

DETAILS FOR ENGAGEMENT OF TRANSACTION ADVISOR IN PMU OF APICOL

1.	Details	Transaction Advisory & PMU Services
2.	Tender Cost	Rs.20000.00 exclusive of GST
3.	Selling Date of Tender	09/10/2018 to 23/10/2018 till 5.00 PM.
4.	Date of Submission of Tender	27/10/2018 upto 05.00 PM
5.	Date of Opening of Tender	29/10/2018.2018 at 03.30 PM
6.	Validity of Tender	60 days
7.	Mode of Selection	LCBS (Least Cost Based Selection)

LETTER OF INVITATION

Subject:

1. You are hereby invited to submit Technical Proposal and Financial proposals for Transaction Advisory & PMU Services
2. The document can be downloaded from the website <http://www.apicol.co.in> or can be collected from the office of "The Agricultural Promotion & Investment Corporation of Odisha Limited (APICOL), Baramunda, Bhubaneswar - 751003, Odisha Tel:916742354125,2354006(FAX) from 08/10/2018 to 23/10/2018.
3. The purpose of this assignment is to develop various projects in PPP mode and promote investment in Agriculture and allied sectors in the state of Odisha.

For this purpose, APICOL now invites bids from eligible consultants for this project.

The objective of this assignment is to assist APICOL in the following:

- (i) Program Manager as PMU for evaluation of projects in Agriculture and allied sectors in the state of Odisha.
 - (ii) As Transaction Adviser, preparation of Project Report consisting of feasibility report, project structuring for various options under PPP mode and as suitable to the project requirements.
 - (iii) Preparation of Tender documents like RFP, RFQ, Concession agreement and other related documents as required.
 - (iv) Assist APICOL in bid process management
 - (v) Transaction Adviser PMU shall be for a period of three years from the date of appointment
- 4 The following documents are enclosed to enable you to submit your proposal:
 - a. Terms of reference (TOR) (Annexure 1);
 - b. Technical Proposal for consultants, including a suggested format (Annexure 2);
 - c. Financial Proposal (Annexure 3)
 - d. General Terms and Condition (Annexure-4); and

- 5 In order to obtain first hand information on the assignment and the local conditions, it is considered desirable that a representative of your firm visit the project sites and to office of the APICOL on or before the proposal Due Date.

Please ensure that minimum one day advance intimation regarding your visit is sent to enable them to make appropriate arrangements.

- 6 **Submission of Proposals:** The proposals shall be submitted in two parts, viz., Technical and financial and should follow the form given in the "Supplementary Information for Consultants."

6.1 The "**Technical Proposal**" and "**Financial Proposal**" must be submitted in two separate sealed envelopes "**TECHNICAL PROPOSAL**" (with respective marking in bold letters) following the formats/schedules given in the (Annexure-II). The first envelope marked "**TECHNICAL PROPOSAL**" in one separate cover, viz., **COVER-1** must be sealed and initialled across the seal.

6.2 The second envelope viz., **COVER-2** marked '**FINANCIAL PROPOSAL** with respective marking in bold letters) following the formats/schedules given in the (Annexure-III) must also be sealed with initialled across the seal and should contain the Lump Sum price offer for the consultancy services.

6.3 The third envelope, viz., **COVER-3** marked "**TRANSACTION ADVISORY & PMU SERVICES.**" Containing both Cover – I (Technical Proposal) and Cover-2 (Financial Proposal), which will be received in the office of APICOL, up to **05.00 PM on 27/10/2108**

7. **Opening of proposal**

The proposals (first envelope (cover 1) containing Technical Proposal will be opened by **MD, APICOL** or his authorized representative in his office **at 03.30 P.M** on **29/10/2018**. It may please be noted that the second envelope containing the financial proposal will not be opened until Technical evaluation has been completed.

8. **Evaluation**

8.1 A two-stage procedure will be adopted in evaluating the proposals:

- (a) a technical evaluation, which will be carried out prior to opening any financial proposal;
- (b) a financial evaluation
- (c) Any effort by the firm to influence client in proposal evaluation, proposal comparison or contract award decisions may result in the rejection of the consultant's proposal.
- (d) In the first stage, eligibility of the firm will be ascertained on the basis of experience certificates and firm's turnover as submitted in response to clause 8.2 clause iii (c) Firms which have been ascertained to be ineligible on the basis of the documents submitted shall be disqualified at this stage.

8.2 **Eligibility criteria:**

Firms who have the following qualifications may submit the proposal –

Bidders must read carefully the minimum conditions of eligibility (**the "Conditions of Eligibility"**) provided herein. Proposals of only those Bidders who satisfy the Conditions of Eligibility will be considered for evaluation. To be eligible for evaluation of its Proposal, the Bidders shall fulfil the following:

Minimum Eligibility Criteria: The Bidders shall need to fulfil the following minimum eligibility criteria.

- i. The Bidder shall be a company incorporated in India under the (Indian) Companies Act 1956 and amendments and should have existence of at least 10 years
- ii. No Joint Venture allowed
- iii. The applicant should not be barred/blacklisted by any Central Government department/agency, State Government department/agency at the time of submission of application.
- iv. The Bidder must have following experience and qualification in last 8 years
 - a. Must have experience of running PMU with Government agency, minimum of two PMU projects with at least 2 consultants of more than 3 years tenure
 - b. The Bidder must have experience of working in PPP Projects (supported by relevant documentary proof.).
 - c. Should be empanelled as Transaction Advisor/ Financial Consultant with three state/central government agencies with atleast one with central government agency
 - d. Bidder should have minimum 40 full time employee and should have in-house strength of professionals (on full time role) from Infrastructure, Planning, Finance, PPP and marketing areas.
 - e. The Bidder must have completed 3 (three) projects with any Central/State Government Agencies by awarding it to Private Sector Player under PPP or other suitable mode. Such projects should be of Industrial development or Integrated development in nature with either Land Area of 10 Acre or project cost of more than Rs 100 Cr (excluding land cost).
 - f. Bidder should have experience of preparing proposal for centrally or state sponsored industrial or cluster scheme (minimum one project)
 - g. The Firm should have an average Minimum Average Annual Turnover of INR 7.5 Cr during last three preceding financial years.

8.3 **Financial Proposal**

8.3.1 Opening:

The financial proposal shall be opened in the presence of the applicants/representatives who choose to attend. The name of the consultant, the quality scores and the proposed prices shall be read out and recorded.

8.3.2 Evaluation:

The evaluation committee will determine if the financial proposals are complete and without any condition.

- (i) The APICOL will select the lowest proposal ['evaluated' price] among those that passed the technical criteria. The lowest will be invited for negotiations if required. The valuated price

quoted and submitted by consultant shall be monthly fee to be paid for defined scope of work. Since the engagement is for the period of 3 years so monthly fee quoted shall be escalated by 10% every year in second and third year.

- (ii) Please note that the APICOL is not bound to select any of the firms submitting proposals
- (iii) You are requested to hold your proposal valid for 60 days from the date of submission and your proposed price. APICOL will make its best efforts to select a consultant firm within this period.
- (iv) Please note that the cost of preparing a proposal and of negotiating a contract including visits to sites / offices of the clients, if any is not reimbursable/payable.
- (v) Please note that the remuneration which you receive from the contract will be subject to normal all applicable/tax liability. Kindly contact the concerned tax authorities for further information in this regard if required.
- (viii) Please note that the fees should be quoted in Indian Rupees only inclusive of all taxes but excluding GST.

Yours faithfully,

MD, APICOL

Baramunda, Bhubaneswar -751003, Odisha

[Tel:916742354125](tel:916742354125), 2354006 (FAX)

Enclosures:

- (1) Annexure I : Terms of Reference.
- (2) Annexure II : Technical Proposal
- (3) Annexure III : Financial Proposal
- (4) Annexure IV : General terms and condition.
- (5) Annexure V : Draft contract under which service will be performed.

Annexure - I

Terms of reference for Transaction Advisory & PMU Services

A. Transaction Advisory Role

1. Background:

The eligible consultants to conduct study (conducting feasibility study and identify the best mode of implementation of the project best suited to achieve the aim and objective) including the bid process assistance to APICOL.

2. Objective:

The objective of this assignment is to assist APICOL. in the following:

- i. Preparation of Project Report consisting of feasibility report, project structuring for various options under PPP mode and as suitable to the project requirements.
- ii. Preparation of Tender documents like RFP, RFQ, Concession agreement and other related documents as required.
- iii. Assist APICOL. in running bid process management until signing off the contracts with the qualified bidder / PPP operator for the above assignment.

3. Scope of Work:

The scope of work covers but not limited to the following:

- (i) Preparation of feasibility, structuring for various options under PPP mode or otherwise.
- (ii) Prepare bid documents.
- (iii) Assistance in evaluating the proposals and preparing a short-list of potential bidders capable of executing the above projects.
- (iv) Assist the APICOL. in responding to the queries that may be raised during the pre-bid meetings and prepare draft minutes along with addendum/corrigendum to the bid documents as required.
- (v) Upon receipt and opening of bids, assist to evaluate and to prepare technical and financial bid evaluation reports with recommendations.

4. Data inputs from the APICOL:

APICOL shall make available for consultation purposes its senior officials, identify and furnish the relevant data and documentation for the consultant's information and review.

APICOL shall provide full working office to TA and PMU team in their HQ premises.

The land details, sketch / maps and data relating to this work like Maps, the layout plan/ sketch of land as available and to the extent available shall be provided to the consultant by APICOL.

5. Output and related payments:

S No	Stage of Report	Time Period
1.	Inception Report	2 weeks from date of issue of Work Order
2.	Submission of Draft Feasibility Report	6 week from date of issue of Work Order
3.	Submission of Final Feasibility Report	8 weeks from date of issue of Work Order
4.	Preparation and Submission of Bid Document for Selection of Developer	6 weeks from the date of submission of Final Feasibility Report
5.	Submission of Bid Evaluation Report	2 weeks from the submission of bids by developer
6.	Issuance of LOI to Selected Bidder	
7.	Signing of Concession Agreement	

Note:- The consultant should submit two copies of all the above reports along with soft copy (MS word, Excel, PDF) of the report for review.

6. Procedure for review of progress reports

The APICOL will review the reports submitted by the consultant. The decisions/suggestion carried out will be reviewed in the next meeting.

7. Key Personnel:

Following two numbers of full time personnel are to be deployed at APICOL.

1. Team Leader:

MBA preferable with Agriculture Background (with specialisation / major in Finance) or Chartered Accountant / ICWA or Masters in Economics /Planning. At least 10 years of experience in the field of PPP projects.

2. Agriculture Expert: M Sc/ BSc in Agriculture/Horticulture/Agri Engineering with at least 4 years of experience

In addition to the two full time personnel mentioned above, adequate support staff may be brought in by the consultants for carrying out the study.

B. PMU Role

1. Review & updating DPR submitted and prepared based on check list requirement
2. Coordinating for updating the DPR
3. Appraisal of DPR on basis of evaluation framework
4. Recommendation Report to designated approval authority

Annexure – II

TECHNICAL PROPOSAL FOR CONSULTANTS

FORM F-1

Date:

NAME AND ADDRESS

Sir,

Hiring of Consultancy services for **Transaction Advisory & PMU Services**. I/We
_____ consultant/consultancy firm/organization herewith
enclose, Technical and Financial Proposal for selection of our firm as consultant for
Transaction Advisory & PMU Services
_____.

Yours
faithfully,

Signature: _____
Full name _____
and address: _____

(Authorized Representative)

- I. Brief description of organization: Give details about consulting organization like nature of business etc.
- II. Outline of recent experience of assignments in Infrastructure Sector in mentioned format:

FORM F-2

Assignment Name:		Country: India
Location within Country:		Professional Staff provided by your firm:
Name of Client:		No. of Staff:
Address and contact person:		No. of Staff-months; Duration of Assignment:
Start Date :	End Date:	Approx Value of services by your firm:
Name of Associated Firms , if any: Nil		No. of person-months professional staff provided by associated firm: Nil
Name of the Staff Professional of your firm involved in the Assignment:		
1. 2. 3.		
Narrative Description of Project:		
Description of Actual Services Provided by Your Staff: •		

Firm's Name

- III. Annual Turnover of the firm from consultancies

Year	Amount in INR
2014-15	
2015-16	
2016-17	

Kindly attach audited Financial Statement (P/L and Balance Sheet) for the last Three Years

- IV. Contact Person / Details:

Name :
Designation :
Phone No :
Email id :

- V. Curriculum Vitae of the individual key staff members to be assigned to the work

FORM F-3

**SUGGESTED FORMAT OF CURRICULUM VITAE
FOR MEMBERS OF CONSULTANT'S TEAM**

1.	Proposed Position	:				
2.	Name of Firm	:				
3.	Name of Expert	:				
4.	Date of Birth	:		Citizenship: Indian		
5.	Education	:	-			
6.	Membership in Professional Associations	:	-			
7.	Other Trainings	:	-			
8.	Countries of Work Experience	:	India			
9.	Languages	:	Language	Speaking	Reading	Writing
			English	Good	Excellent	Excellent
			Hindi	Excellent	Excellent	Excellent

10. Employment Record:

From:	:	To:
Employer	:	
Position Held	:	

11.	Detailed Tasks Assigned	12.	Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned: (provide experience in last ten years and add more rows in required)
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13. Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this bio-data correctly describes my qualification my experience and me.

Date:

Signature of Staff Member: _____

Authorized official from the firm: _____

Annexure - III

Financial Proposals : The financial proposal should include per month fee as offer as mentioned below and submitted separately under **Cover-2** marked '**FINANCIAL PROPOSAL**' .

SCHEDULE OF PRICE BID

Items		Monthly Fee (in Indian Rupees)	
		In figures	In words
Transaction Advisory & PMU Service			
All GST shall be paid extra			
		Signature of Consultant (Authorized representative)	

Annexure-IV

1. General Terms & Conditions of Work

- (i) At the commencement of the consultancy contract, the organization is required to maintain the same team/individual till the completion of the Project. In the event of one of the members of the team leaving the consultant/ consulting organization, a professional with identical/ similar profile is required to be deputed with prior consent of APICOL. All related events shall be reported to the department prior to any decision being taken by the consultant.
- (ii) No other charges shall be incurred by the department other than those specified herein and the party shall be responsible for insurance and any other statutory requirements of the personnel deputed carrying out the activities to accomplish the objective & scope of the project under reference
- (iii) Payment shall be released subject to acceptance of deliverables & certification of milestones as per the deliverables by the designated officials of APICOL.
- (iv) The Applicant organization should give the commercial terms without any price in the technical bid. The financial Bid should have the total price of the bid inclusive of all applicable taxes but excluding GST. No other payment will be considered if not mentioned in the financial bid. No subjective condition will be accepted in the Technical & financial bid.
- (v) The decision of the APICOL will be final in selecting the consultancy firm/organization(s)/individuals and no further queries will be entertained.

2. Right to Accept/Reject any or all Applications

APICOL reserves the right to accept or reject any or all Applications and to annul the qualification process at any time without any liability or any obligation for such acceptance, rejection or annulment, without assigning any reasons.

3. Jurisdiction

The disputes, if any, arising between the consultant and APICOL shall be resolved amicably, failing which it shall be referred to an Arbitrator, mutually acceptable to both parties, as per the relevant provisions under Arbitration and Conciliation Act, 1996. Alternatively, this shall be subject to the exclusive jurisdiction of courts at Odisha.

4. Instruction to Bidders:-

4.1 Submission of Bid

The instructions for submitting proposals in response to the RFP are as under:-

- i. The proposals submitted in response to this RFP, and all associated correspondence shall be written either in English. Any interlineations, erasures or over writings shall be valid only if they are initialed by the authorized person signing the proposal.
- ii. The bids should be quoted both in figures and words and in case of any discrepancy: the bid quoted in words shall be treated as final.
- iii. Proposals received by facsimile shall be treated as defective, invalid and rejected. Only detailed complete proposals received prior to the closing time and date for receipt of proposals shall be taken as valid.
- iv. The proposals submitted should be concise and contain only relevant information as required

- under this RFP document.
- v. The proposal submitted should also contained description of recent and ongoing projects and with reference addresses.
 - vi. All the pages of the proposals should be signed by the authorized representative of the Consultant Firm.
 - vii. The technical proposals should not contain any financial information.
 - viii. The bids shall be sent by registered post or through courier service or handed over personally to the addressee specified at RFP document.
 - ix. The Consultant/agencies submitting their proposals would be responsible for all of its expense, costs and risks incurred towards preparation and submission of their proposals, attending any pre-bid meeting and visiting the site, regardless of the outcome of the process.

4.2 Validity of proposals submitted

The rates quoted shall remain valid till finalization of project or minimum 60 days from the last date for submission of bids prescribed in this document whichever is earlier.

4.3 Clarification on proposals submitted

APICOL. may, at its discretion, ask the respondents for clarifications/additional documents on their proposals which the consultants are required to respond within the time frame prescribed by APICOL.

4.4 Conflict of Interest

The consultant shall not receive any remuneration in connection with the assignment except as Provided in the Contract. The consultant and its affiliates shall not engage in consulting activities or as otherwise that conflict with the interest of the client under the contract and shall be excluded from downstream supply of goods or construction of works or purchase of any asset or provision of any other service related to the assignment other than a continuation of the “Services” under the ongoing contract. It should be the requirement of the consultancy contract that the consultants should provide professional, objective and impartial advice and at all times hold the client’s interests paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own corporate interests. Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interest of the Employer. Without limitation on the generality of the foregoing, consultants shall not be hired, under the circumstances set forth below:

- i. Conflict between consulting activities and procurement of goods, works or services: A firm that has been engaged to provide goods, works, or services for a project, and each of its affiliates, shall be disqualified from providing consulting services related to those goods, works or services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and each of its affiliates, shall be disqualified from subsequently providing goods, works or services for such preparation or implementation.
- ii. Conflict among consulting assignments: Neither consultants (including their personnel and sub-consultants) nor any of their affiliates shall be hired for any assignment that, by its nature, may be in conflict with another assignment of the consultants. As an example, consultants hired to prepare engineering design for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project, and consultants assisting a client in the privatization on public assets shall neither purchase nor advise purchasers of, such assets. Similarly, consultants hired to prepare Terms of Reference

(TOR) for an assignment shall not be hired for the assignment in question.

- iii. Relationship with APICOL. Department's staff: Consultants (including their personnel and sub-consultants) that have a business or family relationship with such member(s) of APICOL. Department's staff or with the staff of the project implementing agency, who are directly or indirectly involved in any part of ; (i) the preparation of the TOR of the contract, (ii) the selection process for such contract, or (iii) supervision of such contract; may not be awarded a contract unless it is established to the complete satisfaction of the employing authority, for the reason to be recorded in writing, that such relationship would not affect the aspects of fairness and transparency in the selection process and monitoring of consultant's work.

4.5 Fraud and Corruption

It is required that the bidders submitting proposal and the consultant agency selected through this RFP must observe the highest standards of ethics during the process of selection of project consultant and during the performance and execution of contract.

For this purpose, definition of the terms are set forth as follows:

1. "Corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of the department or its personnel in contract executions.
2. "Fraudulent practice" means a misrepresentation of facts, in order to influence a selection process or the execution of a contract, and includes collusive practice among bidders (prior to or after proposal submission) designed to establish proposal process at artificially high or non-competitive levels and to deprive the APICOL. of the benefits of free and open competition.
3. "Unfair trade practice" means supply of services different from what is ordered on, or change in the Scope of Work.
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or execution of contract.
5. APICOL. will reject a proposal for award, if it determines that the bidder recommended for award, has been determined to having been engaged in corrupt, fraudulent, or unfair trade practices.
6. APICOL. will declare a consultant ineligible, either indefinitely or for a stated period of time, for awarding the contract, if it at any time determines that the consultant has engaged in corrupt, fraudulent and unfair trade practice in competing for, or in executing, the contract.

4.6 Application

The general conditions shall apply to the extent that provisions in other parts of the contract do not supersede them. For interpretation of any clause in the RFP or Contract Agreement, the interpretation of APICOL. shall be final and binding.

4.7 Relationship between the Parties

Nothing mentioned herein shall be constructed as relationship of master and servant or of principal and agent as between APICOL. and the consultant. The consultant subject to this contract for selection has complete charge of its personnel in performing the services under the project from time to time. The consultant shall be fully responsible for the services performed by it or any of its personnel on behalf of the consultant hereunder.

4.8 Standards of Performance

The consultant shall perform the services and carry out its obligations under the contract with due

diligence, efficiency, and economy in accordance with generally accepted professional standards and practices. The consultant shall always act in respect of any matter relating to this contract as faithful advisor to the department. The consultant shall always support and safeguard the legitimate interests of APICOL. in any dealings with the third party. The consultant shall abide by all the provisions/Acts/Rules etc. of Information Technology prevalent in the country. The consultant shall conform to the standards laid down in the RFP in totality.

4.9 Disqualification

APICOL. may at its sole discretion and at any time during the evaluation of proposal disqualify any respondent, if the consultant

- (i) Submitted proposals with conditions
- (ii) Submitted proposals after the response deadline.
- (iii) Made misleading or false representation in the forms, statements and attachments submitted in proof of the eligibility requirements.
- (iv) Submitted a proposal that is not accompanied by required documentation or is non-responsive.
- (v) Exhibited a record of poor performance such as abandoning works, not properly completing the contractual obligations, inordinately delaying completion or financial failures, etc. in any project in the preceding three years.
- (vi) Failed to provide clarifications related thereto, when sought.
- (vii) Submitted more than one proposal.
- (viii) Was declared ineligible or blacklisted by the Government of India/State/UT Government/ULBs/ PSUs for corrupt and fraudulent practices or non-performance.
- (ix) The bid documents are sent electronically.

4.10 Termination

The contract can generally be terminated if:

- a) The term of Contract expires
- b) Non-performance during the execution of project
- c) Performance is below expected level.
- d) Non adherence to the timelines of the project.
- e) Quality of work is not satisfactory.

4.11 Termination for Insolvency, Dissolution etc.

APICOL. may at any time terminate the contract by giving written notice to the consultant, if the consultant becomes bankrupt or otherwise insolvent or in case of dissolution of consultant/company or winding up of firm/company. In this event termination will be without compensation to the consultant, provided that such termination will not prejudice or affect any right of action or remedy, which has accrued or will accrue thereafter to APICOL.

4.12 Amendments to RFP Document

At any time prior to deadline for submission of proposals, APICOL. may for any reason, modify the RFP document. All the consultants who received the RFP document shall be intimated of the amendments and such amendments shall be binding on them.

4.13 Confidentiality

Information relating to the examination, clarification, comparison and evaluation of the proposals submitted shall not be disclosed to any of the responding consultants or their representatives or to any other persons not officially concerned with such process until the selection process is over. The undue use by any responding form of confidential information related to the process may result in rejection of its proposals.

4.14 Proposed form of Contract Agreement

The operating clauses would emerge from the technical and financial processes finalized with the firm selected for the project. In addition, the empanelment contract will inter-alia include the following terms:

4.14.1 Deliverables

The Deliverables of the project would be as per details given in the Deliverables of this document. The final list of Deliverables would be finalized during contract negotiation with the selected consultant.

4.14.2 Payment Terms and Schedule

The schedule of payment is as provided in this RFP Document.

4.14.3 Other Conditions

- i) In case of failure to complete the work within the specific period (including extension of time, if any granted) or violation of any terms and conditions, APICOL. shall be at liberty to cancel the contract.
- ii) In case of any force majeure, the selected firm shall inform in writing explaining the cause and seek the extension in executing the work.
- iii) The decision of the APICOL.is final in awarding the contracts.
- iv) No TA/DA shall be claimed by the representative/workers of selected firm and the firm has to arrange for boarding and lodging of their employees.
- vi) The end product of the work assignment carried out by the Consulting Firm, in any form, will be the sole property of APICOL.
- vii) The Firm shall perform the services and carry out its obligations under the contract with due diligence and efficiently, in accordance with generally accepted techniques and practices used in the industry and with professional engineering and training/consulting standard recognized by national/international professional bodies and shall observe sound management practice. It shall employ appropriate advanced technology and safe and effective methods. The Firm shall always act, in respect of any matter relating to this Contract, as faithful advisors to APICOL. and shall at all times, support and safeguard APICOL.legitimate interests.
- viii) The Firm automatically agrees with APICOL.for honoring all aspects of fair trade practices in executing the work orders placed by APICOL.
- ix) In the event the Firm is taken over/bought over by another company, all the obligations under the agreement with APICOL., should be passed on to the new company for compliance by the negotiation for their transfer.

4.14.4 Progress of the Project

Progress of the project will be intimated in writing to APICOL.periodically the period that will be decided with mutual agreement.

4.14.5 Confidentiality

4.14.5.1 Neither party will disclose to any third party without the prior written consent of the other party any confidential information which is received from the other party for the purposes of providing or receiving Services which if disclosed in tangible form is marked confidential or if disclosed otherwise is confirmed in writing as being confidential or if disclosed in tangible form or otherwise, is manifestly confidential. Each party will take measures to protect the confidential information of the other party that, in the aggregate are no less protective than those measures it uses to protect the confidentiality of its own comparable confidential information, and in any event, not less than a reasonable degree of protection. Both parties agree that any confidential information received from the other party shall only be used for the purposes of providing or receiving Services under this contract or any other contract between the parties

These restrictions will not apply to any information which:

- a) Is or becomes generally available to the public other than as a result of a breach of an obligation under this clause; or
- b) Is acquired from a third party who owes no obligation of confidentiality in respect of the information; or
- c) Is or has been independently developed by this recipient or was known to it prior to receipt

4.14.5.2 Notwithstanding clause (a) mentioned above, either party will be entitled to disclose confidential information of the other (1) to its respective insurers or legal advisors, or (2) to a third party to the extent that this is required by any or where there is a legal right. Duty or requirement to disclose, provided that in the case of sub-clause(ii) (and without branching any legal or regulatory requirement) where reasonably practicable not less than 2 business days notice in writing is first given to the other party.

4.14.6 Force Majeure

4.14.6.1 Force majeure clause shall mean and be limited to the following in the execution of the contract placed by APICOL.

- (i) War/hostilities
- (ii) Riot or Civil commotion
- (iii) Earth quake, flood, tempest, lightning or other natural physical disaster
- (iv) Restriction imposed by the Government or other statutory bodies, which is beyond the control of the Firm, which prevent or delay the executive of the order by the Firm.

4.14.6.2 The Firm shall advise APICOL in writing, the beginning and the end of the above causes of delay, within seven days of the occurrence and cessation of the force majeure conditions. In the event of a delay lasting for more than one month, if arising out of clauses of force majeure, APICOL reserve the right to cancel the contract without any obligation to compensate the Firm in any manner for what so ever reason, subject to the provision of clause mentioned.

4.14.7 Arbitration

4.14.7.1 In the event of any dispute or differences arising under these conditions or any special conditions of the contract in connection with this contract, the same shall be referred to APICOL. for final decision and the same shall be binding on all parties.

4.14.7.2 Any other terms and conditions, mutually agreed prior to finalization of the order/agreement shall be binding on the Firm.

4.14.7.3 APICOL. and the Firm shall make every effort to resolve amicably by direct negotiation

any disagreement or dispute arising between them. If any dispute shall arise between parties on aspects not covered by this agreement, or the construction or operation thereof, or the rights, duties or liabilities under these except as to any matters the decision of which is specially provided for by the general or the special conditions, such dispute shall be referred to two arbitrators, one to be appointed by each party and the said arbitrators shall appoint an umpire in writing before entering on the reference and the award of the arbitration or umpire, as the case may be, shall be final and binding on both the parties. The arbitrators or the umpire as the case may be, with the consent of parties, may modify the timeframe for making and publishing the award. Such arbitration shall be governed in all respects by the provision of the Indian Arbitration and Conciliation Act, 1996 or later and the rules there under and any statutory modification or reenactment, thereof. The arbitration proceedings shall be held in Odisha India.

4.14.8 Applicable Law

The contract shall be governed by the laws and procedures established by Government of India, within the framework of applicable legislation and enactment made from time to time.

Any subsequent clarification can be sought from the office of APICOL.

4.16 Disclaimer

Proposals received late will not be considered and will be returned unopened to the respondents.

APICOL. right to:

- a) Reject any/all proposals without assigning any reasons thereof Relax or waive any of the conditions stipulated in this RFP document as deemed necessary in the best interest of APICOL. and the objective of the scheme without assigning any reasons thereof and Include any other item in the Scope of Work at any time after consultation in the pre-bid meeting or otherwise.

Annexure - V

Consulting Services

Draft Letter of Agreement

Subject: (Name of Assignment)
(Name of Consultant)

1. Set out below are the terms and conditions under which (Name of Consultant) has agreed to carry out for APICOL. the above-mentioned assignment specified in the attached Terms of Reference.
2. For administrative purposes (Name of responsible staff of Client) has been assigned to administer the assignment and to provide [Name of Consultant] with all relevant information needed to carry out the assignment. The services will be required in (Name of Project) for about _____ days/months, during the period from _____ to _____ .
3. The APICOL. may find it necessary to postpone or cancel the assignment and/or shorten or extend its duration. In such case, every effort will be made to give you, as early as possible, notice of any changes.

In the event of termination, the (Name of Consultants) shall be paid for the services rendered for carrying out the assignment to the date of termination, and the [Name of Consultant] will provide the (Name of Client) with any reports or parts thereof, or any other information and documentation gathered under this Agreement prior to the date of termination.

4. The services to be performed, the estimated time to be spent, and the reports to be submitted will be in accordance with the attached Terms of Reference.
5. This Agreement, its meaning and interpretation and the relation between the parties shall be governed by the laws of Union of India
6. This Agreement will become effective upon confirmation of this letter on behalf of (Name of Consultant) and will terminate on _____, or such other date as mutually agreed between the (.....) and the (Name of Consultants).
7. Payments for the services will not exceed an total amount of Rs. _____ per month for the period of 3 years with 10% escalation on monthly fee in 2nd and 3rd year.
The () will pay (Name of Consultant), payable within 7 days of receipt of invoice as follows: =
8. [Name of Consultants] shall indemnify and hold harmless the (.....) against any and all claims, demands, and/or judgements of any nature brought against the (Name of Borrower) arising out of the services by the [Name of Consultants] under this Agreement. The obligation under this paragraph shall survive the termination of this Agreement.
9. The Consultants agree that any manufacturing or construction firm with which they might be associated with will not be eligible to participate in bidding for any goods or works resulting from or associated with the project of which this consulting assignment forms a part.
10. All final plans, drawings, specifications, designs, reports and other documents or software submitted by the [Name of Consultants] in the performance of the Services shall become and remain the property of the Client. The Consultants may retain a copy of such documents but shall not use them for purposes unrelated to this Contract without the prior written approval of the Client.
11. The Consultant undertake to carry out the assignment in accordance with the highest standard of professional and ethical competence and integrity, having due regard to the nature and purpose of the assignment, and to ensure that the staff assigned to perform the services under this Agreement, will conduct themselves in a manner consistent herewith.
12. The [Name of Consultants] shall pay the taxes, duties fee, levies and other impositions levied under the Applicable law and the Client shall perform such duties, in regard to the deduction of such tax,

as may be lawfully imposed.

13. The [Name of Consultants] also agree that all knowledge and information not within the public domain which may be acquired during the carrying out of this Agreement, shall be, for all time and for all purpose, regarded as strictly confidential and held in confidence, and shall not be directly or indirectly disclosed to any person whatsoever, except with the (.....) written permission.

Place:

(Signature of Authorized Representative

Date: on behalf of Consultant)

(Signature & Name of the Client's
Representative)

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LIST OF ANNEXES (to contact agreement)

- Annex A: Terms of Reference and Scope of Services
- Annex B: Consultant's Personnel
- Annex C: Consultant's Reporting Obligation
- Annex D: Bid Document