

On 50Rs Stamp Please

AGREEMENT

This agreement made on this day of [here give the date of the agreement] at New Delhi BETWEEN [here give the Name and address of the consultant or Professional Expert] hereinafter referred to as “the consultant/professional expert” of one part and the **Central Electricity Regulatory Commission, 3rd and 4th Floor Chanderlok Building, 36 Janpath, New Delhi -110001** (herein after called "the CERC") of the other part.

WHEREAS

- (A) the CERC, on being satisfied that there is a need to appoint a **[Corporate/Individual consultant or Professional Expert]** in the area of [here give the area of assignment: e.g. scrutiny of monthly reports relating to, (or) defense of the cases in the Appellate Tribunal, High Courts, and the Supreme Court, (or) preparation of approach paper for estimation of load....(or) advice on jurisdiction of the CERC for award of compensation under Section 11(2) of the Electricity Act, 2003, etc.] invited quotations vide notice [here give the No and date of the notice]
- (B) the [consultant/Professional Expert] responded to the above notice and submitted his quotations vide his letter [here give the No and date of the quotation of the consultant]
- (C) the CERC, on scrutiny of the responses received in response to its above mentioned notice dated [here give the date of the notice inviting quotations] including the one received from the [consultant/professional Expert] has decided to engage the consultant/professional expert for the above said assignment under the provisions of the Central Electricity Regulatory Commission (Appointment of Consultants) Regulations, 2008
- (D) the consultant/professional expert has agreed, to take up the above said assignment

NOW THIS AGREEMENT WITNESSETH AS UNDER:

That the Parties to this Agreement have agreed to terms and conditions mentioned below:

1. Definitions:

- (i) “Commission” means the Chairperson and the members of the CERC including the Ex-officio member.
- (ii) “Confidential information” mean any and all information communicated to the consultant by the CERC duly marked so.
- (iii) “Member” means the member of the CERC including the Chairperson and the ex-officio member.
- (iv) “Person” shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- (v) “Secretary” means the Secretary of the Commission.

2. **Nature of work:** The consultant/professional expert shall be engaged as **[Corporate/Individual consultant or Professional Expert]** in the area of [here give the area of assignment as mentioned under (A) above] in accordance with the Terms of Reference (**Annexure-I**) attached hereto and which shall be deemed to be a part of this agreement for all intents and purposes.

3. **Commencement and duration of assignment:** The above assignment shall commence with effect from [the date of this agreement (or) specify the date] and shall be valid for a period of [here give the duration of the contract] which may be extended with the mutual consent of the parties expressed through letters of agreement without any financial commitment from CERC.

Provided that [here give any special provision e.g. the consultant may have to analyse the report for the period falling within the duration of the contract even if the report is received late on a date falling after the above mentioned date]

Provided that for any delay after taking into account extension granted, 1% penalty per week will be levied for value of work executed after due date of completion of work subject to ceiling limit of 10% of contracted amount.

4. Obligations of the consultant:

- (i) The consultant shall adhere to the time-frame specified in the Terms of Reference and submit the deliverables to the Secretary.
- (ii) The consultant shall make the presentations before the CERC as required by the Secretary.
- (iii) The consultant shall ensure that the interim and final findings of the study and the contents of his interim and final reports to the CERC are not

disclosed to any person unless expressly authorized by CERC.

- (iv) [Here give any other responsibility to be discharged by the consultant/professional expert]

5. Entitlements of the Consultant:

- (i) The consultant/professional expert shall be entitled to Rs. [Here give the amount payable and the schedule of payment and any other provision such as TDS, etc.]
- (ii) The consultant/professional expert shall be paid as per clause of Terms of Reference (**Annexure-I**).
- (iii) In appropriate cases a part of the money payable will be released only after satisfactory performance of the system/item provided by the Consultant (case to case basis).
- (iv) The consultant shall also be entitled to [here give any other entitlement to be provided to the consultant such as leave, travel expenses, reimbursement of any other expenses such as stationary, etc.]
- (v) The consultant/professional expert shall not be entitled to any other remuneration or reimbursement or perquisites or facilities such [here give any specific item which needs to be expressly denied to the consultant/professional expert]

6. Restrictive terms:

- (i) The consultant further affirms and confirms that the current assignment is not and shall not be, in conflict with any of its present obligations to any party with whom he/she/it has association.
- (ii) The consultant further affirms and confirms that he/she/it shall hold all Confidential Information in confidence and with the same degree of care he/she/it uses to keep his/her/ts own similar information confidential, but in no event shall it use less than a reasonable degree of care; and shall not, without the prior written consent of CERC, disclose such information to any person for any reason at any time;
- (iii) The CERC shall be entitled to, without prejudice to any other right for civil or criminal proceedings, receive from the consultant/ professional expert a compensation for the damages for violation by him/her/it of any of the terms of the agreement which shall be limited to the total fee of the assignment.

7. Termination of contract:

At the option of the CERC:

- (i) Without any notice: The assignment may be terminated by the CERC, any time, with immediate effect, under any of the following circumstances:

- (a) It has come to notice that the consultant/professional expert has been convicted for an offence involving moral turpitude or unethical professional practices.
- (ii) With one month notice: The assignment may be terminated by the CERC, under any of the following circumstance, by giving one month's notice and after providing an opportunity to the consultant/professional expert to offer explanation:
 - (a) It has come to the notice of the CERC that the consultant/professional has resorted to fraud or suppression of material information or submission of false information or unethical means to secure the assignment.
 - (b) It has come to the notice of the Commission that there is a material change in the circumstances of the Consultant based on which the assignment was awarded to the consultant/professional expert [This clause may be used under circumstances such as fall in the net worth criteria, if any fixed for the selection of the consultant, cancellation of the practioner's license by the professional body, forming the basis of the consultant's eligibility].
 - (c) The consultant/professional expert has failed, without any valid justification, to adhere to the time-frame specified by the CERC in the assignment.
 - (d) The consultant has violated any of the provisions of the agreement.

At the option of either parties

- (iii) Both the parties namely, the CERC and the Consultant/professional expert have the option to terminate the assignment by giving a notice of three months or the equivalent remuneration in lieu thereof.

8. **Effect of termination:** On pre-mature termination of the assignment, the CERC shall pay the consultant/professional expert, the remuneration for the work performed by him/her/it till the date of termination of the Contract.

Provided that in case of any dispute as to what is the entitled remuneration for the work the matter shall be referred to arbitration under the provisions of this agreement.

9. **Notice** Any notice between the parties shall be in writing and posted to the other party to the last known address.

10. **Arbitration:**

- (i) Any difference, dispute, claims which may arise between the parties hereto as to the construction or true intent and meaning of any of the terms and

conditions herein contained or as to any payment to be made in pursuance hereof or as to any other matter arising out or as to any other matter arising out of or connected with or incidental to these presents or as to the rights, duties and obligations of any of the parties, such difference, dispute or claim shall be mutually settled amicably by arbitration through a sole arbitrator appointed by the CERC.

(ii) The arbitration shall be conducted in accordance with the Arbitration and Conciliation Act, 1996 or any statutory amendments thereof. The venue of such arbitration will be Delhi/New Delhi.

(iii) Arbitration shall be subject to English language.

11. **JURISDICTION:** In respect of any legal proceedings arising as a result of or relating to or incidental to this agreement, the courts in Delhi/New Delhi alone shall **have exclusive jurisdiction**

IN WITNESS WHEREOF, the Parties above named have executed this Agreement of the day, month and year mentioned hereinabove.

Signed by, [the consultant/Professional party or on behalf of] in the presence of

Signed by, on behalf of the CERC in the presence of

Note: In contracts wherein time is crucial factor, damages for delay clause and Force Majeure clause may be addressed.