



MEGHALAYA INFRASTRUCTURE DEVELOPMENT & FINANCE CORPORATION LTD

Request For Proposal (RFP)

for

**Selection of Agency for Designing, Development
Operation and Maintenance of Website for Meghalaya
Infrastructure Development & Finance Corporation
(MIDFC) Ltd.**

RFP No. MIDFC/WEB/93/2022/05

August 2022

Government of Meghalaya

Chief Operations officer
Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd.
House No. L/A-56, Lower Nongrim Hills, Shillong East Hills,
Meghalaya- 793003

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Meghalaya Infrastructure Development & Finance Corporation Ltd. (MIDFC)

Shillong, Meghalaya (India)

TENDER NOTICE

Notice No. MIDFC/DP/97/2022/06

Dated 17-08-2022

Main Portal: midfcmegh@gmail.com

Meghalaya Infrastructure Development & Finance Corporation Ltd. (MIDFC) through the process of tendering invites unconditional tender from eligible bidders for the appointment of agency for Designing, Development Operation and Maintenance of Website for Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd.

The Authority invites bidders to submit their Bids in a single-stage, two envelopes tendering process. The first envelope (Technical Bid) shall be evaluated to ensure technical qualification. Bidding Company shall have experiences as mentioned in the RFP document. The Project will be awarded to the Eligible Bidder, with the highest techno-commercial score. Conditional tender shall not be accepted.

1	RFP Document Download Start / Close Date & Time	Start Date: 17 th August, 2022 at 11:00 hrs IST Closing Date: 20 th September, 2022 till 3:00 hrs IST
2	Last date and time for submission of technical bids (Bid Due Date) through email	Technical Proposal, including the Presentation shall be submitted in the PDF files, through email on midfcmegh@gmail.com by 15:00 hours on 20 th September, 2022 (Note: Bidder shall not submit Financial Proposal through Email)
3	Last Date for submission of Pre-bid Queries	30 th August 2022 till 12:00 hrs IST only at following email ID: midfcmegh@gmail.com ;
4	Date and Venue for Pre-bid conference	30 th August 2022 at 1:00 hrs. at MIDFC Office, House no. L.A-56, Lower Nongrim Hills, Shillong East Khasi Hills, Meghalaya – 793003 or through Video Conferencing Google Meet joining info Video call link: https://meet.google.com/rzq-vsua-tga
5	Last date and time for submission of bids (Technical & Financial both) (Bid Due Date) in Hard copy	Hard copy of Proposal (Technical including Presentation & Financial Proposal) as per RFP document shall be submitted on following address: at the office of the Chief Operations Officer Meghalaya Infrastructure Development Finance Corporation (MIDFC) House No. L/A-56, Lower Nongrim Hills, Shillong East Khasi Hills Meghalaya- 793003. On the 20 th September, 2022 by 15:00 hours
6	Date and Time for presentation on Concept Note and Approach & Methodology	Date shall be intimated through email.

Date, Time and Place of opening of Envelope 2 (Financial Bid) will be intimated to the Eligible Bidders by email separately.

Sr. No.	Particulars	Details
1	Bid Processing Fees	The bidder shall pay Rs. 2,000/- Bid Processing Charges (Non-refundable to be submitted in the form of a Demand Draft/Pay Order issued by one of the Nationalized /Scheduled Commercial Banks in India in favour of the "Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd. payable at Shillong only"

RFP for Selection of Agency for Designing, Development Operation and Maintenance of Website for Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd.

2	Bid Security or Earnest Money Deposit (EMD)	The Bidder shall furnish, as part of its Bid, an Earnest Money Deposit (EMD) amount of Rs. 20,000/- (Rupees Twenty Thousand only) to be submitted in the form of a Demand Draft/Pay Order issued by one of the Nationalized /Scheduled Commercial Banks in India in favour of the “ Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd. ” payable at Shillong only
3	Performance Security	Selected Bidder will have to provide Performance Security in the form of Bank Guarantee of 10%of the Contract Value.

Chief Operations (MIDFC)

House No. L/A-56, Lower Nongrim Hills, Shillong East Khasi Hills Meghalaya-793003.

1. Part – 1 – Introduction

1.1. Background:

The Meghalaya Infrastructure Development and Finance Corporation (MIDFC) intends to appoint an agency Designing, Development Operation and Maintenance of Website for Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd. The Authority seeks responses to this RFP from bidders whose services can be availed of by various Stake Holders, Line departments, State Government Undertakings in Meghalaya.

The developed website would be a clutter-free, single point interface where prospective users can View various projects/ programs/ initiatives of MIDFC and access relevant information on state policies, laws, rules, notifications, tender etc. and carry out relevant activities (submitting tenders/ relevant queries etc.)

The selected agency shall design, create, host, operate and maintain the website for 2 years.

1.2. Need of the project

MIDFC has been mandated as nodal agency for Infrastructure Development in the state of Meghalaya. In-continuation of the scope, MIDFC is in process of development and implementation of website for MIDFC and to achieve that, MIDFC intends to appoint an agency for Designing, Development Operation and Maintenance of Website for Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd.

1.2.1. Objective

The key objective of the tender is to appoint an agency for Designing, Development Operation and Maintenance of Website for Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd.

1.3. Due Diligence by Bidders:

- 1.3.1. Bidders may prior to submitting their Proposals, examine the requirements at their own expense and obtain and ascertain for themselves, at their own responsibility and other information necessary for preparing their Proposals.
- 1.3.2. Bidders shall be deemed to have full knowledge of the requirements of the work. MIDFC will not accept any responsibility or liability for any errors, omissions, inaccuracies or errors of judgment with respect to information or materials provided by MIDFC in this RFP Document

or otherwise, with respect to this Project. Although such information and materials are to the best of MIDFC belief, however, their verification is the sole responsibility of Bidder.

- 1.3.3. Neither MIDFC nor their employees make any representation or warranty as to the accuracy, reliability or completeness of the information provided nor will have any liability to any bidder which may arise from or be incurred or suffered in connection with anything contained in this RFP and the award of the work or otherwise arising in any way from the selection process.

1.4. Accessing Bidding Documents and Participation:

The complete Bid Document can be viewed/ downloaded from the tendering portal of www.mbd.gov.in by interested bidders from -17th August, 2022-(up to 20th September 2022,15:00 hrs. IST). For any help regarding downloading or submissions, Bidders may contact on Number +91 7629898737 +91 8837023352 and Email ID midfcmegh@gmail.com

- 1.4.1. The amendments/ clarifications to the Bid Documents by the Authority, if any, will be communicated through email to all the empaneled consultants.

1.5. Bid Validity Period:

- 1.5.1. Each Proposal shall indicate that it is a firm Proposal, and that the Proposal will remain valid for a period not less than one hundred and twenty (120) days from the due date of the submission of the Proposal. MIDFC. Reserves the right to reject any Proposal, which does not meet this Bid Validity Period requirement.
- 1.5.2. MIDFC may request one or more extensions of the Bid Validity Period. To make such request, MIDFC shall give notice through email to the Bidder(s) at least three (3) days prior to expiration of the Bid Validity Period. If any Bidder does not agree to the extension, they may withdraw by giving notice in writing to MIDFC of its decision prior to the expiration of the Bid Validity Period. In case, MIDFC does not receive any written notice of withdrawal prior to expiration of the Bid Validity Period, the requested extension shall be deemed to have been accepted by the Bidder(s).
- 1.5.3. When an extension of the Bid Validity Period is made, Bidders shall not be permitted to change the terms and conditions of their Bids.
- 1.5.4. The Bid Validity Period of the Successful Bidder shall be automatically extended till the date on which the Agreement is signed and is in force.

1.6. Tender Schedule:

Sr. No	Items	Description
1	RFP Document Download Start / Close Date & Time	Start Date: 17 th August, 2022 at 11:00 hrs IST Closing Date: 20 th September, 2022 till 3:00 hrs IST
2	Last date and time for submission of Technical bids (Bid Due Date) through email	Technical Proposal, including the Presentation shall be submitted in the PDF files, through email on midfcmegh@gmail.com by 20 th September, 2022 till 15:00 hours on (Note: Bidder shall not submit Financial Proposal through Email)
3	Last date and time for submission of bids (Technical & Financial both) (Bid Due Date) in Hard copy	Hard copy of Proposal (Technical including Presentation & Financial Proposal) as per RFP document shall be submitted on following address: at the office of the Chief Operations Officer Meghalaya Infrastructure Development Finance Corporation (MIDFC) House No. L/A-56, Lower Nongrim Hills, Shillong East Khasi Hills Meghalaya- 793003. On the 20 th September, 2022, 15:00Hrs
4	Date and Time for presentation on Concept Note and Approach & Methodology	Date shall be intimated through email.

1.7. Communications:

Meghalaya Infrastructure Development and Finance Corporation (MIDFC),
House No. L/A-56, Lower Nongrim Hills, Shillong East Khasi Hills Meghalaya-793003

2. Part – 2: Instructions to the Bidders.

A- GENERAL:

2.1. Scope of Proposal:

- 2.1.1. Detailed description of the objectives, Scope of services, Deliverables and other requirements relating to these services are specified in this RFP. In case the Bidder/Firm possesses the requisite Experience and capabilities required for undertaking the Services, it may participate in the Selection Process the manner in which the Proposal is required to be submitted, evaluated and accepted is explained in this RFP. Consortium is allowed.
- 2.1.2. Bidders are advised that the selection of Agency shall be on the basis of an evaluation by the Authority through the Selection Process specified in this RFP. Bidders shall be deemed to have understood and agreed that no explanation or justification for any aspect of the Selection Process will be given and that the Authority's decisions are without any right of appeal whatsoever.
- 2.1.3. The Bidder shall submit its Proposal in the form and manner specified in this Part- 2 of the RFP. The Bid shall be submitted in two envelopes system (Technical proposal and Financial Proposal) within prescribed schedule. The Technical proposal shall be submitted in the form at Appendix-1 and the Financial Proposal shall be submitted in the form at Appendix-2. Upon selection, the Bidder shall be required to enter into an agreement with the Authority in the form specified at Schedule-2.

2.1.4. Eligibility Criteria:

- a) The Bidder *shall* be a private company/public company/Government undertaking/partnership/ constituted in accordance with the relevant law.
- b) The proposed bidder *shall* be in existence for more than 3 years as on 31st March 2021.
- c) The agency must have successfully executed at least 1 number of similar projects preceding proposal due date, certificate Copy of Agreement/Workorder/Completion certificate needs to enclosed
- d) The bidder *shall* have an annual average turnover of minimum INR 50 Lakhs certified by chartered accountant during last 3 (three) financial years ending 31.03.2021 (2018-19, 2019-20 and 2020-21). Copies of Audited Balance sheet & Turnover Certificate from Chartered Accountant certifying the same need to be enclosed.
- e) The Firm shall have positive net worth of as on 31st March 2021, Net-worth certificate from chartered accountant needs to be enclosed.
- f) Agency shall submit EMD and processing fee along with technical proposal.

Note: Similar Projects “Development, implementation, operation and maintenance of website/ online Portal for any government departments

2.1.5. **Team:**

The Project Team shall consist of the following key personnel (the “**Key Personnel**”) who shall discharge their respective main responsibilities as specified below:

s

Sr. No	Expert	Desired qualification and experience (Weightage 20%)	Desired experience (Weightage 80%)
1	Project Manager (with 7 years of similar project experience)	BE / B Tech / MCA with MBA	He should have experience of at least 7 years in experience in similar projects.
2	Web App Developer	B.E or B. Tech in Computer Science	Should have minimum 5 years of experience in Similar projects.
3	Technical Associate	B. Tech or B.E. (IT or Computer Science)	Should have minimum 3 years of experience in similar projects.

Supporting staff as require shall be made available by the selected agency.

2.2. Conditions of Eligibility of Bidders:

2.2.1. Bidders must read carefully the minimum Conditions of Eligibility (the “**Conditions of Eligibility**”) provided herein. Proposals of only those Bidders who satisfy the Conditions of Eligibility will be considered for evaluation.

2.2.2. To be Eligible for Evaluation of its Proposal, the Bidder shall fulfil the following:

(A) **Technical Capacity:** The Bidder shall have Technical capacity as per Eligibility Criteria specified in Clause 2.1.4.

(B) **Availability of Key Personnel:** All the key experts should be present during execution and for all important meetings.

2.2.3. The Bidder should submit a Power of Attorney as per the Appendix-1, Form-3 ssprovided, however, that such Power of Attorney would not be required if the Application is signed by the Managing Director of the Bidder.

2.2.4. Any entity which has been barred by the Central Government or state Government, from participating in any project and the bar subsists as on the date of Proposal, would not be eligible to submit a Proposal either by itself or through its Associate.

2.2.5. A Bidder or its Associate should have, during the last three years, neither failed to perform on any agreement, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder or its

Associate, nor been expelled from any project or agreement nor have had any Agreement terminated for breach by such Bidder or its Associate.

- 2.2.6. While submitting a Proposal, the Bidder should attach clearly marked and referenced continuation sheets in the event that the space provided in the specified forms in the Appendices is insufficient. Alternatively, Bidders may format the specified forms making due provision for incorporation of the requested information.

2.3. Conflict of Interest:

- 2.3.1. A Bidder shall not have a conflict of interest that may affect the Selection Process or the Services (the “**Conflict of Interest**”). Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, authority may claim the mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, *inter alia*, the time, cost and effort of the Authority including consideration of such Bidder’s Proposal, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise.
- 2.3.2. The Authority requires that the Agency provides professional, objective, and impartial advice and at all times hold the Authority’s interest’s paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The Agency shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other clients, or that may place it in a position of not being able to carry out the assignment in the best interests of the Authority.
- 2.3.3. A Bidder shall be deemed to have a Conflict of Interest affecting the Selection Process, if:
- (a) the Bidder, or Associate (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of a Bidder, its Member or Associate (or any shareholder thereof having a shareholding of more than 5 percent of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Associate is less than 5% (five per cent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 4A of the Companies Act,1956. For the purposes of this Clause 2.3.3(a), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the “**Subject Person**”) shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has

shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% (twenty six per cent) of the subscribed and paid up equity shareholding of such intermediary; or

- (b) a constituent of such Bidder is also a constituent of another Bidder; or
- (c) such Bidder or its Associate receives or has received any direct or indirect subsidy or grant from any other Bidder or its Associate; or
- (d) such Bidder has the same legal representative for purposes of this Application as any other Bidder; or
- (e) such Bidder has a relationship with another Bidder, directly or through common third parties, that puts them in a position to have access to each other's information about, or to influence the Application of either or each of the other Bidder; or
- (f) there is a conflict among this and other assignments of the Bidder (including its personnel and Sub-Contractors) and any subsidiaries or entities controlled by such Bidder or having common controlling shareholders. The duties of the Agency will depend on the circumstances of each case. While providing services to the Authority for this particular assignment, the Agency shall not take up any assignment that by its nature will result in conflict with the present assignment; or
- (g) the Bidder, its Member or Associate (or any constituent thereof), and the bidder or Concessionaire, if any, for the Project, its contractor(s) or sub-contractor(s) (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of an Bidder, its Member or Associate (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be,) in the bidder or Concessionaire, if any, or its contractor(s) or sub-contractor(s) is less than 5% (five per cent) of the paid up and subscribed share capital of such Concessionaire or its contractor(s) or sub-contractor(s); provided further that this disqualification shall not apply to ownership by a bank, insurance company, pension fund or a Public Financial Institution referred to in section 4A of the Companies Act, 1956. For the purposes of this sub-clause (h), indirect shareholding shall be computed in accordance with the provisions of sub-clause (a) above. For purposes of this RFP, Associate means, in relation to the Bidder, a person who controls, is controlled by, or is under the common control with such Bidder (the "**Associate**"). As used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law or by contract.

2.3.4. A Bidder eventually appointed to provide Services for this Project, and its Associates, shall be disqualified from subsequently providing goods or works or services related to the construction of the same Project and any breach of this obligation shall be construed as Conflict of Interest; provided that the restriction herein shall not apply after a period of 5 (five) years from the completion of this assignment or to consulting assignments granted by banks/ lenders at any time. For the avoidance of doubt, an entity affiliated with the Agency shall include a partner in the Agency's firm or a person who holds more than 5% (five per cent) of the subscribed and paid-up share capital of the Agency, as the case may be, and any Associate thereof.

2.4. Number of Proposals:

No Bidder shall submit more than one Application for the Work.

2.5. Cost of Proposal:

The Bidders shall be responsible for all of the costs associated with the preparation of their Proposals and their participation in the Selection Process including subsequent negotiation, visits to the Authority, Project site etc. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Selection Process.

2.6. Acknowledgement by Bidder:

2.6.1. It shall be deemed that by submitting the Proposal, the Bidder has:

- a) made a complete and careful examination of the RFP;
- b) received all relevant information requested from the Authority;
- c) acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of the Authority or relating to any of the matters referred to in Clause 2.5 above;
- d) satisfied itself about all matters, things and information, including matters referred to in Clause 2.5 herein above, necessary and required for submitting an informed Application and performance of all of its obligations there under;
- e) acknowledged that it does not have a Conflict of Interest; and
- f) agreed to be bound by the undertaking provided by it under and in terms hereof.

2.6.2. The Authority shall not be liable for any omission, mistake or error on the part of the Bidder in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP or the Selection Process, including any error or mistake therein or in any information or data given by the Authority.

2.7. Right to reject any or all Proposals:

2.7.1. Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Proposal and to annul the Selection Process and reject all Proposals, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.

2.7.2. Without prejudice to the generality of Clause 2.7.1, the Authority reserves the right to reject any Proposal if:

- (a) at any time, a material misrepresentation is made or discovered, or
- (b) the Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Proposal.

Misrepresentation/ improper response by the Bidder may lead to the disqualification of the Bidder. If such disqualification / rejection occurs after the Proposals have been opened and the highest-ranking Bidder gets disqualified / rejected, then the Authority reserves the right to consider the next best Bidder, or take any other measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Selection Process.

B DOCUMENTS:

2.8. Contents of the RFP:

2.8.1. This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below and will additionally include any Addendum / Amendment issued in accordance with Clause 2.10:

Request for Proposal

- 1 Introduction
- 2 Instructions to Bidders
- 3 Criteria for Evaluation
- 4 Fraud and corrupt practices
- 5 Miscellaneous
- 6 Schedules

Schedule 1: Terms of Reference (TOR)

Schedule 2: Model RFP: Form of Agreement

Annex-1: Terms of Reference

Annex-2: Deployment of Personnel

Annex-3: Estimate of Personnel Costs

Annex-4: Approved Sub-Contractor(s)

Annex-5: Cost of Services

Annex-6: Payment Schedule

Annex-7: Bank Guarantee for Performance Security

- 8 Appendices

Appendix –1: Technical Proposal

- I. Form 1 : Letter of Proposal
- II. Form 2 : Particulars of the Bidder
- III. Form 3 : Power of Attorney
- IV. Form 4 : Technical Capacity of the Bidder
- V. Form 5: Financial Capacity of Bidder
- VI. Form 6: Particulars of Key Personnel along with their CVs
- VII. Form 7: Proposed Methodology and Work Plan and deployment of personnel schedule
- VIII. Form 8: Envelope 1 - Index

Appendix-2: Financial Proposal

Form 1: Covering Letter

Form 2: Financial Proposal

2.9. Clarifications:

2.9.1. Bidders requiring any clarification on the RFP may send their queries to the Authority, through email only with subject line as follows:

“Pre-Bid queries - <Agency’s Name>”.

The reply to the pre-bid queries and any addendum/corrigendum shall be communicated through email.

2.9.2. The Authority reserves the right not to respond to any questions or provide any clarifications, in its sole discretion, and nothing in this Clause 2.9 shall be construed as obliging the Authority to respond to any question or to provide any clarification.

2.10. Amendment of RFP:

2.10.1. At any time prior to the deadline for submission of Proposal, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP document by the issuance of Addendum/ Amendment and posting it on the Official Website.

2.10.2. The amendments will be communicated through email along with the revised RFP containing the amendments and will be binding on all Bidders.

2.10.3. In order to afford the Bidders a reasonable time for taking an amendment into account, or for any other reason, the Authority may, in its sole discretion, extend the Proposal Due Date.

C PREPARATION AND SUBMISSION OF PROPOSAL:

2.11. Language:

The Proposal with all accompanying documents (the “**Documents**”) and all communications in relation to or concerning the Selection Process shall be in English language and strictly on the forms provided in this RFP. No supporting document or printed literature shall be submitted with the Proposal unless specifically asked for and in case any of these Documents is in another language, it must be accompanied by an accurate translation of the relevant passages in English, in which case, for all purposes of interpretation of the Proposal, the translation in English shall prevail.

2.12. Format and signing of Proposal:

2.12.1. The Bidder shall provide all the information sought under this RFP. The Authority would evaluate only those Proposals that are received in the specified forms and complete in all respects.

2.12.2. The Bidder shall submit the proposal as prescribed in the chapter "Methodology of Bid Submission". In case of any queries, bidders may contact the service provider on any working days on contact numbers provided.

2.12.3. The Bidders need to submit the hard copy of the technical and financial proposal for technical and financial evaluation with supporting documents. The Proposals must be properly signed by the authorised representative (the “**Authorised Representative**”)

A copy of the Power of Attorney in the form specified in Appendix-1, Form-3 shall accompany the Proposal.

2.12.4. Bidders should note the Bid Submission Date/ Proposal Due Date, as specified in Clause 1.6, for submission of Bids. Except as specifically provided in this RFP, no supplementary material will be entertained by the Authority, and that evaluation will be carried out only on the basis of Documents received by the closing time of Bid submission Date. Bidders will ordinarily not be asked to provide additional material information or documents subsequent to the date of submission, and unsolicited material if submitted will be summarily rejected. For the avoidance of doubt, the Authority reserves the right to seek clarifications under and in accordance with the provisions of Clause 2.21.

2.13. Technical Envelope No.1:

The Bidder shall submit all the documents as per formats provided in the RFP document. While submitting the Technical Proposal, the Bidder shall, in particular, ensure that:

- a) All forms are submitted in the prescribed formats and signed by the prescribed signatories;

- b) Power of Attorney, if applicable, is executed as per Applicable Laws;
- c) CVs of all Professional Personnel have been included;
- d) Key Personnel have been proposed only if they meet the Conditions of Eligibility laid down at Clause 2.2.2 of the RFP;
- e) No alternative proposal for any Key Personnel is being made and only one CV is proposed for each position.
- f) The CVs have been recently signed and dated by the respective Personnel and countersigned by the Bidder.
- g) The CVs shall contain an undertaking from the respective Key Personnel about his/her availability for the duration specified in the RFP;
- h) Professional Personnel proposed have good working knowledge of English language;
- k) Key Personnel would be available for the period indicated in the clause 2.2.2;
- l) No Key Personnel should have attained the age of 65 (sixty five) years at the time of submitting the proposal; and
- m) The proposal is responsive in terms of Clause 2.21.

2.13.1. Failure to comply with the requirements spelt out in this Clause 2.12 shall make the Proposal liable to be rejected.

2.13.2. If an individual Key Personnel makes a false averment regarding his qualification, experience or other particulars, or his commitment regarding availability for the Project is not fulfilled at any stage after signing of the Agreement, he shall be liable to be debarred for any future assignment of the Authority for a period of 5 (five) years. The award of this Services to the Bidder may also be liable to cancellation in such an event.

2.13.3. The Technical Proposal shall not include any financial information relating to the Financial Proposal.

2.13.4. The proposed team shall be composed of experts and specialists (the “**Professional Personnel**”) in their respective areas of expertise and managerial/support staff (the “**Support Personnel**”) such that the Agency should be able to complete the Services within the specified time schedule. The Key Personnel specified in Clause 2.1.5 shall be included in the proposed team of Professional Personnel. Other competent and experienced Professional Personnel in the relevant areas of expertise must be added as required for successful completion of this Service. The CV of each such Professional Personnel, if any, should also be submitted in the format as Appendix-1, Form-6A.

2.13.5. A Bidder may, if it considers necessary, propose suitable individual associates in specific areas of expertise. Credentials of such associates should be submitted along with Form 6.

2.13.6. The Authority reserves the right to verify all statements, information and documents, submitted by the Bidder in response to the RFP. Any such verification or the lack of such

verification by the Authority to undertake such verification shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority there under.

2.13.7. In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, that one or more of the eligibility conditions have not been met by the Bidder or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Agency either by issue of the LOA or entering into of the Agreement, and if the Selected Bidder has already been issued the LOA or has entered into the Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority without the Authority being liable in any manner whatsoever to the Bidder or Agency, as the case may be.

In such an event, the Authority may claim as mutually agreed pre-estimated compensation and damages payable to the Authority for, *inter alia*, time, cost and effort of the Authority, without prejudice to any other right or remedy that may be available to the Authority.

2.14. Financial Envelope No.2:

2.14.1. The Bidder shall submit the financial proposal as per format provided in the RFP document. The Bidder shall clearly indicate the total cost of the Services (Item [F] of Appendix-2, Form-2) in both figures and words, in Indian Rupees. In the event of any difference between figures and words, the amount indicated in words shall prevail. In the event of a difference between the arithmetic total and the total shown in the Financial Proposal, the lower of the two shall prevail.

2.14.2. While submitting the Financial Proposal, the Bidder shall ensure the following:

(i) All the costs associated with the assignment shall be included in the Financial Proposal. These shall normally cover remuneration for all the Personnel (Expatriate and Resident, in the field, office etc), accommodation, air fare, equipment, printing of documents, etc. The total amount indicated in the Financial Proposal shall be without any condition attached or subject to any assumption and shall be final and binding. In case any assumption or condition is indicated in the Financial Proposal, it shall be considered non-responsive and liable to be rejected.

(ii) The Financial Proposal shall take into account all expenses and tax liabilities. For the avoidance of doubt, it is clarified that all taxes shall be deemed to be included in the costs shown under different items of the Financial Proposal. Further, all payments shall be subject to deduction of taxes at source as per Applicable Laws.

(iii) Costs (including break down of costs) shall be expressed in INR.

2.15. Submission of Proposal:

- 2.15.1. The Bidders shall submit the Technical and Financial Proposal as prescribed in 2.14 & 2.15.
- 2.15.2. On prescribed date of bid submission, Bidder need to submit all the documents in physical form as per format provided in the RFP document.
- 2.15.3. The Proposal shall be made in the Forms specified in this RFP. Any attachment to such Forms must be provided on separate and only information that is directly relevant should be provided.
- 2.15.4. The rates quoted shall be firm throughout the period of performance of the assignment up to and including acceptance of the Report by the Authority and discharge of all obligations of the Agency under the Agreement.

2.16. Proposal Due Date/ Bid Submission Date:

2.16.1. Proposal should be submitted as specified in clause 1.6 in the manner and form of tender as detailed in this RFP.

2.16.2. The Authority may, in its sole discretion, extend the Proposal Due Date by issuing an Addendum in accordance with Clause 2.10 uniformly for all Bidders.

2.17. Late Proposals submissions:

Only Proposals received as per tendering process will be entertained. Proposals received after the specified time mentioned in the schedule specified in clause 1.6 will not be entertained.

2.18. Modification/ substitution/ withdrawal of Proposals:

2.18.1. No alteration /modification to the submitted Proposal shall be allowed.

2.18.2. No Proposal shall be withdrawn by the Bidder on or after the Proposal Due Date.

D EVALUATION PROCESS:

2.19. Evaluation of Proposals:

- 2.19.1. The Authority shall open the Proposals on the Proposal Due Date.
- 2.19.2. Prior to evaluation of Proposals, the Authority will determine whether each Proposal is responsive to the requirements of the RFP. The Authority may, in its sole discretion, reject any Proposal that is not responsive hereunder. A Proposal shall be considered responsive only if:
- (a) the Technical Proposal is received in the form specified at Appendix-1;
 - (b) it is submitted by the Proposal Due Date including any extension thereof pursuant to Clause 2.17;
 - (c) it is accompanied by the Power of Attorney as specified in Clause 2.2.3;
 - (d) it contains all the information (complete in all respects) as requested in the RFP;
 - (e) it does not contain any condition or qualification.
- 2.19.3. The Authority reserves the right to reject any Proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Proposals.
- 2.19.4. The Authority shall subsequently examine and evaluate Proposals in accordance with the Selection Process specified at Clause 3.1 and the criteria set out in Part 3 of this RFP.
- 2.19.5. After the technical evaluation, the Authority shall prepare a list of short-listed Bidders. Shortlisted bidders shall be intimated for technical presentation on the concept note and approach and methodology. The final shortlisted bidder shall be informed in terms of Clause 3.2 for opening of their Financial Proposals. A date and time will be notified to all Bidders for announcing the result of evaluation and Financial Envelope-C1 opening. Before opening of the Financial Proposals, the list of short-listed Bidders along with their Technical Score will be declared. The Authority will not entertain any query or clarification from Bidders who fail to qualify at any stage of the Selection Process. The financial evaluation and final ranking of the Proposals shall be carried out in terms of Clauses 3.3 and 3.4.
- 2.19.6. Bidders are advised that Selection will be entirely at the discretion of the Authority. Bidders will be deemed to have understood and agreed that no explanation or justification on any aspect of the Selection Process or Selection will be given.
- 2.19.7. Any information contained in the Proposal shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Bidder if the Work is subsequently awarded to it.

2.20. Confidentiality:

Information relating to the examination, clarification, evaluation, and recommendation for the selection of Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional adviser advising the Authority in relation to matters arising out of or concerning the Selection Process. The Authority will treat all information, submitted as part of the Proposal, in confidence and will require all those who have access to such material to treat the same in confidence. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/or the Authority.

2.21. Clarifications:

- 2.21.1. To facilitate evaluation of Proposals, the Authority may, at its sole discretion, seek clarifications from any Bidder regarding its Proposal. Such clarification(s) shall be provided within the time specified by the Authority for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.
- 2.21.2. If a Bidder does not provide clarifications sought under Clause 2.21.1 above within the specified time, its Proposal shall be liable to be rejected. In case the Proposal is not rejected, the Authority may proceed to evaluate the Proposal by construing the particulars requiring clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of the Authority.

E APPOINTMENT OF AGENCY:

2.22. Negotiations:

2.22.1. The Selected Bidder may, if necessary, be invited for negotiations. The negotiations shall generally not be for reducing the price of the Proposal but will be for re-confirming the obligations of the Agency under this RFP. Issues such as deployment of Key Personnel, understanding of the RFP, methodology and quality of the work plan shall be discussed during negotiations.

2.22.2. The Authority will examine the CVs of all other Professional Personnel and those not found suitable shall be replaced by the Bidder to the satisfaction of the Authority.

2.23. Substitution of Key Personnel:

2.23.1. The Authority will not normally consider any request of the Selected Bidder for substitution of Key Personnel as the ranking of the Bidder is based on the evaluation of Key Personnel and any change therein may upset the ranking. Substitution will, however, be permitted if the Key Personnel is not available for reasons of any incapacity or due to health, subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority and subject to conditions in the Bid Document.

2.23.2. The Authority expects all the Key Personnel to be available during implementation of the Agreement. The Authority will not consider substitution of Key Personnel except for reasons of any incapacity or due to health.

2.23.3. Substitution of the Team Leader will not normally be considered and may lead to disqualification of the Bidder or termination of the Agreement. Further the substitution by equivalent or above with prior permission of MIDFC in Force Majeure cases can be considered on case-to-case basis.

2.24. Indemnity:

The Agency shall, subject to the provisions of the Agreement, indemnify the Authority for an amount not exceeding the value of the Agreement for any direct loss or damage that is caused due to any deficiency in services.

2.25. Award of Work:

After selection, a Letter of Award (the "LOA") shall be issued, in duplicate, by the Authority to the Selected Bidder and the Selected Bidder shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Authority may, unless it

consents to extension of time for submission thereof, may claim as mutually agreed genuine pre-estimated loss and damage suffered by the Authority on account of failure of the Selected Bidder to acknowledge the LOA, and the next highest-ranking Bidder may be considered.

2.26. Execution of Agreement:

After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall execute the Agreement within the period prescribed in Clause 1.5. The Selected Bidder shall not be entitled to seek any deviation in the Agreement.

2.27. Commencement of Assignment:

The Agency shall commence the Services at the Project site within 7 (seven) days of the date of the issuance of LOA or such other date as may be mutually agreed. If the Agency fails to either sign the Agreement as specified in Clause 2.26 or commence the assignment as specified herein, the Authority may invite the second ranked Bidder for negotiations.

2.28. Proprietary Data:

Subject to the provisions under RFP, all documents and other information provided by the Authority or submitted by the Bidder to the Authority shall remain or become the property of the Authority. Bidders and the Agency, as the case may be, are to treat all information as strictly confidential. The Authority will not return any Proposal or any information related thereto. All information collected, analysed, processed or in whatever manner provided by the Agency to the Authority in relation to the Work shall be the property of the Authority.

2.29. Communication between Bidders and MIDFC:

All communication, unless specified otherwise, on this RFP document to shall be addressed to the person and address mentioned in 1.6.

2.30. General Provision:

2.30.1. Non-Discriminatory and Transparent Bidding Proceedings:

MIDFC shall ensure that the rules for the Bid Process for the Project are applied in a non-discriminatory, transparent and objective manner. MIDFC shall not provide to any Bidder, information with regard to the Project or the Bidding Process, which may have the effect of restricting competition.

2.30.2. Prohibition against Collusion with another Bidder:

Each Bidder shall submit a single bid. Each Bidder shall warrant by its Bid that the contents of its Bid have been arrived at independently. Any Bid which has been arrived at through consultation, collusion, or understanding with any other prospective Bidder for the purpose of restricting competition shall be deemed to be invalid and the Bid shall be rejected.

2.30.3. Entity Barred from Bidding:

Any entity which has been barred by the Central Government or any State Government or a statutory authority or a public sector undertaking, as the case may be, from participating in any Study and the bar subsists as on the date of Proposal, would not be eligible to submit a Proposal either by itself or through its Associate.

2.30.4. Ongoing Legal dispute with MIDFC:

Any entity which has ongoing legal dispute with MIDFC and such dispute is under an arbitral or judicial authority shall not be eligible to submit a Proposal either by itself or through its Associate.

3. Part – 3: Criteria for Evaluation.

3.1. Evaluation of Technical Proposals

3.1.1. In the first stage, the Technical Proposal will be evaluated on the basis of Bidder’s experience, its understanding of TOR, proposed methodology and Work Plan, and the experience of Key Personnel. Only those Bidders whose Technical Proposals get a score of 70 marks or more out of 100 shall qualify for further consideration and shall be ranked from highest to the lowest on the basis of their technical score (S_T).

3.1.2. The scoring criteria to be used for evaluation shall be as follows.

SL	Requirements	Supporting Docs	Max Marks
A	Company Profile		15
1	Annual average turnover in last 3 (three) financial years ending 31.03.2020 (2018-19, 2019-20 and 2020-21). <ul style="list-style-type: none"> Rs. 50 Lakhs to less than 75 Lakhs (5 marks) Rs. 75 Lakhs and above: (10 marks) 	Extracts from the audited Balance sheet and Profit & Loss; OR Certificate from the CA	10
2	The firm/ company/ partnership/ proprietorship firm/institution registered under the Indian Companies Act, 1956 since last 5 (five) years: <ul style="list-style-type: none"> >= 3 Years and <5 Years (3 marks) >= 5 years (5 marks) 	Company Registration Certificate	5
B	Project Experience and Technical Solution		20
1	Prior experience in executing similar projects with Govt. agencies in last 5 years <ul style="list-style-type: none"> 3 marks per project, subject to max of 2 projects, i.e., max 6 marks 2 extra marks for similar projects executed for government department in Meghalaya 	URL and Play Store app link. Copy of Work order /completion certificate from client	10
2	Prior experience in solution design / Product design for cloud based transactional application last 5 financial years. Websites should be secured by SSL certificate having HTTPS in their URL <ul style="list-style-type: none"> 5 marks for each web-based application, subject to max of 2, i.e., max 10 marks 	URL and Play Store app link. Copy of Work order /completion certificate from client	10

RFP for Selection of Agency for Designing, Development Operation and Maintenance of Website for Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd.

C	Resource's qualifications and Experience		15
1	Project Manager	CV in required format	6
2	Web App Developer	CV in required format	6
3	Technical Associate	CV in required format	3
D	Technical Presentation		50
1	Understating of Requirements		10
2	Availability of readily deployable or easily customizable Solution		20
3	Choice of Technical Platform (Open-Source Platform would be preferred)		10
4	Implementation & Resource Deployment Plan		10
Total (A+B+C+D)			100

3.1.3. The bidder will have to enclose presentation on the concept note along with the technical Proposal to MIDFC. The presentation shall cover in sufficient detail the appreciation of the project, method statement for the assignment covering approach & methodology, proposed organizational structure, work program, implementation strategy, proposal to save time and cost, etc.

3.2. Short-listing of Bidders:

All the bidder having score more than 70 shall be considered as short-listed bidder for financial evaluation in the second stage. However, if the number of such Pre-Qualified Bidders is less than two, the Authority may, in its sole discretion, Pre-Qualify the Bidder(s) whose technical score is less than 70 percent marks even if such Bidder(s) do (es) not qualify in terms of Clause 3.1.2; provided that in such an event, the total number of pre-Qualified and short-listed Bidders shall not exceed two.

3.3. Evaluation of Financial Proposal:

- 3.3.1. In the second stage, the financial evaluation will be carried out as per this Clause 3.3. Each Financial Proposal will be assigned a financial score (S_F).
- 3.3.2. For financial evaluation, the total cost indicated in the Financial Proposal will be considered.
- 3.3.3. The Authority will determine whether the Financial Proposals are complete, unqualified and unconditional. The cost indicated in the Financial Proposal shall be deemed as final and reflecting the total cost of services. Omissions, if any, in costing any item shall not entitle the firm to be compensated and the liability to fulfill its obligations as per the TOR within the total quoted price shall be that of the Agency. The lowest Financial Proposal (F_M) will be given a financial score (S_F) of 100 points. The financial scores of other proposals will be computed as follows:

$$S_F = 100 \times F_M / F$$

(F = amount of Financial Proposal quoted by other Bidder other than the lowest Financial Proposal (F_M))

3.4. Combined and Final Evaluation:

- 3.4.1. Proposals will finally be ranked according to their combined technical (S_T) and financial (S_F) scores as follows:
$$S = S_T \times T_W + S_F \times F_W$$
Where S is the combined score, and T_W and F_W are weights assigned to Technical Proposal and Financial Proposal that shall be 0.80 and 0.20 respectively.
- 3.4.2. The Selected Bidder shall be the first ranked Bidder (having the highest combined score). The second ranked Bidder shall be kept in reserve and may be invited for negotiations in case the first ranked Bidder withdraws or fails to comply with the requirements specified in Clauses 2.23, 2.26, 2.27 and 2.28, as the case may be.

4. Part – 4: Fraud & Corrupt Practices

- 4.1. The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this RFP, the Authority shall reject a Proposal without being liable in any manner whatsoever to the Bidder, if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the “**Prohibited Practices**”) in the Selection Process. In such an event, the Authority shall, without prejudice to its any other rights or remedies, forfeit and appropriate the Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, *inter alia*, time, cost and effort of the Authority, in regard to the RFP, including consideration and evaluation of such Bidder’s Proposal.
- 4.2. Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Agreement, if an Bidder or Agency, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the issue of the LOA or the execution of the Agreement, such Bidder or Agency shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder or Agency, as the case may be, is found by the Authority to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- 4.3. For the purposes of this Section, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) “**corrupt practice**” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOA or has dealt with matters concerning the Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) save as provided herein, engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the

Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement concerning the Project;

- (b) “**Fraudulent practice**” means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- (c) “**Coercive practice**” means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person’s participation or action in the Selection Process;
- (d) “**Undesirable practice**” means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- (e) “**Restrictive practice**” means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Selection Process.

4.4. Inducements:

Any effort by a Bidder to influence processing of Bids or to award decision by MIDFC, or any officer, agent or Advisor thereof may result in the rejection of such Bidder’s Bid. In such a rejection of Bid, the authority may initiate the legal action against the Bidder.

5. Part – 5: Pre-Bid Queries format

5.1. Pre-Bid Queries and clarifications:

5.1.1. Bidders requiring any clarification on the RFP may send their queries to the Authority on or before the date mentioned in 1.6, through email only with subject line as follows:

“Pre-Bid queries - <Agency’s Name>” and in the WORD format as given below.

5.1.2. The reply to the pre-bid queries and any addendum/corrigendum shall be made through email.

5.1.3. The Format of the pre-bid queries

Sub: Request for Proposal (RPF) for Selection of agency for Designing, Development Operation and Maintenance of Website for Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd.

Sr. No.	Part	Clause No. and Page	Original Clause in the RFP	Change Requested/ Clarification required
1				
2				
3				

Name and complete official address of prospective Bidder

Name of the Bidder’s Contact Person:

Email:

Mobile No.:

Telephone:

Fax No.:

Signature:

Name of the Authorized signatory: Company seal:

Date and Stamped

6. Part – 6: Miscellaneous

- 6.1.** The Selection Process shall be governed by, and construed in accordance with, the laws of India and the Courts at Shillong shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Selection Process.
- 6.2.** The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:
- a) suspend and/or cancel the Selection Process and/or amend and/or supplement the Selection Process or modify the dates or other terms and conditions relating thereto;
 - b) consult with any Bidder in order to receive clarification or further information;
 - c) retain any information and/or evidence submitted to the Authority by, on behalf of and/or in relation to any Bidder; and/or
 - d) independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Bidder.
- 6.3.** It shall be deemed that by submitting the Proposal, the Bidder agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder, pursuant hereto and/or in connection herewith and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or future.
- 6.4.** All documents and other information supplied by the Authority or submitted by the Bidder shall remain or become, as the case may be, the property of the Authority. The Authority will not return any submissions made hereunder. Bidders are required to treat all such documents and information as strictly confidential.
- 6.5.** The Authority reserves the right to make inquiries with any of the clients listed by the Bidders in their previous experience record.

PART – 7 SCHEDULES

7. SCHEDULE-1: Terms of Reference (TOR)

7.1. GENERAL:

MIDFC has been mandated as nodal agency for Infrastructure Development in the state of Meghalaya. In-continuation of the scope, MIDFC is in process of development and implementation of MIDFC Website. For this, MIDFC intends to appoint an agency for Designing, Development Operation and Maintenance of Website for Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd.

7.2. OBJECTIVE:

The key objective of the tender is to appoint an agency for development and implementation of MIDFC Website .

7.3. SCOPE OF SERVICES :

The agency will undertake the following services in-line with the objective of the project.

7.3.1. Project implementation

- I. Requirement Analysis and Solution design: The selected agency is required to carry out detailed level current analysis of the requirements from the stakeholder's vis-à-vis the existing solution of the agency. Subsequently, the firm shall customize existing application and / or develop new application / modules to meet the requirements of MIDFC.
- II. Application Development / Customization: The selected agency can either proposed Bespoke development of the Application based on the system study done or can opt for COTS (Commercial Off The Shelf) implementation after necessary customization, if any off-the-shelf product meets the requirements of the proposed system.
- III. Application hosting: The agency is required to host the final Production version of the application in their secure and certified Data centre, or any other Data centre of a Cloud service provider based in India with recognized service and security credentials like ISO 20000, ISO27001, etc.
- IV. Application Demo: The Agency shall make a presentation of the Application to the MIDFC and other stakeholders before UAT (User Acceptance Test) from time to time or as and when required by the Department. The Agency shall proceed for security certification only after UAT sign-off from the concerned staff of MIDFC
- V. UAT and Go-live: Comprehensive UAT has to be conducted by the agency and corresponding sign-off to be obtained from the Department on successful completion. Once approval is obtained, the solution can be rolled-out at the identified location.
- VI. Licenses: The Agency is required to procure required software licenses for production / hosting to make the solution complete. Bidder should factor in the prices for such licenses required, in their financial proposal.

- VII. Ownership of database: MIDFC shall be the sole owner of the Intellectual Property Rights of the Designing, Development Operation and Maintenance of Website for Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd
- VIII. The Bidder shall be responsible for the security and maintaining of privacy of the database.
- IX. Exit management: After successful completion of the O&M period, the Agency is expected to carry out the following activities required to complete the Exit formalities:
- a. Submit the exit management plan 6 months in advance to MIDFC and to obtain approval from the competent authority for the same.
 - b. Functional and technical knowledge transfer of the Application to the persons identified by the Nodal Department.
 - c. Transfer of the source code and digital database to MIDFC.

7.3.2. **Functional Requirement Specification (FRS)**

The Scope of Work for the assignment will be as follows:

- A. General Administration
 - Company Details, Vision, Mission, Objective
 - Structure, Contact
 - Tenders/RFP/EoI, Recruitment ads
 - Feedback
 - Grievance handling
- B. Product Showcase
 - Listing of select product, with photos, specifications, description
 - Stories of artisans
 - Linking to online shopping portal (Amazon)
- C. Events & Festival
 - Upcoming Event/Festival
 - Event Calendar
 - Listing of old events
 - Event Blog
- D. Infrastructure
 - Geo-mapping of all infrastructure developed MIDFC.
 - Active Projects
 - Location
 - Status
 - Objective

- Funding
- Completed Projects
 - Location
 - Impact
 - Cost
- Infrastructure
 - Meghalaya Infrastructure sector general information
 - Focus infrastructure sectors of Meghalaya such as Transport (Road, Rail, Waterways, Air Transport), Power, Water, Energy, etc.
 - Ongoing key projects/ programs of MIDFC
 - Upcoming key projects/ programs of MIDFC
 - Successfully completed key projects/ programs of MIDFC

E. Deployment

- Domain name identification & procurement, Hosting and Performance Tuning
- Website Migration, SSL Certificate and Hosting
- 10 email IDs in the MIDFC domain.
- User Acceptance Testing

F. Operation and Maintenance

- Technical support
- Bug fix
- Cloud server management and monitoring
- Enhancements to be treated as new change requests.

7.3.3. Rendering advisory services

The Consultant shall provide such other advice and assistance as may be necessary and incidental to the Services and as may be requested by the Authority in respect of the Project, including but not limited to attending meetings, conferences and discussions with the Authority, and shall otherwise advise on and assist the Authority on the diverse commercial issues that may arise from time to time. The Consultant shall be responsible primarily for providing advice relating to financial issues arising from or during the course of the bidding process and the documents relating thereto.

7.3.4. Scope not exhaustive

The Scope of Services specified in the above Paragraphs are not exhaustive and the Consultant shall undertake such other tasks as may be necessary to appraise the project financially, prepare the Revenue Model and development of bid documents to complete the bid process for the Project.

7.4. Payment Terms:

7.4.1. The Bidder shall quote lump sum fees per tenement for the scope of work as indicated, in the Financial Proposal.

7.4.2. The payment schedule shall be as follows: -

Sr. No.	Deliverables	No. of Days from signing of agreement	Payment (%) of total amount
I.	Submission and approval of Project Inception Report	15 days	20%
II.	Submission and approval of Demo presentation & Content of the portal	30 days	20%
III.	After submission and approval of final design of the portal	45 days	20%
IV.	Activation of the portal	60 days	20%
V.	UAT pass	70 days	20%

7.4.3. MIDFC reserves the right to foreclose the agreement at any stage by giving one-month notice, in case the performance is not yielding results. In that case no further payment shall be paid one month notice to the Agency for remaining stages of the work and no claim of this account will be entertained.

7.4.4. Payment will be made as stipulated in clause –7.4.2 as and when fund is available for which escalation cost or any extra claim for delay of payment will not be entertained.

7.4.5. The Above Schedule excludes the time taken by the Authority in providing its comments on Draft Reports as well as obtaining necessary approval from the Government.

SCHEDULE-2: Form of Agreement

Contents

1. General

- 1.1 Definitions and Interpretation
- 1.2 Relation between the Parties
- 1.3 Rights and Obligations
- 1.4 Governing law and jurisdiction
- 1.5 Language
- 1.6 Table of contents and headings
- 1.7 Notices
- 1.8 Location
- 1.9 Authority of Member-in-charge
- 1.10 Authorized representatives
- 1.11 Taxes and duties

2. Commencement, Completion and Termination of Agreement 2.1

- 2.1 Effectiveness of Agreement
- 2.2 Commencement of Services
- 2.3 Termination of Agreement for failure to commence Services
- 2.4 Expiration of Agreement
- 2.5 Entire Agreement
- 2.6 Modification of Agreement
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AGREEMENT

Request for Proposal for Selection of Agency for Designing, Development Operation and Maintenance of Website for Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd.

AGREEMENT No. _____

This AGREEMENT (hereinafter called the “**Agreement**”) is made on the _____ day of the month of _____ 2019, between, on the one hand, MIDFC, Meghalaya acting through the -----, Meghalaya (hereinafter called the “**Authority**” which expression shall include their respective successors and permitted assigns, unless the context otherwise requires) and, on the other hand, _____ (hereinafter called the “**Agency**” which expression shall include their respective successors and permitted assigns).

WHEREAS

The Authority vide its Request for Proposal for Selection of Agency for Designing, Development Operation and Maintenance of Website for Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd. (hereinafter called the “**Services**”);

- A. the Agency submitted its proposals for the aforesaid work, whereby the Agency represented to the Authority that it had the required professional skills, and in the said proposals the Agency also agreed to provide the Services to the Authority on the terms and conditions as set forth in the RFP and this Agreement; and
- B. the Authority, on acceptance of the aforesaid proposals of the Agency, awarded the Work to the Agency vide its Letter of Award dated _____ (the “**LOA**”); and
- C. in pursuance of the LOA, the parties have agreed to enter into this Agreement.

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

1. GENERAL:

1.1. Definitions and Interpretation:

- 1.1.1. The words and expressions beginning with capital letters and defined in this Agreement shall, unless the context otherwise requires, have the meaning hereinafter respectively assigned to them:
 - (a) “**Agreement**” means this Agreement, together with all the Annexes;
 - (b) “**Agreement Value**” shall have the meaning set forth in Clause 6.1.2;
 - (c) “**Applicable Laws**” 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;
 - (d) “**Confidential Information**” shall have the meaning set forth in Clause 3.3.;
 - (e) “**Conflict of Interest**” shall have the meaning set forth in Clause 3.2 read with the provisions of RFP;
 - (f) “**Dispute**” shall have the meaning set forth in Clause 9.2.1;
 - (g) “**Effective Date**” means the date on which this Agreement comes into force and effect pursuant to Clause 2.1;

- (h) “**Expatriate Personnel**” means such persons who at the time of being so hired had their domicile outside India;
- (i) “**Government**” means the Government of Meghalaya;
- (j) “**INR, Re. or Rs.**” means Indian Rupees;
- (k) “**Party**” means the Authority or the Agency, as the case may be, and Parties means both of them;
- (l) “**Personnel**” means persons hired by the Agency as employees and assigned to the performance of the Services or any part thereof;
- (m) “**Resident Personnel**” means such persons who at the time of being so hired had their domicile inside India;
- (n) “**RFP**” means the Request for Proposal document in response to which the Agency’s proposal for providing Services was accepted;
- (o) “**Services**” means the work to be performed by the Agency pursuant to this Agreement, as described in the Terms of Reference hereto;
- (r) “**Third Party**” means any person or entity other than the Government, the Authority, the Agency or a Sub-Contractor.

All terms and words not defined herein shall, unless the context otherwise requires, have the meaning assigned to them in the RFP.

- 1.1.2. The following documents along with all addenda issued thereto shall be deemed to form and be read and construed as integral parts of this Agreement and in case of any contradiction between or among them the priority in which a **document** would prevail over another would be as laid down below beginning from the highest priority to the lowest priority:

- (a) Agreement;
- (b) Annexes of Agreement;
- (c) RFP; and
- (d) Letter of Award.

1.2. Relation between the Parties:

Nothing contained herein shall be construed as establishing a relation of master and servant or of agent and principal as between the Authority and the Agency. The Agency shall, subject to this Agreement, have complete charge of Personnel performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3. Rights and obligations:

The mutual rights and obligations of the Authority and the Agency shall be as set forth in the Agreement, in particular:

- (a) the Agency shall carry out the Services in accordance with the provisions of the Agreement; and

- (b) the Authority shall make payments to the Agency in accordance with the provisions of the Agreement.

1.4. Governing law and jurisdiction:

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at Shillong shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

1.5. Language:

All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

1.6. Table of contents and headings:

The tables of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement.

1.7. Notices:

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

- (a) in the case of the Agency, be given by facsimile or e-mail and by letter delivered by hand to the address given and marked for attention of the Agency's Representative set out below in Clause 1.10 or to such other person as the Agency may from time to time designate by notice to the Authority; provided that notices or other communications to be given to an address outside **Shillong** may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile or e-mail to the number as the Agency may from time to time specify by notice to the Authority;
- (b) in the case of the Authority, be given by facsimile or e-mail and by letter delivered by hand and be addressed to the Authority with a copy delivered to the Authority Representative set out below in Clause 1.10 or to such other person as the Authority may from time to time designate by notice to the Agency; provided that if the Agency does not have an office in Shillong it may send such notice by facsimile or e-mail and by registered acknowledgement due, air mail or by courier; and
- (c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery; provided that in the case of facsimile or e-mail, it shall be deemed to have been delivered on the working days following the date of its delivery.

1.8. Location:

The Services shall be performed at the site of the Project in accordance with the provisions of RFP and at such locations as are incidental thereto, including the offices of the Agency.

1.9. Authorized Representatives:

- 1.9.1. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement by the Authority or the Agency, as the case may be, may be taken or executed by the officials specified in this Clause 1.10.
- 1.9.2. The Authority may, from time to time, designate one of its officials as the Authority Representative. Unless otherwise notified, the Authority Representative shall be: The Chief Operations Officer, Meghalaya Infrastructure Development Finance Corporation (MIDFC), _____, Meghalaya

- 1.9.2. The Agency may designate one of its employees as Agency's Representative.

Unless otherwise notified, the Agency's Representative shall be:

Tel: _____

Mobile: _____

Fax: _____

Email: _____

1.10. Taxes and duties:

Unless otherwise specified in the Agreement, the Agency shall pay all such taxes, duties, fees and other impositions as may be levied under the Applicable Laws and the Authority shall perform such duties in regard to the deduction of such taxes as may be lawfully imposed on it.

2. COMMENCEMENT, COMPLETION AND TERMINATION OF AGREEMENT

2.1. Effectiveness of Agreement:

This Agreement shall come into force and effect on the date of this Agreement (the "Effective Date").

2.2. Commencement of Services:

The Agency shall commence the Services within a period of 7 (seven) days from the Effective Date, unless otherwise agreed by the Parties.

2.3. Termination of Agreement for failure to commence Services:

If the Agency does not commence the Services within the period specified in Clause 2.2 above, the Authority may, by not less than 2 (two) weeks' notice to the Agency, declare this Agreement to be null and void, and in the event of such a declaration, the performance guarantee of the Agency shall stand forfeited.

2.4. Expiration of Agreement:

Unless terminated earlier pursuant to Clauses 2.2 or 2.9 hereof, this Agreement shall, unless extended by the Parties by mutual consent, expire upon the earlier of (i) expiry of a period of 90 (ninety) days after the delivery of the final deliverable to the Authority; and (ii) the expiry of 10 (ten) years from the Effective Date. Upon Termination, the Authority shall make payments of all amounts due to the Agency hereunder.

2.5. Entire Agreement:

2.5.1. This Agreement and the Annexes together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn; provided, however, that the obligations of the Agency arising out of the provisions of the RFP shall continue to subsist and shall be deemed to form part of this Agreement.

2.5.2. Without prejudice to the generality of the provisions of Clause 2.5.1, on matters not covered by this Agreement, the provisions of RFP shall apply.

2.6. Modification of Agreement:

Modification of the terms and conditions of this Agreement, including any modification of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to Clauses 4.2.3 and 6.1.3 hereof, however, each Party shall give due consideration to any proposals for modification made by the other Party.

2.7. Force Majeure:

2.7.1. Definition:

(a) For the purposes of this Agreement, “**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, 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 (i) any event which is caused by the negligence or intentional action of a Party or such Party’s agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of the conclusion of this Agreement, and (B) avoid or overcome in the carrying out of its obligations hereunder.

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

2.7.2. No breach of Agreement:

The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Agreement insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all

reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Agreement.

2.7.3. 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 fulfil 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 14 (fourteen) days following the occurrence of such event, providing evidence 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.

2.7.4. Extension of time:

Any period within which a Party shall, pursuant to this Agreement, 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.

2.7.5. Payments:

During the period of its inability to perform the Services as a result of an event of Force Majeure, the Agency shall be entitled to be reimbursed for additional costs reasonably and necessarily incurred by it during such period for the purposes of the Services and in reactivating the Services after the end of such period.

2.7.6. Consultation:

Not later than 30 (thirty) days after the Agency has, as the result of an event of Force Majeure, 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.

2.8. Suspension of Agreement:

The Authority may, by written notice of suspension to the Agency, suspend all payments to the Agency hereunder if the Agency shall be in breach of this Agreement or shall fail to perform any of its obligations under this Agreement, including the carrying out of the Services; provided that such notice of suspension (i) shall specify the nature of the breach or failure, and (ii) shall provide an opportunity to the Agency to remedy such breach or failure within a period not exceeding 30 (thirty) days after receipt by the Agency of such notice of suspension.

2.9. Termination of Agreement:

2.9.1. By the Authority:

The Authority may, by not less than 30 (thirty) days' written notice of termination to the Agency, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.1, terminate this Agreement if:

- (a) the Agency fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.8

hereinabove, within 30 (thirty) days of receipt of such notice of suspension or within such further period as the Authority may have subsequently granted in writing;

- (b) the Agency becomes insolvent or bankrupt or enters into any agreement with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;
- (c) the Agency fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 9 hereof;
- (d) the Agency submits to the Authority a statement which has a material effect on the rights, obligations or interests of the Authority and which the Agency knows to be false;
- (e) any document, information, data or statement submitted by the Agency in its Proposals, based on which the Agency was considered eligible or successful, is found to be false, incorrect or misleading;
- (f) as the result of Force Majeure, the Agency is unable to perform a material portion of the Services for a period of not less than 60 (sixty) days; or
- (g) the Authority, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.

2.9.2. By the Agency:

The Agency may, by not less than 30 (thirty) days' written notice to the Authority, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.2, terminate this Agreement if:

- (a) the Authority fails to pay any money due to the Agency pursuant to this Agreement and not subject to dispute pursuant to Clause 9 hereof within 45 (forty five) days after receiving written notice from the Agency that such payment is overdue;
- (b) the Authority is in material breach of its obligations pursuant to this Agreement and has not remedied the same within 45 (forty five) days (or such longer period as the Agency may have subsequently granted in writing) following the receipt by the Authority of the Agency's notice specifying such breach;
- (c) as the result of Force Majeure, the Agency is unable to perform a material portion of the Services for a period of not less than 60 (sixty) days; or
- (d) the Authority fails to comply with any final decision reached as a result of arbitration pursuant to Clause 9 hereof.

2.9.3. Cessation of rights and obligations:

Upon termination of this Agreement pursuant to Clauses 2.3 or 2.9 hereof, or upon expiration of this Agreement pursuant to Clause 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except

- (i) such rights and obligations as may have accrued on the date of termination or expiration, or which expressly survive such Termination;
- (ii) the obligation of confidentiality set forth in Clause 3.3 hereof;
- (iii) the Agency's obligation to permit inspection, copying and auditing of such of its accounts and records set forth in Clause 3.6, as relate to the Agency's Services provided under this Agreement; and
- (iv) any right or remedy which a Party may have under this Agreement or the Applicable Law.

2.9.4. Cessation of Services:

Upon termination of this Agreement by notice of either Party to the other pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Agency 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. With respect to documents prepared by the Agency and equipment and materials furnished by the Authority, the Agency shall proceed as provided respectively by Clauses 3.9 or 3.10 hereof.

2.9.5. Payment upon Termination:

Upon termination of this Agreement pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Authority shall make the following payments to the Agency (after offsetting against these payments any amount that may be due from the Agency to the Authority):

- (i) Remuneration pursuant to Clause 6 hereof for Services satisfactorily performed prior to the date of termination;
- (ii) Reimbursable expenditures pursuant to Clause 6 hereof for expenditures actually incurred prior to the date of termination; and
- (iii) Except in the case of termination pursuant to sub-clauses (a) through (e) of Clause 2.9.1 hereof, reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Agreement.

2.9.6. Disputes about Events of Termination:

If either Party disputes whether an event specified in Clause 2.9.1 or in Clause 2.9.2 hereof has occurred, such Party may, within 30 (thirty) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause 9 hereof, and this Agreement shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

3. OBLIGATIONS OF THE AGENCY:

3.1. General:

3.1.1. Standards of Performance:

The Agency 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 and safe and effective equipment, machinery, materials and methods. The Agency shall always act, in respect of any matter relating to this Agreement or to the Services, as a faithful adviser to the Authority, and shall at all times support and safeguard the Authority's legitimate interests in any dealings with Third Parties.

3.1.2. Terms of Reference:

The scope of services to be performed by the Agency is specified in the Terms of Reference (the "TOR") at Annex-1 of this Agreement. The Agency shall provide the Deliverables specified therein in conformity with the time schedule stated therein.

3.1.3. Applicable Laws:

The Agency shall perform the Services in accordance with the Applicable Laws and shall take all practicable steps to ensure that any Personnel and agents of the Agency, comply with the Applicable Laws.

3.2. Conflict of Interest:

3.2.1. The Agency shall not have a Conflict of Interest and any breach hereof shall constitute a breach of the Agreement.

3.2.2. Agency and Affiliates not to be otherwise interested in the Project.

3.2.3. Prohibition of conflicting activities:

Neither the Agency nor its Sub-Contractors nor the Personnel of either of them shall engage, either directly or indirectly, in any of the following activities:

(a) during the term of this Agreement, any business or professional activities which would conflict with the activities assigned to them under this Agreement;

(b) after the termination of this Agreement, such other activities as may be specified in the Agreement; or

(c) at any time, such other activities as have been specified in the RFP as Conflict of Interest.

3.2.4. **Agency not to benefit from commissions discounts, etc.:**

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

3.2.5. The Agency and its Personnel shall observe the highest standards of ethics and shall not have engaged in and shall not hereafter engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the "**Prohibited Practices**"). Notwithstanding anything to the contrary contained in this Agreement, the Authority shall be entitled to terminate this Agreement forthwith by a communication in writing to the Agency, without being liable in any manner whatsoever to the Agency, if it determines that the Agency has, directly or indirectly or through an agent, engaged in any Prohibited Practices in the Selection Process or before or after entering into of this Agreement. In such an event, the Authority shall forfeit and appropriate the performance security, if any, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority towards, *inter alia*, the time, cost and effort of the Authority, without prejudice to the Authority's any other rights or remedy hereunder or in law.

3.2.6. Without prejudice to the rights of the Authority under Clause 3.2.5 above and the other rights and remedies which the Authority may have under this Agreement, if the Agency is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices, during the Selection Process or before or after the execution of this Agreement, the Agency shall not be eligible to participate in any tender or RFP issued during a period of 2 (two) years from the date the Agency is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices.

3.2.7. For the purposes of Clauses 3.2.5 and 3.2.6, the following terms shall have the meaning hereinafter respectively assigned to them:

- (a) “**corrupt practice**” means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Selection Process (for removal of doubt, offering of employment or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with Selection Process or LOA or dealing with matters concerning the Agreement before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) engaging in any manner what so ever, whether during the Selection Process or after the issue of LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical adviser the Authority in relation to any matter concerning the Project;
- (b) “**fraudulent practice**” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- (c) “**coercive practice**” means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Selection Process or the exercise of its rights or performance of its obligations by the Authority under this Agreement;
- (d) “**undesirable practice**” means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- (e) “**Restrictive practice**” means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Selection Process.

3.3. Confidentiality:

The Agency, its Sub-Contractors and the Personnel of either of them shall not, either during the term or within two years after the expiration or termination of this Agreement disclose any proprietary information, including information relating to reports, data, drawings, design software or other material, whether written or oral, in electronic or magnetic format, and the contents thereof; and any reports, digests or summaries created or derived from any of the foregoing that is provided by the Authority to the Agency, its Sub-Contractors and the Personnel; any information provided by or relating to the Authority, its technology, technical processes, business affairs or finances or any information relating to the Authority’s employees, officers or other professionals or suppliers, customers, or contractors of the Authority; and any other information which the Agency is under an obligation to keep confidential in relation to the Project, the Services or this Agreement (“**Confidential Information**”), without the prior written consent of the Authority.

Notwithstanding the aforesaid, the Agency, its Sub-Contractors and the Personnel of either of them may disclose Confidential Information to the extent that such Confidential Information:

- (i) was in the public domain prior to its delivery to the Agency, its Sub-Contractors and the Personnel of either of them or becomes a part of the public knowledge from a source other than the Agency, its Sub- Contractors and the Personnel of either of them;
- (ii) was obtained from a third party with no known duty to maintain its confidentiality;
- (iii) is required to be disclosed by Applicable Laws or judicial or administrative or arbitral process or by any governmental instrumentalities, provided that for any such disclosure, the Agency, its Sub- Contractors and the Personnel of either of them shall give the Authority, prompt written notice, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment; and
- (iv) is provided to the professional advisers, agents, auditors or representatives of the Agency or its Sub- Contractors or Personnel of either of them, as is reasonable under the circumstances; provided, however, that the Agency or its Sub- Contractors or Personnel of either of them, as the case may be, shall require their professional advisers, agents, auditors or its representatives, to undertake in writing to keep such Confidential Information, confidential and shall use its best efforts to ensure compliance with such undertaking.

3.4. Liability of the Agency:

- 3.4.1. The Agency's liability under this Agreement shall be determined by the Applicable Laws and the provisions hereof.
- 3.4.2. The Agency shall, subject to the limitation specified in Clause 3.4.3, be liable to the Authority for any direct loss or damage accrued or likely to accrue due to deficiency in Services rendered by it.
- 3.4.3. The Parties hereto agree that in case of negligence or willful misconduct on the part of the Agency or on the part of any person or firm acting on behalf of the Agency in carrying out the Services, the Agency, with respect to damage caused to the Authority's property, shall not be liable to the Authority:
 - (i) for any indirect or consequential loss or damage; and
 - (ii) for any direct loss or damage that exceeds (a) the Agreement Value set forth in Clause 6.1.2 of this Agreement, or (b) the proceeds the Agency may be entitled to receive from any insurance maintained by the Agency to cover such a liability in accordance with Clause 3.5.2, whichever of (a) or (b) is higher.
- 3.4.4. This limitation of liability specified in Clause 3.4.3 shall not affect the Agency's liability, if any, for damage to Third Parties caused by the Agency or any person or firm acting on behalf of the Agency in carrying out the Services subject, however, to a limit equal to 3 (three) times the Agreement Value.

3.5. Insurance to be taken out by the Agency:

- 3.5.1. (a) The Agency shall, for the duration of this Agreement, take out and maintain, and shall cause any Sub- Contractor to take out and maintain, at its (or the Sub- Contractors', as the

case may be) own cost, but on terms and conditions approved by the Authority, insurance against the risks, and for the coverage, as specified in the Agreement and in accordance with good industry practice.

- (b) Within 15 (fifteen) days of receiving any insurance policy certificate in respect of insurances required to be obtained and maintained under this clause, the Agency shall furnish to the Authority, copies of such policy certificates, copies of the insurance policies and evidence that the insurance premium have been paid in respect of such insurance. No insurance shall be cancelled, modified or allowed to expire or lapse during the term of this Agreement.
- (c) If the Agency fails to effect and keep in force the aforesaid insurances for which it is responsible pursuant hereto, the Authority shall, apart from having other recourse available under this Agreement, have the option, without prejudice to the obligations of the Agency, to take out the aforesaid insurance, to keep in force any such insurances, and pay such premium and recover the costs thereof from the Agency, and the Agency shall be liable to pay such amounts on demand by the Authority.
- (d) Except in case of Third Party liabilities, the insurance policies so procured shall mention the Authority as the beneficiary of the Agency and the Agency shall procure an undertaking from the insurance company to this effect; provided that in the event the Agency has a general insurance policy that covers the risks specified in this Agreement and the amount of insurance cover is equivalent to 3 (three) times the cover required hereunder, such insurance policy may not mention the Authority as the sole beneficiary of the Agency or require an undertaking to that effect.

3.5.2. The Parties agree that the risks and coverage shall include but not be limited to the following:

- (a) Third Party liability insurance as required under Applicable Laws, with a minimum coverage of 3 (three) times of agreement value;
- (b) Employer's liability and workers' compensation insurance in respect of the Personnel of the Agency and of any Sub- Contractors, in accordance with Applicable Laws; and professional liability insurance for an amount no less than the Agreement Value.
- (c) The indemnity limit in terms of "Any One Accident" (AOA) and "Aggregate limit on the policy period" (AOP) should not be less than the amount stated in Clause 6.1.2 of the Agreement.

3.6. Accounting, inspection and auditing:

The Agency shall:

- (a) keep accurate and systematic accounts and records in respect of the Services provided under this Agreement, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and cost, and the basis thereof (including the basis of the Agency's costs and charges); and
- (b) permit the Authority or its designated representative periodically, and up to one year from the expiration or termination of this Agreement, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Authority.

3.7. Agency's actions requiring the Authority's prior approval:

The Agency shall obtain the Authority's prior approval in writing before taking any of the following actions:

- (a) appointing such members of the Professional Personnel as are not listed in Annex-2.
- (b) entering into a subcontract for the performance of any part of the Services, it being understood (i) that the selection of the Sub- Contractor and the terms and conditions of the subcontract shall have been approved in writing by the Authority prior to the execution of the subcontract, and (ii) that the Agency shall remain fully liable for the performance of the Services by the Sub- Contractor and its Personnel pursuant to this Agreement; or
- (c) any other action that is specified in this Agreement.

3.8. Reporting obligations:

The Agency shall submit to the Authority the reports and documents specified in the Agreement, in the form, in the numbers and within the time periods set forth therein.

3.9. Documents prepared by the Agency to be property of the Authority:

- 3.9.1. All plans, drawings, specifications, designs, reports and other documents (collectively referred to as "**Documents**") prepared by the Agency (or by the Sub- Agency or any Third Party) in performing the Services shall become and remain the property of the Authority, and all intellectual property rights in such Documents shall vest with the Authority. Any Document, of which the ownership or the intellectual property rights do not vest with the Authority under law, shall automatically stand assigned to the Authority as and when such Document is created, and the Agency agrees to execute all papers and to perform such other acts as the Authority may deem necessary to secure its rights herein assigned by the Agency.
- 3.9.2. The Agency shall, not later than termination or expiration of this Agreement, deliver all Documents to the Authority, together with a detailed inventory thereof. The Agency may retain a copy of such Documents. The Agency, its Sub-Agency or a Third Party shall not use these Documents for purposes unrelated to this Agreement without the prior written approval of the Authority.
- 3.9.3. The Agency shall hold the Authority harmless and indemnified for any losses, claims, damages, expenses (including all legal expenses), awards, penalties or injuries (collectively referred to as 'claims') which may arise from or due to any unauthorized use of such Documents, or due to any breach or failure on part of the Agency or its Sub- Contractors or a Third Party to perform any of its duties or obligations in relation to securing the aforementioned rights of the Authority.

3.10. Equipment and materials furnished by the Authority:

Equipment and materials made available to the Agency by the Authority shall be the property of the Authority and shall be marked accordingly. Upon termination or expiration of this Agreement, the Agency shall furnish forthwith to the Authority, an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the instructions of the Authority. While in possession of such equipment and materials, the Agency shall, unless otherwise instructed by the Authority in writing, insure them in an amount equal to their full replacement value.

3.11. Providing access to Project Office and Personnel:

The Agency shall ensure that the Authority, and officials of the Authority having authority from the Authority, are provided unrestricted access to the Project Office and to all Personnel during office hours. The Authority's official, who has been authorized by the Authority in this behalf, shall have the right to inspect the Services in progress, interact with Personnel of the Agency and verify the records relating to the Services for his satisfaction.

3.12. Accuracy of Documents:

The Agency shall be responsible for accuracy of the data collected by it directly or procured from of these services. Subject to the provisions of Clause 3.4, it shall indemnify the Authority against any inaccuracy in its work which might surface during implementation of the Project, if such inaccuracy is the result of any negligence or inadequate due diligence on part of the Agency or arises out of its failure to conform to good industry practice. The Agency shall also be responsible for promptly correcting, at its own cost and risk, the drawings including any re-survey / investigations.

4. AGENCY'S PERSONNEL:

4.1. General:

The Agency shall employ and provide such qualified and experienced Personnel as may be required to carry out the Services.

4.2. Deployment of Personnel:

- 4.2.1. The designations, names and the estimated periods of engagement in carrying out the Services by each of the Agency's Personnel are described in Annex-2 of this Agreement. The estimate of Personnel costs and manday rates are specified in Annex-3 of this Agreement.
- 4.2.2. Adjustments with respect to the estimated periods of engagement of Personnel set forth in the aforementioned Annex-3 may be made by the Agency by written notice to the Authority, provided that: (i) such adjustments shall not alter the originally estimated period of engagement of any individual by more than 20% (twenty per cent) or one week, whichever is greater, and (ii) the aggregate of such adjustments shall not cause payments under the Agreement to exceed the Agreement Value set forth in Clause 6.1.2 of this Agreement. Any other adjustments shall only be made with the written approval of the Authority.
- 4.2.3. If additional work is required beyond the scope of the Services specified in the Terms of Reference, the estimated periods of engagement of Personnel, set forth in the Annexes of the Agreement may be increased by agreement in writing between the Authority and the Agency, provided that any such increase shall not, except as otherwise agreed, cause payments under this Agreement to exceed the Agreement Value set forth in Clause 6.1.2.

4.3. Approval of Personnel:

- 4.3.1. The Professional Personnel listed in Annex-2 of the Agreement are hereby approved by the Authority. No other Professional Personnel shall be engaged without prior approval of the Authority.
- 4.3.2. If the Agency hereafter proposes to engage any person as Professional Personnel, it shall submit to the Authority its proposal along with a CV of such person in the form provided at Appendix-I (Form-6) of the RFP. The Authority may approve or reject such proposal within

14 (fourteen) days of receipt thereof. In case the proposal is rejected, the Agency may propose an alternative person for the Authority's consideration. In the event the Authority does not reject a proposal within 14 (fourteen) days of the date of receipt thereof under this Clause 4.3, it shall be deemed to have been approved by the Authority.

4.4. Substitution of Key Personnel:

The Authority expects all the Key Personnel specified in the Proposal to be available during implementation of the Agreement. The Authority will not consider any substitution of Key Personnel except under compelling circumstances beyond the control of the Agency and the concerned Key Personnel. Such substitution shall be limited to not more than two Key Personnel subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority.

4.5. Team Leader cum Project Manager:

The person designated as the Team Leader cum Project Manager of the Agency's Personnel shall be responsible for the coordinated, timely and efficient functioning of the Personnel and he shall be responsible for performance of the Services.

4.6. Associate individual consultant:

Associate Individual consultant listed in Annex-4 of this Agreement are hereby approved by the Authority.

5. OBLIGATIONS OF THE AUTHORITY:

5.1. Assistance in clearances etc.:

Unless otherwise specified in the Agreement, the Authority shall make best efforts to ensure that the Government shall:

- (a) provide the Agency, and Personnel with work permits and such other documents as may be necessary to enable the Agency, its Personnel to perform the Services;
- (b) facilitate prompt clearance through customs of any property required for the Services; and
- (c) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.

5.2. Access to land and property:

The Authority warrants that the Agency shall have, free of charge, unimpeded access to the site of the project in respect of which access is required for the performance of Services; provided that if such access shall not be made available to the Agency as and when so required, the Parties shall agree on the time extension, as may be appropriate, for the performance of Services.

5.3. Changes in Applicable Law:

If, after the date of this Agreement, there is any change in the Applicable Laws with respect to taxes and duties which increases or decreases the cost or reimbursable expenses incurred by the Agency in performing the Services, by an amount exceeding 2% (two per cent) of the Agreement Value specified in Clause 6.1.2, then the remuneration

and reimbursable expenses otherwise payable to the Agency under this Agreement shall be increased or decreased accordingly by agreement between the Parties here to, and corresponding adjustments shall be made to the aforesaid Agreement Value.

5.4. Payment:

In consideration of the Services performed by the Agency under this Agreement, the Authority shall make to the Agency such payments and in such manner as is provided in Clause 6 of this Agreement.

6. PAYMENT TO THE AGENCY:

6.1. Cost Estimates and Agreement Value:

6.1.1. An abstract of the cost of the Services payable to the Agency is set forth in Annex- 5 of the Agreement.

6.1.2. Except as may be otherwise agreed under Clause 2.6 and subject to Clause 6.1.3, the payments under this Agreement shall not exceed the agreement value specified herein (the "Agreement Value"). The Parties agree that the Agreement Value is Rs.
(Rupees).

6.2. Currency of payment:

All payments shall be made in Indian Rupees. The Agency shall be free to convert Rupees into any foreign currency as per Applicable Laws.

6.3. Mode of billing and payment:

Billing and payments in respect of the Services shall be made as follows:-

- (a) The Agency shall be paid for its services for pretender activities and post tender activities as per the Payment Schedule at Annex-6 of this Agreement, subject to the Agency fulfilling the following conditions:
 - (i) No payment shall be due for the next stage till the Agency completes, to the satisfaction of the Authority, the work pertaining to the preceding stage.
 - (ii) The Authority shall pay to the Agency, only the undisputed amount.
- (b) The Authority shall cause the payment due to the Agency to be made within 30 (thirty) days after the receipt by the Authority of duly completed bills with necessary particulars (the "Due Date").
- (c) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Agency and approved as satisfactory by the Authority. The Services shall be deemed completed and finally accepted by the Authority and the final deliverable shall be deemed approved by the Authority as satisfactory upon expiry of 90 (ninety) days after receipt of the final deliverable by the Authority unless the Authority, within such 90 (ninety) day period, gives written notice to the Agency specifying in detail, the deficiencies in the Services. The Agency shall thereupon promptly make any necessary corrections and/or additions, and upon completion of such corrections or additions, the foregoing process shall be repeated. The Authority shall make the final payment upon acceptance or deemed acceptance of the final deliverable by the Authority.

(d) Any amount which the Authority has paid or caused to be paid in excess of the amounts actually payable in accordance with the provisions of this Agreement shall be reimbursed by the Agency to the Authority within 30 (thirty) days after receipt by the Agency of notice thereof. Any such claim by the Authority for reimbursement must be made within 1 (one) year after receipt by the Authority of a final report in accordance with Clause 6.3 (c). Any delay by the Agency in reimbursement by the due date shall attract simple interest @ 10% (ten per cent) per annum.

(e) All payments under this Agreement shall be made to the account of the Agency as may be notified to the Authority by the Agency.

7. LIQUIDATED DAMAGES AND PENALTIES:

7.1. Performance Security:

7.1.1. The Authority shall retain by way of performance security (the "Performance Security"), 5% (five per cent) of all the amounts due and payable to the Agency, to be appropriated against breach of this Agreement or for recovery of liquidated damages as specified in Clause 7.2 herein. The balance remaining out of the Performance Security shall be returned to the Agency at the end of 3 (three) months after the expiration of this Agreement pursuant to Clause 2.4 hereof.

7.1.2. The Agency may, in lieu of retention of the amounts as referred to in Clause 7.1.1 above, furnish a Bank Guarantee of Nationalized or Scheduled Bank substantially in the form specified at Annex-7 of this Agreement.

7.2. Liquidated Damages:

7.2.1. Liquidated Damages for error/variation:

In case any error or variation is detected in the reports submitted by the Agency and such error or variation is the result of negligence or lack of due diligence on the part of the Agency, the consequential damages thereof shall be quantified by the Authority in a reasonable manner and recovered from the Agency by way of deemed liquidated damages, subject to a maximum of 10% (ten per cent) of the Agreement Value.

7.2.2. Liquidated Damages for delay:

In case of delay in completion of Services, liquidated damages not exceeding an amount equal to 0.2% (zero point two per cent) of the Agreement Value per day, subject to a maximum of 10% (ten per cent) of the Agreement Value will be imposed and shall be recovered by appropriation from the Performance Security or otherwise. However, in case of delay due to reasons beyond the control of the Agency, suitable extension of time shall be granted.

7.2.3. Encashment and appropriation of Performance Security:

The Authority shall have the right to invoke and appropriate the proceeds of the Performance Security, in whole or in part, without notice to the Agency in the event of breach of this Agreement or for recovery of liquidated damages specified in this Clause 7.2.

7.3. Penalty for deficiency in Services:

In addition to the liquidated damages not amounting to penalty, as specified in Clause 7.2, warning may be issued to the Agency for minor deficiencies on its part. In the case of significant deficiencies in Services causing adverse effect on the Project or on the reputation of the Authority, other penal action including debarring for a specified period may also be initiated as per policy of the Authority.

8. FAIRNESS AND GOOD FAITH:

8.1. Good Faith:

The Parties undertake to act in good faith with respect to each other's rights under this Agreement and to adopt all reasonable measures to ensure the realization of the objectives of this Agreement.

8.2. Operation of the Agreement:

The Parties recognize that it is impractical in this Agreement to provide for every contingency which may arise during the life of the Agreement, and the Parties hereby agree that it is their intention that this Agreement shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Agreement either Party believes that this Agreement 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 not give rise to a dispute subject to arbitration in accordance with Clause 9 hereof.

9. SETTLEMENT OF DISPUTES:

9.1. Amicable settlement:

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

9.2. Dispute resolution:

9.2.1. Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the "Dispute") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 9.3.

9.2.2. The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non privileged records, information and data pertaining to any Dispute.

9.3. Conciliation:

In the event of any Dispute between the Parties, either Party may call upon Chief Administrative Officer MIDFC and the Chairman of the Board of Directors of the Agency or a substitute thereof for amicable settlement, and upon such reference, the said persons shall meet no later than 30 (thirty) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 30 (thirty) days period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written

terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 9.2.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 9.4.

9.4. Arbitration:

- 9.4.1. Any Dispute which is not resolved amicably by conciliation, as provided in Clause 9.3, shall be finally decided by reference to arbitration by an Arbitral Tribunal appointed in accordance with Clause 9.4.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the “Rules”), or such other rules as may be mutually agreed by the Parties and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996. The venue of such arbitration shall be Shillong and the language of arbitration proceedings shall be English.
- 9.4.2. There shall be an Arbitral Tribunal of three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected, and in the event of disagreement between the two arbitrators, a sole arbitrator whose appointment shall be made in accordance with the Rules.
- 9.4.3. The arbitrators shall make a reasoned award (the “Award”). Any Award made in any arbitration held pursuant to this Clause 9 shall be final and binding on the Parties as from the date it is made, and the Agency and the Authority agree and undertake to carry out such Award without delay.
- 9.4.4. The Agency and the Authority agree that an Award may be enforced against the Agency and/or the Authority, as the case may be, and their respective assets wherever situated.
- 9.4.5. This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.
- 9.5.** If the dispute is taken into the Court of Law, the jurisdiction will be Shillong Court.

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

SIGNED, SEALED AND DELIVERED

For and on behalf of

Agency:

(Signature)

(Name)

(Designation)

(Address)

(Fax No.)

In the presence of:

1.

SIGNED, SEALED AND DELIVERED

For and on behalf of

[Authority]

(Signature)

(Name)

(Designation)

(Address)

(Fax No.)

2.

Annex-1

Terms of Reference

(Refer Clause 3.1.2)

(Reproduce Schedule-1 of RFP)

Annex-2

Deployment of Personnel

(Refer Clause 4.2)

(Reproduce as per of Appendix-1, Form-6)

Annex-3

Estimate of Personnel Costs

(Refer Clause 4.2)

(Reproduce as per of Appendix-2, Form-3)

Annex-4
Approved Associates

Annex-5
Cost of Services

Annex-6

Payment Schedule *for Pretender Activities*

Annex- 7

Bank Guarantee for Performance Security
(Refer Clause 7.1.2)

To

<Name>

<Designation>

<Address>

<Phone Nos.>

<Fax Nos.>

<email id>

In consideration of **Chief Operating Officer, COO, MIDFC** Meghalaya (hereinafter referred as the "Authority", which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) having awarded to M/s, having its office at (hereinafter referred as the "Agency" which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), vide the Authority's Agreement no. Dated Valued at Rs..... (Rupees), (hereinafter referred to as the "Agreement") Services for Request for Proposal for Selection of Agency for Designing, Development Operation and Maintenance of Website for Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd.. portal in Meghalaya., and the Agency having agreed to furnish a Bank Guarantee amounting to Rs. (Rupees) to the Authority for performance of the said Agreement.

1. We, (hereinafter referred to as the "Bank") at the request of the Agency do hereby undertake to pay to the Authority an amount not exceeding Rs..... (Rupees) against any loss or damage caused to or suffered or would be caused to or suffered by the Authority by reason of any breach by the said Agency of any of the terms or conditions contained in the said Agreement.
2. We, (indicate the name of the Bank) do hereby undertake to pay the amounts due and payable under this Guarantee without any demur, merely on a demand from the Authority stating that the amount/claimed is due by way of loss or damage caused to or would be caused to or suffered by the Authority by reason of breach by the said Agency of any of the terms or conditions contained in the said Agreement or by reason of the Agency's failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. (Rupees).
3. We, (indicate the name of Bank) undertake to pay to the Authority any money so demanded notwithstanding any dispute or disputes raised by the Agency in any suit or proceeding pending before any court or tribunal relating thereto, our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment there under and the Agency shall have no claim against us for making such payment.

4. We, (indicate the name of Bank) further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Authority under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till the Authority certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Agency and accordingly discharges this Guarantee. Unless a demand or claim under this Guarantee is made on us in writing on or before a period of one year from the date of this Guarantee, we shall be discharged from all liability under this Guarantee thereafter.

5. We, (indicate the name of Bank) further agree with the Authority that the Authority shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said Agency from time to time or to postpone for any time or from time to time any of the powers exercisable by the Authority against the said Agency and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Agency or for any forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Agency or any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of so relieving us.

6. This Guarantee will not be discharged due to the change in the constitution of the Bank or the Agency(s).

7. We, (indicate the name of Bank) lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the Authority in writing.

8. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. *** crore (Rupees ***** crore) only. The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 2 hereof, on or before [*** (indicate date falling 180 days after the date of this Guarantee)].

For.....

Name of Bank:

Seal of the Bank:

Dated, the day of, 2022

(Signature, name and designation of the authorized signatory)

NOTES:

- (i) The Bank Guarantee should contain the name, designation and code number of the officer(s) signing the Guarantee.

- (ii) The address, telephone no. and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch.

SCHEDULE-3: Guidance Note on Conflict of Interest

(Refer Clause 2.3.3)

1. This Note further explains and illustrates the provisions of Clause 2.3 of the RFP and shall be read together therewith in dealing with specific cases.
2. Agency's should be deemed to be in a conflict of interest situation if it can be reasonably concluded that their position in a business or their personal interest could improperly influence their judgment in the exercise of their duties. The process for selection of Agency's should avoid both actual and perceived conflict of interest.
3. Conflict of interest may arise between the Authority and Agency or between Agency's and present or future Developer. Some of the situations that would involve conflict of interest are identified below:
 - (a) Authority and Agency's:
 - (i) Potential Agency should not be privy to information from the Authority which is not available to others; or
 - (ii) potential Agency should not have defined the project when earlier working for the Authority; or
 - (iii) potential Agency should not have recently worked for the Authority overseeing the project.
 - (b) Agency's and Developer:
 - (i) No Agency should have an ownership interest or a continuing business interest or an on-going relationship with a potential Developer save and except relationships restricted to project-specific and short-term assignments; or
 - (ii) no Agency should be involved in owning or operating entities resulting from the project; or
 - (iii) no Agency should bid for works arising from the project.

The participation of companies that may be involved as investors or consumers and officials of the Authority who have current or recent connections to the companies involved, therefore, needs to be avoided.

4. The normal way to identify conflicts of interest is through self-declaration by Agency's. Where a conflict exists, which has not been declared, competing companies are likely to bring this to the notice of the Authority. All conflicts must be declared as and when the Agency become aware of them.
5. Another approach towards avoiding a conflict of interest is through the use of "Chinese walls" to avoid the flow of commercially sensitive information from one part of the Agency's company to another. This could help overcome the problem of availability of limited numbers of experts for the project. However, in reality effective operation of "Chinese walls" may be a difficult proposition. As a general rule, larger companies will be more capable of adopting Chinese walls approach than smaller companies. Although, "Chinese walls" have been relatively common for many years, they are an increasingly discredited means of avoiding conflicts of interest and should be considered with

caution. As a rule, “Chinese walls” should be considered as unacceptable and may be accepted only in exceptional cases upon full disclosure by a Agency coupled with provision of safeguards to the satisfaction of the Authority.

6. Another way to avoid conflicts of interest is through the appropriate grouping of tasks. For example, conflicts may arise if Agency drawing up the terms of reference or the proposed documentation are also eligible for the consequent assignment or project.
7. Another form of conflict of interest called “scope–creep” arises when Agency advocate either an unnecessary broadening of the terms of reference or make recommendations which are not in the best interests of the Authority but which will generate further work for the Agency. Some forms of contractual arrangements are more likely to lead to scope-creep. For example, lump-sum contracts provide fewer incentives for this, while time and material contracts provide built in incentives for Agency to extend the length of their assignment.
8. Every project contains potential conflicts of interest. Agency should not only avoid any conflict of interest, they should report any present/ potential conflict of interest to the Authority at the earliest. Officials of the Authority involved in development of a project shall be responsible for identifying and resolving any conflicts of interest. It should be ensured that safeguards are in place to preserve fair and open competition and measures should be taken to eliminate any conflict of interest arising at any stage in the process.

PART – 8 : Appendix 1: Technical Proposal

Technical Envelop No.1.(T1)

APPENDIX-1

Form –1 : Letter of Proposal

(On Firm's Letter Head)

Date:

Place:

To,

Chief Operations Officer Meghalaya Infrastructure Development Finance Corporation (MIDFC)
House No. L/A-56, Lower Nongrim Hills,
Shillong East Khasi Hills, 793003
Meghalaya, India

Sub: Request for Proposal (RFP) Selection of an agency for Designing, Development Operation and Maintenance of Website for Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd.

Dear Sir,

1. With reference to your RFP Document of the captioned subject, I/we, having examined all relevant documents and understood their contents, hereby submit our Proposal for selection as Agency for Providing Services. The proposal is unconditional and unqualified.
2. All information provided in the Proposal and in the Appendices is true and correct and all documents accompanying such Proposal are true copies of their respective originals.
3. This statement is made for the express purpose of appointment as the Agency for the aforesaid Project.
4. I/We shall make available to the Authority any additional information it may deem necessary or require for supplementing or authenticating the Proposal.
5. I/We acknowledge the right of the Authority to reject our application without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
6. I/We certify that in the last three years, we or any of our associate have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
7. I/We declare that:
 - a. I/We have examined and have no reservations to the RFP Documents, including any Addendum issued by the Authority;
 - b. I/We do not have any conflict of interest in accordance with RFP Document;

- c. I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any Government, Central or State; and
- d. I/We hereby certify that we have taken steps to ensure that in conformity with the provisions of Part 4 of the RFP, no person acting for us or on our behalf will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. I/We understand that you may cancel the Selection Process at any time and that you are neither bound to accept any Proposal that you may receive nor to select the Agency, without incurring any liability to the Applicants in accordance with the RFP document.
9. I/We declare that we/any member of the team, are/is not a Member of a/any other bidder applying for Selection as an Agency.
10. I/We certify that in regard to matters other than security and integrity of the country, we or any of our Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which would cast a doubt on our ability to undertake the work for the Project or which relates to a grave offence that outrages the moral sense of the community.
11. I/We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
12. I/We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our Directors/Managers/employees.
13. I/We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority [and/ or the Government of India] in connection with the selection of Agency or in connection with the Selection Process itself in respect of the above-mentioned Project.
14. I/We agree and understand that the proposal is subject to the provisions of the RFP document. In no case, shall I/we have any claim or right of whatsoever nature if the work for the Project is not awarded to me/us or our proposal is not opened or rejected.
15. I/We agree to keep this offer valid for 120 (One Twenty Days) days from the Proposal Due Date specified in the RFP.
16. A Power of Attorney in favour of the authorized signatory to sign and submit this Proposal and documents.
17. In the event of my/our Firm being selected as the Agency, I/we agree to enter into an Agreement in accordance with the form at Schedule-2 of the RFP. We agree not to seek any changes in the aforesaid form and agree to abide by the same.

18.I/We have studied RFP and all other documents carefully and also surveyed the Project site. We understand that except to the extent as expressly set forth in the Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or concerning or relating to the Selection Process including the award of Project.

19.The Bid is submitted in two envelopes system within prescribed schedule, the Technical Proposal & Financial Proposal shall constitute the Application which shall be binding on us.

20.I/We agree and undertake to abide by all the terms and conditions of the RFP Document. In witness thereof, I/we submit this Proposal under and in accordance with the terms of the RFP Document.

Yours faithfully,

(Signature, name and designation of the authorized signatory)

(Name and seal of the Applicant / Lead Member)

APPENDIX-1

Form – 2: Particulars of the Bidder

Sr. No.	Items	Description
1	Name of the Project	Request for Proposal (RPF) for Selection of an agency for Designing, Development Operation and Maintenance of Website for Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd.
2	<p>State the structure of the Bidder's organization (Bidder to complete/delete as appropriate)</p> <p>Individual Firm:</p> <p>Other (Please specify):</p>	
3	<p>State the following for the Individual Firm:</p> <ol style="list-style-type: none"> 1. Name of Company or Firm 2. Legal status (e.g. incorporated private company, unincorporated business, etc.) 3. Country of incorporation 4. Registered address 5. Year of Incorporation 6. Year of commencement of business 7. Principal place of business: 8. Brief description of the Company including details of its main lines of business <p>Details of individual(s) who will serve as the point of contact communication for the MHADA within the Company:</p> <ol style="list-style-type: none"> (a) Name (b) Designation (c) Company (d) Address (e) Telephone Number (f) E-Mail Address (g) Fax Number 	

	Name, Designation, Address and Phone Numbers of Authorized Signatory of the (a) Bidder: (b) Name : (c) Designation : (d) Company : (e) Address : (f) Phone No. / Fax No. : (g) E-Mail Address:
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(Signature, name and designation of the authorized signatory)

(Name and seal of the Applicant / Lead Member)

APPENDIX-1

Form – 3 A: Power of Attorney for Signing of the Bid by Bidder

Know all men by these presents, We, (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr. / Ms (Name), son/daughter/wife of and presently residing at, who is presently employed with us and holding the position of, as our true and lawful attorney (hereinafter referred to as the “Attorney”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for Selection of an agency for development and implementation of Meghalaya Infrastructure Development & Finance Corporation Ltd. Website. including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders’ and other conferences and providing information / responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our bid for the said Project and/or upon award thereof to us and/or till the entering into of the Agreement with the Authority.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE,, THE ABOVE-NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF, 2022.

For.....

(Signature, name, designation and address) Witnesses:

- 1
- 2

Accepted Notarized

(Signature, name, designation and address of the Attorney)

APPENDIX-1

Form – 4: Financial Capacity of the Bidder

S. No	Financial Year #	Annual Revenue (in Rs.)
1.	2018-19	
2.	2019-20	
3.	2020-21	
	Net worth as on __/03/2021 is Rs. _____	
	Certificate from the Statutory Auditor^s	
<p>This is to certify that the above financial position extracted from the audited financial statement of M/s -----(Name of Bidder) for the last three completed accounting years up to 2020-21 are correct.</p> <p>Name of the audit firm: Seal of the audit firm Date:</p> <p>(Signature, name and designation of the authorized signatory)</p>		

APPENDIX-1

**Form – 5 : Documents with completion certificates for proof as per the requirements of the
Technical Capacity**

APPENDIX-1

Form – 6 : Particulars of Key Personnel

(Refer clause 2.2.2D)

Sr. No.	Key Personnel	Name of Key Personnel	Educational Qualification	Length of Professional Experience	Present Employment		No. of Eligible Assignments*
					Name of Firm	Responsibilities	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	Project Manager						
2	Web App Developer						
3	Technical Associate						

** Attach CVs of Key Personnel, which will be evaluated*

(Signature, name and designation of the authorized signatory)

Form 6 A: Form for Curriculum Vitae (C.V) for Proposed Key Personnel or Other Professional Personnel

1. Proposed Position:

2. Name of Personnel:

3. Date of Birth:

4. Nationality:

5. Educational Qualification:

(Summarize college/university and other specialized education of Personnel, giving degrees obtained).

6. Employment Record:

(Starting with present position, list in reversed order, and every employment held. List all positions held by staff member since graduation, giving dates, names of employing organization, title of positions held and location of assignments. Experience period of specific assignment must be clearly mentioned).

7. Relevant Project Experience

Furnish list of relevant project experience which describe the suitability and eligibility of the Personnel for this Work with brief description of role, responsibility and duration of the services performed; brief description of the project.

8. Summary of the CV

(Furnish a summary of the above CV. The information in the summary shall be precise and accurate. The information in the summary will have bearing on the evaluation of the CV).

A) Education:

- a) Field of Graduation and year
- b) Field of Post Graduation and year
- c) Field of PhD and Year

B) Professional Experience as below:

- i) Total professional experience: _____ Yrs.
- ii) Positions held:
 - a) _____ Yrs.
 - b) _____ Yrs.
- iii) Essential Work Experience: _____ Yrs.

9. Details of the current assignment and the time duration for which services are required for the current assignment.

Certification:

i) I am willing to work on the project and I will be available for entire duration of the project assignment as required.

ii) I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself my qualification and my experience.

Place.....

(Signature and name of the Key Personnel)

(Signature and name of the authorized signatory of the Bidder)

APPENDIX-1

Form – 7: Proposed Methodology & Work Plan.

The descriptive part of submission under this will be detailed precisely under the following topics.

1) Understanding of TOR.

The Bidder will submit his understanding of the TOR specified in the RFP in a brief manner underlying the crucial and important aspects of it. The Bidder may supplement various requirements of the TOR if he considers this would bring more clarity and improvements over the existing requirements and assist in achieving the various tasks laid down in the TOR.

2) Methodology and Work Plan

The Bidder will submit its methodology for carrying out this assignment, outlining its approach toward achieving the Objectives laid down in the TOR. The Bidder will submit a brief write up on its proposed team and organization of personnel explaining how different areas of expertise needed for this assignment have been fully covered by its proposal. The Bidder should specify the sequence and locations of important activities, and provide a quality assurance plan for carrying out the Services.

NOTE: Marks will be deducted for writing lengthy and out of context responses.

Signature of Authorized Signatory

Name of the Firm

APPENDIX-1

Form – 8: Envelope 1 - Index

Sr. No.	Details	Page Numbers
1	Envelope 1 – Index	1
2	Form 1: Letter of Proposal	2
3	Form 2: Particulars of the Bidder	3
4	Form – 3 Power of Attorney for Signing of the Bid	
5	Form – 4: Financial Capacity of the Bidder	
6	Form-5 Work Experience	
7	Form – 6: Particulars of Key Personnel	
8	Form 6A: Form for Curriculum Vitae (C.V) for Proposed Key Personnel or Other Professional Personnel	
9	Form –7: Proposed Methodology & Work Plan.	

Part -9: Appendix – 2: FINANCIAL PROPOSAL

Financial Proposal Envelope No.2

APPENDIX-2

Form – 1 : Covering Letter

(On Firm's Letter Head)

(Date and Reference)

To,

Chief Operations Officer Meghalaya Infrastructure Development Finance Corporation (MIDFC)
House No. L/A-56,
Lower Nongrim Hills,
Shillong East Hills- 793003
Meghalaya, India

Sub: Selection of agency for for Designing, Development Operation and Maintenance of Website for Meghalaya Infrastructure Development & Finance Corporation (MIDFC) Ltd.

Dear Sir,

I/We _____ Bidder/Bidder firms herewith enclose the Financial Proposal for selection of my/our firm as an Agency for above captioned work.

I/We agree that this offer shall remain valid for a period of 120 (One hundred and twenty) days from the Proposal Due Date or such further period as may be mutually agreed upon.

Yours faithfully,

Signature _____

Full Name _____

Designation _____

Address _____

(Authorized Representative)

NOTE: The Financial Proposal is to be filled strictly as per the forms given in RFP.

APPENDIX-2

Form – 2 : Summary of Financial Proposal

Item No.	Description	Amount (INR)
A.	PERSONNEL & LOCAL COSTS	
I	Remuneration for Professional Personnel (inclusive of all personnel allowances)	
II	Remuneration of Support Personnel (Inclusive of all personnel allowances)	
III	Reports and Document Printing.	
IV	On site expenses	
V	Miscellaneous Expenses.	
	Sub-total Personnel & Local Costs(A)	
B	GST	
C	TOTAL (including taxes) (A+B) (in Rs.)	
	In Indian Rupees in figures & in words:	

Signature of Authorized Signatory
Name of the Firm