



National Horticulture Board
Ministry of Agriculture & Farmers Welfare
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Request for Proposal (RFP) for the Engagement of an Agency / Organization to function as Programme Management Unit for Cluster Development Program of National Horticulture Board

(via GeM Portal)

Issued on: 14.08.2024

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Ref No.: NHB/CDP/RFP/2024-25

Dated: 14.08.2024

SECTION I: Request for Proposal Letter (RFPL)

1. Request for Proposal Letter (RFPL)

The Managing Director, National Horticulture Board, (hereinafter referred to as ‘the Authority’, ‘the Head of Procurement’, ‘the Procuring Entity’ and ‘the Procuring Organization’ respectively), invites proposals (hereinafter referred to as ‘the Proposal(s)’) exclusively from the Consultants for entering into a contract for the delivery of Consultancy Services (hereinafter referred to as ‘the Services’), using the selection method as specified in TIS. This Request for Proposal (RFP) Document, reference number, RFP No./ xxxx (hereinafter referred to as ‘the RFP Document’), gives further details.

A list of schemes being implemented by NHB is given as under: -

- Development of Commercial Horticulture through Production and Post-Harvest Management of Horticulture Crops
- Capital Investment Subsidy Scheme for Construction/Expansion / Modernization of Cold Storages/Storages of horticulture products
- Technology Development and Transfer for promotion of horticulture
- Market Information Scheme for horticulture Crops
- Horticulture Promotion Services / Expert Services

The broad objectives of all the NHB Schemes are as under:

- a. Development of hi-tech commercial horticulture in identified belts and make such areas vibrant with horticultural activity, which in turn will act as hubs for development of horticulture.
- b. Development of modern post-harvest management infrastructure as an integral part of area expansion projects or as common facility for cluster of projects.
- c. Development of integrated, energy efficient cold chain infrastructure for fresh horticulture produces.
- d. Popularization of identified new technologies /tools /techniques for commercialization/adoption, after carrying out technology need assessment.
- e. Assistance in securing availability of quality planting material by promoting setting up of Scion and Root stock banks / Mother plant nurseries and carrying out accreditation / rating of horticulture nurseries and need based imports of planting material.
- f. Promotion and market development of fresh horticulture produce.
- g. Promotion of field trials of newly developed/imported planting materials and other farm inputs; production technology; Post Harvest Management (PHM) protocols, Integrated Nutrient Management (INM) and Integrated Pest Management (IPM) protocols and promotion of applied Research and Development (R&D) programs for commercialization of proven technology.
- h. Promotion of Farm Mechanization in Horticulture through demonstration and its uses at farmers field level to reduce labour cost and increase the productivity of Horticulture crops.
- i. Promotion of applied Research and Development (R & D) for standardizing Post Harvest Management (PHM) protocols, prescribing critical storage conditions for fresh horticulture produce, bench marking of technical standards for cold Chain infrastructure etc.

- j. Transfer of technology to producers/farmers and service providers such as gardeners, nurserymen, farm level skilled workers, operators in cold storages, work force carrying out post-harvest management including processing of fresh horticulture produce and to the master trainer.
- k. Promotion of consumption of horticulture produce and products.
- l. Promoting long distance transport solution for bulk movement of horticulture produce through rail etc.
- m. Carrying out studies and surveys to identify constraints and develop short and long-term strategies for systematic development of horticulture and providing technical services including advisory and consultancy services.

About Horticulture Cluster Development Programme

NHB had designed and implemented a **Pilot Cluster Development Programme** in 2021 for horticulture crops. Based on the learning from the Pilot Program, NHB has redesigned the Cluster Developed Programme. The redesigned CDP is a central sector scheme which aims to leverage geographical specialization of horticulture clusters to make them globally competitive. The cluster development approach will facilitate the horticulture sector in realising suitable economies of scale in production and post-harvest activities. It is also expected to help in better price realisation and empowerment of the farming community by enhancing their income through increased competitiveness across the entire value chain.

The key objectives of the Cluster Development Program are:

- a. **Address the concerns of the horticulture cluster value chain** from pre-production, production, post-harvest management and value addition to logistics, marketing and branding in an **integrated manner**.
- b. Facilitate the **introduction of innovative technologies and practices to help enhance the global competitiveness of focus cluster crops**¹ and thereby promote exports.
- c. **Enhance farmers' wallet share** (reduction in cost and increase in revenue).

Major Components of Cluster Development Programme:

- a. **CDP will support integrated interventions** to enhance the competitiveness of targeted clusters. The interventions shall be implemented through specialized Implementing Agencies (IAs). The interventions under the Programme have been classified into the following three verticals:
- b. **Pre-production and production:** It will support capacity-building of farmers and farm proximate interventions covering the crop life cycle, including planting material, crop-care practices, micro-irrigation and farm mechanization till the harvest of the crop.
- c. **Post-harvest management and value addition:** It will support interventions at the cluster level, ranging from post-harvest handling of crop to storage, value addition and packaging.
- d. **Logistics, Marketing and Branding:** It will support interventions to link cluster produce with consumption markets and include seamless logistics for efficient evacuation, cluster branding and outreach in the domestic and export markets.

¹ Focus crop has been defined as the identified major horticulture crop of a cluster. In addition to the focus crop, a cluster may have other ancillary crops.

National Horticulture Board wishes to onboard an Agency / Organization to function as the Program Management Unit for Cluster Development Program of National Horticulture Board, Gurugram. The details on the services solicited are provided in the Terms of Reference in this Request for Proposal (RFP) document.

2. The RFP Document

2.1 **Bidders must read the complete 'RFP Document':** This RFPL, an integral part of the RFP Document, serves the limited purpose of invitation and does not purport to contain all relevant details for submitting Proposals. Bidders must go through the complete RFP Document for details before submission of their Proposals.

2.2 **Availability of the RFP Document:** RFP Document shall be published on Government e-Marketplace (GeM) Portal and NHB's website for downloading after the date and time of the start of availability till the deadline for availability as per the schedule.

2.3 **Clarifications:** Bidders requiring any clarification on the RFP Document may submit their queries to the NHB through email at clusters.nhb@gov.in before the date mentioned in the Schedule of Selection Process. Section II may be referred for further details.

3. **Eligibility and Qualification Criteria for Participation in this RFP:** The Technical Proposal of the bidder would be evaluated as per the eligibility and qualification criteria set out in the RFP document. Section II may be referred for further details.

4. Purchase Policies of the Government:

4.1 **Relaxation in prior turnover and experience to Startups** - No relaxation in Prior Turnover and Experience is being provided to Startups considering the scale of the assignment. Section II may be referred for further details.

5 **Pre-Proposal Conference:** The Pre-Bid Conference will be conducted virtually on the date and time specified in Tender Information Summary (TIS). TIS may be referred for further details.

6 Submission of Proposals:

- (i) Proposals must be uploaded by the submission deadline mentioned in Tender Information Summary (TIS).
- (ii) Integrity Pact: If indicated, in the TIS, all Bidders shall have to sign the Integrity Pact with the Procuring Entity as per 'Annexure IX: Integrity Pact'. In such cases, Proposals without a signed Integrity Pact shall be rejected.

7 **Proposal Opening:** Proposals received shall be opened online on or after the specified date and time in Tender Information Summary (TIS) at Appendix I. If the office is closed on the specified date of opening of the Proposals, the opening shall be done on the next working day at the same time.

Note: For further details, please refer to the complete RFP Document.

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1. Tender Information Summary (TIS)

NHB would endeavor to adhere to the following schedule:

#	Activity Description	Dates
1	RFP Publish date	14.08.2024
2	Clarification start date	29.08.2024
3	Clarification end date and time	31.08.2024
4	Pre-Bid Conference by Virtual Platform	03.09.2024
5	Response (in writing) to Queries by O/o NHB	10.09.2024
6	Last Date & Time for uploading of Bids	13.09.2024
7	Opening of Technical Bids	16.09.2024
8	Date for presentation by Bidders	20.09.2024
9	Date for Opening of Financial Bids	25.09.2024

SECTION II: INSTRUCTIONS TO CONSULTANTS / BIDDERS

1. The RFP Document

1.1 Basic Tender Details:

This 'RFP Document' Document (hereinafter referred to as 'the RFP Document') details the terms and conditions for entering a contract for delivery of the Consultancy Services (hereinafter called 'the Services') described in Section VI: Terms of Reference (TOR).

1.2 Interpretations, Definitions, Abbreviations and Document Conventions

Section IV: General Conditions of Contract (GCC), details tenets of interpretation (GCC-clause 1.1), definitions (GCC-clause 1.2), document conventions (GCC-clause 1.3) and abbreviations (GCC-clause 1.4), which shall also apply to the rest of the RFP Document.

1.3 Overview of Contents

- (i) Unless otherwise stipulated in AITC (shall be published later), the Sections, Forms and Formats comprising this RFP Document are described in ITC-clauses 1.4, 1.5 and 1.6 below. A separate BOQ file for Financial Proposal on the GeM Portal is also part of this RFP Document. Any generic reference to RFP Document shall also imply a reference to any/ all the sections, Forms, Formats and the BOQ file or other files that comprise this RFP Document.
- (ii) Bidders must submit the Proposal in the Forms/ Formats mentioned in ITC-clauses 1.5 and 1.6 below (as relevant).

1.4 Sections of the RFP Document

1.4.1 Sections of the RFP Document:

Unless otherwise stipulated in AITC (shall be published later), the RFP Document contains the following sections, which are described in subsequent sub-clauses:

- a) Section I: Request for Proposal Letter (RFPL) and its Appendix and Annexures
- b) Section II: Instructions to Consultants/ Bidders
- c) Section III: Appendix to Instructions to Consultants/ Bidders
- d) Section IV: General Conditions of Contract (GCC)
- e) Section V: Special Conditions of Contract (SCC)
- f) Section VI: Terms of Reference (TOR)
- g) Section VI-A: List of Key Experts and Required Qualifications
- h) Section VII: Evaluation/ Scoring Criteria

1.4.2 Section I: Request for Proposal Letter (RFPL) and its Appendix: Tender Information Summary (TIS)

Request for Proposal Letter (RFPL) and its Appendix provides a synopsis of information relevant for a Bidder to decide on participating in the RFP.

1.4.3 Section II: Instructions to Consultants (ITC) and Section III: Appendix to Instructions to Consultants (AITC)

Section II: "Instructions to Consultants" (ITC), along with Section III: "Appendix to Instructions to Consultants (AITC)", provides the relevant information as well as instructions

to assist the Consultants in preparing their proposals. It also includes the mode and procedure adopted for receipt/ opening, evaluation of Proposals, and contract award.

1.4.4 Section IV: General Conditions of Contract (GCC) and Section V: Special Conditions of Contract (SCC)

Section IV – General Conditions of Contract (GCC) and Section V – Special Conditions of Contract (SCC) describe the conditions governing the resulting contract. In case of a conflict, provisions of the SCC shall prevail over those in the GCC. Any generic reference to GCC shall also imply a reference to SCC as well. In case of any conflict, provisions of GCC/ SCC shall prevail over those in ITC/ AITC.

1.4.5 Section VI: Terms of Reference (TOR) and Section VI-A: List of Key Experts and Required Qualifications

Section VI: Terms of Reference (TOR) describes the background, purpose/ objectives, description/ scope, deliverables/ outcomes, timelines, Procuring Entity's inputs and counterpart personnel, statutory requirements of Services required etc. Section VI-A: 'List of Key Experts and Required Qualifications' describes the team composition, expertise, experience and professional qualifications required for each Key Experts. Any generic reference to TOR shall imply a reference to Section VI-A: 'List of Key Experts and Required Qualifications' as well. Consultants must fill up 'Form T-3: Comments and Suggestions on Terms of Reference, Counterpart Staff, and Facilities to be provided by the Procuring Entity' regarding these Sections. Regarding this Section, Consultants must fill out Form T-3: Comments and Suggestions on Terms of Reference, Counterpart Staff, and Inputs to be Provided by the Procuring Entity.

1.4.6 Section VII: Evaluation/ Scoring Criteria

Section VII – Evaluation/ Scoring Criteria stipulates the scoring scheme for evaluating various Technical criteria. These may cover scoring of criteria relating to the Consultant's experience, Technical Approach and Methodology, understanding of requirements, qualification and experience of Key Experts, transfer of knowledge etc. It may also lay down a minimum technical score to qualify for the next stage of Financial Evaluation. In a specific evaluation scheme, instead of a scheme of scoring, a scheme may be laid down to evaluate criteria on a pass/ fail basis.

1.5 Forms (To be filled, digitally signed, and uploaded by the Bidders)

Please refer to ITC-clause 1.4 above to relate the following forms to the corresponding Sections.

Formats

1	Form of Technical Bid Submission Letter
2	Profile of Agency/ Organization
3	Bidder's Authorization Certificate
4	Performa for Affidavit
5	CV Format
6	Details of similar nature of Work Experience/ Contracts
7	Financial Information of Bidder's Organization
8	Format of Pre-proposal Query
9	Format of Performance Bank Guarantee
10	Form of Financial Bid
11	Checklist for Bidders
12	Integrity Pact

1.6 Other Formats – Not applicable

2. Procuring Entity – Rights and Disclaimers

2.1 The Procuring Entity: The National Horticulture Board (NHB) is an Autonomous organization under the administrative control of Ministry of Agriculture and Farmers Welfare (MoA&FW). The broad aims and objectives of the Board are to develop production clusters/hubs for integrated Hi-tech commercial horticulture, establishment of post-Harvest and cold chain infrastructure, ensuring availability of quality planting material and to promote adoption of new technologies/tools/techniques for Hi-tech commercial horticulture etc. For more details, web portal www.nhb.gov.in may be visited.

2.2 Right to Intellectual Property and Confidentiality

“Notwithstanding anything to the contrary in this agreement, Consultant (Bidder) will retain the ownership of its pre-existing intellectual property rights (including any enhancement or modification thereto) even if such IPRs are used for creating deliverables, are incorporated in the deliverables, etc. To the extent such pre-existing IPRs are included/incorporated in the deliverables, upon receipt of all due and payable payment in full, the Consultant shall grant a non-exclusive, perpetual and fully paid up license to the Purchaser/Client to use such pre-existing IPRs for use of deliverables for the purpose for which such deliverables are meant for client’s internal business operations.”

All deliverables, outputs, plans, drawings, specifications, designs, reports, and other documents and software submitted by the Consultant under this Contract shall become and remain the property of the Procuring Entity and shall be subject to laws of copyright and must not be shared with third parties or reproduced, whether in whole or part, without the Procuring Entity’s prior written consent. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Procuring Entity, together with a detailed inventory thereof. The Consultant may retain a copy of such documents and software but shall not use it for commercial purposes.

2.3 Right to Reject any or all proposals

- a) NHB is not bound to accept the bid or any bid and may at any time by giving notice in writing terminate the RFP process.
- b) NHB may terminate the contract/ cancel the LOA if it is found that the bidder is blacklisted on previous occasions by any of the central/ state government.
- c) NHB may also terminate the contract/ cancel the LOA in the event the Successful Bidder fails to furnish the performance security or fails to execute the agreement.

2.4 Disclaimers

The information contained in this Request for Proposal (hereinafter referred to as “RFP”) document provided to the Bidders by National Horticulture Board hereinafter referred to as the “Board”, is provided to the Bidder(s) on the terms and conditions set out in this RFP document and all other terms and conditions subject to which such information is provided.

The purpose of this RFP document is to provide the Bidder(s) with information to assist in the formulation of Proposals. This RFP document does not purport to contain all the information each Bidder may require.

This RFP document may not be appropriate for all persons, and it is not possible for the Department, and their employees to consider the business / investment objectives, financial situation and needs of each Bidder who reads or uses this RFP document. Each Bidder should conduct its own investigations and analysis and should check the accuracy, reliability and completeness of the

information in this RFP document and where necessary obtain independent advice from appropriate sources.

Board, and their employees make no representation or warranty and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of the RFP document.

Board may, in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information in this RFP document.

3. Consultants (Bidders) – Participation in the RFP process

3.1 Eligibility to Participate

- i. The bidder should be a Legal Business Entity. A Business Entity shall mean a company registered in India under the Companies Act, or a partnership firm registered under the Limited Liability Partnership Act. They should be registered with Income Tax and have GST Number (Attested copy of PAN Card and GST Certificate)
- ii. The Bidder must have an average annual turnover of at least Rs.20 crores from Consultancy Services/Advisory Services in the previous three financial year viz. 2020-21, 2021-22 and 2022-23. (Copies of audited balance sheet and Statutory Auditor Certificate highlighting the turnover to be attached).
- iii. The applicant Agency should have in-house team, skills and expertise required for the assignment.
- iv. The Bidder should have an experience of at least 5 years in Government Sector and should also have assisted in Project Management/Consulting Services in the Agriculture and Allied Sector for GoI. The Bidder should also have an experience of at least five years in Value Chain Development, Marketing and Branding.
- v. The Bidder should not be blacklisted by any Centre/ State Government in India as on date of submission/ uploading of bid. The Bidder shall provide self-certification by the Authorized Signatory as proof of the same.

3.2 Conflict of Interest:

The Successful Bidder must provide professional, objective, and impartial advice, holding the NHB's interest paramount at all times, and shall not try to get benefits beyond the legitimate payments and credentials in the contract. He should strictly avoid conflicts with other assignments or their corporate interests. Successful Bidder must disclose to the NHB any actual or potential conflict that impacts its capacity to serve the best interest of the NHB. Failure to disclose such situations shall be treated as a violation of the Code of Ethics and shall attract penalties mentioned therein.

Proposals found to have a conflict of interest shall be rejected as nonresponsive. Without limitation on the generality of the preceding, a Successful Bidder in this Procurement Process shall be considered to have a conflict of interest if the Successful Bidder:

a) Conflicting Associations

- i. Directly or indirectly controls, is controlled by or is under common control with

another Consultant/ Bidder; or

- ii. Receives or has received any direct or indirect subsidy/ financial stake from another Consultant/ Bidder; or
 - iii. Has the same correspondence address or same legal representative/ agent as another consultant/ Bidder for purposes of this proposal; or
 - iv. Has a relationship with another Consultant/ Bidder, directly or through common third parties, that puts it in a position to have access to information about or influence the Proposal of another Consultant/ Bidder or influence the decisions of the NHB regarding this Procurement Process; or
- b) Unfair Competitive Advantage and Conflicting Activities:** had (or any of its Affiliates) been engaged by the NHB to provide goods, works, or services for a project, shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or services. Conversely, a firm (or any of its Affiliates) hired to provide consulting services for the preparation or implementation of a project shall be disqualified from subsequently providing goods or works or services resulting from or directly related to the consulting services for such preparation or implementation.
- c) Conflicting Assignments:** would (including its Experts and Sub-consultants) or any of its Affiliates) be or are providing consultancy/IT consultancy services in another assignment for the same or another Procuring Entity that, by its nature, may conflict with this assignment.
- d) Commissions and Gratuities:** The Successful Bidder shall disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents concerning the selection process or execution and performance of the resulting Contract. The information disclosed must include the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee.
- e) Conflicting Relationships:** has close business/ family relationship with a staff of the NHB who are/ would be directly/ indirectly involved in any of the following activities:
- i. Preparation of the RFP document or TOR of the Procurement Process
 - ii. Evaluation of Proposals or award of Contract, or
 - iii. Implementation/ supervision of the resulting Contract

4. The Terms of Reference (ToR) and form of contract

4.1 Facilities to be provided by the Procuring Entity:

- i. The NHB shall make available to the Successful Bidder and the Experts, for the performance of the contract, free of any charge (unless otherwise stated therein), the services, facilities, and property described in the 'Terms of Reference' as per terms and conditions and against appropriate safeguards (including Insurances, Bank Guarantee, Indemnity Bonds, Retention Money etc.) specified therein. The Successful Bidder shall use such property for the execution of the contract and no other purpose whatsoever.
- ii. In case such services, facilities and property shall not be made available to the Successful Bidder as and when specified in Appendix A, the Parties shall agree on any time extension that it may be appropriate to grant to the Successful Bidder for the performance of the Services, (ii) how the Successful Bidder shall procure any such services, facilities and property from other sources, and (iii) the additional payments,

if any, to be made to the Successful Bidder as a result thereof according to applicable clause of the contract

4.2 Forms of BoQ/ Contract and Selection Methods

i) Forms of BoQ/ Contract

BoQ and Contract document have been provided at **Annexure-X**.

ii) Selection Method

The selection of the bidder shall be based on Quality Cost Based Selection (QCBS) method in which weightage of technical score shall be 80% and weightage of financial score shall be 20%, the lowest quoted Financial Proposal (Fm) or H1 is given the maximum financial score (Sf) of 100.

4.3 Inputs of Key Experts

- a) Successful Bidder shall deploy the resources as per the terms & conditions stipulated in the RFP and instruction/ direction received from NHB time to time.
- b) Following is a list of key professional staff with requisite minimum qualification and relevant experience:

Resource Requirement for PMU for Cluster Development Program

S.No.	Position/Roles	Qualification	Number of Resources*
1	Team Leader	Post-Graduation in Post-Harvest Management /Agri Business or equivalent / Horticulture or related field with at least 15 years of experience – Should have experience of performing the role of a team leader for assignments of similar nature, in project development and implementation in horticulture/agriculture value chain development, and private sector projects with State/Central Govt.	1
2	Project Structuring & Feasibility Assessment Expert	Postgraduate degree in Agri-business or related field – 10 years' experience in project development and implementation in agriculture/ horticulture/ agribusiness/ PPP projects etc. with State/Central Govt.	1
3	Value Addition Expert	Postgraduate degree in agribusiness/ Food Processing/ Post-harvest Management having 7 years' relevant experience in	1

		horticulture/agriculture value chain development, logistics and supply management in an institution of repute.	
4	Due Diligence Expert	Postgraduate degree in agribusiness/ management having 7 years' relevant experience in commercial due diligence.	1
5	Contract Management & Pvt. Sector On-boarding Expert	Graduate degree in law/ management having 7 years' relevant experience in contract management/policy/regulatory compliances.	2
6	MIS/IT Expert [@]	Graduate in IT (BE/B.Tech. or equivalent) and MBA with minimum 7 years of experience, including one project with IT/MIS.	1
7	Branding and Marketing Expert	MBA/Post Graduate Degree in relevant field with least 5 years' experience in marketing and branding of relevant projects.	1
8	Capacity Building Expert	Post Graduate Degree in relevant field with at least 5 years' experience in capacity building of farmers/FPOs.	1
9	Support Team	Postgraduate degree in relevant field with 2 years of relevant experience	2
TOTAL			11

**Team will be deployed at O/o National Horticulture Board, Gurugram during the implementation period*

*** 2 Years Post Graduate Diploma in Business Management/Rural Management/Forest Management/Plantation Management or equivalent will be considered as equivalent to Post Graduation Degree*

**** National Horticulture Board may enhance or decrease the team size basis the need of the project. The above team deployment is for a minimum of 5 clusters and a maximum of 15 clusters. Subsequently for every additional five clusters 1 contract management & private sector on-boarding expert & support team member shall be added.*

***** The project duration is for 3 years which can be further extended for 1 more year in case as desired by the Board on the pro rata basis*

[@]The MIS/IT expert provided herein shall be responsible for day-to-day monitoring of the project. Any modifications in CDP Suraksha Portal shall be carried out at T&M basis using NICS rate of implementation within first 3 months of the selection of the PMU.

Note 1: Performance of the agency shall be evaluated every 6 months, in case services of the consultant are not found satisfactory, the services shall be terminated by the Board and no extension of the contract thereafter would be allowed by the Board.

Note 2: The Agency is free to employ additional resources (including the time for each team member) as they see fit, keeping in mind that adhering to the objectives of the assignment, scope of work/activities given, and outputs is essence for the assignment.

5. Proposal Prices, Taxes and Duties

5.1 & 5.2 Proposal Price (Firm/ Variable Price): The bidder shall upload its financial bid in Indian Rupees and payment under this contract will be made in Indian Rupees.

5.3 Taxes: Agency will ensure that all taxes as applicable are paid. BOARD has no responsibility for any dispute on this account. No additional liability will be accepted on these accounts. Amount quoted by the Agency will be inclusive of all form of taxes and any other charges.

5.4 Payments: The payment of professional fees to the agency shall be released on progress-basis after achieving the following milestones to the satisfaction of the board:

Payment Terms of PMU for CDP

S. No.	Activity/ Milestone	Total Duration (36 months)	Payment Release
1	Initiation Phase		
a.	Development of SOPs, Procurement Guidelines and Documents	3 months	On completion
2	Program Management – Monitoring & Supporting CDP Implementation	33 months	Quarterly
3	Any other need based assistance		

Note: All the above-mentioned activities/ milestones shall be carried out in above sequential manner only.

Penalties

- 5) **Late Delivery:** The agency agrees to deliver the end-to-end platform according to the agreed-upon timeline outlined in the project timelines. In the event of a delay in delivery, the Vendor shall be liable to pay a penalty up to 1% per month of the total component cost maximum to 5% of delay beyond the agreed-upon deadline. The penalty can be waived off only in the cases where delay is beyond the control of selected Agency.
- b) **Non-compliance with Specifications:** The agency shall ensure that the deliverables meets the specifications and requirements as outlined in the RFP and subsequent project documentation. Failure to comply with the specifications or deliver substandard work may result in penalties as referred above of the total project cost for each identified non-compliance or substandard deliverable.
- c) **Mitigating Circumstances:** The penalties mentioned above may be waived or adjusted at the discretion of NHB in cases of force majeure events or circumstances beyond the reasonable control of the agency. The agency shall promptly notify NHB of any such circumstances and provide supporting evidence.

- d) **Maximum Penalty:** The maximum penalty amount for any single violation or series of violations shall not exceed 5% of the total project cost.

Penalty Deduction: NHB reserves the right to deduct any applicable penalties from the Vendor's final payment or seek compensation through legal means if necessary.

6. Downloading the RFP Document, Corrigendum and Clarifications

6.1 Downloading the RFP Document

RFP Document shall be published on the Government e-Marketplace (GeM) Portal and NHB's website for downloading after the date and time of the start of availability till the deadline for availability as per the TIS.

6.2 Corrigendum/ Addendum to RFP Document

No interpretation, revision, or other communication from NHB regarding this solicitation is valid unless in writing. NHB may choose to send to all Bidders whose Proposals are under consideration, in writing or by any standard electronic means such as Mail or by uploading on website(s) of responses, including a description of the enquiry but without identifying its source to all the Bidders.

6.3 Clarification of the RFP Document

- 6.3.1 Bidders requiring any clarification on the RFP Document may submit their queries to the NHB through email at clusters.nhb@gov.in before the date mentioned in the Schedule of Bidding Process at Appendix I.
- 6.3.2 The NHB shall endeavor to respond to the queries within the period specified therein but not later than the date specified in the **Appendix I**. The NHB will post the reply to all such queries on NHB's website without identifying the source of queries. NHB shall not be held responsible in any manner if prospective Bidders miss any notifications placed on e-procurement Portal.
- 6.3.3 The NHB reserves the right not to respond to any questions or provide any clarifications, in its sole discretion, and nothing in this clause shall be construed as obliging the NHB to respond to any question or to provide any clarification.

Communications to Nodal Officer, NHB

Communications, including the envelopes (if any) must contain **"Request for Proposal (RFP) for the Engagement of an Agency / Organization to function as Program Management Unit for Cluster Development Program of National Horticulture Board"** and to be marked at the top in bold letters:

Shri R.K. Agrawal, Joint Director
CDP, National Horticulture Board
Ministry of Agriculture & Farmers Welfare
Plot No.85, Sector 18, Institutional Area,
Gurugram, Haryana- 122015
Email: clusters.nhb@gov.in

7. Pre-proposal Conference

- 7.1 The Pre-Bid Conferences will be conducted virtually on the date and time specified in TIS. The advisory along with details of meeting link will be uploaded prior to the meeting schedule.
- 7.2 Prior to the Pre-Proposal meetings, the Bidders may submit a list of queries and proposed suggestions, if any, to the RFP requirements.
- 7.3 Bidders may note that NHB may not entertain any deviations to the RFP document at the time of submission of the Proposal or thereafter. The Proposal to be submitted by the Bidders will be unconditional and unqualified and the Bidders would be deemed to have accepted the terms and conditions of the RFP document with all its contents. Any conditional Proposal shall be regarded as non-responsive and would be liable for rejection.
- 7.4 In case of any change in the schedule of Pre-Proposal Meeting, the same will be communicated to Bidders through posting on the NHB's website i.e., www.nhb.gov.in and desired government procurement portal.

8. Preparation of Proposals

8.1 The Proposal:

- 8.1.1 **Language:** Bids and all accompanying documents shall be in English language. In case any accompanying documents are in other languages, it shall be accompanied by an English Translation. The English version shall prevail in the matters of interpretation.
- 8.1.2 **Form of Bid:** The form of bid shall be completed in all respects and duly signed and stamped by an authorized representative of the Bidder. Relevant power of attorney for signing the bid should be attached/ uploaded.
- 8.1.3 **Currencies of Bid and Payment:** The bidder shall upload its financial bid in Indian Rupees and payment under this contract will be made in Indian Rupees.
- 8.1.4 **Cost of Bid:** The bidder shall bear all costs associated with the preparation and uploading of bid/ submission of required documents and NHB in no case shall be responsible or liable for those costs, regardless of the conduct or outcome of the RFP process.

8.2 Document comprising the Proposal:

- 8.2.1 The bidder is expected to examine all instructions, forms, terms, and conditions in the RFP document. Failure to furnish all information required by the RFP document or submission of a bid not substantially responsive to the RFP document in every respect will be at the bidder's risk and may result in rejection of his bid.
- 8.2.2 The bidder shall not make or cause to be made by any alternation, erasure etc. to the text of the RFP document.
- 8.2.3 The Bidders shall upload the electronic copy of the Proposal on GeM Portal after signing of all the documents.
- 8.2.4 The documents comprising the bid shall be typed and all pages of the bid shall be signed by a person duly authorized to sign on behalf of the bidder.

- 8.2.5** The bid shall contain no alternations, omissions, or additions except those to comply with instruction issued by NHB or are necessary to correct errors made by the bidder, in which case such corrections shall be initialed/signed by the person signing the bid.

8.3 Proposal Validity

The bid must remain valid and open for acceptance for a period of **90 days** from the date of opening of Bid. The validity period may be extended further, in case required, after obtaining approval by Competent Authority, NHB.

8.4 Bid Security – Related Documents

- 8.4.1** Applicants are required to deposit Rs.5.00 Lakhs (Rupees five lakhs only) as EMD. MSME organizations shall be exempted from EMD. For depositing EMD amount, may refer the below mentioned bank details:

Name of A/c Holder: National Horticulture Board

Bank Name: Indian Overseas Bank

Branch Name: NHB, Gurugram

Address of Bank: Plot No.85, Sector 18, Institutional Area, Gurugram, Haryana- 122015

A/c No.: 193501000000101

IFSC No.: IOBA0001935

- 8.4.2** No interest shall be payable by the Department for the sum deposited as Earnest Money Deposit. The EMD amount of the unsuccessful bidders would be returned after finalization of the proposal/ selection of agency received against this RFP document.

- 8.4.3** EMD of successful bidder shall be retained till the successful completion of the assignment and shall be released along-with Performance Bank Guarantee (PBG). No interest shall be payable by the Department for the sum deposited as Earnest Money Deposit.

- 8.4.4** Bids not accompanied with the transaction details pertaining to the payment made as Earnest Money Deposit (EMD) are summarily rejected. Applicants registered under Micro Small Medium Enterprise (MSME) are exempted to pay Earnest Money Deposit (EMD).

- 8.4.5** The EMD shall be forfeited by the NHB in the following events:

- a) If the proposal is withdrawn during the validity period or any extension agreed by the Applicant thereof.
- b) If the proposal is varied or modified in a manner not applicable to the Department after opening of proposal during the validity period or any extension thereof.
- c) If the Agency tries to influence the evaluation process.

- 8.4.6** EMD may be submitted by the bidder through RTGS transfer or in the form of a demand draft (DD).

9. Signing and Uploading of Proposals

9.1 Relationship between Consultant and e-Procurement Portal:

The parties to the contract are the Successful Bidder and the NHB, as nominated in the contract. Nothing contained herein shall be construed as establishing a relationship in the nature of master and servant or principal and agent between the NHB and the successful bidder. The successful bidder, subject to this Contract, is legally the main principal/ master of the Experts and Sub-Successful Bidders, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder:

- a) **Authority of Member in Charge:** The members hereby authorize the member specified in the contract to act on their behalf in exercising all the Successful Bidder's rights and obligations towards the NHB under this Contract, including without

limitation the receiving of instructions and payments from the NHB.

- b) **Authorized Representative:** Any action required or permitted to be taken and any document required or permitted to be executed under this Contract by the NHB or the Successful Bidder may be taken or executed by the officials specified in the contract.

Good Faith: The Parties shall act in good faith concerning each other's rights under this Contract and adopt all reasonable measures to ensure the realization of the objectives of this Contract. The Successful Bidder shall always act, in respect of any matter relating to this Contract or the Services, as a faithful adviser to the NHB and shall always support and safeguard the NHB's legitimate interests in any dealings with the third parties.

9.2 Signing of Proposal:

The documents comprising the bid shall be typed and all pages of the bid shall be signed by a person duly authorized to sign on behalf of the bidder.

9.3 Submission/ uploading of Proposal:

- 9.3.1** The Bidders shall upload the Proposal with all pages numbered serially and by giving an index of submissions.

- 9.3.2** The bid shall contain no alternations, omissions, or additions except those to comply with instruction issued by NHB or are necessary to correct errors made by the bidder, in which case such corrections shall be initialed/signed by the person signing the bid.

9.4 Modification, Resubmission, and withdrawal of proposals:

- 9.4.1** The EMD shall be forfeited by the NHB if the proposal is withdrawn during the validity period, or any **extension** agreed by the Applicant thereof.
- 9.4.2** If the proposal is varied or modified in a manner not applicable to the Department after opening of proposal during the validity period or any extension thereof.

10. Proposal Opening

The electronic "Technical Proposal" shall be opened first, through GeM Portal on the date and time specified in **Appendix I**. The "Financial Proposal" shall remain unopened in the portal, until the subsequent public opening following the evaluation of the Technical Proposal.

11. Evaluation of Proposals and Award of Contract

11.1 General Norms

A date and time will be notified to all Bidders for announcing the result of evaluation and opening of Financial Proposals via portal. The quoted price shall be firmed and fixed for the entire duration of the contract period.

11.2 Evaluation of Proposals

a) Evaluation of Technical Proposal:

- i. The Technical Proposal of the bidder would be evaluated as per the eligibility criteria set out in the RFP document, whether these are compliance in all respects. Bids will be evaluated based on the information submitted by bidder. However, NHB reserves the right to seek clarification/ documents from the bidders, if NHB considers it necessary for proper assessment of the bid.
- ii. The Technical Bids will be evaluated based on eligibility criteria and only those Bidders whose Technical Proposals get a score of 60 (sixty) marks or more out of 100 (one hundred) shall qualify for further consideration and shall be ranked from highest to the lowest based on their technical score (St).

b) Evaluation of Financial Proposal:

- i. A date and time will be notified to all Bidders for announcing the result of evaluation and opening of Financial Proposals via portal.
- ii. The quoted price shall be firmed and fixed for the entire duration of the contract period.

11.3 Techno-Commercial Evaluation

- i. The selection of the bidder shall be based on Quality Cost Based Selection (QCBS) method in which weightage of technical score shall be 80% and weightage of financial score shall be 20%.
- ii. The lowest quoted Financial Proposal (Fm) is given the maximum financial score (Sf) of 100. The financial scores of other Proposals will be computed as follows:
$$Sf = 100 \times Fm/F$$

(F = amount of Financial Proposal)

11.4 Financial Proposals Evaluation and Ranking of Proposals

- i. Proposals will finally be ranked according to their combined technical (St) and financial (Sf) scores as follows: **$S = St \times 80\% + Sf \times 20\%$** .
- ii. Bidder having the highest combined score shall be the successful Bidder and Letter of Award (LoA) shall be issued by NHB.

12. Contract Negotiation

The RFP Evaluation Committee may choose to conduct technical negotiation or discussion with any or all the Bidders. The decision of Evaluation Committee in the valuation of the Technical and Commercial bids shall be final and binding on all the parties.

12.1 Invitation to Negotiate

The negotiations will be held at the date and address announced after the selection of the successful Bidder with their representative(s), who must have written power of attorney to negotiate and sign a contract on behalf of the Bidder. The minutes of negotiations shall be signed by the Board and the Bidder's authorized representative.

12.2 Verification of Original Documents

Before issuing a Letter of Award (LoA) to the successful Bidder, the Board may, at its discretion, ask the Bidder to present the originals of all such documents whose scanned copies were submitted online during this RFP process. If so decided, the photocopies of such self-certified documents shall be verified and signed by the competent officer and kept in the records as part of the contract agreement. If the Bidder fails to provide such originals or in case of substantive discrepancies in such documents, it shall be construed as a violation of the Code of Integrity. Such Proposal shall be liable to be rejected as nonresponsive in addition to other punitive actions in the Code of Integrity.

12.3 Availability of Key Experts:

As a pre-requisite to the negotiations, the invited Bidder shall confirm the availability of all Key Experts included in the Proposal. Failure to confirm the Key Experts' availability may result in the Bidder's Proposal being declared non-responsive and the Board proceeding to negotiate the Contract with the next-ranked responsive Bidder.

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

12.4 Technical Negotiations

The negotiations include discussions of the Terms of Reference (TORs), the proposed methodology, the Procuring Entity's inputs, the special conditions of the Contract, and finalizing the 'Appendix A: Terms of Reference' part of the Contract. These discussions shall not substantially alter the original scope of services under the TOR or the terms of the contract lest the quality of the final product, its price, or the initial evaluation be vitiated.

12.5 Financial Negotiations

General

The Financial negotiations include clarifying the Bidder's tax liability and how it should be reflected in the Contract.

Lump-Sum form of BOQ: In the case of a Lump-Sum contract, if the selection method included cost as a factor in the evaluation, the total price stated in the Financial Proposal shall not be negotiated.

Time-Based (Input Admeasurement) form of BOQ: In the case of a Time-Based contract, unit rate negotiations shall not take place except when the offered Key Experts and Non-Key Experts' remuneration rates are much higher than the typically charged rates by comparable consultants in comparable contracts. Then Procuring Entity may request the Consultant to clarify the breakdown of remuneration rates during the Contract negotiations. At the negotiations, the firm shall be prepared to disclose its audited financial statements for the last three years to substantiate its breakup of remuneration rates. If clarifications are not satisfactory Procuring Entity may ask the Consultant to reduce the rates. The Procuring Entity shall specify the format for clarifying the remuneration rates' structure under this Clause. A breakdown of Remuneration sheets agreed upon at the negotiations shall form part of the negotiated contract and be included as an Annex to Appendix C in the Contract.

12.6 Conclusion of Negotiations

The negotiations are concluded with a review of the finalized draft Contract, which shall be initialed by the Board and the Bidders's authorized representative. If the negotiations fail, the Board shall inform the Bidder in writing of all pending issues and disagreements and provide a final opportunity for the

Board to respond. If disagreement persists, the Board shall declare the proposal non-responsive, informing the Consultant of the reasons for doing so. The Board shall invite the next-ranked responsive Bidder to negotiate a Contract. Once the Procuring Entity commences negotiations with the next-ranked Bidder, the Board shall not reopen the earlier negotiations.

13. Award of Contract

- 13.1 NHB will award the contract to the Successful Bidder to perform the contract satisfactorily as per the terms and conditions incorporated in the RFP document.
- 13.2 NHB will communicate the Successful Bidder by Gem Portal. This letter (hereinafter and in the condition of contract called the “Letter of Award”) shall prescribe the amount, which NHB will pay to the Successful Bidder in consideration of the execution of work/ services by them as prescribed in the contract.
- 13.3 The Successful Bidder will be required to commence the assignment at the earliest as communicated by NHB in this regard.
- 13.4 However, NHB reserves the right to reject any or all the offers without assigning any reason whatsoever.

14. Grievance/ Redressal/ Complain Procedure

The person who has signed the contract on behalf of the Successful Bidder shall sign all correspondences. A person signing communication in respect of the contract or purported to be on behalf of the Successful Bidder, without disclosing his authority to do so, shall be deemed to warrant that he has authority to bind the Successful Bidder. If it is discovered at any time that the person so signing has no authority to do so, the NHB reserves its right, without prejudice to any other right or remedy, to terminate the contract for default in terms of the contract and/ or avail any or all the remedies thereunder and hold such person personally and/ or the Successful Bidder liable to the NHB for all costs and damages arising from such misdemeanors.

SECTION IV: GENERAL CONDITIONS OF CONTRACT (GCC)

1 General

5.24 Tenets of Interpretation

Unless where the context requires otherwise, throughout the contract:

- 1) The headings of these conditions shall not affect the interpretation or construction thereof.
- 2) Writing or written includes matter either whole or in part, in digital communications, manuscript, typewritten, lithographed, cyclostyled, photographed, or printed under or over signature or seal or digitally acceptable authentication, as the case may be.
- 3) Words in the singular include the plural and vice-versa.
- 4) Words importing the masculine gender shall be taken to include other genders, and words importing persons shall include any company, association, or body of individuals, whether incorporated or not.
- 5) Terms and expressions not herein defined shall have the meanings assigned to them in the contract Act, 1872 (as amended) or the Sale of Goods Act, 1930 (as amended) or the General Clauses Act, 1897 (as amended) or of INCOTERMS, (current edition published by the International Chamber of Commerce, Paris) as the case may be.
- 6) Any reference to 'Services' shall also be deemed to include the incidental Works/ Goods.
- 7) Any reference to any legal Act, Government Policies or orders shall be deemed to include all amendments to such instruments, from time to time, to date.
- 8) GCC-clause 5.12 (Book Examination clause) shall not apply unless invoked explicitly in the contract.

1.2 Definitions

In the contract, unless the context otherwise requires:

- 5) "BOARD" means the National Horticulture Board (NHB) and legal successors to the BOARD and permitted assignees.
- 2) "BIDDER" means body incorporated in India under the Companies Act, 1956/2013 including any amendment thereto OR a partnership firm registered in India OR a proprietary firm registered in India.
- 3) "DAY" means a calendar day.
- 4) "FEES" means the amount of money to be paid to the AGENCY by the BOARD for SERVICES rendered by the AGENCY to the BOARD.
- 5) "SERVICES" means the services to be performed by the AGENCY as per scope of work Given by Board.
- 6) "EFFECTIVE DATE" shall be the date of issuance of Letter of Award by BOARD to the Bidder whichever is earlier.

1.3 Document Conventions

All words and phrases defined in GCC-clause 1.2 are written as 'Capitalized words' and shall have the defined meaning. The rest of the words shall be as per grammar, inter-alia 'Services' shall indicate the definition given in the GCC, while 'services' shall have the usual dictionary meaning.

1.4 Abbreviations:

Abbreviations	Definition
AITC	Appendix to Instructions to Consultants/ Bidders
BOQ	Bill of Quantities
BSD	Bid Securing Declaration
CV	Curriculum Vitae
EMD	Monetary guarantee to be furnished by a consultant/ bidder along with its proposal
FBS	Fixed Budget Selection
GCC	General Conditions of Contract
GST	Goods and Services Tax
GSTIN	GST Identification Number
GTE	Global Tender Enquiry (International Competitive Bidding)
HSN	Harmonized System of Nomenclature
IEM	Independent External Monitor
IPR	Intellectual Property Rights
ITC	Instructions To Consultants
JV/C	Joint Venture/ Consortium
LCS	Least Cost Selection
LoA	Letter of Award (Acceptance)
QCBS	Quality and Cost-Based Selection
RFP	Request for Proposal
RFPL	Request for Proposal Letter
SCC	Special Conditions of Contract
TIA	Tender Inviting Authority
TIS	Tender Information Summary
TOR	Terms of Reference
NHB	National Horticulture Board

2. The Contract

2.1 Language of Contract

The contract and all subsequent correspondence documents, during its execution, between the consultant and the Procuring Entity shall be written in the English Language. However, the language of any printed literature furnished by a Consultant/ Bidder may be written in any other language provided a certified translation accompanies the same in the contract's language. For purposes of interpretation, translation in the contract's language shall prevail.

2.2 The Entire Agreement

This Contract and its documents (referred to in GCC-clause 2.5 below) constitute the entire agreement between the Procuring Entity and the Consultant and supersede all other communications, negotiations, and agreements (whether written or oral) of the Parties made before the date of this Contract. No agent or representative of either Party has the authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not outlined in this Contract.

2.3 Severability

If any provision or condition of this Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of the Contract or any of its other provisions and conditions.

2.4 Relationship between Parties

- 2.4.1** The parties to the contract are the Successful Bidder and the NHB, as nominated in the contract. Nothing contained herein shall be construed as establishing a relationship in the nature of master and servant or principal and agent between the NHB and the successful bidder. The successful bidder, subject to this Contract, is legally the main principal/ master of the Experts and Sub-Successful Bidders, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder:
- 2.4.2** Authority of Member in Charge: The members hereby authorize the member specified in the contract to act on their behalf in exercising all the Successful Bidder's rights and obligations towards the NHB under this Contract, including without limitation the receiving of instructions and payments from the NHB.
- 2.4.3** Authorized Representative: Any action required or permitted to be taken and any document required or permitted to be executed under this Contract by the NHB or the Successful Bidder may be taken or executed by the officials specified in the contract.
- 2.4.4** Good Faith: The Parties shall act in good faith concerning each other's rights under this Contract and adopt all reasonable measures to ensure the realization of the objectives of this Contract. The Successful Bidder shall always act, in respect of any matter relating to this Contract or the Services, as a faithful adviser to the NHB and shall always support and safeguard the NHB's legitimate interests in any dealings with the third parties.

2.5 Contract Documents and their Precedence

The following conditions and documents in indicated order of precedence (higher to lower) should be considered an integral part of the contract, irrespective of whether these are not appended/ referred to in it. Any generic reference to 'Contract' shall imply reference to all these documents as well:

- a) Appendix A: Work Order/ Letter of Award (LoA)
- b) Appendix B: Valid and authorized Amendments issued to the contract.
- c) Appendix C: RFP document including Terms of Reference (ToR), Corrigendum/ Addendum (if any)
- d) Appendix D: Key Experts.
- e) Appendix E: Proposal and clarifications (if any) submitted by the Successful Bidder.
- F) Any other document listed in the contract as forming part of this Contract.

2.6 Modifications/ Amendments, Waivers and Forbearances

2.6.1 Modifications/ Amendments of Contract

- A. After the contract documents have been signed, no modified provisions shall be applicable unless the NHB suo-moto or, on request from the successful bidder, by written order, amend the contract, at any time during the period of the contract, by making alterations and modifications within the general scope of the Contract. Requests for changes and modifications in the Contract may be submitted in writing by the successful Bidder to the NHB.
- B. If the Successful Bidder does not agree to the suo-moto modifications/ amendments made by the NHB, he shall convey his views within 14 days from the date of amendment/ modification. Otherwise, it shall be assumed that the Successful Bidder has consented to the amendment.
- C. Any verbal or written arrangement abandoning, modifying, extending, reducing, or supplementing the contract or any of the terms thereof shall be deemed conditional and shall not be binding on the NHB unless and until the same is incorporated in a formal instrument and signed by the Successful Bidder, and till then the Successful Bidder shall have the right to repudiate such arrangements.

2.6.2 Waivers and Forbearance

The following shall apply concerning any waivers, forbearance, or similar action taken under this Contract:

- a) Any waiver of a Successful Bidder's rights, powers, or remedies under this Contract must be in writing, dated, and signed by an authorized representative of the NHB granting such a waiver and must specify the terms under which the waiver is being granted.
- b) No relaxation, forbearance, delay, or indulgence by NHB in enforcing any of the terms and conditions of this Contract or granting of an extension of time by NHB to the Successful Bidder shall, in any way whatsoever, prejudice, affect, or restrict the rights of NHB under this Contract, neither shall any waiver by NHB of any breach of Contract operate as a waiver of any subsequent or continuing breach of Contract.

3. Governing Laws and Jurisdiction

3.1 Governing Laws and Jurisdiction

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Laws of India for the time being in force.

Irrespective of the place of delivery, the place of performance or the place of payments under the contract, the contract shall be deemed to have been made at the place from which the Letter of Award (LoA, or the contract Agreement, in the absence of LoA) has been issued. Unless otherwise specified in the Contract, the courts of such a place shall alone have jurisdiction to decide any dispute arising out of or in respect of the contract.

3.2 Changes in Laws and Regulations

Unless otherwise stipulated in the contract, if after the deadline for the Proposal submission (Techno-commercial), any law, regulation, ordinance, order or bye-law having the force of law is enacted, promulgated, abrogated, or changed in India (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/ or the contract Price, then such Delivery Date and/ or Contract Price shall be correspondingly increased or decreased as per GCC clause 2.6, by agreement between the Parties hereto, to the extent that the Successful Bidder has thereby been affected in the performance of any of its obligations under the contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the applicable price adjustment provisions.

4. Communications

4.1 Communication

- a) All communications under the contract shall be served by the parties to each other in writing, in the contract's language, and served in a manner customary and acceptable in business and commercial transactions.
- b) The effective date of such communications shall be either the date when delivered to the recipient or the effective date mentioned explicitly in the communication, whichever is later.
- c) No communication shall amount to an amendment of the terms and conditions of the contract, except a formal letter of amendment of the Contract expressly so designated.
- d) Such communications would be an instruction, a notification, and an acceptance, a certificate from the NHB, or a submission or a notification from the Successful Bidder. A notification or

certificate required under the contract must be communicated separately from other communications.

4.2 Persons signing the Communication.

For all purposes of the contract, including arbitration, thereunder all communications to the other party shall be signed by:

On behalf of the Successful Bidder: The person who has signed the contract on behalf of the Successful Bidder shall sign all correspondences. A person signing communication in respect of the contract or purported to be on behalf of the Successful Bidder, without disclosing his authority to do so, shall be deemed to warrant that he has authority to bind the Successful Bidder. If it is discovered at any time that the person so signing has no authority to do so, the NHB reserves its right, without prejudice to any other right or remedy, to terminate the contract for default in terms of the contract and/ or avail any or all the remedies thereunder and hold such person personally and/ or the Successful Bidder liable to the NHB for all costs and damages arising from such misdemeanors.

On behalf of the NHB: Unless otherwise stipulated in the contract, the Contract Manager signing the contract shall administer the contract and sign communications on behalf of the NHB. Paying Authorities mentioned in the contract shall also administer respective functions during Contract Execution.

4.3 Address of the parties for sending communications by the other party

For all purposes of the contract, including arbitration, thereunder, the address of parties to which the other party shall address all communications and notices shall be:

The Successful Bidder's address as mentioned in the contract, unless the Successful Bidder has notified change by a separate communication containing no other topic to the NHB. The Successful Bidder shall be solely responsible for the consequence of an omission to notify a change of address in the manner aforesaid, and

The NHB's address shall be the one mentioned in the contract. The Successful Bidder shall also send additional copies to officers of the NHB presently dealing with the contract.

In case of communications from the Successful Bidder, copies of communications shall be marked to the Contract Manager and the NHB's officer signing the contract and as relevant to the Paying Authorities mentioned in the contract. Unless specified before the contract's start, the NHB and the Successful Bidder shall notify each other if additional copies of communications are to be addressed to additional addresses.

5. Consultant's Obligations and restrictions on its Rights

5.1 Changes in Constitution/ financial stakes/ responsibilities of a Contract's Business

Consultant must proactively keep the Procuring Entity informed of any changes in its constitution/ financial stakes/ responsibilities during the execution of the contract. Where the Consultant is a partnership firm, the following restrictions shall apply to changes in the constitution during the execution of the contract:

- a) A new partner shall not be introduced in the firm except with the previous consent in writing of the Procuring Entity, which shall be granted only upon execution of a written undertaking by the new partner to perform the contract and accept all liabilities incurred by the firm under the contract before the date of such undertaking.
- b) On the death or retirement of any partner of the Consultant firm before the complete performance of the contract, the Procuring Entity may, at his option, terminate the contract for default as per the contract and/ or avail any or all remedies thereunder.

- c) If the contract is not terminated as provided in Sub-clause (b) above, notwithstanding the retirement of a partner from the firm, that partner shall continue to be liable under the contract for acts of the firm until a copy of the public notice given by him under Section 32 of the Partnership Act, has been sent by him to the Procuring Entity in writing or electronically.

5.2 Obligation to Maintain Eligibility and Qualifications

The contract has been awarded to the Successful Bidder based on evaluation and scoring criteria stipulated in the RFP process. The Successful Bidder is contractually bound to maintain compliance with all such criteria during the execution of the contract. Any change which would vitiate the basis on which the Successful Bidder was awarded the contract should be proactively brought to the notice of the NHB within 7 days of it coming to the Successful Bidder's knowledge.

5.3 Restriction on Potential Conflict of Interests

Neither the Consultant nor its Sub-consultants nor the Personnel shall engage, either directly or indirectly, in any of the following activities:

- 5) During this Contract's term, any business or professional activities in India that would conflict with the activities assigned to them.
- b) After this Contract's termination, such other activities as may be stipulated in the contract.
- c) Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Procuring Entity on the procurement of goods, works or services, the Consultant shall at all times exercise such responsibility in the best interest of the Procuring Entity. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the Procuring Entity.
- d) During the term of this Contract and after its termination, the Consultant and its affiliates, as well as any Sub-consultant and any of its affiliates, shall be disqualified from providing goods, works, or Services (other than the subject Service of this Contract and any continuation thereof) for any project resulting from or closely related to the subject Services of this Contract.
- e) The payment of the Consultant according to (GCC Clause 10.5) shall constitute the Consultant's only payment in connection with this Contract. The Consultant shall not accept for its benefit any trade commission, discount, or similar payment in connection with activities under this Contract or the discharge of its obligations hereunder. The Consultant shall use its best efforts to ensure that any Sub-consultants and the Experts and agents of either shall not receive any additional payment.
- f) The Consultant has an obligation and shall ensure that its Experts and Sub-consultants shall have an obligation to disclose any actual or potential conflict that impacts their capacity to serve the best interest of the Procuring Entity, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant and/ or the termination of the Contract.

5.4 Consequences of breach by Constituents of a Successful Bidder

No JV or consortium is allowed in this project.

5.5 Assignment and Sub-contracting

- a) the Consultant shall not, save with the previous consent in writing of the Procuring Entity, sublet, transfer, or assign the contract or any part thereof or interest therein or benefit or advantage thereof in any manner whatsoever to any Sub-consultant.

- b) The Consultant shall notify the Procuring Entity in writing of all such Sub-consultants, if not already stipulated in the contract, in its original Proposal or later. Such notification shall not relieve the Consultant from any of its liability or obligation under the terms and conditions of the contract. Sub-consultants must comply with and should not circumvent the Consultant's compliance with its obligations under GCC-clause 5.1 to 5.7.
- c) If the Consultant sublets or assigns this Contract or any part thereof without such permission, the Procuring Entity shall be entitled, and it shall be lawful on his part, to treat it as a breach of contract and avail any or all remedies thereunder.

5.6 Obligation to Indemnify Procuring Entity:

5.6.1 For breach of IPR Rights

- 1) the Consultant shall indemnify and hold harmless, free of costs, the Procuring Entity and its employees and officers from and against all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which may arise in respect of the Services provided by the Consultant under this Contract, as a result of any infringement or alleged infringement of any patent, utility model, registered design, copyright, or other Intellectual Proprietary Rights (IPR) or trademarks, registered or otherwise existing on the date of the contract arising out of or in connection with:
 - a) Any design, data, drawing, specification, or other documents or Services provided or designed by the Consultant for or on behalf of the Procuring Entity.
 - b) The sale by the Procuring Entity in any country of the services/ products produced by the Services delivered by Consultant, and
 - c) The delivery of the Services by the Consultant or the use of the Services at the Procuring Entity's Site
- 2) Such indemnity shall not cover any use of the Services or any part thereof other than for the purpose indicated by or to be reasonably inferred from the contract, neither any infringement resulting from the use of the Services or any part thereof, or any service/ products produced thereby in association or combination with any other service, equipment, plant, or materials not delivered by the Consultant.
- 3) If any proceedings are brought, or any claim is made against the Procuring Entity arising out of the matters referred above, the Procuring Entity shall promptly notify the Consultant. At its own expense and in the Procuring Entity's name, the Consultant may conduct such proceedings and negotiations to settle any such proceedings or claim, keeping the Procuring Entity informed.
- 4) If the Consultant fails to notify the Procuring Entity within twenty-eight (28) days after receiving such notice that it intends to conduct any such proceedings or claim, then the Procuring Entity shall be free to conduct the same on its behalf at the risk and cost to the Consultant.
- 5) At the Consultant's request, the Procuring Entity shall afford all available assistance to the Consultant in conducting such proceedings or claims and shall be reimbursed by the Consultant for all reasonable expenses.

5.6.2 For Losses and Damages Caused by Successful Bidder

Successful Bidder shall indemnify and keep harmless the NHB, from and against, all actions, suit proceedings, losses, costs, damages, charges, claims, and demands of every nature and description brought or recovered against the NHB because of any act or omission or default or negligence or trespass of the Successful Bidder, his agents, or employees despite all reasonable and proper precautions may have been taken, during the execution of the Services. The Successful Bidder shall make good at his own expense all resulting losses and/ or damages to: The contract has been awarded to the Consultant based on evaluation and scoring criteria stipulated in the RFP process after he was shortlisted in the preceding EOI process based on eligibility and qualifications criteria stipulated therein. The Consultant is contractually bound

to maintain compliance with all such criteria during the execution of the contract. Any change which would vitiate the basis on which the Consultant was shortlisted or awarded the contract should be pro-actively brought to the notice of the Procuring Entity within 7 days of it coming to the Consultant's knowledge.

The Services themselves or
Any other property of the NHB or
The lives, persons, or property of others

In case the NHB is called upon to make good such costs, loss, or damages or to pay any compensation, including that payable under the provisions of the Workmen's Compensation Act or any statutory amendments thereof, the amount of any costs or charges including costs and charges in connection with legal proceedings, which the NHB may incur about it, shall be charged to the Successful Bidder. All sums payable by way of compensation under any of these conditions shall be considered reasonable compensation to be applied to the actual loss or damage sustained and whether or not any damage shall have been sustained.

The NHB shall have the power and right to pay or to defend or compromise any claim of threatened legal proceedings, or in anticipation of legal proceedings being instituted consequent on the action or default of the Successful Bidder, to take such steps as may be considered necessary or desirable to ward off or mitigate the effect of such proceedings, charging to Successful Bidder, as aforesaid, any sum or sums of money which may be paid and any expenses whether for reinstatement or otherwise which may be incurred and the propriety of any such payment, defence or compromise, and the incurring of any such expenses shall not be called in question by the Successful Bidder.

5.7 Confidentiality, Secrecy and Property and IPR Rights

a) Property Rights

Physical assets, e.g., Equipment, vehicles and materials made available to the Successful Bidder by the NHB or purchased by the Successful Bidder wholly or partly with funds provided by the NHB, shall be the property of the NHB and shall be marked accordingly. Upon termination or expiration of this Contract, the Successful Bidder shall make an inventory of such data, project related materials and dispose of such equipment, vehicles, and materials in accordance with the NHB's instructions. While in possession of such equipment, vehicles and materials, the Successful Bidder, unless otherwise instructed by the NHB in writing, shall insure them at the expense of the NHB in an amount equal to their total replacement value.

Intangible assets, e.g., license agreements, Software Packages, and memberships for purposes of performance of this contract provided by the NHB or purchased by the Successful Bidder wholly or partly with funds provided by the NHB, shall be the property of the NHB and shall be registered accordingly. These shall be obtained in the name of the NHB after obtaining the NHB's prior written approval. The NHB shall have an encumbered right to use such assets, even after the termination of the Contract. Any restrictions about the future use of these documents and software shall be specified in the Contract.

b) **IPR Rights**

All deliverables, outputs, platform, data, reports, and other documents and software submitted by the Successful Bidder under this Contract shall become and remain the property of the NHB and shall be subject to laws of copyright and must not be shared with third parties or reproduced, whether in whole or part, without the NHB's prior written consent. The Successful Bidder shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the NHB, together with a detailed inventory thereof. The Successful Bidder may retain a copy of such documents and software but shall not use it for commercial purposes.

c) **Confidentiality:**

As provided in Section 42A of The Arbitration Act, all the details and particulars of the arbitration proceedings shall be kept confidential except in certain situations, like if the disclosure is necessary for the implementation or execution of the arbitral award.

d) **Secrecy**

If the contract declares the subject matter of this Contract as coming under the Official Secrets Act, 1923 or if the contract is marked as "Secret", the Consultant shall take all reasonable steps necessary to ensure that all persons employed in any connection with the contract, have acknowledged their responsibilities and penalties for violations under the Official Secrets Act and any regulations framed thereunder.

e) **Restrictions on the Use of Information**

Without the Procuring Entity's prior written consent, the Consultant shall not use the information mentioned in the sub-clauses above except for performing this contract.

The Consultant shall treat and mark all information as confidential (or Secret – as the case may) and shall not, without the written consent of the Procuring Entity, divulge to any person other than the person(s) employed by the Consultant in the performance of the contract. Further, any such disclosure to any such employed person shall be made in confidence and only so far as necessary for such performance for this contract.

Notwithstanding the above, the Consultant may furnish to its holding company or its Sub-consultant(s) such documents, data, and other information it receives from the Procuring Entity to the extent required for performing the contract. In this event, the Consultant shall obtain from such holding company/ Sub-consultant(s) an undertaking of confidentiality (or secrecy – as the case may be) similar to that imposed on the Consultant under the above clauses.

The obligation of the Consultant under sub-clauses above, however, shall not apply to information that:

- i) the Consultant needs to share with the institution(s) participating in the financing of the contract.
- ii) now or hereafter is or enters the public domain through no fault of Consultant.
- iii) can be proven to have been possessed by the Consultant at the time of disclosure and which was not previously obtained, directly or indirectly, from the Procuring Entity; or
- iv) otherwise lawfully becomes available to the Consultant from a third party with no obligation of confidentiality.

The above provisions shall not in any way modify any undertaking of confidentiality (or Secrecy – as the case may be) given by the Consultant before the contract date in respect of the contract, the RFP Document, or any part thereof.

The provisions of this clause shall survive completion or termination for whatever reason of the contract.

f) Protection and Security of Personal Data

Where the Consultant is processing Personal Data for the Procuring Entity (as part of Services), the Consultant shall:

- 5) Process the Personal Data only as per instructions from Procuring Entity (which may be specific instructions or instructions of a general nature) as set out in this Contract or as otherwise notified by Procuring Entity;
 - ii) Comply with all applicable laws;
 - iii) Process the Personal Data only to the extent and in such manner as is necessary for the discharge of the Consultant's obligations under this Contract or as is required by Law or any Regulatory Body;
 - iv) Implement appropriate technical and organizational measures to protect Personal Data against unauthorized or unlawful Processing and accidental loss, destruction, damage, alteration, or disclosure. These measures shall be appropriate to the harm which might result from any unauthorized or unlawful Processing, accidental loss, destruction, or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;
 - 5) Take reasonable steps to ensure the reliability of its staff and agents who may have access to the Personal Data;
 - 5) Obtain prior written consent from the Authority to transfer the Personal Data to any Sub-consultant for the provision of the Services;
 - vii) Not cause or permit the Personal Data to be transferred, stored, accessed, viewed, or processed outside of India without the prior written consent of the Procuring Entity
 - viii) Ensure that all staff and agents required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause.
 - ix) Ensure that none of the staff and agents publishes or disclose any personal data to any third parties unless directed in writing to do so by the Procuring Entity.
 - x) Not disclose Personal Data to any third parties in any circumstances other than with the written consent of the Procuring Entity or compliance with a legal obligation imposed upon the Procuring Entity;

Notify the Procuring Entity (within five Working Days) if it receives the;

- a) a request from an employee of Procuring Entity to have access to his or other employees' Personal Data; or
- 5) a complaint or request relating to the Procuring Entity's obligations under the law.

The provision of this clause shall apply during the contract period and indefinitely after its expiry.

5.8 Performance Security/ Bank Guarantee

The Successful Bidder shall be required to furnish a Performance Security within 10 working days from the date of notification of award for an amount equal to 10% of the contract price in the form of Bank Guarantee from a Scheduled Bank in acceptable form in favor of 'National Horticulture Board' payable at Gurugram. The Performance Security shall remain valid for a period of 60 (sixty) days beyond the date of completion of all contractual obligations. In case the contract period is extended further, the validity of Performance Security shall also be extended by the Successful Bidder accordingly.

5.9 Permits, Approvals and Licenses

Whenever the Services and incidental Goods/ Works delivery requires the Successful Bidder to obtain permits, approvals, and licenses from local public authorities or any third party, it shall be the Successful Bidder's sole responsibility to obtain these and keep them current and valid. Such requirements may include but not be restricted to licenses or environmental clearance if required. If requested by the Successful Bidder, the NHB shall make its best effort to assist the Successful Bidder in complying with such requirements in a timely and expeditious manner without diluting the Successful Bidder's responsibility in this regard.

5.10 Insurances

The Consultant (a) shall take out and maintain, and shall cause any Sub-consultants to take out and maintain, at its (or the Sub-consultants', as the case may be) own cost but on terms and conditions approved by the Procuring Entity, insurance against the risks, and for the coverage, as stipulated in the contract or any applicable law including Labour Codes; and at the Procuring Entity's request, shall provide evidence to the Procuring Entity showing that such insurance has been taken out and maintained and that the current premiums have been paid. The Consultant shall ensure that such insurances are in place before commencing the Services as stated in GCC clause 9.2. Alterations to the terms of insurance shall not be made without the approval of the Contract Manager.

5.11 Accounting, Inspection and Auditing

The Consultant shall keep and make all reasonable efforts to cause its Sub-consultants to keep accurate and systematic accounts and records in respect of the Services and in such form and detail as shall identify relevant time changes and costs and as per accounting principles prescribed in India.

5.12 Book Examination Clause

If explicitly invoked in the contract, the Procuring Entity reserves the right for 'Book Examination' as follows:

- 5) The Consultant shall, whenever called upon and required to produce or cause to be produced, for examination by any Government Officer duly authorized on that behalf, any cost or other book of account, voucher, receipt, letter, memorandum, paper or writing or any copy of or extract from any such document. The Consultant shall also furnish information relating to the execution of this contract or relevant for verifying or ascertaining the cost of execution of this contract to such Government Officer in such manner as may be required. This Government Officer's decision on the relevancy of any document or information of return shall be final and binding on the parties. The obligation imposed by this clause is without prejudice to the Consultant's obligations under any other statute, rules or orders which shall be concurrently binding on the Consultant.
 - ii) The Consultant shall, if the authorized Government Officer so requires (whether before or after the prices have been finally fixed), afford facilities to the Government Officer concerned to visit the Consultant's premises to examine the processes of delivery of Services and estimate or ascertain the cost of performance of Contract. The authorized Government Officer shall have the power, mutatis mutandis, to examine all the relevant books of the Consultant's Sub-consultant or any subsidiary or allied firm or company, If any portion of the contract is entrusted or carried out by such entities.
 - iii) If, on such examination, it is established that the contracted price is more than the actual cost-plus reasonable profit margin, the Procuring Entity shall have the right to reduce the price and determine the amount to a reasonable level.

- iv) The Consultant or its agency is bound to allow examination of its books within 60 days from the date the notice is received by the Consultant or its agencies calling for the production of documents under sub-clause (1) above. In the event of the Consultant's or his agency's failure to do so, the contract price would be reduced and determined according to the best judgment of the Procuring Entity, which would be final and binding on the Consultant and his agencies.

5.13 Legal Compliance

The Successful Bidder shall perform the Services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure that any of its Personnel, Expert etc. comply with the Applicable Law.

5.14 Custody and Return of the Procuring Entity's Assets loaned to Consultant

The assets including data, platform and other related material shall remain the property of the NHB, and the Successful Bidder shall take all reasonable care of all such assets. The Successful Bidder shall be responsible for all damage or loss from whatever cause while assets are possessed or controlled by the Successful Bidder.

6. Procuring Entity's Obligations

6.1 Assistance by the NHB

Unless otherwise specified in the Contract, the NHB shall use its best efforts to:

Issue instructions and information to its officials, agents, and stakeholders for prompt and effective implementation of the Services.

Provide to the Successful Bidder any other assistance as specified in the Contract.

6.2 Facilities to be provided by the NHB

The NHB shall make available to the Successful Bidder and the Experts, for the performance of the contract, free of any charge (unless otherwise stated therein), the services, facilities, and property described in the 'Terms of Reference' as per terms and conditions and against appropriate safeguards (including Insurances, Bank Guarantee, Indemnity Bonds, Retention Money etc.) specified therein. The Successful Bidder shall use such property for the execution of the contract and no other purpose whatsoever.

In case such services, facilities and property shall not be made available to the Successful Bidder as and when specified in Appendix A, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Successful Bidder for the performance of the Services, (ii) how the Successful Bidder shall procure any such services, facilities and property from other sources, and (iii) the additional payments, if any, to be made to the Successful Bidder as a result thereof according to applicable clause of the contract.

6.3 Counterpart Personnel

The Procuring Entity shall make professional and support counterpart personnel available to the Consultant.

If counterpart personnel are not provided by the Procuring Entity to the Consultant as and when specified, the Procuring Entity and the Consultant shall agree on (i) how the affected part of the Services shall be carried out, and (ii) the additional payments, if any, to be made by the Procuring Entity to the Consultant as a result thereof.

Professional and support counterpart personnel, excluding Procuring Entity's Contract Management and liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform any work assigned to such member by the Consultant that is adequately consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Procuring Entity shall not unreasonably refuse to act upon such request.

6.4 Payment Obligation

Considering the Services performed by the Successful Bidder under this Contract, the NHB shall pay the Successful Bidder for the deliverables specified in the RFP document and in such manner as is provided in the Contract.

7. Scope of Services and Performance Standards

7.1 Scope of Services

NHB has decided to onboard an Agency / Organization to function as Program Management Unit for Cluster Development Program of National Horticulture Board.

5. About NHB

Introduction:

National Horticulture Board (NHB) was set up by Government of India in 1984 as an Autonomous body under the administrative control of Ministry of Agriculture and Farmers Welfare, which is registered under THE HARYANA REGISTRATION AND REGULATION OF SOCIETIES ACT, 2012. NHB has its Head Quarter in Institutional Area, Plot-85, Sector-18, Gurugram (Haryana)-122015.

List of Schemes administered by NHB

National Horticulture Board is implementing programs as a sub-scheme of Mission for Integrated Development of Horticulture (MIDH). A list of schemes being implemented by NHB is given as under :-

- a) Development of Commercial Horticulture through Production and Post-Harvest Management of Horticulture Crops.
- 5) Capital Investment Subsidy Scheme for Construction/Expansion / Modernization of Cold Storages/Storages of horticulture products
- c) Technology Development and Transfer for promotion of horticulture
- d) Market Information Scheme for horticulture Crops
- e) Horticulture Promotion Services / Expert Services

Objectives of the NHB Schemes

The broad objectives of all the NHB Schemes are as under: -

- a) Development of hi-tech commercial horticulture in identified belts and make such areas vibrant with horticultural activity, which in turn will act as hubs for development of horticulture
- b) Development of modern post-harvest management infrastructure as an integral part of area expansion projects or as common facility for cluster of projects
- c) Development of integrated, energy efficient cold chain infrastructure for fresh horticulture produces
- d) Popularization of identified new technologies /tools /techniques for commercialization/ adoption, after carrying out technology need assessment

- e) Assistance in securing availability of quality planting material by promoting setting up of Scion and Root stock banks / Mother plant nurseries and carrying out accreditation / rating of horticulture nurseries and need based imports of planting material.
- f) Promotion and market development of fresh horticulture produce.
- g) Promotion of field trials of newly developed/imported planting materials and other farm inputs; production technology; Post Harvest Management (PHM) protocols, Integrated Nutrient Management (INM) and Integrated Pest Management (IPM) protocols and promotion of applied Research and Development (R&D) programs for commercialization of proven technology
- h) Promotion of Farm Mechanization in Horticulture through demonstration and its uses at farmers field level to reduce labour cost and increase the productivity of Horticulture crops.
- i) Promotion of applied Research and Development (R & D) for standardizing Post Harvest Management (PHM) protocols, prescribing critical storage conditions for fresh horticulture produce, bench marking of technical standards for cold Chain infrastructure etc.
- j) Transfer of technology to producers/farmers and service providers such as gardeners, nurserymen, farm level skilled workers, operators in cold storages, work force carrying out post-harvest management including processing of fresh horticulture produce and to the master trainers.
- k) Promotion of consumption of horticulture produce and products
- l) Promoting long distance transport solution for bulk movement of horticulture produce through rail etc.
- m) Carrying out studies and surveys to identify constraints and develop short and long-term strategies for systematic development of horticulture and providing technical services including advisory and consultancy services.

B. About Horticulture Cluster Development Programme (CDP)

NHB had designed and implemented a **Pilot Cluster Development Programme** in 2021 for horticulture crops. Based on the learning from the Pilot Program, NHB has redesigned the Cluster Developed Programme. The redesigned CDP is a central sector scheme which aims to leverage geographical specialization of horticulture clusters to make them globally competitive. The cluster development approach will facilitate the horticulture sector in 38arteliza suitable economies of scale in production and post-harvest activities. It is also expected to help in better price 38artelizati and empowerment of the farming community by enhancing their income through increased competitiveness across the entire value chain.

The key objectives of the Cluster Development Programme are:

- a. Address the concerns of the horticulture cluster value chain** from pre-production, production, post-harvest management and value addition to logistics, marketing and branding **in an integrated manner.**
- b. Facilitate the introduction of innovative technologies and practices to help enhance the global competitiveness of focus cluster crops² and thereby promote exports.**
- c. Enhance farmers' wallet share** (reduction in cost and increase in revenue).

² Focus crop has been defined as the identified major horticulture crop of a cluster. In addition to the focus crop, a cluster may have other ancillary crops.

List of identified Fruit Crops and Clusters for the Pilot Phase

No.	Product	Identified Clusters	State
1	Apple	a) Shopian b) Kinnaur	Jammu & Kashmir Himachal Pradesh
2	Mango	a) Mahabubnagar	Telangana
3	Banana	a) Ananthapur b) Theni	Andhra Pradesh Tamil Nadu
4	Grapes	a) Nashik	Maharashtra
5	Coconut	a) Alleppey	Kerala
6	Floriculture	a) East Medinipur	West Bengal
7	Pomegranate	a) Solapur b) Chitradurga	Maharashtra Karnataka
8	Turmeric	a) West Jaintia Hills	Meghalaya
9	White Onion	a) Mahuva	Gujarat

Note 1: Sepahijala (Pineapple) Cluster has been dropped and adopted Floriculture Cluster. Kutch and Lucknow (Mango) Clusters have been replaced with Coconut and White Onion Clusters.

Note 2: Pollachi, Tamil Nadu has also been shortlisted for Coconut Cluster under the Programme.

Under the present implementation phase, the CDP is envisaged to be implemented in a upto total of 100 clusters.

Major Components of Cluster Development Programme:

CDP will support integrated interventions to enhance the competitiveness of targeted clusters. The interventions shall be implemented through 39artelizati Implementing Agencies (Ias). The interventions under the Programme have been classified into the following three verticals:

- Pre-production and production:** It will support capacity-building of farmers and farm proximate interventions covering the crop life cycle, including planting material, crop-care practices, micro-irrigation and farm 39artelization till the harvest of the crop.
- Post-harvest management and value addition:** It will support interventions at the cluster level, ranging from post-harvest handling of crop to storage, value addition and packaging.
- Logistics, Marketing and Branding:** It will support interventions to link cluster produce with consumption markets and include seamless logistics for efficient evacuation, cluster branding and outreach in the domestic and export markets.

Under the present implementation phase, the CDP is envisaged to be implemented in upto 100 clusters.

C. Objectives for Appointing a Programme Management Unit (PMU)

NHB intends to appoint a Programme Management Unit (PMU) as the PMU envisaged to play a critical role in enhancing overall efficiency of implementation of the CDP Scheme. The PMU will provide management and technical support to NHB in the scheme implementation. The PMU will have the following objectives -

- The PMU shall be responsible for organizing workshops, media campaigns, and other outreach activities aimed at promoting the objectives and benefits of CDP. These activities will serve to raise awareness, disseminate information, and engage various stakeholders.
- The PMU shall prepare/ revise Concept note and Business case/ Detailed Project Report (DPR)

templates, and necessary frameworks to provide a structured approach to project planning and execution as also for systematic evaluation and assessment of the projects.

- c) The PMU shall maintain a real-time monitoring and evaluation dashboard. This dashboard will enable continuous tracking of project progress, performance metrics, and outcomes, thereby ensuring transparency and accountability in the implementation process.
- d) The PMU shall assist in the release of financial assistance, ensuring that funds are disbursed in a timely and efficient manner. The PMU will coordinate with relevant financial institutions and stakeholders to facilitate the smooth flow of financial resources.
- e) The PMU shall assist the Technical Committee in the examination and evaluation of concept notes and business cases submitted by various entities. This includes providing expert insights and recommendations to assess the viability and feasibility of proposed projects.
- f) The PMU shall assist in the periodic review, supervision, and monitoring of project implementation. This involves conducting regular assessments to ensure that projects are progressing as planned and addressing any issues or challenges that may arise.
- g) The PMU shall provide technical support to SHMs. This includes assistance with the staffing of SHM and appraisal of project proposals. The PMU shall ensure that SHMs are equipped with necessary technical expertise and resources to carry out their responsibilities effectively.

Terms of Reference and Scope of Work

1. (Initiation Phase 0-3 Months)

- a) **Development of Standard Operating Procedures (SOPs)**- Development of SoPs outlining the details of all work and process flows, reports, documents, activities, reports, progress achieved, Minutes, handing and taking over if applicable etc.
- b) **Procurement Guidelines and Documents** – Develop the guidelines and mechanism for onboarding of private Sector Project Implementation Agency (PIA) including assisting NHB in technical and financial appraisal of proposal received from PIAs, contract agreement, negotiation parameters etc.
- c) Assist NHB in the procurement of works, goods and services and contract management under the CDP Scheme.
- d) Development of models DPRs for reference of PIAs.
- e) Develop Scheme Optimization Plan and undertake necessary activities and information dissemination to popularize the Cluster Development Program.

2. CDP Implementation Phase (33 months)

- a) Assist NHB in developing architecture and framework to guide PIAs to develop e-commerce portal for business-to-business (B2B) and business- to consumer (B2C) transactions.
- b) Assist NHB for training and capacity building of two master trainers in each Clusters on Good Agriculture Practices (GAP/India GAP), good orchard management practices, harvest & post-harvest handling practices and also for Ias/NHB and other stakeholders.
- c) Assist NHB and clusters in development of traceability solutions.
- d) Assist NHB in inviting EoI/RFP for selection of Project Implementation Agencies (PIAs).
- e) Scrutinize EOIs received, and assist NHB in screening and selection of eligible project proposals.
- f) Assist NHB in appraisal and approval of Detailed Project Reports submitted by PIAs.

- g) Assist in the selection of Agency for updating of the Existing Monitoring Dashboard to transform it into a real time Monitoring and Evaluation dashboard for streamlining process of implementation and undertake corrective action whenever required.
- h) Assist NHB in release of financial assistance after verification of requisite milestones and compliance including undertaking site inspections to assess actual physical progress and verify the claims/documents submitted by the applicant for release of grant and make a recommendation to NHB.
- i) Assist NHB in periodic review, supervision and monitoring of project implementation in specific clusters.

The PMU would also provide overall assistance to NHB and related stakeholders / beneficiaries on undertaking necessary interventions to enable holistic development of horticulture clusters. Hard interventions may be viewed in terms of those involving creation of fixed assets such as common facilities and physical infrastructure. Soft interventions cover the gamut of other required Business Development Services (BDS).

Note:

1. During the assignment period NHB may modify the TORs and other terms and conditions of the assignment, if necessary, in order to strengthen / deepen its scope / coverage in consultation with the Agency.
2. All the reports and the contents created thereof would be the intellectual property of the NHB/Government of India and would not be published by the agency without prior approval of the NHB/Government of India. The project related data or information should not be disclosed by the Agency to any third party without prior approval of the NHB/Government of India.

Deliverables and Schedule of Payment

The deliverables and timelines for various activities is given in the table below. Payment will be made on monthly basis subject to satisfactory progress of the deliverables as reported by Agency in monthly progress reports to the satisfaction of NHB.

S. No.	Activity/ Milestone	Timelines (36 months)
1	Initiation Phase	
a.	Development of SOPs, Procurement Guidelines and Documents	3 months
2	Program Management – Monitoring & Supporting CDP Implementation	33 months
3.	Any other need-based assistance	

Period of Engagement

The duration of the assignment is proposed to be 3 years. Performance of the agency shall be evaluated every 6 months, in case services of the consultant are not found satisfactory, the services shall be terminated by the Board and no extension of the contract thereafter would be allowed by the Board.

- a) **Services:** This contract is for the performance/ delivery of Services of the description, scope/ quantum outlined in **Appendix A: 'Terms of Reference'** during the contract period specified therein.

- b) **Incidental Works/ Goods/ Other Services:** If so stipulated, the Consultant shall be required to perform/ deliver specified incidental Works/ Goods/ other Services as an integral part of the Services in the contract.
- c) **Location:** The Services shall be performed at such locations as are specified in Appendix A and, where the location of a particular task is not so specified, at such locations, whether in the Procuring Entity's country or elsewhere, as the Procuring Entity may approve.
- d) **Reporting Requirements:** The Consultant shall deliver to the Procuring Entity the reports, deliverables, outputs, and documents specified in **Appendix A: 'Terms of Reference'**, in the form, in the numbers and within the periods outlined in the said Appendix, besides progress reports as per GCC Clause 9.3.

Standard of Performance:

- 5) The Consultant shall perform and carry out the Services with all due diligence, efficiency, and economy, in accordance with generally accepted professional standards and practices, observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods.
- b) Unless otherwise specified, the performance standards and quality of the Services shall conform to the Terms of Reference as stipulated in the contract or as per best standards in the market, where not so specified.
- c) **Defects in Services:** The Procuring Entity shall promptly notify the Consultant of any identified defects, requesting the correction of the notified defect within a reasonable time. If the Consultant has not corrected notified defect within the time stipulated in the Procuring Entity's notice, the Procuring Entity may suspend payments as per GCC clause 10.6.

7.2 Eligible Services

To procure the services of an agency to support NHB to function as Program Management Unit for Cluster Development Program. The primary goal is to Handing Over and Taking Over from Existing PMU, as-is program implementation status report, review the existing program design of CDP, Strategy Development for CDP , program management including assistance in selection of implementation agency, implementation of the proposed programs by implementation agencies, conduct stakeholder consultations for lessons learnt, and support preparation of improved program design for expansion of CDP.

8 Deployment of Resources

8.1 Site and Assets thereon

Successful Bidder shall deploy the resources as per the terms & conditions stipulated in the RFP and instruction/ direction received from NHB time to time.

8.2 Key and Non-key Personnel

Following is a list of key professional staff with requisite minimum qualification and relevant experience:

Resource Requirement for PMU for CDP

S.No.	Position/Roles	Qualification	Number of Resources*
1	Team Leader	Post-Graduation in Post-Harvest Management /Agri Business or equivalent / Horticulture or related field with at least 15 years of experience – Should have experience of performing the role of a team leader for assignments of similar nature, in project development and implementation in horticulture/agriculture value chain development, and private sector projects with State/Central Govt.	1
2	Project Structuring & Feasibility Assessment Expert	Postgraduate degree in Agri-business or related field – 10 years' experience in project development and implementation in agriculture/ horticulture/ agribusiness/ PPP projects etc. with State/Central Govt.	1
3	Value Addition Expert	Postgraduate degree in agribusiness/ Food Processing/ Post-harvest Management having 7 years' relevant experience in horticulture/agriculture value chain development, logistics and supply management in an institution of repute.	1
4	Due Diligence Expert	Postgraduate degree in agribusiness/ management having 7 years' relevant experience in commercial due diligence.	1
5	Contract Management & Pvt. Sector On-boarding Expert	Graduate degree in law/ management having 7 years' relevant experience in contract management/policy/regulatory compliances.	2
6	MIS/IT Expert [@]	Graduate in IT (BE/B.Tech. or equivalent) and MBA with minimum 7 years of experience, including one project with IT/MIS.	1
7	Branding and Marketing Expert	MBA/Post Graduate Degree in relevant field with least 5 years' experience in marketing and branding of relevant projects.	1
8	Capacity Building Expert	Post Graduate Degree in relevant field with at least 5 years' experience in capacity building of farmers/FPOs.	1
9	Support Team	Postgraduate degree in relevant field with 2 years of relevant experience	2
TOTAL			11

**Team will be deployed at O/o National Horticulture Board, Gurugram during the implementation period*

*** 2 Years Post Graduate Diploma in Business Management/Rural Management/Forest Management/Plantation Management or equivalent will be considered as equivalent to Post Graduation Degree*

**** National Horticulture Board may enhance or decrease the team size basis the need of the project. The above team deployment is for a minimum of 5 clusters and a maximum of 15 clusters. Subsequently for every additional five clusters 1 contract management & private sector on-boarding expert & support team member shall be added.*

***** The project duration is for 3 years which can be further extended for 1 more year in case as desired by the Board on the pro rata basis*

@The MIS/IT expert provided herein shall be responsible for day-to-day monitoring of the project. Any modifications in CDP Suraksha Portal shall be carried out at T&M basis using NICSI rate of implementation within first 3 months of the selection of the PMU.

Note 1: The Agency is free to employ additional resources (including the time for each team member) as they see fit, keeping in mind that adhering to the objectives of the assignment, scope of work/activities given, and outputs is essence for the assignment.

Note 2: Performance of the agency shall be evaluated every 6 months, in case services of the consultant are not found satisfactory, the services shall be terminated by the Board and no extension of the contract thereafter would be allowed by the Board.

8.3 Equipment and Tools of Trade

The Consultant must ensure the deployment of Equipment and Tools of Trade necessary to deliver services as per the Terms of Reference and approved Works plan as updated. If the Contract Manager believes that the Consultant is not employing on the Services sufficient Equipment/Tools of Trade as is specified or otherwise for the proper execution of the Services within the prescribed time, the Consultant shall forthwith on receiving intimation to this effect deploy the additional equipment/ tools of the trade as specified by the Contract Manager immediately and failure on the part of the Consultant to comply with such instructions shall entitle the Procuring Entity to suspend payments as per GCC clause 10.6 for the shortfall in performance or terminate the contract and/ or avail any or all the remedies thereunder for breach of contract.

9. Delivery of Services and delays

9.1 Works plan

Before the commencement of the Services, the Consultant shall submit for approval of the Contract Manager a Works plan showing the Methods, schedule of delivery of services, and deployment plans for Personnel, Equipment and Materials for the execution of the services. The programme of delivery of Services amended as necessary by discussions with the Contract Manager shall be treated as the agreed Works plan for this Contract. The Services shall be carried out and monitored as per the approved Program as updated.

The Contract Manager shall direct the order in which the several components of the Services shall be provided, and the Consultant shall execute all orders the Contract Manager gives from time to time without delay. Still, the Consultant shall not be relieved thereby from responsibility for the due performance of the Services in all respects.

9.2 Commencement of Services

- 1) **Effective Date of Contract:** Consultant shall commence the Services and shall proceed with due expedition and without delay from the effective date of Contract (all dates of delivery shall be counted from such a date), which shall be the date mentioned as the effective date in the

contract, or if not so mentioned:

- a) 15 days from the Procuring Entity's notice (unless specified otherwise) to the Consultant instructing him to begin carrying out the Services. This notice shall confirm that the effectiveness prerequisites listed in the contract have been met.
 - b) If no such order is issued, 15 days from the date of the Issue of the LOA or the signing of the Contract agreement, whichever is earlier.
- 2) **Commencement of Services:** Not later than the number of days after the Effective Date specified in the Contract or the Notice to proceed, the Consultant shall begin carrying out the Services after confirming the following:
 - a) As required by the Contract, all JV members and key experts needed at the beginning of the assignment are effectively participating.
 - b) That upon provision of Bank Guarantees, advance payments, if any, are implemented.
 - c) That the Procuring Entity has provided facilities (including Data, Documents and Background Information) as per the Contract
 - d) that all parties involved in the assignment (users, IAs, and other relevant departments of the Procuring Entity and other third-party stakeholders) have been informed by the Procuring Entity
 - e) that all permits, licenses, and authorizations have been obtained.
- 3) **Termination of Contract for Failure to Become Effective:** If this Contract has not become effective (as per sub-clause 1) above) within such period after the date of Contract signature as specified in the Contract, either Party may, by not less than twenty-one (21) days' written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

9.3 Contract Management

9.3.1 Consultancy Management Teams

The Procuring Entity shall nominate a Contract Manager (or a Consultancy Management Team), and the Consultant shall nominate a counterpart Team Lead to monitor the assignment so that the output is in line with the Procuring Entity's objectives of the Contract.

9.3.2 Review of Phases and Milestones

The Contract Manager and Consultant/ Team Lead shall hold progress meetings at various phases and Milestones into which the assignment is divided as per Annexure A. Unless otherwise indicated in Annexure A, the following actions would be taken during such progress meetings.

- a) **Kick-off Meeting:** The contract Manager and the Consultant/ Team Lead shall meet at the start of the assignment to ensure that the Contract requirements are clearly understood by all concerned and that the Contract Management procedures are finalized.
- b) **Inception Phase Review:** The inception meeting shall be held at a period (specified in Annexure A or the Notice to Proceed) after the effective date of the contract or, if not so specified, within 21 days of the effective date. Before this meeting, the consultant must provide a draft Inception Report for discussion. The Consultant shall submit a final Inception Report within the specified time in the 'Terms of Reference' or as agreed in the Inception Meeting, or if not so specified, within 7 days of the Inception Meeting. Template for Inception Report may be agreed to beforehand in the Inception Meeting. It should, at the minimum, cover comments and suggestions on the following:
 - i) Terms of Reference
 - ii) Work plan and staffing schedule.
 - iii) Facilities to be provided by the Procuring Entity.
 - iv) Working arrangements and liaison

- 9.3.3 **Periodic Reviews:** Unless otherwise decided by the Contract Manager and the Consultant's Team Lead, periodic review meetings (monthly if not otherwise stipulated) shall be held to review the pace of progress as compared to the Work Plan and remedial actions thereto.

9.3.4 Deliverables Reviews: The contract Manager and Consultant/ Team Lead may hold other meetings to review and approve specific deliverables or phases (including Interim and Final Reports) as specified in Annexure A or as agreed between the parties.

9.4 Delivery of services, Time of Delivery and Extensions Thereof

9.4.1 Delivery of Services:

The Consultant shall deliver all Services and submit deliverables as per the approved work plan in the manner specified in the Contract.

9.4.2 Time of Delivery of Services is of Essence of the Contract:

- a) The time for delivery of Services shall be deemed to be the essence of the contract. Subject to any requirement in the contract as to the completion of any portions or portions of the Services before completion of the whole, the Consultant shall fully and finally complete the whole of the services comprised in the contract as per the Delivery and Completion Schedule stipulated in Annexure A: 'Terms of Reference'.
- b) If at any time during the currency of the contract, the Consultant encounters conditions hindering the timely performance of services; the Consultant shall promptly inform the Procuring Entity in writing about the same and its likely duration.
- c) He may request to the Procuring Entity for an extension of the delivery schedule not less than one month before the expiry of the date fixed for completion of the services. Procuring Entity may agree to extend the completion schedule, with or without liquidated damages and denial clause, by issuing an amendment to the contract in terms of the following clauses.

9.4.3 Extension for Excusable Delay Not Due to Consultant

If in the opinion of the Consultant, the progress of Services has at any time been delayed due to the following reasons, then within 15 days of such happening causing delay, he shall give notice thereof in writing to the Contract Manager, but shall nevertheless do due diligence to bring down or make good the delays and to proceed with the services:

- a) Proceedings taken or threatened by or dispute with external third parties arising otherwise than from the Consultant's own default etc. or
 - b) delay due to circumstances beyond the control of either party
 - c) delay authorized by the Contract Manager pending arbitration or
 - d) Any act or neglect of Procuring Entity, e.g.:
- 5) Delay or failure to issue notice to commence the services or
 - ii) delay or failure to issue necessary instructions for which the Consultant had applied explicitly in writing.
 - iii) Delay in or failure to handover of possession of the site or the necessary facilities/ documents/ data or instructions by the Procuring Entity to the Consultant.
 - 5) Delay caused by modification issued by the Contract Manager or
 - v) any other delay caused by the Procuring Entity due to any other cause.
- e) The Consultant may also indicate the period for which the Services are likely to be delayed and ask for a necessary extension of time. On receipt of such request from the Consultant, the Contract Manager shall consider the same and grant such extension of time as, in his opinion, is reasonable regarding the nature and period of delay and the type and quantum of work affected thereby. No other compensation shall be payable for work carried forward to the extended period. The same rates, terms, and conditions as the original Contract shall apply during the extended period.

Extension of Time for Inexcusable Delay Due to Consultant

- a) If the Consultant fails to deliver the Services within the fixed/ extended period for reasons other than those stipulated in GCC-clause 9.4.3 above, the Procuring Entity may, if satisfied that the service delivery can still be completed within a reasonable time, extend the period further.
- b) On such extension, the Procuring Entity shall be entitled without prejudice to any other right

- and remedy available on that behalf to recover from the Consultant as agreed damages and not by way of penalty Liquidated Damages as per GCC-clause 9.5 below.
- c) Provided further that if the Procuring Entity is not satisfied that the service can be completed by the Consultant or in the event of failure on the part of the Consultant to complete the service within the extension of time allowed further as aforesaid, the Procuring Entity shall be entitled without prejudice to any other right or remedy available in that behalf, treat the delay as a breach of contract and avail any or all the remedies thereunder, whether or not actual damage is caused by such default.
- 5) **Inordinate Delays:** Delays due to the Consultant of more than one-fourth (25%) of the total completion period shall be treated as inordinate delays. Such inordinate delays shall be noted as poor performance and be held against the Consultant in future procurements. A show-cause notice shall be issued to the Consultant before declaring it a poor performance. Such delays may be considered a breach of the contract at the option of the Procuring Entity.

Extension of Time for Concurrent Delay Due to Both Parties

If the Contract Manager determines that two or more events responsible for delay overlap each other. The delays may be concurrently attributable to both Procuring Entity and the Consultant. The proportion for extension of time as per GCC-Clause 9.4.3 or 9.4.4 above shall be determined by plotting each contributing concurrent delay on the critical path.

9.5 Damages and Deductions Thereof

9.5.1 Right of the Procuring Entity to recover Damages.

Procuring Entity shall be entitled to, and it shall be lawful to recover Liquidated damages as detailed in this clause from all payments due, any Performance Security, or any retention money.

5. Liquidated damages

For delays covered under clause 9.4.4 (Extension of Time for Inexcusable Delay Due to Consultant) above:

- 5) The Procuring Entity shall, without prejudice to other rights and remedies available to the Procuring Entity under the contract, deduct from the contract price as liquidated damages for each week of delay or part thereof until actual delivery or performance, but not as a penalty, a sum equivalent to the 1/2% per cent (or any other percentage if prescribed) of the related monthly bill of the Services. Besides liquidated damages during such a delay, the denial clause as per GCC-clause 9.5.3 shall also apply. Total damages in the contract shall be limited as per clause 9.5.4 below.
- b) Any failure or delay by any Sub-consultant, though their employment may have been sanctioned, shall not be admitted as a ground for any extension of time or for exempting the Consultant from liability for any such loss or damage as aforesaid.

B. Denial Clause:

For delays covered under clause 9.4.4 (Extension of Time for Inexcusable Delay Due to Consultant) above:

- a) no increases in price on account of any statutory increase in or fresh Imposition of GST, or on account of any other taxes/ duty/ cess/ levy) leviable in respect of the Services and incidental goods/ works stipulated in the said Contract which takes place after the original delivery date shall be admissible on such of the said Services, as are delivered after the said date; and
- b) Notwithstanding any stipulation in the contract for an increase in price on any other ground, including the price variation clause, no such increase after the original delivery date shall be admissible on such Services delivered after the said date.
- c) Nevertheless, the Procuring Entity shall be entitled to the benefit of any decrease in price on account of reduction in or remission of GST or on account of any other tax or duty or any other ground as stipulated in the price variation clause, which takes place after the expiry of the original delivery date.

9.5.2 Limit on total Damages

However, deduction on account of damages for delays under this clause put together shall be subject to a maximum of 10% (or any other percentage if prescribed) of the entire value of the Contract of Services. Penalties/ liabilities outside this clause shall be covered by GCC clause 12.

9.6 Force Majeure

- a) On the occurrence of any unforeseen event beyond the control of either Party, directly interfering with the delivery of Services arising during the currency of the contract, such as war, hostilities, acts of the public enemy, civil commotion, sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes, lockouts, or acts of God, the affected Party shall, within a week from the commencement thereof, notify the same in writing to the other Party with reasonable evidence thereof. Unless otherwise directed by the Procuring Entity in writing, the Consultant shall continue to perform its obligations under the contract as reasonably practicable and seek all reasonable alternative means for performance not prevented by the Force Majeure event. If the force majeure condition(s) mentioned above be in force for 90 days or more at any time, either party shall have the option to terminate the contract on expiry of 90 days of commencement of such force majeure by giving 14 days' notice to the other party in writing. In case of such termination, no damages shall be claimed by either party against the other except those which had occurred under any other clause of this Contract before such termination.
- b) Notwithstanding the remedial provisions contained in GCC-clause 9.5 and 12, none of the Party shall seek any such remedies or damages for the other Party's delay and/ or failure in fulfilling its obligations under the contract if it is the result of an event of Force Majeure.

10. Prices and Payments

10.1. Prices

✦ Contract Price

The total payments under this Contract shall not exceed this Contract price.

Any change to the Contract price specified above can be only made if the Parties have agreed to the revised scope of Services under GCC clause 2.6 and have amended the Terms of Reference in Appendix A in writing.

✦ Firm Prices

Unless otherwise stipulated in the contract, Prices shall be fixed and firm. If the Price Variation Clause is included, such up and down, variations shall also be payable.

✦ Variations

In case the Contract provides for a Price Variation Clause or variation on any other account, the price shall be subject to adjustment as per such clauses only during the original Delivery Period, subject to the following:

- For Extension of Time covered by clause 9.4.5 above, any increase due to such variations during the extended delivery period beyond the original delivery period shall not be paid by the Procuring Entity; however, it shall be entitled to any reduction under GCC clause-9.5.3 (Denial Clause).

- Taxes and duties, if any, chargeable and payable on the Services shall be charged on the net price after variations.
- While claiming payments where such variations are applicable, the Consultant must submit its calculations for each invoice, even if the payment for these variations is nil. Any price reduction due to such variations must be passed to the Procuring Entity.
- No Other Claim due to Variations: With the payment of such variations, no additional individual claim shall be admissible on account of fluctuations in market rates, increase in taxes/any other levies/tolls etc.
- If the Price Variation clause is applicable as per the contract, the price shall be subject to adjustment to take care of the changes in the cost of labour, material, and fuel/ power components as per the price variation formula specified therein.
- **Base Month:** Unless otherwise stipulated in the contract, the 'Base Month' for the 'Price Variation Clause' shall be taken as the month before the month of the last date of Proposal submission. Unless the contract has stipulated a different time lag for reckoning Price Variation, the month of reckoning the varied price shall be the month before the month in which delivery has been made. The Price Variation shall be based on the relevant Indices in the Base Month and Month of reckoning.
- **Applicability:** If the Contract provides for some inputs to be supplied by Procuring Entity free or at a fixed rate, the cost of such inputs shall be excluded from the value of the Goods supplied in the relevant month for payment/recovery Of price variation.

10.2. Taxes and Duties

1. The Consultant, Sub-consultants, and Experts shall be entirely responsible for all taxes, duties, fees, levies etc., incurred relating to the delivery of the Services. Further instruction, if any, shall be as provided in the Contract.
2. If applicable under relevant tax laws and rules, the Procuring Entity shall deduct from all payments and deposit required taxes to respective authorities on account of GST Reverse Charge Mechanism; Tax Deducted at Source (TDS), and Tax Collected at Source (TCS) relating to Income Tax, labour cess, royalty etc.
3. **Payment** of GST Tax under the contract:
 - a. The payment of GST and GST Cess to the Consultant shall be made only on the latter submitting a GST compliant Bill/ invoice indicating the appropriate HSN code and applicable GST rate duly supported with documentary evidence as per the provision of the relevant GST Act and the Rules made there under. The delivery of Services shall be shown as being made in the name, location/ state, and GSTIN of the beneficiary of the Services only; the location of the procurement office of the procuring entity has no bearing on the invoicing.
 - b. **Provision w.r.t. E-Invoicing requirement as per GST laws:** Consultant who is required to comply with the requirements of E-invoice as per the GST Law, all payments shall be made against proper e-invoice(s) only. Invoices issued in violation shall not be processed for payment, as Procuring Entity shall not be allowed to avail of Input Tax Credit (ITC) against such invoices.
 - c. Returns and details required to be filled under GST laws & rules regarding invoices (or e-invoices) should be filed promptly by the Consultant. If input tax credit (ITC) is not available to Procuring Entity for any reason attributable to the Consultant, then Procuring Entity shall not be liable to pay or reimburse GST (CGST & SGST/UTGST or IGST) claimed in the invoice(s) and shall be entitled to deduct / setoff/ recover such GST amounts (CGST & SGST/UTGST or IGST) together with penalties and interest, if any, by adjusting against any amounts paid or becomes payable in future to the Consultant under this contract or under any other contract.
 - d. While claiming reimbursement of duties, taxes etc. (like GST) from the Procuring Entity, as and if permitted under the contract, the Consultant shall also certify that in case it gets any refund out of such taxes and duties from the concerned authorities at a later date, it (the Consultant) shall refund to the Procuring Entity, the Procuring Entity's

share out of such refund received by the Consultant. The Consultant shall also refund the appropriate amount to the Procuring Entity immediately after receiving the same from the concerned authorities.

- e. All necessary adjustment vouchers, such as Credit Notes/ Debit Notes for any short/ excess delivery of Services or revision in prices or any other reason under the contract, shall be submitted to the Procuring Entity in compliance with GST provisions.
 - f. GST shall be paid as per the rate at which it is liable to be assessed or has been assessed, provided the provision of Services is legally liable to such taxes and is payable as per the terms of the contract subject to the following conditions:
 - i) The Procuring Entity shall not pay a higher GST rate if leviable due to any misclassification of the HSN number or incorrect GST rate incorporated in the contract due to the Consultant's fault. Wherever the Consultant invoices the Goods at GST rate or HSN number, which is different from that incorporated in the contract, payment shall be made as per GST rate, which is lower of the GST rates incorporated in the contract or billed.
 - ii) However, the Procuring Entity shall not be responsible for the Consultant's tax payment or duty under a misapprehension of the law.
 - iii) The consultant is informed that he shall be required to adjust his basic price to the extent required by a higher tax rate billed as per invoice to match the all-inclusive price mentioned in the contract.
 - iv) In case of profiteering by the Consultant relating to GST tax, the Consultant shall treat it as a violation of the Code of Integrity in the contract and avail any or all punitive actions thereunder, in addition to recovery and action by the GST authorities under the Act.
 - g. The Consultant should issue Receipt vouchers immediately on receipt of all types of payments along with tax invoices after adjusting advance payments, if any, as per Contractual terms and GST Provisions.
 - h. Liquidated damages or any other recoveries should be shown as deductions on the invoice, and GST shall be applicable only on the 50% balance payment due.
5. Statutory Variation Clause: Unless otherwise stated in the contract, statutory increase in applicable GST rate only during the original delivery period shall be to Procuring Entity's account. Any increase in the rates of GST beyond the original completion date during the extended delivery period (excepting extension under GCC-Clause 9.4.3) shall be borne by the Consultant. The benefit of any reduction in the GST rate must be passed on to the Procuring Entity during the original and extended delivery period. However, GST rate amendments shall be considered for quoted HSN code only, against documentary evidence, provided such an increase of GST rates occurs after the last proposal submission date.

10.3. Terms and Mode of Payment

The payment of professional fees to the agency shall be released on progress-basis after achieving the following milestones to the satisfaction of the board :

Payment Terms of PMU, CDP

S. No.	Activity/ Milestone	Total Duration (36 months)	Payment Release
1	Initiation Phase		
a.	Development of SOPs, Procurement Guidelines and Documents	3 months	On completion
2	Program Management – Monitoring & Supporting CDP Implementation	33 months	Quarterly [@]
3	Any other need based assistance		

[@] 80% of the quarterly payment shall be based on attendance. Remaining 20% shall be paid based on the output delivered which shall be measured as number of projects on-boarded in each quarter. For every on-boarded project, 4% of the quarterly fee due during the quarter shall be paid. The payment shall be based on a quarterly basis, based on the number of projects awarded in that quarter.

Note: All the above-mentioned activities/ milestones shall be carried out in above sequential manner only.

10.4. Withholding and lien in respect of sums claimed:

Whenever any claim or claims for payment of a sum of money arises against the Consultant, out of or under the contract, the Procuring Entity shall be entitled, and it shall be lawful on his part, to withhold and also have a lien to retain such sum or sums, in whole or in part pending finalization or adjudication of any such claim from –

- a) any security or retention money, if any, deposited by the Consultant.
- b) Any sum(s) payable till now or hereafter to the Consultant under the same Contract or any other contract with the Procuring Entity if the security is insufficient or if no security has been taken from the Consultant.

Where the Consultant is a partnership firm or a limited company, the Procuring Entity shall be entitled, and it shall be lawful on his part, to withhold and also have a lien to retain towards such claimed amount or amounts in whole or in part from any sum found payable to any partner/ limited company, as the case may be, whether in his capacity or otherwise.

It is an agreed term of the contract that the sum(s) of money so withheld or retained under the lien referred above shall be kept withheld or retained till the claim arising out of or under the contract is determined under GCC clauses 11 and/ or 12. The Consultant shall have no claim for interest or damages whatsoever on any account regarding such withholding or retention under the supra lien and duly notified to the Consultant.

Lien in respect of Claims in other Contracts: Any sum of money due and payable to the Consultant (including the security deposit returnable to him) under the contract may be withheld or retained by way of lien by the Procuring Entity or Government against any claim of the Procuring Entity or Government in respect of payment of a sum of money arising out of or under any other contract made by the Consultant with the Procuring Entity or Government.

10.5. Payments to Consultant i.e., Successful Bidder

10.5.1. General

- a) All payments under this Contract shall be made to the Consultant's accounts specified in the contract.
 - 5) Currency of Payment: Unless otherwise specified in the Contract, any payment shall be made in Indian Rupees (INR).
- 5) The Itemized Invoices: As soon as practicable and not later than fifteen (15) days after the end of each time interval stipulated in the Contract in this regard (if not stipulated, then after the end of each calendar month), the Consultant shall submit to the Procuring Entity, in duplicate, itemized invoices, accompanied by the receipts or other appropriate supporting documents, of the amounts payable for such an interval under GCC Clause 10.5. Separate invoices shall be submitted for expenses incurred in foreign and local currencies. Each invoice shall show remuneration and reimbursable expenses separately.
- d) The Contract Manager shall cross-check all relevant records before passing the Consultant's bills. Upon verification of the records by Procuring Entity, payments can be released to the Consultant.
- e) The Procuring Entity shall pay the Consultant's invoices within sixty (60) days after the receipt by the Procuring Entity of such itemized invoices with supporting documents. Only a portion of an invoice not satisfactorily supported may be withheld from the payment. Should any discrepancy exist between actual payment and costs authorized to be incurred by the Consultant, the Procuring Entity may add or subtract the difference from subsequent payments.
- f) Except for the final payment under GCC Clause 10.5.5 below, payments do not constitute acceptance of the Services nor relieve the Consultant of any obligations.
 - 5) Time-Based (Inputs admeasurement): Unless instructed in writing by the Procuring entity, payments shall not be made for any extra inputs deployed over and above Annexure A, Annexure B, or Annexure C mentioned in the contract. Nevertheless, if such inputs are deployed less than those stipulated, deductions shall be made based on the rates indicated for the inputs listed in Annexures C and D in the contract.
 - 5) Unit-Rate (Output admeasurements): Unless otherwise stipulated, payments shall be made monthly for the volume of services rendered during the period.
 - 5) Lumpsum: Unless otherwise stipulated, payments shall be made on completion of stipulated milestones or on completion of entire Services, whichever is stipulated in the contract. In the case of Lump-sum Contracts, Payments under this Contract shall not exceed the ceilings in foreign currency and the local currency specified in the contract. For any payments above such ceiling amount, an amendment to the Contract shall be signed by the Parties referring to the provision of this Contract that permits such amendment.
- j) Percentage (of Value of Transactions): The payment for the total price of Services calculated at the percentage of the actual value of Activities rendered shall be made every month or on completion of milestones or on completion of entire Services, whichever is stipulated in the contract.

10.5.2. Advance Payments

- 1) If the contract provides explicitly for Advance Payments to be made to the Consultant, then on the request of the Consultant, the Procuring Entity shall make the advance payment to the Consultant against submission of an unconditional Bank Guarantee from a Commercial bank acceptable to the Procuring Entity in amounts equal to 110% (one hundred ten per cent) of the amount of the advance payment being requested. Such Bank Guarantee shall be in the form outlined in Appendix E-2 or the other form the Procuring Entity shall have approved in writing. Advance payments shall be released in not less than two instalments commensurate with work progress.

- 2) The Bank Guarantee shall remain effective until the advance payment has been repaid, but the amounts repaid by the Consultant shall progressively reduce the guaranteed amount. Interest shall not be charged on the advance payment. However, if the contract is terminated due to the Consultant's default, the Advance payment shall be deemed an interest-bearing advance at the prevailing rate (MIBID – Mumbai Interbank Proposal Rate) on the date of such advance payment.
- 3) The Consultant is to use the advance payment only for the performance of Services. The Consultant shall demonstrate that the advance payment has been used by Utilization certificate enclosing copies of invoices or other documents to the Contract Manager. Further instalments shall be released after getting a satisfactory utilization certificate from the Consultant for the earlier instalment.
- 4) The advance payment shall be recovered in a time-based manner not linked with the work progress by deducting proportionate amounts from payments otherwise due to the Consultant for the Services performed. Any delayed recoveries due to the late submission of bills by the Consultant shall attract interest at the prevailing rate (MIBID – Mumbai Interbank Proposal Rate). No account of the advance payment or repayment shall be taken in assessing valuations of Services performed, variations, price adjustments, or liquidated damages.

10.5.3. Remuneration and Reimbursable Expenses

- a) The Procuring Entity shall pay to the Consultant (i) remuneration that shall be determined based on time spent by each Expert in the performance of the Services after the date of commencing of Services or such other date as the Parties shall agree in writing; and (ii) reimbursable expenses that are actually and reasonably incurred by the Consultant in the performance of the Services.
- b) All payments shall be at the rates outlined in Appendix C and Appendix D.
- c) Unless the Contract provides for the price adjustment of the remuneration rates, said remuneration shall be fixed for the duration of the Contract.
- 5) The remuneration rates shall cover: (i) such salaries and allowances as the Consultant shall have agreed to pay to the Experts as well as factors for social charges and overheads (bonuses or other means of profit-sharing shall not be allowed as an element of overheads), (ii) the cost of backstopping (reinforcement/ support) by home office staff not included in the Experts' list in Appendix B, (iii) the Consultant's profit, and (iv) any other items as specified in the contract.
- e) Any rates specified for Experts not yet appointed shall be provisional and be subject to revision, with the written approval of the Procuring Entity once the applicable remuneration rates and allowances are known.

10.5.4. "On-Account" Payments

- a) the Consultant shall be entitled to be paid (unless otherwise stipulated in the contract) by way of "On-Account" payment, only for such Services, as in the opinion of the Contract Manager, the Consultant has executed in terms of the contract during the period. All payments due against the Contract Manager or his representative's certificates shall be subject to any deductions, which may be made under the contract, always provided that the Contract Manager may by any certificate make any correction or modification in any previous certificate, which he may have issued. The Contract Manager may withhold any certificate if the Services or any part thereof are not carried out as per the contractual performance standards.
- b) **On-Account Payments Not Prejudicial to Final Settlement:** "On-Account" payments made to the Consultant shall be without prejudice to the final settlement of the accounts. They shall not be considered or used as evidence of any facts stated in or inferred from such accounts, any particular quantity of service being executed, or the manner of its execution being satisfactory.
- c) **The Final Payment:**
 - i) The final payment under this Clause shall only be made after the final report/ deliverables and a final invoice, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the Procuring Entity. Completion certificate/ Final payment shall be made only after ensuring that all facilities/

documents/ sites have been returned to the Procuring Entity as per GCC clause 5.14. The Services shall be deemed completed and finally accepted by the Procuring Entity.

- ii) The Consultant shall submit a final bill on the Contract Manager's acceptance certificate of final deliverables. The Final payment shall be made as per the following calculations after receiving a clear "No Claim Certificate" signed by the Consultant:
 - a) necessary adjustment for any payments already made or retained
 - b) any deduction which may be made under the contract,
 - c) A complete account of all claims the Consultant may have on the Procuring Entity, and the Contract Manager gave a certificate in writing that such claims are correct,
- iii) The final report and final invoice shall be deemed approved by the Procuring Entity as satisfactory ninety (90) calendar days after receipt of the final report and final invoice by the Procuring Entity unless the Procuring Entity, within such ninety (90) calendar day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final invoice. The Consultant shall promptly make any necessary corrections, and the preceding process shall be repeated.
- iv) Any amount that the Procuring Entity has paid or has caused to be paid under this Clause more than the amounts payable under the provisions of this Contract shall be reimbursed by the Consultant to the Procuring Entity within thirty (30) days after receipt by the Consultant of notice thereof. Any such claim by the Procuring Entity for reimbursement must be made within twelve (12) calendar months after receipt by the Procuring Entity of a final report and a final invoice approved by the Procuring Entity in accordance with the above.

10.5.5. No Claim Certificate and Release of Contract Securities

The Consultant shall submit a 'No-claim certificate' to the Procuring Entity in such form as shall be required by the Procuring Entity after the Services are finally accepted and before the final payment/ performance securities are released. The Procuring Entity shall release the contractual securities without any interest if no outstanding obligation, asset, or payments are due from the Consultant. The Consultant shall not be entitled to make any claim whatsoever against the Procuring Entity under or arising out of this Contract, nor shall the Procuring Entity entertain or consider any such claim, if made by the Consultant, after he shall have signed a "No Claim" Certificate in favour of the Procuring Entity. The Contractor shall be debarred from disputing the correctness of the items covered by the "No Claim" Certificate or demanding arbitration.

10.5.6. Post Payment Audit

Notwithstanding the issue of the Completion Certificate and release of final Payment, the Procuring Entity reserves the right to carry out within 180 days (unless otherwise stipulated in the contract) of such completion/ final payment, a post-payment audit and/ or technical examination of the Services and the final bill including all supporting vouchers, abstracts etc. If any over-payment to the Consultant is discovered due to such examination, the Procuring Entity shall claim such amount from the Consultant.

10.5.7. Signature on Receipts for Amounts

Every receipt for money, which may become payable, or for any security which may become transferable to the contractors under the contract, shall be signed by a person authorized to do so by the Consultant (or otherwise as per GCC-Clause 4.2), to be a suitable and sufficient discharge to the Procuring Entity in respect of the sums of money or security purported to be acknowledged thereby. In the event of the death of any Consultant or partner during the pendency of the contract, every receipt by anyone of the surviving

constituents shall be suitable and sufficient discharge as aforesaid. Nothing in this Clause shall be deemed to prejudice or effect any claim that the Procuring Entity may have against the legal representative regarding any breach of any contract conditions by any Consultant partner/member so dying. Nothing in this clause shall be deemed to prejudice or affect the respective rights or obligations of the Consultant partners/ members and the legal representatives of any deceased Consultant partners/ members.

10.6 Suspension of Payment

The Procuring Entity may, by written notice of suspension to the Consultant, suspend part or all payments to the Consultant hereunder if the Consultant fails to deliver the Services as per the Terms of Reference, including the non-rectification of notified defects in the Services/ deliverables, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) calendar days after receipt by the Consultant of such notice of suspension. Such a suspension shall not entitle the Consultant to any extension of time for delivery of Service.

10.7 Payment Against Time-Barred Claims

In accordance with the Limitation Act 1963, all claims against the Procuring Entity shall be legally time-barred after three years calculated from when the payment falls due unless the payment claim has been under correspondence. The Procuring Entity is entitled to, and it shall be lawful to reject such claims.

10.8 Commissions and Fees

The Consultant shall disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents concerning the selection process or execution and performance of this Contract. The information disclosed must include the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee.

11 Resolution of Disputes

11.1 Disputes and Excepted Matters

All disputes and differences between the parties hereto, as to the construction or operation of this Contract, or the respective rights and liabilities of the parties on any matter in question, or any other account whatsoever, but excluding the Excepted Matters; arising out of or in connection with the contract, within thirty (30) days from aggrieved Party notifying the other Party of such matters; whether before or after the completion/ termination of the contract, that cannot be resolved amicably between the NHB and the Agency, shall be hereinafter called the "Dispute".

The aggrieved party shall give a 'Notice of Dispute' indicating the Dispute and claims citing the relevant Contractual clause to the designated authority requesting invoking the following dispute resolution mechanism. Before any recourse to courts, the dispute shall be resolved through dispute resolution mechanisms detailed subsequently in the sequence mentioned below, and the next mechanism shall not be invoked unless the earlier mechanism has been invoked or has failed to resolve it within the deadline mentioned therein.

- 1) Adjudication
- 2) Conciliation
- 3) Arbitration

11.2 Excepted Matters

Matters for which provision has been made in any Clause of the contract shall be deemed as 'excepted matters' (matters not disputable/ arbitrable), and decisions of the NHB, thereon, shall be final and

binding on the Agency. The 'excepted matters' shall stand expressly excluded from the purview of the sub-clauses below, including Arbitration. However, where the NHB has raised the dispute, this sub-clause shall not apply. Unless otherwise stipulated in the contract, excepted matters shall include but are not limited to:

Any controversies or claims brought by a third party for bodily injury, death, property damage or any indirect or consequential loss arising out of or in any way related to the performance of this Contract ("Third Party Claim"), including, but not limited to, a Party's right to seek contribution or indemnity from the other Party in respect of a Third-Party Claim.

Issues related to the pre-award Procurement Process or conditions

Issues related to ambiguity in Contract terms shall not be taken up after a Contract has been signed. All such issues should be highlighted before the signing of the contract by the Agency.

Provisions incorporated in the contract which are beyond the purview of The NHB or are in pursuance of policies of Government, including but not limited to –

- Provisions of restrictions in terms of the Make in India policy of the Government
- Provisions regarding restrictions on Entities from Countries having land borders with India in terms of the Central Government's policies in this regard.
- Relaxations stipulated for Startups etc.

11.3 Adjudication

After exhausting efforts to resolve the Dispute with the NHB executing the contract on behalf of the NHB, the Agency shall give a 'Notice of Adjudication' specifying the matters which are in question or subject of the dispute or difference indicating the relevant contractual clause, as also the amount of claim item-wise to Head of Procurement or any other authority mentioned in the contract (hereinafter called the "Adjudicator") for invoking resolution of the dispute through Adjudication. During his adjudication, the Adjudicator shall give adequate opportunity to the Agency to present his case. Within 60 days after receiving the representation, the Adjudicator shall make and notify decisions in writing on all matters referred to him. During the adjudication proceedings, the parties shall not initiate any conciliation, arbitral, or judicial proceedings in respect of a dispute that is the subject matter of the adjudication proceedings. If not satisfied by the decision in adjudication, or if the adjudicator fails to notify his decision within the abovementioned time frame, the Agency may proceed to invoke the process of Conciliation as follows.

11.4 Conciliation of disputes

Parties may invoke Conciliation, in terms of the Arbitration and Conciliation Act 1996, by submitting a "Notice of Conciliation" to the other party with a request to the Head of the NHB to notify a Conciliator. Since conciliation is voluntary, within 30 days of "Notice of Conciliation", the Head of the NHB shall notify a sole Conciliator if the other party is agreeable to entering Conciliation. If the other party is not agreeable to Conciliation, the aggrieved party may invoke Arbitration.

The Conciliator shall proactively assist the parties to reach an amicable settlement independently and impartially within the contract terms within 60 days from the appointment date.

If the parties agree on a dispute settlement, they shall draw up a written settlement agreement duly signed by the parties and conciliator. When the parties sign the settlement agreement, it shall be final and binding on the parties. The dispute shall be treated as resolved on the date of such agreement.

During the conciliation proceedings, the parties shall not initiate any arbitral or judicial proceedings in respect of a dispute that is the subject matter of the conciliation proceedings.

Termination of Conciliation: Disputes shall remain alive if the conciliation is terminated as follows:

- By written declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified on the date of such declaration; or
- By a written declaration of any party to the conciliator to the effect that the conciliation proceedings are terminated on the date of such declaration; or
- If the parties fail to reach an agreement on a settlement of the dispute within 60 days of the appointment of the Conciliator

On termination of Conciliation, the aggrieved party shall be free to invoke Arbitration if the dispute is still alive.

11.5 Arbitration Agreement

This Agreement

This Arbitration Agreement (hereinafter referred to as this “Agreement”) relating to this Contract (hereinafter called the “Main Agreement” for this agreement) is made under the provisions of The Arbitration and Conciliation Act, 1996, as amended from time to time and the rules thereunder (hereinafter called The Arbitration Act). This Agreement shall continue to survive termination, completion, or closure of the Main Agreement for 120 days afterwards.

Subject to aforesaid provisions, relevant clauses of the contract shall apply to the appointment of arbitrators and arbitration proceedings under this Agreement.

The Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 provides parties to a dispute (where one of the parties is a Micro or Small Enterprise) to be referred to the Micro and Small Enterprises Facilitation Council if the dispute is regarding any amount due under Section 17 of the MSMED Act, 2006. If a Micro or Small Enterprise, being a party to dispute, refers to the MSMED Act 2006, these provisions shall prevail over this Agreement. However, if an arbitrator has already been appointed under this agreement before the appointment of a conciliator/ arbitrator by the facilitation council, the arbitrator already appointed under this agreement shall continue to perform the duties including on matters related to delayed payments. Such an arbitrator shall be deemed to be the arbitrator appointed by the facilitation council. None of the parties shall approach the facilitation council to appoint an arbitrator once an arbitrator under this agreement has already been appointed.

Notice for Arbitration

Authority to Appoint Arbitrator(s): For this Arbitration Agreement, ‘The Appointing Authority’ to appoint the arbitrator shall be Head of the NHB or any other authority or Arbitration Institution named in the contract and includes if there be no such authority, the officer who is for the time being discharging the functions of that authority, whether in addition to other functions or otherwise.

In the event of any dispute, if the Adjudicator fails to decide within 60 days, or the Conciliation is terminated, then any party to the contract, after 60 days but within 120 days of ‘Notice of Dispute’ shall request the other party through a “Notice for Arbitration” in writing that the dispute or difference be referred to arbitration.

The “Notice for arbitration” shall specify the matters in question or the subject of the dispute or

difference, indicating the relevant contractual clause and the amount of claim item-wise.

Reference to Arbitration

After appointing Arbitrator(s), the Appointing Authority shall refer the Dispute to them. Only such dispute or difference shall be referred to arbitration regarding which the demand has been made, with counter-claims or set off. Other matters shall be beyond the jurisdiction of the Arbitrator(s).

Appointment of Arbitrator

Qualification of Arbitrators:

In the case of retired officers of NHB, they shall have retired in the rank of senior administrative grade (or equivalent) and shall have retired at least 1-year prior and must not be over 70 years of age on the date of Notice for arbitration.

He/ they shall not have had an opportunity to deal with the matters to which the contract relates or who, in the course of his/ their duties as an officer of the NHB, expressed views on any or all of the matters under dispute or differences. A certification to this effect shall be taken from Arbitrators. The proceedings of the Arbitral tribunal or the award made by such Tribunal shall, however, not be invalid merely for the reason that one or more arbitrators had, in the course of his service, an opportunity to deal with the matters to which the contract relates or who in the course of his/ their duties expressed views on all or any of the matters under dispute.

An Arbitrator may be appointed notwithstanding the total number of arbitration cases in which he has been appointed.

Not be other than the person appointed by The Appointing Authority, and if for any reason that is not possible, the matter shall not be referred to arbitration.

Replacement of Arbitrators

If one or more of the arbitrators appointed as above refuses to act as arbitrator, withdraws from his office as arbitrator, or in the event of the arbitrator dying, neglecting/ unable or unwilling or refusing to act for any reason, or his award being set aside by the court for any reason, or in the opinion of The Appointing Authority fails to act without undue delay, the Appointing Authority shall appoint new arbitrator/ arbitrators to act in his/ their place in the same manner in which the earlier arbitrator/ arbitrators had been appointed. Such a re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous arbitrator (s).

Appointment of Arbitrator:

In cases where the total value of all claims in question added together does not exceed Rs 50,00,000/- (Rupees Fifty Lakh only), the Arbitral Tribunal shall consist of the sole Arbitrator. For this purpose, The Appointing Authority shall send to the Agency, within 60 days from receipt of a written and valid notice for arbitration, a panel of at least four (4) names of retired officers duly indicating their retirement dates.

The Agency shall be asked to nominate at least two names out of the panel for appointment as his nominee within 30 days from the dispatch date of the request by The Appointing Authority. The Appointing Authority shall appoint at least one out of them as the sole arbitrator within 30 days from the receipt of the names of the Agency's nominees.

In cases where the total value of all claims in question added together exceeds Rs 50,00,000/- (Rupees Fifty Lakh only), the Arbitral Tribunal shall consist of three (3) retired Officers of the NHB. For this

purpose, The Appointing Authority shall send a panel of at least four (4) names of such Officer(s) to work as Arbitrators duly indicating their retirement date to the Agency within 60 days from the day when a written and The Appointing Authority receives valid demand for arbitration.

The Agency shall be asked to nominate at least 2 names out of the panel for appointment as his nominee within 30 days from the dispatch date of the request by The Appointing Authority. The Appointing Authority shall appoint at least one of them as the Agency's nominee. It shall also simultaneously appoint the balance number of arbitrators from the panel or outside the panel, duly indicating the 'Presiding Arbitrator' from amongst the 3 arbitrators so appointed within 30 days from the receipt of the names of the Agency's nominees.

If the Agency does not suggest his nominees for the arbitral tribunal within the prescribed timeframe, The Appointing Authority shall proceed to appoint the arbitral tribunal within 30 days of the expiry of such a time provided to the Agency.

Failure to appoint Arbitrators.

If The Appointing Authority fails to appoint an arbitrator within 60 (sixty) days, then the appointment of the Arbitrator may be sought under the relevant provision of the Arbitration and Conciliation Act 1996, as amended.

The Arbitral Procedure

Effective Date of Entering Reference: The arbitral tribunal shall be deemed to have entered the reference on the date the arbitrator(s) received notice of their appointment. All subsequent time limits shall be counted from such date.

Seat and Venue of Arbitration: The seat of arbitration shall be where the Letter of Award or the contract is issued. The venue of arbitration shall be the same as the seat of arbitration. However, in section 20 of The Arbitration Act, the arbitrator, at his discretion, may determine a venue other than the seat of the arbitration without affecting the legal jurisdictional issues linked to the seat of the arbitration.

If the Adjudication and/ or Conciliation mechanisms had not been exhausted before such a reference to Arbitration, the Arbitrator should ask the aggrieved party to approach the designated authority for such mechanisms before the Arbitration proceedings are started.

The claimant shall submit to the Arbitrator(s) with copies to the respondent his claims stating the facts supporting the claims along with all the relevant documents and the relief or remedy sought against each claim within 30 days from the date of appointment of the Arbitral Tribunal unless otherwise extension has been granted by Arbitral Tribunal.

On receipt of such claims, the respondent shall submit its defence statement and counter-claim(s), if any, within 60 days of receipt of the copy of claims, unless otherwise extension has been granted by Arbitral Tribunal.

No new claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during arbitration proceedings subject to acceptance by the Tribunal due to the delay in making it.

Statement of claims, counterclaims and defence shall be completed within six months from the effective reference date.

Oral arguments to be held on a day-to-day basis: Oral arguments as far as possible shall be heard by the arbitral tribunal daily, and no adjournments shall be granted without sufficient cause. The arbitrator (s) may impose an exemplary cost on the party seeking adjournment without sufficient cause.

Award within 12 (twelve) months: The arbitral tribunal is statutorily bound to deliver an award within 12 (twelve) months from when the arbitral tribunal enters reference. The award can be delayed by a maximum of six months under exceptional circumstances where all parties consent to such an extension. The court's approval shall require further extension if the award is not made out within an extended period. When an application for an extension of time is awaiting before the court, the arbitrator's proceedings shall continue until the disposal of the application.

Fast Track Procedure: The parties to arbitration may choose to opt for a fast-track procedure either before or after the commencement of the arbitration. The award in fast-track arbitration is to be made within six months, and the arbitral tribunal shall be entitled to additional fees. The salient features of fast-track arbitration are:

- The dispute is to be decided based on written pleadings only.
- Arbitral Tribunal shall have the power to call for clarifications and the necessary written pleadings.
- An oral hearing may only be held if all the parties request or the arbitral tribunal considers it necessary.
- The parties are free to decide the fees of the arbitrator(s) for a fast-track procedure.

Powers of Arbitral Tribunal to grant Interim Relief: The parties to arbitration may approach the arbitral tribunal to seek interim relief on the grounds available under section 9 of the act. The tribunal has the powers of a court while making interim awards in the proceedings before it.

Confidentiality: As provided in Section 42A of The Arbitration Act, all the details and particulars of the arbitration proceedings shall be kept confidential except in certain situations, like if the disclosure is necessary for the implementation or execution of the arbitral award.

Obligation During Pendency of Arbitration: Performance of the contract shall, unless otherwise directed by the NHB, continue during the arbitration proceedings, and no payment due or payable by the NHB shall be withheld on account of such proceedings, provided; however, it shall be open for Arbitral Tribunal to consider and decide whether or not the performance of the contract or payment therein should continue during arbitration proceedings.

The Arbitral Award

- 1) In the case of the Tribunal, comprising three members, any ruling on an award shall be made by a majority of members of the Tribunal. In the absence of such a majority, the views of the Presiding Arbitrator shall prevail.
- 2) The arbitral award shall state item-wise the sum and reasons it is based. The analysis and reasons shall be detailed enough to infer the award.
- 3) It is further a term of this arbitration agreement that where the arbitral award is for the payment of money, no interest shall be payable on the whole or any part of the money for any period till the date on which the award is made in terms of Section 31 (7) (a) of The Arbitration Act.
- 4) The arbitrator's award shall be final and binding on the parties to this Contract.
- 5) A party may apply for corrections of any computational errors, typographical or clerical errors, or any other error of similar nature occurring in the award or interpretation of a specific point of the award to the Tribunal within 60 days of receipt of the award.
- 6) A party may apply to the Tribunal within 60 days of receiving the award to make an additional award for claims presented in the arbitral proceedings but omitted from the arbitral award.

Savings

The Arbitral Tribunal shall decide any matter related to Arbitration not covered under this Arbitration Agreement as per the provisions of The Arbitration Act.

Cost of Arbitration and fees of the Arbitrator(s)

The concerned parties shall bear the arbitration cost as per section 31 (A) of The Arbitration Act. The cost shall inter-alia include fees of the Arbitrator. Further, the fees payable to the Arbitrator shall be governed by instructions issued on the subject by the NHB and/ or the Government from time to time, in line with the Arbitration and Conciliation Act, irrespective of the fact whether the Arbitrator is appointed by the NHB or the Government under this clause or by any court of law unless directed explicitly by Hon'ble court otherwise on the matter. A sole arbitrator shall be entitled to a 25% extra fee over such a prescribed fee.

The arbitrator shall be entitled to a 50 per cent extra fee if the award is made within 6 months as per provisions in section 29(A) (2) of The Arbitration Act. The Arbitrator shall also be entitled to this extra fee in cases where the Fast Track Procedure in section 29 (B) of The Arbitration Act is followed.

12 Defaults, Breaches, Termination, and closure of Contract

12.1 Termination due to Breach, Default, and Insolvency

12.1.1 Defaults and Breach of Contract

In case the Consultant undergoes insolvency or receivership, neglects or defaults or expresses inability or disinclination to honour his obligations relating to the performance of the contract or ethical standards or any other obligation that substantively affects the Procuring Entity's rights and benefits under the contract, it shall be treated as a breach of contract. Such defaults could include inter-alia:

- 5) **Default in Performance and Obligations:** if the Consultant fails to deliver any or all of the Services or fails to perform any other contractual obligations (including Code of Integrity or obligation to maintain eligibility and evaluation criteria based on which contract was awarded) within the period stipulated in the contract or within any extension thereof granted by the Procuring Entity. In the case of a Joint Venture/ Consortium, If the performance of any JV/C member is persistently un-satisfactory by the Procuring Entity in respect of the responsibilities assigned to him as per the JV agreement, which is part of this Contract.
- f) **Insolvency:** If the Consultant being an individual or if a firm, any partner thereof, shall at any time be adjudged insolvent or shall have a receiving order or order for the administration of his estate made against him or shall take any proceeding for composition under any Insolvency Act for the time being in force or make any conveyance or assignment of his effects or enter into any assignment or composition with his creditors or suspend payment or if the firm be dissolved under the Partnership Act, or
- g) **Liquidation:** if the Consultant is a company being wound up voluntarily, or by order of a Court or a Receiver, Liquidator or Manager on behalf of the Debenture-holders is appointed, or circumstances shall have arisen which entitle the Court or Debenture-holders to appoint a Receiver, Liquidator or Manager

12.1.2 Notice for Default:

As soon as a breach of contract is noticed, a show-cause 'Notice of Default' shall be issued to the Consultant, giving two weeks' notice, reserving the right to invoke contractual remedies. After such a show-cause notice, all payments to the Consultant would be suspended as per GCC clause 10.6 above to safeguard needed recoveries due to invoking contractual remedies.

12.1.3 Remedies for Breaches/ Default

In the event of an unsatisfactory resolution of 'Notice of Default' within two weeks of its issue as per

the sub-clause above, the Procuring Entity, if so decided, shall take one; or more of the following contractual remedies.

- a) Recover liquidated damages and invoke a denial clause for delays.
- b) In the case of JV/C, Procuring Entity may call upon the Lead Member to assign the work of the defaulting member to any other equally competent party acceptable to the Procuring Entity.
 - 5) Temporarily withhold payments due to the Consultant till recoveries due to invocation of other contractual remedies are complete.
 - 5) Call back any loaned property or payment advances with a levy of interest at the prevailing rate (MIBID – Mumbai Interbank Proposal Rate).
- e) Encash and/ or Forfeit performance or other contractual securities.
- f) Prefer claims against the insurance, if any.
- g) Terminate the Contract for default, fully or partially, including its right for Risk-and-Cost Procurement as per the following sub-clause.
 - 5) Initiate proceedings in a court of law for the transgression of a law, tort, and loss not addressable by the other remedies above.
- 5) By written Notice of Termination for Default sent to the Consultant, terminate the contract in whole or in part, without compensation to the Consultant.
 - 5) Such termination shall not prejudice or affect the rights and remedies, including under the sub-clause below, which have accrued and/ or may accrue to the Procuring Entity after that.
- B) Unless otherwise instructed by the Procuring Entity, the Consultant shall continue to perform the contract to the extent not terminated.
- c) All Defect Liability obligations, if any, shall survive despite the termination.
- i) **Risk and Cost Procurement:** In addition to termination for default, the Procuring Entity shall be entitled, and it shall be lawful on his part, to procure Services similar to those terminated, with such terms and conditions and in such manner as it deems fit at the “Risk and Cost” of the Consultant. Such Risk and Cost Procurement must be contracted within nine months from the breach of contract. The Consultant shall be liable for any loss which the Procuring Entity may sustain on that account provided the procurement, or, if there is an agreement to procure, such agreement is made. The Consultant shall not be entitled to any gain on such procurement, and the manner and method of such procurement shall be at the discretion of the Procuring Entity. It shall not be necessary for the Procuring Entity to notify the Consultant of such procurement. It shall, however, be at the discretion of the Procuring Entity to collect or not the security deposit from the firm/ firms on whom the contract is placed at the risk and cost of the defaulted firm.

12.1.4 Limitation of Liability

Except in cases of criminal negligence or 62arteli misconduct, the aggregate liability of the Consultant to the Procuring Entity, whether under the contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Consultant to indemnify the Procuring Entity concerning IPR infringement.

12.2 Termination for Default/ Convenience of Procuring Entity or Frustration of Contract

12.2.1 Notice for Determination of Contract

- 1) The Procuring Entity reserves the right to terminate the contract, in whole or in part, for its (the Procuring Entity's) convenience or frustration of Contract as per the sub-clause below, by serving written 'Notice for Determination of Contract' on the Consultant at any time during the currency of the contract. The notice shall specify that the termination is for the Procuring Entity's

convenience or the contract's frustration. The notice shall also indicate inter-alia, the extent to which the Consultant's performance under the contract is terminated, and the date from which such termination shall become effective.

- 2) Such termination shall not prejudice or affect the rights and remedies accrued and/ or shall accrue after that to the Parties.
- 3) Unless otherwise instructed by the Procuring Entity, the Consultant shall continue to perform the contract to the extent not terminated.
- 4) All Defect Liability obligations, if any, shall survive despite the termination.
- 5) The Services and incidental goods/ works that can be delivered or performed within thirty days after the Consultant's receipt of the notice of termination shall be accepted by the Procuring Entity as per the contract terms. For the remaining Services and incidental goods/ works, the Procuring Entity may decide:
 - a) To get any portion of the balance completed and delivered at the contract terms, conditions, and prices; and/ or
 - 5) To cancel the remaining portion of the Services and incidental goods/ works and compensate the Consultant by paying an agreed amount for the cost incurred by the Consultant, if any, towards the remaining portion of the Services and incidental goods/ works.

12.2.2 Frustration of Contract

- a) **Notice of Frustration Event:** Upon a supervening cause occurring after the effective date of the contract, including a change in law, beyond the control of either party, whether as a result of the Force Majeure clause (GCC 9.6) or within the scope of section 56 of the Indian Contract Act, 1872, that makes it impossible to perform the contract within a reasonable timeframe, the affected party shall give a 'Notice of Frustration Event' to the other party giving justification. The parties shall use reasonable efforts to agree to amend the contract as necessary to complete its performance. However, if the parties cannot reach a mutual agreement within 60 days of the initial notice, the Procuring Entity shall issue a 'Notice for Determining the contract' and terminate the contract due to its frustration, as in the sub-clause above.
 - 1) However, the following shall not be considered as such a supervening cause: Lack of commercial feasibility or viability or profitability or availability of funds
 - 2) if caused by either party's breach of obligations under this Contract or failure to act in good faith or use commercially reasonable due diligence to prevent such an event.

12.3 Closure of Contract

A. Unless terminated earlier under GCC clauses 12.1 and 12.2 above, this Contract shall expire:

- 1) At the end of such a period after the Effective Date as specified in the Contract.
- 2) Upon successful performance of all obligations by both parties, including completion of Defect Liability obligations and final payment.
- 3) termination and settlements after that, if any, as per GCC clause 12.1 or 12.2 above.

B. Cessation of Rights and Obligations

Upon termination of this Contract under Clauses GCC 12.1 or 12.2 hereof or expiration of this Contract under GCC clause 12.3.1, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality outlined in GCC clause 5.7. (iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records outlined in GCC clause 5 and to cooperate and assist in any inspection or investigation, and (iv) any right a Party may have under the Applicable Law.

C. Cessation of Services

Upon termination of this Contract by notice under Clauses GCC 12.1 or GCC 12.2, the Consultant

shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. Concerning documents prepared by the Consultant and equipment and materials furnished by the Procuring Entity, the Consultant shall proceed as provided by Clauses GCC 9.4 and GCC 5.14.

D. Payments upon Termination

Upon termination of this Contract, the Procuring Entity shall make the following payments to the Consultant:

- 5) payment for Services satisfactorily performed before the effective date of termination; and
- 5) in the case of termination under GCC clause 12.2, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.

13 Code of Integrity in Public Procurement; Misdemeanours and Penalties

13.1 Code of Integrity

Procuring authorities as well as Consultants, suppliers, contractors, and consultants – should observe the highest standard of ethics and should not indulge in following prohibited practices, either directly or indirectly, at any stage during the Procurement Process or during the execution of resultant contracts:

- A) **“Corrupt practice”** – making an offer, solicitation or acceptance of a bribe, reward or gift or any material benefit in exchange for an unfair advantage in the Procurement Process or to otherwise influence the Procurement Process;
- B) **“Fraudulent practice”** – any omission or misrepresentation that may mislead or attempt to mislead so that financial or other benefits may be obtained or an obligation avoided. Such practices include a false declaration or false information for participation in a Procurement Process or to secure a Contract, or in the execution of the contract;
- C) **“Anti-competitive practice”** - any collusion, Proposal-rigging or anti-competitive arrangement, or any other practice coming under the purview of the Competition Act, 2002, between two or more Consultants, with or without the knowledge of the Procuring Entity, that may impair the transparency, fairness, and the progress of the Procurement Process or to establish Proposal prices at artificial, non-competitive levels;
- D) **“Coercive practice”** – harming or threatening to harm persons or their property to influence their participation in the Procurement Process or affect the execution of a contract;
- E) **“Conflict of interest”** – participation by a bidding firm or any of its affiliates who are either involved in the Consultancy Contract to which this procurement is linked; if they are part of more than one Proposal in the procurement; or if their personnel have a relationship or financial or business transactions with any official of procuring entity who are directly or indirectly related to tender or execution process of contract; or improper use of information obtained by the (prospective) Consultant from the Procuring Entity with an intent to gain unfair advantage in the Procurement Process or for personal gain;
- F) **“Obstructive practice”** – materially impede procuring entity’s investigation into allegations of one or more of the above-mentioned prohibited practices either by deliberately destroying, falsifying, altering; or concealing evidence material to the investigation; or by making false statements to investigators and/ or by coercive practices mentioned above, to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or by impeding the Procuring Entity’s rights of an audit or access to information;

13.2 Obligations for Proactive Disclosures:

- A) Procuring authorities, Consultants, suppliers, contractors, and consultants are obliged under this Code of Integrity to *suo-moto* proactively declare any violation of the Code of Integrity (pre-existing or as and as soon as these arise at any stage) in any Procurement Process or execution of the contract. Failure to do so shall amount to a violation of this code of integrity.
- B) Any Consultant must declare, whether asked or not in a Proposal-document, any previous transgressions of such code of integrity during the last three years or of being under any category of debarment by the Central Government or the Ministry/ Department of the Procuring Organisation from participation in Procurement Processes. Failure to do so shall amount to a violation of this code of integrity.

13.3 Misdemeanours

The following shall be considered misdemeanours – if a Consultant, either directly or indirectly, at any stage during the Procurement Process or during the execution of resultant contracts:

- a) Commits any of the following misdemeanours:
 - b) Violates the code of Integrity mentioned in GCC-clause 13.1 or the Integrity Pact if included in the Tender/ Contract;
 - 5) Any other 65artelizati, e.g., supply of sub-standard quality of material/ services/ work, non-performance or abandonment of contract, or violations of Bid/ performance Security conditions.
- d) Commits any of the following misdemeanours:
 - a. Has been convicted of an offence:
 - Under the Prevention of Corruption Act, 1988; or
 - The Indian Penal Code or any other law is in force for causing any loss of life or property or causing a threat to public health as part of the execution of a public procurement contract.
 - It is determined by the Government of India to have doubtful loyalty to the country or national security considerations.
 - Employs a government servant who has been dismissed or removed on account of corruption or employs a non-official convicted for an offence involving corruption or abetment of such an offence in a position where he could corrupt government servants or employs a government officer within one year (or any other period prescribed by the relevant authority) of his retirement, who has had business dealings with him in an official capacity before retirement.

13.4 Penalties for Misdemeanours

Without prejudice to and in addition to the rights of the Procuring Entity to other remedies as per the Tender-documents or the contract, If the Procuring Entity concludes that a (prospective) Consultant directly or through an agent has committed a 65artelizati in competing for the tender or in executing a contract, the Procuring Entity shall be entitled, and it shall be lawful on his part to take appropriate measures, including the following:

- A. if his Proposals are under consideration in any procurement
- B. Enforcement of Bid Securing Declaration in lieu of forfeiture or encashment of Bid Security.
- C. calling off any pre-contract negotiations and;
- D. rejection and exclusion of Consultants from the Procurement Process
 - a. if a contract has already been awarded
 - b. Termination of Contract for Default and availing all remedies prescribed there under:
 5. Encashment and/ or Forfeiture of any contractual security or bond relating to the procurement;
 5. Recovery of payments, including advance payments, if any, made by the Procuring Entity along with interest thereon at the prevailing rate (MIBID

- Mumbai Interbank Proposal Rate);

Remedies in addition to the above: In addition to the above penalties, the Procuring Entity shall be entitled, and it shall be lawful on his part, to:

- 5) File information against Consultant or any of its successors with the Competition Commission of India for further processing in case of anti-competitive practices;
- 5) Initiate proceedings in a court of law against Consultant or any of its successors under the Prevention of Corruption Act, 1988 or the Indian Penal Code or any other law for transgression not addressable by other remedies listed in this sub-clause.
- c) Remove the Consultant or any of its successors from the list of registered suppliers for a period not exceeding two years. Suppliers removed from the list of registered vendors or their related entities may be allowed to apply afresh for registration after the expiry of the removal period.
- d) Initiate suitable disciplinary or criminal proceedings against any individual or staff found responsible.
- 5) Debar, a Consultant, from participation in future procurements without prejudice to Procuring Entity's legal rights and remedies. Debarment shall automatically extend to all the allied firms of the debarred firm. In the case of a Joint Venture/ consortium, all its members shall also stand similarly debarred:
 - i. A Ministry/ Department (or any of its CPSUs, attached offices, autonomous bodies) may debar a Consultant or any of its successors from participating in any Procurement Process undertaken by all its procuring entities for a period not exceeding two years commencing from the date of debarment for misdemeanours listed in GCC sub-clause 13.3 -1) above. The Ministry/Department shall maintain such a list which shall also be displayed on their website.
 - ii. Central Government (Department of Expenditure (DoE), Ministry of Finance) may debar a Consultant or any of its successors from participating in any Procurement Process undertaken by all its procuring entities for a period not exceeding three years commencing from the date of debarment for misdemeanours listed in GCC sub-clause 13.3 – 2) above. DoE shall maintain such a list which shall be displayed on Central Public Procurement Portal (CPPP).

SECTION VI: TERMS OF REFERENCE (TOR)

Recital and Objectives

NHB has been assigned the responsibility to onboard an Agency to function as Program Management Unit for Cluster Development Programme of National Horticulture Board

5. About NHB

Introduction:

NHB was set up by Government of India in 1984 as an Autonomous body under the Ministry of Agriculture and Farmers Welfare and registered under Haryana Registration and Regulation of Societies Act, 2012. NHB has its Head Quarter in Institutional Area, Plot-85, Sector- 18, Gurugram (Haryana)-122015.

A list of schemes being implemented by NHB is given as under: -

- Development of Commercial Horticulture through Production and Post-Harvest Management of Horticulture Crops.
- Capital Investment Subsidy Scheme for Construction/Expansion / Modernization of Cold Storages/Storages of horticulture products.
- Technology Development and Transfer for promotion of horticulture.

- Market Information Scheme for horticulture Crops.
- Horticulture Promotion Services / Expert Services.

The broad objectives of all the NHB Schemes are:

- Development of hi-tech commercial horticulture in identified belts and make such areas vibrant with horticultural activity, which in turn will act as hubs for development of horticulture.
- Development of modern post-harvest management infrastructure as an integral part of area expansion projects or as common facility for cluster of projects.
- Development of integrated, energy efficient cold chain infrastructure for fresh horticulture produces.
- Popularization of identified new technologies /tools /techniques for commercialization/ adoption, after carrying out technology need assessment.
- Assistance in securing availability of quality planting material by promoting setting up of Scion and Root stock banks / Mother plant nurseries and carrying out accreditation / rating of horticulture nurseries and need based imports of planting material.
- Promotion and market development of fresh horticulture produce.
- Promotion of field trials of newly developed/imported planting materials and other farm inputs; production technology; Post Harvest Management (PHM) protocols, Integrated Nutrient Management (INM) and Integrated Pest Management (IPM) protocols and promotion of applied Research and Development (R&D) programs for commercialization of proven technology.
- Promotion of Farm Mechanization in Horticulture through demonstration and its uses at farmers field level to reduce labour cost and increase the productivity of Horticulture crops.
- Promotion of applied Research and Development (R & D) for standardizing Post Harvest Management (PHM) protocols, prescribing critical storage conditions for fresh horticulture produce, bench marking of technical standards for cold Chain infrastructure etc.
- Transfer of technology to producers/farmers and service providers such as gardeners, nurserymen, farm level skilled workers, operators in cold storages, work force carrying out post-harvest management including processing of fresh horticulture produce and to the master trainer.
- Promotion of consumption of horticulture produce and products.
- Promoting long distance transport solution for bulk movement of horticulture produce through rail etc.
- Carrying out studies and surveys to identify constraints and develop short and long-term strategies for systematic development of horticulture and providing technical services including advisory and consultancy services.

About Horticulture Cluster Development Programme (CDP)

NHB had designed and implemented a **Pilot Cluster Development Programme** in 2021 for horticulture crops. Based on the learning from the Pilot Program, NHB has redesigned the Cluster Developed Programme. The redesigned CDP is a central sector scheme which aims to leverage geographical specialization of horticulture clusters to make them globally competitive. The cluster development approach will facilitate the horticulture sector in realizing suitable economies of scale in production and post-harvest activities. It is also expected to help in better price realization and empowerment of the farming community by enhancing their income through increased competitiveness across the entire value chain.

The key objectives of the Cluster Development Programme are:

- Address the concerns of the horticulture cluster value chain** from pre-production, production, post-harvest management and value addition to logistics, marketing and branding **in an integrated**

manner.

- b. Facilitate the **introduction of innovative technologies and practices to help enhance the global competitiveness of focus cluster crops**³ and thereby promote exports.
- c. **Enhance farmers' wallet share** (reduction in cost and increase in revenue).

Major Components of Cluster Development Programme:

CDP will support **integrated interventions** to enhance the competitiveness of targeted clusters. The interventions shall be implemented through 68artelizati Implementing Agencies (Ias). The interventions under the Programme have been classified into the following three verticals:

- a. **Pre-production and production:** It will support capacity-building of farmers and farm proximate interventions covering the crop life cycle, including planting material, crop-care practices, micro-irrigation and farm 68artelization till the harvest of the crop.
- b. **Post-harvest management and value addition:** It will support interventions at the cluster level, ranging from post-harvest handling of crop to storage, value addition and packaging.
- c. **Logistics, Marketing and Branding:** It will support interventions to link cluster produce with consumption markets and include seamless logistics for efficient evacuation, cluster branding and outreach in the domestic and export markets.

Under the present implementation phase, the CDP is envisaged to be implemented in upto 100 clusters.

C. Objectives for Appointing a Programme Management Unit (PMU)

NHB intends to appoint a Programme Management Unit (PMU) as the PMU envisaged to play a critical role in enhancing overall efficiency of implementation of the CDP Scheme. The PMU will provide management and technical support to NHB in the scheme implementation. The PMU will have the following objectives -

- a) The PMU shall be responsible for organizing workshops, media campaigns, and other outreach activities aimed at promoting the objectives and benefits of CDP. These activities will serve to raise awareness, disseminate information, and engage various stakeholders.
- b) The PMU shall prepare/ revise Concept note and Business case/ Detailed Project Report (DPR) templates, and necessary frameworks to provide a structured approach to project planning and execution as also for systematic evaluation and assessment of the projects.
- c) The PMU shall maintain a real-time monitoring and evaluation dashboard. This dashboard will enable continuous tracking of project progress, performance metrics, and outcomes, thereby ensuring transparency and accountability in the implementation process.
- d) The PMU shall assist in the release of financial assistance, ensuring that funds are disbursed in a timely and efficient manner. The PMU will coordinate with relevant financial institutions and stakeholders to facilitate the smooth flow of financial resources.
- e) The PMU shall assist the Technical Committee in the examination and evaluation of concept notes and business cases submitted by various entities. This includes providing expert insights and recommendations to assess the viability and feasibility of proposed projects.
- f) The PMU shall assist in the periodic review, supervision, and monitoring of project implementation. This involves conducting regular assessments to ensure that projects are progressing as planned and addressing any issues or challenges that may arise.
- g) The PMU shall provide technical support to SHMs. This includes assistance with the staffing of SHM and appraisal of project proposals. The PMU shall ensure that SHMs are equipped with necessary technical expertise and resources to carry out their responsibilities effectively.

³ Focus crop has been defined as the identified major horticulture crop of a cluster. In addition to the focus crop, a cluster may have other ancillary crops.

Terms of Reference and Scope of Work

ii. (Initiation Phase 0-3 Months)

- a) **Development of Standard Operating Procedures (SOPs)**- Development of SoPs outlining the details of all work and process flows, reports, documents, activities, reports, progress achieved, Minutes, handing and taking over if applicable etc.
- b) **Procurement Guidelines and Documents** – Develop the guidelines and mechanism for onboarding of private Sector Project Implementation Agency (PIA) including assisting NHB in technical and financial appraisal of proposal received from PIAs, contract agreement, negotiation parameters etc.
- c) Assist NHB in the procurement of works, goods and services and contract management under the CDP Scheme.
- d) Development of models DPRs for reference of PIAs.
- e) Develop Scheme Optimization Plan and undertake necessary activities and information dissemination to popularize the Cluster Development Program.

iii. CDP Implementation Phase (33 months)

- a) Assist NHB in developing architecture and framework to guide PIAs to develop e-commerce portal for business-to-business (B2B) and business- to consumer (B2C) transactions.
- b) Assist NHB for training and capacity building of two master trainers in each Clusters on Good Agriculture Practices (GAP/India GAP), good orchard management practices, harvest & post-harvest handling practices and also for Ias/NHB and other stakeholders.
- c) Assist NHB and clusters in development of traceability solutions.
- d) Assist NHB in inviting EoI/RFP for selection of Project Implementation Agencies (PIAs).
- e) Scrutinize EOIs received, and assist NHB in screening and selection of eligible project proposals.
- f) Assist NHB in appraisal and approval of Detailed Project Reports submitted by PIAs.
- g) Assist in the selection of Agency for updating of the Existing Monitoring Dashboard to transform it into a real time Monitoring and Evaluation dashboard for streamlining process of implementation and undertake corrective action whenever required.
- h) Assist NHB in release of financial assistance after verification of requisite milestones and compliance including undertaking site inspections to assess actual physical progress and verify the claims/documents submitted by the applicant for release of grant and make a recommendation to NHB.
- i) Assist NHB in periodic review, supervision and monitoring of project implementation in specific clusters.

The PMU would also provide overall assistance to NHB and related stakeholders / beneficiaries on undertaking necessary interventions to enable holistic development of horticulture clusters. Hard interventions may be viewed in terms of those involving creation of fixed assets such as common facilities and physical infrastructure. Soft interventions cover the gamut of other required Business Development Services (BDS).

Note:

1. During the assignment period NHB may modify the TORs and other terms and conditions of the assignment, if necessary, in order to strengthen / deepen its scope / coverage in consultation with the Agency.

2. All the reports and the contents created thereof would be the intellectual property of the NHB/Government of India and would not be published by the agency without prior approval of the NHB/Government of India. The project related data or information should not be disclosed by the Agency to any third party without prior approval of the NHB/Government of India.

D. Deliverables and Schedule of Payment

The deliverables and timelines for various activities is given in the table below. Payment will be made on monthly basis subject to satisfactory progress of the deliverables as reported by Agency in monthly progress reports to the satisfaction of NHB.

S. No.	Activity/ Milestone	Timelines (36 months)
1	Initiation Phase	
a.	Development of SOPs, Procurement Guidelines and Documents	3 months
2	Program Management – Monitoring & Supporting CDP Implementation	33 months
3.	Any other need-based assistance	

The broad deliverables are as under:

- Standard Operating Procedures (SOPs) document developed.
- Architecture and framework to guide PIAs develop e-commerce portal for business-to business (B2B) and business- to consumer (B2C) transactions suggested.
- Package of practices on good agriculture practices (GAP/India GAP), good orchard management practices, harvest & post-harvest handling practices developed.
- Validation of Feasibility Report and Business Rationale in the Concept Note and DPRS of PIAs.
- Scrutiny of Applications (Concept Note, EOIs/DPRs) by PIAs, appraisal and informing the approval process.
- Onboarding of Ias.
- Developed model DPRs.
- Periodic Progress Monitoring Report as agreed upon with NHB and MoA&FW.

E. Form of BoQ/Contract

S.No.	Component (All Inclusive Cost)	Duration	Unit Cost (In Rupees)
Cluster Development Program			
1.	Initiation Phase		

a.	As-is Program Implementation Status Report – Development of SOPs, Procurement Guidelines and Documents	3 months	
2.	Monitoring & Supporting CDP Implementation Programme Management (Monthly) to start after Initiation phase is completed. <ul style="list-style-type: none"> • Team Leader -1 • Project Structuring & Feasibility Assessment Expert -1 • Value Addition Expert-1 • Due Diligence Expert-1 • Contract Management & Pvt. Sector On-boarding Expert-2 • MIS/IT Expert -1 • Branding and Marketing Expert -1 • Capacity Building Expert-1 • Support Team-2 	33 months	
	Total cost (1+2) Exclusive Taxes		

Note:

1. The financial evaluation shall be done on the Total Cost I of both the phases.
2. The work order of PMU for CDP will be issued by NHB.
3. The agency will not be allowed to change resource persons, however, under exceptional circumstances with prior consent of the MD, NHB. Change of resource more than once shall only be allowed in exceptional cases.
4. Travel Costs will be additional and will be reimbursed on actuals. All Travel by the Consultant will have to be undertaken after written permission from DMD/Joint Director (CDP), NHB.

Note: The scope of work outlined above highlights the technical aspects of the project, including program management. These activities will be executed in a coordinated manner to ensure the successful implementation.

SECTION VI-A: LIST OF KEY EXPERTS AND REQUIRED QUALIFICATIONS:

Following is a list of key professional staff with requisite minimum qualification and relevant experience for the duration of 36 months:

S No.	Position/Roles	Qualification	Number of Resources*
1	Team Leader	Post-Graduation in Post-Harvest Management / Agri Business or equivalent / Horticulture or related field with at least 15 years of experience – Should have experience of performing the role of a team leader for assignments of similar nature, in project development and implementation in horticulture/agriculture value chain development, and private sector projects with State/Central Govt.	1
2	Project Structuring & Feasibility Assessment Expert	Postgraduate degree in Agri-business or related field – 10 years' experience in project development and implementation in agriculture/ horticulture/ agribusiness/ PPP projects etc. with State/Central Govt.	1
3	Value Addition Expert	Postgraduate degree in agribusiness/ Food Processing/ Post-harvest Management having 7 years' relevant experience in horticulture/agriculture value chain development, logistics and supply management in an institution of repute.	1
4	Due Diligence Expert	Postgraduate degree in agribusiness/ management having 7 years' relevant experience in commercial due diligence.	1
5	Contract Management & Pvt. Sector On-boarding Expert	Graduate degree in law/ management having 7 years' relevant experience in contract management/policy/regulatory compliances.	2
6	MIS/IT Expert @	Graduate in IT (BE/B.Tech. or equivalent) and MBA with minimum 7 years of experience, including one project with IT/MIS.	1
7	Branding and Marketing Expert	MBA/Post Graduate Degree in relevant field with least 5 years' experience in marketing and branding of relevant projects.	1
8	Capacity Building Expert	Post Graduate Degree in relevant field with at least 5 years' experience in capacity building of farmers/FPOs.	1
9	Support Team	Postgraduate degree in relevant field with 2 years of relevant experience	2
TOTAL			11

**Team will be deployed at O/o National Horticulture Board, Gurugram during the implementation period*

*** 2 Years Post Graduate Diploma in Business Management/Rural Management/Forest Management/Plantation Management or equivalent will be considered as equivalent to Post Graduation Degree*

**** National Horticulture Board may enhance or decrease the team size basis the need of the project. The above team deployment is for a minimum of 5 clusters and a maximum of 15 clusters. Subsequently for every additional five clusters 1 contract management & private sector on-boarding expert & support team member shall be added.*

***** The project duration is for 3 years which can be further extended for 1 more year in case as desired by the Board on the pro rata basis*

@The MIS/IT expert provided herein shall be responsible for day-to-day monitoring of the project. Any modifications in CDP Suraksha Portal shall be carried out at T&M basis using NICSI rate of implementation within first 3 months of the selection of the PMU.

The Agency is free to employ additional resources (including the time for each team member) as they see fit, keeping in mind that adhering to the objectives of the assignment, scope of work/activities given, and outputs is essence for the assignment.

The agency will not be allowed to change resource persons, however, under exceptional circumstances with prior consent of the MD, NHB. Change of resource more than once shall only be allowed in exceptional cases.

Performance of the agency shall be evaluated every 6 months, in case services of the consultant are not found satisfactory, the services shall be terminated by the Board and no extension of the contract thereafter would be allowed by the Board.

Criteria, Sub criteria, and point system for scoring the points for Technical Proposal

Criteria	Marks	Max Points	Notes
Criteria I: Financial Capacity – Average Annual Financial Turnover of consultant (as a firm). 10 marks to be awarded to the firm with the highest average annual turnover. Other firms to be awarded proportionate marks on pro-rated basis.	15	15	
Criteria II: Specific experience of the consultant (as a firm) relevant to the assignment	20	20	
Specific experience of the Consultant 5. Experience of assisting Central/ State Governments/ Bilateral/ Multilateral Agencies in their programs for promotion of Agriculture and/or Horticulture Production and/or Value addition projects. Only assignments with a minimum duration of 1 year and professional fees realization of Rs. 1.00 crore as on bid issuance date will be considered (max 5 marks; 1.25 marks per eligible assignment). CA certificate would be required for confirming the professional fees realized. NOTE: Agencies should submit work order/ completion certificate/ agreement/ client certificate/ other relevant document for confirming the details pertaining to technical evaluation.	5	5	Work order/ Agreement / Completion Certificate Issued by Customers
2: Experience in transaction advisory in agri/horti/agribusiness/allied sector for government clients. Both completed and ongoing assignments will be considered. (Maximum 5 marks; 1 mark per eligible assignment).	5	5	

<p>5. Experience in developing the sectoral policy for agriculture/ horticulture/allied sector for government clients</p> <p>(Maximum marks 5; 5 marks if horticulture sectoral policy, 1 mark per project if it is agriculture and allied sector policy)</p>	5	5	
<p>4.Experience in managing/developing/ supporting innovative approaches to deliver financial services for Agri/Horti Value Chain for Central/ State Governments/ Bilateral/ Multilateral Agencies.</p>	5	5	
<p>Criteria III. Adequacy and quality of the proposed methodology and work plan in responding to the Terms of Reference (TORs):</p>			
<p>a. Technical approach and methodology for carrying out the assignment</p>	10 marks	40	Approach & Methodology Document.
<p>b. Demonstration/ Case Study of the understanding of Board's requirements, key issues & challenges and mitigation proposed along with presentation of similar programme.</p> <p>Note: Demonstration/Case Study reflecting the framework for working with State Government</p>	10 marks		Relevant documents with regards to existing experience for tying up with State Government like MoU/Letter of Intent etc.
<p>5. Demonstration and experience of facilitating/designing /developing an online platform/ Dashboard for Central/State Govt. which has improved the efficiency of the Programme for releasing of subsidy to the beneficiaries with all the necessary API/ database integrations like</p> <ul style="list-style-type: none"> • GIS/Geo-tagging/Geo Mapping/Geo Referencing (4 Marks) • Aadhar Integration / e-Rupi (3 Marks) • Local Government Directory (LGD) Integration (3 Marks) 	10 marks		Client Certificate towards the Platform/Dashboard and mentioning all necessary API/Data based integration done.
<p>d. Staffing & Work Plan – should demonstrate adequacy of team for respective tasks</p>	10 marks		Staffing and Workplan Document

III. KEY EXPERT’S QUALIFICATIONS AND COMPETENCE FOR THE ASSIGNMENT:		25	Detailed CV
S.No.	Position	Marks	
1.	Team leader	5	
2.	Rest all Team members (except Support Team)	2.5 * 8	
<p>The number of points to be assigned to each of the above positions shall be determined considering the following sub criteria and relevant percentage weights (total 100%)</p> <ul style="list-style-type: none">• Adequacy of Assignment: 70%• Education Qualification: 30%			
Total Score for the Technical Proposal		100	
The minimum technical score required to pass is		75	

Note:

- For all above mentioned scoring/ technical evaluation criteria, the bidder is required to furnish unique projects for each criterion. Any duplication of the project shall not be considered.
- The maximum marks that can be scored would be 100. Financial bids of only those bidders will be opened who receives more than/ equal to 75 marks in technical evaluation criteria.
- If deemed necessary, NHB in its sole discretion to make required variations in the cut off points for technical evaluation including criteria for technical evaluation.
- RFP Evaluation Committee: NHB will constitute the RFP Evaluation Committee. This committee will evaluate the Bid Documents submitted by the Bidders.
- All professional fees shall be considered inclusive of taxes.
- The RFP Evaluation Committee may choose to conduct technical negotiation or discussion with any or all the Bidders. The decision of Evaluation Committee in the valuation of the Technical and Commercial bids shall be final and binding on all the parties.
- Any effort by a Bidder to influence the RFP Evaluation Committee's processing of Bids or award decisions may result in the rejection of the Bid.
- Failure of the Bidder to agree with the Terms & Conditions of the RFP/Contract shall constitute sufficient grounds for the annulment of the award of contract, in which event the contract may be awarded to the next most responsive bidder.
- The selection of the bidder shall be based on Quality Cost Based Selection (QCBS) method. Given the complexity in implementation of the project, weightage of technical score shall be 80% and weightage of financial score shall be 20%, the lowest quoted Financial Proposal (Fm) or H1 is given the maximum financial score (Sf) of 100.

BIDDING FORMS

RFP Submission Letter

Date: _____

To
 The Deputy Director,
 National Horticulture Board
 Ministry of Agriculture & Farmers Welfare
 Plot No.85, Sector 18, Institutional Area,
 Gurugram, Haryana- 122015

Sub: Request for Proposal (RFP) for the engagement of an to function as Programme Management Unit for Cluster Development Programme of National Horticulture Board

Ref: RFP document no. _____ **dated** _____

Dear Sir,

I/ We, the undersigned offer to undertake works regarding subject matter and hereby submitting our bid. I/We, hereby declare that:

(5) We are enclosing our profile as Annexure I (a) and submitting herewith our Bid with the details as per the requirements of the RFP Document, for your evaluation and consideration.

(b) I/We have read carefully all the terms and conditions of RFP document attached hereto and hereby agree to abide by the said terms and conditions.

I The online payment of Rs. _____/- against the Earnest Money Deposit (EMD) has been made via Internet banking. Documentary evidence is enclosed herewith. OR
 We as an applicant registered under NSIC is exempted from EMD.

(d) The bid is unconditional.

I I/We undertake that documents submitted are genuine/ authentic and nothing material has been concealed. I/We understand that the contract is liable to be cancelled, if it is found to be having obtained, through fraudulent means/concealment of information.

(f) We shall make available to the NHB any additional information it may find necessary or require to clarify, supplement or authenticate the Bid.

(g) Until a formal agreement is prepared and executed, acceptance of this RFP document shall constitute a binding contract between NHB and us subject to the modifications, as may be mutually agreed to, between NHB and us.

(h) We agree to keep this bid valid for acceptance for a period of **ninety (90) days** from the date of opening the bid.

We understand that the NHB is not bound to accept any RFP that the NHB receives.

Yours faithfully,

Authorized Signatory
 (With Name, Designation, Contact no. and Seal)

Note: On the Letter head of the Bidder

Profile of Agency/ Organization

Provide here a brief description of the background and organization of your firm/institution/entity. The brief description should include ownership details- date place of incorporation of the agency its objectives etc. Attach relevant certificate(s)

#	Particulars	Details
1.	Name of the Bidder	
2.	Address of the Bidder	
3.	Incorporation status of the Bidder (Company or Firm) (Relevant Certificate to be submitted in Technical Bid)	
4.	Year of Establishment	
5.	Valid GST registration No. (Copy of certificate to be submitted)	
6.	Permanent Account No. (PAN) (Copy of PAN Card to be submitted)	
7.	Name and Designation of the contact person to whom all references shall be made regarding this Bid	
8.	Telephone No. (with STD Code)	
9.	E-mail id of the Contact Person	
10.	Fax No. (with STD Code)	
11.	Website (if any)	

Bidder's Authorization Certificate

To
The Deputy Director,
National Horticulture Board
Ministry of Agriculture & Farmers Welfare
Plot No.85, Sector 18, Institutional Area,
Gurugram, Haryana- 122015

Sub: Request for Proposal (RFP) for the engagement of an Agency to function as Programme Management Unit for Cluster Development Program of National Horticulture Board

Ref: RFP document no._____ **dated** _____

Dear Sir,

I/ We {Name/ Designation} hereby declare/ certify that {Name/ Designation} is hereby authorized to sign relevant documents on behalf of the company/ firm in dealing with RFP No. _____ dated _____. He/ She is also authorized to attend meetings & submit technical & commercial information/ clarifications as may be required by you in the course of processing the Bid. For the purpose of validation, his/ her verified signatures are as under.

Thanking you,

Name of the Bidder: -

Authorized Signatory:

Verified Signature:

Seal of the Organization:

Date:

Place:

Note: Please attach the valid power of attorney in favor of person signing this authorization letter.

Performa for Affidavit
(on non-judicial stamp paper of Rs.100/- or on Company letterhead)

I _____ Proprietor/ Director/ Partner of the firm M/s _____ do hereby solemnly affirm that our firm M/s _____ is not blacklisted by any Central/ State government department in the last three years reckoned from the date of invitation of Bid.

.....
Name of the Bidder

.....
Signature of the Authorized Signatory

.....
Name of the Authorized Signatory

Place: _____

Date: _____

CV Format

General

Position Title and No.	
Name of Key Expert	
Name of the Firm proposing the Key Expert	
Date of Birth	
Nationality	
Country of Citizenship/Residence	

Education

S. No.	Degree Obtained	Name of Institution	Period of education
1.			
2.			

Employment record relevant to the assignment (starting with present 82artelizatio and follow reverse order)

Period	Employing organisation and the position Contact information for reference	Country	Summary of activities performed relevant to the Assignment

Language Skills

Language	Speaking (Excellent/Good/Average/ Below Average/Poor)	Reading (Excellent/Good/Average/ Below Average/Poor)	Writing (Excellent/Good/Average/ Below Average/Poor)

Adequacy for the assignment

Write a brief profile about you by explaining your work experience, various responsibilities undertaken and achievements (if any)

Reference to prior work/ assignments that best illustrates capability to handle the assigned tasks

Name of Project:

Position held:

Location:

Period:

Client:

Main Project Features:

Activities performed:

Reference to prior work/ assignments that best illustrates capability to handle the assigned tasks

Name of Project:

Position held:

Location:

Period:

Client:

Main Project Features:

Activities performed:

Expert contact information:

Certification:

Date:

Signature of the Authorized Representative of the consultant:

Name of the Authorized Representative of the consultant:

Date:

Details of Similar Nature of work experience or contracts

S. No.	Name of the work/ assignment with short description	Name of the Client	Location of the work	Value of the Project	Period of the project
1.					
2.					
3.					
...					

Supporting/ Relevant documents such as copies of documents as stipulated in the **Eligibility Criteria and Marking Criteria** to be attached. Assignments, which are not supported by documentary evidence, shall not be considered for evaluation.

.....
Name of the Bidder

Signature of the authorized signatory: _____

Name of the Authorised Signatory: _____

Date: _____

Place: _____

FINANCIAL INFORMATION OF BIDDER'S ORGSNISATION
(CA Certificate)

S. No.	Financial Year	Turnover (Rs in Crore)
1.	2021-22	
2	2022-23	
3	2023-24	
4	Total	
5	Average Annual Turnover	

Yours Sincerely,

For
Chartered Accountants
Membership Number-
Date-
Place-

Format of Pre-Proposal Queries

To
 The Deputy Director,
 National Horticulture Board
 Ministry of Agriculture & Farmers Welfare
 Plot No.85, Sector 18, Institutional Area,
 Gurugram, Haryana- 122015

Sub: Request for Proposal (RFP) for the engagement of an Agency to function as Program Management Unit for Cluster Development Program of National Horticulture Board

Ref: RFP document no._____ **dated** _____

Dear Sir,

Following are the Clarifications and Comments from the Terms and Conditions and Scope of Work for the subject RFP document:

S. No.	Clause No. and Page reference	RFP DOCUMENT text	Query
1			
2			
...			

Yours faithfully,

Authorized Signatory
 (with Name, Designation, Contact no. and Seal)

Note:

On the Letter head of the Bidder

Format of Performance Bank Guarantee

To
The Joint Director,
National Horticulture Board
Ministry of Agriculture & Farmers Welfare
Plot No.85, Sector 18, Institutional Area,
Gurugram, Haryana- 122015

WHEREAS _____ [*Name and address of an AGENCY*] (hereinafter called the “AGENCY”) has undertaken, in pursuance of Letter of Award/Contract No. _____ dated _____ to provide services as per all the terms and conditions set forth in this Contract _____ [*Name of contract and brief description of works*] (hereinafter called the “the Contract”).

AND WHEREAS it has been stipulated by you in the said Contract that the AGENCY shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract.

AND WHEREAS we have agreed to give the AGENCY such a Bank Guarantee.

NOW THEREOF we hereby affirm that we are the Guarantor and responsible to you, on behalf of the AGENCY up to a total of _____ [*amount of Guarantee*] _____ [*in words*], such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of _____ [*amount of Guarantee*] as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the GENCY before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the services to be performed there under or of any of the Contract documents which may be made between you and the AGENCY shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

The liability of the Bank under this Guarantee shall not be affected by any change in the constitution of the AGENCY or of the Bank.

“This guarantee shall also be operatable at our..... Branch at Gurugram, Haryana, from whom, confirmation regarding the issue of this guarantee or extension / renewal thereof shall be made available on demand. In the contingency of this guarantee being invoked and payment there under claimed, the said branch shall accept such invocation letter and make payment of amounts so demanded under the said invocation.”

Notwithstanding anything contained herein before, our liability under this guarantee is restricted to Rs. _____ (Rupees _____) and the guarantee shall remain valid till _____. Unless a claim or a demand in writing is made upon us on or before _____ all our liability under this guarantee shall cease.

Notwithstanding anything contained hereinabove:

- A. Our liability under this guarantee shall not exceed Rs._____ (Rupees_____).
- B. This bank guarantee shall be valid up-to _____.
- C. We are liable to pay the guarantee amount or any part thereof under this bank guarantee only and only if you serve upon us a written claim or demand on or before_____.

Signature and Seal of the Guarantor _____

In presence of

Name and Designation

5) _____
(Name, Signature & Occupation)

Name of the Bank

Address

5) _____
(Name & Occupation)
Date

Integrity Pact

(If stipulated in TIS, ref Claus 9.2.1 of ITC)

(To be signed on Plain Paper)
(To be submitted as part of Technical Proposal)

RFP Document No. RFP No./ xxxx; Tender Title: Consultancy Services

This Agreement (hereinafter called the Integrity Pact) is made on ____ day of the month of ____202__ at _____, India.

BETWEEN

Procuring Organisation, ----- through Head of the Procuring Organisation, for and on behalf of President of India (hereinafter called the “The Principal”, which expression shall mean and include unless the context otherwise requires, his successors in office and assigns) of the First Part

AND

M/s. _____ (hereinafter called the “The Consultant”, which expression shall mean and include unless the context otherwise requires, his successors and permitted assigns) of the Second Part.

PREAMBLE

‘The Principal’ intends to award, under laid down organizational procedures, contract/ s for _____, ‘The Principal’ values full compliance with all relevant laws of the land, rules, regulations, economical use of resources and fairness/ transparency in its relations with its Consultant(s) and/ or Consultant(s).

In order to achieve these goals, the Principal shall appoint Independent External Monitors (IEMs) who shall monitor the Procurement Process and the execution of the contract for compliance with the abovementioned principles.

Section 1 – Commitments of the ‘The Principal’

(1) ‘The Principal’ commits itself to take all measures necessary to prevent corruption and to observe the following principles: -

a. No employee of the Principal, personally or through family members, shall, in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.

b. The Principal shall, during the Procurement Process, treat all Consultant(s) with equity and reason. The Principal shall, in particular, before and during the Procurement Process, provide to all Consultant(s) the same information and shall not provide to any Consultant(s) confidential/ additional information through which the Consultant(s) could obtain an advantage in relation to the Procurement Process or the contract execution.

c. The Principal shall exclude from the process all known prejudiced persons.

- (2) If the Principal obtains information on the conduct of any of its employees, which is a criminal offence under the IPC/ PC Act, or if there be a substantive suspicion in this regard, the Principal shall inform the Chief Vigilance Officer and in addition, can initiate disciplinary actions.

Section 2 – Commitments of the ‘Consultant’

- (1) The ‘Consultant’ commit themselves to take all measures necessary to prevent corruption. The ‘Consultant’ commit themselves to observe the following principles during participation in the Procurement Process and during the contract execution.
 - a. The ‘Consultant’ shall not, directly or through any other person or firm, offer, promise, or give to any of the Principal’s employees involved in the Procurement Process or the execution of the contract or to any third person any material or other benefit which he is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the Procurement Process or during the execution of the contract.
 - b. The ‘Consultant’ shall not enter any undisclosed agreement or understanding with other Consultants, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of Proposals or any other actions to restrict competitiveness or to introduce cartelization in the Procurement Process.
 - c. The ‘Consultant’ shall not commit any offence under the relevant IPC/ PC Act; further, the ‘Consultant’ shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals, and business details, including information contained or transmitted electronically.
 - d. The ‘Consultant’ of foreign origin shall disclose the name and address of the Agents/ representatives in India, if any. Similarly, the Consultant/ Contractors of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details, as mentioned in the “Guidelines on Indian Agents of Foreign Suppliers”, shall be disclosed by the Consultant. Further, as mentioned in the Guidelines, all the payments made to the Indian agent/ representative must be in Indian Rupees only. A copy of the “Guidelines on Indian Agents of Foreign Suppliers” is placed in the Appendix to this agreement.
 - e. The ‘Consultant’ shall, when presenting their Proposal, disclose any and all payments made, are committed to, or intends to make to agents, brokers, or any other intermediaries in connection with the contract award.
 - f. Consultant who has signed the Integrity Pact shall not approach the Courts while representing the matter to IEMs and shall wait for their decision in the matter.
- (2) The ‘Consultant’ shall not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3 – Disqualification from Procurement Process and exclusion from future contracts

If the ‘Consultant’, before award or during execution, has committed a transgression through a violation of Section 2, above or in any other form such as to put their reliability or credibility in question, the Principal is entitled to disqualify the ‘Consultant’ from the Procurement Process or take action as per the procedure mentioned in the “Guidelines on Banning of business dealings”.

Section 4 – Compensation for Damages

- (1) If the Principal has disqualified the ‘Consultant’ from the Procurement Process prior to the award according to Section 3, the Principal is entitled to demand and recover from the ‘Consultant’ the damages equivalent to Earnest Money Deposit/ Bid Security.
- (2) If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to Section 3, the Principal shall be entitled to demand and recover from the Consultant liquidated damages of the contract value or the amount equivalent to Performance Bank Guarantee.

Section 5 – Previous transgression

- (1) Consultant declares that no previous transgressions occurred in the last three years with any other Company in any country conforming to the anti-corruption approach or with any Public Sector Enterprise in India that could justify his exclusion from the Procurement Process.
- (2) If the Consultant makes an incorrect statement on this subject, he can be disqualified from the Procurement Process, or action can be taken as per the procedure mentioned in “Guidelines on Banning of business dealings”.

Section 6 – Equal treatment of all Consultants/ Contractors/ Subcontractors

- (5) In the case of Sub-contracting, the Principal Consultant shall take responsibility for the adoption of the Integrity Pact by the Sub-contractor.
- (2) The Principal shall enter into agreements with identical conditions as this one with all Consultants and Contractors.
- (3) The Principal shall disqualify from the Procurement Process all Consultants who do not sign this Pact or violate its provisions.

Section 7 – Criminal charges against violating Consultant(s)/ Consultant(s)/ Subcontractor(s)

If the Principal obtains knowledge of the conduct of a Consultant, Consultant or Subcontractor, or of an employee or a representative or an associate of a Consultant, Consultant or Subcontractor, which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal shall inform the same to the Chief Vigilance Officer.

Section 8 – Independent External Monitor

- (1) The Principal appoints a competent and credible Independent External Monitor for this Pact after approval by Central Vigilance Commission. The task of the Monitor is to review independently and objectively whether and to what extent the parties comply with the obligations under this agreement.
- (2) The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. The Monitor would have access to all Contract documents whenever required. It shall be obligatory for him/ her to treat the information and documents of the Consultants/ Contractors as confidential. He/ she reports to the Head of the Procuring Organisation.
- (3) The Consultant(s)/ Consultant(s) accepts that the Monitor has the right to access, without restriction, all Project documentation of the Principal, including that provided by the Consultant. The Consultant shall also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to their project documentation. The same is applicable to Sub-contractors.
- (4) The Monitor is under contractual obligation to treat the information and documents of the Consultant(s)/ Sub-contractor(s) with confidentiality. The Monitor has also signed declarations on ‘Non-Disclosure of Confidential Information’ and of Absence of Conflict of Interest. In case of any conflict of interest arising at a later date, the IEM shall inform the Head of the Procuring Organisation and recuse himself/ herself from that case.
- (5) The Principal shall provide to the Monitor sufficient information about all meetings among the parties related to the Project, provided such meetings could have an impact on the contractual relations between the Principal and the Consultant. The parties offer the Monitor the option to participate in such meetings.
- (6) As soon as the Monitor notices, or believes to have noticed, a violation of this agreement, he shall so inform the Management of the Principal and request the Management to discontinue or take corrective action, or to take other relevant action. The monitor can, in this regard, submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action, or tolerate action.

- (7) The Monitor shall submit a written report to the Head of the Procuring Organisation within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.
- (8) If the Monitor has reported to the Head of the Procuring Organisation a substantiated suspicion of an offence under the relevant IPC/ PC Act, and the Head of the Procuring Organisation has not, within the reasonable time, taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.
- (9) The word 'Monitor' would include both singular and plural.

Section 9 – Pact Duration

This Pact begins when both parties have legally signed it. It expires for the Consultant 12 months after the last payment under the contract and for all other Consultants 6 months after the contract has been awarded. Any violation of the same would entail disqualification of the Consultants and exclusion from future business dealings.

If any claim is made/ lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above unless it is discharged/ determined by the Head of the Procuring Organisation.

Section 10 – Other provisions

- (5) This agreement is subject to Indian Law. The place of performance and jurisdiction is the Registered Office of the Principal, i.e., New Delhi.
- (2) Changes and supplements, as well as termination notices, need to be made in writing. Side agreements have not been made.
- (3) If the Consultant is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- (4) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties shall strive to come to an agreement with their original intentions.
- (5) Issues like Warranty/ Guarantee etc., shall be outside the purview of IEMs.
- (6) In the event of any contradiction between the Integrity Pact and its Appendix, the Clause in the Integrity Pact shall prevail.

For and on behalf of the Principal

(Name of the Officer and Designation)

(Office Seal)

For and on behalf of 'Consultant.'

(Name of the Officer and Designation)

(Office Seal)

For and on behalf of the Principal

Place

Date

Witness 1:

(Name & Address)

Witness 2:

(Name & Address)

Form of Financial Bid

This form as BoQ is provided on Gem Portal. Bidders are advised to fill the required details in the permitted cells and upload the same.

S.No.	Component (All Inclusive Cost)	Duration	Unit Cost (InRupees)
	Cluster Development Programme		
1.	Initiation Phase	3 months	
	a) As-is Program Implementation Status Report – Development of SOPs, Procurement guidelines and Documents		
2.	Program management – Monitoring and supporting CDP implementation		
	<ul style="list-style-type: none"> • Team Leader – 1 • Project structuring and Assessment Expert-1 • Value Addition Expert-1 • Due Diligence Expert-1 • Contract Management and Private Sector On-boarding Expert-2 • MIS/IT Expert-1 • Branding and Marketing Expert -1 • Capacity Building Expert -1 • Support Team – 2 	33 Months	
3.	Reimbursable Expenses		
4.	SUB-TOTAL (1+2+3)		
5.	Applicable Taxes on 4		
6.	Total Cost Inclusive Taxes (6=4+5)		

Note:

1. The financial evaluation shall be done on the **Total Cost (6)**.
2. The work order shall be given by National Horticulture Board.
3. **The agency will not be allowed to change resource persons, however, under exceptional circumstances with prior consent of the MD, NHB, the Agency will be allowed change of at the most one person in a year. In case there is more number of changes in resources/experts then penalty shall be applicable upon the consultant. Change of resource more than once shall only be allowed in exceptional cases.**

Checklist for Bidders

S.No	Document	Submitted	Page No.
1	The bidder should be a Legal Business Entity. A Business Entity shall mean a company registered in India under the Companies Act, or a partnership firm registered under the Limited Liability Partnership Act. They should be registered with Income Tax and have GST Number (Attested copy of PAN Card and GST Certificate)	Yes/No	
2	The Bidder must have an average annual turnover of at least Rs.50 crores from Consultancy Services/Advisory Services in the previous three financial year viz. 2020-21, 2021-22 and 2022-23. (Copies of audited balance sheet and Statutory Auditor Certificate highlighting the turnover to be attached).	Yes/No	
3	The applicant Agency should have in-house team, skills and expertise required for the assignment.	Yes/No	
4.	The Bidder should have an experience of at least 5 years in Government Sector and should also have assisted in Project Management/Consulting Services in the Agriculture and Allied Sector for GoI. The Bidder should also have an experience of at least five years in Value Chain Development, Marketing and Branding.		
5.	The Bidder should not be blacklisted by any Centre/ State Government in India as on date of submission/ uploading of bid. The Bidder shall provide self-certification by the Authorized Signatory as proof of the same.		
6	General & Specific experience of the Bidder (as a firm) relevant to the Assignment. Submit relevant documents as per Annexure V in two separate forms (One for General experience and another for specific experience relevant to this assignment) – Refer Section VII of the RFP document	Yes/No	
7	Adequacy of the proposed methodology and work plan in responding to the ToR Refer Section VII of the RFP document	Yes/No	
8	Key Experts Qualifications and competence for the assignment Refer Section VII of the RFP document	Yes/No	
9	<u>Annexure I to Annexure X as per RFP document</u>	<u>Yes/No</u>	