

**GOVERNMENT OF INDIA**  
**MINISTRY OF EXTERNAL AFFAIRS**



**REQUEST FOR PROPOSAL (RFP) DOCUMENT**  
**FOR AVAILING**  
**PROJECT MANAGEMNT CONSULTANCY (PMC) SERVICES**  
**FOR**

*Reconstruction of Chancery and Residential Blocks for High Commission of India at 2  
Jalan Taman Duta, Kuala Lumpur*

Date of issue: 4 October 2019

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The objective of this RFP is to select an appropriately qualified and adequately experienced reputed organisation or consortium of not more than two entities, to provide Project Management Consultant (PMC) services to the *High Commission of India* in *Kuala Lumpur* for *Reconstruction of Chancery and Residential Blocks for High Commission of India at 2 Jalan Taman Duta, Kuala Lumpur*.

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## Section-1

**REQUEST FOR PROPOSAL (RFP)  
FOR AVAILING  
PROJECT MANAGEMENT CONSULTANCY (PMC) SERVICES  
FOR**

*Reconstruction of Chancery and Residential Blocks for High Commission of India at 2  
Jalan Taman Duta, Kuala Lumpur)*

The President of India acting through the High Commissioner of India in Kuala Lumpur requests proposals in sealed envelopes for selection of Project Management Consultant (PMC) for Reconstruction of Chancery and Residential Blocks for High Commission of India at 2 Jalan Taman Duta, Kuala Lumpur. The estimated cost of project is RM 58 Million. The proposal duly completed in prescribed format as per RFP document along with earnest money deposit of RM 116,000/- must reach office of Mr. Shiv Sagar, Second Secretary (Projects & HOC), High Commission of India, Mont Kiara 1, Menara 1, Level 28, Kuala Lumpur 50480 on or before 1500hrs on 25 October 2019. The detailed RFP document along with its annexures may be downloaded from Central Procurement Portal <https://eprocure.gov.in/cppp/> and also the official website of the High Commission of India, Kuala Lumpur at [www.hcicl.gov.in](http://www.hcicl.gov.in).

**The proposal should be submitted in two separate sealed envelopes duly super-scribed containing the following:**

**Envelope 1: Technical Bid**

**Envelope 2: Financial Bid**

**The above two envelopes are to be given together in one bigger sealed envelope again duly super-scribed.**

**In the 1<sup>st</sup> stage only technical bids will be opened and evaluated. Financial bids will be opened of only those bidders found technically eligible by the competent authority.**

## SECTION- 2

### INTRODUCTION

#### 2.1 Project Details:

**(a)** Purpose of the building: -

Block 1 – Chancery (Office)

Block 2 – Cultural Centre

Block 3 – Residential

Basement – Parking

**(b)** Total built-up area: 13,061 m<sup>2</sup> (Excluding Parking, i.e. 3,344.16m<sup>2</sup>)

**(c)** Number of floors: -

Block 1 – Chancery (Office) – 4+2 Storey (Including Basement)

Block 2 – Cultural Centre – 2 Storey

Block 3 – Residential – 4 Storey

**(d)** Type of foundation: Pile foundation

**(e)** Type of construction: -

Block 1 – Chancery (Office) - Reinforced concrete frame and structural slab

Block 2 – Cultural Centre – Structural steel frame and structural slab

Block 3 – Residential – Reinforced concrete frame and structural slab

**(f)** Finishing / Façade, etc for each of the buildings

Block 1 – Chancery (Office) – R.C wall with cement render, curtain glazing, GFRC feature wall

Block 2 – Cultural Centre – GFRC panels, stainless steel screen, curtain glazing

Block 3 – Residential – Brick wall with cement render, aluminium louvres

**2.2** High Commissioner of India in Kuala Lumpur, hereafter referred to as 'Employer', wishes to select a Project Management Consultant (PMC) for the above project.

**2.3** The Consultant responsible for comprehensive Architectural Design, hereafter referred to as 'Architect', has already been appointed by the Employer. The Architectural Design and cost estimate for the above works have been finalised by the competent Authority.

**2.4** As a part of the process of selection of Project Management Consultant (PMC), hereafter referred to as 'PMC', proposals are hereby invited from reputed organisations or consortium of not more than two entities, having proven professional capabilities in project management of large projects, who are eligible as per the primary eligibility criteria mentioned hereafter. Such organization or consortium is hereinafter referred to as 'Applicant'.

**2.5** Primary eligibility criteria:

**(g)** Should be registered in Malaysia to provide Project Management Consultancy services.

**(h)** Should have an experience of 7 years in PMC services

**(i)** Should have rendered Project Management Consultancy services for at least one project of cost equivalent of RM 48 million **OR** two project of cost equivalent of RM 30 million **OR** three projects of cost equivalent of RM 18 million including civil, electrical, HVAC, mechanical, plumbing, erection & commissioning of centralized AC plant, large sub-stations, captive power generation, interior works for Govt./Semi-Govt./reputed Corporate Clients

**(j)** Should not have any legal dispute with the High Commission of India, Kuala Lumpur

**(k)** Should have average annual financial turnover of RM 3 million in providing PMC services in last five years and has not incurred loss in more than two years including last year in immediate five completed financial years.

- 2.6** This Request for Proposal, hereafter referred to as 'RFP', is addressed to only those applicants who may be eligible as per the primary eligibility criteria contained in this document. The purpose of this RFP document is to provide information to the eligible applicants for preparation of their proposals for the selection process.
- 2.7** Applicants are expected to make their own assessment and satisfy themselves fully with all aspects of the site conditions, project needs, local environment, functional and statutory requirements for construction of such buildings and accordingly make proposals.
- 2.8** Applicants are required to submit their proposals strictly according to the terms and conditions and in the form and manner specified.
- 2.9** Applicants are required to submit the Earnest Money Deposit (EMD) of RM 116,000 in the form of Bank Guarantee with a validity of minimum (six) months, in favour of High Commission of India, Kuala Lumpur along with the proposal.
- 2.10** EMD in respect of all unsuccessful applicants shall be returned without any interest, after the successful signing of agreement for PMC. In case of the selected PMC, the EMD shall be adjusted as part of the performance guarantee to be submitted by them as per clause 5.5 of the RFP.
- 2.11** Employer reserves the right to terminate the selection process or postpone the same at any stage without assigning any reasons thereof.
- 2.12** The proposal must remain valid for a period of 120 days from the date of opening of the financial bid.
- 2.13** Any description/elaboration of item of work not included in the 'Scope of Work' shall not be a valid ground for claiming additional fee or remuneration.

## **Section- 3**

### **SCOPE OF WORK**

#### **3.1 General Services**

- 3.1.1** The scope of services of PMC shall include all project management tasks that need to be performed for construction of buildings and their commissioning. It shall include but not be limited to the services as listed here under Section 3 including all its sub paras.
- 3.1.2** Certain development works at site may be envisaged to be executed through the works department of the country where the work is being executed. For those works that are assigned to works department, PMC shall not need to manage, inspect and ensure execution.
- 3.1.3** It shall however still be required to ensure routine coordination with each such agency to conduct overall site security & access related functions, maintain domain and work zone clearly on site.
- 3.1.4** The PMC, acting as project manager for and on behalf of High Commission of India, Kuala Lumpur, will monitor, coordinate, manage, evaluate and administer all project processes including activities of various participants in the project in accordance with approved project requirements, Specifications, Schedules, Budgets, Quality and Health, Safety & Environment (HSE) parameters. PMC shall ensure that all necessary documentation is collected, checked, communication filed and submitted to the High Commission of India, Kuala Lumpur for record.
- 3.1.5** PMC shall act as Engineer-in-Charge of all project works and supervise all works, check and certify all measurements and bills and also recommend for their payment. PMC shall keep High Commission of India, Kuala Lumpur informed through a well-designed Management Information System (MIS) on the physical and financial progress of the Project at regular intervals or as directed by High Commission of India, Kuala Lumpur. PMC shall use appropriate software for PMC functions.
- 3.1.6** PMC shall ensure that all project activities are in accordance with the latest building codes and other relevant statutes in that station.
- 3.1.7** To ensure implementation of all project processes, PMC shall liaise with and provide all requisite information, support and assistance to High Commission of India, Kuala Lumpur, all appointed consultants including their sub-consultants and all other individuals, agencies and organization as may be deemed fit by High Commission of India, Kuala Lumpur during the entire period of contract.
- 3.1.8** PMC shall be duty-bound to act on the directions of High Commission of India, Kuala Lumpur in all project matters and shall perform, or cause to be performed all the identified initiatives and milestones strictly in accordance with such directions. Also, High Commission of India, Kuala Lumpur will in no manner, whatsoever be, bound to act on the advice of PMC in any matter related to the project.

- 3.1.9** High Commission of India, Kuala Lumpur will provide about 50 Sq.M of office space to PMC, free of cost, for establishing a purely temporary project office to be used only for works related to Reconstruction of Chancery and Residential Blocks for High Commission of India at 2 Jalan Taman Duta, Kuala Lumpur, during the entire period of contract or up to any date as decided by High Commission of India, Kuala Lumpur.
- 3.1.10** Within two months of issue of Letter of Intent by High Commission of India, Kuala Lumpur, PMC shall open a fully functional, IT-enabled and well equipped office with a team of fulltime personal at the project site. A staff appointed and or stationed at the said office shall need to be to the acceptance of and with the approval of High Commission of India, Kuala Lumpur. Only office furniture shall be provided by High Commission of India, Kuala Lumpur free of cost at the site office.
- 3.1.11** PMC shall depute to the project office, for the entire period of contract, the following competent, qualified and experienced technical staff with relevant field experience on similar projects: **(1)** one graduate Civil Engineer preferably with a postgraduate degree or equivalent in civil engineering/management; minimum fifteen years of experience; maximum age limit 55 years **(2)** one graduate Electrical engineer minimum 10 years experience; maximum age limit 50 years. High Commission of India, Kuala Lumpur, at its sole discretion, may relax the maximum age by an additional 5 years in the case of highly competent or highly qualified or highly suitable candidates, upon specific request to this effect from the PMC. In addition to above minimum technical staff, PMC shall appoint as many personnel at the project office, as may be required for necessary due diligence on its part.

Besides regular site supervision by professionals posted at site, PMC shall depute, with prior approval of High Commission of India, Kuala Lumpur, highly qualified and well experienced experts/professionals from different disciplines for periodic monitoring, supervision and evaluation, on routine basis during the entire period of contract. High Commission of India, Kuala Lumpur, at its sole discretion, reserve the right to accept or reject any professional suggested for deputation, if in the opinion of High Commission of India, Kuala Lumpur, such professional is not adequately qualified/ competent/ professionally disposed for Reconstruction of Chancery and Residential Blocks for High Commission of India at 2 Jalan Taman Duta, Kuala Lumpur works.

- 3.1.12** The status/designation/qualifications of the representative(s) of PMC who will be allowed to deal/interact with High Commission of India, Kuala Lumpur and/or its representatives, The Architect, other consultants and designated committees/grounds etc. shall be the matter of discretion of High Commission of India, Kuala Lumpur and the decision of High Commission of India, Kuala Lumpur in this regard shall be final and binding on PMC.
- 3.1.13** PMC shall respond to the queries raised by High Commission of India, Kuala Lumpur within 7 days or lesser time as soon as possible considering the nature of query and its impact on the project.

- 3.1.14** PMC shall not assign or subcontract any portion of these services without the prior consent of High Commission of India, Kuala Lumpur in writing. However PMC, after the award of the contract, may engage, at its own cost but with prior approval of High Commission of India, Kuala Lumpur, any number of sub-consultants considered suitable for the part of services which may require specific expertise subject to the condition that the overall responsibility of performance under the contract shall always lie with PMC only.
- 3.1.15** PMC shall be required to work in close coordination, provide requisite information, and be available for meetings with the Design consultant and other persons/ organization associated with the construction, in all such matters as directed by High Commission of India, Kuala Lumpur.
- 3.1.16** The decision of High Commission of India, Kuala Lumpur will remain final in all matters relating to the interpretation of architectural design and related architectural details; and PMC shall be bound to execute such decisions to the satisfaction of High Commission of India, Kuala Lumpur.
- 3.1.17** The ownership of all the schemes, proposals, documents, drawings, reports, data and communications that shall be generated, processed and/or disseminated by PMC, including their formats of collection, analysis, processing, documentation, and report in fulfillment of the scope of services as PMC, shall rest with High Commission of India, Kuala Lumpur and no claim whatsoever shall be admissible on High Commission of India, Kuala Lumpur in respect of any proprietary rights or copyrights of the same on the part of PMC.
- 3.1.18** High Commission of India, Kuala Lumpur, at its sole discretion and without assigning any reasons whatsoever, reserves the right to appoint any individual and/or organization as it may deem fit to render the whole or part of services covered in this RFP, for the present phase of work and any subsequent phases thereafter, in the interest of timely and qualitative completion of construction works.

## **3.2 PROCUREMENTS SERVICES**

- 3.2.1** Aid, advise and assist (High Commission of India, Kuala Lumpur, as and when directed, in selection and appointment of consultants, contractors and suppliers.

## **3.3 SUPPORT & COORDINATION SERVICES:**

### **Facilitation of communications & information exchanges**

- 3.3.1** PMC shall be required to organize, conduct, participate in and minutes, all meetings regarding the project at any date, time and place as directed by (High Commission of India, Kuala Lumpur throughout the project period.
- 3.3.2** PMC shall conduct routine monitoring and coordination meetings on daily and weekly basis.
- 3.3.3** PMC to conduct periodic coordination meetings at a minimum interval of



every two weeks at to help all consultants, contractors, vendors and other agencies in the process of demonstration, review, comments and client inputs on the work progress and to ensure monitoring of project implementation.

- 3.3.4** PMC shall set up and control its own documentation control system for High Commission of India, Kuala Lumpur and/or its authorized representatives shall have access to PMC server to the extent as and when desired, without fail.
- 3.3.5** PMC shall, without question or fail, provide knowledge transfer and handover, including transfer and/or cessation and/or conveyance of physical possession and/or custody, wherever applicable, of all material or de-materialized project constituents, to High Commission of India, Kuala Lumpur and/or other agencies appointed by High Commission of India, Kuala Lumpur, as and when desired by High Commission of India, Kuala Lumpur.

### **Full assistance in all project related legal matters and other mandatory compliances**

- 3.3.6** PMC shall provide full coordination including required administrative / secretarial support and full assistance to (High Commission of India, Kuala Lumpur and/or other agencies appointed by High Commission of India, Kuala Lumpur, in all project related legal matters and other mandatory compliances including but not limited to preparation and processing of responses to all audit authorities/ vigilance authorities/ RTI questions and any others, handling all related communications and facilitating inspections by such authorities, to the extent as and when desired by High Commission of India, Kuala Lumpur, throughout the duration of the contract and without question or fail.
- 3.3.7** PMC shall brief High Commission of India, Kuala Lumpur in a timely manner and keep it fully informed on the status of various stages of statutory, legal and other project related matters and compliances; and shall bring to notice of High Commission of India, Kuala Lumpur, well in advance, all consequent necessary actions required keeping in mind the project milestones.

## **3.4 WORK MANAGEMENT**

### **Field Engineering, Supervision & Design support**

- 3.4.1** Regularly interact with the Architect, Contractor and High Commission of India, Kuala Lumpur to resolve all issues related to project execution before the construction and during the construction till completion of works.
- 3.4.2** Review of advance copies of 'Good for Construction' (GFC) drawings submitted by design consultant to the satisfaction of High Commission of India, Kuala Lumpur and to ensure that extra items are minimized.
- 3.4.3** Arrange for clarification and/or resolution of conflicts pertaining to contract drawing, specifications and engineering problems.
- 3.4.4** Review or arrange for review by the consultants of suppliers and contractors drawings and documents for equipment and services installations, as required.

- 3.4.5 Review or arrange for review by the consultants, of material samples, test reports and other certifications and submittals by suppliers and contractors for conformance to drawings and specifications, as required.
- 3.4.6 Arrange for preparation of 'as-built drawings' from the Architect and submit to High Commission of India, Kuala Lumpur.
- 3.4.7 Maintain primary survey records and control records of surveys performed by others.
- 3.4.8 PMC shall assist High Commission of India, Kuala Lumpur for the identification of lay-down areas, identification of areas for plant & machinery required for the project.
- 3.4.9 PMC shall vet the accuracy of the layout demarcation as executed, in accordance with the approved drawings by High Commission of India, Kuala Lumpur.
- 3.4.10 In case of any disparities, PMC shall bring the same to the notice of High Commission of India, Kuala Lumpur and the Architect. PMC shall coordinate the inclusion of the necessary design and/or layout modifications including services etc. on design drawings as per site requirements. PMC shall seek approval of High Commission of India, Kuala Lumpur for any such changes before implementation at site.

### **3.5 MEASUREMENT AND BILL CHECKING:**

- 3.5.1 Recording of measurements (as per laid down procedures/ standard/ practices) for all items of work done including extra and declared sub items.
- 3.5.2 Checking and certification of all contractors' bills and forwarding it to High Commission of India, Kuala Lumpur for payment within the agreed timelines as specified in the tender/contract documents. PMC should also recommend all statutory deductions as per prevalent law.
- 3.5.3 Checking and certification of the bills of consultants other than the Architect, appointed for the project as and when desired by High Commission of India, Kuala Lumpur.
- 3.5.4 PMC to coordinate with High Commission of India, Kuala Lumpur while verifying bills, invoices and payments.
- 3.5.5 Check and solicit rate analysis for extra items of work and forward the same for approval of High Commission of India, Kuala Lumpur before execution of the same at site.
- 3.5.6 Prepare reconciliation statement of various material received and consumed at work such as steel, cement etc. consumed and brought to site. It should be submitted with every bill.
- 3.5.7 Check the quantities exceeding the contract quantity and inform the cost implications to High Commission of India, Kuala Lumpur.

### **3.6 QUALITY ASSURANCE/QUALITY CONTROL:**

- 3.6.1 PMC shall perform all duties for quality assurance of work and carry out comprehensive technical supervision of the works to ensure conformity with approved designs, specifications for materials and workmanship, adopted QA/QC and HSE procedures, relevant standards and codes and sound engineering practices.
- 3.6.2 PMC shall ensure suitable & sufficient tests of materials and equipment

as required including random checks for conformance with specific requirements of contract documents, and document results of the tests. Besides, assessment and checking in the laboratory and the scheduling supervision and vetting of field tests carried out by the contractors, PMC may also carry out independent tests as necessary, as and when desired by (High Commission of India, Kuala Lumpur, for quality assurance of the works at contractors cost. PMC shall maintain complete records of all test results including supplier's material tests.

- 3.6.3** PMC shall review and approve the test results/certificates and wherever tests indicate lack of conformance, it shall initiate action to secure conformance including additional tests as considered necessary to establish quality of the work desired.
- 3.6.4** PMC shall note deficiencies in the contractor's work, cause corrections to be made, and check the remedial work and facilitate to rectify the deficiencies as per approved methods/ codal provisions. Moreover, PMC will not be discharged of their responsibilities to get the defects rectified.
- 3.6.5** PMC shall check that various products guarantees are available for sufficient period.
- 3.6.6** PMC shall conduct monthly technical quality audit in co-ordination with High Commission of India, Kuala Lumpur.
- 3.6.7** For the purpose of independent testing, wherever required, all material/Equipment shall be sent for testing/calibration to High Commission of India, Kuala Lumpur approved labs only.
- 3.6.8** PMC may be required to help establish, at the contractors cost, a testing laboratory at the site of construction work equipped with prescribed machinery, tools, plants and equipment.

### **3.7 HEALTH, SAFETY AND ENVIRONMENT REQUIREMENTS:**

- 3.7.1** PMC shall ensure that while carrying out the works under the assignment the contractor shall place due importance and regard to the overall aesthetics, ambience, topography and eco-system of the site.
- 3.7.2** PMC shall assist the Contractor to obtain construction permits, quota certificates, licenses, services connections etc. from the concerned local authorities/ agencies as required for the construction work and seeking approval from the Employer for the same, if required.
- 3.7.3** PMC shall also take due precautions to ensure all necessary compliances for environment and Health & Safety requirements at site as well as at contractors labour camps if any in campus.
- 3.7.4** PMC shall ensure the highest standards of safety, security and health for all workers of all contractors and other agencies and also all other persons entering the site in conformance with legal provisions, codes, standards and good practices. PMC shall also conduct training/ orientation and briefing of all workers and visitors in the regard.

### **3.8 CONTRACT ADMINISTRATION:**

- 3.8.1** PMC shall maintain complete records for contracts orders from award to final acceptance, payment, and close-out.
- 3.8.2** Contracts and purchase orders along with record of all days to day correspondences and meetings including contractual issues with all the contractors.
- 3.8.3** Progress payment records shall be maintained by PMC.

- 3.8.4** Drawing and specification clarifications including all changes, deviations and substitutions, which have been estimated, negotiated, and/or accepted.
- 3.8.5** Maintain the logs for Bank Guarantees, Contracts, Contract Amendments, Change Notices, Incoming & outgoing correspondences, workman compensation Policies, PF Challans, Labour License, Health and other Insurance policies, contract Schedules, Back Charges, RFIs, Invoice, etc., for all contractors.
- 3.8.6** PMC shall prepare monthly progress payment estimates and facilitate and administer systematic and reasonable progress payments.
- 3.8.7** PMC shall review, appraise and administer claims for items of extra work or change in the terms of the contracts. PMC shall negotiate with contractors to resolve claims, including documentation of the rationale for resolution, and submit relevant justification notes for any eligible claims to High Commission of India, Kuala Lumpur for approval.
- 3.8.8** PMC shall develop change orders/amendments to incorporate the work covered by claims into the appropriate contract or purchase order after approval of High Commission of India, Kuala Lumpur.
- 3.8.9** PMC to manage all the Contractual issues with the Contractors in such a way that there is no cost and time implication.
- 3.8.10** PMC shall administer all requests for extension of time from the Contractors. PMC shall negotiate an equitable adjustment in time and submit an approval note to (High Commission of India, Kuala Lumpur with detailed schedule, analysis, cost impact, if any, for approval.

### **3.9 PROJECT COST CONTROL:**

- 3.9.1** PMC shall inform (High Commission of India, Kuala Lumpur about each such potential change in design and construction from the approval drawings, plan of execution, and construction quantities which may have cost or schedule impact, at least two (2) weeks in advance for identification of change with detailed analysis for acceptance and propose a plan to mitigate the same; and for emergency cases, identify the change with analysis to High Commission of India, Kuala Lumpur for approval.
- 3.9.2** Maintain the hindrances register package/contract wise which shall record any hindrance caused to the progress of the works, duration of such hindrance, date of clearance of hindrance etc.
- 3.9.3** PMC shall prepare and submit a deviation report of identified change/deviation in cost and schedule within 5 days of approval of change. The report shall include but not be limited to reason for change, cost and schedule impact, cost analysis report, recovery schedule and recommendations to reduce time & cost impact.
- 3.9.4** Monitor, report and Maintain a log of identified and approved changes and submit it to High Commission of India, Kuala Lumpur on regular basis and as and when needed by High Commission of India, Kuala Lumpur.

### **3.10 PROJECT COMPLETION:**

- 3.10.1** PMC shall engage in verification of the physical construction and installation of the various facilities and systems of the project towards or after completion in coordination with the Architect.
- 3.10.2** PMC shall arrange for modifications and adjustments, if any, to

equipment and systems prior to final acceptance/handling over of each facility or system to the satisfaction of High Commission of India, Kuala Lumpur).

- 3.10.3** PMC shall establish effect and monitor a program for identifying and rectifying defects during applicable defects liability period including periodic monitoring and reporting. At the expiry of the defect liability period, PMC shall make a final inspection and list the defects to be rectified prior to issue of final completion certificate.
- 3.10.4** PMC shall recommend High Commission of India, Kuala Lumpur acceptance of facilities or system from the contractors for operation and use after arranging for sufficient training to the end users.
- 3.10.5** PMC to solicit from the contractors to supply trade files, documents, test certificates, performance warranties/guarantees, spare parts lists, maintenance manuals, no claim certificate and transmit the same to High Commission of India, Kuala Lumpur, in both hard copy and electronic formats.
- 3.10.6** PMC to solicit AS BUILT drawing immediately and review, verify and approve the 'as built' corrections to all plans, drawing and other documents in coordination with Architect and to the satisfaction of High Commission of India, Kuala Lumpur.
- 3.10.7** Prepare final project completion reports, project expenses analysis, estimate and final account of expenditure in the format as desired.
- 3.10.8** Ensure that the constructed works and sites are cleaned and prepared for occupancy and use.
- 3.10.9** Recommend to High Commission of India, Kuala Lumpur to issue completion certificates after the contractors have satisfactorily completed all work under the terms of their contracts and for final payment of the contractors after adjusting any liquidated damages and security deposits.

### **3.11 RIGHT TO LIMIT THE SCOPE OR SERVICES:**

- 3.11.1** Employer reserves the right to restrict the scope of the services of PMC to the full or part or parts of the project.
- 3.11.2** Employer reserves the right to terminate the services of PMC with a three month notice in writing if the employer is not satisfied with the services of PMC.
- 3.11.3** In the event of termination of the services of PMC due to unsatisfactory services rendered by PMC, PMC will not be entitled to claim any compensation for the termination on account of the remaining work or the period of contract not completed.
- 3.11.4** Further, in case of termination of services of PMC due to unsatisfactory performance, the employer reserves the right to levy appropriate compensation on PMC for the losses incurred by the employer on account of the unsatisfactory services of PMC or due to the fact of disruption to the project due to the necessity of having to terminate the services of PMC and having to make other arrangements for completion of the works and entrusted to PMC.

## SECTION – 4

### PREPARATION & SUBMISSION OF PROPOSAL

**4 Preparation of Proposal:** Proposal shall be submitted giving the details stated hereinafter.

**4.1 Earnest Money:** The bidder has to deposit earnest money of RM 116,000 in the form of Bank Guarantee with a validity of minimum (six) months, in favour of High Commission of India, Kuala Lumpur along with the Technical bid. Bids submitted without earnest money shall be summarily rejected.

**4.2 Technical Proposal:** This should contain the following information:

**4.2.1 Company profile** giving inter-alia, information on:

- a) Total number of years of experience in Project Management and/or Consultancy work since its establishment.
- b) Whether rendered services pertain to Construction Management & Supervision, Civil, Electrical, HVAC, Plumbing, Fire Fighting, Interior Furnishing and Mechanical works including high rise buildings for Government/Semi-Government/Reputed Corporate Clients for prestigious projects giving details.
- c) Whether the Consultant firm has engineers on their rolls who have direct work experience in erection and commissioning of Central AC plants, large sub sub-station (33 KV, 11 KV etc.) or they outsource the commissioning of these facilities to agencies. Please furnish details.
- d) Whether the firm has full-fledged establishment/office at Kuala Lumpur or in Malaysia and details of facilities like computers, printers, fax, telephone, e-mail facilities, software like MS Office, MS Projects, Primavera, Auto CAD etc.
- e) Furnish details of technically qualified manpower with their qualifications in Engineering, Finance & Management divisions of the Company.
- f) Were arbitration proceedings involved in any project/s for which the firm has provided PMC services? Give details of the cases and outcomes of the proceedings.
- g) Please also furnish other information like:
  - (i) Annual revenue generated out of fee received from PMC services during the last three years;
  - (ii) Annual turn-over of the company from its activities during the last three years;
  - (iii) Balance Sheet of the company for the last three years, duly certified by Chartered Accountants;
  - (iv) Such other financial information as considered relevant to judge the financial health of the Company.

**4.2.2** Details of manpower proposed to be deployed by you for this project. This should be depicted in an organization chart giving manpower details, their designation/level job profile/responsibilities to be handled, qualifications,

experience/expertise, number of persons at each level. Please refer to clause for minimum manpower to be deployed for the project.

**4.2.3** Provide an Approach Paper on Methodology and Work plan for performing the assignment through the organization structure identifying the role of key personnel, their delegated power, reporting system and channel of communication for effective Project Management Services.

### **4.3 Proposal Due Date**

**4.3.1** Proposals should be submitted at Mr. Shiv Sagar, Second Secretary (Projects and HOC) on or before 1500 hrs on 25 October 2019 in the manner and form detailed in the RFP document. Proposal submitted by facsimile transmission or telex or e-mail will not be accepted. Technical Bid of RFP shall be opened on 28 October 2019 at **1600 hrs**.

**4.3.2** Any proposal received by High Commission of India, Kuala Lumpur after the due date and time shall not be considered.

**4.3.3** Proposal shall not be modified or withdrawn by the Consultant after the proposal due date and time. If a proposal is withdrawn after due date and time, the earnest money deposited will be forfeited by the Employer.

### **4.4 Time Schedule**

**4.4.1** The total period for completion of the PMC shall be 3 years.

**4.4.2** Initial three months period will be available for co-ordination with the Architect for pre-construction stage. Basically, in this period the Employer expects that Consultant will get conversant with the drawings, designs, contour surveys, soil investigation reports etc.

**4.4.3** Next 36 months shall be available for execution of the job under various packages.

**4.4.4** Last three months are kept for check list/ punch list points, issue of completion certificates, co-ordination with architect for preparation of 'as-built' drawings, settlement of final bill and other claims of contractor etc.

**4.4.5** If the completion time of the project exceeds 42 months, no extra/additional fee will be payable for extended period.

## **SECTION - 5**

### **PROPOSAL EVALUATION**

**5 General:** The proposal shall be evaluated on the basis of CQCCBS (Combined Quality-cum-Cost Based Selection) for which maximum 70 marks for technical proposal have been assigned and maximum 30 marks for financial proposal have been assigned. The Consultant who scores highest marks on addition of technical evaluation and price evaluation marks shall be declared the successful consultant.

**5.1 Criteria for Evaluation of Technical Proposal:**

**5.1.1 Various aspects considered for Technical Evaluation of a proposal:** Each applicant will be given 20 minutes for their presentation of proposal before the Selection Committee followed by 10 minutes of interaction with the Committee thereof. The applicants should understand that their presentation and interaction with the Selection Committee shall also be the basis of making technical proposal in addition to other parameters.

**5.1.2 The evaluation will be broadly under the following considerations:**

<b>Sl.</b>	<b>Parameter</b>	<b>Weightage</b>	<b>Maximum Marks</b>
<b>I.</b>	<b>Evaluation on the basis of documents submitted in Technical Bid</b>		
1.	Minimum turnover in terms of Consultancy Fee only (Average of previous 3 years turnover shall be counted)	(i) <b>60%</b> of maximum possible marks if eligibility criteria is achieved (ii) <b>100%</b> of maximum possible marks if twice the eligibility criteria is achieved (iii) In between (i) & (ii)-on pro-rata basis	<b>10</b>
2.	Cost of the project in which Consultancy services have been rendered including civil, electrical, HVAC, mechanical, plumbing, erection & commissioning of centralized AC plant, large sub-stations, captive power generation, interior works for Govt./ Semi-Govt./reputed Corporate Clients	(i) <b>60%</b> of maximum possible marks if eligibility criteria is achieved (ii) <b>100%</b> of maximum possible marks if twice the eligibility criteria is achieved (iii) In between (i) & (ii)-on pro-rata basis	<b>20</b>
3.	Consultants having full-fledged establishment/office at ( <i>Name of the station</i> ) or in ( <i>Name of the Country</i> ) with requisite facilities and adequate technical & support staff.	As per assessment to be done by Selection Committee	<b>10</b>

<b>Sl.</b>	<b>Parameter</b>	<b>Weightage</b>	<b>Maximum Marks</b>
4.	Manpower deployment for the project methodology and work plan for performing the assignment	As per assessment to be done by Selection Committee	<b>10</b>
<b>II.</b>	<b>Evaluation on the basis of Presentation:</b>		



1.	PMC's internal process structure and MIS (i) The internal procedures, controls and project management procedures followed by PMC;  (ii) Client interface and project progress reporting system efficiencies to be demonstrated by actual past reports.	(i) The bidders will be required to demonstrate the efficiency of their organisation's internal procedures for project management and its flexibility to adapt to the client's requirements;  (ii) The bidder will demonstrate the efficiency of their communication process with the clients and the contractors and the progress reporting system.	<b>10</b>
2.	Value Engineering: Areas of project Management where Value Engineering techniques will be applied to optimize the quality and cost	The bidder will demonstrate with evidence his ability to innovate through application of Value Engineering techniques in context of this project and its effect on optimizing the cost, quality and time schedule of the project.	<b>05</b>
3.	Contract management and claim avoidance and management Techniques used for contract management with a view to claim avoidance and its management	Sensitivity of contract management procedure of the bidders to claim avoidance and its management	<b>05</b>
<b>III.</b>	<b>Evaluation on the basis of Financial bid:</b>		
1.	Price bid, i.e., percentage of fee on completed cost of project or tendered cost whichever is lower, or price on per unit area of campus plot, or lump sum charges of services to be provided by the Consultant	Bid with lowest price shall be given full marks and other bids will get marks inversely proportional to that of the lowest bid.	<b>30</b>
		<b>Maximum possible marks</b>	<b>100</b>

**5.2** In the above system of evaluation the bidder who has scored maximum marks in the total of Technical bid score and Price bid score shall be selected for further negotiation, if considered necessary.

**5.3** **Qualifying marks** of Technical Bid for opening of Financial Bid: applicants scoring 60% of the maximum technical bid score of 70 marks i.e. 42 marks and above only shall be declared qualified technically, whose price bid shall be opened. Applicants scoring less than 42 marks in Technical Bid evaluation shall not qualify for Financial Bid opening.

**5.3.1** The Technical Bids shall be opened in the presence of the representative of bidders who have submitted their bids. Results of Technical Bid evaluation done by the Selection Committee shall be announced in the presence of the representative of bidders.

- 5.3.2** The Financial bid of applicants who have been declared qualified in the Technical Bid shall be opened in the presence of representative of qualified technical bidders only.
- 5.4** The evaluation of bids done by the Selection Committee shall be final and binding on the Consultants.
- 5.5** **Performance Guarantee:** The selected applicant shall furnish within 21 days of the date of issue of Letter of Intent (LOI) an unconditional Bank Guarantee. The Bank Guarantee shall be issued by any nationalized bank for an amount equivalent to 5% of the total estimated fee of the PMC services of the applicant. The Performance guarantee shall remain valid for a period of one year beyond the date of completion of services.
- 5.6** **Contract Agreement:** The applicant shall enter into and execute the Contract with the employer. The Contract Agreement shall include the EOI and RFP document, copy of the Bank Guarantee for Performance Security, the minutes of the Pre-Bid meeting, if any, all letters exchanged between applicant and employer before the date of execution of the Contract, scope of work, Contact Fee, Payment Schedule, Project Time Schedule and other clauses like Indemnity Clause, Provisions for Modification of Contract, Termination of Contract, Confidentiality, Obligations and Liability of the Parties, Settlement of Disputes, Liquidated Damages, Representations, Warranties and Disclaimer, Force Majeure, Severability, Survival clauses etc. The Contract will be executed within 30 days from the date of issue of Letter of Intent (LOI).
- 5.7** **Right of Rejection:** The employer reserves the right to reject any proposal that does not address all the requirements of the RFP. In addition the employer reserves the right to accept or reject any proposal submitted by the applicant and to cancel the RFP process and reject any proposal submission at any time, without thereby incurring any liability to the affected applicant or any obligation to inform the affected applicant, the grounds for such action by the employer.

## **SECTION 6: TERMS OF PAYMENT**

**6.1** Mobilisation Advance up to 10% of the total Consultancy fee based on the tendered cost of the project shall be made against an advance bank guarantee of an equivalent value as per the format acceptable to the Employer immediately after signing the contract. The accounting and proper adjustment of advance repayments from subsequent invoices shall be the responsibility of the consultant.

**6.2** The fee to the Consultant, indicated in Section 5 of this AGREEMENT, shall be paid by the Employer after payment of each Running Account (RA) Bill of the Contractor as same percentage of the Contractor's bill as was quoted by the Consultant as indicated in Section 5 of this AGREEMENT. **For example:** Tendered cost of the project is US\$ 10 Million and Consultant to be paid at 3% of the tendered cost. If the Contractor is paid US\$ 20000 in one RA Bill, the Consultant would be paid 3% of US\$ 20000, i.e. US\$ 600 after payment to the Contractor is made by the Employer.

**6.3** As early as possible but not later than fifteen (15) working days of payment made to the Contractor, the consultant shall submit its invoices along with appropriate supporting documents for claiming the fee due.

## **SECTION - 6**

### **CONTRACT AND TERMS OF PAYMENT**

### **GOVERNMENT OF INDIA**

### **MINISTRY OF EXTERNAL AFFAIRS**



### **AGREEMENT FOR**

### **PROJECT MANAGEMNT CONSULTANCY (PMC) SERVICES**

### **FOR**

***(Reconstruction of Chancery and Residential Blocks for High Commission of India at 2  
Jalan Taman Duta, Kuala Lumpur)***

**BETWEEN**

***(High Commission of India, Kuala Lumpur)***

**AND**

***(Name of the selected applicant)***

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This Agreement (hereinafter referred to as `AGREEMENT`) is drawn on (*Date*) of (*Month*) (*Year*) at (*Name of station*)

by and between

High Commission of India, Kuala Lumpur (hereinafter referred to as `Employer` which expression shall unless repugnant to the context on meaning thereof be deemed to include its successors and assigns) on the First Part

AND

(*Name of selected applicant*) (hereinafter referred to as `Consultant`, a company registered in (*Name of the country in which the company is registered*) and having its registered office at (*Registered office address of the company*)

WHEREAS

- A. High Commission of India, Kuala Lumpur intends to engage a Consultancy agency for PROJECT MANAGEMENT CONSULTANCY SERVICES (hereinafter referred to as 'the Services') for Reconstruction of Chancery and Residential Blocks for High Commission of India at 2 Jalan Taman Duta, Kuala Lumpur (hereinafter referred to as `the Project`).
- B. It is agreed by each of the party that the Consultant will act as its representative to do or execute all acts and things, in connection with this AGREEMENT.
- C. High Commission of India, Kuala Lumpur agrees to engage Consultant for performing such services:

Now this AGREEMENT witnesseth and it is hereby mutually agreed by and between the parties as follows:

**SECTION 1: DEFINITIONS:**

**1.** For the Purpose of this AGREEMENT, unless otherwise specified or repugnant to or inconsistent with the subject, content or meaning thereof, the following terms shall be deemed to have the following meanings:

**1.1** 'AGREEMENT' shall mean this AGREEMENT including all sections, annexures and appendices hereto and all documents herein attached and amendments to be made to the 'AGREEMENT', if any, which the parties may hereafter mutually agreed in writing

**1.2** 'Date of Acceptance' shall mean the date on which Employer confirms written acceptance to Consultant's SERVICES.

**1.3** `Consultant` shall mean (*Name of selected applicant*) as company registered in (*Name of the country in which the company is registered*) having its registered office at (*Registered office address of the lead company*) in consortium with (*Name of partner company*) having its registered office at (*Registered office address of the partner company*).

**1.4** 'Parties' shall mean High Commission of India, Kuala Lumpur and (*Name of selected applicant*) collectively.

**1.5** 'Services' shall mean the responsibilities to be discharged by the Consultant for fulfilling its obligations under this AGREEMENT as defined under Section 4 'SCOPE OF SERVICES' of this AGREEMENT.

**1.6** 'Architect' shall mean M/s Veritas Design Group.

**1.7** 'EOI' shall mean Expression of Interest document issued by the Employer.

**1.8** 'RFP' shall mean Request for Proposal document issued by the Employer.

**1.9** 'LOI' shall mean Letter of Intent issued by the Employer.

**1.10** 'Estimated cost of a package' would mean the cost estimate prepared for a package using the tender quantities given by the Architect and approved by the Employer.

**1.11** 'Estimated Project Cost' would mean the estimated Construction cost as per the Detailed Project Report submitted by the Architect and approved by the Employer.

**1.12** 'Executed cost of a package' shall mean the value of awarded contract adjusted for any revision in scope and any cost variations.

## **SECTION 2: AGREEMENT DOCUMENTS**

**2.1** The following documents shall be deemed to form and be read and construed as an integral part of the AGREEMENT:

- a)** RFP document issued by the Employer. (Annexure-1) (*To be enclosed by the Mission/Post*)
- b)** Consultant's proposal No (*To be indicated by the Mission/Post*) dated (*To be indicated by the Mission/Post*) along with all the submission and enclosures (Annexure – 2) (*To be enclosed by the Mission/Post*).
- c)** Bank Guarantee for performance security (Annexure – 3) (*To be enclosed by the Mission/Post*)
- d)** Correspondence between Consultant and the Employer. (Annexure – 4) (*To be enclosed by the Mission/Post*)
- e)** LOI issued by the Employer vide letter No (*To be indicated by the Mission/Post*) dated (*To be indicated by the Mission/Post*) (Annexure – 7) (*To be enclosed by the Mission/Post*)

**2.2** The above documents combined together are enclosed to this AGREEMENT as Annexures. The aforesaid documents shall be taken as complementary and mutually exploratory of one another.

## **SECTION 3: EFFECTIVE DATE OF AGREEMENT**

**3.1** Notwithstanding the date of its execution, the AGREEMENT shall be deemed to have come into force with effect from (*To be indicated by the Mission/Post*).

## **SECTION 4: SCOPE OF SERVICES**

**4.1** The scope of Services shall be as per Section 3 of RFP document referred to in Section 2 of this AGREEMENT.

## SECTION 5: REMUNERATION

**5.1** For the scope of services identified under Section 4 of this AGREEMENT, the Employer shall pay the fees to the Consultant as follows:

Particulars	Fee in % of estimated project cost or actual cost whichever is less
PMC SERVICES FOR ( <i>Reconstruction of Chancery and Residential Blocks for High Commission of India at 2 Jalan Taman Duta, Kuala Lumpur</i> ) AT Kuala Lumpur	( <i>To be indicated by the Mission/Post</i> )

**Note:**

1. The said fee is exclusive of VAT/ Service Tax.
2. If the project duration extends beyond the time schedule as per Section 14, the Consultant agrees to provide services to the extended time schedule and the fee for the services for the extended period shall be governed as per Clause 4.4 of the RFP document referred to in Section 2.1(a).

**5.2** The Consultant shall be jointly and severely responsible for the successful performance of the scope of services as per this contract.

## SECTION 6: TERMS OF PAYMENT

**6.1** Mobilisation Advance up to 10% of the total Consultancy fee based on the estimated project cost as mentioned in the RFP shall be made against an advance bank guarantee of an equivalent value as per the format acceptable to the Employer immediately after signing the contract. The accounting and proper adjustment of advance repayments from subsequent invoices shall be the responsibility of the consultant.

**6.2** The fee to be Consultant, indicated in Section 5 of this AGREEMENT, shall be paid in the following stages. Payments made to the Consultant for various stages shall be running account bills and shall be adjusted against the final fee payable.

Stage	Description	Fee Payable
1	On completion of Pre-project Activities: (i) On Mobilization of PMC team for the project (ii) On preparation of Master Project Schedule (MPS) (iii) On collection of complete inputs and apprising the Client of the status to manage the scope	10% of the total fee payable
2	For the 33.33% completion of work in terms of cost	Quarterly payment on pro-rata basis till 45% of the fee payable less payment already made till date
3	For the 66.66% completion of work in terms of cost	Quarterly payment on pro-rata basis till 70% of the fee payable less payment already made till date



4	For the 100% completion of work in terms of cost	Quarterly payment on pro-rata basis till 95% of the fee payable less payment already made till date
<b>Stage</b>	<b>Description</b>	<b>Fee Payable</b>
5	After completion of Defects liability period and other works mentioned in Post Construction Stage like rectification, handing over, arbitration, if any	100% of the fee payable less payment already made till date

**Note:** 1. The achievement of stages from 3 to 5 shall be based on progress of work on site as assessed and mutually agreed.

2. The Consultant shall raise invoices for Stage 1 based on the estimated cost of the package. The payment for Stages during the construction phase viz. Stage 2-4 shall be raised on a quarterly basis based on the lesser values of estimated cost of the package or the awarded contract. The fee adjustment for any change in the value of the awarded contract package and the executed value of package shall be done while raising the final invoice for Stage – 5 except in the case the contract awarded to a contractor for a particular work is terminated prematurely / short-closed when it shall be done in the next invoice raised after such termination / short-closure and further invoicing shall start only once the balance package is awarded to another contractor.

**6.3** As early as possible but not later than fifteen (15) working days of completion of a stage, the consultant shall submit its invoices along with appropriate supporting documents for claiming the fee due. All the invoices of Consultant are payable within 60 days of the date of the invoice.

## **SECTION 7: TAXES AND DUTIES**

**7.1** The Remuneration indicated in Section 5 is exclusive of the service tax.

## **SECTION 8: PERFORMANCE GUARANTEE AND LIMITATION OF LIABILITY**

**8.1** Consultant shall carry out the Services in conformity with generally accepted norms and sound standards of engineering. Consultant shall be responsible for the technical soundness of the services rendered. In the event of any deficiencies in these services, the consultant's liability shall be limited to promptly redoing such services. The Employer shall not be required to pay additional compensation to the consultant for such re-done services.

**8.2** Consultant shall, in order to safeguard the interests of the Employer, endeavour to incorporate appropriate provisions in the specifications for purchase of equipment/appointment of contractors to ensure that the equipment suppliers/contractors provide the necessary guarantees of performance. Consultant's obligations in this regard shall be limited to providing technical assistance to the Employer in procuring such guarantees.

**8.3** The overall total liability of Consultant arising out of this Agreement for conclusively proven lapse of the Consultant in executing his scope of services as

defined in Section 4 of the Agreement or any subsequent change thereof shall be limited to a maximum five per cent (5%) of the remuneration mentioned in Section 5 above.

**8.4** Without prejudice to the generality of the above person, the liability clause will be involved to ensure timely delivery of services by the Consultant, as per time schedule of the project that will be finalized by mutual agreement between Consultant, Employer & Architect, half per cent of fee of Consultant will be deducted for per month delay of delivery of services as per time schedule, subject to a limit of 5% of total fee as provided in the clause provided it is conclusively proven that such delay is attributable to the Consultant within its responsibility in the scope of services as defined in Section 4 of the Agreement.

## **SECTION 9: DRAWINGS AND DOCUMENTS**

**9.1** Consultant shall carry out the review work indicated in Section 3 of RFP document based on the drawings provided by Architect and his team of sub-consultants, duly appointed by the Employer.

## **SECTION 10: DOCUMENTS/INFORMATION TO BE PROVIDED BY ARCHITECT**

**10.1** The scope of services, as detailed in the RFP document indicated in Section 2 of this AGREEMENT, is based on the understanding that Architect shall provide all necessary data/document/information to the Consultant, which shall be the base information/input, relied upon by the Consultant for rendering the services.

## **SECTION 11: FORCE MAJEURE**

**11.1** In the event that either party is prevented wholly or in part, by any force majeure cause, as defined hereinafter from performing or accepting performance by the other party, the parties will either agree to a fresh completion date by condoning the period of delay arising out of such non-performance or may by mutual consent, treat the contract as terminated. However, if the force majeure conditions persist for an unreasonably long time, the party not under force majeure conditions may, by giving a notice to the other party, terminate the contract. In either case of termination, both parties will have no claim for compensation against each other, but shall receive their dues as prevailing on the date of commencement of force majeure conditions. Force Majeure is herein defined as:

- 11.1.1** Any cause which is beyond the reasonable control of the Consultant or Employer
- 11.1.2** Natural phenomena including but not limited to weather conditions, fire, explosion, flood, drought, earthquake and epidemic.
- 11.1.3** Acts of any Governmental authority, domestic or foreign, including but not limited to war declared or undeclared, priorities, guarantees, endangers, licensing controls or production or distribution restrictions;
- 11.1.4** Disruption in communication;
- 11.1.5** Strikes and lockouts;

**11.1.6** Sabotage, riot, civil commotion, invasion and insurrection.

## **SECTION 12: ARBITRATION**

**12.1** In the event of any dispute or difference arising at any time between the parties relating to the construction; meaning or effect of this AGREEMENT or any other cause or any content of the rights and liabilities of the parties or other matters specified herein or with reference to anything arising out of or incidental to this AGREEMENT or otherwise in relation to the terms; whether during the continuance of this AGREEMENT or thereafter, such disputes or differences shall be endeavoured to be solved by mutual negotiations.

**12.2** It, however, such negotiations are infructuous, Arbitration shall be carried out as per provisions of UNCITRAL. The venue of arbitration shall be (*Name of station*)

**12.3** Any reference to arbitration shall not relieve either party from the due performance of its obligations under this AGREEMENT.

## **SECTION 13: OWNERSHIP OF DOCUMENTS**

**13.1** All the drawings, reports and documents reviewed by the Consultant in the performance of the AGREEMENT shall at all stages be and remain the property of the Employer and while in the custody of Consultant shall be fully available to Employer and its duly authorized representatives. On completion of assignment, all the reviewed drawings etc. shall be delivered by the Consultant to the Employer.

## **SECTION 14: TIME SCHEDULE**

**14.1** Subject to Section 20.1, the time period for completion of the Services is (*To be indicated by the Mission/Post*) Months from (*To be indicated by the Mission/Post*)

## **SECTION 15: TERMINATION**

**15.1** Under overall circumstances, if the Employer terminates the Agreement either in whole or portion thereof, Consultant shall be compensated for the services carried out till the date of termination, less any disputed amount. The Employer shall discuss in detail with Consultant to exhaust all possibilities of Consultant not being able to deliver its services before applying the termination clause.

## **SECTION 16: INDEMINITY**

**16.1** Subject to Section 8.3, Consultant shall be liable for and shall defend indemnify and hold Employer, its officers, agents and employees free and harmless for all losses, injuries, claims, demands, liens and judgements of any description arising out of performance or non-performance of this Agreement to the extent that such losses, injuries, claims, demands, lens and judgements are the result of an actual or alleged error, omission or negligent act of the Consultant or any person

employed or agent engaged by the Consultant, unless such injury / damages are caused by the Employer's personnel.

## **SECTION 17: LANGUAGE AND MEASUREMENT**

**17.1** The English language will be used in all written communications, data drawings and documents exchanged between the Employer and Consultant with respect to the services to be performed. All reports, drawings, documents and other technical information procured or prepared by Consultant shall employ metric units of measurements. Gregorian calendar will be followed for the execution of the AGREEMENT.

## **SECTION 18: ADDITIONAL SERVICES**

**18.1** Consultant shall make available on the Employer's request such services as may be mutually agreed between the Employer and Consultant in addition to those described in this AGREEMENT. The terms and conditions for such additional services shall be mutually agreed upon between the Employer and Consultant.

## **SECTION 19: MODIFICATIONS TO AGREEMENT**

**19.1** Should circumstances arise which call for modifications of the AGREEMENT, these may be made by mutual consent given in writing. Proposal in this respect from one Party shall be given due consideration by the other Party.

## **SECTION 20: VALIDITY OF AGREEMENT**

**20.1** This AGREEMENT shall without prejudice to the provision of Section 11 (Force Majeure) and Section 16 (Termination) remains in force till the successful commissioning of the project which is expected by (*To be indicated by the Mission/Post*).

**20.2** If, however, due to some unavoidable reasons the successful commissioning of the project gets delayed, the validity of the agreement, as provided in Section 14.1 may be suitably extended by way of an amended agreement duly executed by the parties' upto (*To be indicated by the Mission/Post*), or till completion of the work whichever is later.

## **SECTION 21: APPROVALS**

**21.1** Any approvals to be obtained by either party from the other under this AGREEMENT shall not be unreasonably denied or withheld.

## **SECTION 22: CO-OPERATION BETWEEN PARTIES**

**22.1** The Employer shall nominate an officer to represent it for the purpose of this AGREEMENT and the name, designation and address of the officer so nominated

shall be intimated to Consultant. Similarly, Consultant shall nominate and intimate in writing particulars of an officer to represent it.

**22.2** The officer nominated by the Employer and by Consultant shall be fully authorized to give and receive instructions and decisions which shall be deemed to have been given by the Employer and Consultant respectively who shall be bound by such decisions and instructions given/received by their nominated officers. It is, however, understood and agreed to by and between the parties hereto that the parties shall work in close co-operation with each other at all times in order to ensure timely completion of the project.

### **SECTION 23: ENTIRE AGREEMENT**

**23.1** This AGREEMENT constitutes the entire AGREEMENT by and between the parties. Each party to this Agreement by its execution acknowledges that the parties jointly prepared this Agreement hereto. There are no understandings, agreements or representations not specified in this Agreement.

**23.2** All previous AGREEMENTS and communications relative hereto is superseded unless otherwise incorporated hereto.

### **SECTION 24: CONFIDENTIALITY**

**24.1** This Agreement, all communications and information obtained by Consultant from the Employer relating to this Agreement, and all information developed by the Consultant under this Agreement are confidential. Except as provided by law or with prior written consent of the authorized representative of the Employer, the Consultant shall neither divulge to nor discuss with any third party either the work and service provided hereunder, or any communication or information in connection with such services or work.

**24.2** Consultant shall not publish or cause to disseminate through any press / media release, public statement or marketing or selling effort any information which relates to this Agreement without the prior written approval of the Employer.

### **SECTION 25: REPRESENTATIONS, WARRANTIES AND DISCLAIMERS**

**25.1** The Consultant represents and warrants to the client that:

- (A)** It has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby.
- (B)** This Agreement constitutes its legal valid and binding obligation enforceable against it in accordance with the terms hereof.
- (C)** It is subject to Laws of Malaysia with respect to this Agreement and it is hereby expressly and irrevocably waives any immunity in any jurisdiction in respect thereof.
- (D)** There are no actions, suits, proceedings or investigations pending or to the Consultants knowledge, threatened against it at law or in equity before any court

or other judicial, quasi-judicial or other authority the outcome of which may result in the breach of or constitutes a default of the Consultant under this Contract or materially affect the discharge by the Consultant or its obligations under the Agreement.

**(E)** No representation or warranty by the Consultant contained herein or any other document furnished by the Employer contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make representation or warranty and misleading.

## **SECTION 26: WAIVERS**

**26.1** No waiver of any condition, requirement or right expressed in this Agreement shall be implied by any forbearance of the Employer to declare a default or failure to perform or to take any other action on account of the violation of such condition if such violation be continued or repeated.

## **SECTION 27: SEVERABILITY**

**27.1** If for any reason any provision of the Contract is, or becomes invalid, illegal or unenforceable or is declared by any Court of competent jurisdiction or any other instrumentation to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner and the Parties shall negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearby as possible. Failure to agree upon such provisions shall not be subject to dispute resolution under the Contract or otherwise.

## **SECTION 28: SURVIVAL**

**28.1** The termination of this Agreement shall not

**(A)** Relieve the Consultant or the Employer of any obligations hereunder which expressly or by implication survive Termination hereof.

**(B)** Except as otherwise provided in any provision of the Contract expressly limiting the liability of either party shall not relieve either party of any obligations or liabilities for loss or damage to the other party arising out of or caused by acts of omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

## **SECTION 29: NOTICES**

**29.1** All notices to be given by either Party to the other in connection with rights and obligations of both Parties under or pertaining to this AGREEMENT shall be sent by post, postage prepaid or by courier and if given by facsimile, e-mail, telephone or verbally, they shall be confirmed by registered letter or courier and addressed as follows :

High Commission of India, Level 28, Menara 1, Mont Kiara No. 1, Jalan Mont Kiara, 50480 Kuala Lumpur.

And

*(Full address of the Consultant to be indicated)*

**29.2** Either party may change individuals designated to receive Notices or addresses and in such an event, notices shall be given to the other Party by means of a written Notices of any such change.

IN WITNESS WHEREOF the parties hereto have executed these presents the day and year first above written

*For Reconstruction of Chancery  
and Residential Blocks for  
High Commission of India at  
2 Jalan Taman Duta, Kuala Lumpur*

*For (Name of the Consultant firm)*

(Signature)  
Name:  
Designation:

(Signature)  
Name:  
Designation:

**Witness:**

**Witness:**

**1.**

**1.**

(Signature)  
Name:  
Designation:

(Signature)  
Name:  
Designation:

**2.**

**2.**

(Signature)  
Name:  
Designation:

(Signature)  
Name:  
Designation: