



**T.C. XI/266,  
Keston Road, Kowdiar,  
Thiruvananthapuram - 695003  
Tel: 0471-2318922, Fax: 0471-2315892**

## **Request for Proposal (RFP) (National Competitive Bidding)**

**FOR**

**Appointment of Project Management Consultant –  
Construction Phase, for Waste to Energy (WTE)  
Project of minimum 300 TPD Processing capacity at  
Kozhikode to be implemented on DBFOT basis**

**Tender No: KSIDC/W2E/10\_/2019  
Date: October 19 , 2019**

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## **DISCLAIMER**

The information contained in this Request for Proposal document (the “RFP”) or subsequently provided to Bidder(s), in the documentary form by or on behalf of the Authority or any of its employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is neither an offer by the Authority to the prospective Bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in making their financial offers pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in the Bidding Documents, especially in RFP, may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The Authority, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way for participation in this Bid Process. The Authority also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP.

The Authority may, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP. The issue of this RFP does not imply that the Authority is bound to select a Bidder or to appoint the Selected Bidder or Concessionaire, as the case may be, for the Project and the Authority reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Authority or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

## **LETTER OF INVITATION (LOI)**

1. Sealed Tenders are invited by Kerala State Industrial & Infrastructure Development Corporation for appointment of Project Management Consultant for Waste to Energy (W2E) Project at Kozhikode Municipal Corporation from Nationally reputed Consultancy firms in the Sector.
2. RFP document can be downloaded from the websites [www.etenders.kerala.gov.in](http://www.etenders.kerala.gov.in) and [www.ksidc.org](http://www.ksidc.org).
3. Pre-bid meeting will be held on 31/10/2019 at 11:00 A.M in the office of Kerala State Industrial Development Corporation Limited, T.C. XI/266, Keston Road, Thiruvananthapuram, Kerala - 695003, INDIA.
4. The Bidders shall submit their proposals latest by 21/ 11/2019 upto 4.00 P.M.
5. The Technical Proposal shall be opened on 23/11/2019 at 4:00 P.M of next day of Proposal Due Date in the presence of representatives of bidders at office of The Managing Director, KSIDC.
6. The Project for which PMC is proposing to be engaged is given below.

<b>NIT No.</b>	<b>Name &amp; Details of Work</b>	<b>Bid Security</b>
	Appointment of Project Management Consultant for Waste to Energy (WTE) Project of minimum 300 TPD Processing capacity at Kozhikode to be implemented on Design, Build, Finance, Operate and Transfer (DBFOT) basis	Rs. 2,50,000/-

7. Interested Bidders may obtain further information by writing/email from the office of:

The Managing Director  
Kerala State Industrial Development Corporation Limited  
T.C. XI/266, Keston Road  
Thiruvananthapuram  
Kerala - 695003, INDIA

-SD-  
Managing Director, KSIDC

## 1. Introduction

- 1.1. Background of Project:** The Government of Kerala has appointed Kerala State Industrial Development Corporation Limited (KSIDC) as nodal agency to facilitate systematic development and management of municipal solid waste projects in the state of Kerala. KSIDC now intends to appoint Project Management Consultant for Supervision of Implementation for Municipal Solid Waste Management Project in Kozhikode Cluster (the "Project") implemented through Design-Build-Finance-Operate-Transfer Mode for 25 years.
- 1.2. Request for Proposal:** KSIDC invites Proposals (the "Proposal") for selection of Project Management Consultant for Municipal Solid Waste Management Project in Kozhikode Cluster implemented through Design-Build-Finance -Operate-Transfer Mode for 25 years.
- 1.3. Validity of the Proposal:** The proposal shall be valid for a period of not less than 180 (one hundred eighty) days from the last date of submission of proposal ("Proposal Due Date").
- 1.4. Brief description of the Selection Process:** KSIDC shall adopt a three stage selection process in evaluating the Proposals. In the first stage Pre-qualification Evaluation will be carried out with respect to minimum eligibility criteria set out in clause no 2.1.1 and 2.1.2. In the second stage, a Technical Evaluation will be carried out as specified in Clause 3.1. Based on this Technical Evaluation, a list of short-listed bidders shall be prepared as specified in Clause 3.2. In the third stage, a Financial Evaluation will be carried out as specified in Clause 3.3. Proposals will finally be ranked according to their combined Technical and Financial scores based on Quality and Cost Based Selection (QCBS) as specified in Clause 3.4. The first ranked bidder (the "Selected Bidder") shall be selected for negotiation while the proposal of the second ranked bidder will be kept in reserve.
- 1.5. Currency rate and payment:** All payments to the Consultant shall be made in INR in accordance with the provisions of this RFP.
- 1.6. Schedule of Selection Process :** KSIDC would endeavour to adhere to the following schedule:

Sr. No.	Event Description	Date & Time
1.	Pre Proposal / Pre Bid Meeting	31/10/2019
2.	Proposal Due date (PDD)	21/11/2019
3.	Date of Technical Opening	23/11/2019

**1.7. Pre-Proposal Conference/Pre-bid meeting:**

The date, time and venue of Pre-Proposal /Pre Bid Conference shall be:

Date: 31/10/2019 Time: 11:00 AM

Venue: Board Room, Kerala State Industrial Development Corporation Limited, T.C. XI/266, Keston Road, Thiruvananthapuram, Kerala - 695003, INDIA

**1.8. Communications:** All Communications including the submission of Proposal shall be addressed to by writing /email:

The Managing Director

Kerala State Industrial Development Corporation Limited

T.C. XI/266, Keston Road

Thiruvananthapuram

Kerala - 695003, INDIA

## 2. INSTRUCTIONS TO BIDDERS

## **A. General**

### **2.1. Conditions of Eligibility of Bidders**

2.1.1 Bidders must read carefully the minimum conditions of eligibility (the "Conditions of Eligibility") provided herein. Proposals of only those Bidders who satisfy the Conditions of Eligibility will be considered for evaluation.

2.1.2 The Bidder is allowed to form a Consortium of a maximum of 3 (three) Members. The Bidder shall fulfil the following:

- a) The Bidder/Consortium Member shall have successfully completed one Similar Project in India involving fee of Rs. 25 lakhs and above or for an ongoing project experience of minimum one year with fee received for Rs. 25 Lakh as an PMC / Project Management Consultancy / Authority's Engineer /Construction Supervision in last 10 (Ten) years from the date of publication of the RFP. The proof of such engagement shall be provided in the form of client Work Order and Completion Certificate (or Client Certificate of satisfactory services for ongoing project) with details of Scope of Work, date of start and completion of assignment and Consultancy fee value.
- b) Bidder or any member of the Consortium shall have average annual turnover of at least Rs. 3 (Three) Crores from Consultancy Business in last 3 (three) years. The Bidder must ensure that they submit the evidence of eligibility criteria on turnover & positive net worth as on 31st March 2019 in the form of audited financial statements signed by Chartered Accountant for the last 3 (three) Financial Years.
- c) For the purpose of clause 2.1.2 a) "Similar Projects" are defined as
  - a. Solid Waste Management Project with WTE/WTC Processing facility / Treatment and Landfill / Disposal Facility
  - b. Hazardous Waste Treatment Disposal Facility.
  - c. Industrial Park / SEZ project with Treatment / Processing and Landfill / Disposal Facility as an integral component of the Project.
  - d. Any Industrial Project with Waste Treatment and Disposal as an integral component of the Project.
- d) Consulting Firms shall not have an ownership interest or a continuing business interest or not be an associate with bidder for selection of DBOT Concessionaire of Proposed W2E Project of KSIDC.
- e) Conditions shown in 2.1.2(a) to (d) are minimum qualifying criteria (Pass/Fail). The Bidder not meeting the above requirement will not be considered for further evaluation.

2.1.3 Any entity which has been barred by the Central Government, any State Government, a statutory Independent or a public sector undertaking, as the case may be, from participating in any project, and the bar subsists as on the date of Proposal, would not be eligible to submit a Proposal either by itself or through its Associate ("Associate" means a firm have common controlling shareholders or other ownership interest as that of the Bidder).

- 2.2 Conflict of Interest:** Bidder shall not have a conflict of interest that may affect the Selection Process or the assignment (the “Conflict of Interest”). Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, KSIDC shall have the right to forfeit and appropriate the Bid Security, without prejudice to any other right or remedy that may be available to KSIDC hereunder or otherwise. The guidance note for “Conflict of Interest” is given in Annexure XII.
- 2.3 Number of Proposals:** No Bidder or its Associate shall submit more than one Proposal.
- 2.4 Cost of Proposal:** The Bidders shall be responsible for all of the costs associated with the preparation of their Proposals and their participation in the Selection Process including subsequent negotiations, visits to KSIDC, Project site etc. KSIDC will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Selection Process.
- 2.5 Due Diligence by Bidder:** Bidders are encouraged to submit their respective Proposals after visiting the Project site and ascertaining for themselves the site conditions, location, surroundings, climate, access to site, and availability of data with KSIDC, Applicable Laws and regulations or any other matter considered relevant by them.
- 2.6 Right to reject any or all Bids**
- 2.6.1 Notwithstanding anything contained in this RFP, KSIDC reserves the right to accept or reject any Bid and to annul the Selection Process and reject all Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.
- 2.6.2 Without prejudice to the generality of Clause 2.6.1, KSIDC reserves the right to reject any Proposal if :a) At any time, a material misrepresentation is made or uncovered, or b) The Bidder does not provide, within the time specified by KSIDC, the supplemental information sought by KSIDC for evaluation of the Proposal.
- 2.6.3 Misrepresentation/ improper response by the Bidder may lead to the disqualification of the Bidder. If such disqualification / rejection occurs after the Proposals have been opened and the highest ranking Bidder gets disqualified / rejected, then KSIDC reserves the right to consider the next best Bidder, or take any other measure as may be deemed fit in the sole discretion of KSIDC, including annulment of the Selection Process.

## **B. Documents**

### **2.7 Contents of the RFP**

- 2.7.1 This RFP comprises the contents as listed below and will additionally include any Addendum / Amendment issued in accordance with Clause 2.9:

#### **Request for Proposal**

- Introduction
- Instructions to Bidders
- Criteria for Evaluation
- Fraud and corrupt practices
- Pre-Proposal Conference/Pre-bid Meeting
- Miscellaneous

**Annexures:**

- Annexure I: Terms of Reference
- Annexure II: Cover Letter
- Annexure III: Statement of Legal Capacity
- Annexure IV: Power of Attorney
- Annexure V: Details of Bidder
- Annexure VI: Financial Qualification of Bidder
- Annexure VII: Eligible Project Experience of Bidder
- Annexure VIII: CV of Key Personnel's
- Annexure IX: Legally binding signed declaration of undertaking
- Annexure X: Salient Aspect of Technical Proposal
- Annexure XI: Financial Proposal
- Annexure XII: Guidance note on conflict of interest
- Annexure XIII: Consulting Services Contract Agreement

**2.8 Clarification**

- 2.8.1 Bidders requiring any clarification on the RFP may send their queries to KSIDC in writing to Project Director, PMU – WtE Projects, KSIDC, Thiruvananthapuram /through e-mail [prathima@ksidcmail.org](mailto:prathima@ksidcmail.org) on or before 3 pm on 30/10/2019. The emails shall clearly bear the following identification: "Queries/Request for Additional Information concerning RFP for Appointment of Project Management Consultant for W2E Project in Kozhikode" KSIDC shall endeavour to respond to the queries during Pre-bid meeting.
- 2.8.2 Any question, communication or requests for additional information concerning this RFP are only permitted in writing (e-mail) and up to three (3) weeks before the PDD. Answers / clarifications will be communicated to all Bidders by uploading in referred website ([www.etenders.kerala.gov.in](http://www.etenders.kerala.gov.in) & [www.ksidc.org](http://www.ksidc.org)) in good time, no later than 14 calendar days prior to the PDD. Thus, all bidders shall keep themselves informed about answers / clarifications by checking the website regularly. If necessary, the PDD will be postponed accordingly. The Minutes of the Pre-Bid Meeting /Addenda/Corrigenda shall form an integral part of the Concession Agreement.

**2.9 Amendment of RFP**

- 2.9.1 At any time prior to the deadline for submission of RFP, KSIDC may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP document by the issuance of Addendum/ Amendment and posting it on its website and notification through email.
- 2.9.2 In order to afford the Bidders a reasonable time for taking into account the amendments/ addendum, or for any other reason, KSIDC may, in its sole discretion, extend the PDD and posting it on its website and notification through email, simultaneously and in good time, no later than 14 calendar days prior to the PDD.

**C. Preparation and Submission of Proposal**

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

### **2.11 Instructions on E-Tender**

- 2.11.1 The Bid should be submitted online at website <https://etenders.kerala.gov.in> in the relevant covers only, by the due date and time, as specified in the Key Details. Late/delayed tenders submitted online after the due date and time, for whatsoever reasons will not be considered. The Server Date & Time as appearing on the website <https://etenders.kerala.gov.in> shall only be considered for the critical date and time of tenders. Offers sent through post, telegram, fax, telex, e-mail, courier will not be considered.
- 2.11.2 Partially completed/incomplete bids shall not be considered.
- 2.11.3 All communication regarding how to submit offers shall be done online through website <https://etenders.kerala.gov.in>
- 2.11.4 Bidders shall be required to arrange all resources, including Digital Signature Certificates and Internet Connections at their own cost, for participating in online tenders at <https://etenders.kerala.gov.in>.
- 2.11.5 The Authority shall not be responsible for any delays reasons whatsoever in receiving as well as submitting offers, including connectivity issues. The Authority shall not be responsible for any other delays in submitting any documents wherever applicable.
- 2.11.6 The Authority will not be responsible for the cost incurred in preparation and submission of bids online including the cost of digital certificate, regardless of the conduct of outcome of the bidding process.
- 2.11.7 Two cover system:  
As two bid system is insisted Bidders are required to submit offer in two covers, namely "Fee/Prequalification/Technical" and "Financial".
- In Cover I ("Fee/Prequalification/Technical"), Bidders are requested to upload, the scanned copies of the documents specified under Technical Cover in the Checklist given in Clause 2.12 of RFP, "online".
  - In Cover II ("Finance"), Bidders are requested to quote rates in the file 'BOQ' and upload the same online. PLEASE DO NOT QUOTE/MENTION RATES ANYWHERE ELSE IN THE TENDER OTHER THAN BOQ



- 2.11.8 In case if applicant does not hold any document which need to be uploaded OR there is no need to upload the mentioned document please upload a scanned copy stating the reason for not uploading OR a blank sheet for proceeding with tendering. Provisions for uploading cannot be left blank.
- 2.11.9 Please note that queries related to enquiry specifications, terms & conditions etc. should be submitted online by logging in at <https://etenders.kerala.gov.in> or through email before the clarification end date/time specified in the Key Details.
- 2.11.10 Tender opening will be done online at the time and dates specified in the tender Key Details.
- 2.11.11 The bidders are requested to go through the instruction to the bidders in the website <https://etenders.kerala.gov.in> . The bidders who submit their bids for this tender after digitally signing using their Digital Signature Certificate (DSC), accept that they have clearly understood and agreed the terms and conditions in the website including the terms and conditions of this tender.

## **2.12 Technical Proposal**

- 2.12.1 Bidders shall submit the technical proposal in the formats from Annexure II to Annexure X (the "Technical Proposal").
- 2.12.2 While submitting the Technical Proposal, the Bidder shall, in particular, ensure that:
- a) The Bid Security is provided;
  - b) All Forms are submitted in the prescribed formats and signed by the authorised signatories;
  - c) Power of Attorney, is executed as per Applicable Laws;
  - d) CVs of all Key Personnel have been included;
  - e) Key Personnel have been proposed only if they meet the Conditions of Eligibility laid down at Clause 3.1.3 of the RFP; The CV of each Key Personnel shall be submitted as per the format at Annexure VIII.
  - f) No alternative proposal for any Key Personnel is being made and CV for each position has been furnished;
  - g) Key Personnel would be available for the period indicated in the ToR;
  - h) No Key Personnel should have attained the age of 70 years at the time of submitting the proposal; and
  - i) The proposal is responsive in terms of Clause 2.19.3.
  - j) Duly executed Consortium Agreement as per Annexure XIV is submitted in case of Consortium
- 2.12.3 Failure to comply with the requirements spelt out in this Clause 2.12 shall make the Proposal liable to be rejected.
- 2.12.4 If an individual Key Personnel makes a false statement regarding his qualification, experience or other particulars, he shall be liable to be debarred for any future assignment of KSIDC for a

period of 3 (three) years. The award of work to the Bidder may also be liable to cancellation in such an event and the Bid Security and / or Performance Security if submitted will be forfeited.

- 2.12.5 KSIDC reserves the right to verify all statements, information, and documents submitted by the Bidder in response to the RFP. Any such verification or the lack of such verification by KSIDC to undertake such verification shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of KSIDC there under.
- 2.12.6 In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, that one or more of the eligibility conditions have not been met by the Bidder or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Consultant either by issue of the LOA or entering into of the Agreement, and if the Selected Bidder has already been issued the LOA or has entered into the Agreement, as the case may be, the same shall notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by KSIDC without KSIDC being liable in any manner whatsoever to the Selected Bidder or Consultant, as the case may be. In such an event, KSIDC shall have the right to forfeit and appropriate the Bid Security and / or Performance Security without prejudice to any other right or remedy that may be available to KSIDC.

### **2.13 Financial Proposal**

- 2.13.1 Bidders shall submit separate financial proposal (Financial Proposal) as per the quote rates in the file 'BOQ' and upload the same online clearly indicating the total cost of the Consultancy in both figures and words, in Indian Rupees, and digitally signed by the Bidder's Authorised Representative.
- 2.13.2 While submitting the Financial Proposal, the Bidder shall ensure the following:
- a. All the costs associated with the assignment shall be included in the Financial Proposal.
  - b. The Financial Proposal shall take into account all expenses and tax liabilities except GST (as applicable). Please note that the remuneration which you receive from the Concession Agreement will be subject to normal tax liability in India. The applicable Goods Service Tax alone is reimbursable by the client. Kindly contact the concerned tax authorities for further information in this regard if required.
  - c. Costs shall be expressed in INR.

### **2.14 Proposal Due Date**

- 2.14.1 Proposal should be submitted on or before 04:00 PM on the PDD specified at Clause 1.6 at the address provided in Clause 1.8 in the manner and form as detailed in this RFP.
- 2.14.2 KSIDC may, in its sole discretion, extend the PDD by issuing an Addendum in accordance with Clause 2.9 uniformly for all Bidders by uploading in the referred Website.

## **2.15 Late Proposals**

2.15.1 Proposals received by KSIDC after the specified time on PDD shall not be eligible for consideration and shall be summarily rejected.

## **2.16 Bid Security**

2.16.1 The Bidder shall furnish as part of its Proposal, a bid security of Rs. 2, 50,000/- (Rupees Two Lakhs Fifty Thousand only) which is to be paid online through e tender portal (the "Bid Security"), returnable not later than 180 days from PDD except in case of the two highest ranked Bidders. In the event that the first ranked Bidder commences the assignment, the second ranked Bidder, whose proposal has been kept in reserve, shall be returned forthwith, but in no case not later than 180 (one hundred and eighty) days from the PDD. The Bid Security of the first ranked and successful Bidder shall be returned after submission of Performance Guarantee as set out in Clause 2.16.2 hereafter.

2.16.2 The successful Bidder shall submit a Performance Guarantee for an amount equal to 25% of the annual fee approved in the form of a Bank Guarantee. The Performance Guarantee shall be returned, after 3 (three) months of successful completion of Consultancy Services by the Consultant.

2.16.3 KSIDC shall not be liable to pay any interest on the Bid Security and the same shall be interest free.

2.16.4 The Bidder, by submitting its Proposal pursuant to this RFP, shall be deemed to have acknowledged that without prejudice to KSIDC's any other right or remedy hereunder or in law or otherwise, the Bid Security shall be forfeited and appropriated by KSIDC under the following conditions:

- a) If a Bidder engages in any of the Prohibited Practices specified in Section 4 of this RFP;
- b) If a Bidder withdraws its Proposal during the period of its validity as specified in this RFP and as extended by the Bidder from time to time;
- c) In the case of a Selected Bidder, if the Bidder fails to sign the Agreement or commence the assignment as specified in Clauses 2.24 due to the reason solely attributed to the Bidder; or
- d) If the Bidder is found to have a Conflict of Interest as specified in Clause 2.2; and
- e) If the selected Bidder commits breach of the Agreement

## **D. Evaluation Process**

### **2.17 Evaluation of Proposals**

2.17.1 KSIDC shall open the Proposals at time specified in Clause 1.6 at the Venue specified in Clause 1.8 and in the presence of the Bidders who choose to attend. The envelopes marked "**Technical Proposal**" shall be opened first. The envelopes marked "**Financial Proposal**" shall be kept sealed for opening at a later stage.

2.17.2 Prior to evaluation of Proposals, KSIDC will determine whether each Proposal is responsive to the requirements of the RFP. A Proposal shall be considered responsive only if:

- a) The Technical Proposal is received in the formats from Annexure II to Annexure X
  - b) It is received by the PDD including any extension thereof pursuant to Clause 2.16;
  - c) It is accompanied by the Bid Security as specified in Clause 2.14;
  - d) It is accompanied by the Power of Attorney;
  - e) It contains all the information (complete in all respects) as requested in the RFP;
  - f) It does not contain any condition or qualification; and
  - g) It is not non-responsive in terms hereof.
  - h) It is accompanied by duly executed Consortium Agreement as per format provided (Annexure-XIV) in the RFP.
- 2.17.3 KSIDC reserves the right to reject any Proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by KSIDC in respect of such Proposals.
- 2.17.4 KSIDC shall subsequently examine and evaluate Proposals in accordance with the Selection Process specified at Clause 1.4 and the criteria set out in Section 3 of this RFP.
- 2.17.5 After the technical evaluation, KSIDC shall prepare a list of shortlisted Bidders in terms of Clause 3.2 for opening of their Financial Proposals. A date, time and venue will be notified to all shortlisted Bidders for announcing the result of Technical Evaluation and opening of Financial Proposals. Before opening of the Financial Proposals, the list of shortlisted Bidders along with their Technical Score will be read out. The opening of Financial Proposals shall be done in presence of respective representatives of Bidders who choose to be present. KSIDC will not entertain any query or clarification from Bidders who fail to qualify at any stage of the Selection Process. The financial evaluation and final ranking of the Proposals shall be carried out in terms of Clauses 3.3 and 3.4. The Financial Proposal of Bidders whose bids are disqualified in technical evaluation will not be opened for financial evaluation.
- 2.17.6 Bidders are advised that selection shall be entirely at the discretion of KSIDC. Bidders will be deemed to have understood and agreed that KSIDC shall not be required to provide any explanation or justification in respect of any aspect of the Selection Process or Selection.
- 2.17.7 Any information contained in the Proposal shall not in any way be construed as binding on KSIDC, its agents, successors or assigns, but shall be binding against the Bidder if the Consultancy is subsequently awarded to it.
- 2.18 Confidentiality:** Information relating to the examination, clarification, evaluation, and recommendation for the selection of Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional adviser advising KSIDC in relation to matters arising out of, or concerning the Selection Process. KSIDC shall treat all information, submitted as part of the Proposal, in confidence and shall require all those who have access to such material to treat the same in confidence. KSIDC may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or to enforce or assert any right or privilege of the statutory entity and/or KSIDC or as may be required by law or in connection with any legal process.

## **2.19 Clarifications**

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

## **E. Appointment of Consultant**

### **2.20 Negotiations**

- 2.20.1 The Selected Bidder may, if necessary, be invited for negotiations. The negotiations shall generally be related to the Scope of Work, Technical & Financial Proposals submitted and Terms of Reference.
- 2.20.2 Prior to expiration period of proposal validity, the Client will notify the successful Consultant who submitted the combine highest scoring proposal in writing by registered letter/ email or facsimile and invite it to negotiate the Contract Agreement.
- 2.20.3 The aim of Negotiations is to reach agreement on all points and initials a Draft Contract Agreement by the conclusion of Negotiations.
- 2.20.4 Negotiations will commence with a discussion of your Technical Proposal, the proposed Methodology (Work Plan), Staffing and any suggestions you may have made to improve the TOR. Agreement must then be reached on the final TOR, the staffing and staff months, logistics and reporting. Special attention will be paid to optimise the required outputs from the Consultants and to define clearly the inputs required from the Client to ensure satisfactory implementation of the Assignment. Negotiations will then be undertaken on the Financial Proposal submitted.
- 2.20.5 Having selected Consultants, among other things, on the basis of an evaluation of proposed key professional staff, the Client expects to negotiate a Contract Agreement on the basis these staff named in the proposal and prior to Contract Agreement negotiation will require assurance that these staff will be actually available. The Client will not consider substitutions during Contract Agreement negotiations except in cases of unexpected delays in the starting date or incapacity of professional staff for reason of health.
- 2.20.6 Changes agreed upon will then be reflected in the draft Contract Agreement, using proposed unit rates (no negotiation of the Unit rates, including the man month rates).
- 2.20.7 The negotiations will be concluded with a review of the draft form of Contract Agreement. The Client and the Consultants will finalize the Concession Agreement to conclude negotiations.

2.20.8 The Contract Agreement will then be awarded after successful negotiations, with the selected Consultant. If negotiation fails, the Client will invite the Consultant having obtained the second highest score to Contract Agreement negotiations. Upon successful completion, the Client will promptly inform the other Consultants that their proposals have not been selected.

### **2.21 Indemnity**

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

### **2.22 Award of Consultancy**

After selection, a Letter of Award (the "LOA") shall be issued, in duplicate, by KSIDC to the Selected Bidders and the Selected Bidders will, within 15 (Fifteen) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidders are not received by the stipulated date, KSIDC may, unless it consents to extension of time for submission thereof, cancel the LOA and award the Project to the next highest ranking Bidder may be considered.

### **2.23 Execution of Agreement**

After acknowledgement of the LOA as aforesaid by the Selected Bidders, they will execute the Agreement within the period prescribed in Clause 1.6 or any date communicated by the KSIDC after submitting the Performance Security as per Clause 2.16.2. . If the Successful Bidder is a Consortium to whom the LOA is issued, each Partner of Consortium shall sign and execute the Agreement with KSIDC and shall jointly and severally responsible to the KSIDC for performance of Contract Agreement. The Selected Bidders will not be entitled to seek any deviation in the Agreement.

### **2.24 Commencement of assignment**

The Project Management Consultant shall commence the Services at the Project site within 4 (Four) Weeks of the date of the Agreement or such other date as may be mutually agreed. If the Consultants fail to either sign the Agreement as specified in Clause 2.23 or commence the assignment as specified herein, KSIDC may invite the second ranked Bidder for negotiations. In such an event, the LOA or the Agreement, as the case may be, may be cancelled /terminated and the Bid Security / Performance Security of the first ranked Bidder shall be forfeited and appropriated in accordance with the provisions of Clause 2.16.4.

### **2.25 Proprietary data**

Subject to the provisions of Clause 2.16, all documents and other information provided to KSIDC or submitted by any Bidder to KSIDC shall remain or become the property of KSIDC. Bidders are required to treat all information as strictly confidential. KSIDC will not return any Proposal or any information related thereto. All information collected, analysed, processed or in whatever manner provided by the Consultants to KSIDC in relation to the Consultancy shall be the property of KSIDC.

### 3. CRITERIA FOR EVALUATION

#### 3.1 Technical Evaluation

3.1.1 In the first stage, Technical Proposal (Annexure II to X) will be evaluated on the basis of Minimum Eligibility Criteria set out in clause no. 2.1.1 and clause no. 2.1.2(a) to 2.1.2(c). This is a pass/fail type evaluation and no marks in evaluation are awarded. In the second stage, the Technical Proposal will be evaluated on the basis of Bidder's Understanding of TOR, proposed methodology and Work Plan as per Annexure X, the qualification, experience of Key Personnel as per Annexure VIII and Bidder's experience in carrying out similar assignments as per Annexure VII. Only those Bidders whose Technical Proposals get a score of 75 (Seventy Five) marks or more out of 100 (Hundred) shall qualify for further consideration, and shall be ranked from highest to the lowest on the basis of their technical score (ST).

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

Sr. No.	Position/Criteria	Marks
1.	Key Personnel (as detailed in Clause 3.1.4 )	65
2.	<b>Clarity on Completeness of Bids for Documentation</b> a. Cover letter, Statement of Legal Capacity, Power of Attorney, Declaration of Undertaking as per format (2 Marks) b. CVs as format (1 marks) c. Presentation of Technical Proposal – Approach and Methodology, Work Plan, Manning Schedule, Comments on TOR as per format (2 marks)	05
3.	<b>Approach &amp; Methodology for Content and Presentation</b> a. Understanding of the scope of work (3 marks) b. Site appreciation (2 Marks) c. Proposed methodology of Consultant for undertaking the assignment (10 marks) <i>(Approach and Methodology, Work Plan and Manning Schedule shall be provided as per the formats given in Annexure X)</i>	15
4.	<b>Work Plan</b>	5
5.	<b>Manning Schedule</b>	5
6.	<b>Comments on TOR</b>	5
		<b>100</b>

The Project Manager shall make a presentation on the proposed approach for undertaking the assignment and also demonstrate their capability to undertake the tasks proposed. Power Point Presentation shall be made only by the Project Manager. Any other representative of the Bidder shall not be permitted to make the presentation. However in case of any unavoidable circumstances beyond control of the Bidder, other Authorized Person can be allowed with permission of Client.

3.1.3 The breakup of scoring for key personnel would be as follows:

SL No	Position	Maximum Marks
1.	Project Manager	20
2.	SWM Expert	15

3.	Site Engineer	10
4.	Mechanical Engineer	5
5.	Electrical Engineer	5
6.	Structural Engineer	3
7.	IT Engineer	2
8.	Finance Expert	3
9.	Legal Expert	2
	Total	65

Each of the Key Personnel must fulfil the Conditions of Eligibility specified below:

S. No.	Position	Inputs Requirements	Tasks Assigned	Qualification & Experience
1.	Project Manager (1 No.)	Full Time (24 months)	Planning and management, construction supervision and quality control of works at site on daily basis, technical input at various stages, coordination, approval of design & final submission of Deliverables.	Graduate in Civil Engineering with minimum 7 years of experience & Shall have worked in Construction Supervision and quality control of works of at least one Eligible Project defined under Clause 3.1.4
2.	Solid Waste Management Expert (1 No.)	Part Time (12 months)	Assist the Project Manager in tasks, vetting and approval of design & drawings of SWM system and equipment of Concessionaire as proposed in the Agreement between KSIDC & DBOT Concessionaire, preparation of Supervision Manual, Technical Guidance to Concessionaire, approval of O&M Manual of Concessionaire. Should visit the site at least once every 2 months, should be present at site during the Commissioning stage and will be responsible for approval for Compliance to Environmental Clearances, Consent to Operate, Consent to establish, logistic capacity, Completion Certificate and Operational Acceptance	Masters in Environmental Engineering/ Environmental Sciences with 5 years of experience in Solid Waste Management Sector. He should have experience in designing and commissioning of Solid Waste Management Projects SWM Expert shall have carried out at least one Eligible Project defined under Clause 3.1.4
3.	Site Engineer (1 No.)	Full Time (24 months)	Review BOQ items and quantity with drawings and point out the discrepancies/	Degree in Civil Engineering with minimum 3 years of experience as Site Engineer



S. No.	Position	Inputs Requirements	Tasks Assigned	Qualification & Experience
			<p>variations, if any, to Project Manager Measure quantities of work, record measurements and verify items / Work quantities executed in the Concessionaires monthly statement, verify and examine interim payment certificates received from Concessionaires, Prepare variation statement for review by Project Manager, Maintain a permanent record of all measurement for the work quantities, Assist Project Manager in preparing the monthly reports and Financial Statements, Responsible for correctness, accuracy of measurement and quantity of works recorded</p>	<p>for Urban Infrastructure Projects for Civil Works</p>
4.	Mechanical Engineer	Part Time (6 months)	<p>Review and approval of the Plant &amp; Machinery and Vehicles proposed by the Concessionaire for the Project as per stipulations in the Concession Agreement between Concessionaire and KSIDC. Should be present at Site during the erection and commissioning of Plant &amp; Machinery for the Project and should certify their compliance as per the approved specifications. He would also certify the compliance of the procured vehicles as per the approved specifications.</p>	<p>Graduate in Mechanical Engineering, Minimum 3 years Experience in Commissioning of Plants / Factories.</p>
5.	Electrical Engineer	Part Time (6 months)	<p>Review and approval of the Power Plant by the Concessionaire for the Project as per stipulations in the Concession Agreement between Concessionaire and KSIDC. Should be present at</p>	<p>Graduate in Electrical Engineering, Experience in Commissioning of Power Plants.</p>

S. No.	Position	Inputs Requirements	Tasks Assigned	Qualification & Experience
			Site during the erection and commissioning of Plant & Machinery for the Project and should certify their compliance as per the approved specifications.	
6.	Structural Engineer	Part Time 2 month	Review and approve the design and drawing submitted by the Concessionaire.	Masters in Structural Engineering, Minimum 3 years' experience in design of industrial buildings
7.	IT Engineer	Part Time 5 month	Review and approve the GIS & IT systems installed by the Concessionaire as proposed by the concessionaire for the project as per stipulations in the concession agreement between KSIDC & Concessionaire. He would also certify the calibration and validation of the IT Systems installed by the Concessionaire.	Graduate in IT / Computer / Electronics with minimum 3 years experience in IT and GIS as per Tasks assigned.
8.	Finance Expert	Full Time	Financial management of the Project	CA/ MBA (Finance) with 5 years experience
9.	Legal Expert	Part Time	Provide legal advise on all contractual matters	Bachelor of Law with 5 years experience in infrastructure industry
<b>Note:</b> The Man months provided above are indicative and the Experts shall be deployed as per the actual requirement for the project.				

3.1.4 The (minimum) criterion for Marking of qualified Persons to be deployed is as below:-

<b>Position</b>	<b>Marks for Person having Qualification</b>		<b>Marks for their experience</b>		<b>No. of Eligible Projects</b>	
Project Manager	Graduate in Civil Engineering	Master in Construction Management / Environment Engineering / Environment Sciences	7 Years	More than 7 years	1	More than 1
Marks for Project Manager	6 marks	8 marks	2 marks	1 mark for each completed year, beyond 10 years subject to max.5 marks (cumulative)	1 mark	1 mark for each completed project, beyond 1 project subject to max. 4 marks (cumulative)
SWM Expert	Master in Environment Engineering / Environment Sciences		5 Years	More than 5 years	1	More than 1
Marks for SWM Expert	5 marks	0 marks	4 marks	1 mark for each completed year, beyond 5 years subject to max. 3 marks (cumulative)	1 mark	1 mark for each completed project, beyond 1 project subject to max. 2 marks (cumulative)
Site Engineer	Graduate in Civil Engineering	Higher Qualification	2 Years	More than 2 years	1	More than 1
Marks for Site Engineer	4 marks	0 marks	2 marks	1 mark for each completed year, beyond 2 years subject to max. 2 marks (cumulative)	2 marks	No Marks
Mechanical Engineer	Graduate in Mechanical Engineering	Higher Qualification	3 Years	More than 3 Years	1	More than 1

Marks for Mechanical Engineer	2 marks	0 marks	1 marks	1 marks	1 mark	No marks
Electrical Engineer	Graduate in Electrical Engineering	Higher Qualification	3 Years	More than 3 Years	1	More than 1
Marks for Electrical Engineer	2	0 marks	1 marks	1 marks	1	No marks
Structural Engineer	Masters in Structural Engineering	Higher Qualification	3 Years	More than 3 Years	1	More than 1
Marks for Structural Engineer	1	0 marks	0.5	0.5	1	No marks
IT Engineer	Graduate in IT / Computer / Electronics		3 Years	More than 3 Years	More than 1	
Marks for IT Engineer	1	0 marks	0.5	No marks	0.5	No marks
Finance Expert	CA / MBA (Finance)	Higher Qualification	3 Years	More than 1		
Marks for Finance Expert	1	0 marks	0.5	0.5	1	More than 1
Legal Expert	Bachelor of Law	Higher Qualification	3 Years	More than 3 Years	More than 1	
Marks for Legal Expert	1	0 marks	0.5	No marks	0.5	No marks

Note: Person having qualification and experience less than the prescribed Qualification and experience in the RFP will be marked as Nil. Bid will be rejected if the Key Personnel proposed by the Bidder in the Technical Proposal do not have minimum Qualification as defined in Clause 3.1.3.

**Eligible Project:**

**Project Manager:** Eligible Project means Construction Supervision and Quality Control Works for one of the projects mentioned below. Project Manager shall have carried out at least one Eligible Project as Project Manager

- a. Solid Waste Management Project with Processing / Treatment and Landfill / Disposal Facility
- b. Hazardous Waste Treatment/Disposal Facility.
- c. Industrial Park / SEZ project with Landfill as an integral component of the Project.
- d. Any Industrial Project with Waste Treatment and Disposal as an integral component of the Project

**SWM Expert:** Eligible Project means design of SWM Projects involving processing facility of 50 TPD Capacity. SWM Expert shall have carried out at least one Eligible Project.

**Site Engineer:** Quantity Surveying, Certification of Bills and supervision work for Civil Works  
**Mechanical engineer:** Commissioning of Plants / Factories preferably thermal / waste to energy plants

**Electrical Engineer:** Commissioning of power plants preferably thermal / waste to energy plants

**Structural Engineer:** Design & engineering of power plants preferably thermal / waste to energy plants

**IT Engineer:** GIS and IT related projects

**Finance Expert:** Financial Management of projects above Rs 100 crores

**Legal Expert:** PPP Projects

### **3.2 Short-listing of Bidders**

Of the Bidders ranked as aforesaid in Clause 3.1.1, shall be short-listed for financial evaluation in the second stage.

### **3.3 Evaluation of Financial Proposal**

3.3.1 In the second stage, the financial evaluation will be carried out as per this Clause 3.3. Each Financial Proposal will be assigned a financial score (SF).

3.3.2 For financial evaluation, the total fee indicated in the financial proposal as per Annexure XI will be considered.

3.3.3 KSIDC will determine whether the Financial Proposal is complete, unqualified and unconditional. The fee indicated in the Financial Proposal shall be deemed as final and reflecting the total cost of services. The lowest Financial Proposal (FM) will be given a financial scoring (SF) of 100 points, the financial scores of other proposals will be computed as follows:

$$SF=100 \times FM/F$$

FM = Lowest financial Proposal Amount

F = Amount of other Financial Proposal

### **3.4 Combined Evaluation of Proposal**

3.4.1 Following completion of evaluation of Technical and Financial Proposals, final ranking of the Proposals will be determined. This will be done by applying a weightage of 0.7 (Seventy percent) and 0.30 (Thirty percent) respectively to the technical and financial scores of each evaluated qualifying Technical and Financial Proposals. The relevant combined total score for each Consultant Proposals will finally be ranked according to their combined technical scores (ST) as defined in clause 3.1.2 and financial (SF) scores as evaluate in clause 3.3.3 as follows : $S = (0.70*ST + 0.30SF)$  Where “S” is the combined score.

3.4.2 The Selected Bidder shall be the first ranked bidder (having the highest combined score). The second ranked bidder shall be kept in reserve and may be invited for as and when required.

#### 4. FRAUD AND CORRUPT PRACTICES

- 4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this Invitation of RFP document, KSIDC shall reject a RFP without being liable in any manner whatsoever to the Bidder, if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the "Prohibited Practices") in the Selection Process.
- 4.2 Without prejudice to the rights of KSIDC under Clause 4.1 here in above and the rights and remedies which KSIDC may have under the short listing process, if a Bidder is found to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the short listing process, such Bidder shall not be eligible to participate in any tender issued by KSIDC during a period of 3 (three) years from such date.
- 4.3 For the purposes of this Clause, the following terms shall have the meaning here in after respectively assigned to them:

**"Corrupt practice:** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of KSIDC who is or has been associated in any manner, directly or indirectly with the Selection Process or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of KSIDC, shall be deemed to constitute influencing the actions of a person connected with the Selection Process or (ii) engaging in an manner whatsoever, whether during the Selection Process or after short listing, as the case may be, any person in respect of any matter relating to the Project, who at any time has been or is a legal, financial or technical consultant/adviser of KSIDC in relation to any matter concerning the Project;

**"Fraudulent practice"** means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;

**"Coercive practice:** means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person's participation or action in the Selection Process;

**"Undesirable practice"** means establishing contact with any person connected with or employed or engaged by KSIDC with the objective of canvassing, lobbying or in any manner influencing the outcome of the procedure for selection of bidders.

## **5. PRE-PROPOSAL / PRE-BID MEETING**

- 5.1** Pre-Proposal / Pre-Bid meeting of the Bidders shall be convened at the designated date, time and place. A maximum of two representatives of each Bidder shall be allowed to participate on production of an Authorisation Letter from the Bidder.
- 5.2** During the course of Pre-Proposal / Pre-Bid Meeting, the Bidders will be free to seek clarifications and make suggestions for consideration of KSIDC. KSIDC shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Selection Process.

## **6. MISCELLANEOUS**

- 6.1** The Selection Process shall be governed by, and construed in accordance with, the laws of India and shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Selection Process.
- 6.2** KSIDC, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:
- a) Suspend and/or cancel the Selection Process and/or amend and/or supplement the Selection Process or modify the dates or other terms and conditions relating thereto;
  - b) Consult in writing with any Bidder in order to receive clarification or further information;
  - c) Retain any information and/or evidence submitted to KSIDC by, on behalf of and/or in relation to any Bidder; and/or
  - d) Independently verify, disqualify, reject and/or accept any and all submissions or other Information and/or evidence submitted by or on behalf of any Bidder.
- 6.3** It shall be deemed that by submitting the Proposal, the Bidder agrees and releases KSIDC, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in anyway related to or arising from the exercise of any rights and/or performance of any obligations here under, pursuant hereto and/or in connection herewith and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or future.
- 6.4** KSIDC reserves the right to make inquiries with any of the clients listed by the Bidders in their previous experience record.



## ANNEXURE I: TERMS OF REFERENCE

Govt of Kerala intends to implement SWM project at Kozhikode Cluster in Kerala in compliance with the Solid Waste (Management and Handling) Rules, 2016, under the aegis of the Environment (Protection) Act, 1986. The Kozhikode Cluster comprises (a) Kozhikode Municipal Corporation; (b) Faroke Municipality; (c) Quilandy Municipality; (d) Ramanattukara Municipality; (e) Olavanna Gramapanchayath; (f) Kadalundi Gramapanchayath; and (g) Kunnamangalam Gramapanchayath. KSIDC is the nodal agency to implement the project as a DBFOT project under PPP mode.

KSIDC has selected a PPP Partner for Design, Build, Operate and Transfer of SWM Project which would include (a) Secondary collection and Transportation system (b) Waste to Energy Plant (with Pre-Sorting Facilities) of minimum 300 TPD and (c) Sanitary Landfill facility to be implemented phase-wise over a period of 25 years and (d) operation of these facilities for a period of 25 years (excluding Construction Period). The estimated period of implementation (construction) is 24 months. Concession Agreement has been executed between the LSGD (Authority), KSIDC participating LSGIs in the cluster and the Concessionaire.

The scope of work of the Concessionaire for SWM Project includes:

- (a) To plan, design, engineering, develop, finance, construct, market, operate, maintain and manage integrated solid waste management with collection, segregation, transportation, processing and disposal in identified Cluster as per requisite norms and standards prescribed by regulatory authorities.
- (b) To ensure compliance with the Guidelines & Policies issued by the concerned Government (Government of India and Government of Kerala), both present and future, with regard to solid waste management;
- (c) To design and set up modern Waste to Energy plant at Project Site of minimum processing capacity of 300 TPD with proven technology of their choice. The selected Private Partner shall strive to achieve complete elimination of landfill requirement but in no circumstances, the landfill shall be more than 10% of waste received (including Construction & Demolition waste) at the Site (to be monitored on a monthly basis);
- (d) To collect, segregate and transport solid waste from collection bins in the identified Cluster at a radius of 25-35 KMs from the site. (Participating LSGIs of each cluster);
- (e) The collection herein would mean a bin based secondary collection to ensure maximum coverage of waste collection from the city. The responsibility to undertake the door to door collection, collection from public spaces, street cleaning and delivering to the bins provided by the concessionaire at the designated collection points shall be vested with the participating LSGIs. The location of bins and concessionaire's collection points will be decided depending on area and population and with mutual consultation between LSGI and Concessionaire;
- (f) To transport solid waste to the Processing Facility with minimal handling and limited inter-vehicle transfers using best practices in vehicle planning, scheduling & handling to ensure no accumulation at a particular location for more than defined time;
- (g) To preferably segregate the waste at source by educating and creating awareness among customers and by providing different collection containers for biodegradable and non- biodegradable wastes. However, waste segregation is essential before processing the waste in any manner;
- (h) To segregate the non-usable and non-biodegradable waste viz. Plastic, Metal, Glass, Electronics & Other items and recycle /reprocess them through own units or sell them to re-processors/ recyclers/ Govt. authorized agencies. Other wastes such as Rubber, Tyre, Upholstery, Bags etc. may be sold to cement or other factories as energy source. The resources recovery shall be carried

out at the cost and risk of the Concessionaire. It shall also be ensured that no part of Construction & Demolition waste is used in the plant;

- (i) To process the leachate in accordance with Central Pollution Control Board (CPCB ) standards and in case of requirement, to develop Sanitary Landfill of Designed Capacity and set up a leachate treatment facility at the site;
- (j) To develop the surrounding of the plant with greenhouse concept having plants, lawns, gardens etc. as model spot for educating students/ public on environmental protection and best environment practices;
- (k) To do Operation and maintenance of the Processing Facilities and Sanitary Landfills by adhering to the pollution control standards for air, water and land prescribed by Kerala State Pollution Control Board (KSPCB) and Central Pollution Control Board (CPCB );
- (l) To install the plant in full compliance with all laws of the land at all times;
- (m) To treat the flue gas vented to atmosphere adequately by scrubbing, neutralization and filtering so that the pollutants are dust levels are well within the acceptance level as per statutory requirements;
- (n) The Concessionaire shall be free to change the technology and waste processing mechanism, including change in plant, machinery and civil infrastructure during the course of Concession Period, subject to no financial implication to the Authority and without any disruption in service, reduction in the processing capacity of solid waste and production capacity of power;
- (o) To Develop and Manage ICT infrastructure for the project including but not limited to GPS tracking of vehicles, electronic weigh bridges at Project Site, surveillance cameras at Project Site etc;
- (p) The Authority shall undertake on its own or through a Third Party Monitoring Entity (PMC) the Development and Management of Information Communication and Technology (ICT) and IOT (with sensors and video analytics) infrastructure for monitoring the project, including but not limited to, GPS tracking of vehicles, Sensor based weight measurement in transportation vehicles, electronic weigh bridges at Project Site, surveillance cameras at Project Site etc. and a central command centre for all Waste Management Projects in Kerala. The Concessionaire shall provide all assistance in this regard; and
- (q) To deploy its representatives in each participating LSGIs for prompt cognizance and redressal of any service complaint related to one or more of concessionaire's obligation.

In addition to the above, KSIDC is assisting Kannur Municipal Corporation in the process of appointing an agency for legacy waste management at the site. The selected PMC shall also be responsible for managing supervision and monitoring of legacy waste management also.

KSIDC now seeks the services of a qualified firm for providing the services Project Management Consultant (PMC).

The Terms of Reference for the IE (the "TOR") are, being specified pursuant to the RFP floated by KSIDC dated \_\_\_\_\_ for Design-Build-Operate & Transfer Solid Waste Management Project for the City (the "Project") and the Concession Agreement entered into between GoK, KSIDC and Local Self Government Institutions (LSGI) (together referred as the "Authority") and M/s Malabar Waste Management Private Limited (the "Concessionaire") on \_\_\_\_\_ for the Project.

This TOR shall apply to design and construction of the project, including bio mining & disposal of legacy waste. Whereas the TOR details out the scope of the PMC, it is hereby clarified that the contract agreement between Authority and contractor for bio mining and disposal of legacy waste and Concession

Agreement between Authority and Concessionaire shall govern the scope of the PMC ( an unsigned true copy of Contract Agreement along with all the Addendum attached as Annex-11). In the event of any deviation in the scope of the PMC (or called Independent Engineer in the Concession Agreement) in this TOR and the Concession Agreement, the scope of the PMC as per the Concession Agreement shall be considered.

**A. Scope of Work of PMC**

The PMC shall be responsible for day to day Concession Agreement Management, legacy waste contract and Supervision during the design and construction period of Concession Agreement.

**1. Scope of Work during Design & Build Period**

a. PMC shall be responsible for Concession Agreement Management and Supervision during the Design & Build Period as per clauses of Concession Agreement and its Schedules.

b. Preparation of Supervision Manual

The PMC shall prepare a Supervision Manual outlining routines and procedures to be applied in Concession Agreement management, construction supervision and administration for the project. The routines and procedures will be in accordance with the requirements, for supervision of the project.

c. Review and Approval of Time Schedule submitted by the Concessionaire and Implementation Plan. The documents would form guidelines for monitoring the progress of the project.

d. Project Planning and Construction Supervision

(i) Ensure that the site mobilization and construction works, are in accordance with the Time Schedule, Design Build Services Appendix, Technical Standards Appendix, Environmental Management Plan and other stipulation of the Concession Agreement.

(ii) The PMC shall be responsible for the day to day supervision of construction works at site including monitoring, setting out of work, quality control as per the Concession Agreement.

(iii) PMC may prescribe a form for Monthly Progress Notice to the Concessionaire, review the Monthly Progress Notice submitted by Concessionaire and communicate any defects or deficiencies or both to the Concessionaire as per Concession Agreement.

(iv) Monitor the actual progress of the project viz a viz the approved Time Schedule submitted by the Concessionaire. The PMC shall use Project Management software like MS Project for such purpose.

(v) If, at any time, the Concessionaire's progress in respect of the Design & Build Services is too slow to complete the Design & Build Services in accordance with the Time for Completion or has fallen, or will fall, behind the current Time Schedule, the PMC may instruct the Concessionaire to submit a revised Time Schedule and supporting report describing the revised methods which the Concessionaire proposes to adopt in order to expedite progress and complete the Design & Build Services.

- (vi) The PMC shall be required to participate in the project review meetings held from time to time by KSIDC, as also to participate in emergency or extraordinary meetings held to deal with any emergency, force majeure event or other exigencies.
  - (vii) The PMC shall be responsible for assessing, verifying and sending replies to day-to-day issues raised by the Concessionaires during the execution of work or after completion of the work. In case of any claims with financial implication, approval of KSIDC shall be obtained by the PMC.
  - (viii) The PMC shall provide all technical services/ guidance/ advice as may in any way relate to or arise out of the construction of the said work as have been entrusted to the PMC.
  - (ix) The PMC shall attend to audit queries and all arbitration / litigation cases with respect to the project.
  - (x) To ensure timely completion of the project without diluting the quality standards envisaged and be fully accountable to the KSIDC in this regard.
  - (xi) Assist/advise KSIDC and the Concessionaire for advance actions required in achieving different milestones for completion of projects as per Time Schedule.
  - (xii) Assist KSIDC in co-ordination works with different agencies and hold meetings for proper and timely implementation of the project.
- e. Environmental Protection and Health & Safety
- (i.) The PMC shall ensure that the Concessionaire complies with the Environmental Management Plan as per the Environmental Clearance obtained for the project, the SWM Rules 2016 and all relevant norms and rules as mentioned in KPCB / CPCB guidelines w.r.t air, water, noise pollution during construction.
  - (ii.) The PMC shall ensure the Concessionaire take necessary steps for protection of Environment during implementation and operation of the Project.
  - (iii.) The PMC shall ensure that the Concessionaire complies and implement Site Regulation & Safety. PMC shall review Manual of Safety Policies & Procedures and Occupational Health and Safety Program developed by the Concessionaire and ensure that it complies with all applicable laws.
  - (iv.) The PMC shall direct the Concessionaire in all matters concerning construction safety and care of the works (including the erection of the temporary signs) and if required, to instruct the Concessionaire to provide any necessary lights, guards, fencing and watchmen.
  - (v.) The PMC shall direct the Concessionaire to carry out all such works or to do such things as may be necessary in his opinion to avoid or to reduce the risk in any emergency affecting the safety of life at site or of adjoining property.

- (vi.) The PMC shall direct the Concessionaire to take all necessary steps including those mentioned in the Concession Agreement and Environmental Clearance for the project to protect the environment on and off the site which arise due to construction operations.
  - (vii.) The PMC shall ensure the contractual obligation such as implementation of labour laws, environmental/safety management system obligations and other statutory regulations are adhered during the construction to completion stage.
  - (viii.) The PMC shall ensure that the required Insurance is taken for both the work, as well as for the labourers and workers on the project as per Concession Agreement.
  - (ix.) The PMC shall submit Environmental Protection and Safety Audit Report regarding the status of compliance by the Concessionaire on the environmental protection, social safe guard and Health & Safety is respect to provisions in the Concession Agreement.
  - (x.) Preparation of Compliances and Reports as stipulated in Environmental Conditions and SWM Rules and any other document as required by KSIDC or Government of Kerala.
- g. Certification of Payments, Certificate of Completion and Commissioning of Project
- (i) The PMC shall certify the bills raised by the Concessionaire for the work done in the preceding month and recommend the payment amount to be made to the Concessionaire as per the Billing Schedule as per terms and procedures of Payment provided in the Concession Agreement.
  - (ii) The PMC will be responsible for ensuring that all measurements are taken as per specifications for the works and are recorded in presence of the representative of Concessionaire and are countersigned by him. In processing contractual payments, the PMC will certify that they have checked all the measurements and quality control tests done by the Concessionaire.
  - (iii) In case of Force Majeure, PMC should certify the period and recommend to the KSIDC the impact of Force Majeure for execution of project relevant to Concession Agreement.
  - (iv) In the event that the Concessionaire fails to achieve any of the Project Milestones as per the Time Schedule, the PMC shall undertake a review of the progress of construction and identify potential delays (if any) and instruct the Concessionaire for submission of revised Time Schedule and supporting reports as per the Concession Agreement.
  - (v) The PMC shall issue Completion Certificate as per the Concession Agreement.
  - (vi) The PMC shall issue Operational Acceptance Certificate as per the Concession Agreement. The Key Experts must be present at site during the Commissioning Stage of the project.
- h. Record keeping and MIS
- (i) Maintain records of all labour, material used in the construction of the works and tests conducted during the Design-Build Period.
  - (ii) The PMC shall maintain a hindrance register indicating details of delays and the measures to be undertaken to complete the work on time.
- i. Operations Plans and Programs

The PMC shall review and approve the Plans and Programs related to the Operations Period as per the Concession Agreement.

## **B. Outcome & Deliverables**

The PMC shall submit the following reports (but not limited to) to the KSIDC:

- (i) Monthly Progress Reports (Construction Period) - Describing works and services performed and issues encountered during the reporting month, scheduled activities, Status of works viz a viz approved Time Schedule including action taken for expedition of work if behind schedule (if applicable), Quality Control Statement to be submitted within a week of the end of the reporting period i.e. last day of every month.
- (ii) Quarterly Progress Reports (Construction Period) - Describing in detail the implementation progress of all project components viz a viz Time Schedule with issues highlighted to be submitted within a week of the end of the reporting period i.e. every quarter. PMC should also recommend corrective measure taken (if any) to complete the project as per Time Schedule.
- (iii) Environmental Protection and Safety Audit Report during Construction Period (Monthly) - Describing compliance by the Concessionaire on the environmental protection, social safe guard and Health & Safety in respect to provisions in the Concession Agreement between Concessionaire and KSIDC.
- (iv) Environmental Protection and Safety Audit Report during Operations Period (Monthly) – Status of Compliance of the Operations of the Project in respect to the provisions in the Concession Agreement including stipulations in the Environmental Clearance.

## **C. Deployment of Personnel**

The Full Time Key Experts for the Project which would include Project Manager and Site Engineer and Part-Time Key Experts which would include SWM Expert, Mechanical Engineer, Electrical Engineer and Structure Engineer.

The Project Manager and the Site Engineer are required to be posted at the Project Site Full-time during the entire project duration. In case no construction activity is envisaged at site or suspension of work at site (due to reasons stipulated in the Concession Agreement, the Full Time Key Experts may be granted leave of absence from the site after taking prior approval from KSIDC who shall not unreasonably withhold such request. Any taking of leave by Full Time Experts for a period exceeding 4 days shall be subject to the prior approval of the KSIDC, and the Consultant shall ensure that any absence on leave will not delay or affect the progress and quality of the service by the PMC.

SWM Expert shall visit the site at least once every 2 months for the review the progress of work and review the compliances as per Environmental Clearance and SWM Rules 2016. SWM Expert should also visit the site and attend meetings when requested by KSIDC during the period of the Concession Period. SWM Expert shall also be present at site during the Commissioning Stage up to the Operational Acceptance of the Project and should attend all the Tests on Commissioning as per the Concession Agreement.

The Mechanical / Electrical Engineer shall be present at the site during the supply and erection of Plant and Machinery for W2E Plant / Secondary Bins and at the Commissioning Stage of the Project. The Engineer shall certify that Plant & Machinery and Vehicles procured for the Project

conforms to or is superior to the specifications as per the Minimum Development Obligations, Technical Services Appendix and the approved Design-Build Documents.

The Structure Engineer shall review and approve the design and drawings as per the Concession Agreement taking into account all the location features (like wind load).

The IT Engineer shall review and approve complete IT system design, its output and SLAs to ensure effective delivery of the system at all times.

The Finance Expert shall manage the financial aspects of the project and recommend release of payment to KSIDC. All release of payment to the bidder shall be recommended by Finance Manager, verified by site Engineer and approved by the Project Manager

The Legal Expert shall provide assistance to KSIDC on legal aspects of the contractual matters.

**D. Period of Engagement of PMC**

The period of engagement of service of PMC would be from the date of signing of the Agreement between KSIDC and the PMC till the end of the Construction period .

**E. Payment Schedule**

The Consultant shall be engaged for the entire Construction Period. In case of Delay of Completion by the Concessionaire, Total Consultancy Fee shall remain firm.

The Payment Schedule for PMC of SWM Project of KSIDC is provided in table below:

<b>S. No.</b>	<b>Deliverable</b>	<b>Payments</b>
1.	PMC deliverables as per ToR during Construction Period of Maximum 24 months	Twice of annual payments, quoted by the bidder as annual fee, to be paid each year () – paid equally on a monthly basis.
2.		

\* the payment above shall be for all tasks as provided in ToR, any additional work shall be paid on actuals.

**F. Performance Security**

Consultant has to submit Performance Security as specified in clause 2.16.2 of this RFP, before entering into Agreement. Performance Security validity should be 27 months from signing of Agreement and will be released 3 months after successful completion of services by the Consultant during this period.

**ANNEXURE II: COVER LETTER  
(ON THE LETTER HEAD OF BIDDER)**

The Managing Director,  
Kerala State Industrial Development Corporation Limited  
T.C. XI/266, Keston Road  
Thiruvananthapuram  
**Kerala - 695003**

Dated:

**Subject:** Appointment of PMC for MSW Project at Kerala State Industrial Development Corporation Limited implemented through Design Build, Finance Operation & Transfer (DBFOT) mode

Dear Sir,

With reference to your RFP document dated , I/we, having examined the RFP and understood its contents, hereby submit our proposal

1. The technical and financial proposals are unconditional and unqualified.
2. All information provided in the proposal and in the Appendices is true and correct and all documents accompanying such proposal are true copies of their respective originals.
3. This statement is made for the express purpose of appointment as the Consultant for the aforesaid Project.
4. I/ We shall make available to KSIDC any additional information it may find necessary or required to supplement or authenticate the proposal.
5. I/ We acknowledge the right of KSIDC to reject our proposal without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
6. I/ We certify that in the last 3 (three) years, we or any of our Associates or Consortium Member have neither failed to perform on any Concession Agreement, as evidenced by imposition of a penalty or a judicial pronouncement or arbitration award against the Bidder, nor been expelled from any project or Concession Agreement by any public Independent nor have had any Concession Agreement terminated for breach on our part.
7. I/ We declare that:
  - a. I/ We have examined and have no reservations to the RFP Document, including any Addendum issued by KSIDC.
  - b. I/ We do not have any conflict of interest in accordance with Clauses 2.2 of the RFP document;
  - c. I/ We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4 of the RFP document, in respect of any tender issued by or any agreement entered into with KSIDC or any other public sector enterprise or any government, Central or State;
  - d. We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFP document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. We understand that you may cancel the Selection Process at any time and that you are neither bound to accept any Proposal that you may receive nor to select the Consultant, without incurring any liability to the Bidders in accordance with Clause 2.6 and Clause 6 of the RFP document.



9. We believe that we satisfy the Conditions of Eligibility and meet the requirements as specified in the RFP document and are qualified to submit proposal in accordance with the provisions of the RFP document.
10. We certify that in regard to matters other than security and integrity of the country, we or any of our Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory Independent which could cast a doubt on our ability to undertake the Consultancy for the Project or which relates to a grave offence that outrages the moral sense of the community.
11. We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
12. We further certify that no investigation by a regulatory Independent is pending either against us or against our Associates or against our CEO or any of our Directors/ Managers/employees.
13. We undertake that in case due to any change in facts or circumstances during the Selection Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate KSIDC of the same immediately.
14. We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by KSIDC in connection with the selection of Consultant or in connection with the Selection Process itself, in respect of the above mentioned Project.
15. The Bid Security of Rs.250, 000/- (Rupees Two Lakh Fifty Thousand only) in the form of demand draft, in accordance with the RFP document.
16. We agree and understand that the proposal is subject to the provisions of the RFP document. In no case, shall/we have any claim or right of whatsoever nature if the Consultancy for the Project is not awarded to me/us or our proposal is not opened or rejected.
17. We agree to keep this offer valid for 180 days from the proposal Due Date specified in the RFP.
18. A Power of Attorney in favour of the authorised signatory to sign and submit this Proposal and documents is attached herewith in Annexure-IV
19. We certify that we shall have no claim, right or title arising out of any documents or information provided to us by GoK/ KSIDC or in respect of any matter arising out of or concerning or relating to the Selection Process including the award of Consultancy.
20. We, \_\_\_\_\_ (Bidder's name/Lead Member of Consortium Name) herewith enclose the Financial Proposal as Annexure XI for selection of my/our firm as Consultant.
21. We agree and undertake to abide by all the terms and conditions of the RFP document.
22. In witness thereof, we submit this Proposal under and in accordance with the terms of the RFP document.

Yours faithfully,

(Signature, name and designation of the of the Authorised signatory)

(Name and stamp of Bidder)

**ANNEXURE – III**  
**STATEMENT OF LEGAL CAPACITY**  
*(To be forwarded on the letter head of the Bidder)*

Ref. Date:

The Managing Director,  
Kerala State Industrial Development Corporation Limited  
T.C. XI/266, Keston Road  
Thiruvananthapuram  
**Kerala** - 695003

**Sub:** Appointment of PMC for MSW Project at KSIDC implemented through design, build, finance, operation & transfer (DBFOT) mode

Dear Sir,

We hereby confirm that we, the Bidder, satisfy the terms and conditions laid down in the RFP document.

We have agreed that (insert individual's name) will act as our Authorised Representative and has been duly authorised to submit our Proposal. Further, the Authorised signatory is vested with requisite powers to furnish such proposal and all other documents, information or communication and authenticate the same.

Yours faithfully,

(Signature, name and designation of the Authorised signatory/ Lead Member in case of Consortium)

For and on behalf of.....

**ANNEXURE - IV  
POWER OF ATTORNEY**

Know all men by these presents, we, (name of Firm and address of the registered office) do hereby constitute, nominate, appoint and authorise Mr./Ms. (name & residential address) who is presently employed with us and holding the position of \_\_\_\_\_ as our true and lawful attorney (hereinafter referred to as the "**Authorised Representative**") /Lead Member of Consortium (in case of Consortium) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Proposal for Appointment of PMC for Solid Waste Management Projects at Kozhikode, Kerala by Kerala State Industrial Corporation Limited implemented through Design, Build, Finance, Operate and Transfer mode in response to the RFP floated by KSIDC including but not limited to signing and submission of all applications, proposals and other documents and writings, participating in pre-bid and other conferences and providing information/ responses to the KSIDC, representing us in all matters before the KSIDC, signing and execution of all contracts and undertakings consequent to acceptance of our proposal and generally dealing with the KSIDC in all matters in connection with or relating to or arising out of our Proposal for the said Project and/or upon award thereof to us till the entering into of the Agreement with the KSIDC, and, we do hereby agree to ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Authorised Representative pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Authorised Representative in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS.....DAY OF,..... 2019 For

(Signature, name, designation and address)

(In case of Consortium, Authorised Signatory of each Consortium Partner should be the Signatory)

Witnesses:

- 1.
- 2.

Notarized

Accepted

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

*Notes:*

- 1) The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common stamp affixed in accordance with the required procedure. Copy of such document should be submitted along with the power of Attorney.
- 2) Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/power of attorney in favour of the Person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.

**ANNEXURE-V  
DETAILS OF BIDDER**

*(To be submitted on Letterhead of Bidder and separate sheet for each Consortium Member in case of Consortium)*

- 1 a) Name:
- b) Date of Incorporation/Commencement:
2. Brief Description of Company including details of its main line of Business
3. Shareholding of the Bidder
4. List of Directors:
5. Details of Individual who will serve as the point of contact/communication to Client:
  - a) Name:
  - b) Designation:
  - c) Company:
  - d) Address:
  - e) Telephone No:
  - f) Email Address:
  - g) Fax Number:
  - h) PAN No:
  - i) Service Tax No:
6. Particular of Authorised Signatory of Bidder:
  - a) Name:
  - b) Designation:
  - c) Address:
  - d) Telephone No.:
  - e) Email Address:
  - f) Fax No:

*(Bidder should submit Current Annual Report & attested copy of Certificate of Incorporation by Authorised Signatory)*

**ANNEXURE-VI  
FINANCIAL QUALIFICATION  
OF BIDDER**

<b>SL No</b>	<b>Financial Year</b>	<b>Annual Turnover (Rs. lakh) From Consultancy Business</b>
1	2014-2015	
2	2015-2016	
3	2016-2017	

**Statutory Auditor**

**Name of Audit Firm:**

**Seal of Audit Firm:**

**Name of Partner:**

**Membership No.:**

**Firm Registration No.:**

**Contact No:**

**Address:**

**Note:**

The Bidder shall attach copies of the Balance Sheets, financial statements certified by Chartered Accountant in Practice with his registration no for each financial year. The bidder will submit Statutory Audit Report for each year reflecting annual turnover of Consultancy Business for each year. In case of Consortium, each Consortium Member shall furnish in separate sheet.

**ANNEXURE-VII**

**ELIGIBLE PROJECT EXPERIENCE OF BIDDER**

**Eligible Project Experience of Bidder from Supervision of Construction Work as defined in Clause 2.1.2(C) Similar Project in last ten years**

(Following Tables shall be filled in by Bidder/Each Member of Consortium should submit separate sheet in case of Consortium)

<b>S</b>	<b>Name</b>	<b>Completion</b>	<b>Eligible</b>	<b>Name of</b>	<b>Approximate</b>	<b>Value of</b>	<b>Role of</b>	<b>Whethe</b>
<b>L</b>	<b>of</b>	<b>Date</b>	<b>Assignment</b>	<b>Client,</b>	<b>Concession</b>	<b>Project</b>	<b>Bidder</b>	<b>r as</b>
<b>N</b>	<b>Project</b>		<b>Name &amp;</b>	<b>Address &amp;</b>	<b>Agreement</b>		<b>in</b>	<b>Lead</b>
<b>o</b>			<b>Brief</b>	<b>Contact No</b>	<b>fee</b>		<b>Eligibl</b>	<b>Bidder</b>
			<b>Description</b>		<b>Value in</b>		<b>e</b>	<b>or</b>
			<b>of</b>		<b>INRs.</b>		<b>Assign</b>	<b>Minor</b>
			<b>Deliverables</b>				<b>ments</b>	<b>Consort</b>
			<b>/Inputs/Capa</b>					<b>ium</b>
			<b>city in TPD</b>					<b>Partner</b>
			<b>for both</b>					
			<b>Composting</b>					
			<b>&amp; Landfill</b>					
<b>Completed</b>								
1								
2								
3								
4								
5								
<b>Ongoing</b>								
6								
7								

**Name & Signature of  
Authorised Signatory**

**ANNEXURE-VIII  
CV OF KEY PERSONNEL**

A.

SL No	Position	Name of the Expert	Qualification	Year of Experience	No of Eligible Project Completed	Details of Eligible Projects
1	Project Manager					
2	Solid Waste Management Expert					
3	Site Engineer					
4	Mechanical Engineer				Not to be evaluated	
5	Structural Engineer				Not to be evaluated	

**B.CV of Key Position**

1	Proposed Position			
2	Name of Firm			
3	Name of Staff			
4	Date of Birth			
5	Nationality			
6	Education	Degree	Institution	Year
8	Professional Memberships			
9	Whether NABET Qualified if Qualified give registration No			
9	Other Training & Publications			

10	Countries of Work Experiences			
11	Language	Speak	Write	Read
12	Employment Record	From : To:		Position Held
	Employer Name & Address with Contact No			
	Detail task assigned as per TOR			
<b>For Project Manager</b>				
	<b>Details of Projects handled (to be provided for all the eligible projects)</b>	<input type="checkbox"/> Name of the Project: <input type="checkbox"/> Client Name: <input type="checkbox"/> Works Contractor Name: <input type="checkbox"/> Project Duration-Start Date: End Date: <input type="checkbox"/> Name of ULBs/Industrial Parks/SEZ Project/other Authority involved <input type="checkbox"/> Type of Project Whether SWM or Hazardous Waste/SEZ/Industrial Parks <input type="checkbox"/> Project Cost in Rs: <input type="checkbox"/> Scope of Work of the proposed expert involved in the Project <input type="checkbox"/> Does the Project involve design & supervision consultancy of Project		
<b>For SWM Expert</b>				
	<b>Details of Projects handled (to be provided for all the eligible projects)</b>	<input type="checkbox"/> Name of the Project: <input type="checkbox"/> Client Name: <input type="checkbox"/> Works Contractor Name: <input type="checkbox"/> Project Duration-Start Date: End Date: <input type="checkbox"/> Name of ULBs/Other Authority involved <input type="checkbox"/> Technology involved in the Project <input type="checkbox"/> Scope of Work of the proposed expert involved in the Project <input type="checkbox"/> Does the Project involve design & supervision consultancy of SWM Project <input type="checkbox"/> Capacity of SWM Projects in TPD		
<b>For Site Engineer</b>				
	<b>Details of Projects handled (to be provided for all the eligible projects)</b>	<input type="checkbox"/> Name of the Project: <input type="checkbox"/> Client Name: <input type="checkbox"/> Works Contractor Name: <input type="checkbox"/> Project Duration-Start Date: End Date: Name of Authority involved Type of Project:		



		<ul style="list-style-type: none"> <li>○ Scope of Work of the proposed expert involved in the Project</li> <li>○ Does the Project involve design &amp; supervision consultancy of SWM Project</li> <li>○ Capacity of SWM Projects in TPD(applicable for SWM Project)</li> <li>○ If not SWM Project then mentions nature and scope of Project and details of responsibilities.</li> </ul>
	For Mechanical Engineer	
		○
	For Electrical Engineer	
		○
	For Structural Engineer	
		<ul style="list-style-type: none"> <li>○ Name of the Project:</li> <li>○ Client Name:</li> <li>○ Description of Project:</li> <li>○ Project Duration Start Date: End Date:</li> <li>○ Scope of Work of the proposed expert involved in the project</li> </ul>
	For IT Engineer	
		○
	For Finance Expert	
		○
	For Legal Expert	
		○

<b>Notes:</b> <input type="checkbox"/> Use separate form for each Key Personnel <input type="checkbox"/> CV shall be signed and dated by both the Personnel concerned and by the Authorised Representative of the Bidder firm along with the seal of the firm.	(Signature and name of the Key Personnel and authorised signatory of the Bidder)	

**ANNEXURE - IX**  
**LEGALLY BINDING SIGNED DECLARATION OF UNDERTAKING**

We underscore the importance of a free, fair and competitive contracting procedure that precludes abusive practices. In this respect we have neither offered nor granted directly or indirectly any inadmissible advantages to any public servant or other person nor accepted such advantages in connection with our bid, nor will we offer or grant or accept any such incentives or conditions in the present tendering process or, in the event that we are awarded the Contract Agreement, in the subsequent execution of the Contract Agreement. We also underscore the importance of adhering to environmental and social standards in the implementation of the project. We will inform our staff of their respective obligations and of their obligation to fulfil this declaration of undertaking and to obey the laws of the country of India . We acknowledge that, in the event that our company (or a member of the consortium) is added to a list of sanctions that is legally binding on the KSIDC, the KSIDC shall be entitled to exclude us/the consortium or, if the Contract Agreement is awarded to our company/the consortium, to immediately cancel such Agreement if the statements made in the Declaration of Undertaking were objectively false or the reason for exclusion from the tender procedure occurs after the Declaration of Undertaking has been issued.

(Place)..... (Date)..... (Name of company) .....

(Signature(s))

## **ANNEXURE – X**

### **SALIENT ASPECT OF TECHNICAL PROPOSAL**

The salient aspects of the technical proposal shall be described as follows:

#### **1. Clarity on Completeness of Bids**

The bid for services must take full account, in content and form, the terms of reference and the conditions of the bid for services in the request for proposal. All the components of the bid for services that are required must be presented. Clarity in the bid means a clear structure, text statements supported with appropriate tables, lists and other editorial aids in accordance with the complexity of the terms of reference, and a balanced use of annexes to keep the main text clear and precise. If there are minor omissions in relation to the terms of reference, points will be deducted. Omissions that considerably restrict comparison with other bids can cause the bidder to be excluded.

#### **2. Approach & Methodology, Work Plan & Manning Schedule**

The bid for services must present the methodological approach and the programme of work in such a way that their suitability in regard to the terms of reference can be assessed and they can be compared with other qualified bids. This includes a statement of the work organisation planned and the logistics. If there is an evident and considerable discrepancy between the terms of reference and the quantities given, the bid will not be considered. The text should state clearly how the task is to be proposed to be undertaken and the deployment schedule of staff. In case the key staff is to be supported by additional staff, the same shall be reflected in the approach and methodology. The work plan and manning schedule shall be provided in the form of bar chart. It must be supplemented with diagrams, tables and in case of complex work, appropriate graphics.

##### **The approach and methodology to be covered under the following heads:**

- a. Understanding of the scope of work
- b. Proposed methodology of Consultant for undertaking the assignment
  - i. Deployment of staff and logistics
  - ii. Technical approach
  - iii. Methodological framework for Supervision and Monitoring,

## **WORK PLAN**

**Work Plan**

SL No	Activity	Duration In Quarter							
		1	2	3	4	5	6	7	8
<b>Inception</b>									
1.1	Task-1:								
1.2	Task-2:								
1.3	Task-3:								
<b>Implementation Plan</b>									
2.1	Task-4:								
2.2	Task-5:								
2.3	Task-6:								
<b>Project Review Meeting and Monitoring the Progress</b>									
3.1	Task-7:								
3.2	Task-8:								
3.3	Task-9:								
<b>Compliance to Municipal Solid-Waste Management Rule 2016</b>									
4.1	Task-10:								
4.2	Task-11:								
4.3	Task-12:								
<b>O&amp;M Plan &amp; Issuance of Project Completion Certificate, As Built Drawing</b>									
5.1	Task-13:								
5.2	Task-14:								
5.3	Task-15:								

**Manning Schedule**

Sr. No.	Name	Position	Month /Quarter wise Programme (In the form of Bar chart)								No of Months
			1st	2nd	3rd	4th	5th	6th	7th	8th	
<b>Key Staff</b>											
1											Subtotal (1)
2											Subtotal (2)
3											Subtotal (3)
4											Subtotal (4)
<b>Support Staff</b>											
5											Subtotal (5)
6											Subtotal (6)

The Project Manager shall make a presentation on the proposed approach for undertaking the assignment and also demonstrate their capability to undertake the tasks proposed. Power Point Presentation shall be made only by the Project Manager. Any other representative of the Bidder shall not be permitted to make the presentation. However in case of any unavoidable circumstances beyond Control of the Bidder other Authorized Person can be allowed with permission of Client.

**ANNEXURE – XI**  
**FINANCIAL PROPOSAL**  
*(ON THE LETTER HEAD OF BIDDER)*

Appointment of Consultant for PMC in Integrated Municipal Solid Waste Management Project implemented through DBFOT Mode by Kerala State Industrial Development Corporation, Kerala.

Having gone through the RFP and having fully understood the scope of work for the Project as set out in the TOR, we are pleased to quote the following Professional fees for the Assignment as per the specified scope of Work:

Sl No	Particulars	Monthly Rate ( in Figures & Words )	Annual Rate ( in Figures & Words )
<b><u>A</u></b>	<b><u>Manpower Cost - Key Personnel</u></b>		
1.	Project Manager		
2.	SWM Expert		
3.	Site Engineer		
4.	Mechanical Engineer		
5.	Electrical Engineer		
6.	Structural Engineer		
7.	IT Engineer		
8.	Finance Expert		
9.	Legal Expert		
	<b>Sub Total</b>		
<b><u>B</u></b>	<b><u>Office Management Expenses</u></b>		
1.	Office Space rent		
2.	Vehicle Cost		
3.	Office Equipments & stationary		
4.	Telephone & Internet Connectivity		
5.	Others		
	<b>Sub Total</b>		

C	<b><u>Contingency expenses</u></b>		
	<b>Total Annual Fee</b>		

Signature of authorised representative of the Bidder

Note:

1. The Financial Proposal is inclusive of expenses which may be incurred towards office in Kozhikode, mobilisation of team, travel, accommodation, documentation and communication, during the period of assignment.
2. In case of difference in amount quoted in figures and words, the value in words shall be considered for evaluation.
3. The Financial Proposal is inclusive of all taxes i.e. income tax, professional tax and education cess except GST (as applicable).

**We understand you are not bound to accept any proposal you receive**



## ANNEXURE XII GUIDANCE NOTE ON CONFLICT OF INTEREST

1. This Note further explains and illustrates the provisions of Clause 2.2 of the RFP and shall be read together therewith in dealing with specific cases.
2. Consultants should be deemed to be in a conflict of interest situation if it can be reasonably concluded that their position in a business or their personal interest could improperly influence their judgment in the exercise of their duties. The process for selection of consultants should avoid both actual and perceived conflict of interest.
3. Conflict of interest may arise between the KSIDC and a consultant or between consultants and present or future contractors.

Some of the situations that would involve conflict of interest are identified below:

**a. KSIDC and consultants:**

- i) Potential consultant should not be privy to information from KSIDC which is not available to others;
- ii) Potential consultant should not have defined the project when earlier working for KSIDC
- iii) Potential consultant should not have recently worked for the KSIDC overseeing the project.

**b. Consultants and contractors:**

- i) No consultant should have an ownership interest or a continuing business interest or an on-going relationship with a potential contractor save and except relationships restricted to project-specific and short-term assignments; or
  - ii) No consultant should be involved in owning or operating entities resulting from the project; or
  - iii) No consultant should bid for works arising from the project.
  - iv) The participation of companies that may be involved as investors or consumers and officials of the GOK/ KSIDC who have current or recent connections to the companies involved, therefore, needs to be avoided.
4. The normal way to identify conflicts of interest is through self-declaration by consultants. Where a conflict exists, which has not been declared, competing companies are likely to bring this to the notice of the KSIDC. All conflicts must be declared as and when the consultants become aware of them.
  5. Another way to avoid conflicts of interest is through the appropriate grouping of tasks. For example, conflicts may arise if consultants drawing up the terms of reference or the proposed documentation are also eligible for the consequent assignment or project.
  6. Another form of conflict of interest called "scope-creep" arises when consultants advocate either an unnecessary broadening of the terms of reference or make recommendations which are not in the best interests of the KSIDC but which will generate further work for the consultants. Some contracts provide fewer incentives for this, while time and material contracts provide built in incentives for consultants to extend the length of their assignment.
  7. Every project contains potential conflicts of interest. Consultants should not only avoid any conflict of interest, they should report any present/ potential conflict of interest to the KSIDC at the earliest. Officials of the KSIDC involved in development of a project shall be responsible for identifying and resolving any conflicts of interest. It should be ensured that safeguards are in place to preserve fair and open competition and measures should be taken to eliminate any conflict of interest arising at any stage in the process.

## ANNEXURE-XIII AGREEMENT FOR CONSULTANCY SERVICES

This Consultancy Agreement (hereinafter called the "**Consultancy Contract Agreement**") is made on ..... day of the month of ....., 2019, by and between,

**Kerala State Industrial Development Corporation**, a public limited company formed and incorporated under the Indian Companies Act, 1952 and having its registered office at T.C. XI/266, Keston Road, Thiruvananthapuram, Kerala – 695003 represented by Managing Director, KSIDC (hereinafter called "**KSIDC**" or "**Client**" which includes its successors and permitted assigns), of the First Part and \_\_\_\_\_ incorporated under Companies Act 1956/2013/ or any other Act and having its registered office at \_\_\_\_\_, **India** and represented by its Authorised Representative \_\_\_\_\_ (hereinafter called the "**Consultant**"), which includes its successors and permitted assigns), of the Second Part.

Each of Client and Consultant are individually referred to as First Party and Second Party respectively and collectively referred to as Parties.

### WHEREAS

- a) The GOK desirous of implementing Solid Waste Management (SWM) project at Njalianparambu, Kozhikode and has appointed KSIDC as the nodal agency to coordinate the development of the SWM project. KSIDC has now sought the appointment of a PMC for Supervision of Construction of SWM Project implemented through Design-Build-Finance-Operate-Transfer (DBFOT) mode at Kozhikode, Kerala.
- b) the Client has requested the Consultants to provide certain Consulting Services as defined in the Contract Agreement (hereinafter called the "Services");
- c) the Consultants, having represented to the Client that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the Terms and Conditions set forth in this Contract Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract Agreement:
  - a) The General Conditions of Contract Agreement;
  - b) The Special Conditions of Contract Agreement;
  - c) The following Annexures:
    - II. Annexure 1 [Terms of Reference plus Tender Documents]
    - I. Annexure 2 [Staffing Schedule]
    - Annexure 3 [Equipment and Furnishings to be provided by the KSIDC]
    - I. Annexure 4 [Time Schedule for the Performance of the Services]
    - II. Annexure 5 [Statement of Costs]
    - III. Annexure 6 [The Consultant's Bid including signed Pre Bid Clarification & Addendum]
    - X. Annexure 7 Model Performance Guarantee
    - . Annexure 80 Concession Agreement between KSIDC and Concessionaire (with Addendums)
    - I. Annexure 9 Letter of Award
2. The rights and obligations of the Client and the Consultants shall be as set forth in the Contract Agreement, in particular:
  - a) The Consultants shall carry out the Services in accordance with the provisions of the Contract Agreement; and

- b) The Client shall make payments to the Consultants in accordance with the provisions of the Contract Agreement.
- c) The KSIDC shall provide necessary assistance to the Consultants and also carry out the duties in accordance with the provisions of the Contract Agreement.

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

<b>For and behalf of Client</b>	<b>For and behalf of Consultant</b>
Managing Director Kerala State Industrial Development Corporation T.C. XI/266, Keston Road, Thiruvananthapuram, Kerala – 695003	

## **GENERAL CONDITIONS**

### **PARAGRAPH 1 GENERAL PROVISIONS**

#### **1.1 Definitions**

The words and expressions used in this Contract Agreement shall have the following meanings assigned to them, unless the context requires otherwise.

The “Agreed Remuneration” means the fee to which the Consultant is entitled as described in Paragraph 5 (Remuneration), which shall be payable in accordance with this Contract Agreement.

The “Commission” means the performance of the Services pursuant to this Contract Agreement

The “Completion Period” means the period designated for completion of the Services in the Special Conditions.

The “Consultant” shall be the professional undertaking or the professional individual named in the Contract Agreement who is appointed by the KSIDC to perform the Services.

The “Contract Agreement”, except where otherwise stated in the Special Conditions, means the Conditions of this Contract Agreement for Consulting Services (General Conditions and Special Conditions) together with the following constituent parts of the Contract Agreement

Annex 1 (Terms of Reference plus Tender Documents including pre bid meeting minutes and addenda )

Annex 2 (Staffing Schedule)

Annex 3 (Equipment and Furnishing to be provided by KSIDC)

Annex 4 (Time Schedule for delivery of the Services)

Annex 5 (Statement of Costs)

Annex 6 (The Consultant’s Bid including pre bid minutes addendum)

Annex 7 (Model Performance Guarantee)

Annex 8 Concession Agreement between KSIDC and contractor for legacy waste bio mining & disposal)

Annex 9 (Letter of Award)

The “Country “means the Country or Region to which the Project (or the majority thereof) relates

The “**date on which execution shall be commenced** “means the day specified in the Special Conditions.

A “**day** “ means one calendar day.

“ **Force Majeure**” means any event whereby one party to the Contract Agreement has been prevented from performing the Services due to an unavoidable event such as a natural disaster, hostage-taking, war, revolution, terrorism or sabotage, which, with even the best human judgement and experience and utmost care, could not have been reasonably foreseen in the circumstances, prevented or rendered harmless by economically reasonable means unless such event must be accepted by the relevant party due to its regular occurrence, including, except where otherwise stated in the Special Conditions, circumstances such as crisis, war or terror. If an event occurs as a result of the actions of or risks assumed by a party to the Contract Agreement, that event shall not constitute Force Majeure.

“**Foreign Currency**” means any currency other than the Local Currency.

The Consultant's "**Foreign Staff**" means all those staff that does not possess the citizenship of the country.

The "**Local Currency**" means the currency of the country.

A "**notice**" means a notification communicated to one party by the other party.

A "**party**"/the "**parties**" mean(s) the KSIDC and the Consultant.

"**Contract Agreement Value**" shall have the meaning given to it in A.d.5.1.1 of the Special Conditions.

The "**Project**" means the project specified in the Special Conditions for which the Services are to be performed.

The "**Services**" means the contractual services described in **Annex 2** [*Minutes of Negotiations*], **Annex 3** [*Terms of Reference plus Tender Documents*], **Annex 8** [*The Consultant's Bid*] and Paragraph 3.1 [*Scope of Services*], as well as the standard and special services defined in Paragraph 3.2 [*Standard and Special Services*].

A "**third party**" means any other natural and legal person, according to the context.

"**Written**" or "**in writing**" means written by hand or typed by machine, and produced in a printed or electronic form, the result being a non-editable permanent record.

A "**year**" means 365 days

## **1.2 INTERPRETATION**

1.2.1 Heading in this Contract Agreement shall have no bearing on the interpretation of these conditions. Words in the singular, in so far as the context allows, shall also include the plural and vice versa.

1.2.2 Reference to either sex shall include both

1.2.3 Provisions containing the words "agree", "agreed" or "agreement" (and all derived grammatical forms thereof) shall require written agreement and signature by both parties.

## **1.3 RANKING AND ORDER OF THE INTEGRAL PARTS OF THE CONTRACT AGREEMENT**

1.3.1 For the implementation of this Contract Agreement, the parts of the Contract Agreement listed below shall take precedence in the order shown below and the Annexes shall take precedence in the order in which they are numbered

a. The agreements of the Contract Agreement (General and Special Conditions), without the Annexes.

b. The Annexes of the Contract Agreement in the order in which they are numbered

These General Conditions and the Annexes shall remain – except where otherwise stipulated in the parts of the Contract Agreement in question – immutable

1.3.2 In case of inconsistencies or ambiguities between parts of the Contract Agreement that cannot be resolved through the ranking set out in Clause 1.3.1, the KSIDC shall interpret the parts of the Contract Agreement in line with the intention of the parties based on the purpose and intention of the Contract Agreement as a whole, including all Annexes.

## **1.4 COMMUNICATION**

1.4.1 Except where otherwise stipulated, notices, instructions and messages must be communicated between the parties in writing and in the language specified in the Special Conditions, and any such notice, instruction or message may not be unreasonably refused or delayed.

## **1.5 NOTICES**

- 1.5.1 Except where otherwise stipulated in the Special Conditions, the notices to be served pursuant to this Contract Agreement shall take effect upon receipt at the addresses specified in the Special Conditions. The notice may be served in person, by a courier service, by fax (with written confirmation of receipt), by registered letter or by email (only if this is sent in an encrypted and certified form (e.g. S/MIME certificate))

## **1.6 LAW AND LANGUAGE**

- 1.6.1 The Special Conditions shall contain the language or languages of the Contract Agreement, the prevailing contractual language and the law governing this Contract Agreement.

## **1.7 DELETED**

## **1.8 MEASUREMENTS AND STANDARDS**

- 1.8.1 Drawings, plans and calculations shall be based on the industry standards to be applied to the Services performed under the Contract Agreement.

## **1.9 ASSIGNMENT AND SUB-CONTRACTING**

- 1.9.1 The Consultant shall not have the right to assign or transfer all or any of its rights under this Contract Agreement without the prior written consent of the KSIDC. The KSIDC's consent shall not be required for the assignment of any amounts due or which shall become due under this Contract Agreement.
- 1.9.2 The Consultant may conclude, terminate or cancel sub-contracts for the performance of a part of the Services that are the subject of this Contract Agreement only upon prior written approval by the KSIDC. In cases where the Services are sub-contracted, the Consultant's obligations to fulfil the Contract Agreement shall remain unaffected.

## **1.10 RIGHTS TO THE RESULTS OF WORK, COPYRIGHT**

- 1.10.1 Except where otherwise stated in the Special Conditions of this Contract Agreement, the Consultant shall transfer to the KSIDC all transferrable rights to the Services performed under this Contract Agreement on the date any such rights arise, and in any event at the latest, on the date they are acquired. Insofar as a transfer of such rights is not possible, the Consultant shall irrevocably grant the KSIDC an unrestricted, transferrable, licensable and exclusive rights of use and exploitation that are unlimited with respect to time and place of use. Such transfer shall include the right to adapt any transferred rights. The Consultant shall ensure that any relevant creator of such transferrable rights waives its exercise of any such relevant rights.
- 1.10.2 If the Consultant employs third parties (e.g. employees) to perform the Services, it shall ensure that these parties allow him to transfer and/or grant the rights in full. The Consultant shall ensure that third parties waive the exercise of any relevant rights.
- 1.10.3 The Consultant shall issue all information requested by the KSIDC in connection with this Contract Agreement, and shall make available free of charge all requested records, documents and information. This obligation shall remain effective after termination of the Contract Agreement for a period of 24 months.

## **1.11 OWNERSHIP OF DOCUMENTS AND EQUIPMENT**

- 1.11.1 All studies, reports and pertinent data and documents such as diagrams, plans, statistics and annexes that are made available to the Consultant in the performance of the Commission, as well as software (including the respective source codes) produced or adapted for consideration as part of the Commission, shall become the property of the KSIDC. The Consultant shall not be entitled to exercise a right of retention with respect to these materials.

1.11.2 Equipment, including vehicles purchased, if any, for the performance of the Consultant's Services and paid for fully by the KSIDC, shall be handed over to the KSIDC after completion of the Services. The Consultant shall handle with due care and maintain any such equipment.

## **1.12 CONFIDENTIALITY AND PUBLICATION**

1.12.1 The Consultant shall ensure that its employees, keep confidential all documents passed on to it by the KSIDC, as well as all information exchanged and knowledge acquired concerning this Contract Agreement and its implementation, even if such documents have not been expressly designated as confidential. This obligation of confidentiality upon the Consultant and its employees shall remain effective after termination of the Contract Agreement. It shall not apply to disclosure to a court or to a public Independent, insofar as this disclosure is made on the basis of legal obligations or by order of a court or a public Independent. It shall also not apply to those materials, information and knowledge acquired for which and insofar as the KSIDC has given written consent for publication.

1.12.2 The obligation of confidentiality set out in Clause 1.12.1 shall not apply to information which:

- a. was demonstrably already known to the recipient when the Contract Agreement was concluded, or thereafter was made known by a third party, without this having constituted any violation of a confidentiality agreement, legal regulations or official orders; or
- b. is publicly known upon conclusion of the Contract Agreement or is made publicly known thereafter, insofar as this is not based on a violation of this Contract Agreement.

## **1.13 CONDUCT**

1.13.1 During the term of this Contract Agreement, the Consultant and its Foreign Staff shall not interfere with the political or religious affairs of the country.

## **1.14 CORRUPTION AND FRAUD**

1.14.1 When discharging their obligations under this Contract Agreement, the Consultant, its representatives and its employees shall comply with all applicable laws, rules, regulations and provisions of the relevant legal systems.

1.14.2 The Consultant shall not offer or grant either directly or indirectly any improper advantages to public officials (as defined below) or other individuals in connection with its bid in the tendering process. In addition, it shall not offer or grant any such incentives or conditions when implementing the Contract Agreement. The Consultant shall be obliged to notify the KSIDC in detail immediately in writing if the Consultant is prompted by a public official or any other persons to make illegal payments.

1.14.3 The Consultant will inform its members of staff of their respective obligations as well as their obligation to comply with the Declaration of Undertaking and to obey the laws of the country.

1.14.4 A Public Official shall be

- a. Any official or employee of a public Independent or an enterprise under the ownership and control of a government.
- b. Any person who performs a public function
- c. Any official or staff member of a public international organization, such as the World Bank
- d. Any candidate for a political office, or
- e. Any political party or official of a political party.

## **1.15 DELETED**

## **1.16 PARTIAL INVALIDITY**

- 1.16.1 The invalidity or unenforceability of one or more provisions of this Contract Agreement will not affect the validity or enforceability of any other provisions of this Contract Agreement. Any invalid or unenforceable provision shall be replaced by a valid and enforceable provision which approximates as closely as possible the economic purpose of the invalid or unenforceable provision. The same shall apply accordingly in cases of omissions.

## **Paragraph 2 the KSIDC**

### **2.1 INFORMATION**

- 2.1.1 During the term of this Contract Agreement, the Client, within a reasonable period of time, shall, free of charge, place at the disposal of the Consultant, all data, documentation and information concerning the Services covered by the Commission that are available to it.

### **2.2 DECISIONS & COOPERATION**

- 2.2.1 Subject to the Consultant having provided the KSIDC with all the necessary information including, but not limited to, drawings, studies and replacement staff, the KSIDC shall make its decisions pursuant to this Contract Agreement as soon as possible after the Consultant requests such duty to be performed in writing and, in any event, no later than the end of the expiry period specified in the Special Conditions.

### **2.3 SUPPORT**

- 2.3.1 The KSIDC will support, as far as reasonably possible, the Consultant in discharging its obligations pursuant to this Contract Agreement. The KSIDC shall make available to the Consultant in good time and in full all the services necessary for the performance of its tasks as detailed in Annex 3 [Terms of Reference plus Tender Documents].
- 2.3.2 In addition, the KSIDC shall support the Consultant, the Consultant's staff and where applicable relatives of the Consultant in:
- a. Obtaining in good time any documents necessary for entering, residing in, working in and leaving the country (visa, work permit etc.);
  - b. granting and/or obtaining unrestricted access to the Project where necessary for the performance of the Services
  - c. the import, export and customs clearance of personal items and of goods and commodities required for performance of the Services;
  - d. securing return transport in cases of emergency
  - e. providing access to other organisations for the purpose of obtaining information to be procured by the Consultant

### **2.4 TAXES**

- 2.4.1 Subject to the following provisions, the Consultant and its Foreign Staff shall duly comply with all taxes, duties, levies and other charges that are legally prescribed in the country as applicable from time to time, in connection with:
- a. payments to the Consultant or to its Foreign Staff in connection with the performance of the Services
  - b. services performed by the Consultant or its staff in connection with the fulfilment of their tasks;
  - c. Equipment, materials, and supplies necessary for the performance of the Services, including motor vehicles and personal belongings of the Foreign Staff that are brought into the country and shipped out after completion of the Services or that have been destroyed in the course of the performance of the Services.

## **2.5 EQUIPMENTS & OFFICES**



2.5.1 For the purposes of performing the Services, the Authority shall make available to the Consultant, free of charge, technical and other equipment and offices to the extent described in Annex VI

## **2.6 CONTACT PERSON OF KSIDC**

2.6.1 The KSIDC shall appoint an official to act as the KSIDC's contact person under this Contract Agreement.

## **2.7 THIRD PARTY SERVICES**

2.7.1 The KSIDC is obliged, at its own expense, to make the necessary provision for the performance of those services by third parties commissioned by it, as described in **Annex 1**

## **2.8 PAYMENT FOR SERVICES**

2.8.1 The Consultant shall receive from the KSIDC remuneration for the Services performed under this Contract Agreement in accordance with Article 5 [Remuneration].

## **PARAGRAPH 3 THE CONSULTANT**

### **3.1 SCOPE OF SERVICES**

3.1.1 The Consultant shall deliver the Services in full and on time.

3.1.2 The Services to be performed by the Consultant encompass all the part services described and explained in this Contract Agreement and its Annexes, in particular in Annex **2** [Minutes of Negotiations] Annex **3** [Terms of Reference plus Tender Documents plus Pre Bid Meeting, Minutes Plus Addendum] and Annex **9** [The Consultant's bid]. Furthermore, the Consultant must deliver all the standard and special services as defined in Paragraph 3.2.1. [Standard and Special Services].

3.1.3 The Consultant shall work together with third parties commissioned by the KSIDC, if any, pursuant to Paragraph 2.7 [Third-party services]. The KSIDC is not responsible for these third parties or their performance. In addition, the Consultant must comprehensively coordinate their services with its own services, as far as possible

### **3.2 STANDARD AND SPECIAL SERVICES**

3.2.1 In addition to the Services specified explicitly in the Contract Agreement, the Consultant shall also perform all other services, if necessary, that are not listed under the contractual services, but are customarily required in order to properly discharge the contractual obligations ("standard services"). The standard services shall be fully compensated through the Agreed Remuneration.

3.2.2 "Special Services" are services that are not included under the contractual or standard services, but must necessarily be delivered by the Consultant in order to properly perform its duties under the Contract Agreement, because the external circumstances of service delivery have changed unexpectedly, or because the KSIDC has suspended the Services pursuant to Paragraph 4.5 [Force majeure], or because the KSIDC, requires services that were not included in the invitation to tender but are necessary.

### **3.3 DUE DILIGENCE**

3.3.1 Except where otherwise stipulated in this Contract Agreement, or otherwise legally stipulated within the country or within another legal system (including the legal system in the

Consultant's jurisdiction) by provisions that impose higher demands than this Contract Agreement, when performing its obligations under this Contract Agreement the Consultant shall exercise due diligence and provide the Services in compliance with professional practice and to the recognised quality standards, in accordance with current scientific and generally accepted engineering standards. The Consultant must document its work, the progress of the Project and the decisions it takes in an appropriate form that is acceptable to the KSIDC, bearing in mind the requirements arising from Paragraph 5.7 [Auditing].

### **3.4 REPORTING**

3.4.1 The Consultant shall report to the KSIDC on the progress of the Services in accordance with the Special Conditions. Except where otherwise stipulated in the Special Conditions, in case of longer assignments such as construction management, training or operational support, the Consultant shall draw up quarterly reports, and following the conclusion of the Services draw up a final report covering the entire Completion Period. The reports shall include a comparison of targeted and actual values for the planned activities; the progress of construction; developments in the time frame; financial developments; and information on any problems and identification of possible solutions.

3.4.2 The Consultant shall inform the KSIDC promptly of all extraordinary circumstances that arise during the performance of the services

3.4.3 Furthermore, the Consultant shall, upon request, supply the KSIDC with information in connection with the Services

### **3.5 STAFFING**

3.5.1 The Consultant shall employ the staff specified in Annex V[Staffing Schedule] to implement performance of the Services. The list of designated key staff and any changes to it shall require the prior written approval of the KSIDC.

3.5.2 The KSIDC may require the Consultant to terminate the Contract Agreement of, or replace, any staff member who fails to meet the requirements or violates Paragraph 1.13 [Conduct]. Any such demand must be submitted in writing to the Consultant stating the reasons for it.

3.5.3 If staff employed by the Consultant need to be replaced, the Consultant shall ensure that the staff member in question is replaced promptly by an individual who possesses at least equivalent qualifications.

3.5.4 If any one of the Consultant's staff falls ill for more than one month and this jeopardises the performance of this Contract Agreement by the Consultant, the Consultant shall replace this staff member with another staff member who possesses at least equivalent qualifications.

3.5.5 Staff shall only be replaced after prior approval by the KSIDC, such approval not to be unreasonably withheld. The exchange, replacement, or planned dispensation of replacement (as exception to existing rules) of key staff specified by name shall require the prior approval of KSIDC.

3.5.6 If the Consultant must terminate the Contract Agreement of, or replace, any staff during the Contract Agreement period, the costs thus accrued shall be borne by the Consultant, except where staff are removed or replaced at the KSIDC's request. In this case, the KSIDC shall meet the costs of replacing the staff member, unless the staff member in question does not meet the requirements or has violated Paragraph 1.13 [Conduct].

### **3.6 CONTACT PERSON OF THE CONSULTANT**

3.6.1 The Consultant shall appoint for the exercise of all rights and obligations arising from this Contract Agreement a natural person as its contact person for the KSIDC under this Contract Agreement.

3.6.2 The Consultant shall specify and provide respective contact data to the KSIDC for an individual at the Consultant's place of business who can be reached at any time in cases of emergency or crisis as well as a deputy of the Consultant. The Consultant shall notify the KSIDC without delay of any change of elected person or their contact data.

### **3.7 INDEPENDENCE OF THE CONSULTANT**

3.7.1 The Consultant undertakes that neither the Consultant nor any enterprise associated with the Consultant shall bid for the Project as manufacturer, supplier, or building contractor. This prohibition also applies to any bidding for any further consulting services, insofar as such consulting services might lead to a restriction of competition or a conflict of interests. Any violation of this stipulation may lead to the immediate cancellation of this Contract Agreement and require the reimbursement of any and all costs incurred by the KSIDC up to the time of such violation as well as compensation for any and all losses and damages incurred by the KSIDC as a result of such cancellation.

## **PARAGRAPH 4 COMMENCEMENTS, COMPLETION, AMENDMENT AND TERMINATION OF THE SERVICES**

### **4.1 COMMENCEMENT AND COMPLETION**

4.1.1 The Consultant shall begin performing the Services on the prescribed date on which execution of the Contract Agreement shall take place, but not earlier than and without undue delay after the Contract Agreement has come into force. The Consultant shall deliver the Services in accordance with the time schedule in Annex 7 [Time Schedule for the Performance of the Services], and shall complete the Services within the Completion Period, subject to any further extensions to this Contract Agreement.

4.1.2 In relation to optional services (if any), the Consultant shall commence delivery of the optional services not earlier than upon receipt of notification from the KSIDC.

4.1.3 Any change to the time schedule in Annex 7 [Time Schedule for the Performance of the Services] due to a reasonable request by either party shall be mutually agreed upon in writing.

### **4.2 DELETED**

### **4.3 AMENDED SERVICES**

4.3.1 The KSIDC shall be entitled to require an amendment of the Contract Agreement (amended or additional services or amended deadlines/periods for execution – “amended services”).

4.3.2 In this case, the Agreed Remuneration and the Completion Period shall be adjusted accordingly by mutual agreement of the parties. The Consultant shall submit proposals for performance of and remuneration for the amended services

4.3.3 The Consultant shall execute the amended services if the KSIDC agrees, in writing, to the remuneration proposal. If the parties do not agree on the remuneration proposal within three months of the Consultant commencing delivery of the Services, the entitlement to remuneration shall be treated as a dispute under Article 8 [Disputes and Arbitration Procedure].

### **4.4 IMPEDIMENT**

4.4.1 If the performance of the Services is impeded or delayed by the KSIDC or GoK or LSGIs (“impediment”) such that the impediment leads to an increase in the costs, the scope or the duration of the Services, the Consultant shall immediately notify the KSIDC of the circumstances and the possible consequences.

4.4.2 If an impediment falls within the sphere of risk of the KSIDC or if the impediment is caused by the KSIDC through intent or gross negligence, the Consultant shall be entitled to

reimbursement of the costs incurred by it as a result of the impediment, subject to these costs being evidenced.

#### **4.5 FORCE MAJEURE**

4.5.1 In the event of Force Majeure, the contractual obligations, as far as affected by such event, shall be suspended for as long as performance remains impossible due to the Force Majeure, provided that one party to the Contract Agreement receives notification of the Force Majeure event from the other party within two weeks after its occurrence. Any and all liability of the Consultant for damages arising due to its absence caused by the Force Majeure is excluded.

4.5.2 In the event of Force Majeure, the Consultant shall be entitled to an extension of the Contract Agreement equal to the delay caused by such Force Majeure. If the performance of the Services is rendered permanently impossible by the Force Majeure, or if the Force Majeure event lasts for longer than 180 days, both parties to this Contract Agreement shall be entitled to terminate the Contract Agreement.

4.5.3 In case of suspension or termination of the Contract Agreement due to Force Majeure, the Services performed up to the time of the Force Majeure and all necessary expenditure (which is evidenced) of the Consultant arising from the discontinuing of the Services shall be invoiced on the basis of contractual prices. Neither party shall make any further claims

#### **4.6 SUSPENSION OR TERMINATION**

4.6.1 The KSIDC may fully or partially suspend the Services or terminate this Contract Agreement after serving written notice of at least 30 days. In this event, the Consultant must immediately take all measures necessary to ensure that the Services are discontinued and the expenditure minimised. The Consultant shall hand over all reports, drafts and documents to be drawn up by the date in question to the KSIDC. If the suspension lasts longer than 180 days the Consultant may terminate the Contract Agreement. In case of termination Paragraph 4.5.3 [Force majeure] shall apply mutatis mutandis.

4.6.2 If the Consultant fails to meet its contractual obligations without sufficient reason; in accordance with the Contract Agreement; or on time, the KSIDC may serve a notice upon the Consultant and request it to duly perform its Services. If the Consultant fails to remedy the performance deficit within a period of 21 days of having been called upon to do so by the KSIDC, the KSIDC shall be entitled, after this period has elapsed, to terminate the Contract Agreement by written notice.

4.6.3 The Consultant may terminate this Contract Agreement if any amounts due and payable to it under this Contract Agreement have not been paid within 60 days after the receipt of the corresponding invoice, as long as the Consultant has given the KSIDC a written reminder within a period of 30 days after the initial 60 day deadline has passed and the KSIDC does not paid the due amounts within a further period of 30 days after this notice.

4.6.4 If the termination of the Contract Agreement is not due to a default on the part of the Consultant, the Consultant shall be entitled to demand the Agreed Remuneration. The Consultant must, however, mitigate its loss and deduct any proceeds of such mitigation, which shall include

- (i) any remuneration paid to the Consultant working on other projects during the time the Consultant was scheduled to work on the Project
- (ii) any remuneration that the Consultant would have earned working on other projects during the time the Consultant was scheduled to work on the Project, but which the Consultant has not received as a result of the Consultant's wilful actions or omissions.

4.6.5 If the termination of the Contract Agreement is due to a default on the part of the Consultant, the Consultant shall be entitled to demand the Agreed Remuneration for the Services performed until the date of termination but not yet remunerated. The KSIDC shall be entitled to demand compensation for the direct damages caused by the default

#### **4.7 CORRUPTION AND FRAUD**

- 4.7.1 If it is proven that the Consultant has breached Paragraph 1.14 [Corruption and fraud], the KSIDC may, notwithstanding the various punishments or other sanctions to which the Consultant is subject according to the law of the country or any other legal system, terminate this Contract Agreement in writing. The KSIDC may also terminate this Contract Agreement in writing if the Declaration of Undertaking submitted by the Consultant in conjunction with its bid is untrue

#### **4.8 RIGHTS AND OBLIGATIONS OF THE PARTIES IN CASE OF TERMINATION**

- 4.8.1 Termination of the Contract Agreement shall not prejudice or affect the rights, claims or obligations of the parties until the date on which the cancellation takes effect.

### **PARAGRAPH 5: REMUNARATION**

#### **5.1 REMUNERATION OF THE CONSULTANT**

- 5.1.1 The Consultant shall receive the remuneration agreed in the Special Conditions for performing the Services owed under this Contract Agreement, subject to the conditions listed therein and the conditions below. **Annex 8** [Statement of Costs] contains a detailed list of conditions.

#### **5.2 TERMS OF PAYMENT**

- 5.2.1 Except where otherwise agreed in the Special Conditions, the KSIDC shall pay the Consultant's remuneration as follows:

<b>S. No.</b>	<b>Deliverable</b>	<b>Payments</b>
1.	PMC deliverables as per ToR during Construction Period of Maximum 24 months	Twice of annual payments, quoted by the bidder as annual fee, to be paid each year paid equally on a monthly basis.

#### **5.3 METHOD OF PAYMENT**

- 5.3.1 Payment shall be made according to the Conditions set out in the Special Conditions.

#### **5.4 DELETED**

#### **5.5 PAYMENT DEADLINE**

- 5.5.1 Except as where otherwise stated in the Special conditions, payment shall be made within 15 days of presentation of a verifiable invoice by the Consultant to the KSIDC, within the period set out in Paragraph 5.5 [Payment Deadline], except where the KSIDC has raised an objection pursuant to Paragraph 5.6 [Objection to Invoices], the Consultant shall be paid compensation at the rate agreed in the Special Conditions. This shall be calculated on a daily basis from the date on which the invoice fell due in the currency agreed. The agreed compensation shall satisfy all the Consultant's claims arising from the KSIDC's delay.

#### **5.6 OBJECTION TO INVOICES**

- 5.6.1 If the KSIDC objects to the whole or part of an invoice of the Consultant, the KSIDC shall notify the Consultant of its intention to withhold payment and shall state the reasons why. If the KSIDC objects only to a part of the invoice, it shall pay that part of the invoice to which it has not objected within the period specified in Paragraph 5.5 [Payment Deadline].

#### **5.7 AUDITING**

- 5.7.1 For services or part services that are not remunerated on a lump-sum basis, the Consultant shall be obliged to maintain up-to-date records that meet professional standards and that clearly and

systematically indicate the services provided and the time and expense involved. The Consultant shall permit the KSIDC to audit these records at any time and make copies of them during the term of the Contract Agreement.

## **5.8 CURRENCY**

5.8.1 The Special Conditions shall indicate the currency applicable to the Contract Agreement.

## **PARAGRAPH 6: LIABILITY**

### **6.1 LIABILITY OF THE CONSULTANT FOR BREACHES OF CONTRACT AGREEMENT FOR WHICH HE IS RESPONSIBLE**

6.1.1 The Consultant shall be liable to the KSIDC for verifiably culpable breaches of its contractual obligations, particularly breaches of Article 3 [The Consultant]. The liability of the Consultant shall be limited to the respective insurance sum, insofar as this is higher than the Contract Agreement Value. Otherwise the liability of the Consultant shall be limited to the Contract Agreement Value. This shall not affect the liability for premeditation and gross negligence.

### **6.2 LIABILITY OF THE CONSULTANT FOR SUB- CONTRACTORS**

6.2.1 The Consultant shall also be liable for the Services provided by a sub-contractor pursuant to Paragraph 1.9 [Assignment and Sub- contracting].

### **6.3 PERIOD OF LIABILITY**

6.3.1 The Consultant's liability shall terminate on the date of the acceptance of the Services and in the event the Contract Agreement does not provide for acceptance of the Services, on the date of performance of the contractually agreed Services in full, unless a different point of time is provided in the Special Conditions.

### **6.4 LIABILITY FOR CONSEQUENTIAL DAMAGE**

6.4.1 Liability for consequential damage is excluded.

### **6.5 LIABILITY OF THE KSIDC**

6.5.1 The KSIDC shall be liable for its contractual obligations verifiably Culpable breaches as mentioned in Paragraph 2 [The KSIDC]

## **PARAGRAPH 7 INSURANCE**

### **7.1 INSURANCE AGAINST LIABILITY AND DAMAGES**

7.1.1 The Consultant shall take out insurance for the period of the Contract Agreement, on the terms specified in the Special Conditions, including, but not limited to, the following:

- (a) Professional liability insurance;
- (b) Personal liability insurance;
- (c) equipment insurance covering loss of or physical damage to all equipment acquired, used, provided or paid for by the Authority, if any, within the context of this Contract Agreement; and
- (d) Motor vehicle third party liability insurance and motor vehicle comprehensive insurance for the vehicles acquired in connection with this Contract Agreement.

7.1.2 The costs incurred in connection with the insurance specified in Paragraph 7.1.1 [Insurance Against Liability and Damages] shall be fully compensated by the Agreed Remuneration.

## **PARAGRAPH 8: DISPUTES AND ARBITRATION PROCEDURE**

### **8.1 AMICABLE SETTLEMENT**

8.1.1 Should a dispute arise from or in connection with this Contract Agreement, the representatives of the parties authorised to settle disputes shall, within 21 days of one party submitting a written request to the other party, endeavour in good faith to settle the dispute amicably.

## **8.2 MEDIATION**

8.2.1 If an amicable settlement cannot be reached within a period of 3 months after the written request pursuant to Paragraph 8.1 [Amicable Settlement], the parties may, insofar as both sides agree, attempt to settle the dispute in accordance with the Special Conditions by way of mediation prior to initiating arbitral proceedings. Notwithstanding this, the parties may agree to begin mediation immediately. Unless the parties agree otherwise within a period of 14 days, either party may require that the mediator is appointed by the institution named in the Special Conditions.

Mediation shall begin no later than 21 days after the mediator has been appointed. The mediation process shall be implemented in accordance with the procedure selected by the appointed mediator. All negotiations and talks held in the course of mediation shall be treated confidentially, unless they are concluded in a written, legally binding Contract Agreement. If the parties accept the recommendations of the mediator or agree to settle the dispute another way, the agreement reached shall be recorded in writing and signed by the representatives of the parties.

8.2.2 If the dispute is not settled within 3 months after the mediator has been appointed, the dispute shall be settled by way of the arbitration procedure pursuant to Paragraph 8.3 [Arbitration Procedure].

## **8.3 ARBITRATION PROCEDURE**

8.3.1 If the parties do not reach amicable agreement Pursuant to Paragraph 8.1 [Amicable settlement] or by way of mediation pursuant to Paragraph 8.2 [Mediation], the dispute shall finally and exclusively be settled – except where otherwise stipulated in the Special Conditions– in accordance with the Rules of Arbitration & Conciliation Act 1996 by one or several arbitrators appointed in accordance with the Rules. The place of arbitration and the language of the arbitration procedure shall be stipulated in the Special Conditions.

## **Special Conditions**

### **Ad Article 1: General Provisions**

#### **Ad 1.1: Definitions “Completion Period”:**

The completion period shall be **24 Months**.

**“Force majeure”:** For the purposes of this Contract Agreement,

- (a.) “Force Majeure” means An event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable and not brought about by or at the instance of the Party claiming to be affected by such events and which has caused the non-performance or delay in performance, and which makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other extreme adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Government agencies.
- (b.) Force Majeure shall not include (I) any event which is caused by the negligence or intentional action of a Party or by or of such Party’s Sub-Consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected both to take into account at the time of the conclusion of this Contract Agreement, and avoid or overcome in the carrying out of its Obligations hereunder ●

**“Project”:** The consulting services shall be performed for [Kerala State Industrial Development Corporation], RFP no. [●], **Date [●]** (The “Project”- For PMC for Solid Waste Management Projects at Kozhikode by Kerala State Industrial Development Corporation implemented through DBFOT mode).

**“Date on which execution shall be commenced”:** The date on which execution shall be commenced is [●] / the date on which execution shall be commenced lies [4] weeks after the day on which the Contract Agreement comes into force.

#### **Ad 1.4: Communication**

The language for notices, instructions, reports and other messages shall be **[English]**.

#### **Ad 1.5: Notice**

##### Address of the KSIDC

Postal address [●]  
Email: [●]  
Phone: [●]  
Fax: [●]

##### Address of the Consultant

Postal address [●]  
Email: [●]  
Phone: [●]  
Fax: [●]

#### **Ad 1.6: Law and language**

The language(s) of the Contract Agreement shall be **[English]**.

[The prevailing contractual language shall be **[English]**.]

The law governing this Contract Agreement shall be **[Indian Law]**

#### **Ad 1.10: Rights to the results of work, copyright [KSIDC]**

#### **Ad Article 2: The KSIDC**

#### **Ad 2.1: Deleted**

#### **Ad 2.2: Decisions/cooperation**

Decisions/cooperative actions<sup>9</sup> of the KSIDC pursuant to Paragraph 2.2 [Decisions/cooperation] must be taken /performed at the latest within [2] weeks.

#### **Ad 2.4: Taxes**

The contractual parties agree on the following provisions regarding taxes and levies

**[As per Tax law issued by of Govt of India and Govt of Kerala]**

#### **Ad 2.4.2: Reimbursable Taxes – Only Service Tax / GST (as applicable)**

Ad 2.5: KSIDC will not provide any Equipment and Office Space. The Consultant will have to arrange all Equipment & Office space required for Project supervision for its Own.

KSIDC will provide Concession Agreement Documents with DBOT Concessionaire and all necessary information for implementation of SWM Project

#### **Ad 2.6: Contact person of the KSIDC**

The KSIDC’s contact person shall be [ \_\_\_\_\_ ].

#### **Ad Article 3: The Consultant**

#### **Ad 3.3: Due diligence**

The Consultant shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract Agreement or to the Services, as faithful adviser to the 'OUIDF', and shall at all times support and safeguard the "KSIDC" legitimate interests in any dealings with Sub-Consultants or Third parties.

#### **Ad 3.4: Reporting [As Provided in Term of Reference of RFP]**



- Ad 3.5.6** If the Consultant terminate the Contract Agreement of, or replace, any staff during the Contract Agreement period, the costs thus accrued shall be borne by the Consultant. The KSIDC shall may ask for replacing the staff member, if the staff member in question does not meet the requirements or has violated Paragraph 1.13 [Conduct], the cost shall be borne by the Consultant.
- Ad 3.6.1:** **The Consultant’s contact person for handling of the Contract Agreement**  
The Consultant’s contact person for handling of the Contract Agreement shall be [●].  
Contact details [●].  
The deputy shall be [●].  
Contact details [●].
- Ad 3.6.2:** **The Consultant’s contact person for cases of emergency or crisis**  
The Consultant’s contact person for cases of emergency or crisis shall be [●].  
Contact details [●].  
The deputy shall be [●].  
Contact details [●].
- Ad 4.6.3.: The Consultant may terminate this Contract Agreement if any amounts due and payable to it under this Contract Agreement have not been paid within 60 days after the receipt of the corresponding invoice subject to approval of deliverables at every stage/milestone from Kerala State Industrial Development Corporation (KSIDC) mentioned in the Scope of Work of the Contract Agreement., as long as the Consultant has Given the KSIDC a written reminder within a period of 30 days after the initial 60 day deadline has passed and the KSIDC does not pay the due amounts within a further period of 30 days after this notice
- Ad 4.6.4: Deleted
- Ad 4.6.6: If the Consultant becomes insolvent or go into liquidation or receivership whether compulsory or voluntary
- Ad 4.6.7: Client can terminate the Contract Agreement If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 8.3 hereof
- Ad 4.6.8: The Consultant can terminate the Contract Agreement if the Client fails to comply with any final decision reached as a result of arbitration proceeding pursuant to Clause GC 8.3 hereof
- Ad 4.6.9: Client can terminate the Contract Agreement, if the Consultant submits to the “KSIDC” a false statement which has a material effect on the rights, obligations or interests of the “Client”.
- Ad 4.6.10: Client can terminate the Contract Agreement if the Consultant places itself in position of conflict of interest or fails to disclose promptly any conflict of interest to the Client
- Ad 4.6.11: Parties can terminate the Contract Agreement if, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than One Hundred Eighty (180) days
- Ad 4.6.12: If the “Client”, in its sole discretion and for any reason whatsoever, recorded in writing, and with due intimation to the Consultant, decides to terminate this Contract Agreement

## **Ad Article 5: Remuneration**

- Ad 5.1.1: Remuneration**  
For the services to be rendered by the Consultant under this Contract Agreement the KSIDC shall pay the sum of [●] in [Indian Rupees] (“Contract Agreement Value”).  
The Contract Agreement Value is composed of:  
Fixed fee: [●] in [● Indian Rupees]  
**Annex 8 [Statement of Costs]** contains a detailed statement of costs. |
- Ad 5.2: Terms of payment**  
Clause 5.2.1 (a): No Advance Payment shall be made  
Clause 5.2.1(b): The Consultant's remuneration shall be paid against presentation of an invoice, indicating the RFP-No. “Project”), as follows:  
Terms of Payment as per Terms of Reference of RFP.

The payments are subject to the acceptance of the reports and the documents by the KSIDC for every stage of the project.

The first payment shall be made as per on completion of milestone to the satisfaction of Client without furnishing Bank guarantee.

On completion of assignment/defect liability period Performance Guarantee shall be released subject to any deductions

Clause No. 5.2.2: Deleted

**Ad 5.3: Method of payment**  
**[Consultants Fee will be Credited after deducting all necessary taxes and Penalty (if any) in Indian Rupees to following Account:**  
**Beneficiary Name of Consulting Firm:**  
**Account No:**  
**MICR Code:**  
**IFSC Code:**  
**Bank Name & Address:]**

**Ad 5.4.1: Price adjustment: Not Applicable**

**Ad 5.5: Payment deadline**

No Compensation or Interest is Payable for delay in payment

**Ad 5.8:**

**Currency**

**[Indian Rupees].**

The applicable currency for the Contract Agreement shall be

## **Ad Article 6: Liability**

### **Ad 6.3: Period of liability**

The Consultant's liability shall terminate [**36 Months**].

## **Ad Article 7: Insurance**

The insurance shall be taken out by the Consultant as mentioned in GCC. The Consultant Party shall, within the one month (calculated from the Commencement Date), submit to the KSIDC:

- (a) Evidence that the insurances described in this Clause have been effected, and
- (b) Copies of the policies for the insurances [Insurance against Injury to Persons and Damage to Property]. When each premium is paid, the insuring Party shall submit evidence of Payment to the KSIDC

Professional Liability Insurance including coverage for errors and omissions caused by Consultant's negligence in the performance of its duties under this agreement, (A) Total Contract Agreement value OR (B) the proceeds, the Consultants may be entitled to receive from any insurance maintained by the Consultants to cover such a liability, whichever of (A) or (B) is higher ;

Third Party motor vehicle liability insurance as required under India's Motor Vehicles Act, 1988, by the Consultant or its Personnel or any Sub-Consultants or their Personnel for the period of consultancy.

Employer's liability and Workers' compensation insurance in respect of the Personnel of the Consultant and of any Sub Consultants, in accordance with the relevant provisions of the Applicable Laws of India, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and

Insurance against loss of or damage to (I) equipment purchased in whole or in part with funds provided under this Contract Agreement, (ii) the Consultant's property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services, by theft, fire or any natural calamity

## **Ad Article 8: Disputes and Arbitration Procedure**

### **Ad 8.2: Mediation**

The mediator shall be appointed by [**Additional Chief Secretary, Department of Local Self Government, Government of Kerala**]

and the appointment shall be

Binding for the parties. The costs of the mediation and of the mediator's Services shall be shared equally between the parties.

### **Ad 8.3: Arbitration Procedure**

The place of arbitration shall be [**Thiruvanthapuram**].

The language of the arbitration procedure shall be [**English**].

In the case of dispute arising upon or in relation to or in connection with the Contract Agreement between the KSIDC and the Consultant, which has not been settled amicably, any party can refer the dispute for Arbitration under (Indian) Arbitration and Conciliation Act, 1996. Such disputes shall be referred to an Arbitral Tribunal consisting of 3 (three) arbitrators, one each to be appointed by the Employer and the Consultant, the third arbitrator shall be chosen by the two Arbitrators so appointed by the parties and shall act as Presiding Arbitrator. In case of failure of the two arbitrators, appointed by the parties to reach a consensus regarding the appointment of the third arbitrator within a period of

30 days from the date of appointment of the two arbitrators, the Presiding Arbitrator shall be appointed by the Secretary of the Ministry / Department. The Arbitration and Conciliation Act, 1996 and any statutory modification or re-Enactment thereof, shall apply to these arbitration proceedings. The decision of The majority of arbitrators shall be final and binding upon both parties. The expenses of the arbitrators as determined by the arbitrators shall be shared Equally by the Employer and the Consultant. However, the expenses incurred by each party in connection with the preparation, presentation shall be borne by The party itself. All arbitration awards shall be in writing and shall state the Reasons for the award.

( Thirvanthapuram, date)

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(for the KSIDC)

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(for the Consultant)

**LIST OF ANNEXES**

<b>Annex no.</b>	<b>Title</b>
1	TERMS OF REFERENCE PLUS TENDER DOCUMENTS INCLUDING PRE BID MEETING MINUTES AND ADDENDA
2	STAFFING SCHEDULE
3	EQUIPMENT AND FURNISHINGS TO BE PROVIDED BY THE KSIDC
4	TIME SCHEDULE FOR DELIVERY OF THE SERVICES
5	STATEMENT OF COST
6	THE CONSULTANT'S BID INCLUDING PRE-BID MINUTES, ADDENDUM
7	MODEL PERFORMANCE GUARANTEE
8	CONCESSION AGREEMENT BETWEEN KSIDC AND CONTRACTOR FOR LEGACY WASTE BIOMINING & DISPOSAL (PART 1 AND KSIDC CONCESSIONAIRE
9	LETTER OF AWARD

**ANNEXURE – 1**

**TERMS OF REFERENCE PLUS TENDER DOCUMENTS INCLUDING PRE BID MEETING MINUTES AND ADDENDA**

**ANNEXURE – 2**  
**STAFFING SCHEDULE**

**ANNEXURE – 3**  
**EQUIPMENT AND FURNISHINGS TO BE PROVIDED BY THE KSIDC**



**ANNEXURE – 4**

**TIME SCHEDULE FOR DELIVERY OF THE SERVICES**

**ANNEXURE – 5**  
**STATEMENT OF COST**

**ANNEXURE – 6**

**THE CONSULTANT’S BID INCLUDING PRE-BID MINUTES, ADDENDUM**

**ANNEXURE – 7**  
**MODEL PERFORMANCE GUARANTEE**

Address of guarantor bank: .....

.....  
.....

Address of beneficiary (Client):

Kerala State Industrial Development Corporation

T.C. XI/266, Keston Road,

Thiruvananthapuram, Kerala – 695003

On \_\_\_\_\_ you concluded with (name and full address) \_\_\_\_\_ ("Consultant") a Contract Agreement for \_\_\_\_\_ (Project, object of the Contract Agreement) at a price of \_\_\_\_\_.

We, the undersigned \_\_\_\_\_ (bank), waiving all objections and defences under the aforementioned Contract Agreement, hereby irrevocably and independently guarantee to pay on your first written demand an amount up to a total of \_\_\_\_\_ (in words \_\_\_\_\_) against your written declaration that the Consultant has failed to perform the aforementioned Contract Agreement.

In the event of any claim under this guarantee, payment shall be effected to Managing Director, KSIDC, Thiruvanthapuram Account No. \_\_\_\_\_ of \_\_\_\_\_ Bank, \_\_\_\_\_ Branch, IFSC: \_\_\_\_\_ for account of Kerala State Industrial Development Corporation (Client). This guarantee shall expire not later than \_\_\_\_\_ by which date we must have received any claims by letter or coded telecommunication.

It is understood that you will return this guarantee to us on expiry or after settlement of the total amount to be claimed hereunder.

.....  
Place, date

.....  
Guarantor

**ANNEXURE – 8**  
**CONCESSION AGREEMENT BETWEEN KSIDC AND CONTRACTOR FOR LEGACY WASTE BIOMINING & DISPOSAL (PART 1 AND KSIDC CONCESSIONAIRE (with addendums – Part 2))**

**Part – 1**

**(A copy of the signed Contract Agreement between KSIDC and contractor for Legacy Waste bio mining and disposal).**

**Part – 1**

**(A copy of the signed Concession Agreement between KSIDC and Concessionaire).**

**ANNEXURE – 9**  
**LETTER OF AWARD**