



Ministry of Housing and Urban Affairs  
Government of India

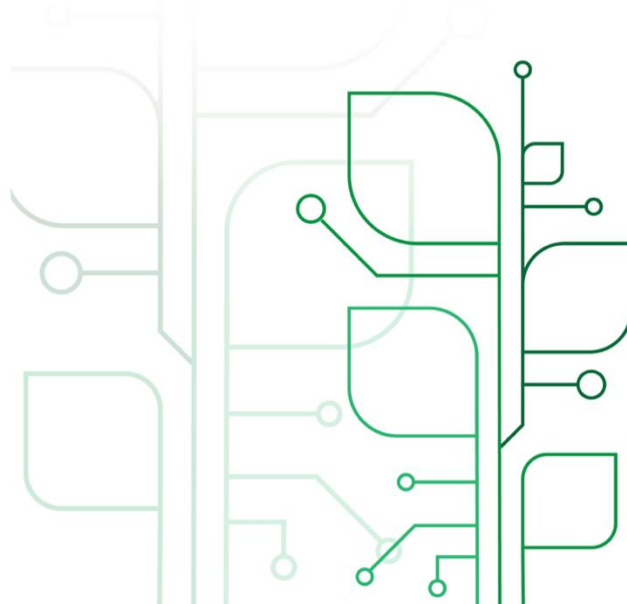


# CONSULTANCY SERVICES FOR : CLIMATE ACTION, BUILT AND CULTURAL HERITAGE IN INDIAN CITIES

## *Request for Proposals*

**Issue Date : 23rd March, 2023**

**Closing Date : 05th May, 2023**



### **National Institute of Urban Affairs**

1 Floor, Core 4B India Habitat Centre

Lodhi Road, New Delhi –110003

(91-11) 24643284 24617543, 24617517

(91-11) 24617513

# Letter of Invitation

New Delhi  
23<sup>rd</sup> April, 2023

Dear Mr./Ms.:

1. The National Institute of Urban Affairs (NIUA) (hereinafter called “Client”) has been designated as the Program Management Unit (PMU) by the Ministry of Housing and Urban Affairs (MoHUA) and the Agence Française de Développement (AFD) towards managing the CITIIS (City Investments To Innovate, Integrate and Sustain) program. The Client intends to apply a portion of the funds to eligible payments under the contract for which this Request for Proposal (RFP) is issued.
2. The NIUA now invites proposals from Consultants through an open RFP to provide the following consulting Services: **Climate Action, Built and Cultural Heritage in Indian Cities**. More details on the Services are provided in the Terms of Reference (TOR).
3. A Consultant shall be selected under the selection method based on **Quality and Cost Based Selection (QCBS)** with a ceiling amount of **INR 50,00,000/- (Fifty Lakhs) (including all taxes)**. The proposal selected will be the one that obtains the highest technical / financial weighted score. **The weightings would be 80% for the technical score and 20 % for the financial score**. The minimum qualifying technical score will be 70 out of 100. Non-compliant or inadequate technical proposals (i.e. scored below minimum technical score of 70) will be rejected. The Financial Bids exceeding the ceiling amount will be rejected and will not be considered in the evaluation. Additional details are provided in the **Section III: Evaluation and Qualification** of this RFP Document.
4. The RFP includes the following documents:
  - Section I - Instructions to Consultants (ITC)
  - Section II – Data Sheet
  - Section III – Technical Proposal – Standard Forms
  - Section IV – Financial Proposal – Standard Form
  - Section V – Eligibility Criteria
  - Section VI – AFD's Policy – Corrupt and fraudulent practices – Social and Environmental Responsibility
  - Section VII - Terms of Reference (TORs)
  - Section VIII – Conditions of Contract and Contract forms
5. The RFP shall be published on the NIUA website and is free of cost for download. Bid Security / Earnest Money Deposit (EMD) is not required for the submission of the proposal. It is not permissible to transfer this invitation to any other firm.

6. Your proposal shall comprise your Proposal Submission Form including Power of Attorney, Technical Proposal, Financial Proposal inclusive of all taxes and the signed Statement of Integrity, and must be received at the following address via physical copy to **National Institute of Urban Affairs, Core 4B, 1st Floor, India Habitat Centre, New Delhi-110003 by 05<sup>th</sup> May, 2023, 17:00 hr IST.**
7. Any queries in relation to the RFP to be sent prior to **14<sup>th</sup> April, 2023, 17:00 hr IST** at the mail ID **citiis@niua.org** and the responses will be available online by **25<sup>th</sup> April, 2023.**
8. To substantiate their credentials and to respond to any queries, the Consultants may be asked to make a presentation of their Technical Proposal, during the technical evaluation stage.
9. The issue of the RFP does not imply that the NIUA is bound to select bid(s), and it reserves the right without assigning any reason to
  - i. reject any or all of the bids, or
  - ii. cancel the tender process; or
  - iii. abandon the procurement process; or
  - iv. issue another bid for identical or similar work

Yours sincerely,

Program Director - CITIIS

National Institute of Urban Affairs

# Section I – Instructions to Consultants

## A. General Provisions

### 1 Definitions

- 1.1 "**Affiliate(s)**" means an individual or an entity that directly or indirectly controls, is controlled by, or is under common control with the Consultant.
- 1.2 "**Applicable law**" means the laws and any other instruments having the force of law in the Client's country, or in such other country as may be specified in the **Data Sheet**, as they may be issued and in force from time to time.
- 1.3 "**AFD**" means *Agence Française de Développement* (AFD). "**GoI**" means Government of India.
- 1.4 "**Client**" means the implementing agency that signs the Contract for the Services with the selected Consultant.
- 1.5 "**Consultant**" means a legally-established professional consulting firm or an entity that may provide or provides the Services to the Client under the Contract.
- 1.6 "**Contract**" means a legally binding written agreement signed between the Client and the Consultant. It includes all the attached documents listed in its Clause 1 (the General Conditions of Contract (GCC), the Special Conditions of Contract (SCC), and the Appendices).
- 1.7 "**Data Sheet**" means an integral part of the Instructions to Consultants (ITC) Section II that is used to reflect specific country and assignment conditions to supplement, but not to over-write, the provisions of the ITC.
- 1.8 "**Day**" means a calendar day.
- 1.9 "**Experts**" means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Subconsultant or Joint Venture member(s).
- 1.10 "**Joint Venture (JV)**" means an association with or without a legal personality distinct from that of its members, of more than one Consultant where one member has the authority to conduct all business for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Client for the performance of the Contract.
- 1.11 "**Key Expert(s)**" means an individual professional provided by the Consultant or its Subconsultant, whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose CV is taken into account in the technical evaluation of the Consultant's Proposal.

- 1.12 "**ITC**" (this Section I of the RFP) means the Instructions to Consultants that provide the shortlisted Consultants with all information they need to prepare their Proposals.
- 1.13 "**LOI**" means the Letter of Invitation being sent by the Client to the shortlisted Consultants.
- 1.14 "**Non-Key Expert(s)**" means an individual professional provided by the Consultant or its Subconsultant and who is assigned to perform the Services or any part thereof under the Contract and whose CVs are not evaluated individually.
- 1.15 "**Proposal**" means the technical Proposal and the financial Proposal of the Consultant.
- 1.16 "**RFP**" means the Request for Proposals to be prepared by the Client for the selection of Consultants.
- 1.17 "**Services**" means the consulting services work to be performed by the Consultant pursuant to the Contract.
- 1.18 "**Subconsultant**" means an entity to whom the Consultant intends to subcontract any part of the Services while remaining responsible to the Client during the performance of the Contract.
- 1.19 "**TORs**" (this **Section VII of the RFP**) means the Terms of Reference that explain the objectives, scope of work, activities, and tasks to be performed, respective responsibilities of the Client and the Consultant, and expected results and deliverables of the Services.

**2 Introduction**

- 2.1 The Client named in the **Data Sheet** intends to select a Consultant, in accordance with the method of selection specified in the **Data Sheet**.
- 2.2 The Consultants should take into account the Applicable law in preparing their Proposals. They may attend a pre-Proposal conference if one is specified in the **Data Sheet**. Attending any such pre-Proposal conference is optional and is at the Consultants' expense.
- 2.3 The Client will timely provide, at no cost to the Consultants, the inputs, relevant project data, and reports required for the preparation of the Consultant's Proposal as specified in the **Data Sheet**.
- 2.4 The Client will timely provide, at no cost to the Consultants, the inputs, relevant project data, and reports required for the preparation of the Consultant's Proposal as specified in the **Data Sheet**.

**3 Conflict of interest**

- 3.1 The Consultant is required to provide professional, objective, and impartial advice, at all times holding the Client's interests paramount, strictly avoiding conflicts with other assignments

or its own corporate interests, and acting without any consideration for future work.

- 3.2 The Consultant has an obligation to disclose to the Client any situation of actual or potential conflict of interest that impacts its capacity to serve the best interest of its Client. Failure to disclose such situations may lead to the rejection of the Consultant's Proposal or the termination of its Contract.
- 3.3 Without limitation on the generality of the foregoing, and unless stated otherwise in the Data Sheet, the Consultant shall not be hired under the circumstances set forth below:

#### 3.3.1 Conflicting activities

- 3.3.1.1 Conflict between consulting activities and procurement of goods, works or non-consulting services: a firm that has been engaged by the Client to provide goods, works, or non-consulting services for a project, or any of its Affiliates, shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or non-consulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, or any of its Affiliates, shall be disqualified from subsequently providing goods or works or non-consulting services resulting from or directly related to the consulting services for such preparation or implementation.

#### 3.3.2 Conflicting assignments

- 3.3.2.1 Conflict among consulting assignments: a Consultant (including its Experts and Subconsultants) or any of its Affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the Consultant for the same or for another Client.

#### 3.3.3 Conflicting relationships

- 3.3.3.1 Relationship with the Client's staff: a Consultant (including its Experts and Subconsultants) that has a close business or family relationship with a professional staff of the Client who are directly or indirectly involved in any part of (i) the preparation of the Terms of Reference for the Services, (ii) the selection process for the Contract, or (iii) the supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to AFD

throughout the selection process and the execution of the Contract.

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|---|---|
| <b>4 Unfair competitive advantage</b>     | 4.1 Fairness and transparency in the selection process require that the Consultants or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the Client shall indicate in the <b>Data Sheet</b> and make available to all shortlisted Consultants together with this RFP all information that would in that respect give such Consultant any unfair competitive advantage over other competing Consultants.   |
| <b>5 Corrupt and fraudulent practices</b> | 5.1 AFD requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in Section VI.<br>5.2 In further pursuance of this policy, Consultant shall permit and shall cause its Experts, Subconsultants, subcontractors, or suppliers to permit AFD to inspect all accounts, records, and other documents relating to the submission of the Proposal and Contract performance (in case of an award), and to have them audited by auditors appointed by AFD.   |
| <b>6 Eligibility</b>                      | 6.1 AFD financing may benefit to Consultants (firms, including Joint Ventures and their individual members) from all countries (subject to GoI prevalent Rules) to offer consulting services for AFD-financed projects subject to compliance with the eligibility criteria specified in Section V.<br>6.2 Furthermore, it is the Consultant's responsibility to ensure that its Experts, Joint Venture members, Subconsultants, agents (declared or not), subcontractors, service providers, suppliers and/or their employees meet the eligibility requirements as established by AFD in the Section V.<br>6.3 Government officials and civil servants of the Client's country are not eligible to be included as Experts in the Consultant's Proposal unless such engagement does not conflict with the Applicable law, and they (i) are on leave of absence without pay, or have resigned or retired; (ii) are not being hired by the same agency they were working for before going on leave of absence without pay, resigning, or retiring; and (iii) their hiring would not create a conflict of interest. |

#### **B. Preparation of Proposals**

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| <b>7 General considerations</b>          | 7.1 In preparing the Proposal, the Consultant is expected to examine the RFP in detail. Material deficiencies in providing the information requested in the RFP may result in rejection of the Proposal. |
| <b>8 Cost of preparation of Proposal</b> | 8.1 The Consultant shall bear all costs associated with the preparation and submission of its Proposal, and the Client shall   |

not be responsible or liable for those costs, regardless of the conduct or outcome of the selection process.

- 9 **Language** 9.1 The Proposal, as well as all correspondence and documents relating to the Proposal exchanged between the Consultant and the Client shall be written in the language(s) specified in the **Data Sheet**.
- 10 **Documents comprising the Proposal** 10.1 The Proposal shall comprise the documents and forms listed in the **Data Sheet**.  
10.2 The Consultant shall furnish information on commissions, gratuities, and fees, if any, paid or to be paid to agents or any other party relating to this Proposal and, if awarded, Contract execution.
- 11 **Only one Proposal** 11.1 The Consultant shall submit only one Proposal, either in its own name or as a member of a Joint Venture. If a Consultant (including any Joint Venture member) submits or participates in more than one Proposal, all such Proposals shall be disqualified and rejected. This does not, however, unless otherwise stated in the **Data Sheet**, preclude a Subconsultant, or the Consultant's staff from participating as Key Experts and Non-Key Experts in more than one Proposal.
- 12 **Proposal validity** 12.1 The **Data Sheet** indicates the period during which the Consultant's Proposal must remain valid after the Proposal submission deadline.  
12.2 During this period, the Consultant shall maintain its original Proposal without any change, including the availability of the Key Experts, the proposed rates and the total price.  
12.3 If it is established that any Key Expert nominated in the Consultant's Proposal was not available at the time of Proposal submission or was included in the Proposal without his/her confirmation, such Proposal shall be disqualified and rejected for further evaluation.  
12.4 Extension of validity period  
12.4.1 The Client will make its best effort to complete the negotiations within the Proposal's validity period. However, should the need arise, the Client may request, in writing, all Consultants who submitted Proposals prior to the submission deadline to extend the Proposals' validity.  
12.4.2 If the Consultant agrees to extend the validity of its Proposal, it shall be done without any change in the original Proposal and with the confirmation of the availability of the Key Experts.



12.4.3 The Consultant has the right to refuse to extend the validity of its Proposal in which case such Proposal will not be further evaluated.

12.5 Substitution of Key Experts in case of extension of validity period

12.5.1 If any of the Key Experts become unavailable for the extended validity period, the Consultant shall provide a written adequate justification and evidence satisfactory to the Client together with the substitution request. In such case, a replacement Key Expert shall have equal or better qualifications and experience than those of the originally proposed Key Expert. The technical evaluation score, however, will remain to be based on the evaluation of the CV of the original Key Expert.

12.5.2 If the Consultant fails to provide a replacement Key Expert with equal or better qualifications, or if the provided reasons for the replacement or justification are unacceptable to the Client, such Proposal will be rejected.

12.6 Subcontracting

12.6.1 The Consultant shall not subcontract the whole of the Services.

13 **Clarification and amendment of RFP**

13.1 The Consultant may request a clarification of any part of the RFP during the period indicated in the **Data Sheet** before the Proposals' submission deadline. Any request for clarification must be sent in writing, or by standard electronic means, to the Client's address indicated in the **Data Sheet**. The Client will respond in writing, or by standard electronic means, and will send written copies of the response (including an explanation of the query but without identifying its source) to all shortlisted Consultants. Should the Client deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure described below:

13.1.1 At any time before the Proposal submission deadline, the Client may amend the RFP by issuing an amendment in writing or by standard electronic means. The amendment shall be sent to all shortlisted Consultants and will be binding on them. The shortlisted Consultants shall acknowledge receipt of all amendments in writing.

13.1.2 If the amendment is substantial, the Client shall extend the Proposal submission deadline to give the shortlisted Consultants reasonable time to take an amendment into account in their Proposals.

- 13.2 The Consultant may submit a modified Proposal or a modification to any part of it at any time prior to the Proposal submission deadline. No modifications to the technical or financial Proposal shall be accepted after the deadline.
- 14 Preparation of Proposals – Specific consideration**
- 14.1 While preparing the Proposal, the Consultant must give particular attention to the following:
- 14.1.1 If a shortlisted Consultant considers that it may enhance its expertise for the Services by associating with other consultants in the form of a Joint Venture, it may do so with either (i) non-shortlisted Consultant(s), or (ii) shortlisted Consultants if permitted in the **Data Sheet**. Association with a non-shortlisted Consultant shall be subject to approval of the Client. When associating with non-shortlisted firms in the form of a Joint Venture, the shortlisted Consultant shall be a lead member. If shortlisted Consultants associate with each other, any of them can be a lead member.
- 14.1.2 The Client may indicate in the **Data Sheet** the estimated Key Experts’ time input (expressed in person-month) or the Client’s estimated total cost of the Services, but not both. This estimate is indicative and the Proposal shall be based on the Consultant’s own estimates for the same.
- 14.1.3 If stated in the **Data Sheet**, the Consultant shall include in its Proposal at least the same time input (in the same unit as indicated in the **Data Sheet**) of Key Experts, failing which the financial Proposal will be rejected.
- 14.1.4 For assignments under the **Fixed-Budget** selection method, the estimated Key Experts’ time input is not disclosed. Total available budget, with an indication whether it is inclusive or exclusive of taxes, is given in the **Data Sheet**, and the financial Proposal shall not exceed this budget.
- 15 Technical Proposal format and content**
- 15.1 The technical Proposal shall not include any financial information. A technical Proposal containing material financial information shall be declared non-responsive.
- 15.1.1 Consultant shall not propose alternative Key Experts. Only one CV shall be submitted for each Key Expert position. Failure to comply with this requirement will make the Proposal non-responsive.
- 15.1.2 Variations are not allowed.
- 15.2 The technical Proposal shall be prepared using the standard forms provided in Section III of the RFP.

**16 Financial Proposal**

16.1 The financial Proposal shall be prepared using the standard forms provided in Section IV of the RFP. It shall list all costs associated with the Services, including (a) remuneration of Key Experts and Non-Key Experts, (b) other expenses indicated in the **Data Sheet**.

16.2 Price adjustment

For assignments with a duration exceeding 18 months, a price adjustment provision of remuneration rates applies if so stated in the **Data Sheet**.

16.3 Taxes

The financial Proposal should clearly estimate, as a separate amount, the taxes, duties, fees, levies and other charges imposed in the Client's country under the Applicable law, on the Consultants, the Subconsultants, and their Experts (other than nationals or permanent residents of the Client's country), as stated in the **Data Sheet**. The Consultant and its Subconsultants and Experts are responsible for meeting all tax liabilities arising out of the Contract unless stated otherwise in the **Data Sheet**. Information on taxes in the Client's country is provided in the **Data Sheet**.

16.4 Currency of Proposal

The Consultant may express the price for its Services in the currency or currencies as stated in the **Data Sheet**. If indicated in the **Data Sheet**, the portion of the price representing local cost shall be stated in the local currency.

16.5 Currency of payment

Payment under the Contract shall be made in the currency or currencies in which the payment is requested in the Proposal.

**C. Submission, Opening and Evaluation**

**17 Submission, sealing and marketing of Proposals**

17.1 The Consultant shall submit a signed and complete Proposal comprising the documents and forms in accordance with Clause 10 (Documents comprising Proposal). The original copy of the submission can be done by hand. If authorized in the **Data Sheet**, the Consultant may choose to submit its Proposals electronically.

17.2 An authorized representative of the Consultant shall sign the original submission letters in the required format for both the technical Proposal and the financial Proposal and shall initial all pages of both. The authorization shall be in the form of a written power of attorney attached to the technical Proposal.

17.2.1 A Proposal submitted by a Joint Venture shall be signed by all members so as to be legally binding on all members, or by an authorized representative who has a

written power of attorney signed by each member's authorized representative.

- 17.3 Any modifications, revisions, interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Proposal.
- 17.4 The signed technical shall be marked "**ORIGINAL**", and its copies marked "**COPY**" as appropriate. The number of copies is indicated in the **Data Sheet**. All copies shall be made from the signed original. If there are discrepancies between the original and the copies, the original shall prevail.
- 17.5 The original and all the copies of the technical Proposal shall be placed inside of a sealed envelope clearly marked "**TECHNICAL PROPOSAL, [Name of the Services]**", reference number, name and address of the Consultant, and with a warning "**DO NOT OPEN UNTIL TECHNICAL PROPOSAL OPENING**".
- 17.6 If the envelopes and packages with the Proposal are not sealed and marked as required, the Client will assume no responsibility for the misplacement, loss, or premature opening of the Proposal.
- 17.7 The Proposal or its modifications must be sent to the address indicated in the **Data Sheet** and received by the Client no later than the deadline indicated in the **Data Sheet**, or any extension to this deadline. Any Proposal or its modification received by the Client after the deadline shall be declared late and rejected, and promptly returned unopened.
- 17.8 If the envelopes and packages with the Proposal are not sealed and marked as required, the Client will assume no responsibility for the misplacement, loss, or premature opening of the Proposal.
- 17.9 The Proposal or its modifications must be sent to the address indicated in the **Data Sheet** and received by the Client no later than the deadline indicated in the **Data Sheet**, or any extension to this deadline. Any Proposal or its modification received by the Client after the deadline shall be declared late and rejected, and promptly returned unopened.

## 18 Confidentiality

- 18.1 From the time the Proposals are opened to the time the Contract is awarded, the Consultant should not contact the Client on any matter related to its technical and/or financial Proposal. Information relating to the evaluation of Proposals and award recommendations shall not be disclosed to the Consultants who submitted the Proposals or to any other party not officially concerned with the process, until the publication of the Contract award information.

- 18.2 Any attempt by shortlisted Consultants or anyone on behalf of the Consultant to influence improperly the Client in the evaluation of the Proposals or Contract award decisions may result in the rejection of its Proposal.
- 18.3 Notwithstanding the above provisions, from the time of the Proposals' opening to the time of Contract award publication, if a Consultant wishes to contact the Client on any matter related to the selection process, it should do so only in writing.
- 19 Opening of technical Proposals**
- 19.1 The Client's evaluation committee shall conduct the opening of the technical Proposals in the presence of the shortlisted Consultants' authorized representatives who choose to attend (in person, or online if this option is offered in the **Data Sheet**). The opening date, time and address are stated in the **Data Sheet**. The envelopes with the financial Proposal shall remain sealed and shall be securely stored with a reputable public auditor or independent authority until they are opened in accordance with Clause 23 of the ITC.
- 19.2 At the opening of the technical Proposals the following shall be read out: (i) the name of the Consultant or, in case of a Joint Venture, the name of the Joint Venture, the name of the lead member and the names of all members; (ii) the presence or absence of a duly sealed envelope with the financial Proposal; (iii) any modifications to the Proposal submitted prior to Proposal submission deadline; and (iv) any other information deemed appropriate or as indicated in the **Data Sheet**.
- 20 Proposals evaluation**
- 20.1 The maximum permissible budget is specified.
- 20.2 The Consultant is not permitted to alter or modify its Proposal in any way after the Proposal submission deadline except as permitted under Sub-Clause 12.5 of this ITC. While evaluating the Proposals, the Client will conduct the evaluation solely on the basis of the submitted Technical Proposals.
- 21 Evaluation of technical Proposals**
- 21.1 The Client's evaluation committee shall evaluate the technical Proposals on the basis of their responsiveness to the RFP, applying the evaluation criteria, sub-criteria, and point system specified in the **Data Sheet**. Each responsive Proposal will be given a technical score.
- 22 Financial Proposals for QBS**
- 22.1 Following the ranking of the technical Proposals, when the selection is based on quality only (QBS), the top-ranked Consultant is invited to negotiate the Contract.
- 23 Public opening of financial Proposals (for Quality and Cost Based Selection (QCBS), Fixed Budget Selection**
- 23.1 After the technical evaluation is completed, the Client shall notify those Consultants whose Proposals were considered non-responsive to the RFP and TOR or did not meet the minimum qualifying technical score (and shall provide information relating to the Consultant's overall technical score) that their financial Proposals will be returned unopened after completing the selection process and Contract signing. The

**(FBS), and  
Least-Cost  
Selection (LCS)  
methods)**

Client shall simultaneously notify in writing those Consultants that have achieved the minimum overall technical score and inform them of the date, time and location for the opening of the financial Proposals. The opening date should allow the Consultants sufficient time to make arrangements for attending the opening. The Consultant's attendance at the opening of the financial Proposals (in person, or online if such option is indicated in the **Data Sheet**) is optional and is at the Consultant's choice.

23.2 The financial Proposals shall be opened by the Client's evaluation committee in the presence of the representatives of those Consultants whose Proposals have passed the minimum technical score. At the opening, the names of the Consultants, the overall technical scores, and the total prices shall be read aloud and recorded. Copies of the record shall be sent to all Consultants who submitted Proposals.

**24 Correction of  
errors**

24.1 Activities and items described in the technical Proposal but not priced in the financial Proposal, shall be assumed to be included in the prices of other activities or items, and no corrections will be made to the financial Proposal.

24.2 Time-based Contracts

In the case of a time-based Contract, the Client's evaluation committee will (a) correct any computational or arithmetical errors, and (b) adjust the prices if they fail to reflect all inputs included for the respective activities or items in the technical Proposal. In case of discrepancy between (i) a partial amount (sub-total) and the total amount, or (ii) between the amount derived by multiplication of unit price with quantity and the total price, or (iii) between words and figures, the former will prevail. In case of discrepancy between the technical and financial Proposals in indicating quantities of input, the technical Proposal prevails and the Client's evaluation committee shall correct the quantification indicated in the financial Proposal so as to make it consistent with the one indicated in the technical Proposal, apply the relevant unit price included in the financial Proposal to the corrected quantity, and correct the total Proposal cost.

24.3 Lump-sum Contracts

In the case of a lump-sum Contract, the Consultant is deemed to have included all inputs that are necessary to perform the Services in the financial Proposal, so neither arithmetical corrections nor price adjustments shall be made. The total price, net of taxes understood as per Clause ITC 25 below, specified in the financial Proposal (form FIN-1) shall be considered as the offered price.

- 25 **Taxes** 25.1 The Client’s evaluation of the Consultant’s financial Proposal shall exclude taxes and duties in the Client’s country in accordance with the instructions in the **Data Sheet**.
- 26 **Conversion to single currency** 26.1 For the evaluation purposes, prices shall be converted to a single currency using the selling rates of exchange, source and date indicated in the **Data Sheet**.
- 27 **Combined quality and cost evaluation (for QCBS, FBS, and LCS methods)** 27.1 In the case of quality and cost based selection (QCBS), the total score is calculated by weighting the technical and financial scores and adding them as per the formula and instructions in the **Data Sheet**. The Consultant achieving the highest combined technical and financial score will be invited for negotiations.
- 27.2 In the case of fixed budget selection (FBS), those Proposals that exceed the budget indicated in Sub-Clause 14.1.4 of the Data Sheet shall be rejected. The Client will select the Consultant that submitted the highest-ranked technical Proposal, and invite such Consultant to negotiate the Contract.
- 27.3 In the case of least-cost selection (LCS), the Client will select the Consultant with the lowest evaluated total price among those consultants that achieved the minimum technical score, and invite such Consultant to negotiate the Contract.
- 28 **Abnormally low financial Proposal** 28.1 If the financial Proposal is twenty per cent (20%) or more, lower than the Client’s estimate, and unless the Client provides justification that the estimate is inaccurate, the Client shall require the Consultants to produce detailed price analyses for any or all items of the financial Proposal, to demonstrate the internal consistency of those prices and priced quantities with the methodology, resources and schedule proposed, as well as the Terms of Reference (TORs). Notwithstanding provisions of Sub-Clause ITC 24.1 which shall not apply, if inconsistencies are evidenced, the financial Proposal shall be declared non-compliant and rejected.

#### **D. Negotiations and Award**

- 29 **Negotiations** 29.1 The negotiations will be held at the date and address indicated in the **Data Sheet** with the Consultant’s representative(s) who must have written power of attorney to negotiate and sign a Contract on behalf of the Consultant.
- 29.2 The Client shall prepare minutes of negotiations that are signed by the Client and the Consultant’s authorized representative.
- 29.3 Availability of Key Experts
- 29.3.1 The invited Consultant shall confirm the availability of all Key Experts included in the Proposal as a prerequisite to the negotiations, or, if applicable, a replacement in accordance with Clause 12 of the ITC. Failure to confirm the Key Experts’ availability may

result in the rejection of the Consultant's Proposal and the Client proceeding to negotiate the Contract with the next-ranked Consultant.

29.3.2 Notwithstanding the above, the substitution of Key Experts at the negotiations may be considered if due solely to circumstances outside the reasonable control of and not foreseeable by the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall offer a substitute Key Expert within the period of time specified in the letter of invitation to negotiate the Contract, who shall have equivalent or better qualifications and experience than the original Key Expert.

#### 29.4 Technical negotiations

29.4.1 The negotiations include discussions about the Terms of Reference (TORs), the proposed methodology, the Client's inputs, the special conditions of the Contract, and finalizing the "Description of Services" part of the Contract. These discussions shall not substantially alter the original scope of services under the TORs or the terms of the Contract and shall not modify the ranking of the Proposals.

#### 29.5 Financial negotiations

29.5.1 The negotiations include the clarification of the Consultant's tax liability in the Client's country and how it should be reflected in the Contract.

29.5.2 If the selection method included cost as a factor in the evaluation, the total price stated in the financial Proposal for a lump-sum Contract shall not be negotiated.

29.5.3 In the case of a time-based Contract, unit rates negotiations shall not take place, except when the offered Key Experts and Non-Key Experts' remuneration rates are much higher than the typically charged rates by Consultants in similar contracts. In such case, the Client may ask for clarifications and, if the fees are very high, ask to change the rates.

### **30 Conclusion of negotiations**

30.1 The negotiations are concluded with a review of the finalized draft Contract, which then shall be initialed by the Client and the Consultant's authorized representative.

30.2 If the negotiations fail, the Client shall inform the Consultant in writing of all pending issues and disagreements and provide a final opportunity to the Consultant to respond. If disagreement persists, the Client shall terminate the negotiations informing the Consultant of the reasons for doing



so. The Client will invite the next-ranked Consultant to negotiate a Contract. Once the Client commences negotiations with the next-ranked Consultant, the Client shall not reopen the earlier negotiations.

30.3 The Client reserves the right to annul the RFP process and reject all Proposals at any time prior to Contract award, without thereby incurring any liability to Consultants.

### **31 Award of Contract**

31.1 After completing the negotiations the Client shall sign the Contract; if applicable, publish the award information; and promptly notify the other shortlisted Consultants.

31.2 The Consultant is expected to commence the Services on the date and at the location specified in the **Data Sheet**.

## Section II – Data Sheet

<b>A. General</b>	
<b>ITC 1.2</b>	<b>Applicable law:</b> India
<b>ITC 2.1</b>	<b>Name of the Client:</b> <b>National Institute of Urban Affairs (NIUA)</b> 1 Floor, Core 4B India Habitat Centre Lodhi Road, New Delhi –110003. <b>Method of selection: Quality and Cost Based Selection (QCBS)</b>
<b>ITC 2.2</b>	The name of the Services is: <b>Climate Action, Built and Cultural Heritage in Indian Cities</b>
<b>ITC 2.3</b>	A pre-Proposal conference will be held: No
<b>ITC 2.4</b>	The Client will provide the following inputs, project data, reports, etc. to facilitate the preparation of the Proposals: Not Applicable
<b>ITC 4.1</b>	Not Applicable
<b>B. Preparation of Proposals</b>	
<b>ITC 9.1</b>	Proposals shall be submitted in English language.  All correspondence exchanges and documents shall be in English language.
<b>ITC 10.1</b>	<b>The Proposal shall comprise the following:</b> <b><u>1<sup>st</sup> Inner Envelope with the technical Proposal:</u></b> (1) Technical Proposal submission form (TECH-1) with Power of Attorney to sign the Proposal and Statement of Integrity (signed) (2) All the TECH Forms duly filled (The Forms are provided as indicative format)  <p style="text-align: center;"><b>And</b></p> <b><u>2<sup>nd</sup> Inner Envelope with the financial Proposal:</u></b> (1) Financial Proposal submission form (FIN-1) given in the <b>Section IV: Financial Proposal.</b>
<b>ITC 11.1</b>	Participation of Subconsultants, Key Experts and Non-Key Experts in more than one Proposal is not permissible.
<b>ITC 12.1</b>	Proposals must remain valid for <b>90 days</b> after the Proposal submission deadline.
<b>ITC 13.1</b>	Any queries in relation to the RFP to be sent prior to <b>14<sup>th</sup> April 2023, 17:00 hr IST</b> and the responses will be available online by <b>25<sup>th</sup> April 2023.</b>

	The contact information for requesting clarifications is: Mr. Naim Keruwala, Program Director – CITIIS <i>email: <a href="mailto:citiis@niua.org">citiis@niua.org</a></i>
<b>ITC 14.1.1</b>	Not Applicable
<b>ITC 14.1.2</b>	Not Applicable
<b>ITC 14.1.3</b>	Not Applicable
<b>ITC 14.1.4</b>	The ceiling amount for Services is: <b>INR 50,00,000 (Fifty Lakh) (inclusive of all taxes)</b> . Financial Proposal exceeding this amount will be rejected.
<b>ITC 16.1</b>	Not Applicable
<b>ITC 16.2</b>	Not Applicable
<b>ITC 16.3</b>	<b>Permanent establishment in the Client’s country:</b> The law of the Client’s country does not authorize the consultant to perform the Contract without having a permanent establishment in the Client’s country.
<b>ITC 16.4</b>	The Currency of Proposal is INR
<b>ITC 16.5</b>	The Currency of Payment is INR
<b>C. Submission, Opening and Evaluation</b>	
<b>ITC 17.1</b>	<b>The Consultants should submit the signed and complete Proposal in hard copy.</b>
<b>ITC 17.4</b>	<b>The Consultant must submit:</b> a) Technical Proposal: one (1) original paper copy b) Financial Proposal: one (1) original paper copy
<b>ITC 17.9</b>	<b>The Proposals must be submitted no later than:</b> <b>Date: 05<sup>th</sup> May , 2023</b> <b>Time: 1700 hr IST</b> The Proposal submission address is: For Hardcover original copy : <b>National Institute of Urban Affairs (NIUA)</b> 1 Floor, Core 4B India Habitat Centre Lodhi Road, New Delhi –110003. <b>For Electronic copy of Technical Proposal at email ID: <a href="mailto:citiis@niua.org">citiis@niua.org</a></b> <b>The digital copy of the Technical Proposal shall not include the Financial Proposal.</b>

<b>ITC 19.1</b>	<p><b>An online option of the opening of the Technical Proposals is not offered. The opening shall take place at:</b></p> <p><b>National Institute of Urban Affairs (NIUA)</b>  1 Floor, Core 4B India Habitat Centre  Lodhi Road, New Delhi –110003</p> <p><b>Date and Time:</b> Will be confirmed to all prospective Consultants</p>
<b>ITC 19.2</b>	<p>Any technical Proposal which does not have a signed submission form or is not accompanied with a written power of attorney, according to Sub-Clause 17.2 of the ITC, will not be considered.</p>
<b>ITC 21.1</b>	<p>A Consultant shall be selected under the selection method based on <b>Quality and Cost Based Selection (QCBS)</b> with a ceiling amount of INR 50,00,000- (including all taxes). The proposal selected will be the one that obtains the highest technical / financial weighted score. <b>The weightings would be 80% for the technical score and 20 % for the financial score. The minimum qualifying technical score will be 70 out of 100.</b> Non-compliant or inadequate technical proposals (i.e. scored below minimum technical score of 70) will be rejected. The Financial Bids exceeding the ceiling amount will be rejected and will not be considered in the evaluation. Additional details are provided in <b>the Section III: Evaluation and Qualification</b> of this RFP Document.</p>
<b>ITC 23.1</b>	<p>An online option of the opening of the Financial Proposals is not offered.</p>
<b>ITC 25.1</b>	<p>The Consultant’s financial Proposal is deemed to include all other taxes, duties and fees.</p>
<b>ITC 26.1</b>	<p>Not Applicable</p>
<b>D. Negotiations</b>	
<b>ITC 29.1</b>	<p><b>Expected date and address for Contract negotiations:</b>  Date: (To be intimated later)</p>
<b>ITC 31.2</b>	<p><b>Expected date for the commencement of the Services:</b>  Date: (To be intimated later)</p>

## Section III – Technical Proposal

### Evaluation and Qualification Criteria and Standard Forms

#### 1. ELIGIBILITY CRITERIA

- i. The Consultant should be a Public Ltd./Pvt Ltd./NGO/Society/LLP /Proprietorship and must be a Firm/Company with proven track record and previous experience in conducting similar studies. The Firm/Company should be registered with Income Tax Authorities and GST Network. Copy of certificate of incorporation along with name change if any, copy of PAN Card and copy of GST Registration Certificate is required.
- ii. **Joint-Venture (JV) up-to three entities is allowed.** In case of Joint-Venture, the Lead Member shall have a majority of at least 51 % share of interest in the JV Firm. A member of the JV Firm shall not be permitted to participate either in the individual capacity or as a member of the another JV Firm for this RFP.
- iii. On the last date of submission of the Proposal, the Consultant should not be blacklisted by Central Government/State Governments/Union Territories/PSUs in India for unsatisfactory past performance, corrupt, fraudulent or any other unethical business practices. The form for self – certified undertaking is attached in Tech Forms.

**If above Eligibility Criteria are not satisfied, then Technical Proposal will not be further evaluated.**

#### 1. HIRING PROCESS

A Consultant shall be selected under the selection method based on **Quality and Cost Based Selection (QCBS) with a ceiling amount of INR 50,00,000/- (Fifty Lakhs) including all taxes.** The weightings would be 80% for the Technical Score and 20 % for the Financial Score.

**The minimum qualifying technical score will be 70 out of 100.** Non-compliant or inadequate technical proposals (i.e. scored below minimum technical score of 70) will be rejected.

**Technical Score:** The proposals will be assigned a Technical Score based on following criteria:

S. No.	Description	Max Marks in Technical Score (100)
1	<b>UNDERSTANDING OF ASSIGNMENT (30)</b>	

A	Understanding of CITIIS Program and working of Climate Action for Built and Cultural Heritage	15
B	Approach and methodology - Observations on the objectives & Comprehensiveness of the proposal (i.e. coverage of requirements in line with TOR)	15
<b>2</b>	<b>WORK PLAN (20)</b>	
A	Adequate planning and phasing of assignment for preparation of compendium, toolkit and e-module	20
<b>3</b>	<b>FIRM CREDENTIALS (50)</b>	
A	<p>Experience in similar assignments and studies during last 7 years from the date of bid submission.</p> <p>Similar assignment means – <b>Case studies / research on built &amp; cultural heritage</b></p> <p>The marks will be provided as follows–</p> <ul style="list-style-type: none"> <li>i. Two completed Assignments – 15 marks</li> <li>ii. Three Completed Assignments – 20 marks</li> <li>iii. Four Completed Assignments – 25 marks</li> </ul> <p>Supporting Documents required –</p> <p>Copy of Contract / Work Order <b>and</b></p> <p>Completion Certificates from the Client OR Self-Certificate of Completed Assignment certified by the Authorized Signatory on the Letter Head of the Company with relevant information like name of the assignment, date of start, date of completion, contract amount and total payment etc.</p>	25

B	Composition and quality of proposed team - Profile of the team and track record in handling similar assignments will be evaluated	25
	<b>TOTAL TECHNICAL PROPOSAL SCORE</b>	<b>100</b>

**Financial Score:** The financial proposal with the lowest price will be scored 100 and the others are given an inversely proportional score based on their price compared to the lowest priced financial proposal.

The proposal selected will be the one that obtains the highest combined technical and financial score using the weights.

The Financial Proposal exceeding the ceiling amount will be rejected and will not be considered in the overall evaluation.

## Form TECH-1: Technical Proposal submission form

(on the letter head of the company specifying his name and address)

Location \_\_\_\_\_

Date \_\_\_\_\_

To:

**The Director,**

National Institute of Urban Affairs  
Core 4B, 01st Floor, India Habitat Centre  
Lodhi Road, New Delhi – 110003

Dear Sir:

We, the undersigned, offer to provide the Services **for Climate Action, Built and Cultural Heritage in Indian Cities** in accordance with your Request for Proposals dated [XXXX] and our Proposal. We are hereby submitting our Proposal, which includes this technical Proposal and a financial Proposal sealed in a separate envelope.

*[If the Consultant is a Joint Venture, insert the following: "We are submitting our Proposal as a Joint Venture with: [Insert a list with the full name and the legal address of each member, and indicate the lead member]". We have attached a copy [insert: "of our letter of intent to form a Joint Venture" or, if a JV is already formed, "of the JV agreement"] signed by every participating member, which details the likely legal structure of and the confirmation of joint and severable liability of the members of the said Joint Venture.*

We hereby declare that:

- a) All the information and statements made in this Proposal are true and we accept that any misrepresentation contained in this Proposal may lead to the rejection of our Proposal by the Client;
- b) Our Proposal shall be valid and remain binding upon us for the period of time specified in, Sub-Clause 12.1 of the Data Sheet;
- c) We have no conflict of interest in accordance with Clause 3 of the ITC;
- d) Except as stated in the Data Sheet, Sub-Clause 12.1, we undertake to negotiate a Contract on the basis of the proposed Key Experts. We accept that the substitution of Key Experts for reasons other than those stated in Sub-Clauses 12.5 and 29.3 of the ITC shall end Contract negotiations;
- e) Our Proposal is binding upon us and subject to any modifications resulting from the Contract negotiations.

We undertake, if our Proposal is accepted and the Contract is signed, to initiate the Services related to the assignment no later than the date indicated in Sub-Clause 31.2 of the Data Sheet.

We acknowledge and agree that the Client reserves the right to annul the selection process and reject all Proposals at any time prior to Contract award, without thereby incurring any liability to us.

We remain,



Yours sincerely,

Authorizd Signature *[in full and initials]*: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

Name of Consultant (company's name or JV's name): \_\_\_\_\_

In the capacity of: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Contact information (phone and email): \_\_\_\_\_

**Enclosed –**

- i. Power of Attorney – Annexure-I
- ii. Statement of Integrity, Eligibility and Environmental and Social Responsibility – on the letterhead of the firm and to be signed and stmaped on each page – Annexure - II

*[For a Joint Venture, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached.]*

**Sample Format of Power of Attorney (POA)**

Know all men by these presents, we, ..... (name of Firm and address of the registered office) do hereby constitute, nominate, appoint and authorise Mr / Ms..... 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 “authorized Representative”) 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 Proposal fo **XXXXXX**, proposed to be developed by the ..... (the “Client”) including but not limited to signing and submission of all applications, proposals and other documents and writings, participating in pre-bid and other conferences and providing information/ responses to the Client, representing us in all matters before the Client, signing and execution of all contracts and undertakings consequent to acceptance of our proposal and generally dealing with the Client in all matters in connection with or relating to or arising out of our Proposal for the said Project and/or upon award thereof to us till the entering into of the Agreement with the Client.

AND, we do hereby agree to ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said authorized Representative 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 authorized Representative 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 ....., 20.....

For .....  
(Signature, name, designation and address)

Witnesses:

- 1.
- 2.

Notarised

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

Notes:

- The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure. The Power of Attorney should be executed on a non-judicial stamp paper of Rs. 100 (hundred) and duly notarised by a notary public.
- Wherever required, the Bidder should submit for verification the extract of the charter documents and other documents such as a resolution/power of attorney in favor of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.
- For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, Bidders from countries that have signed the Hague Legislation Convention 1961 need not get their Power of Attorney legalized by the Indian Embassy if it carries a conforming Apostille certificate.

**Appendix to Technical Proposal submission form –**

**Statement of Integrity, Eligibility and Environmental and Social Responsibility**

Reference name of the bid or proposal: **Climate Action, Built and Cultural Heritage in Indian Cities** (The "Contract")

To: The Director, National Institute of Urban Affairs, Core 4B, 01st Floor, India Habitat Centre, Lodhi Road, New Delhi – 110003 (The "**Contracting Authority**")

1. We recognise and accept that *Agence Française de Développement* ("**AFD**") only finances projects of the Contracting Authority subject to its own conditions which are set out in the Financing Agreement which benefits directly or indirectly to the Contracting Authority. As a matter of consequence, no legal relationship exists between AFD and our company, our joint venture or our suppliers, contractors, subcontractors, consultants or subconsultants. The Contracting Authority retains exclusive responsibility for the preparation and implementation of the procurement process and performance of the contract. The Contracting Authority means the Purchaser, the Client, the Client, as the case may be, for the procurement of goods, works, plants, consulting services or non-consulting services.
2. We hereby certify that neither we nor any other member of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants are in any of the following situations:
  - 2.1 Being bankrupt, wound up or ceasing our activities, having our activities administered by the courts, having entered into receivership, reorganisation or being in any analogous situation arising from any similar procedure;
  - 2.2 Having been:
    - a) convicted, within the past five years by a court decision, which has the force of res judicata in the country where the Contract is implemented, of fraud, corruption or of any other offense committed during a procurement process or performance of a contract (in the event of such conviction, you may attach to this Statement of Integrity supporting information showing that this conviction is not relevant in the context of the Contract);
    - b) subject to an administrative sanction within the past five years by the European Union or by the competent authorities of the country where we are constituted, for fraud, corruption or for any other offense committed during a procurement process or performance of a contract (in the event of such sanction, you may attach to this Statement of Integrity supporting information showing that this sanction is not relevant in the context of the Contract);
    - c) convicted, within the past five years by a court decision, which has the force of res judicata, of fraud, corruption or of any other offense committed during the procurement process or performance of an AFD-financed contract;

- 2.3 Being listed for financial sanctions by the United Nations, the European Union and/or France for the purposes of fight-against-terrorist financing or threat to international peace and security;
  - 2.4 Having been subject within the past five years to a contract termination fully settled against us for significant or persistent failure to comply with our contractual obligations during contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against us;
  - 2.5 Not having fulfilled our fiscal obligations regarding payments of taxes in accordance with the legal provisions of either the country where we are constituted or the Contracting Authority's country;
  - 2.6 Being subject to an exclusion decision of the World Bank and being listed on the website <http://www.worldbank.org/debarr> (in the event of such exclusion, you may attach to this Statement of Integrity supporting information showing that this exclusion is not relevant in the context of the Contract);
  - 2.7 Having created false documents or committed misrepresentation in documentation requested by the Contracting Authority as part of the procurement process of the Contract.
3. We hereby certify that neither we, nor any of the members of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants are in any of the following situations of conflict of interest:
- 3.1 Being an affiliate controlled by the Contracting Authority or a shareholder controlling the Contracting Authority, unless the stemming conflict of interest has been brought to the attention of AFD and resolved to its satisfaction.
  - 3.2 Having a business or family relationship with a Contracting Authority's staff involved in the procurement process or the supervision of the resulting Contract, unless the stemming conflict of interest has been brought to the attention of AFD and resolved to its satisfaction;
  - 3.3 Being controlled by or controlling another bidder or consultant, or being under common control with another bidder or consultant, or receiving from or granting subsidies directly or indirectly to another bidder or consultant, having the same legal representative as another bidder or consultant, maintaining direct or indirect contacts with another bidder or consultant which allows us to have or give access to information contained in the respective applications, bids or proposals, influencing them or influencing decisions of the Contracting Authority;
  - 3.4 Being engaged in a consulting services activity, which, by its nature, may be in conflict with the assignments that we would carry out for the Contracting Authority;
  - 3.5 In the case of procurement of goods, works or plants:
    - a) Having prepared or having been associated with a consultant who prepared specifications, drawings, calculations and other documentation to be used in the procurement process of the Contract;
    - b) Having been recruited (or being proposed to be recruited) ourselves or any of our affiliates, to carry out works supervision or inspection for the Contract.

4. If we are a state-owned entity, and to compete in a procurement process, we certify that we have legal and financial autonomy and that we operate under commercial laws and regulations.
5. We undertake to bring to the attention of the Contracting Authority, which will inform AFD, any change in situation with regard to points 2 to 4 here above.
6. In the context of the procurement process and performance of the corresponding contract:
  - 6.1 We have not and we will not engage in any dishonest conduct (act or omission) deliberately intended to deceive others, to intentionally conceal items, to violate or vitiate someone's consent, to make them circumvent legal or regulatory requirements and/or to violate their internal rules in order to obtain illegitimate profit;
  - 6.2 We have not and we will not engage in any dishonest conduct (act or omission) contrary to our legal or regulatory obligations or our internal rules in order to obtain illegitimate profit;
  - 6.3 We have not promised, offered or given and we will not promise, offer or give, directly or indirectly to (i) any Person who holds a legislative, executive, administrative or judicial mandate within the State of the Contracting Authority regardless of whether that Person was nominated or elected, regardless of the permanent or temporary, paid or unpaid nature of the position and regardless of the hierarchical level the Person occupies, (ii) any other Person who performs a public function, including for a State institution or a State-owned company, or who provides a public service, or (iii) any other person defined as a Public Officer by the national laws of the Contracting Authority's country, an undue advantage of any kind, for himself or for another Person or entity, for such Public Officer to act or refrain from acting in his official capacity;
  - 6.4 We have not promised, offered or given and we will not promise, offer or give, directly or indirectly to any Person who occupies an executive position in a private sector entity or works for such an entity, regardless of the nature of his/her capacity, any undue advantage of any kind, for himself or another Person or entity for such Person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations;
  - 6.5 We have not and we will not engage in any practice likely to influence the contract award process to the detriment of the Contracting Authority and, in particular, in any anti-competitive practice having for object or for effect to prevent, restrict or distort competition, namely by limiting access to the market or the free exercise of competition by other undertakings;
  - 6.6 Neither we nor any of the members of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants shall acquire or supply any equipment nor operate in any sectors under an embargo of the United Nations, the European Union or France;
  - 6.7 We commit ourselves to comply with and ensure that all of our suppliers, contractors, subcontractors, consultants or subconsultants comply with international environmental and labour standards, consistent with laws and regulations applicable in the country of implementation of the Contract, including the fundamental conventions of the International Labour Organisation (ILO) and

international environmental treaties. Moreover, we shall implement environmental and social risks mitigation measures when specified in the environmental and social commitment plan (ESCP) provided by the Contracting Authority.

7. We, as well as members of our joint venture and our suppliers, contractors, subcontractors, consultants or subconsultants authorise AFD to inspect accounts, records and other documents relating to the procurement process and performance of the contract and to have them audited by auditors appointed by AFD.

Name: \_\_\_\_\_ In the capacity of: \_\_\_\_\_

Duly empowered to sign in the name and on behalf of<sup>1</sup>: \_\_\_\_\_

Signature: \_\_\_\_\_ Dated: \_\_\_\_\_

---

<sup>1</sup> In case of joint venture, insert the name of the joint venture. The person who will sign the application, bid or proposal on behalf of the applicant, bidder or consultant shall attach a power of attorney from the applicant, bidder or consultant.

**Form TECH-2: Declaration Regarding Blacklisting/ Non-Blacklisting  
From Taking Part in Govt. Tender**

(To be executed on Rs.20/- Stamp paper & attested by Public Notary/Executive Magistrate by  
the bidder)

I / We Proprietor/ Partner(s)/ Director(s) of M/s ----- hereby  
declare that the firm/company namely M/s-----  
-----has not been blacklisted or debarred in the past by any other  
Government organization from taking part in Government tenders.

Or

I / We Proprietor/ Partner(s)/ Director(s) of M/s ----- hereby  
declare that the firm/company namely M/s-----  
-----was blacklisted or debarred by any other Government Department  
from taking part in Government tenders for a period of ----- years w.e.f.-----  
---. The period is over on -----and now the firm/company is entitled to take part  
in Government tenders.

In case the above information found false I/We are fully aware that the tender/ contract will be  
rejected/cancelled.

Dated this ..... Day of ....., 2023....

Yours sincerely,

Name of the Consultant: \_\_\_\_\_

Signature of the Consultant: \_\_\_\_\_

Address:



### Form TECH-3: Bidder Information Form

	Name of Bidder with full address	:	
b	Tel. No.	:	
c	Fax No.	:	
d	Email	:	
e	Year of Incorporation.	:	Proof of registration of the Bidder to be submitted
	Name and address of the person holding the Power of Attorney.	:	
g	(i) Place of Business.	:	
	(ii) Date of Registration.	:	
	Name of Bankers with full address.	:	
i	Regional presence (Direct office)		The location details to be provided

	GST Registration Number	:	Copy to be submitted.
	Are you presently debarred / Blacklisted by any Central/ State Government Department / Union Territory (If Yes, please furnished details)	:	
1	Name and details (Tel / Mobile / Email) of contact persons	:	

## Form TECH-4: Information for JV Bidders

(to be completed for each member of Joint Venture)

The information should be provided for all the Members of the { Consortium/Joint Venture }

- (a) Name: -
  - (b) Address of the corporate headquarters and its branch office(s), if any, in India:
  - (c) Date of incorporation and/ or commencement of business:
2. Brief description of the Bidder including details of its main lines of Business and proposed role and responsibilities in this Project:
  3. Details of individual(s) who will serve as the point of contact/ communication for the Authority:
    - (d) Name:
    - (e) Designation:
    - (f) Company:
    - (g) Address:
    - (h) Telephone Number:
    - (i) E-Mail Address:
  4. Particulars of the Authorised Signatory of the Bidder:
    - (j) Name:
    - (k) Designation:
    - (l) Address:
    - (m) Phone Number:
  5. In case of a { Consortium/ Joint Venture }:
    - (a) A copy of the Jt. Bidding Agreement, as envisaged in Tech Form 5 should be attached to the Application.
    - (c) Information regarding the role of each Member should be provided as per table below:

Sl.	Name of Member	Role*	Share holding of members in Consortium /Joint Venture
1.			
2.			
3.			

\* The role of each member, as may be determined by the Bidder, should be indicated.

## Form TECH-5: Sample Format for Joint Bidding Agreement for Joint Venture

*(To be executed on Rs.100 Stamp paper of value)*

THIS JOINT BIDDING AGREEMENT is entered into on this the *(date in words)* day of *(month in words)* [year in “yyyy” format]

### AMONGST

1. [Company Name] a company incorporated under the Indian Companies Act, 2013 / Companies Act, 1956 and having its registered office at [Address] (Hereinafter referred to as the “**First Party**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

### AND

2. [Company Name] a partnership firm, having its registered office at [Address] (Hereinafter referred to as the “**Second Party**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

### AND

3. [Company Name] a partnership firm, having its registered office at [Address] (Hereinafter referred to as the “**Third Party**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

The above mentioned parties of the FIRST, {SECOND and THIRD} PART are collectively referred to as the “**Parties**” and each is individually referred to as a “**Party**”

### WHEREAS,

- (A) The National Institute of Urban Affairs (NIUA), 1st Floor, Core 4B, India Habitat Centre Lodhi Road, New Delhi (hereinafter referred to as the “**Client**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited proposals (the Applications) by its Request for Proposal No. .... dated ..... (the “**RFP**”) for (**Title of the Consultancy/Project**).
- (B) The Parties are interested in jointly Bidding for the Consultancy as members of a {Consortium/Joint Venture} and in accordance with the terms and conditions of the RFP document and other Bid documents in respect of the Consultancy, and
- (C) It is a necessary condition under the RFP document that the members of the {Consortium/Joint Venture} shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Application.

**NOW IT IS HEREBY AGREED as follows:**

### 1. Definitions and Interpretations

In this Agreement, the capitalized terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP.

## **2. {Consortium/Joint Venture}**

2.1 The Parties do hereby irrevocably constitute a Consortium/Joint Venture (the “{Consortium/Joint Venture}”) for the purposes of jointly participating in the Bidding Process for the Consultancy.

2.2 The Parties hereby undertake to participate in the Bidding Process only through this {Consortium/Joint Venture} and not individually and/ or through any other {Consortium/Joint Venture} constituted for this Consultancy, either directly or indirectly or through any of their Affiliates.

## **3. Covenants**

The Parties hereby undertake that in the event the {Consortium/Joint Venture} is declared the Selected Bidder and awarded the Consultancy, it shall enter into Contract for consultancy services (“Contract”) with the Client for performing all its obligations as the Consultancy in terms of the Contract for the Consultancy.

## **4. Role of the Parties**

The Parties hereby undertake to perform the roles and responsibilities as described below:

- a) The First Party [Company Name] shall be the Members in Charge/ Lead Member of the Consortium/Joint Venture until the Effective Date under the Contract;
- b) The Second Party [Company Name] shall be the consortium/ associate partner and shall have the power of attorney from all Parties for conducting behalf of the Consortium during the selection process for the Consultancy.
- c) The Third Party [Company Name] shall be the consortium/ associate partner and shall have the power of attorney from all Parties for conducting behalf of the Consortium during the selection process for the Consultancy.

## **5. Understanding of Scope of Work**

The Parties do hereby undertake liabilities relating to the Consultancy and in accordance with the terms of the RFP and the Contract, for the performance of the Contract. Each Partner is jointly and severally liable in respect of the Consultant’s obligations.

## **6. Member in Charge or Lead Member**

Without prejudice to the joint and several liabilities of all the Parties, each Party agrees that it shall exercise all rights and remedies under the Contract through the Member in Charge/Lead Member and the Client shall be entitled to deal with such Member in Charge as the representative of all Members. Each Party agrees and acknowledges that:

- a) [Representative of Company] will be official signatory on behalf of the consortium and act as manager of the consortium and will be authorised to act for the consortium in terms of committing it to any obligations and liabilities and to receive and act upon instructions from the Client and to make and receive payments;
- b) b. Any decision (including without limitation, any waiver or consent), action, omission, communication or notice of the Member in Charge on any matters related to the Contract shall be deemed to binding on it.
- c) Any notice, communication, information or documents to be provided to the Consultant shall be delivered to the authorized representative of the Consultant (as designated pursuant to the Contract) and any such notice, communication, information of documents shall be deemed to have been delivered to all the Parties.)

## **7. Representation of the Parties**

Each Party represents to the other Parties as of the date of this Agreement that:

- (a) Such Party is duly organized, validly existing and in good standing under the laws of its incorporation and has all requisite power and client to enter into this Agreement;
- (b) The execution, delivery and performance by such Party of this Agreement has been authorized by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and client to execute this Agreement on behalf of the {Consortium/Joint Venture} Member is annexed to this Agreement, and will not, to the best of its knowledge:
  - (i) require any consent or approval not already obtained;
  - (ii) violate any Applicable Law presently in effect and having applicability to it;
  - (iii) violate the memorandum and articles of association, by-laws or other applicable organizational documents thereof;
  - (iv) violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgment, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
  - (v) create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;

- (c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- (d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfillment of its obligations under this Agreement.

**8. Authorized Representation**

The parties agree that, who is employed with consortium partner, or his/her nominee shall be the authorized representative of the consortium, to do on behalf of the Consortium, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of the Consortium's proposal for an the Consultancy including but not limited to signing and submission of all application, proposal and other document, participating in pre-bid and other conferences and providing information responses to the client, representing the consortium in the matters before the client, signing and execution of all contracts and undertakings consequent to acceptance of the consortium's proposal and generally dealing with the Client in all matters in connection with or relating or arising out of the Consultancy.

**9. Termination**

This Agreement shall be effective from the date hereby and shall continue in full force and effect until the Effective Date under the contract, in case the Consultancy is awarded to the {Consortium/Joint Venture}. However, in case the Consortium is not selected for award of the Consultancy, the Agreement will stand terminated upon intimation by the Client that it has not been selected and upon return of the Bid Security by the Client, as the case may be.

**10. Miscellaneous**

- 10.1 This Joint Bidding Agreement shall be governed by laws of India.
- 10.2 The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Client.

IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED & DELIVERED

SIGNED, SEALED & DELIVERED

For and on behalf of MEMBER IN-CHARGE

For and on behalf of Associate Partner

By [Company Name):

By [Company Name):

Name:

Name:

Designation:

Designation:

Address:

Address:

In Presence of:

In Presence of:

1.

1.

2.

2.

**Notes:**

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executants(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and client to execute this Agreement on behalf of the {Consortium/Joint Venture} Member.
3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.



## **Form TECH-6: Technical Proposal**

The Technical Proposal submitted by the consultant should have following details to substantiate credentials and marking Technical Score –

- a) Brief Description of the Consultant
- b) Understanding of CITIIS Program and working of Climate Action for Built and Cultural Heritage
- c) Approach and methodology - Observations on the objectives & Comprehensiveness of the proposal (i.e. coverage of requirements in line with TOR)
- d) Adequate planning and phasing of assignment for preparation of compendium, toolkit and e-module
- e) Experience in similar assignments and studies
- f) Composition and quality of proposed team - Profile of the team and track record in handling similar assignments will be evaluated

## Form TECH-7: Curriculum Vitae (CV)

*(To be submitted for all Key Positions Proposed including Team Leader)*

Detailed and up-to-date CV(s) of the consultant/ team shall be provided.

<b>Position Title and No.:</b>	<i>[e.g., K-1, Team Leader]</i>
<b>Name of Expert:</b>	<i>[insert full name]</i>
<b>Date of Birth:</b>	<i>[day/month/year]</i>
<b>Country of Citizenship/Residence:</b>	<i>[insert country]</i>

**Education:** *[List college/university or other specialized education, giving names of educational institutions, dates attended, degree(s)/diploma(s) obtained.]*

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**Employment record relevant to the Services:** *[Starting with present position, list in reverse order. Please provide dates, name of employing organization, titles of positions held, types of activities performed and location of the assignment, and contact information of previous clients and employing organization(s) who can be contacted for references. Past employment that is not relevant to the Services does not need to be included.]*

Period	Employing organization and your title/position. Contact information for references	Country	Summary of activities performed relevant to the Services
<i>[e.g., May 2015 – present]</i>			

**Membership in Professional Associations and Publications:** \_\_\_\_\_

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**Language Skills (indicate only languages in which you can work):** \_\_\_\_\_

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**Adequacy for the Services:**

Detailed Tasks Assigned to Consultant's Team of Experts	Reference to Prior Work/Assignments that Best Illustrates Capability to Handle the Assigned Tasks
<i>[List all deliverables/tasks as in TECH-3 in which the Expert will be involved]</i>	

**Expert's contact information:** *[email: \_\_\_\_\_, phone: \_\_\_\_\_]*

**Certification:**

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience, and I am available to undertake the Services in case of an award. I understand that any misstatement or misrepresentation described herein may lead to my disqualification or dismissal by the Client.

*[day/month/year]*

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Name of Expert

Signature  
Date

*[day/month/year]*

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Name of authorized Representative of the Consultant

Signature  
Date

*[the same who signs the Proposal]*

## Form TECH-8: Work Experience

Previous work experience of similar assignments successfully completed with government departments and international agencies shall be preferred. The format for submission of previous SIMILAR assignments successfully completed in the last 7 years is given below:

<b>Duration</b>	<b>Brief description of Previous Assignments</b>	<b>Brief description of main components / outputs</b>	<b>Name of Client and location of Assignment</b>	<b>Approx. Contract value (in INR)/ Amount paid to your firm</b>
<i>{e.g., Jan.2009–Apr.2010}</i>	<i>{e.g., Development and/or design of Program management platform/tool, etc}</i>		<i>{e.g., Ministry of ....., country}</i>	

## Section IV – Financial Proposal

### Form FIN-1: Financial Proposal submission form

Location \_\_\_\_\_

Date \_\_\_\_\_

To:

**The Director,**  
National Institute of Urban Affairs  
Core 4B, 01st Floor, India Habitat Centre  
Lodhi Road, New Delhi – 110003

Dear Sir,

We, the undersigned, offer to provide the Consultancy Services for **Climate Action for Built and Cultural Heritage in Indian Cities** in accordance with your Request for Proposal dated [XXXX] and our Technical Proposal.

Our Financial Proposal is for the amount of INR [XXXX] [*Indicate amount in words and figures*], including taxes, duties and fees as per Sub-Clause 16.3 of the Data Sheet.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal, i.e. before the date indicated in Sub-Clause 12.1 of the Data Sheet.

We understand you reserve the right to annul the process and reject all Proposals at any time prior to Contract award.

We remain,

Yours sincerely,

Authorized Signature: \_\_\_\_\_ [*In full and initials*]

Name and Title of Signatory: \_\_\_\_\_

In the capacity of: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

*[For a Joint Venture, either all members shall sign or only the lead member/consultant, in which case the power of attorney to sign on behalf of all members shall be attached.]*

## Section V – Eligibility Criteria

### Eligibility in AFD-Financed Procurement

1. Financing allocated by AFD to a Contracting Authority has been entirely untied since 1<sup>st</sup> January 2002. To the exception of any equipment or any sector which is subject to an embargo by the United Nations, the European Union or France, all goods, works, plants, consulting services and non-consulting services are eligible for AFD financing regardless of the country of origin (subject to prevailing rules of GoI) of the supplier, contractor, subcontractor, consultant or subconsultant inputs or resources used in the implementation processes. The Contracting Authority means the Purchaser, the Employer, the Client, as the case may be, for the procurement of goods, works, plants, consulting services or non-consulting services.
2. The Government of India (GoI) has amended the General Financial Rules 2017 to enable imposition of restrictions on bidders from countries which share a land border with India on grounds of defence of India, or matters directly or indirectly related thereto including national security. The Department of Expenditure has, under the said Rules, issued a detailed Order on public procurement to strengthen the defence of India and national security.

As per the Order any bidder from such countries sharing a land border with India will be eligible to bid in any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority. The Competent Authority for registration will be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT). Political and security clearance from the Ministries of External and Home Affairs respectively will be mandatory.

3. Natural or legal Persons<sup>2</sup> (including all members of a joint venture or any of their suppliers, contractors, subcontractors, consultants or subconsultants) shall not be awarded an AFD-financed contract if, on the date of submission of an application, a bid or a proposal, or on the date of award of a contract, they:
  - 2.1 Are bankrupt or being wound up or ceasing their activities, are having their activities administered by the courts, have entered into receivership, or are in any analogous situation arising from a similar procedure;
  - 2.2 Have been:
    - a) convicted, within the past five years by a court decision, which has the force of res judicata in the country where the contract is implemented, of fraud, corruption or of any other offense committed during a procurement process or performance of a contract, unless they provide supporting information together with their Statement of Integrity (Form available as Appendix to the Application, Bid or Proposal Submission Form) which shows that this conviction is not relevant in the context of the Contract;
    - b) subject to an administrative sanction within the past five years by the European Union or by the competent authorities of the country where they

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<sup>2</sup> Means any Person whether natural or legal, firm, company, corporation, government, state or state agency or any association, or group of two or more of the foregoing (whether or not having separate legal status).

- are constituted, for fraud, corruption or for any other offense committed during a procurement process or performance of a contract, unless they provide supporting information together with their Statement of Integrity (Form available as Appendix to the Application, Bid or Proposal Submission Form) which shows that this sanction is not relevant in the context of the Contract;
- c) convicted, within the past five years by a court decision, which has the force of res judicata, of fraud, corruption or of any other offense committed during the procurement process or performance of an AFD-financed contract;
- 2.3 Are listed for financial sanctions by the United Nations, the European Union and/or France for the purposes of fight-against-terrorist financing or threat to international peace and security;
  - 2.4 Have been subject within the past five years to a contract termination fully settled against them for significant or persistent failure to comply with their contractual obligations during contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against them;
  - 2.5 Have not fulfilled their fiscal obligations regarding payments of taxes in accordance with the legal provisions of either the country where they are constituted or the Contracting Authority's country;
  - 2.6 Are subject to an exclusion decision of the World Bank and are listed on the website <http://www.worldbank.org/debarr>, unless they provide supporting information together with their Statement of Integrity (Form available as Appendix to the Application, Bid or Proposal Submission Form) which shows that this exclusion is not relevant in the context of the Contract;
  - 2.7 Have created false documents or committed misrepresentation in documentation requested by the Contracting Authority as part of the procurement process of the Contract.
4. State-owned entities may compete only if they can establish that they (i) are legally and financially autonomous, and (ii) operate under commercial law. To be eligible, a state-owned entity shall establish to AFD's satisfaction, through all relevant documents, including its Charter and other information AFD may request, that it: (i) is a legal entity separate from their state (ii) does not currently receive substantial subsidies or budget support; (iii) operates like any commercial enterprise, and, inter alia, is not obliged to pass on its surplus to their state, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt.

# **Section VI – AFD Policy – Corrupt and Fraudulent Practices – Environmental and Social Responsibility**

## **1. Corrupt and Fraudulent Practices**

The Contracting Authority and the suppliers, contractors, subcontractors, consultants or subconsultants must observe the highest standard of ethics during the procurement process and performance of the contract. The Contracting Authority means the Purchaser, the Employer, the Client, as the case may be, for the procurement of goods, works, plants, consulting services or non-consulting services.

By signing the Statement of Integrity the suppliers, contractors, subcontractors, consultants or subconsultants declare that (i) “it did not engage in any practice likely to influence the contract award process to the Contracting Authority’s detriment, and that it did not and will not get involved in any anti-competitive practice”, and that (ii) “the procurement process and the performance of the contract did not and shall not give rise to any act of corruption or fraud”.

Moreover, AFD requires including in the Procurement Documents and AFD-financed contracts a provision requiring that suppliers, contractors, subcontractors, consultants or subconsultants will permit AFD to inspect their accounts and records relating to the procurement process and performance of the AFD-financed contract, and to have them audited by auditors appointed by AFD.

AFD reserves the right to take any action it deems appropriate to check that these ethics rules are observed and reserves, in particular, the rights to:

- a) Reject a proposal for a contract award if it is established that during the selection process the bidder or consultant that is recommended for the award has been convicted of corruption, directly or by means of an agent, or has engaged in fraud or anti-competitive practices in view of being awarded the Contract;
- b) Declare misprocurement when it is established that, at any time, the Contracting Authority, the suppliers, contractors, subcontractors, consultants or subconsultants their representatives have engaged in acts of corruption, fraud or anti-competitive practices during the procurement process or performance of the contract without the Contracting Authority having taken appropriate action in due time satisfactory to AFD to remedy the situation, including by failing to inform AFD at the time they knew of such practices.

AFD defines, for the purposes of this provision, the terms set forth below as follows:

- a) Corruption of a Public Officer means:
  - The act of promising, offering or giving to a Public Officer, directly or indirectly, an undue advantage of any kind for himself or for another Person<sup>3</sup> or entity, for such Public Officer to act or refrain from acting in his official capacity; or
  - The act by which a Public Officer solicits or accepts, directly or indirectly, an undue advantage of any kind for himself or for another Person or entity, for such Public Officer to act or refrain from acting in his official capacity.

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<sup>3</sup> Means any Person whether natural or legal, firm, company, corporation, government, state or state agency or any association, or group of two or more of the foregoing (whether or not having separate legal status).



- b) A Public Officer shall be construed as meaning:
- Any person who holds a legislative, executive, administrative or judicial mandate (within the country of the Contracting Authority) regardless of whether that natural Person was nominated or elected, regardless of the permanent or temporary, paid or unpaid nature of the position and regardless of the hierarchical level the natural Person occupies;
  - Any other natural Person who performs a public function, including for a State institution or a State-owned company, or who provides a public service;
  - Any other natural Person defined as a Public Officer by the national laws of the country of the Contracting Authority.
- c) Corruption of a Private Person<sup>4</sup> means:
- The act of promising, offering or giving to any Private Person, directly or indirectly, an undue advantage of any kind for himself or for another Person or entity, for such Private Person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations; or;
  - The act by which any Private Person solicits or accepts, directly or indirectly, an undue advantage of any kind for himself or for another Person or entity, for such Private Person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations.
- d) Fraud means any dishonest conduct (act or omission), whether or not it constitutes a criminal offence, deliberately intended to deceive others, to intentionally conceal items, to violate or vitiate consent, to circumvent legal or regulatory requirements and/or to violate internal rules in order to obtain illegitimate profit.
- e) Anti-competitive practices mean:
- Any concerted or implied practices which have as their object or effect the prevention, restriction or distortion of competition within a marketplace, especially where they (i) limit access to the marketplace or free exercise of competition by other undertakings, (ii) prevent free, competition-driven price determination by artificially causing price increases or decreases, (iii) restrict or control production, markets, investments or technical progress; or (iv) divide up market shares or sources of supply;
  - Any abuse by one undertaking or a group of undertakings which hold a dominant position on an internal market or on a substantial part of it;
  - Any practice whereby prices are quoted or set unreasonably low, the object of which is to eliminate an undertaking or any of its products from a market or to prevent it from entering the market.

## **2. Environmental and Social Responsibility**

In order to promote sustainable development, AFD seeks to ensure that internationally recognised environmental and social standards are complied with. Suppliers, contractors, subcontractors, consultants or subconsultants for AFD-financed contracts shall consequently undertake in the Statement of Integrity to:

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<sup>4</sup> Means any natural Person other than a Public Officer.

- a) Comply with and ensure that all their subcontractors or subconsultants comply with international environmental and labour standards, consistent with applicable law and regulations in the country of implementation of the contract, including the fundamental conventions of the International Labour Organisation (ILO) and international environmental treaties;
- b) Implement environmental and social risks mitigation measures when specified in the environmental and social management plan (ESMP) provided by the Contracting Authority.

# **Section VII – Terms of Reference**

## **Climate Action for Built and Cultural Heritage in Indian Cities**

### **1. Background**

City Investments To Innovate, Integrate, and Sustain (CITIIS) is the main component of the ‘Supporting Smart Cities Mission for a more Inclusive and Sustainable Urban Development in India’ initiative launched by the Ministry of Housing and Urban Affairs (MoHUA), Government of India in the year 2018. The program is supported by the Agence Française de Développement (AFD) and the European Union (EU) and is being coordinated and managed by the Program Management Unit (PMU) at the National Institute of Urban Affairs (NIUA).

Twelve projects in twelve cities from all over India were selected under the CITIIS program to receive foreign funding for the implementation of such infrastructure projects that are innovative, sustainable, integrated and participatory in nature. The selected projects will improve sustainable mobility, increase the amount of public open spaces, implement ICT measures and provide social and organizational innovation in low-income settlements. Whereas, all the mentioned sectors play a vital role in improving the quality of life of residents in cities, cultural heritage such as historical buildings, and monuments and their intangible aspects lend a sense of place and identity to a settlement. These assets are bound to interact with the environmental surroundings and are often termed to undergo various weathering processes. Climate change adds another layer of threat as it may accelerate the physical, chemical, and biological mechanisms causing degradation by affecting the structure and/or composition of the affected materials. UNESCO World Heritage Centre, in 2007, identified changes in temperature, precipitation, atmospheric moisture along with wind intensity and desertification as threats to cultural heritage. A policy document was released in the following year as a response to such findings which has stimulated a body of related research.

### **2. Cultural Heritage and Climate Change**

Global Sea Level is expected to rise from 1 to 4 feet by 2100, as projected by the Fourth National Climate Assessment. This puts several cultural, historic and archaeological sites, both existing and yet to be discovered, in grave danger of being damaged or lost. Several studies have already identified various climatic impacts including “the loss of sensitive archaeological evidence due to changing soil conditions, damage to historic buildings from groundwater and saltwater intrusion, damage to organic building material from pest migration, and structural damage from storms and flooding. Beyond the physical damage, cultural heritage will also be affected by the social impacts of climate change, including communities possibly migrating and abandoning their built heritage” (Neal, 2020).

### **3. Climate Action, Built and Cultural Heritage**

Various international organizations such as UNESCO and International Council on Monuments and Sites (ICOMOS) have stressed the need for integrating urban cultural heritage into planning and management practices to support sustainable heritage conservation and development. It would also help in conserving traditions, historical knowledge and identity of a settlement as a whole. Such valuable sites serve as an opportunity for building resilience to climate change. They provide a canvas for climate communication and education, and research to understand past responses to changing climate conditions can help adaptation and mitigation planners develop strategies that integrate natural science and cultural heritage.

An assessment of the impacts of climate change, particularly on World Heritage was initiated in 2005 by the UNESCO World Heritage Centre. Consequently, in 2006, a meeting of experts was convened which highlighted the timeliness of steps taken towards protecting the World Heritage in the face of climate change. It has been emphasized since then that preventive measures can also be taken at the local scale, referring to the level of the World Heritage sites.

The proposed study shall focus on creating a global compendium of several case studies of selected built and cultural Heritage sites to illustrate the impacts of climate change that have already been observed and those which can be anticipated in the future. It will also be an opportunity to use platforms such as World Heritage Network as a tool to share and promote lessons learnt, as well as to raise awareness regarding climate change impacts by creating a toolkit on climate action and built & cultural heritage with a special focus on Indian cities.

#### 4. Activities and tentative timelines for the study

S. No.	Activity	Timeline
1	Preliminary study and selection of case-studies from India and other parts of the world	Week 1 - 2
2	In-depth study of case studies and development of a compendium (Edited and designed)	Week 2- 12
3	In-person workshop in two cities in India on Climate Action, Built & Cultural Heritage	Week 4 - 16
4	Submission of the first draft of the Framework/ Toolkit to assess climate impacts on built and cultural heritage	Week 16 - 18
5	Submission of Final Framework/ Toolkit	Week 18 – 22
6	Submission of the Technical Guidance Note	Week 22 - 24
7	Development of a MOOC (Storyboard/ Slide Deck/ Presentation) with support from NIUA (cost of video shoot, editing and hosting will be borne by NIUA)	Week 18 -24

## 5. Deliverables

- a) Global compendium on Climate Action and Built & Cultural Heritage
- b) Framework/ Toolkit on Climate Action and Built & Cultural Heritage for Indian Cities
- c) Workshop Reports (for the two workshops proposed)
- d) Technical Guidance Note on the Toolkit
- e) E-learning module on the topic of Climate Action and Built & Cultural Heritage for Indian Cities

## 6. Payment Schedule and Conditions

The Contract Amount includes all the incidental costs like printing, editing, graphic designing, and other stationery costs, and cost of travel, boarding & lodging, local transport to cities for attending workshops or in relation to the case-studies for all the team members of the Consultant,

The Contract Amount is exclusive of the expenditures on organizing Workshops. NIUA will make necessary logistical arrangements (cost of venue, food etc.) for organizing the workshops. The engagement of the subject experts will be arranged by the Consultant, including their travel, accommodation, honorarium and affiliated costs.

The contract amount of the selected Consultant will be paid after satisfactory completion of the following stages\* -

<b>S. No.</b>	<b>Description</b>	<b>Payment</b>
1.	Submission of the detailed work-plan	10%
2.	Submission of the Compendium	25%
3.	Submission of the Framework/ Toolkit	25%
4.	Submission of e-learning module	40%

\*Payment against the above-mentioned deliverables shall be made only after approval of the submitted document by the Program Director, CITIIS at the National Institute of Urban Affairs.

## Section VIII – Conditions of Contract and Contract Forms

### I – FORM OF CONTRACT

This contract (hereinafter called the "**Contract**") is made the *[number]* day of the month of *[month]*, *[year]*, between, on the one hand, National Institute of Urban Affairs (NIUA), which has been designated as the Program Management Unit (PMU) for the CITIIS, (hereinafter called the "**Client**") and, on the other hand, *[name of Consultant]* (hereinafter called the "**Consultant**").

*[Note: If the Consultant consist of more than one entity, the above should be partially amended to read as follows: "...(hereinafter called the “**Client**”) and, on the other hand, a Joint Venture *[name of the JV]* consisting of the following entities, each member of which will be jointly and severally liable to the Client for all the Consultant’s obligations under the Contract, namely, *[name of member]* and *[name of member]* (hereinafter called the “**Consultant**”)."]*

WHEREAS:

1. The Client has requested the Consultant to provide services as defined in the Terms of Reference specified in **Appendix A** of the Contract (hereinafter called the "**Services**");
2. The Consultant, having represented to the Client that it has the required professional skills, expertise and technical resources, has agreed to provide the Services on the terms and conditions set forth in the Contract;
3. The Client has received funds from *Agence Française de Développement* ("**AFD**") toward the cost of the Services and intends to apply a portion of these funds to eligible payments under the Contract, it being understood that (i) payments by AFD will be made only at the request of the Client and upon approval by AFD; (ii) such payments will be subject, in all respects, to the terms and conditions of the agreement between the Client and AFD providing for the funds, and (iii) no party other than the Client shall derive any rights from the agreement or have any claim to the funds proceeds.

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of the Contract:
  - a) The General Conditions of Contract, including Attachment 1 (AFD Policy – Corrupt and Fraudulent Practices – Social and Environmental Responsibility), and Attachment 2 (Eligibility Criteria).
  - b) The Special Conditions of Contract.
  - c) Appendices:
    - Appendix A: Terms of Reference;
    - Appendix B: Consultant’s Technical Proposal (including methodology and Experts, and the signed Statement of Integrity);
    - Appendix C: Payment Schedule including Financial Proposal

In the event of any inconsistency between the documents, the following priority order shall prevail: the Special Conditions of Contract; the General Conditions of Contract, including

Attachment 1, Attachment 2, Appendix A, Appendix B and Appendix C. Any reference to the Contract shall include, where the context permits, a reference to its Appendices.

2. The mutual rights and obligations of the Client and the Consultant shall be as set forth in the Contract, in particular:
  - a) The Consultant shall carry out the Services in accordance with the provisions of the Contract; and
  - b) The Client shall make payments to the Consultant in accordance with the provisions of the Contract.

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

For and on behalf of **National Institute of Urban Affairs (NIUA)**

Hitesh Vaidya  
Director, NIUA

For and on behalf of *[Name of Consultant or Name of a Joint Venture]*

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*[Authorized Representative of the Consultant – name and signature]*

*[Note: For a joint venture, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached.]*

For and on behalf of each of the members of the Consultant

*[Name of the lead member]*

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*[Authorized Representative on behalf of a Joint Venture]*

*[add signature blocks for each member if all are signing]*

## II – GENERAL CONDITIONS OF CONTRACT

### A. General Provisions

- 1 **Definitions**
- 1.1 Unless the context otherwise requires, the following terms whenever used in this contract have the following meanings:
- a) "**Applicable law**" means the laws and any other instruments having the force of law in the Client's country, or in such other country as may be specified in the **Special Conditions of Contract (SCC)**, as they may be issued and in force from time to time.
  - b) "**AFD**" means *Agence Française de Développement* (AFD).
  - c) "**Client**" means the implementing agency that signs the Contract for the Services with the selected Consultant.
  - d) "**Consultant**" means a legally-established professional consulting firm or entity selected by the Client to provide the Services under the signed Contract.
  - e) "**Contract**" means the legally binding written agreement signed between the Client and the Consultant and which includes all the attached documents listed in its paragraph 1 of the Form of Contract (the General Conditions (GCC), the Special Conditions (SCC), and the Appendices).
  - f) "**Day**" means a calendar day unless indicated otherwise.
  - g) "**Effective Date**" means the date on which the Contract comes into force and effect pursuant to Clause GCC 11.
  - h) "**Experts**" means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Subconsultant or JV member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract.
  - i) "**Foreign Currency**" means any currency other than the currency of the Client's country.
  - j) "**GCC**" means these General Conditions of Contract.
  - k) "**Joint Venture (JV)**" means an association with or without a legal personality distinct from that of its members, of more than one entity where one member has the authority to conduct all businesses for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally



liable to the Client for the performance of the Contract.

- l) "**Key Expert(s)**" means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was taken into account in the technical evaluation of the Consultant's Proposal.
- m) "**Local Currency**" means the currency of the Client's country.
- n) "**Non-Key Expert(s)**" means an individual professional provided by the Consultant or its Subconsultant to perform the Services or any part thereof under the Contract.
- o) "**Party**" means the Client or the Consultant, as the case may be, and "**Parties**" means both of them.
- p) "**SCC**" means the Special Conditions of Contract by which the GCC may be amended or supplemented but not over-written.
- q) "**Services**" means the work to be performed by the Consultant pursuant to the Contract, as described in **Appendices A and B** of the Contract.
- r) "**Subconsultants**" means an entity to whom/which the Consultant subcontracts any part of the Services while remaining solely liable for the execution of the Contract.

- 2 **Relationship between the Parties** 2.1 Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Client and the Consultant. The Consultant, subject to the Contract, has the complete charge of the Experts and Subconsultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.
- 3 **Law governing Contract** 3.1 The Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable law.
- 4 **Language** 4.1 The Contract has been executed in the language specified in the **SCC**, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of the Contract.
- 5 **Heading** 5.1 The headings shall not limit, alter or affect the meaning of the Contract.
- 6 **Communications** 6.1 Any communication required or permitted to be given or made pursuant to the Contract shall be made in writing in

the language specified in Clause GCC 4. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the **SCC**.

6.2 A Party may change its address for notice hereunder by giving the other Party any communication of such change to the address specified in the **SCC**.

7 **Location** 7.1 The Services shall be performed at such locations as are specified in **Appendix A** hereto and, where the location of a particular task is not so specified, at such locations, whether in the Client's country or elsewhere, as the Client may approve.

8 **Authority of member in charge** 8.1 In case the Consultant is a Joint Venture, the members hereby authorize the lead member specified in the **SCC** to act on their behalf in exercising all the Consultant's rights and obligations towards the Client under the Contract, including without limitation the receiving of instructions and payments from the Client.

9 **Authorized representatives** 9.1 Any action required or permitted to be taken, and any document required or permitted to be executed under the Contract by the Client or the Consultant may be taken or executed by the officials specified in the **SCC**.

10 **Corrupt and Fraudulent Practices, and Social and Environmental Responsibility** 10.1 AFD requires compliance with its policy in regard to corrupt and fraudulent practices, social and environmental responsibility as set forth in **Attachment 1** to the GCC.

#### **B. Commencement, Completion, Modification and Termination of Contract**

11 **Effectiveness of Contract** 11.1 The Contract shall come into force and effect on the date (the "**Effective Date**") of the Client's notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the **SCC** have been met.

12 **Termination of Contract for failure to become effective** 12.1 If the Contract has not become effective within such time period after the date of Contract signature as specified in the **SCC**, either Party may, by not less than twenty two (22) days written notice to the other Party, declare the Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

- 13 **Commencement of Services** 13.1 The Consultant shall confirm availability of Key Experts and begin carrying out the Services not later than the number of days after the Effective Date specified in the SCC.
- 14 **Expiration of Contrat** 14.1 Unless terminated earlier pursuant to Clause GCC 19 hereof, the Contract shall expire at the end of such time period after the Effective Date as specified in the SCC.
- 15 **Entire agreement** 15.1 The Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.
- 16 **Modifications or variations** 16.1 Any modification or variation of the terms and conditions of the Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any Proposals for modification or variation made by the other Party.
- 16.2 In cases of substantial modifications or variations, the prior written consent of AFD is required.
- 17 **Force Majeure** 17.1 Definition:
- 17.1.1 For the purposes of the Contract, "**Force Majeure**" means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements. It includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, confiscation or any other action by government agencies.
- 17.1.2 Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Experts, Subconsultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of the Contract, and avoid or overcome in the carrying out of its obligations hereunders.
- 17.1.3 Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.
- 17.2 Non breach of Contract:
- The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or

default under, the Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of the Contract.

17.3 Measures to be taken:

17.3.1 A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

17.3.2 A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) calendar days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.

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

17.3.4 During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Client, shall either:

- a) Cease its activities and demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Client, the costs related to the reactivation of the Services; or
- b) Continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of the Contract and be reimbursed for additional costs reasonably and necessarily incurred.

17.3.5 In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clauses GCC 48 and 49.

**18 Suspension**

18.1 The Client may, by written notice of suspension to the Consultant, suspend all payments to the Consultant

hereunder if the Consultant fails to perform any of its obligations under the Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultant of such notice of suspension.

## 19 Termination

The Contract may be terminated by either Party as per provisions set up below:

### 19.1 By the Client:

19.1.1 The Client may terminate the Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause. In such an occurrence the Client shall give at least thirty (30) days' written notice of termination to the Consultant in case of the events referred to in (a) through (d); at least sixty (60) days' written notice in case of the event referred to in (e); and at least five (5) days' written notice in case of the event referred to in (f):

- a) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GCC 18;
- b) If the Consultant becomes (or, if the Consultant consists of a Joint Venture, if any of its members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;
- c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Sub-Clause GCC 49.1;
- d) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days;
- e) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate the Contract;
- f) If the Consultant fails to confirm availability of Key Experts.

19.1.2 Furthermore, if the Client determines that the Consultant has engaged in corrupt or fraudulent

practices, in competing for or in executing the Contract, then the Client is entitled, after giving fourteen (14) days written notice to the Consultant, to terminate the Consultant's employment under the Contract.

19.2 By the Consultant:

19.2.1 The Consultant may terminate the Contract, by not less than thirty (30) days' written notice to the Client, in case of the occurrence of any of the events specified in paragraphs (a) through (d) of this Sub-Clause:

- a) If the Client fails to pay any money due to the Consultant pursuant to the Contract and not subject to dispute pursuant to Sub-Clause GCC 49.1 within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue;
- b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days;
- c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 49.1;
- d) If the Client is in material breach of its obligations pursuant to the Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Client of the Consultant's notice specifying such breach.

19.3 Cessation of rights and obligations:

Upon termination of the Contract pursuant to Clauses GCC 12 or GCC 19 hereof, or upon expiration of the Contract pursuant to Clause GCC 14, 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, (ii) the obligation of confidentiality set forth in Clause GCC 22, (iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GCC 25, and (iv) any right which a Party may have under the Applicable law.

19.4 Cessation of Services:

Upon termination of the Contract by notice of either Party to the other pursuant to Sub-Clauses GCC 19.1 or GCC

19.2, the Consultant 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 the documents prepared by the Consultant and equipment and materials furnished by the Client, the Consultant shall proceed as provided, respectively, by Clauses GCC 27 or GCC 28.

19.5 Payment upon termination:

19.5.1 Upon termination of the Contract, the Client shall make the following payments to the Consultant:

- a) Remuneration for Services satisfactorily performed prior to the effective date of termination, other expenses incurred and, for unit prices (time-based), reimbursable expenditures for expenditures actually incurred prior to the effective date of termination; and pursuant to Clause 42;
- b) In the case of termination pursuant to paragraphs (d) and (e) of Sub-Clause GCC 19.1.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Contract, including the cost of the return travel of the Experts.

**C. Obligations of the Consultant**

**20 General**

20.1 Standard of performance:

20.1.1 The Consultant shall perform the Services and carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to the Contract or to the Services, as a faithful adviser to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with third parties.

20.1.2 The Consultant shall employ and provide such qualified and experienced Experts and Subconsultants as are required to carry out the Services.

20.1.3 The Consultant may subcontract part of the Services to an extent and with such Key Experts and Subconsultants as may be approved in advance by

the Client. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services. The Consultant shall not subcontract the whole of the Services.

20.2 Law applicable to Services:

20.2.1 The Consultant shall perform the Services in accordance with the Contract and the Applicable law and shall take all practicable steps to ensure that any of its Experts and Subconsultants, comply with the Applicable law.

20.2.2 Throughout the execution of the Contract, the Consultant shall comply with the import of goods and services prohibitions in the Client's country.

20.2.3 The Client shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.

**21 Conflict of interests**

21.1 The Consultant shall hold the Client's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

21.2 Consultant not to benefit from commissions, discounts, etc.:

21.2.1 The payment of the Consultant pursuant to GCC F (Clauses GCC 41 through 46) shall constitute the Consultant's only payment in connection with the Contract and, subject to Sub-Clause GCC 21.1.3, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to the Contract or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that any Subconsultants, as well as Experts and agents of either of them, similarly shall not receive any such additional payment.

21.2.2 Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Client on the procurement of goods, works, plants, consulting services or non-consulting services, the Consultant shall comply with the Client's applicable regulations, and shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the Client.

21.3 Consultant and affiliates not to engage in certain activities:



Unless otherwise indicated in the **SCC**, a firm that has been engaged by the Client to provide goods, works, or non-consulting services for a project, or any of its Affiliates, shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or non-consulting services.

21.4 Prohibition of conflicting activities:

The Consultant shall not engage, and shall cause its Experts as well as its Subconsultants not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under the Contract.

21.5 Strict duty to disclose conflicting activities:

The Consultant has an obligation and shall ensure that its Experts and Subconsultants shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Client, or that may reasonably be perceived as having this effect. Failure to disclose such situations may lead to the termination of its Contract.

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|---|--|
| <b>22 Confidentiality</b>                             | 22.1 Except with the prior written approval of the Client, the Consultant and the Experts shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Experts make public the recommendations formulated in the course of, or as a result of, the Services.  |
| <b>23 Liability of the Consultant</b>                 | 23.1 Subject to additional provisions, if any, set forth in the <b>SCC</b> , the Consultant's liability under the Contract shall be as determined under the Applicable law.  |
| <b>24 Insurance to be taken out by the Consultant</b> | 24.1 The Consultant (i) shall take out and maintain, and shall cause any Subconsultants to take out and maintain, at its (or the Subconsultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage specified in the <b>SCC</b> , and (ii) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid. The Consultant shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC 13. |
| <b>25 Accounting, inspection and auditing</b>         | 25.1 The Consultant shall keep, and shall make all reasonable efforts to cause its Subconsultants to keep, accurate and systematic accounts and records in respect of the Services in  |

such form and detail as will clearly identify relevant time changes and costs.

- 25.2 The Consultant shall permit and shall cause its Subconsultants to permit, AFD and/or persons appointed by AFD to inspect the Site and/or all accounts and records relating to the performance of the Contract and the submission of the Proposal to provide the Services, and to have such accounts and records audited by auditors appointed by AFD if requested by AFD. The Consultant's attention is drawn to Clause GCC 10 which provides, inter alia, that acts intended to materially impede the exercise of AFD's inspection and audit rights provided for under this Sub-Clause GCC 25.2 constitute a prohibited practice subject to Contract termination.
- 26 **Reporting obligations**
- 26.1 The Consultant shall submit to the Client the reports and documents specified in **Appendix A**, in the form, in the numbers and within the time periods set forth in the said Appendix.
- 27 **Proprietary rights of the Client in reports and records**
- 27.1 Unless otherwise indicated in the **SCC**, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the Client in the course of the Services shall be confidential and become and remain the absolute property of the Client. The Consultant shall, not later than upon termination or expiration of the Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to the Contract without prior written approval of the Client.
- 27.2 If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents and software, the Consultant shall obtain the Client's prior written approval to such agreements, and the Client shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the **SCC**.
- 28 **Equipment, vehicles and materials**
- 28.1 Equipment, vehicles and materials made available to the Consultant by the Client, or purchased by the Consultant wholly or partly with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of the Contract, the Consultant shall make available to the Client an inventory of such equipment, vehicles and materials and shall dispose

of such equipment, vehicles and materials in accordance with the Client's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Client in writing, shall insure them at the expense of the Client in an amount equal to their full replacement value.

- 28.2 Any equipment or materials brought by the Consultant or its Experts into the Client's country for the use either for the project or personal use shall remain the property of the Consultant or the Experts concerned, as applicable.

#### **D. Consultant's Experts and Subconsultants**

- 29 Description of Key Experts**
- 29.1 The title, agreed job description, minimum qualification and time-input estimates to carry out the Services of each of the Consultant's Key Experts are described in **Appendix B**.
- 29.2 In case of unit prices (time-based) and if required to comply with the provisions of Sub-clause GCC 20.1, adjustments with respect to the estimated time-input of Key Experts set forth in **Appendix B** may be made by the Consultant by a written notice to the Client, provided (i) that such adjustments shall not alter the original time-input estimates for any individual by more than 10% or one week, whichever is larger; and (ii) that the aggregate of such adjustments shall not cause payments under the Contract to exceed the ceilings set forth in Sub-Clause GCC 41.1.
- 29.3 In case of unit prices (time-based) and if additional work is required beyond the scope of the Services specified in **Appendix A**, the estimated time-input for the Key Experts may be increased by written agreement between the Client and the Consultant. In case where payments under the Contract exceed the ceilings set forth in Sub-Clause GCC 41.1, the Parties shall sign a Contract amendment.
- 30 Replacement of Key Experts**
- 30.1 Except as the Client may otherwise agree in writing, no changes shall be made in the Key Experts.
- 30.2 Notwithstanding the above, the substitution of Key Experts during Contract execution may be considered only based on the Consultant's written request and due to circumstances outside the reasonable control of the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall forthwith provide as a replacement, a person of equivalent or better qualifications and experience, and at the same rate of remuneration.
- 31 Approval of additional Key Experts**
- 31.1 If during execution of the Contract, additional Key Experts are required to carry out the Services, the Consultant shall submit to the Client a copy of their Curricula Vitae (CVs) for review and approval. If the Client does not object in writing (stating the reasons for the objection) within twenty

two (22) days from the date of receipt of such CVs, the additional Key Experts shall be deemed approved by the Client.

- 31.2 In case of unit price (time-based) Contract, the rate of remuneration payable to such new additional Key Experts shall be based on the rates for other Key Experts position which require similar qualifications and experience.
- 32 Removal of Experts or Subconsultants**
- 32.1 If the Client finds that any of the Experts or Subconsultant has committed serious misconduct or has been charged with having committed a criminal action, or if the Client determines that one of the Consultant's Experts or Subconsultants have engaged in corrupt or fraudulent practice while performing the Services, the Consultant shall, at the Client's written request, provide a replacement.
- 32.2 In the event that any of the Key Experts, Non-Key Experts or Subconsultants is found by the Client to be incompetent or incapable in discharging assigned duties, the Client, specifying the grounds therefore, may request the Consultant to provide a replacement.
- 32.3 Any replacement of the removed Experts or Subconsultants shall possess better qualifications and experience and shall be acceptable to the Client.
- 33 Replacement / removal of Experts - Impact on payments**
- 33.1 In case of unit price (time-based) Contract, except as the Client may otherwise agree, (i) the Consultant shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid for any of the Experts provided as a replacement shall not exceed the remuneration which would have been payable to the Experts replaced or removed.
- 33.2 In case of lump-sum Contract, the Consultant shall bear all costs arising out of or incidental to any removal and/or replacement of such Experts.
- 34 Working hours, overtime, leave, etc. (time-based Contract only)**
- 34.1 Working hours and holidays for Experts are set forth in **Appendix A**. To account for travel time to/from the Client's country, Experts carrying out Services inside the Client's country shall be deemed to have commenced or finished work in respect of the Services such number of days specified in **Appendix A** before their arrival in, or after their departure from, the Client's country.
- 34.2 The Experts shall neither be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in **Appendix A**, and the Consultant's remuneration shall be deemed to cover these items.
- 34.3 Any taking of leave by the Experts shall be subject to the prior approval of the Consultant who shall ensure that

absence for leave purposes will not delay the progress and or impact an adequate supervision of the Services.

#### **E. Obligations of the Client**

- 35 Assistance and exemption**
- 35.1 Unless otherwise specified in the **SCC**, the Client shall use its best efforts to:
- a) Assist the Consultant with obtaining work permits and such other documents as shall be necessary to enable the Consultant to perform the Services;
  - b) Assist the Consultant with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in the Client's country while carrying out the Services under the Contract;
  - c) Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Experts and their eligible dependents;
  - d) Issue to officials, agents and representatives of the government all such instructions and information as may be necessary or appropriate for the prompt and effective implementation of the Services;
  - e) Assist the Consultant and the Experts and any Subconsultants employed by the Consultant for the Services with obtaining exemption from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a legal entity in the Client's country according to the Applicable Law in the Client's country;
  - f) Assist the Consultant, any Subconsultants and the Experts of either of them with obtaining the privilege, pursuant to the Applicable law in the Client's country, of bringing into the Client's country reasonable amounts of Foreign Currency for the purposes of the Services or for the personal use of the Experts and of withdrawing any such amounts as may be earned therein by the Experts in the execution of the Services;
  - g) Provide to the Consultant any such other assistance as may be specified in the **SCC**.
- 36 Access to project site**
- 36.1 The Client warrants that the Consultant shall have, free of charge, unimpeded access to the project site in respect of which access is required for the performance of the Services. The Client will be responsible for any damage to the project site or any property thereon resulting from such access and will indemnify the Consultant and each of the Experts in

respect of liability for any such damage, unless such damage is caused by the willful default or negligence of the Consultant or any Subconsultants or the Experts.

- 37 Change in the Applicable Law related to taxes and duties**
- 37.1 If, after the date of the Contract, there is any change in the Applicable Law in the Client's country with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and other expenses otherwise payable to the Consultant under the Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Sub-Clause GCC 41.1.
- 38 Services, facilities and property of the Client**
- 38.1 The Client shall make available to the Consultant and the Experts, for the purposes of the Services and free of any charge, the services, facilities and property described in the Terms of Reference (**Appendix A**) at the times and in the manner specified in the above mentioned **Appendix A**.
- 38.2 In case that such services, facilities and property shall not be made available to the Consultant as and when specified in **Appendix A**, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (ii) the manner in which the Consultant shall procure any such services, facilities and property from other sources, and (iii) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to Clause GCC 41.
- 39 Counterpart personnel**
- 39.1 The Client shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the Client with the Consultant's advice, if specified in **Appendix A**.
- 39.2 If counterpart personnel are not provided by the Client to the Consultant as and when specified in **Appendix A**, the Client and the Consultant shall agree on (i) how the affected part of the Services shall be carried out, and (ii) the additional payments, if any, to be made by the Client to the Consultant as a result thereof pursuant to Clause GCC 41.
- 39.3 Professional and support counterpart personnel, excluding Client's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Client shall not unreasonably refuse to act upon such request.
- 40 Payment obligation**
- 40.1 In consideration of the Services performed by the Consultant under the Contract, the Client shall make such

payments to the Consultant and in such manner as provided by GCC F below.

#### **F. Payment to the Consultant**

- 41 Ceiling amount (time-based) or Contract price (lump-sum)**
- 41.1 In case of unit price (time-based) Contract, an estimate of the cost of the Services is set forth in **Appendix C** (Contract Price(s)). Payments under the Contract shall not exceed the ceilings in Foreign Currency and in Local Currency specified in the **SCC**. For any payments in excess of the ceilings, an amendment to the Contract shall be signed by the Parties referring to the provision of the Contract that evokes such amendment.
- 41.2 In case of a lump-sum Contract, the Contract price is fixed and is set forth in the **SCC**. The Contract price breakdown is provided in **Appendix C**. Any change to the Contract price can be made only if the Parties have agreed to the revised scope of Services pursuant to Clause GCC 16 and have amended in writing the Terms of Reference in **Appendix A**.
- 42 Remuneration and reimbursable expenses (unit price, time-based only)**
- 42.1 The Client shall pay to the Consultant (i) remuneration that shall be determined on the basis of the time actually spent by each Expert in the performance of the Services after the commencement date of the Services or after any other date as the Parties shall agree in writing; and (ii) other expenses including reimbursable expenses that are actually and reasonably incurred by the Consultant in the performance of the Services.
- 42.2 All payments shall be at the rates set forth in **Appendix C**.
- 42.3 Unless the **SCC** provides for the price adjustment of the remuneration rates, said remuneration shall be fixed for the duration of the Contract.
- 42.4 The remuneration rates shall cover: (i) such salaries and allowances as the Consultant shall have agreed to pay to the Experts as well as factors for social charges and overheads (bonuses or other means of profit-sharing shall not be allowed as an element of overheads), (ii) the cost of backstopping by home office staff not included in the Experts' list in **Appendix B**, (iii) the Consultant's profit, and (iv) any other cost unless otherwise specified in the **SCC**.
- 43 Taxes and duties**
- 43.1 The Consultant, Subconsultants and Experts are responsible for meeting any and all tax liabilities arising out of the Contract unless it is stated otherwise in the **SCC**.
- 43.2 As an exception to the above and as stated in the **SCC**, all local identifiable indirect taxes (itemized and finalized at

Contract negotiations) are reimbursed to the Consultant or are paid by the Client on behalf of the Consultant.

- 44 Currency of payment** 44.1 Any payment under the Contract shall be made in the currency(ies) of the Contract.
- 45 Mode of billing and payment** 45.1 Billings and payments in respect of the Services shall be made as follows:
- a) *Advance payment*: Within the number of days as specified in the **SCC** after the Effective Date, the Client shall pay to the Consultant an advance payment as specified in the **SCC**. Unless otherwise indicated in the **SCC**, an advance payment shall be made against the submission of a bank guarantee acceptable to the Client in an amount (or amounts) and in a currency (or currencies) specified in the **SCC**. Such guarantee (i) is to remain effective until the advance payment has been fully set off, and (ii) is to be in the form set forth in **Appendix D**, or in any other form that the Client shall have approved in writing. The advance payments will be set off by the Client in installments as specified in the **SCC** until the said advance payments have been fully set off.
  - b) *The itemized invoices (unit price-time-based)*: As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, or after the end of each time interval otherwise indicated in the **SCC**, the Consultant shall submit to the Client, in duplicate, itemized invoices, accompanied by the receipts or other appropriate supporting documents, of the amounts payable pursuant to Clauses GCC 44 and GCC 45 for such interval, or for any other period indicated in the **SCC**. Separate invoices shall be submitted for expenses incurred in Foreign Currency and in Local Currency. Each invoice shall show remuneration and other expenses (including reimbursable expenses) separately. The Client shall pay the Consultant's invoices within sixty (60) days from the receipt by the Client of such itemized invoices and of the supporting documents. Only the portion of an invoice that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized, the Client may add or subtract the difference from any subsequent payments.
  - c) *The lump-sum Installment payments*: The Client shall pay the Consultant within sixty (60) days after the receipt by the Client of the deliverable(s) and the cover invoice for the related lump-sum installment payment. The payment can be withheld if the Client does not



approve the submitted deliverable(s) as satisfactory in which case the Client shall provide comments to the Consultant within the same sixty (60) days period. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated.

- d) The final payment: The final payment under this Clause shall be made only after the final report and a final invoice, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the Client. The Services shall be deemed completed and finally accepted by the Client and the final report and final invoice shall be deemed approved by the Client as satisfactory ninety (90) calendar days after receipt of the final report and final invoice by the Client unless the Client, within such ninety (90) calendar day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final invoice. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. Any amount that the Client has paid or has caused to be paid in accordance with this Clause in excess of the amounts payable in accordance with the provisions of the Contract shall be reimbursed by the Consultant to the Client within thirty (30) days after receipt by the Consultant of notice thereof. Such claim for reimbursement shall be made by the Client within twelve (12) calendar months after receipt by the Client of the final report and the final invoice that the Client has approved in accordance with the above.
- e) All payments under the Contract shall be made to the accounts of the Consultant specified in the **SCC**.
- f) With the exception of the final payment under (d) above, payments neither constitute acceptance of the Services nor relieve the Consultant of any obligations hereunder.

**46 Interest on delayed payments and damages**

46.1 Interest on delayed payments: If the Client had delayed payments beyond fifteen (15) days after the due date stated in Sub-Clause GCC 45.1 (b) or (c), interest shall be paid to the Consultant on any amount due by, not paid on, such due date for each day of delay at the annual rate stated in the **SCC**.

46.2 Damages: If the Consultant fails to comply with the Contract requirements, the Client shall be entitled to apply damages as stated in the **SCC**. The total amount of the damages shall not exceed 10% of the Contract amount

### **G. Fairness and Good Faith**

- 47 **Good faith** 47.1 The Parties undertake to act in good faith with respect to each other's rights under the Contract and to adopt all reasonable measures to ensure the realization of the objectives of the Contract.

### **H. Settlement of Disputes**

- 48 **Amicable Settlement** 48.1 The Parties shall seek to resolve any dispute amicably by mutual consultation.
- 48.2 If either Party objects to any action or inaction of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party receiving the Notice of Dispute will consider it and respond in writing within fourteen (14) days from receipt. If that Party fails to respond within fourteen (14) days, or the dispute cannot be amicably settled within fourteen (14) days from the response of that Party, Sub-Clause GCC 49.1 shall apply.
- 49 **Dispute resolution** 49.1 Any dispute between the Parties arising under or related to the Contract that cannot be settled amicably may be referred to by either Party to the adjudication/arbitration in accordance with the provisions specified in the **SCC**.

**ATTACHMENT 1: AFD Policy - Corrupt and Fraudulent Practices -  
Environmental and Social Responsibility**

**1. Corrupt and Fraudulent Practices**

The Contracting Authority and the suppliers, contractors, subcontractors, consultants or subconsultants must observe the highest standard of ethics during the procurement process and performance of the contract. The Contracting Authority means the Purchaser, the Employer, the Client, as the case may be, for the procurement of goods, works, plants, consulting services or non-consulting services.

By signing the Statement of Integrity the suppliers, contractors, subcontractors, consultants or subconsultants declare that (i) “it did not engage in any practice likely to influence the contract award process to the Contracting Authority’s detriment, and that it did not and will not get involved in any anti-competitive practice”, and that (ii) “the procurement process and the performance of the contract did not and shall not give rise to any act of corruption or fraud”.

Moreover, AFD requires including in the Procurement Documents and AFD-financed contracts a provision requiring that suppliers, contractors, subcontractors, consultants or subconsultants will permit AFD to inspect their accounts and records relating to the procurement process and performance of the AFD-financed contract, and to have them audited by auditors appointed by AFD.

AFD reserves the right to take any action it deems appropriate to check that these ethics rules are observed and reserves, in particular, the rights to:

- a) Reject a proposal for a contract award if it is established that during the selection process the bidder or consultant that is recommended for the award has been convicted of corruption, directly or by means of an agent, or has engaged in fraud or anti-competitive practices in view of being awarded the Contract;
- b) Declare misprocurement when it is established that, at any time, the Contracting Authority, the suppliers, contractors, subcontractors, consultants or subconsultants their representatives have engaged in acts of corruption, fraud or anti-competitive practices during the procurement process or performance of the contract without the Contracting Authority having taken appropriate action in due time satisfactory to AFD to remedy the situation, including by failing to inform AFD at the time they knew of such practices.

AFD defines, for the purposes of this provision, the terms set forth below as follows:

- a) Corruption of a Public Officer means:
  - The act of promising, offering or giving to a Public Officer, directly or indirectly, an undue advantage of any kind for himself or for another Person<sup>5</sup> or entity, for such Public Officer to act or refrain from acting in his official capacity; or
  - The act by which a Public Officer solicits or accepts, directly or indirectly, an undue advantage of any kind for himself or for another Person or entity, for such Public Officer to act or refrain from acting in his official capacity.
- b) A Public Officer shall be construed as meaning:

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<sup>5</sup> Means any Person whether natural or legal, firm, company, corporation, government, state or state agency or any association, or group of two or more of the foregoing (whether or not having separate legal status).

- Any person who holds a legislative, executive, administrative or judicial mandate (within the country of the Contracting Authority) regardless of whether that natural Person was nominated or elected, regardless of the permanent or temporary, paid or unpaid nature of the position and regardless of the hierarchical level the natural Person occupies;
  - Any other natural Person who performs a public function, including for a State institution or a State-owned company, or who provides a public service;
  - Any other natural Person defined as a Public Officer by the national laws of the country of the Contracting Authority.
- c) Corruption of a Private Person<sup>6</sup> means:
- The act of promising, offering or giving to any Private Person, directly or indirectly, an undue advantage of any kind for himself or for another Person or entity, for such Private Person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations; or;
  - The act by which any Private Person solicits or accepts, directly or indirectly, an undue advantage of any kind for himself or for another Person or entity, for such Private Person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations.
- d) Fraud means any dishonest conduct (act or omission), whether or not it constitutes a criminal offence, deliberately intended to deceive others, to intentionally conceal items, to violate or vitiate consent, to circumvent legal or regulatory requirements and/or to violate internal rules in order to obtain illegitimate profit.
- e) Anti-competitive practices mean:
- Any concerted or implied practices which have as their object or effect the prevention, restriction or distortion of competition within a marketplace, especially where they (i) limit access to the marketplace or free exercise of competition by other undertakings, (ii) prevent free, competition-driven price determination by artificially causing price increases or decreases, (iii) restrict or control production, markets, investments or technical progress; or (iv) divide up market shares or sources of supply;
  - Any abuse by one undertaking or a group of undertakings which hold a dominant position on an internal market or on a substantial part of it;
  - Any practice whereby prices are quoted or set unreasonably low, the object of which is to eliminate an undertaking or any of its products from a market or to prevent it from entering the market.

## **2. Environmental and Social Responsibility**

In order to promote sustainable development, AFD seeks to ensure that internationally recognised environmental and social standards are complied with. Suppliers, contractors, subcontractors, consultants or subconsultants for AFD-financed contracts shall consequently undertake in the Statement of Integrity to:

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<sup>6</sup> Means any natural Person other than a Public Officer.

- a) Comply with and ensure that all their subcontractors or subconsultants comply with international environmental and labour standards, consistent with applicable law and regulations in the country of implementation of the contract, including the fundamental conventions of the International Labour Organisation (ILO) and international environmental treaties;
- b) Implement environmental and social risks mitigation measures when specified in the environmental and social management plan (ESMP) provided by the Contracting Authority.

## ATTACHMENT 2: Eligibility Criteria

### Eligibility in AFD-Financed Procurement

1. Financing allocated by AFD to a Contracting Authority has been entirely untied since 1<sup>st</sup> January 2002. To the exception of any equipment or any sector which is subject to an embargo by the United Nations, the European Union or France, all goods, works, plants, consulting services and non-consulting services are eligible for AFD financing regardless of the country of origin (subject to prevailing rules of GoI) of the supplier, contractor, subcontractor, consultant or subconsultant inputs or resources used in the implementation processes. The Contracting Authority means the Purchaser, the Employer, the Client, as the case may be, for the procurement of goods, works, plants, consulting services or non-consulting services.
2. The Government of India (GoI) has amended the General Financial Rules 2017 to enable imposition of restrictions on bidders from countries which share a land border with India on grounds of defence of India, or matters directly or indirectly related thereto including national security. The Department of Expenditure has, under the said Rules, issued a detailed Order on public procurement to strengthen the defence of India and national security.

As per the Order any bidder from such countries sharing a land border with India will be eligible to bid in any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority. The Competent Authority for registration will be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT). Political and security clearance from the Ministries of External and Home Affairs respectively will be mandatory.

3. Natural or legal Persons<sup>7</sup> (including all members of a joint venture or any of their suppliers, contractors, subcontractors, consultants or subconsultants) shall not be awarded an AFD-financed contract if, on the date of submission of an application, a bid or a proposal, or on the date of award of a contract, they:
  - 2.1 Are bankrupt or being wound up or ceasing their activities, are having their activities administered by the courts, have entered into receivership, or are in any analogous situation arising from a similar procedure;
  - 2.2 Have been:
    - a) convicted, within the past five years by a court decision, which has the force of res judicata in the country where the contract is implemented, of fraud, corruption or of any other offense committed during a procurement process or performance of a contract, unless they provide supporting information together with their Statement of Integrity (Form available as Appendix to the Application, Bid or Proposal Submission Form) which shows that this conviction is not relevant in the context of the Contract;

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<sup>7</sup> Means any Person whether natural or legal, firm, company, corporation, government, state or state agency or any association, or group of two or more of the foregoing (whether or not having separate legal status).

- b) subject to an administrative sanction within the past five years by the European Union or by the competent authorities of the country where they are constituted, for fraud, corruption or for any other offense committed during a procurement process or performance of a contract, unless they provide supporting information together with their Statement of Integrity (Form available as Appendix to the Application, Bid or Proposal Submission Form) which shows that this sanction is not relevant in the context of the Contract;
  - c) convicted, within the past five years by a court decision, which has the force of res judicata, of fraud, corruption or of any other offense committed during the procurement process or performance of an AFD-financed contract;
- 2.3 Are listed for financial sanctions by the United Nations, the European Union and/or France for the purposes of fight-against-terrorist financing or threat to international peace and security;
- 2.4 Have been subject within the past five years to a contract termination fully settled against them for significant or persistent failure to comply with their contractual obligations during contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against them;
- 2.5 Have not fulfilled their fiscal obligations regarding payments of taxes in accordance with the legal provisions of either the country where they are constituted or the Contracting Authority's country;
- 2.6 Are subject to an exclusion decision of the World Bank and are listed on the website <http://www.worldbank.org/debarr>, unless they provide supporting information together with their Statement of Integrity (Form available as Appendix to the Application, Bid or Proposal Submission Form) which shows that this exclusion is not relevant in the context of the Contract;
- 2.7 Have created false documents or committed misrepresentation in documentation requested by the Contracting Authority as part of the procurement process of the Contract.
4. State-owned entities may compete only if they can establish that they (i) are legally and financially autonomous, and (ii) operate under commercial law. To be eligible, a state-owned entity shall establish to AFD's satisfaction, through all relevant documents, including its Charter and other information AFD may request, that it: (i) is a legal entity separate from their state (ii) does not currently receive substantial subsidies or budget support; (iii) operates like any commercial enterprise, and, inter alia, is not obliged to pass on its surplus to their state, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt.

### III – SPECIAL CONDITIONS OF CONTRACT

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
<b>1.1(a) and 3.1: Applicable law</b>	<b>The Contract shall be construed in accordance with the law of: India</b>
<b>1.1 (q) Services</b>	<b>“Services” means the work to performed by the Consultant pursuant to the Contract, as described in Appendix A and B of the Contract.</b>
<b>4.1: Language</b>	<b>The language is: English</b>
<b>6.1 and 6.2: Communications</b>	<p><b>The addresses are:</b></p> <p><b><u>Client:</u></b></p> <p><b>National Institute of Urban Affairs</b>            1 Floor, Core 4B India Habitat Centre            Lodhi Road, New Delhi –110003            (91-11) 24643284 24617543, 24617517</p> <p><b>Attention: Mr. Hitesh Vaidya, Director</b></p> <p>Email (where permitted): <a href="mailto:citiis@niua.org">citiis@niua.org</a></p> <p><b><u>Consultant:</u></b> _____</p> <p>_____</p> <p>Attention: _____</p> <p>Fax: _____</p> <p>Email (where permitted): _____</p>
<b>8.1: Authority of member in charge</b>	<p><i>[Note: If the Consultant consists only of one entity, state "N/A";</i></p> <p><i>OR</i></p> <p><i>If the Consultant is a Joint Venture consisting of more than one entity, the name of the JV member whose address is specified in Sub-Clause SCC 6.1 should be inserted here.]</i></p> <p><b>The Lead Member on behalf of the JV is:</b> _____</p> <p>_____ <i>[insert name of the member]</i></p>
<b>9.1: Authorized representatives</b>	<p><b>The Authorized Representatives are:</b></p> <p>For the Client: <b>Mr. Naim Keruwala, Program Director – CITIIS,</b>            Email: <a href="mailto:nkeruwala@niua.org">nkeruwala@niua.org</a></p> <p>For the Consultant: _____ <i>[name, title]</i></p>



Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
<b>11.1: Effectiveness of Contract</b>	The Contract shall come into force at the date of Contract signature.
<b>12.1: Termination of Contract for failure to become effective</b>	Not applicable.
<b>13.1: Commencement of Services</b>	<b>The Services shall start on:</b> 7 days after the signing the Contract.
<b>14.1: Expiration of Contract</b>	<b>The time period shall be:</b> Twenty Four (24) Weeks (or any other period as may be subsequently agreed by the parties in writing).
<b>18.2: New Sub-Clause - Suspension or termination on the grounds of the security of the Consultant's Experts</b>	Not applicable
<b>20.2: Law applicable to Services</b>	The Consultant commits to meet the AFD's eligibility criteria as listed under <b>Attachment 2</b> of the General Conditions of Contract. This undertaking also applies to the Experts and Subconsultants.
<b>20.3: New Sub-Clause - Permanent establishment</b>	<p>In the event of a legal or regulatory obligation for the Consultant to have a permanent establishment in the Client's country for the performance of the Contract, the Consultant shall provide the Client with proof of existence, or at least proof of process commencement for creating or registering such a permanent establishment in the Client's country, and the legal relationship with the Consultant, within thirty (30) days of the signing of the Agreement. At the end of the creation or registration process, the Consultant shall provide the Client with proof of the existence of such a permanent establishment.</p> <p>The Consultant shall be authorized, during the execution of the Contract, if the legal constraints or local regulations require it, to create or modify the existing Joint Venture, by integrating an existing local subsidiary or by creating a new one by the Consultant (or one of the members of the Joint Venture), without additional cost for the Client. An amendment to the Contract shall be used to formalize these actions.</p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
<b>23.1:</b> <b>Liability of the Consultant</b>	No additional provisions.
<b>24.1:</b> <b>Insurance to be taken out by the Consultant</b>	<p><b>The insurance coverage against the risks shall be as follows:</b></p> <ul style="list-style-type: none"> <li>a) Professional liability insurance, with a minimum coverage of shall be equal to the total Contract amount;</li> <li>b) Third party liability insurance, with a minimum coverage of in accordance with the Applicable law;</li> <li>c) Client’s liability and workers' compensation insurance for the Consultant’s Experts and Subconsultants in accordance with the relevant provisions of the Applicable law in the Client’s country, as well as, with respect to such Experts, any such life, health, accident, travel or other insurance as may be appropriate.</li> </ul>
<b>27.1:</b> <b>Proprietary rights in reports and records</b>	Not applicable
<b>27.2:</b>	The Consultant shall not use CITIIS documents and/or software for purposes unrelated to the Contract without the prior written approval of the Client.
<b>41:</b> <b>Ceiling amount</b>	The maximum permissible budget for this component is ( <b>Contract Amount</b> ) (all taxes inclusive) for a maximum period of 24 Weeks (i.e. approximately Six Months).
<b>42.1:</b> <b>Remuneration and reimbursable expenses (unit price, time-based only)</b>	Not applicable.
<b>42.3:</b>	Not applicable.
<b>43.1 and 43.2:</b> <b>Taxes and duties</b>	No additional provisions.
<b>45.1(a):</b> <b>Mode of billing and payment - Advance payment</b>	<b>No Advance Payment</b>
<b>45.1(b):</b> <b>The itemized</b>	Not Applicable

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
invoices (unit price-time-based)	
45.1(e):	<p><b>The account details of Consultant are:</b></p> <p>For Local Currency: <i>[insert account]</i></p>
46.1: Interest on delayed payments	Not Applicable
46.2: Damages	<p>If the Consultant fails to perform the Services within the time frame(s) incorporated in the contract, the Client shall, without prejudice to other rights and remedies available to the Client under the contract, deduct from the contract price, as liquidated damages for each week of delay or part thereof until actual delivery or performance, but not as a penalty, a sum equivalent to the 0.125% percent of the related monthly bill / stage of payment of the Services.</p> <p>The maximum amount of liquidated damages for the whole of the Works is 10% of the final Contract Price..</p>
49: Dispute resolution	<p>Disputes shall be settled by arbitration in accordance with the following provisions:</p> <p>1. Selection of the Arbitrator: Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator, in accordance with the following provisions:</p> <p>The Parties may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator within thirty (30) days after receipt by the other Party of the Proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to the Indian Council for Arbitration (ICA) for a list of not fewer than five (5) nominees and, on receipt of such list, the Parties shall alternately strike names therefrom, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute.</p> <p>Rules of Procedure: Except as otherwise stated herein, arbitration proceedings shall be conducted in accordance with the Arbitration and Conciliation Act, 1996 (Indian Arbitration Act) which is based on the UNCITRAL Model Law on International Commercial Arbitration, 1985 and the UNCITRAL Arbitration Rules, 1976.</p> <p>2. Miscellaneous: In any arbitration proceeding hereunder:</p> <p>a) Proceedings shall, unless otherwise agreed by the Parties, be held in New Delhi, India;</p> <p>b) The ENGLISH language shall be the official language for all purposes; and</p>

<b>Number of GC Clause</b>	<b>Amendments of, and Supplements to, Clauses in the General Conditions of Contract</b>
	c) The decision of the sole arbitrator shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.

## **IV - APPENDICES**

### **APPENDIX A – Terms of Reference**

*[This Appendix shall include the final Terms of Reference (TORs) (on the basis of Section VII of the RFP) worked out by the Client and the Consultant during the negotiations; dates for completion of various tasks; location of performance for different tasks; detailed reporting requirements; Client's input, including counterpart personnel assigned by the Client to work on the Consultant's team; specific tasks that require prior approval by the Client.]*

### **APPENDIX B – Consultant's Technical Proposal including methodology and Key Experts**

*[Consultant's Technical Proposal and finalized during the Contract's negotiations]*

### **APPENDIX C – Breakdown of Contract Price / Payment Terms**

*[This Appendix shall include the final Payment Schedule as mentioned in Terms of Reference (TORs) and Financial Proposal.]*