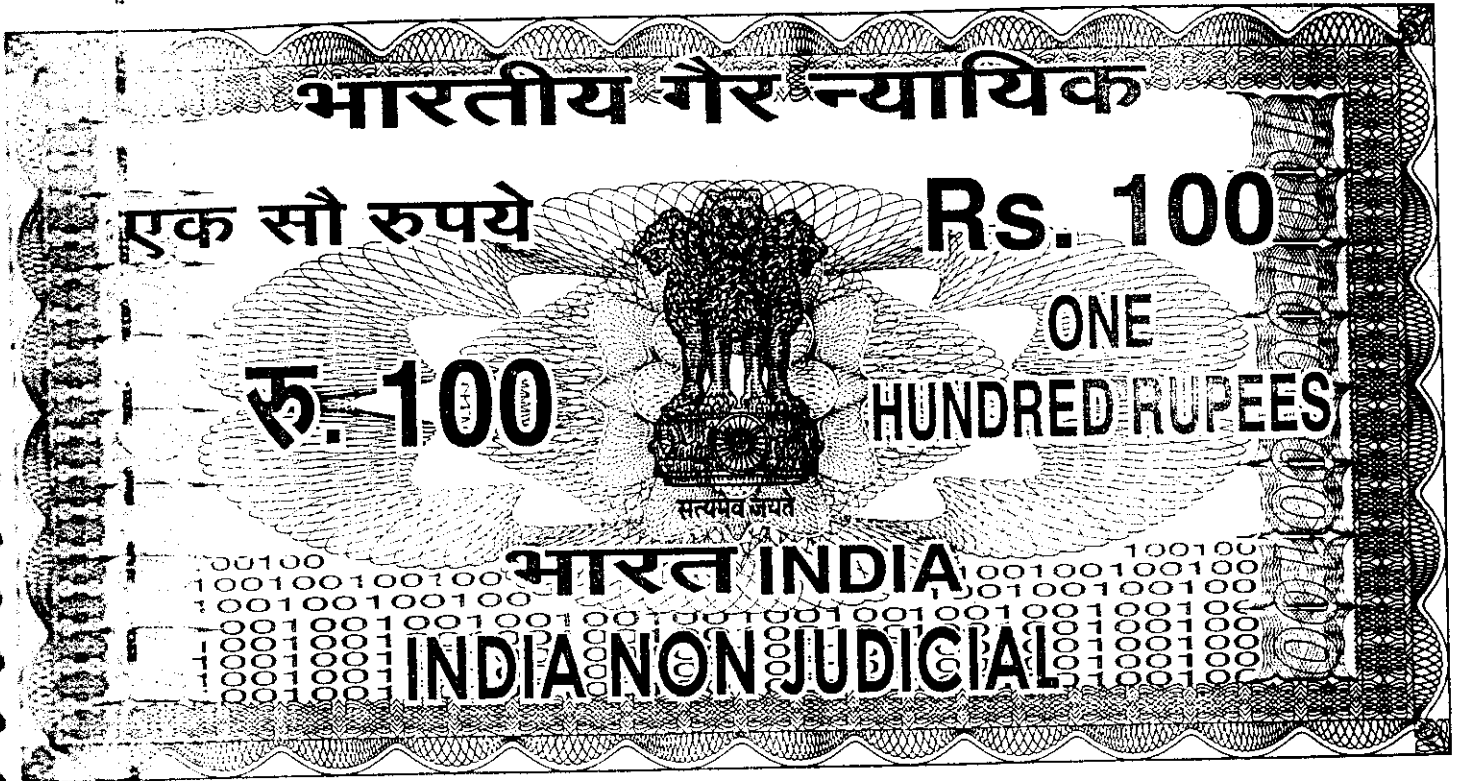
Through

The Deputy Secretary
Department of Health and Family Welfare
Government of National Capital Territory of Delhi
Delhi Sachivalaya, IP Estate
New Delhi-110002
India

&

Infrastructure Development Finance Company
Limited
ITC Centre, 760 Anna Salai, Chennai 600 002
(Transaction Advisor)

FOR CONSULTANCY SERVICES



दिल्ली DELHI

E 699743

CONSULTANCY - AGREEMENT

This consultancy agreement is made at New Delhi on 6th day of May 2008

BETWEEN

The President of India through the Deputy Secretary (Health and Family Welfare), Department of Health and Family Welfare, Government of National Capital Territory of Delhi, Delhi Sachivalaya, IP Estate, New Delhi-110002 (hereinafter called the "First Party" which expression shall, unless excluded by repugnancy to the context, be deemed to include his successors and assigns) of the one part

and

Infrastructure Development Finance Company Limited having its registered office at ITC Centre, 760 Anna Salai, Chennai 600 002 (through its authorized representative Mr. Cherian Thomas, duly authorized to execute this contract vide Power of Attorney dated 8th May 2006, from the MD & CEO (copy annexed) hereinafter called the "Second Party", which expression shall, unless excluded by or repugnant to the context, be deemed to include his heirs, executors, administrators, assigns, of the other part.



2

WHEREAS -

- (a) The First Party has invited the proposals for providing consulting services as defined in the General Conditions of Contract annexed to this Contract (hereinafter called the "Services") for Pre-Hospital Emergency Medical Response Service (Ambulance) on Public Private Partnership Basis (hereinafter referred to as "Project"); and,
- (b) The Second Party having represented to the First Party that it has the required professional skills, and personnel and technical resources, agreed to provide the Services on the terms and conditions set forth in this agreement.

NOW, THEREFORE, the parties hereto hereby agree as follows: -

The following documents attached hereto shall be deemed to form an integral part of this Contract, namely: -

- (a) The General Conditions of Contract (hereinafter called "GC"); and,
- (b) The following Appendices: -
 - I. Appendix A – Scope of Services and work plan;
 - II. Appendix B – Key Deliverables;
 - III. Appendix C – Key Personnel;
 - IV. Revised RFP;
 - V. Technical and Price Bid submitted by IDFC.

The mutual rights and obligations of the First Party and the Second Party (hereinafter collectively called "the Parties") shall be as set forth in the Contract, in particular: -

- (a) The Second Party shall carry out the Services in accordance with the provisions of the contract; and
- (b) The First Party shall make payments to the Second Party in accordance with the provisions of the Contract.



IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day, month and year first written above.

WITNESSES

1. 6/5/08

2. 6.5.08

FIRST PARTY

For and on behalf of the President of India



(The Deputy Secretary)
Department of Health and Family Welfare
Delhi Sachivalaya
Government of National Capital Territory of Delhi

WITNESSES

1. Azad Singh
AZAD SINGH KALMER
IDFC - Icap

2. Nations Hela
Specialist - Dept
IDFC - Delhi

SECOND PARTY



Cherian Thomas
Sr. Director
Infrastructure Development Finance Company Limited



General conditions of the Contract

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GENERAL CONDITIONS OF CONTRACT

1. General Provisions

1.1 Definitions

Unless the context otherwise requires, the following terms wherever used in this Contract, shall have the following meanings, namely :-

- (a) "Applicable Law", means the laws and any other instruments having the force of law in INDIA, as they may be issued and in force from time to time;
- (b) "Contract" means the Contract signed by the Parties, including the General Conditions of Contract, together with all the documents listed in such signed Contract;
- (c) "Contract value" shall have the meaning ascribed in clause 6.2.
- (d) "Effective Date" means the date on which this contract comes into force and effect pursuant to Clause 2.1 of G C;
- (e) "GC", means these General Conditions of Contract;
- (f) "Government", means the Lt. Governor of the National Capital Territory of Delhi, appointed by the President under Article 239 and designated as such under article 239AA of the Constitution of India;
- (g) "Local currency", means the currency of the Government of India, i.e., Indian Rupees ("INR");
- (h) "Party", means the First Party or the Second Party, as the case may be, and "Parties" means both of them;
- (i)
 - i. "Personnel", means persons hired by the Second Party or by any Sub-consultant as employees or any Sub-consultants themselves, where such Sub-consultant is an individual, and assigned to the performance of the Services or any part thereof;
 - ii. "Local personnel" mean such persons who at the time of being so hired or contracted as a Sub-consultant had their domicile inside India;
 - iii. "Key Personnel" means the personnel referred to in Clause 4.2 of the GC.
- (j) "Services", means the work to be performed by the Second Party pursuant to this Contract as described in Appendix A hereto;





- (k) "Sub-consultant", means any entity, to which the Second Party subcontracts any part of the Services in accordance with the provisions of Clause 3.6 of the GC; and,
- (l) "Project", means Pre-Hospital Emergency Medical Response Service (Ambulance) on Public Private Partnership Basis
- (m) "Third Party", means any person or entity other than the First Party, the Second Party or a Sub-consultant or Personnel of the Sub-consultant(s).

1.2 Relation between the Parties

Nothing contained herein shall be construed as establishing a relation of master and servant or of principal and agent as between the First Party and the Second Party. The Second Party, subject to this Contract, has complete charge of Personnel and Sub-consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 Law Governing Contract

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

1.4 Language

This Contract has been executed in English, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

1.5 Headings

The headings shall not limit, alter or affect the meaning of this Contract.

1.6 Notices

- 1.6.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail or e-mail, or facsimile to such Party at the following addresses;

First Party

Department of Health and Family Welfare,
Government of N.C.T. of Delhi,
9th Floor Delhi Sachivalaya, I.P. Estate,
New Delhi-110 002

Attention:

Principal Secretary
Department of Health and Family Welfare.



Tel No./ Facsimile

+91 11 23392017/ 23392464

Second Party

Infrastructure Development Finance Company Limited
ITC Centre, 760 Anna Salai, Chennai 600 002

Attention:

Cherian Thomas, Sr. Director

Tel. No.

011-46006100

Facsimile:

011-26713359

1.6.2 Notice will be deemed effective, in the case of personal delivery or registered mail, on delivery; in the case of e-mail and facsimiles, 24 hours following confirmed transmission, excluding holidays;

1.6.3 A Party may change its Address for notice hereunder by giving the other Party notice of such change pursuant to the provisions listed in Clause 1.6.2 of the GC.

1.7 Location

The Services shall be performed at New Delhi/Delhi.

1.8 Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the First Party or the Second Party may be taken or executed by the following Authorized Representatives of the First Party and the Second Party;

First Party

Deputy Secretary,
Department of Health and Family Welfare,
Government of N.C.T. of Delhi, New Delhi.

Second Party

Cherian Thomas, Sr. Director
Infrastructure Development Finance Company Limited
ITC Centre, 760 Anna Salai, Chennai 600 002

1.9 Taxes and Duties

The Second Party, Sub-Consultants and Personnel shall pay such taxes, duties, fees and other impositions as may be levied under the Applicable law.

2. Commencement, Completion, Modification and termination of Contract

2.1 Effectiveness of contract

This Contract shall come into force and take effect on the day the agreement is signed by both parties.



2.2 Commencement of Services

The Second Party shall begin carrying out the Services the day following from effective date as per Clause 2.1 of the GC.

2.3 Expiration of Contract

Unless terminated earlier pursuant to Clause 2.8 of the GC hereof, this Contract shall expire on or before October 31, 2010, assuming the project shall be fully commissioned on or before October 31, 2009, else the contract shall expire when services have actually been completed including services for one complete year (one performance cycle) after full commissioning of the Project, and all payments have been made.

2.4 Entire Agreement

This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

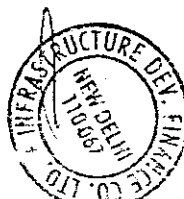
2.5 Modification

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services, shall only be made by written agreement between the Parties. Pursuant to Clause 6.3 and 7.2 of the GC hereof, however, each Party shall give due consideration to any proposals for modification made by the other Party.

2.6 Force Majeure

2.6.1

- (a) For the purposes of this Contract, "Force Majeure", means an event which is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, war like situations, terrorist attacks and disruptions caused by such attacks, restrictions on travel including such restrictions as may be imposed or advised by the Government, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.
- (b) Force Majeure shall not include any event, which is caused by the negligence or intentional action of a Party or such Party's Sub-consultants or agents or employees.



- (c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

2.6.2 No Breach of Contract

The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default, under this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precaution, due care and reasonable and economically viable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

2.6.3 Measures to be taken

- (a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfill its obligations hereunder with a minimum of delay.
- (b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than one (1) week following the occurrence of such event, providing evidence, wherever possible using its best efforts, of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.
- (c) The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

2.6.4 Extension of Time

Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

2.6.5 Payments

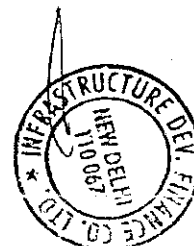
During the period of its inability to perform the Services as a result of an event of Force Majeure, the Second Party shall not be entitled to be reimbursed for any additional costs incurred by them during such period for the purpose of the Services and in reactivating the Services after the end of such period.

2.6.6 Consultation

Not later than 15 working days after the Second Party, as the result of an event of Force Majeure, has become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

2.7 Suspension

The First Party may, by written notice of suspension to the Second Party, suspend all payments to the Second Party hereunder if the Second Party fails to



perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Second Party to remedy such failure within a period not exceeding 15 working days after receipt by the Second Party of such notice of suspension. The suspension of payments under this clause shall not apply in respect of payments due for the useful work already performed to the satisfaction of first party by the Second Party.

2.8 Termination

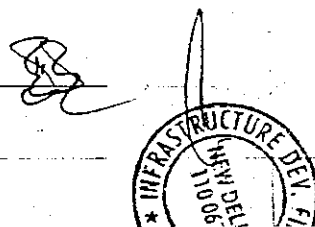
2.8.1 By the First Party

The First Party may, by not less than two (2) week written notice of termination to the Second Party, given after the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause 2.8.1 of the GC, terminate this Contract;

- (a) If the Second Party fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.7 of the GC hereinabove, within 15 working days of receipt of such notice of suspension or within such further period as the First Party may have subsequently approved in writing;
- (b) If the Second party becomes insolvent or bankrupt or enters into any agreements with its creditors for relief of debt or takes advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;
- (c) If the Second Party fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 8 of the GC hereof;
- (d) If the Second Party submits to the First Party a statement which has a material effect on the rights, obligations or interests of the First Party and which the Second Party knows to be false provided the Second Party has been given reasonable opportunity to be heard to represent their case;
- (e) If, as the result of Force Majeure, the Second Party is unable to perform a material portion of the Services for a continuous period of not less than one (1) month;
- (f) If the Second Party, in the judgment of the First Party based on tangible evidence, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract provided the Second Party has been given reasonable opportunity to be heard to represent their case.

For the purpose of this clause,

"Corrupt practice," means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the selection process or in contract execution.



"Fraudulent practice" means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the First Party, and includes collusive practice among consultants (prior to or after submission of proposal) designed to establish prices at artificial non-competitive levels and to deprive the First party of the benefits of free and open competition.

2.8.2 By the Second Party

The Second Party may, by not less than two (2) week's written notice to the First Party, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause 2.8.2 of the GC, terminate this Contract:

- (a) If the First Party fails to pay any money due to the Second Party pursuant to this Contract and not subject to dispute pursuant to Clause 8 of the GC hereof within thirty (30) days after receiving written notice from the Second Party that such payment is overdue;
- (b) If the First Party is in breach of its obligations pursuant to this Contract and has not remedied the same within thirty (30) days (or such longer period as the Second Party may have subsequently approved in writing) following the receipt by the First Party of the Second Party's notice specifying such breach;
- (c) If, as the result of Force Majeure, the Second Party is unable to perform a material portion of the Services for a period of not less that four (4) weeks; or
- (d) If the First Party fails to comply with any final decision reached as a result of arbitration pursuant to Clause 8 of the GC hereof.

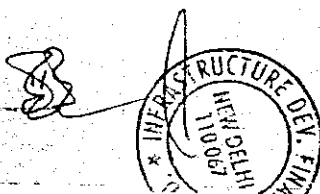
2.8.3 Cessation of Rights and Obligations.

Upon termination of this Contract pursuant to Clause 2.3 of the GC or Clause 2.8 of the GC hereof, or upon expiration of this Contract pursuant to Clause 2.3 of the GC hereof, all rights and obligations of the Parties hereunder shall cease, except;

- (a) Such rights and obligations as may have accrued on the date of termination or expiration;
- (b) The obligation of confidentiality set forth in Clause 3.3 of the GC hereof;
- (c) Any right which a Party may have under the Applicable Law.

2.8.4 Cessation of Services

Upon termination of this Contract by notice of either Party to the other pursuant to Clause 2.8.1 of the GC or Clause 2.8.2 of the GC hereof, the Second Party



shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum.

The second party shall work in parallel manner with the new consultant engaged by the first party until the assignment is smoothly handed over / taken over.

With respect to documents prepared by the Second Party and equipment and materials furnished by the First Party, the Second Party shall proceed as provided, respectively, by Clause 3.8 of the GC hereof.

2.8.5 Payment upon Termination

Upon termination of this Contract pursuant to Clause 2.8.1 of the GC or Clause 2.8.2 of the GC hereof, the First Party shall make payments (after offsetting against these payments any amount, as may be finally determined, that may be due from the Second Party to the First Party) pursuant to Clause 6 of the GC, hereof for services satisfactorily performed with reference to the milestones and work done, prior to the effective date of termination.

2.8.6 Disputes about Events of Termination

If either Party disputes whether an event specified in paragraphs (a) through (f) of Clause 2.8.1 of the GC or in Clause 2.8.2 of the GC hereof has occurred, such Party may, within seven (7) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause 8 of the GC hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

3. Obligations of the Second Party

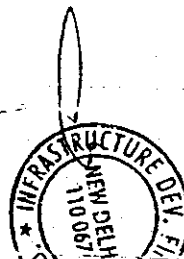
3.1.1 Standard of Performance

The Second Party shall perform the Services and carry out its obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices and employ appropriate advanced technology. The Second Party shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the First Party, and shall at all times support and safeguard the First Party's legitimate interests in any dealings with Sub-consultants or Third Parties.

3.1.2 Law Governing Services

The Second Party shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any Sub-consultants, as well as the Personnel of the Second Party and any Sub-consultants, comply with the Applicable Law.

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3.2 Conflict of Interests

3.2.1 Second Party Not to Benefit from Commissions, Discounts, etc.

The remuneration of the Second Party pursuant to Clause 6 of the GC hereof shall constitute the Second Party's sole remuneration in connection with this Contract or the Services and, subject to Clause 3.2.2 of the GC hereof, the Second Party shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Service or in the discharge of its obligations hereunder, and the Second Party shall use its best efforts to ensure that any sub-consultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

3.2.2 Second Party and sub Consultants and Affiliates and Sub consultants not to engage in certain activities.

The Second Party agrees that, during the term of this contract and for a period of one year after its termination, the Second Party, as well as any Sub consultant, shall be disqualified from providing goods, works or services (other than the professional services and any continuation thereof) for any project resulting from or closely related to the services, which may in any manner prejudice the position and affect the interests of the First Party.

3.2.3 Prohibition of Conflicting Activities

The Second Party shall not engage, and shall cause its Personnel as well as its Sub-consultants and their Personnel not to engage, either directly or indirectly, during the term of this Contract, in any business or professional activities in India which would conflict with the activities assigned to them under this Contract or after the termination of this contract, such other activities as may be specified in GC.

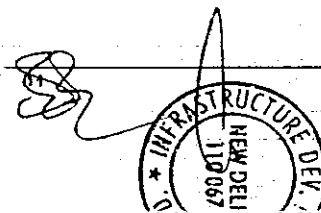
3.3 Confidentiality

The Second Party, its Sub-consultants and the Personnel of either of them shall not, either during the term or within one (1) year after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract or the First Party's business or operations without the prior written consent of the First Party.

It is clarified that confidential information shall not include such information that is required to be disclosed by the Second Party under any law or such information is already available in the Public domain.

3.4 Limitation of the Second Party's Liability towards the First party

Except in case of gross negligence or willful misconduct on the part of the Second Party or on the part of sub consultants, in carrying out the Services, the Second Party, with respect to damage caused by the Second Party to the First Party's property, shall not be liable to the First Party.



- (a) For any indirect or consequential loss or damage; and
- (b) For any direct loss or damage that exceeds (A) the total payments for Professional Fees made to the Second Party hereunder, or (B) the proceeds the Second Party may be entitled to receive from any insurance maintained by the Second Party to cover such a liability, whichever of (A) or (B) is higher.

3.5 Insurance to be taken out by the Second Party

First Party shall not be liable towards any insurance claim by or against the Second Party and or its Sub- Consultants.

3.6 Second Party's actions requiring First Party's Prior Approval

The second Party shall obtain the First Party's prior approval in writing before taking any of the following actions:

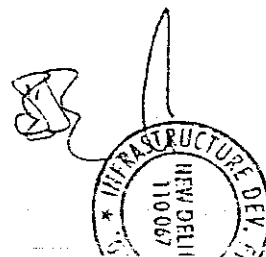
- (a) Entering into a Subcontract for the performance of the part of the Services;
- (b) Appointing "Second Party's Sub-consultants' Key Personnel";
- (c) Upon appointing replacements for the key personnel.

3.7 Reporting Obligations / Deliverables

The Second Party shall submit to the First Party the reports and documents as per **Appendices 'A' & 'B'** hereto, in the form, in the numbers and within the time periods set forth in the said Appendices.

3.8 Documents Prepared by the Second Party to be the Property of the First Party

- (a) Subject to sub-clause (b) below, all plans, drawings, specifications, designs, reports, other documents and software prepared by the Second Party for the First Party under this Contract shall become and remain the property of the First Party, and the Second Party shall, not later than upon termination or expiration of this Contract, deliver all such documents to the First Party, together with a detailed inventory thereof. The Second Party may retain a copy of such documents and software. The Second Party shall not use these documents for purposed unrelated to this Contract without the prior written approval of the First Party.
- (b) It is clarified that the methodology, know-how, ideas, concepts, technology or tools available with the Second Party or developed by them during the course of execution of this Contract shall always remain the property of the Second Party and that this Contract does not, in any manner, place any restrictions on the right of the Second Party to use the same.



3.9 Ensuring performance of the contract

- 3.9.1 The Second Party shall submit the Performance Guarantee to the First party, equal to 5% of the contract value either by way of bank draft or by way of irrevocable Bank Guarantee / FDR pledged in favor of the Director Health Services, Department of Health and Family Welfare, Government of National Capital Territory of Delhi, initially for a period of thirty two (32) months which shall be extended, if required so, to cover the extended period including a period of 60 days more than the extended period.
- 3.9.2 The amount paid by the Second Party to the First Party by way of Performance Guarantee shall be refunded after successful performance of its obligations under this contract.
- 3.9.3 The amount Paid by the Second Party to the First Party by way of Performance Guarantee shall stand forfeited by the First Party in the event of any breach of the terms and conditions or part thereof, with respect to the obligations on part of the Second Party, mentioned in this contract.
- 3.10 Second party shall have discretion to adopt such methodology and procedures as it may deem fit for carrying out the services. However the second party shall from time to time inform first party about the methodology and procedures adopted for the performance of services.

4. Second Party's personnel and Sub-consultants

4.1 General

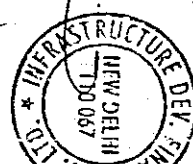
The Second Party shall employ and provide such qualified and experienced Personnel and Sub-consultant as are required to carry out the Services.

4.2 Description of Personnel

The titles, agreed job descriptions in carrying out Services by each of the Second Party's Key Personnel are described in Appendix C. The key Personnel and Sub-consultants listed in Appendix C are hereby approved by the First Party.

4.3 Removal and/or Replacement of Personnel

- (a) Except as the First Party may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Second Party, it becomes necessary to replace any of the Personnel, the Second Party shall forthwith provide as a replacement a person of equivalent or better qualification and experience, acceptable to the First Party.
- (b) If the First Party (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Second Party shall, at the first Party's written request specifying the grounds therein, forthwith provide as an



replacement a person with qualifications and experience acceptable to the First Party.

- (c) The Second Party shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

4.4 Resident Project Manager / Team Leader

The Project Manager / Team Leader should be stationed at New Delhi to ensure standards in the performance of Services as provided in Clause 3.1.1 of the GC aforementioned.

5. Obligations of the First Party

5.1 Duties of the First Party

The first Party shall be responsible and shall use its best efforts to grant timely approvals and decisions on various Reports submitted by the Second Party. Where the First Party does not grant an approval within fifteen (15) working days of submission of reports, such approval shall be deemed to have been granted.

5.2 Services, Facilities and Property of the First Party

The First Party shall make available to the Second Party, for the purpose of consultancy services, the services, facilities and property wherever feasible.

5.3 Payment

In consideration of the Services performed by the Second Party under this Contract, the First Party shall make to the Second Party such payments and in such manner as is provided by Clause 6 of the GC of this Contract.

5.4 Information

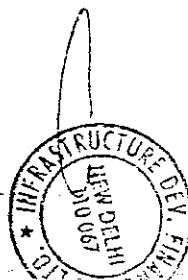
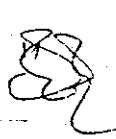
First party shall provide to the Second Party available documents / information / reports that may be required for this assignment.

6. Payments to the Second Party

6.1 Lump-sum Remuneration

The Second Party's total remuneration shall not exceed the Contract Value and shall be a fixed lump sum, including all taxes, staff costs, Sub-consultants' costs, printing, communications, travel, accommodation, and the like, and all other costs incurred by the Second Party in carrying out the Services described in Appendix A.

Where ever applicable first party shall withhold taxes, from the amounts payable, and shall promptly provide to second party, the appropriate certificate evidencing deduction of such taxes.



6.2 Contract Value

Subject to this contract and on consideration of the services to be rendered by the Second Party, the First Party shall pay the lump sum amount of **Rs. 60,00,000/- (Rupees Sixty Lacs only), inclusive of all taxes payable under the applicable laws.**

6.3 Payments for additional services

The remuneration due for additional services as may be agreed as under Clause 2.5 of the GC, will be restricted to the actual costs incurred on providing these additional services.

6.4 Currency of Payment

All payments shall be made in Local currency i.e., Indian Rupees.

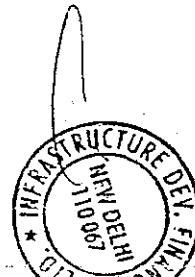
6.5 Terms and Conditions of Payment

a) The Payment to the Second Party under this Contract shall be made according to the following schedule:-

S. No	Milestone	Payment
1	Inception report	10%
2	On acceptance of Feasibility report	15% of the professional fees
3	On short-listing of pre-qualified bidders	15% of the professional fees
4	On acceptance of Business Model and issue of RFP	15% of the professional fees
5	On evaluation of bids and submission of recommendations for selection of the successful bidder	15% of the professional fees
6	On execution of Transaction agreements	15% of the professional fees

15% of the professional fees shall be paid in four equal installments, for monitoring and evaluation for one performance cycle i.e. one full year after full commissioning.

b) The first party shall release payment only upon acceptance of the requisite deliverables. For this purpose acceptance means written communication from the first party of having accepted the deliverables. In case of non acceptance of the deliverables by the first party, the reasons shall be communicated to the second party in writing and the second party shall make necessary changes/modifications and resubmit the deliverables with in seven(7) working days to the satisfaction of First Party.



6.6 Interest on Delays in Payments or Submission of Reports

- a) The First Party shall make payments within Thirty (30) days of receipt of the invoice and within forty five (45) days in the case of the final payment, subject to the acceptance of deliverables and successful completion of milestone.
- b) In the event of delay in payment by the First Party, the Second Party shall be Paid interest at the rate of 8% per annum. Provided that no interest shall be payable, in case, the delay has been caused due to non-furnishing of complete documents by the Second Party.
- c) For delayed submission of Reports by the Second Party, the payment of Second Party will be reduced as per the rates mentioned under clause 6.6 (d)
- d) The penalties for non performance / delays shall be 1% of the contract value for each weeks delay in meeting agreed milestones subject to a maximum of 10% of the contract value. The time taken for departmental approvals shall be excluded while calculating period of delay. Special Secretary (H &FW), GNCT of Delhi or any Officer nominated by Principal Secretary (H &FW), GNCT of Delhi shall determine the period of delay.

7. Fairness and Good Faith

- 7.1 The Parties undertake to act in good faith with respect to each others rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

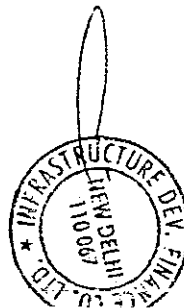
7.2 Operation of the Contract

The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause 8 of the GC hereof.

8. Settlement of Disputes

8.1 Amicable Settlement

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or the interpretation thereof.



8.2 Dispute Settlement

Any dispute between the Parties as to matters arising pursuant to this Contract which cannot be settled amicably within Two (2) weeks after receipt by one Party of the other Party's request for such amicable settlement shall be settled by arbitration in accordance with the following provisions;

8.2.1 Selection of Arbitrators

Each dispute submitted by a Party to arbitration shall be processed, in accordance with the following provisions;

- (a) Where the Parties do not agree that the dispute concerns a technical matter, the First Party and The Second Party shall each appoint one arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within two (2) weeks after the latter of the two arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by Secretary, the Indian Council of Arbitration, New Delhi.
- (b) If, in a dispute subject to Clause 8.2.1 (a) of the GC, one party fails to appoint its arbitrator within Two (2) weeks after the other Party has appointed its arbitrator, the party which has named an arbitrator may apply to the Secretary, Indian Council of Arbitration, New Delhi, to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for the dispute.

8.2.2 Rules of Procedure

Arbitration proceedings shall be conducted in accordance with procedure of the Arbitration & Conciliation Act 1996, of India.

8.2.3 Substitute Arbitrators

If for any reason an arbitrator is unable to perform his function, a substitute shall be appointed in the same manner as the original arbitrator.

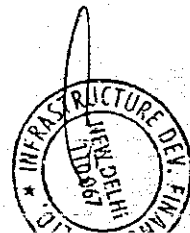
8.2.4 Qualifications of Arbitrators

The arbitrators appointed pursuant to paragraphs (a) and (b) of Clause 8.2.1 of the GC hereof shall be a widely recognized legal or technical expert with extensive experience in relation to the matter in dispute.

8.2.5 Miscellaneous

In any arbitration proceeding hereunder:

- (a) Proceedings shall, be held in New Delhi.
- (b) The English language shall be the official language for all purposes



- (c) The decision of the majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.

9. **Governing Law**

Subject to the provisions of Article 8, this Agreement shall be governed and construed in accordance with the laws of India and the Parties hereby submit to the jurisdiction of the Courts at New Delhi.

Parties to the above Contract set their respective hands on the day and year written first hereinabove as under:

WITNESSES

1. Govind
6.5.08
2. Amrita
6.5.08

FIRST PARTY

For and on behalf of the President of India

[Signature]

(The Deputy Secretary)

Department of Health and Family Welfare

Delhi Sachivalaya

Government of National Capital Territory of Delhi

WITNESSES

1. Azad Singh
AZAD SINGH KALNER
IDFC - I Cap.
2. Amrita
Specialist - legal
IDFC - Delhi

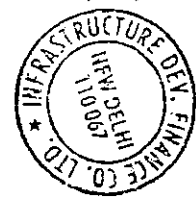
SECOND PARTY

[Signature]

Cherian Thomas

Sr. Director

Infrastructure Development Finance Company Limited



Scope of Services and Work Plan

Scope of Services : As per Revised RFP

Work Plan

S No	Activity	End date (Weeks)
1	Kick off meeting and preliminary work	X+1
2	Preparation & submission of Inception Report	X+2
3	Preparation & submission of Feasibility Report	X+6
4	Preparation of RfQ	X+6
5	Issue of advertisement for inviting RfQ by DHFW, GNCTD	X+7
6	Submission of RfQs by interested parties	X+10
7	Short listing of bidders based on RFQ / EOI and approval by HFW	X+11
8	Preparation and Submission of Business Plan & Revenue model, Transaction documents including concession agreement and supporting documents	X+12
9	Issue of RfP and invitation of bids by DHFW	X+13
10	Pre bid conference by DHFW	X+14
11	Issue and addendum to RfP (if required)	X+15
12	Submission of Technical & Financial Bids by bidders including detailed project report if required.	X+18
13	Bids evaluation including evaluation of Detailed Project Report if required so & selection of successful bidders	X+19
14	Signing of concession agreement between DHFW and successful bidders	As per closing procedure
15	Designing, Development & submission of report on management reporting systems along with specifications/performance indicators	Four weeks before the schedule commissioning
16	Assistance in monitoring & evaluation	One full year after full commissioning

Notes:

1. X is the date of execution of the contract
2. The detailed work plan, approach & methodology shall be provided in the inception report

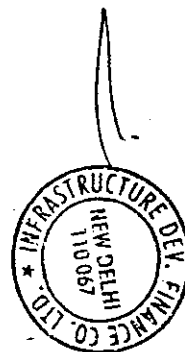


Appendix B

Key Deliverables

S No	Activity	End date (Weeks)
1.	Inception Report	X+2
2.	Feasibility Report	X+6
3.	RFQ Document	X+6
4.	Report on pre-qualification of Bidders	X+11
5.	Business Plan & Revenue Model	X+12
6.	RFP Document, transaction document including concession agreement and all supporting documents	X+12
7.	Report on evaluation of bids	X+19
8.	Report on Management System including Performance Indicators I.	X+19
9.	Signing of Concession Agreement	As per closing procedure
10.	Monitoring and Evaluation Reports	Every quarter for one full year

Note: Five copies of all documents should be submitted by Second Party.



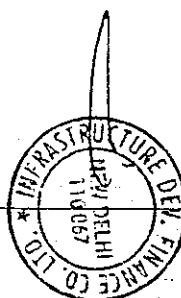
Key Personnel

Technical / Managerial Staff:

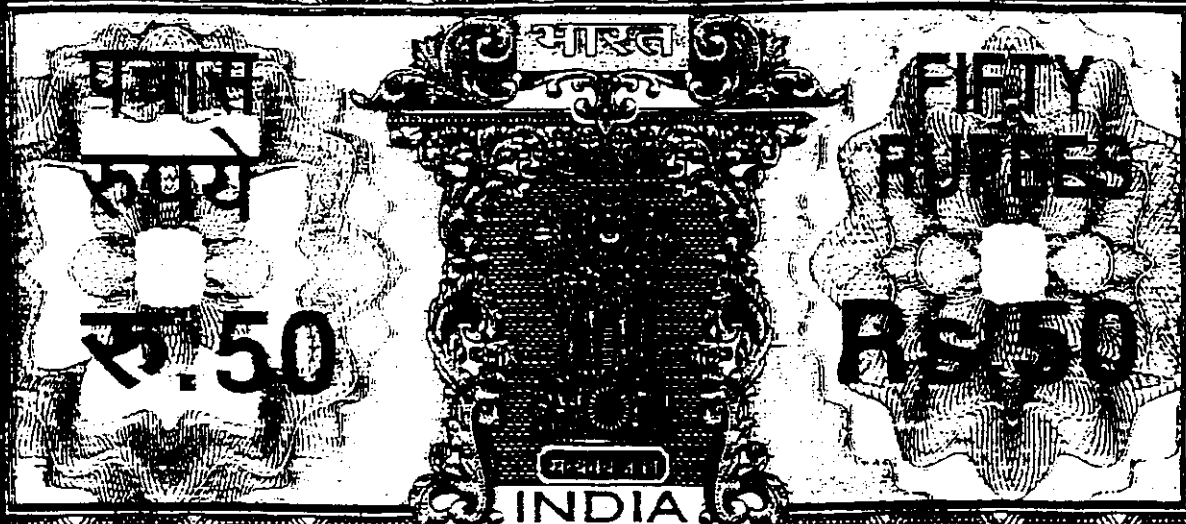
Sl.No.	Name	Position	Task
1.	Gautam Mazumder	TL/Health Expert	Overall coordination guidance to the assignment & PPP structuring of the project
2.	Cherian Thomas	Finance Expert/Project Manager	Financial structuring
3.	D.T.V. Raghu Rama Swamy	PPP Expert	PPP structuring
4.	V. Sathyanarayana	Legal Expert	Legal vetting
5.	Dr. Satish Bhardwaj	Ambulance Expert	Feasibility study & Business model
6.	Simon Jolly	Telcom/IT Expert	GPS & MIS

Support Staff

Sl. No.	Name	Position	Task
1.	Jyoti Gujral	PPP Expert	PPP structuring
2.	Summet Shukla	PPP Expert	PPP structuring
3.	Azad Singh Kalher	Finance Expert	Financial analysis Revenue modeling
4.	Sujay Shetty	Finance Expert	Financial analysis Revenue modeling
5.	Rajesh Jha	Health Sector PPP Expert	Feasibility study Business model PPP structuring MIS report
6.	Dr. Aravind Pulikal	Health Sector Expert	Feasibility study Business plan MIS report
7.	Debasis Chakraborty	Biomedical Engineer	Equipment requirement guidance and specification related inputs
8.	Amitava Sanyal	Feasibility Study and Hospital Planning Expert	Feasibility study Business plan Financial modeling Specifications plan MIS report
9.	CM Puri	PPP & Health Care Expert	Feasibility study Business plan Specifications plan



भारतीय गैर न्यायिक



INDIA NON JUDICIAL

दिल्ली DELHI

C 349656

POWER OF ATTORNEY

Know all men by these presents, that I, Rajiv B. Lall, Managing Director and CEO, Infrastructure Development Finance Company Limited ("IDFC"), having its registered office at ITC Centre, 3rd Floor, 760, Anna Salai, Chennai - 600002 do hereby constitute, appoint and authorise Mr. Cherian Thomas, who is presently employed with us and holding the position of Senior Director - Advisory, as our attorney, to do in our name and on our behalf, all acts, deeds and things necessary in connection with or incidental to IDFC providing advisory and consultancy services to various clients and more specifically to do the following:

1. To sign all papers and documents in connection with bids and proposals to be submitted for various consultancy, advisory and project development services assignments including the technical and financial proposals prepared as part of such proposals.
2. To negotiate all terms of services, sign agreements, memoranda of understanding and other documents in connection with consultancy/ advisory services, project development services and accessing technical assistance/ grant funds from various agencies.
3. To take such other action as may be necessary to give effect to the above and, where required, to delegate all or some of the above powers to other officers of the Company.

We hereby agree to ratify all acts, deeds and things lawfully done by our said attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us.

Dated this the Eighth Day of May 2006

For Infrastructure Development Finance Company Limited.

P

Dr. Rajiv B. Lall
Managing Director & CEO

Certified True

For Infrastructure Development Finance Company Limited

