Department of Tourism, Government of Uttarakhand

Infrastructure Development Investment Program for Tourism – Uttarakhand (Project – 2)
(ADB LOAN No: 2833 – IND)

CONTRACT

FOR

DESIGN SUPERVISION CONSULTANT – BHIMTAL

Between

DEPARTMENT OF TOURISM, GOVERNMENT OF UTTARAKHAND

Through

Additional Program Director, Program Management Unit,
Infrastructure Development Investment Program for Tourism – Uttarakhand
(The Client)

And

WAPCOS Ltd.
in association with
M/s PRIMA-ACS Collaborative
(The Consultant)

Dated: 13th March, 2013
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Preface

1. This Standard Contract for Consulting Services has been prepared by the ADB for use by its borrowers and their implementing and executing agencies (referred to hereinafter as Clients) when they hire a consulting firm (referred to hereinafter as the Consultant) for complex assignments for which remuneration is being determined on the basis of the time actually spent by the Consultant in carrying out the services. Its use is mandatory under the circumstances described.

2. The Standard Contract consists of four parts: the Form of Contract to be signed by the Client and the Consultant, the General Conditions of Contract, the Special Conditions of Contract, and the Appendices. Parties using this Standard Contract for services financed by the ADB should note that the General Conditions must not be modified. Clauses in the Special Conditions should be dealt with as specified in the notes in italic provided for the individual clauses.
CONTRACT FOR CONSULTANTS’ SERVICES

Time-Based

between

Additional Program Director, Program Management Unit,
Infrastructure Development Investment Program for Tourism – Uttarakhand
[The Client]

and

WAPCOS Ltd.
in association with
M/s PRIMA-ACS Collaborative
[The Consultant]

Dated: 13th March, 2013
Form of Contract

TIME-BASED

This CONTRACT (hereinafter called the “Contract”) is made the 13th day of the month of March, 2013, between, on the one hand, Department of Tourism, Government of Uttarakhand through Additional Program Director, Program Management Unit, Infrastructure Development Investment Program for Tourism – Uttarakhand (hereinafter called the “Client”) and, on the other hand, WAPCOS Ltd., Gurgaon in association with PRIMA – ACS Collaborative, NOIDA (hereinafter called the “Consultant”).

WHEREAS

(a) the Client has requested the Consultant to provide certain consulting services as defined in this Contract (hereinafter called the “Services”);

(b) the Consultant, having represented to the Client that it has the required professional skills, and personnel and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;
(c) by an Agreement dated 02nd April 2012 (hereinafter called the Loan Agreement) between the Government of India (hereinafter called the Borrower) and the Asian Development Bank (hereinafter called the ADB), the ADB has agreed to make a loan to the Borrower for the purpose of financing Infrastructure Development Investment Program for Tourism (Project 2) (hereinafter called the Project);

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:

(a) The General Conditions of Contract;
(b) The Special Conditions of Contract;
(c) The following Appendices:

Appendix A: Description of Services
Appendix B: Reporting Requirements
Appendix C: Personnel Schedule
Appendix D: Cost Estimates in Foreign Currency
Appendix E: Cost Estimates in Local Currency
Appendix F: Summary of Cost Estimates
Appendix G: Services, Facilities and Equipment to be provided by the Client
Appendix H: Form of Bank Guarantee for Advance Payments
Appendix I: Dispute Notification Form
Appendix J: Minutes of Contract Negotiations
Appendix K: General Annexures

2. The mutual rights and obligations of the Client and the Consultant shall be as set forth in the Contract, in particular:

(a) the Consultant shall carry out the Services in accordance with the provisions of the Contract;
(b) the Client shall make payments to the Consultant in accordance with the provisions of the Contract;
(c) Subject to subparagraph (d) hereunder, and notwithstanding any other provisions of this Contract, payments under this Contract shall not exceed INR 47,104,000 (excluding service tax) in local currency. Except as otherwise agreed between the Client and the Consultant:
(i) Local currency payments to the Consultant hereunder will be made in Indian Rupees.
(d) The maximum amount specified in subparagraph (c) here above has been fixed on the understanding that the Client will make available free of charge to the Consultant the exemptions, assistance, services and facilities provided for under Clause 5 of the General Conditions of Contract and in Appendix F as required for the purposes of the Services. If any such exemptions, assistance, services and facilities are not supplied, the parties shall consult regarding what additional allowance (if any) should be made to the Consultant as a result thereof to cover necessary additional expenditures not envisaged in the cost estimates in Appendices D and E.
IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of Department of Tourism, Government of Uttarakhand (THE CLIENT)

Mr. R.K. Joshi,
Additional Program Director, PMU, IDIPT, Uttarakhand

For and on behalf of WAPCOS Ltd. Gurgaon in association with M/s PRIMA -ACS Collaborative (THE CONSULTANT)

Mr. M.A. Khan,
Dy. Chief (Business Development), WAPCOS Ltd., Gurgaon, Haryana, India- 122 045

Witness
Client Part

Witness
Consultant Part
II. General Conditions of Contract


1.1 Definitions

Unless the context otherwise requires, the following terms, whenever used in this Contract, have the following meanings:

(a) "Applicable Law" means the laws and any other instruments having the force of law in the Client's Country, or in such other country as may be specified in the Special Conditions of Contract (SC), in force from time to time.

(b) "Client" means the agency with which the selected Consultant signs the Contract for the Services.

(c) "Client's Country" means the country of the borrower.

(d) "Consultant" means any private or public entity including a Joint Venture that will provide the Services to the Client under the Contract.

(e) "Contract" means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that is these General Conditions (GC), the Special Conditions (SC) by which the GC may be amended or supplemented, and the Appendices.

(f) "Day" means calendar day.

(g) "Effective Date" means the date on which this Contract comes into force and effect pursuant to Clause GC 2.1.

(h) "Foreign Currency" means any currency other than the currency of the Client's Country.

(i) "Government" means the Government of the Client's Country.

(j) "Joint Venture" means a Consultant which comprises two or more Partners each of which will be jointly and severally liable to the Client for all the Consultant's obligations under the Contract.

(k) "Local Currency" means the currency of the Client's Country.

(l) "Partner" means any of the entities that make up the Joint Venture; and "Partners" means all these entities.

(m) "Party" means the Client or the Consultant, as the case may
be, and "Parties" means both of them.

(n) "Personnel" means qualified persons provided by the Consultant and assigned to perform the Services or any part thereof; "International Personnel" means such qualified persons who are citizens of an ADB member country; "National Personnel" means such qualified persons who are citizens of the Client's Country.

(o) "Reimbursable expenses" means all assignment-related costs other than Consultant's remuneration.

(p) "Services" means the work to be performed pursuant to this Contract, as described in Appendix A hereeto.

(q) "Sub-Consultant" means any person or entity to whom which the Consultant subcontracts any part of the Services and for whom which the Consultant is fully responsible.

(r) "Third Party" means any person or entity other than the Government, the Client, the Consultant or a Sub-Consultant.

(s) "In writing" means communicated in written form with proof of receipt.

1.2 Relationship between the Parties

Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Client and the Consultant. The Consultant, subject to this Contract, has complete charge of Personnel and Sub-Consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 Law Governing Contract

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

1.4 Language

This Contract has been executed in English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract. Furthermore, all reports and correspondence required during implementation of the Services shall be in English.

1.5 Headings

The headings shall not limit, alter or affect the meaning of this Contract.

1.6 Notices

1.6.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the
communication is addressed, or when sent to such Party at the address specified in the SC.

1.6.2 A Party may change its address for notice hereunder by giving the other Party notice in writing of such change to the address specified in the SC.

1.7 Location
The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations, whether in the Client’s Country or elsewhere, as the Client may approve.

1.8 Authority of Lead Partner
In case the Consultant consists of a Joint Venture of more than one entity, the Partners hereby authorize the Lead Partner specified in the SC 1.8 to act on their behalf in exercising all the Consultant’s rights and obligations towards the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.

1.9 Authorized Representatives
Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the officials specified in the SC.

1.10 Taxes and Duties
Unless otherwise specified in the SC, the Consultant, Sub-Consultants and Personnel shall pay such taxes, duties, fees and other impositions as may be levied under the Applicable Law.

1.11 Anticorruption Policy

1.11.1 Definitions
The ADB’s Anticorruption Policy requires that all borrowers of ADB loans (including beneficiaries of ADB-financed or administered activities), as well as consultants under ADB-financed or administered contracts, observe the highest standard of ethics during the selection process and in execution of such contracts. In pursuance of this policy, the ADB:

(i) defines, for the purpose of this provision, the terms set forth below as follows:

(a) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;

(b) “fraudulent practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead a party to obtain a financial or other benefit or to avoid an
obligation;

(c) "coercive practice" means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

(d) "collusive practice" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;

1.11.2 Measures to be Taken

(ii) will reject a proposal for award if it determines that the consultant recommended for award has directly, or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the contract in question;

(iii) will cancel the portion of the financing allocated to a contract if it determines at any time that representatives of the borrower or of a beneficiary of ADB financing engaged in corrupt, fraudulent, collusive or coercive practices during the consultant selection process or the execution of that contract, without the borrower or beneficiary having taken timely and appropriate action satisfactory to the ADB to remedy the situation;

(iv) will sanction a party or its successor, including declaring ineligible, either indefinitely or for a stated period of time, such party or successor from participation in ADB-financed or administered activities if it at any time determines that the consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a ADB-financed or administered contract; and

1.11.3 Fees, gratuities, rebates, gifts and commissions

The Consultant will disclose any fees, gratuities, rebates, gifts, commissions or other payments or benefits that may have been paid or are to be paid to agents and/or representatives (which include person(s) employed by ADB and/or the Client), with respect to the selection process or execution of the contract. The information disclosed must include the name and address of the agent and/or representative, the amount and currency, and the purpose of the fee, gratuity, rebate, gift, commission or other payment.

1.12 Eligibility

The Consultant represents and warrants that it is a citizen of a legal entity of, or legally established in, a member country of the ADB and that the Services will be wholly and substantially supplied from that country or from other member countries of the ADB. The Consultant
further confirms that any professionals, experts, and entities to which the Consultant subcontracts work relating to the Services pursuant to Clause GC 3.7 hereof shall be citizens or legal entity of, or legally established in, a member country of the ADB.

1.13 Sanctions

The Consultant represents and warrants that it, and any Sub-Consultants, as well as any of the Personnel of the Consultant or Sub-Consultant, are not sanctioned by the ADB.

1.14 High Standard of Conduct

The Client and the ADB require that the Consultant and its Personnel maintain a high standard of conduct when carrying out their functions under this Contract. Accordingly, the Consultant and its Personnel are expected to recognize the contribution of others, regardless of their nationality, gender, religion, seniority or contractual status. The Consultant and its Personnel shall also comply with ADB’s policy on sexual harassment. The Client will take prompt action to address incidents involving conduct that does not live up to these standards, which may result in replacement of any individual expert, consultant, or contractual staff involved in such incidents pursuant to Clause GC 4.2(b).

2. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

2.1 Effectiveness of Contract

This Contract shall come into force and effect on the date (the “Effective Date”) of the Client’s notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SC have been met.

2.2 Termination of Contract for Failure to Become Effective

If this Contract has not become effective within such time period after the date of the Contract signed by the Parties as specified in the SC, the Consultant or the Client 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.

2.3 Commencement of Services

The Consultant shall begin carrying out the Services not later than the number of days after the Effective Date specified in the SC.

2.4 Expiration of Contract

Subject to sub-Clause GC 2.7.3(c) and unless terminated earlier pursuant to Clause GC 2.9 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SC.

2.5 Entire Agreement

This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.
2.6 Modifications or Variations
(a) Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

(b) In cases of substantial modifications or variations, the prior written consent of the ADB is required.

2.7 Force Majeure

2.7.1 Definition
(a) For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Government agencies.

(b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Sub-Consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected both to take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.

(c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

2.7.2 No Breach of Contract
The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

2.7.3 Measures to be Taken
(a) A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

(b) A Party affected by an event of Force Majeure shall notify the
other Party of such event as soon as possible, and in any case not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.

(c) Any period within which a Party shall, pursuant to this Contract, complete any action or task shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

(d) During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Client, shall either:

(i) demobilize, in which case the Consultant shall be reimbursed for costs they reasonably and necessarily incurred, and, if required by the Client, in reactivating the Services, or

(ii) continue with the Services to the extent possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.

(e) In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clause GC 8.

2.8 Suspension

The Client may, by written notice to the Consultant, suspend in whole or part, the Services if any of the following events shall have happened and be continuing:

(a) The Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services.

(b) The ADB has suspended disbursements under the Loan Agreement.

2.9 Termination

2.9.1 By the Client

The Client may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (i) of this Clause GC 2.9.1. In such an occurrence the Client shall (except in the case of paragraph (i) below) give not less than thirty (30) days' written notice of termination to the Consultant.

(a) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GC 2.8 hereinafore, within
thirty (30) days of receipt of such notice of suspension or within such further period as the Client may have subsequently approved in writing.

(b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its Partners becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary.

(c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 8 hereof.

(d) If the Consultant submits to the Client a false statement which has a material effect on the rights, obligations or interests of the Client.

(e) If the Consultant is held by the Client and/or the ADB to have a conflict of interest in performance of the Contract, or any portion thereof.

(f) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

(g) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

(h) If the Loan Agreement has been terminated or the ADB has suspended disbursements under the Loan Agreement.

(i) If the Consultant, in the judgment of the Client and/or the ADB is in breach of the ADB’s Anticorruption Policy i.e. has engaged in corrupt, fraudulent, collusive or coercive practices in competing for or in executing this Contract in such a case the Contract shall be terminated on the date Consultant is notified of such breach.

29.2 By the Consultant

The Consultant may terminate this Contract, by not less than thirty (30) days’ written notice to the Client, in case of the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause GC 29.2.

(a) If the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause GC 8 hereof within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue.
(b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

(c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 8 hereof.

(d) If the Client is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Client of the Consultant’s notice specifying such breach.

2.9.3 Cessation of Rights and Obligations

Upon termination of this Contract pursuant to Clauses GC 2.2 or GC 2.9 hereof, or upon expiration of this Contract pursuant to Clause GC 2.4 hereof, 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 set forth in Clause GC 3.3 hereof, (iii) the Consultant’s obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GC 3.6 hereof, and (iv) any right which a Party may have under the Applicable Law.

2.9.4 Cessation of Services

Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, 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. With respect to documents prepared by the Consultant and equipment and materials furnished by the Client, the Consultant shall proceed as provided, respectively, by Clauses GC 3.9 or GC 3.10 hereof.

2.9.5 Payment upon Termination

Upon termination of this Contract pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, the Client shall make the following payments to the Consultant:

(a) remuneration pursuant to Clause GC 6 hereof for Services satisfactorily performed prior to the effective date of termination, and reimbursable expenditures pursuant to Clause GC 6 hereof for expenditures actually incurred prior to the effective date of termination;

(b) except in the case of termination pursuant to paragraphs (a) through (f) and (i) of Clause GC 2.9.1 hereof, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract including the cost of the return travel of the Personnel and their eligible dependents; and
in the event that the Consultant is found to be in breach of the ADB's Anticorruption Policy there shall be no payment or reimbursement in respect of any fraudulent, corrupt, collusive or coercive practices performed by the Consultant.

2.9.6 Disputes about Events of Termination

If either Party disputes whether an event specified in paragraphs (a) through (f) of Clause GC 2.9.1 or in Clause GC 2.9.2 hereof has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter for dispute settlement in accordance with the procedures stated in Clause GC 8 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

3. OBLIGATIONS OF THE CONSULTANT

3.1 General

3.1.1 Standard of Performance

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

3.1.2 Law Governing Services

Subject to ADB's Anticorruption Policy, the Consultant shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any Sub-Consultants, as well as the Personnel of the Consultant and any Sub-Consultants, comply with the Applicable Law. The Client shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.

3.2 Conflict of Interest

The ADB considers a conflict of interest to be a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations and that such conflict of interest may contribute to or constitute a prohibited practice under the ADB's Anticorruption Policy. In pursuance of the Anticorruption Policy's requirement that borrowers (including beneficiaries of ADB-financed or administered activity) as well as consultants under ADB-financed or administered contracts, observe the highest standard of ethics, the ADB will take appropriate actions to manage such conflicts of interest if it determines that a conflict of interest has flawed the integrity of the consultant selection, consultant engagement or performance of Services under the
3.2.1 Consultant Not to Benefit from Discounts

(a) The payment to the Consultant pursuant to Clause GC 6 hereof shall constitute the Consultant's payment in connection with this Contract and, subject to Clause GC 3.2.2 hereof, the Consultant shall not accept for its own benefit any discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that any Sub-Consultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional payment.

(b) Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Client on the procurement of goods, works or services, the Consultant shall comply with the ADB’s Procurement Guidelines, as amended from time to time and shall at all times exercise such responsibility in the best interest of the Client. Any discounts obtained by the Consultant in the exercise of such procurement responsibility shall be for the benefit of the Client and shall be credited to the account of the Client.

3.2.2 Consultant, and Sub-Consultants Not to Engage in Certain Activities

The Consultant agrees that, during the term of this Contract and after its termination, the Consultant as well as any Sub-Consultant, shall be disqualified from providing goods, works or services (other than consulting services) for any project resulting from the Services.

3.2.3 Prohibition of Conflicting Activities including pursuit of political agenda

(a) The Consultant shall not engage, and shall cause their Personnel as well as their Sub-Consultants and their Personnel not to engage, either directly or indirectly, in any, personal, business or professional activities that would represent a conflict with the activities assigned to them under this Contract including but not limited to the pursuit of a political agenda in the Client's Country by way of writing, publication or circulation of propaganda, participation in protests or rallies or involvement in media broadcasts; (b) The Consultant shall notify the Client of all assignments or commitments, if any, that the Consultant has or propose to undertake for another party concurrently with the carrying out of this Contract and shall have obtained or shall obtain the prior written approval of the Client to undertake or complete the same in the absence of which the Consultant shall terminate any such assignment(s) or commitment(s) for such other party.

3.3 Confidentiality

Except with the prior written consent of the Client, neither the Consultant, the Sub-Consultant nor their Personnel shall at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant, the Sub-Consultant or their Personnel make public the recommendations.
formulated in the course of, or as a result of, the Services.

3.4 Liability of the Consultant

(a) Subject to Clause GC 5.2, the Consultant shall be responsible for, and shall indemnify the Client, in respect of loss of or damage to equipment and materials furnished by the Client, or purchased by the Consultant in whole or in part with funds provided by the Client.

(b) The Consultant undertakes full responsibility in respect of life, health, and accidents for the Personnel and for the dependents of any such Personnel.

(c) The Consultant shall indemnify the Client from and against any and all claims, liabilities, obligations, losses, damages, penalties, actions, judgment, suits, proceedings, demands, costs, expenses and disbursements of whatsoever nature that may be imposed on, incurred by or asserted against the Client during or in connection in the Services by reason of: (i) infringement or alleged infringement by the Consultant of any patent or other protected right; or (ii) plagiarism or alleged plagiarism by the Consultant.

(d) The Consultant shall ensure that all goods and services (including without limitation all computer hardware, software and systems) procured by the Consultant out of funds provided or reimbursed by the Client or used by the Consultant in the carrying out of the Services do not violate or infringe any industrial property or intellectual property right or claim of any third party.

(e) The Consultant shall indemnify, protect and defend at their own expense the Client, and its agents and employees from and against any and all actions, claims, losses or damages arising out of Consultant's failure to exercise the skill and care required under Clause GC 3.1.1 provided, however:

(i) that the Consultant is notified of such actions, claims, losses or damages not later than the number of months after conclusion of the Services indicated in the SC;

(ii) that the ceiling on Consultant's liability shall be limited to the amount indicated in the SC, except that such ceiling shall not apply to actions, claims, losses or damages caused by Consultant's gross negligence or reckless conduct;

(iii) that Consultant's liability under Clause GC 3.1.1 shall be limited to actions, claims, losses or damages directly caused by such failure to exercise the said skill and care, and shall not include liability for any actions, claims, losses
or damages arising out of occurrences incidental or indirectly consequential to such failure.

(f) Upon request of the Client, the Consultant shall, at its own cost and expense, re-perform the Services in the event of Consultant’s failure to exercise the skill and care required under Clause GC 3.1.1.

(g) Notwithstanding the provisions of paragraph (a) of this Clause 3.4, the Consultant shall have no liability whatsoever for actions, claims, losses or damages occasioned by: (i) Client’s overruling a decision or recommendation of Consultant or requiring Consultant to implement a decision or recommendation by which Consultant does not agree; or (ii) the improper execution of Consultant’s instructions by agents, employees or independent contractors of the Client.

3.5 Insurance to be Taken Out by the Consultant
The Consultant (i) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at their (or the Sub-Consultants’, as the case may be) own cost, but on terms and conditions approved by the Client, insurance against the risks, and for the coverages specified in the SC, and (ii) at the Client’s request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid.

3.6 Accounting, inspection and Auditing
(a) The Consultant (i) shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and costs, and the bases thereof; and (ii) shall periodically permit the Client or its designated representative and/or the ADB, and up to five years from the expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Client or the ADB, if so required by the Client or the ADB as the case may be.

(b) The Consultant shall cooperate with and assist the Client, its authorized representatives and/or the ADB making such an audit. Out of pocket expenditures covered by fixed sums, however, shall not be subject to audit pursuant to this Clause. In the event the audit discloses that the Consultant has overcharged the Client, the Consultant shall immediately reimburse the Client the amount equivalent to the amount overpaid. If overpayment is a result of the Consultant having been engaged in what the Client (or, as the case may be, the ADB) determines to constitute corrupt, fraudulent, collusive or coercive practices as defined in the ADB’s Guidelines on the Use of Consultants by Asian Development Bank and its
3.7 Consultant’s Actions Requiring Client’s Prior Approval

The Consultant shall obtain the Client’s prior approval in writing before taking any of the following actions:

(a) Any change or addition to the Personnel listed in Appendix C.

(b) Subcontracts: the Consultant may subcontract work relating to the Services to an extent and with such experts and entities as may be approved in advance by the Client. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services. In the event that any Sub-Consultants are found by the Client to be incompetent or incapable in discharging assigned duties, the Client may request the Consultant to provide a replacement, with qualifications and experience acceptable to the Client, or to resume the performance of the Services itself.

(c) Any other action that may be specified in the SC.

3.8 Reporting Obligations

(a) The Consultant shall submit to the Client the reports and documents specified in Appendix B hereto, in the form, in the numbers and within the time periods set forth in the said Appendix. Final reports shall be delivered in CD ROM in addition to the hard copies specified in said Appendix.

(b) The Consultant shall on a monthly basis, submit to the Client, in a format acceptable to the Client, a report stating personnel movements and inputs in the previous month compared to those specified in Appendix C. In the event the forecast of progress as anticipated in Appendix C is substantially changed due to variations pursuant to GC Clause 2.6, the Consultant may request the Client to revise the Payment Schedule specified in Appendices D & E, to reflect such change.

3.9 Documents Prepared by the Consultant to be the Property of the Client

(a) All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultant for the Client under this Contract shall become and remain the property of the Client; and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Client in its sole discretion may make such documents available to the public.

(b) The Consultant may retain a copy of such documents and software, and use such software for their own use with prior written approval of the Client. If license agreements are necessary or appropriate between the Consultant and third
Parties for purposes of development of any such computer programs, the Consultant shall obtain the Client’s prior written approval to such agreements, and the Client shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned.

3.10 Equipment, Vehicles and Materials Furnished by the Client

Equipment, vehicles and materials made available to the Consultant by the Client, or purchased by the Consultant wholly or partly with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Client an inventory of such equipment, vehicles and materials and shall dispose of such equipment and materials in accordance with the Client’s instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Client in writing, shall insure them at the expense of the Client in an amount equal to their full replacement value.

3.11 Equipment and Materials Provided by the Consultants

Equipment or materials brought into the Client’s Country by the Consultant and the Personnel and used either for the Project or personal use shall remain the property of the Consultant or the Personnel concerned, as applicable.

3.12 Specifications and Designs

(a) The Consultant shall prepare all specifications and designs that may be required under the Contract using the metric system and so as to embody the latest design criteria and the Consultant shall specify standards that are accepted and well known among industrial nations.

(b) The Consultant shall ensure that the specifications and designs and all documentation relating to procurement of goods and services provided under the Services are prepared on an impartial basis so as to promote international competitive bidding.

4. Consultant’s Personnel

4.1 General

The Services shall be carried out by the Personnel specified in Appendix C for the respective periods of time indicated therein.

4.2 Replacement of Personnel

(a) In the event that any of the Personnel is found by the Client to be incompetent, guilty of misbehavior or incapable in discharging the assigned responsibilities, the Client may request the Consultant, at the expense of the Consultant, to forthwith provide a replacement with suitable qualifications and experience acceptable to the Client and the Consultant shall provide such replacement.
(b) Should it become necessary for the Consultant to replace any of the Personnel specified by name in Appendix C, the Consultant shall forthwith provide a replacement acceptable to the Client with comparable or better qualifications. In the event that the Personnel replaced are, at the time of replacement, in the field, the Consultant shall bear the travel and other related costs arising out of or incidental to the replacement. The rate of remuneration and reimbursable expenses allowable for such replacement shall be the same as agreed between the Client and the Consultant for the Personnel being replaced. For any additional Personnel proposed by the Consultant and approved by the Client, the relevant remuneration rate(s) and estimated out-of-pocket expenses will be as negotiated between the Client and the Consultant.

4.3 Working Hours, Overtime, Leave

(a) Working hours and holidays for Personnel are set forth in Appendix C hereto. To account for travel time, International Personnel carrying out Services inside the Client’s Country shall be deemed to have commenced, or finished work in respect of the Services such number of days before their arrival in, or after their departure from the Client’s Country as is specified in Appendix C hereto.

(b) The Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in Appendix C hereto, and except as specified in such Appendix, the Consultants’ remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is included in the staff-months of service set forth in Appendix C. Any taking of leave by Personnel shall be subject to the prior approval by the Consultants who shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services.

4.4 Adjustments to Appendix C – Personnel Schedule

Subject to the prior approval of the Client in accordance with Clause GC 3.7 (a), the Consultant may make adjustment in the periods of time indicated in Appendix C, as may be appropriate to ensure the efficient performance of the Services and provided that such adjustments will not cause payments made under the Contract to exceed the maximum amount payable as specified in Clause GC 6.1.

4.5 Resident Project Manager

When Services are carried out in the Client’s country, the Consultant shall, at all times, ensure that there is a Project Manager acceptable to the Client to supervise and coordinate the operations of the Personnel in the field and to be responsible for liaison between the Consultant and the Client.
5. OBLIGATIONS OF THE CLIENT

5.1 Assistance and Exemptions

Unless otherwise specified in the SC, the Client shall use its best efforts to ensure that the Government shall:

(a) Provide the Consultant, Sub-Consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultant, Sub-Consultants or Personnel to perform the Services.

(b) Arrange for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in the Client’s Country.

(c) Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Personnel and their eligible dependents.

(d) Issue to officials, agents and representatives of the Government any such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.

(e) Exempt the Consultant and the Personnel and any Sub-Consultants employed by the Consultant for the Services from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity according to the Applicable Law.

(f) Grant to the Consultant, any Sub-Consultants and the Personnel of either of them the privilege, pursuant to the Applicable Law, of bringing into the Client’s Country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Personnel and their dependents and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services.

(g) Provide to the Consultant, Sub-Consultants and Personnel any such other assistance as may be specified in the SC.

5.2 Access to Land

The Client warrants that the Consultant shall have, free of charge, unimpeded access to all land in the Client’s Country in respect of which access is required for the performance of the Services. The Client will be responsible for any damage to such land or any property thereon resulting from such access and will indemnify the Consultant and each of the Personnel in respect of liability for any
such damage, unless such damage is caused by the default or negligence of the Consultant or any Sub-Consultants or the Personnel of either of them.

5.3 Change in the Applicable Law Related to Taxes and Duties
If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GC 6.1(b).

5.4 Services, Facilities and Equipment of the Client
(a) In addition to the assistance to be provided to the Consultant under Clause GC 5.1, the Client shall make available to the Consultant and the Personnel, for the purposes of the Services and free of any charge, the services, facilities and equipment described in Appendix G at the times and in the manner specified in said Appendix G.

(b) In case that such services, facilities and equipment shall not be made available to the Consultant as and when specified in Appendix G, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (ii) the manner in which the Consultant shall procure any such services, facilities and equipment from other sources, and (iii) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to Clause GC 6.1(c) hereinafter.

5.5 Payment
In consideration of the Services performed by the Consultant under this Contract, the Client shall make to the Consultant such payments and in such manner as is provided by Clause GC 6 of this Contract.

5.6 Counterpart Personnel
(a) The Client shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the Client with the Consultant’s advice, if specified in Appendix G.

(b) If counterpart personnel are not provided by the Client to the Consultant as and when specified in Appendix G, the Client 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 Client to the Consultant as a result thereof pursuant to Clause GC 6.1(c) hereof.

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

6. PAYMENTS TO THE CONSULTANT

6.1 Cost Estimates; Ceiling Amount

(a) An estimate of the cost of the Services payable in foreign currency is set forth in Appendix D. An estimate of the cost of the Services payable in local currency is set forth in Appendix E.

(b) Except as may be otherwise agreed under Clause GC 2.6 and subject to Clause GC 6.1(c), payments under this Contract shall not exceed the ceilings in foreign currency and in local currency specified in the SC. Whenever it shall be necessary to evaluate one currency in terms of another for the purpose of checking that the ceilings in foreign currency specified in the SC has not been exceeded, the conversion shall be made on the basis of exchange rates as reasonably determined by the Client at the time of each disbursement having regard to the currencies utilized, and the date and place of the expenditure or transaction.

(c) Notwithstanding Clause GC 6.1(b) hereof, if pursuant to any of the Clauses GC 5.3, 5.4 or 5.6 hereof, the Parties shall agree that additional payments in local and/or foreign currency, as the case may be, shall be made to the Consultant in order to cover any necessary additional expenditures not envisaged in the cost estimates referred to in Clause GC 6.1(a) above, the ceiling or ceilings, as the case may be, set forth in Clause GC 6.1(b) above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

6.2 Remuneration and Reimbursable Expenses

(a) Subject to the ceilings specified in Clause GC 6.1(b) hereof, the Client shall pay to the Consultant (i) remuneration as set forth in Clause GC 6.2(b) hereunder, and (ii) reimbursable expenses as set forth in Clause GC 6.2(c) hereunder. Unless otherwise specified in the SC, said remuneration shall be fixed for the duration of the Contract.

(b) Payment for the Personnel shall be determined on the basis of time actually spent by such Personnel in the performance of the Services after the date determined in accordance with Clause GC 2.3 and Clause SC 2.3 (or such other date as the
6.3 Currency of Payment

Foreign currency payments shall be made in the currency or currencies specified in the SC, and local currency payments shall be made in the currency of the Client’s Country.

6.4 Mode of Billing and Payment

Billings and payments in respect of the Services shall be made as follows:

(a) Within the number of days after the Effective Date specified in the SC, the Client shall cause to be paid to the Consultant advance payments in foreign currency and in local currency as specified in the SC. When the SC indicate advance payment, this will be due after provision by the Consultant to the Client of an advance payment security acceptable to the Client in an amount (or amounts) and in a currency (or currencies) specified in the SC. Such security (i) to remain effective until the advance payment has been fully set off, and (ii) to be in the form set forth in Appendix H hereto, or in such other form as the Client shall have approved in writing. The advance payments will be set off by the Client in equal instalments against the statements for the number of months of the Services specified in the SC until said advance payments
have been fully set off.

(b) As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, or after the end of each time intervals otherwise indicated in the SC, the Consultant shall submit to the Client, in duplicate, itemized statements, accompanied by copies of invoices, vouchers and other appropriate supporting materials, of the amounts payable pursuant to Clauses GC 6.3 and GC 6.4 for such month, or any other period indicated in the SC. Separate statements shall be submitted in respect of amounts payable in foreign currency and in local currency. Each statement shall distinguish that portion of the total eligible costs which pertains to remuneration from that portion which pertains to reimbursable expenses.

(c) The Client shall pay the Consultant’s statements within sixty (60) days after the receipt by the Client of such statements with supporting documents. Only such portion of a statement that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Consultant, the Client may add or subtract the difference from any subsequent payments. Interest at the annual rate specified in the SC shall become payable as from the above due date on any amount due by, but not paid on, such due date.

(d) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the Client. The Services shall be deemed completed and finally accepted by the Client and the final report and final statement shall be deemed approved by the Client as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the Client unless the Client, within such ninety (90) day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final statement. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. Any amount, which the Client has paid or caused to be paid in accordance with this Clause in excess of the amounts actually payable in accordance with the provisions of this Contract, shall be reimbursed by the Consultant to the Client within thirty (30) days after receipt by the Consultant of notice thereof. Any such claim by the Client for reimbursement must be made within twelve (12) calendar months after receipt by the Client of a final report and a final statement approved by the Client in accordance with the above.
(e) All payments under this Contract shall be made to the accounts of the Consultant specified in the SC.

(f) Payments in respect of remuneration or reimbursable expenses, which exceed the cost estimates for these items as set forth in Appendices D and E, may be charged to the respective contingencies provided for foreign and local currencies only if such expenditures were approved by the Client prior to being incurred.

(g) With the exception of the final payment under (d) above, payments do not constitute acceptance of the Services nor relieve the Consultant of any obligations hereunder.

6.5 Payments to Government Agencies

If required to make any payments to any governmental agency in connection with implementation of the Services the Consultant shall make such payments only by means of check, or through official bank remittance addressed to the account of the relevant agency. Where payments to such agency account cannot be made, payments to any employee of such agency, (whether for a permanent, part-time or contractual staff), shall only be made with prior written endorsement of the ADB and the Client and only by check or through official bank remittance addressed to the relevant account of the employee. In the event that a non-cash payment cannot be effected in a timely manner, cash payment up to $300, or such amount as may be allowed under the relevant laws applicable to the government agency or employee as the case may be, whichever is less, may be made by the Consultant to the government agency or employee against receipt for such payment, provided that such payment is reported to the ADB and the Client within 3 working days after such payment is made and a written explanation of the circumstances that necessitated such payment is submitted by the Consultant to the ADB and the Client.

7. Fairness and Good Faith

7.1 Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

8. Settlement of Disputes

8.1 General

The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of the Contract and the success of the assignment. The Parties shall use their best efforts to settle
amicably all disputes arising out of or in connection with this Contract or the interpretation thereof.

8.2 Dispute Resolution

The rationale of the amicable dispute settlement procedure is to settle the dispute at the lowest possible responsibility level, bringing the individuals concerned face to face. The settlement procedure consists of the two following steps:

(a) Level One: the dispute is notified by one Party to the other according to GC Clause 1.6.1. The dispute is examined by the Authorized Representatives of the Client and the Consultant. In case the dispute is not settled within the period after its notification as specified in the SC, the Authorized Representatives shall fill in and sign the relevant section of the Dispute Notification Form attached as Appendix I, and deliver such Form to the Client’s and the Consultant’s officials specified in the SC, responsible for the Level Two of the settlement procedure.

(b) Level Two: the dispute is examined by the Client’s and the Consultant’s officials specified in the SC. In case the dispute is not settled within the period after the delivery of the Dispute Notification Form to Level Two as specified in the SC, the Client’s and the Consultant’s officials responsible for Level Two shall fill in and sign the relevant section of the Dispute Notification Form, and Clause GC 8.3 shall apply.

8.3 Dispute Settlement

Any dispute or difference arising out of this Contract or in connection therewith which cannot be amicably settled according to Clause GC 8.2 shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The arbitration shall take place in the location specified in the SC. The resulting award shall be final and binding on the Parties and shall be in lieu of any other remedy.
III. Special Conditions of Contract

(Clauses in brackets { } are optional; all notes should be deleted in final text)

<table>
<thead>
<tr>
<th>Number of GC Clause</th>
<th>Amendments of, and Supplements to, Clauses in the General Conditions of Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>{1.1(a)}</td>
<td>The words &quot;in the Client's Country&quot; are amended to read &quot;in India.&quot;</td>
</tr>
<tr>
<td>1.6</td>
<td>The addresses are:</td>
</tr>
<tr>
<td></td>
<td><strong>Client:</strong> Program Management Unit represented by Program Director, Infrastructure Development Investment Program for Tourism (IDIPT), Uttarakhand Tourism Development Board, Pandit Deendayal Upadhyaya Paryatan Bhawan, Near CNGC Helipad, Garhi Cantt., Dehradun - 248 171, India</td>
</tr>
<tr>
<td></td>
<td><strong>Telephone:</strong> + 91 - 135 2559097</td>
</tr>
<tr>
<td></td>
<td><strong>Facsimile:</strong> + 91 - 135 2559988</td>
</tr>
<tr>
<td></td>
<td><strong>Email:</strong> <a href="mailto:utdb.pm@gmail.com">utdb.pm@gmail.com</a></td>
</tr>
<tr>
<td></td>
<td><strong>Consultant:</strong> WAPCOS Ltd.</td>
</tr>
<tr>
<td></td>
<td><strong>Attention:</strong> Mr. Sanjay Sharma</td>
</tr>
<tr>
<td></td>
<td><strong>Address:</strong> 76-C, Sector-18, Institutional Area,</td>
</tr>
<tr>
<td></td>
<td>Gurgaon - 122 015 (Haryana)</td>
</tr>
<tr>
<td></td>
<td><strong>Telephone:</strong> + 91 - 124 2397 391</td>
</tr>
<tr>
<td></td>
<td><strong>Facsimile:</strong> + 91 - 124 2399 224</td>
</tr>
<tr>
<td>1.8</td>
<td>The Lead Partner is WAPCOS Ltd.</td>
</tr>
<tr>
<td>1.9</td>
<td>The Authorized Representatives are:</td>
</tr>
<tr>
<td></td>
<td><strong>For the Client:</strong> Mr. R.K. Joshi, Additional Program Director, UTARAKHAND</td>
</tr>
<tr>
<td></td>
<td><strong>For the Consultant:</strong> Mr. M.A. Khan, Dy. Chief (Business Development), WAPCOS Ltd., Gurgaon</td>
</tr>
<tr>
<td>1.10</td>
<td>The Client will pay only Service Tax to the Consultant as applicable. The Consultant shall submit audited statement to this effect for reconciliation on quarterly basis. The Client shall not pay or reimburse any other Taxes to the Consultant.</td>
</tr>
<tr>
<td>2.1</td>
<td>The effectiveness condition is: ADB's approval of the contract agreement</td>
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<td>2.2</td>
<td>The time period shall be two months.</td>
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<tr>
<td>2.3</td>
<td>The time period shall be two weeks.</td>
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<tr>
<td>2.4</td>
<td>The time period shall be fifty four months.</td>
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<tr>
<td>3.4 (e) (i)</td>
<td>The number of months shall be twelve months.</td>
</tr>
<tr>
<td>3.4 (e) (ii)</td>
<td>The ceiling on Consultants’ liability shall be limited to 30% of the contract value.</td>
</tr>
<tr>
<td>3.5</td>
<td>The risks and the coverage shall be as follows:</td>
</tr>
<tr>
<td></td>
<td>(a) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Client’s Country by the Consultant or its Personnel or any Sub-Consultants or their Personnel, with a minimum coverage as per applicable law;</td>
</tr>
<tr>
<td></td>
<td>(b) Third Party liability insurance, with a minimum coverage of INR 1.5 million;</td>
</tr>
<tr>
<td></td>
<td>(c) professional liability insurance, with a minimum coverage of twice the contract value;</td>
</tr>
<tr>
<td></td>
<td>(d) employer’s liability and workers’ compensation insurance in respect of the Personnel of the Consultant and of any Sub-Consultants, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and</td>
</tr>
<tr>
<td></td>
<td>(e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant’s property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.</td>
</tr>
<tr>
<td>6.1(b)</td>
<td>The ceiling in local currency is: INR 47,104,000 excluding service tax.</td>
</tr>
<tr>
<td>6.2(a)</td>
<td>In order to adjust the remuneration, a price adjustment provision is included. The adjustment would be made every 12 months after the date of the contract. Payments for remuneration made in accordance with Clause GC 6.2(a) in local currency shall be adjusted as follows:</td>
</tr>
</tbody>
</table>
|      | (b) Remuneration paid in local currency pursuant to the rates set
forth in Appendix E shall be adjusted every 12 months (and, for the first time, with effect for the remuneration earned in the 13th calendar month after the date of the Contract) by applying the following formula:

\[ R_i = R_0 \times \left[ 0.1 + 0.9 \frac{I_i}{I_0} \right] \]

where \( R_i \) is the adjusted remuneration, \( R_0 \) is the remuneration payable on the basis of the rates set forth in Appendix E for remuneration payable in local currency, \( I_i \) is the Consumer Price Index (CPI) - Urban in India for the first month for which the adjustment is to have effect and, \( I_0 \) is the Consumer Price Index (CPI) - Urban in India for the month of the date of the Contract.

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.2(b)</td>
<td>The rates for National Personnel are set forth in Appendix E.</td>
</tr>
<tr>
<td>6.2(c)</td>
<td>The Reimbursable expenses to be paid in local currency are set forth in Appendix E.</td>
</tr>
<tr>
<td>6.4(a)</td>
<td>The following provisions shall apply to the advance payment and the advance payment security:</td>
</tr>
<tr>
<td></td>
<td>(1) An advance payment of 10% of the Contract Value minus Provisional Sums and Contingencies shall be made within 60 days after the Effective Date against the equivalent amount of Bank Guarantee valid for 15 months from the date of issue. The advance payment will be set off by the Client in equal installments against the statements for the first 12 months commencing from third month of the Services until the advance payment has been fully set off.</td>
</tr>
<tr>
<td></td>
<td>(2) The advance payment security shall be in the amount and in the currency of the local currency portion of the advance payment.</td>
</tr>
<tr>
<td>6.4(c)</td>
<td>The interest rate is: As per Prime Lending Rate (FLR) of Reserve Bank of India (RBI).</td>
</tr>
<tr>
<td>6.4(e)</td>
<td>The account is:</td>
</tr>
<tr>
<td></td>
<td>For local currency:</td>
</tr>
<tr>
<td></td>
<td>1) <strong>Name:</strong> WAPCOS Ltd.</td>
</tr>
<tr>
<td></td>
<td>2) <strong>Bank Name:</strong> Indian Overseas Bank</td>
</tr>
<tr>
<td></td>
<td>3) <strong>Bank Account No.:</strong> 153502000000028</td>
</tr>
<tr>
<td></td>
<td>4) <strong>Branch:</strong> National Horticulture Board</td>
</tr>
<tr>
<td></td>
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<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>5)</td>
<td>RTGS Code No.: IOBA0001935</td>
</tr>
<tr>
<td>6)</td>
<td>MICR NO.: 110020069</td>
</tr>
</tbody>
</table>
| **8.2(a)** | Level One:  
The period for settling the dispute is 45 days.  
The Client's official responsible for Level Two is: To be nominated by Program Director, IDIPT, Uttarakhand.  
The Consultant's official responsible for Level Two is: Mr. M.M. Verma, Senior General Manager (Commercial), WAPCOS. Ltd. |
| **8.2(b)** | Level Two:  
The period for settling the dispute is 60 days. |
| **8.3** | The location is: Dehradun. |
IV. Appendices

APPENDIX A - DESCRIPTION OF SERVICES

APPENDIX B - REPORTING REQUIREMENTS

APPENDIX C - PERSONNEL SCHEDULE

APPENDIX D - COST ESTIMATES IN FOREIGN CURRENCY – NOT APPLICABLE

APPENDIX E - COST ESTIMATES IN LOCAL CURRENCY

APPENDIX F - SUMMARY OF COST ESTIMATES

APPENDIX G - SERVICES, FACILITIES AND EQUIPMENT TO BE PROVIDED BY THE CLIENT

APPENDIX H - FORM OF ADVANCE PAYMENT GUARANTEE

APPENDIX I - DISPUTE NOTIFICATION FORM

APPENDIX J - MINUTES OF CONTRACT NEGOTIATIONS

APPENDIX K - GENERAL ANNEXURES
APPENDIX A

DESCRIPTION OF SERVICES

(Page 37 to 57)
TERMS OF REFERENCE FOR DESIGN SUPERVISION CONSULTANT - BHIMTAL

I. INTRODUCTION

1. Government of Uttarakhand is currently implementing the Infrastructure Development Investment Program for Tourism (the Investment Program) for which a Financing Framework Agreement (FFA) was signed by the Government of India and Asian Development Bank (ADB) on 24 August 2010. The Design and Supervision Consultants (DSC) Bhimtal will be engaged to provide support to the Uttarakhand Tourism Development Board (UTDB) and the Department of Tourism, the implementing agencies for the Investment Program for Uttarakhand, in implementing Project 2 and subsequent projects under the Investment Program. Consultants will assist the governments of Uttarakhand in overall Design and Supervision of the Investment Program, namely Design and Supervision Consultants (DSC). The DSC will provide all necessary support to and coordination with these and any other consultants engage by the authorities to achieve the desired outcomes of the Investment Program.

II. Background

2. The Infrastructure Development Investment Program for Tourism (IDIPT) envisages an environmentally and culturally sustainable and socially inclusive tourism development in Uttarakhand. The project uses a sector loan approach through a multi-tranche financing facility modality likely in five tranches planned from 2011-2020. The procurement plan under tranche - 2 (2011–16) has already been approved and procurement plan for remaining sub projects will be approved in subsequent tranches. The expected impact of the Project is sustainable and inclusive tourism development, in priority. State tourism sub circuits divided into marketable cluster destinations that exhibit enhanced protection and management of key natural and cultural heritage tourism sites, improved market connectivity, enhanced destination and site environment and tourist support infrastructure, and enhanced capacities for sustainable destination and site development with extensive participation by the private sector and local communities. The investment program outputs will be

(i) Improved basic urban infrastructure (such as construction/refurbishment of tourist accommodation, water supply, sanitation, road and public transport, solid waste management, and environmental improvement) and incidental services (such as, parking, landscaping, public toilets, street signage and lighting) at existing and emerging tourist destinations and gateways.

(ii) Improved connectivity to tourist attractions focusing on the improvement of last-mile connectivity, improved connectivity to tourist attractions focusing on the improvement of last-mile connectivity;

(iii) Enhanced quality of natural and cultural tourist attractions to ensure
convenience and safety for visitors;

(iv) Greater participation by local communities in tourism-related economic and livelihood activities;

(v) Strengthened capacity of concerned sector agencies and local communities for planning, development, management, and marketing of tourist destinations and attractions; and

(vi) Promoting private sector participation and small businesses

ii. Program Organisation Structure

3. The Department of Tourism, Government of Uttarakhand will be the Executing Agency (EA) and Uttarakhand Tourism Development Board (UTDB) will be the implementing agency (IA) for the IDIPT for Uttarakhand. The UTDB will have a Project Management Unit (PMU) headed by Program Director. Further, UTDB will have Project Implementation Units (PIU’s) at Bhimtal for the implementation and monitoring of subprojects, each headed by Project Manager’s.

iii. Objective

4. The prime purpose of the assignment is direct and indirect assistance to PIU to ensure the effective coordination and implementation of the Investment program. The DSC shall be responsible for effectively leading and taking initiative to manage, execute and implement the Investment Program including carrying all necessary surveys and design the subproject plus ensuring proper construction supervision. The DSC will work closely with the PIU for sustainable capacity building of PIU and will assist in operationalizing the procedures and in implementing institutional development, capacity building, monitoring and quality assuring the outputs of the UTDB.

5. The expected person man months for Bhimtal – DSC is 272. The DSC will report to PMU, PIU - Bhimtal and work under the overall guidance of the PIU – Bhimtal and PMU in the state. The Bhimtal DSC has expected to commence their services by June 2012.

II SCOPE OF WORKS

6. The scope of services of the DSCs will include but not necessarily be limited to the following:

i. Surveys, Verification of Feasibility Studies and Base maps

   (i) Review all available primary and secondary data and reports collected during the feasibility stage and identify requirements for further surveys.
studies and investigations for detailed design;

(ii) Review all available cultural heritage and archaeological and tourism support related management plans and documents prepared by other specialist consultants/ government for all subproject areas within the state of Uttarakhand.

(iii) Schedule and prioritize critical surveys in such a way that the detailed designs can be carried out efficiently and expeditiously;

(iv) Carry out all the required surveys and investigations such as topographical surveys, total station survey, geo-technical investigation, soil survey, leak detection survey, cultural heritage surveys, archaeological surveys, construction material survey, ground water investigation i.e. hydro-geological investigations, rainfall data collection, identification of underground utilities, solid waste sampling and analysis etc, as applicable to the subprojects. All surveys and investigations shall be accurate and plotted or documented for review of the PIU; and

(v) Review and verify all existing secondary information, preliminary designs and technical data, documents and maps prepared/ collated during the feasibility studies for the subprojects.

ii. Project Planning and Management Support to the PIU

(i) Prepare detailed work plan and implementation schedule and submit to PIU and PMU for approval covering all stages of the implementation process for each subproject from field survey and investigations to the acceptance of finished work to ensure coordination, timely project outputs and minimization of disruption to the general public; and regularly update and monitor the same during the project period;

(ii) Outline and seek approval from the PIU on any changes in preliminary design and costs arising from the detailed surveys conducted, provided that the outputs and outcomes of the Project and the service area delineation agreed in consultation with the beneficiaries remain unchanged;

(iii) Assist the PIU in maintaining an appropriate information management system, which may be established with the support of and advice from the PMC, for the Project;

(iv) Assist the PIU and PMU in appraising and preparing subprojects for subsequent tranches of the Investment Program as and when required;

(v) Assist the PIU in establishing the project/Investment Program accounting system and in conducting all Investment Program related accounting, reporting and auditing; and
(vi) Assist the PIU in disseminating relevant findings and documents from the tasks outlined above, and hold meetings with all important stakeholders to achieve written approval on the same.

iii. Finalization of Design Criteria, Preparation of Manuals, Guidelines and Systems

(i) Prepare standard specifications for all works, based on the approved Indian standards, and use these to carry out the detailed design of the subprojects ensuring the highest standards of quality in design and construction;

(ii) Prepare Quality Assurance and Quality Control (QA & QC) Plan outlining a consistent, comprehensive and uniform system of quality assurance and quality control of all the subprojects under the Investment Program across the state of Uttarakhand including but not limited to systems of checks and reviews, description of type, frequency and procedures of on-site as well as laboratory tests and inspections etc;

(iii) Prepare, in consultation with PMC and PIU, occupational health and safety manual to be adopted during implementation on each construction site so as to enforce safety of construction workers, engineers, and general public;

(iv) After approval of detailed design from the PIU, prepare bid documents;

(v) Prepare contract administration guideline delineating procedures and assigning responsibilities at various competent levels for day to day contract administration requirements such as measurement of works, certification and payment of contractors’ bill; release of retention money; approval of variation, time extension and contractors’ claim; issue of completion certificate; financial closure of contract; management during defects liability period etc and to use it in administration of contracts;

(vi) Support the PIU in implementing the construction management system for the projects under the Investment Program;

(vii) Prepare operations manual for all subprojects in a user-friendly language and format (usable by the local operators, community and government departments/ bodies responsible for concerned service delivery) for carrying out operations and maintenance (O&M) of various systems developed during the Investment Program; and

(viii) Assist the PIU to circulate the manuals and guidelines to the relevant stakeholders and organize training workshops prior to the commissioning of the subprojects to ensure their proper and effective use.
iv. Preparation of Detailed Design and Bid Documents

(i) Prepare detailed designs of the subprojects in sufficient detail to ensure clarity and understanding by the PIU, PMU, PMC, contractors and other relevant stakeholders. All the design should be in conformity with the approved design standards;

(ii) The detailed designs will, as a minimum, include construction drawings, detailed cost estimates, necessary calculations to determine and justify the engineering details for subproject, associated contract documentation to include letter of invitation, conditions of contract, detailed specifications, engineering drawings, bill of quantities (BOQ), implementation schedule, etc. for all sub-projects. The technical specifications should be in accordance with the approved Indian standards or if that is not available then the best international/national practices and should be prepared to achieve the highest standards of quality. For adopting market rates for the detailed cost estimates, proper rate analysis should be carried out. Construction drawings should be prepared with sufficient details to permit contractors to carry out construction work effectively, unambiguously and with the highest standards of quality;

(iii) The design shall be prepared in close consultation with PIU and will be incorporated into a detailed design report to be submitted for approval of the PIU;

(iv) Prepare prequalification, where appropriate, and bid documents using standard ADB bidding documents and specific requirements of subproject, with due consideration to National Competitive Bidding (NCB) and/or International Competitive Bidding (ICB), Shopping (S) etc.

(v) Assist PIU in issuing bid invitation, addendum/corrigendum, and clarifications to the bidders' queries, receiving of bids and evaluation, award of contract and signing of contract;

(vi) Carry out the EIA/IEE and prepare/update resettlement plans during the detailed design stage in accordance with relevant government rules and regulations and ADB policies;

(vii) Collect baseline data for the PPMS as advised by the PMU; and

(viii) Assist the PMC and PMU to set the indicators and carry out all necessary tasks identified by the PPMS for the projects under the Investment Program, whose objective is to identify and evaluate the macroeconomic, socio-economic and environmental impact of the project and ensure that the investment is managed efficiently and that the benefits reach the target groups.
v. Construction Management and Contract Administration

(i) Supervise and monitor construction of all subprojects on behalf of the PIU;

(ii) Check, on behalf of the PIU, the line level, layout of the construction to ensure conformity with the contract, propose and present for approval any change in the plans that may be deemed necessary indicating any effect the change may have on contract and prepare all change/variation orders;

(iii) Assess and enforce, on behalf of the PIU, the adequacy of contractors’ inputs in terms of material, equipments, construction machinery, workers, and construction approach and methodologies as per the Standard Construction Management System;

(iv) Monitor and enforce, on behalf of the PIU, and as detailed out in Safety Manual, the measures taken to ensure safety of the workers, other project personnel, general public and works.

(v) Furnish detailed drawings, with revisions as necessary, to the contractor;

(vi) Establish a process for third party inspections, attend third party inspections, if required, and provide certification on the quality of the supplies based on such inspections;

(vii) Assist the PIUs in checking measurement for works completed and in progress, verifying and endorsing bills for payment to the contractors/suppliers by the PIUs, providing certification on the quality of works accomplished and on their conformity to specifications and drawings;

(viii) Work as the engineer or employer’s representative within the context of conditions of the construction contracts;

(ix) Regularly monitor physical and financial progress against the milestones as per the contract so as to ensure completion of contract in time;

(x) Monitor and enforce, as detailed out in Quality Assurance and Quality Control (QA & QC) Plan, the quality of inputs, processes, and outputs during all activities of construction to ensure the highest quality of works conforming to the specifications and drawings;

(xi) Examine contractors’ requests for time extension, variations, additional compensation and claims and recommend appropriate decisions;

(xii) Assist PIU in resolution of various other contractual issues and overall contract management; and

(xiii) After physical completion of contract, prepare planned maintenance...
procedures; check installation and commissioning; monitor preparation of the "as built" drawings.

vi. Environmental, Social, Archaeological, Cultural Heritage, Community Participation and Gender Action Compliance Monitoring

(i) Environment. Assist in preparing and update subproject IEEs in respect to environmental management plans (EMPs) in compliance with the ADB Safeguard Policy Statement, national- and state-level environmental policies, rules, and regulations;

(ii) Interact on a regular basis with the sector specialists of the DSC and integrate environmentally sound practices into the detailed design of project components. Include mitigation measures in designs where appropriate, and to specify other measures in construction contracts;

(iii) Assist the PIU in monitoring impacts and mitigation measures associated with subprojects in accordance with the IEEs, EMPs, and/or environmental mitigation action plan as well as any other environmental issues and take corrective actions where needed;

(iv) Assist in the review and approval of site specific environmental enhancement/mitigation designs worked out by the Contractor to ensure compliance with the IEE and EMP;

(v) Assist the PIU in preparing monthly and annual environmental compliance reports for all works in accordance with the EMP for each of the subprojects and the overall Project;

(vi) Develop, organise and deliver environmental training programs and workshops for the staff of the PIU and Contractors and in accordance to the Capacity Building Program as specified in the IEE. Provide training to the PIU for environmental management and monitoring during construction and operation;

(vii) Advise PMU/PIU for compliance with statutory clearances;

(viii) Develop good practice construction guidelines to assist the contractors in implementing the provisions of IEE;

(ix) Work with local NGOs to conduct environmental awareness events which highlight conservation and benefits of eco-tourism principles;

(x) Assist Environmental Specialist of the PMU to prepare good practice dissemination notes based on the experience gained from site supervision;

(xi) Assist the PIU in monitoring compliance with the Resettlement Plan and
any social development issues identified during feasibility study/detailed design phase in co-ordination with PMU, NGOs and other stakeholders;

(xii) Ensure that the subprojects design adequately address issues important to women, and ensure that gender issues have adequately been reflected in socio-economic profile, social inclusion plan, community participation and overall subproject design;

(xiii) Regarding social component, for subprojects proposed under Tranche 2, work closely with the sector specialists of the DSC team to ensure that land acquisition and resettlement impacts are avoided during the finalization of the designs; and assist PIUs in obtaining the NOCs from line departments/agencies for the lands where the sub-projects are proposed;

(xiv) For future subprojects, provide inputs towards minimization of involuntary resettlement impacts and minimization of impacts on indigenous peoples;

(xv) Assist PMC in preparing RPs for future subprojects in accordance with RF for future subprojects with resettlement impacts, based on detailed census surveys and consultations with affected persons;

(xvi) Assist PMC in preparing the Indigenous Peoples Plans (IPPs) for future subprojects (if required), in line with the provisions of the IPPF;

(xvii) Carry stakeholders consultations especially with the affected communities during design phase of the subprojects and ensure that their concerns and suggestions are incorporated and implemented in the project;

(xviii) Work closely with the PMU and PIU’s resettlement officer to implement the RPs and any social development issues identified during feasibility study/detailed design phase in co-ordination with PMU, NGOs and other stakeholders;

(xix) Guide PIU’s resettlement officer in ensuring smooth provision of entitlements under each RP to affected persons;

(xx) Coordinate monitoring of RP implementation including preparation of monthly resettlement monitoring reports in collaboration with PIUs’ social officer and submit to PMU;

(xxi) Facilitate in responding to any public grievances and keep record of all grievances; and

(xxii) Ensure that the subprojects design and implementation adequately address issues pertaining to women and poverty in the project, and ensure that targets put forth in the Gender Action Plan and SPRSS are achieved.
vii. Capacity Building of the Service Providers for Operational Sustainability

(i) Analyze, prepare plans and manuals for, and provide recommendations to the PIUs and other concerned service providers in carrying out sustainable operations and maintenance (O&M) of the physical systems created under the Investment Program; and

(ii) Provide sufficient training and support to the potential operators in preparing for effective operations and maintenance of the physical systems/assets created/improved under the Investment Program prior to their commissioning.

III COMMUNICATIONS AND REPORTING

(i) Assist the PIUs in disseminating information on the Investment Program, on aspects such as design, cost estimates, role and responsibilities of various stakeholders, etc., as per ADB’s public communication and other policies and the Government procedures as prescribed by the relevant authorities;

(ii) Prepare quarterly progress reports for submission on work progress against the agreed timelines, compliance monitoring and other issues under the contract to the PIUs and PMUs;

(iii) Conduct regular meetings with the key stakeholders of the Investment Program, as advised by the PIUs, and a bi-weekly meeting with the concerned PIUs and contractors working in the field to discuss progress and issues related to implementation and prepare minutes for recording and circulation;

(iv) Participate in, and support the PMUs and PIUs to prepare all necessary documents for, progress reviews and a comprehensive mid-term review, to be conducted by the Government and ADB at various intervals according to the agreements with the Government; and

(v) Prepare all other reports as required by the PIUs.
Indicative Staffing

7. The personnel requirement for the DSC for the scope of works as outlined above is estimated to be as follows:

<table>
<thead>
<tr>
<th>Key Professional Staff</th>
<th>Expected Inputs in Person-months</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Civil Engineer/Team Leader</td>
<td>30</td>
</tr>
<tr>
<td>2 Civil Engineer Building and Infrastructure Bridge and Highway</td>
<td>12</td>
</tr>
<tr>
<td>3 Structural Engineer</td>
<td>7</td>
</tr>
<tr>
<td>4 Forest Conservation Specialist</td>
<td>6</td>
</tr>
<tr>
<td>5 Eco Tourism Planner</td>
<td>4</td>
</tr>
<tr>
<td>6 Landscape Architect</td>
<td>8</td>
</tr>
<tr>
<td>7 Cultural Heritage Conservation Specialist</td>
<td>4</td>
</tr>
<tr>
<td>8 Cultural Heritage Management Expert</td>
<td>4</td>
</tr>
<tr>
<td>9 Institutional Development Specialist</td>
<td>5</td>
</tr>
<tr>
<td>10 Community Development Specialist</td>
<td>7</td>
</tr>
<tr>
<td>11 Procurement Specialist</td>
<td>8</td>
</tr>
<tr>
<td>12 Safeguards Specialist Environment</td>
<td>16</td>
</tr>
<tr>
<td>13 Safeguards Specialist Social</td>
<td>16</td>
</tr>
<tr>
<td>14 Field Engineers</td>
<td>60</td>
</tr>
<tr>
<td>15 Community mobilises and skill development trainers</td>
<td>50</td>
</tr>
<tr>
<td>16 Accounts Officer</td>
<td>35</td>
</tr>
<tr>
<td><strong>Total Expected Inputs</strong></td>
<td><strong>272</strong></td>
</tr>
</tbody>
</table>

8. The DSC will provide for the duration of the proposed Investment Program, the full person months time input as set out in their technical proposal. The consultants are expected to commence their services not later than 30 days of award of the assignment or as per the agreed work plan for each position.

9. It is expected that the consultant specialists will have as many as possible of the following credentials:

- Relevant general management or technical education and background;
- A thorough understanding of the systems, procedures guiding the implementation, management and administration of loan projects supported by the ADB;
- Practical working experience in the management and administration of projects supported by the ADB at the field level and project management and administration;
- A thorough working experience of the management and administration of externally assisted projects in India;

1 All are expected to be national. The DSCs will also have support staff as required.
- Have a demonstrated ability to work closely and effectively together with counterpart staff of executing agencies and public sector organizations in South Asia; and
- Have extensive in-country experience in undertaking design and construction supervision contracts.

10. The details of the education and experience desired for each position and terms of reference of each Consultant are as follows:

IV  SCOPE OF WORK FOR KEY PROFESSIONAL STAFF

1. Civil Engineer Team Leader (National)

11. Education and Experience: Bachelors in Civil Engineering with around 20 years experience in design of civil structures including infrastructure services such as water supply, sanitation and solid waste management. Experience in design and management of historical/ archaeological sites would be an advantage. The engineer should be conversant with International codes and best practices in design and management of historical sites.

12. Structures and facilities: With overall guidance from the project manager and inputs from cultural heritage, eco-tourism and other specialists, will be responsible for layout, design including structural elements, working drawings, preparation of estimates and in consultation with the procurement, bid documents of all civil and infrastructural facilities as part of the project sites.

13. The consultant will prepare:
   a) Plan for the site, activity scheduling;
   b) Designs for all elements (including working drawings);
   c) Estimates in consultation with the conservation specialists and the archeologist;
   d) Associated bidding documents, assist PMU in bidding procedures including invitation of bids, bid evaluation and awards of contract for the road component and
   e) Assist PMU with overall management of works and in the resolution of contractual issues and preparation of as-built drawings for the roads component.
   f) Responsibilities will also include supervision as set out in part III of this TOR

2. Position: Civil Engineer Building and Infrastructure Bridge and Highway (National)

14. Education and Experience: Masters/ Bachelors in Civil Engineering with around 15
years experience in design/supervision of civil structures including infrastructure services such as water supply, sanitation and solid waste management. Experience in design and management of historical/archaeological sites would be an advantage. The engineer should be conversant with National/International codes and best practices in design and management of historical sites.

15. Structures and facilities: With overall guidance from the project manager (PIU), team leader and inputs from other specialists, will be responsible for review and management of all activities such as review of designs including structural elements, estimates, procurement, bid documents of all civil and infrastructural facilities.

16. Baseline studies. Supervise surveys and investigations required for the project elements such as the roads and parking facilities.

17. Design - Roads and Bridges:

a) Alignment study:
   - Study the given alignment and recommend changes if any, if substantive benefits in terms of better geometrics, avoidance of steep curves, reduction in costs or distance or time if possible.
   - Based on the above and the discussions with the PWD and PIU/PMU, prepare detailed strip plans showing all the features along the preferred alignment and have the same approved by competent authorities.

b) Configuration of the project:
   - Facilities include localized water, sanitation and waste management arrangements and onsite parking and activities such as information centre etc.
   - Assess the configuration in light of the findings with regard to alignment, traffic potential, etc and suggest changes that may be warranted in this configuration. However ensure no acquisition of land for the project.
   - Provide for bridges, culverts, ROBs, medians, service roads, parking spaces, side drains, footpaths/pedestrian pathways, ducts for carrying the utilities, landscaped areas, etc. Also design proper junctions/intersections with due consideration to lighting and geometric design along the stretch wherever they are warranted. Overall the design should confirm to MORTH standards GOI.

c) Design of Street Furniture. Including but not limited to:
   - Foundation and other structural design for high mast light foundation, foundation design of bus shelters, and structural design of bus shelter as per final design.
   - Structural design of any chambers slabs etc., as may be required as per site conditions, including working drawings.
   - Design and specifications of any foundations, structure, reinforcements, specifications, concrete grade etc., for final design of street furniture such as benches, barriers, curbs, retaining walls, etc.

b) Design of Traffic Signs and Markings. Including but not limited to:
• Structural design of sign board support, foundation, specifications, working drawings, etc., including that of gantry sign boards, gantry/cantilever support of signal posts (as per final approved design)
• Design of traffic signs and marking as may be required for cost estimation and bid document
e) Design-Parking: Including but not limited to:
• Based on surveys and investigation and in coordination with the structural engineer design the proposed multi-level parking arrangements, access, signage and basic services. The design should also incorporate architectural controls if any based on discussions with the conservation architect, primarily to fit within the overall architecture of the monastic zone and natural landscape.

18. Responsibilities will also include supervision as set out in part III of this TOR

3. Position: Structural Engineer (National)

19. Education and Experience: Masters in Structural Engineering with around 15 years experience and conversant with BIS codes and international best practices in design of civil structures.

20. With the overall guidance of the PM and in consultation with the conservation architect, civil engineer and the bridge and highway engineer, support design of all structural elements for all sub projects and components.
   a) The consultant shall prepare: designs for all elements (including working drawings),
   b) Estimates in consultation with the Tourism/Culture/ Civil and Highway and Bridge engineer;
   c) Contribute to bidding documents, assist PIU/PMU in bidding procedures including invitation of bids, bid evaluation, and awards of contract for the road component; and
   d) Assist PIU/PMU with overall management and supervision of construction works and in the resolution of contractual issues and preparation of as-built drawings for the roads component;

4. Position: Forest Conservation Specialist (National)

21. Education and Experience: Masters in Environmental Planning / Eco Tourism/ Ecology with around 15 years of experience in design of eco-tourism products primarily related to treks, trail development and associated products.
   a) Coordinate surveys and alignment fixation for the proposed trekking trails and camp site locations
   b) Define trekking arrangements including definition of camping arrangements
and design inputs to the civil engineer;

c) Based on consultations with Stakeholders (Forest, Rural development and Tourism), draft State-specific policy and guidelines on sustainable tourism and set the legal basis for community-based tourism (including eco and home stays) in terms of partnership set-ups;

d) Contribute to the guidelines on sustainable tourism and set the legal basis for community-based tourism in terms of partnership set-ups (to be led by the Institutional Development Specialist and Community Specialists);

e) Contribute to the environmental safeguards in design of development control for the management plans and

f) Contribute to the project outcome monitoring indicators in consultation with PPM specialist

Overall Tasks: The consultant shall also be responsible for:

a) Designs for all elements (including working drawings);

b) Estimates in consultation with the engineers and the conservation architect;

c) Associated bidding documents, assist PIU/PMU in bidding procedures including invitation of bids, bid evaluation, and awards of contract for the road component and

d) Assist PIU/PMU with overall management and supervision of construction works and in the resolution of contractual issues and preparation of as-built drawings for the trails and associated facilities and

e) Responsibilities will also include supervision as set out in part III of this TOR

5. Eco Tourism Planner (National)

22. Education and Experience: Masters in Environmental Planning / Eco Tourism/ Ecology with around 15 years of experience in design of eco-tourism products primarily related to treks, trail development and associated products.

a) Coordinate surveys and alignment fixation for the proposed trekking trails and camp site locations;

b) Define trekking arrangements including definition of camping arrangements and design inputs to the civil engineer;

c) Based on consultations with Stakeholders (Forest, Rural development and Tourism), draft State-specific policy and guidelines on sustainable tourism and set the legal basis for community-based tourism (including eco and home stays) in terms of partnership set-ups;

d) Contribute to the guidelines on sustainable tourism and set the legal basis for community-based tourism in terms of partnership set-ups (to be led by the Institutional Development Specialist and Community Specialists);

e) Contribute to the environmental safeguards in design of development control for the management plans and

f) Contribute to the project outcome monitoring indicators in consultation with PPM specialist
Overall Tasks: The consultant shall also be responsible for:

a) Designs for all elements (including working drawings);
b) Estimates in consultation with the engineers and the conservation architect;
c) Associated bidding documents, assist PIU/PMU in bidding procedures including invitation of bids, bid evaluation, and awards of contract for the road component and
d) Assist PIU/PMU with overall management and supervision of construction works and in the resolution of contractual issues and preparation of as-built drawings for the trails and associated facilities and
e) Responsibilities will also include supervision as set out in part III of this TOR

6. Position: Landscape Architect (National)

23. Education and Experience: Post graduate education (or equivalent research) in a field or discipline (e.g. Architecture) with around 15 years of experience in demonstrated professional expertise as a landscape architect on projects dealing with (i) The restoration or recreation of historic gardens and environments and (ii) use of indigenous species in landscaping.

a) Compile and study all available reports on the present and past landscape of the surrounding area, from local, national, and international libraries archives, in order to understand the extent of knowledge available on the subject and the specific content of that knowledge as it pertains to appropriate species and historic garden design;
b) Compile and study all available reports of indigenous plants particularly plants of importance to the region in order to understand the extent of knowledge available on the subject;
c) In close cooperation with the community and staff, design landscape changes and improvements as may be appropriate, bearing in mind that the historic authenticity of the landscape is the overriding factor, but keeping in mind other relevant factors such as conservation of the archaeology; provisions for landscape maintenance; and coherence with any master planning;
d) Minimize the amount of landscape engineering and other major changes to the existing terrain that will be required;
e) Prepare a manual of practice to guide the execution of landscape works under the sub-projects and as a reference for the on-going care and maintenance of the landscape and to guide any future interventions in the landscape that may be forthcoming and
f) Supervise the execution of the landscape work.

Overall tasks. The consultant shall coordinate and contribute to the:

a) Designs for all elements (including working drawings);
b) Estimates in consultation with the engineers and the conservation architect;
c) Associated bidding documents, assist PMU in bidding procedures including
invitation of bids, bid evaluation, and awards of contract for the road component and

d) Assist PMU with overall management and supervision of construction works and in the resolution of contractual issues and preparation of as-built drawings for the trails and associated facilities;

7. Position: Cultural Heritage Conservation Specialist (National)

24. Education and Experience: Masters in Architecture/ Archaeology with at least 15 years experience and formal training in conservation architecture. Expertise: Design and Conservation of the architecture, layout, and other physical features preferably of historical properties.

a) In discussion with the Civil and Structural engineer, plan, design and define the implementation of the proposed facilities in cultural sites;

b) Contribute to the development control regulations primarily in terms of architecture controls as part of the proposed plan for the to be notified including basic design manuals for specific type of uses including advertisement control and

c) Develop institutional and financial measures for sustainable management of the other sites including adaptive reuse of the sites

d) Responsibilities will includes supervision of works

8. Position: Cultural Heritage Management Expert (National)

25. Education and Experience: Degree in Architecture and formal training in conservation/ with at least 15 years experience in a senior management position at a major archaeological or monumental site(s) subject to intensive visitor pressure, preferably at the international level in South or Southeast Asia. Demonstrated ability to analyze site management problems; develop indicators; devise solutions, and design conservation and heritage components and supervise its construction.

a) In consultation with the PM review the design as suggested by the Master Plans and Management Plans and its fit within the overall site;

b) Lead surveys and investigations required for the protection / conservation of the monuments;

c) Assess and, when necessary, mitigate the impact of the subproject's physical and non-physical interventions on the affected monuments and their surrounding buffer zones.

d) Based on approval of the best option for improvements and in discussion with the experts and engineers, complete design and implementation of the proposed activities in all the sites

e) Coordinate and contribute to the (i) designs for all elements (including working drawings);

f) Design and supervise the implementation of all conservation work,
restoration, removal, addition, rearrangement and other interventions/alterations to the physical structure and layout of the proposed monuments/structures and other sites of heritage significance, with particular attention to preserving the authenticity and integrity of the physical heritage.

g) Provide input into the design of environmental and visitor infrastructure and services to ensure that their design and construction is in conformity with the authenticity and integrity of the sites:

h) Estimates in consultation with the engineers, (ii) associated bidding documents, assist PIU/PMU in bidding procedures including invitation of bids, bid evaluation, and awards of contract for the road component and (iii) assist PIU/PMU with overall management and supervision of construction works and in the resolution of contractual issues and preparation of as-built drawings for the trails and associated facilities; and

i) Assist institutional development specialist in developing measures for sustainable management of heritage sites and properties.

j) In close collaboration with the Site Management Expert and the Safeguards Specialists, devise protocols and systems for on-site monitoring and predictive modeling and reporting of the impact of tourism on the state of conservation of the four sites, their buffer zones, the surrounding environment and the affected human communities.

k) Draft an operations manual for the implementation of the afore-mentioned protocols and systems and conduct workshop to training site managers in the application of the manual.


26. Education and Experience: Degree in Management, Planning, public administration or another relevant field and around 15 years or more experience in fields related to public or public/private property management, both within the country and in the region. Direct experience in managing heritage/historic properties would be highly desirable, as would experience in managing tourist destinations, pilgrimage sites or other types of properties/sites, which experience visitor pressure. In addition to experience in public property management, the Site Management Expert should have previous experience in building institutional capacity at the local community level, and a demonstrated ability to innovate bespoke institutional structures.

a) Assist the financial management specialist in developing revenue enhancement measures and other innovative approaches for sustainable O&M of the sites including creation of dedicated sources of funds for sustainable management of cultural heritage sites where feasible through ring fencing of incomes from the sites.

b) Contribute to the project outcome monitoring indicators in consultation with PPM specialist and supervision consultants on management aspects; Site Management Modalities.

c) Study the existing systems of contractual management of heritage properties.
and

d) On approval of options,
   • Develop a schedule for the phased implementation of the agreed options for contracting (aspect of) management responsibilities.
   • Structure TOR’s and invite agencies for PPP transaction advisory
   • Devise a training program me for the presumptive contractors
   • Draft a site management manual to guide contracted operations.
   • Develop a system of management accountability, linked to site monitoring, to ensure the management of sites is responsive to the Government’s mandate to protect public assets.
   • In all above task, effort should be made to entrust contracted tasks to local communities (or members thereof) located near the affected monuments.

c) Prepare sub project appraisal documents based on selection criteria

10. Position: Community Development Specialist (National)

27. Education and Experience: Masters in Social Sciences/ Management, around 15 years experience in community mobilization and community based heritage tourism product development focused on livelihood. Design of livelihood and community based tourism products and in community capacity building.

   a) Lead value chain analysis and lead community mobilization activities;
   b) Lead workshops and community consultations and
   c) Coordinate all activities of this component.
   d) Supervise all activities under this component

11. Position: Procurement Specialist (National)

28. Education and Experience: Bachelors in Civil Engineering with at least 15 years of experience in procurement goods, works and services as part of donor aided projects, preferably ADB. Should be conversant with the current procurement procedures of ADB.

   a) In consultation with the Project Manager, and the Program Director, prepare the procurement plan for all goods works and services to be taken up during the project and
   b) For specific activities under the project support the PIU/PMU in
      • Preparation of Bid Documents
      • Support in preparation of Evaluation reports and related transactions

12. Position: Safeguards Specialist Environment (National)

29. Education and Experience: Masters in Planning/ Environment/ Ecology with around 15 years experience in design and environment related safeguards for
donor aided projects, preferably with ADB and in oversight of their implementation/compliance. Should be conversant with relevant national and state environmental laws, and ADB procedures.

30. Support and advice the PIU/PMU and the Consultants team in
   a) Carry out baseline surveys, environmental monitoring plans and programs, initial environmental impact examinations (IEE) as may be required;
   b) Preparation of ADB procedure compliant environmental safeguard actions including impact assessments if any during the design stage;
   c) Management plan and mitigation measures;
   d) Oversight of implementation of environmental standards and safeguards as part of project implementation
   e) Participate in preparation of Master Plan for additional sites and contribute to the environmental safeguards to the plan and sub components, and
   f) Preparation of performance monitoring reports

13. **Position: Safeguards Specialist Social (National)**

31. Education and Experience: Masters in Planning/ Social Sciences with at least 15 years experience in design of resettlement plans and framework and experience in implementing resettlement plans as part of donor supported projects, preferably with the ADB. Should be conversant with laws relating to land acquisition, state procedures in implementation of resettlement packages and ADB procedures.

32. Support PIU/PMU and the design team in
   a) Lead all baseline surveys required for preparation RP’s
   b) Preparation and implementation of ADB compliant resettlement plans if any based on the approved framework,
   c) Oversee implementation of Resettlement Plans,
   d) Lead community consultation during design phase of the preparation of the master Plan for additional sites and
   e) Preparation of performance monitoring reports

14. **Position: Field Engineers (National)**

33. Education and Experience: Bachelors in Civil Engineering/ Architecture with around 5 years experience in design and supervision and estimation of civil and architectural projects.

34. Provide technical support to the specialists in managing surveys, design and estimation, and activities as assigned by the Project Manager PIU/PMC.
15. Community mobilizes and skill development trainers

35. Education and Experience: BSW/MSW/BA/MA/DSW or Certificate course in Para Professional or any graduate with 5 years experience of working in slum/other communities, Poverty Alleviation (including Livelihood), Urban Development.

36. Outcome and Deliverables:
   - To conduct financial education program.
   - Adapt the trainings to suit the needs of the group.
   - Plan the schedules for the training programs.
   - Follow up with clients.
   - Mobilize the group.
   - Maintaining reports and records.
   - Responsible for one’s area and the team.
   - Mobilize the group for training program.
   - Organizing groups
   - Maintaining a follow up with the community
   - Mobilising resources within the community
   - Locate appropriate venues within the community to hold the training program.
   - Should be able to communicate in Hindi and in local speaking language.
   - Willing to work in slum/other communities.

16. Accounts Officer

37. Education and Experience: B.Com/M.Com./ICWA/CA or Certificate course in Professional / commercial accounts with five years experience of working in the reputed concerns, having good skills in commercial accounts and auditing. Working with the consulting firms with ADB/external aided projects shall be preferred.
REPORTING REQUIREMENTS

(Page 58 to 59)
OUTCOMES AND DELIVERABLES

The consultants will produce and submit to the PIU the following reports:

- Inception reports (5 copies) - Within one month after mobilization for the program;
- Construction supervision manual (5 copies) - Within two months of mobilization for the program;
- Maintenance manual (5 copies) - Within two months of mobilization for the program;
- Interim reports (5 copies) - At the end of 18 months of the assignment, to provide a broad view of the physical and institutional progress achieved, and make recommendations to the PIU and PMU on suitable modifications for successful implementation of the Program;
- Completion report (5 copies) - Draft Completion Report within one month prior to the completion of the services, and Final Completion Report within 2 weeks upon acceptance of Draft Report;
- Monthly Progress Reports (5 copies) - Describing works and services performed and issues encountered during the reporting month and scheduled activities. Monthly Progress Reports are required to be submitted on 10th day subsequent to the reporting month;
- Quarterly Progress Reports and Annual Reports (5 copies) - Describing in detail, the implementation progress of all Program components with issues highlighted. Submissions within two weeks of the end of the reporting period.

Survey and Design

- Survey and Investigation Reports – Survey Plans, Topographic Maps and Base Maps as required for Detailed design (Draft 3 Copies & Final 5 copies);
- Draft Design Report—Detailed design, drawings, estimates and implementation plan for each subproject (3 Copies);
- Final Design Report—Detailed design, drawings, estimates and implementation plan for each subproject (5 Copies);
- Final Bid Documents based on above design, drawing and estimates (5 Copies)
APPENDIX C

PERSONNEL SCHEDULE

(Page 80 to 61)
List of Personnel and Their Duration at Project

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Name in Full</th>
<th>Position</th>
<th>Number of Months</th>
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<td>1</td>
<td>M.N.Ravindra</td>
<td>Civil Engineer/ Team Leader</td>
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<tr>
<td>2</td>
<td>M.N.Ravindra*</td>
<td>Civil Engineer Building and</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Infrastructure Bridge and Highway</td>
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</tr>
<tr>
<td>3</td>
<td>A.K. Agrawal</td>
<td>Structural Engineer</td>
<td>7</td>
</tr>
<tr>
<td>4</td>
<td>Dr. S.K.Tyagi</td>
<td>Forest Conservation Specialist</td>
<td>6</td>
</tr>
<tr>
<td>5</td>
<td>Rajendra Prasad Guring</td>
<td>Eco Tourism Planner</td>
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<tr>
<td>6</td>
<td>Anita Tikoo Matange</td>
<td>Landscape Architect</td>
<td>8</td>
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<tr>
<td>7</td>
<td>Promita Desarkar</td>
<td>Cultural Heritage Conservation Specialist</td>
<td>4</td>
</tr>
<tr>
<td>8</td>
<td>Tushar Chakravarty</td>
<td>Cultural Heritage Management Specialist</td>
<td>4</td>
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<tr>
<td>9</td>
<td>Utpal Deora</td>
<td>Institutional Development Specialist</td>
<td>5</td>
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<tr>
<td>10</td>
<td>Dr. Yaasiney Mubayi</td>
<td>Community Development Specialist</td>
<td>7</td>
</tr>
<tr>
<td>11</td>
<td>R.K. Agrawal</td>
<td>Procurement Specialist</td>
<td>8</td>
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<tr>
<td>12</td>
<td>Dr. Aman Sharma</td>
<td>Safeguard Specialist Environment</td>
<td>16</td>
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<tr>
<td>13</td>
<td>Dr. K.K.Gaur</td>
<td>Safeguard Specialist Socio</td>
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<td>14</td>
<td>Sanjay Bohidar</td>
<td>Field Engineer-1</td>
<td>30</td>
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<td>15</td>
<td>Khademul Islam</td>
<td>Field Engineer-2</td>
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<td>16</td>
<td>S.S. Kumar*</td>
<td>Community mobiliser and skill development trainer</td>
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<tr>
<td>17</td>
<td>Atul Mendiratta</td>
<td>Accounts Officer</td>
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<td><strong>Total</strong></td>
<td></td>
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Note: * Client has sought the replacement of CVs.
APPENDIX D

COST ESTIMATES IN FOREIGN CURRENCY
(NOT APPLICABLE)

(Page 62)
APPENDIX E

COST ESTIMATES IN LOCAL CURRENCY

(Page 63 to 65)
<table>
<thead>
<tr>
<th>S.No.</th>
<th>Name in Full</th>
<th>Position</th>
<th>Citizen</th>
<th>Date of Birth</th>
<th>Employment Status</th>
<th>Currency</th>
<th>Field Rate (INR)</th>
<th>Number of Months</th>
<th>Total Amount (INR)</th>
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<td>1</td>
<td>M.N. Ravindra</td>
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<td>2/5/1959</td>
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<td>M.N. Ravindra</td>
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<td>Rajendra Prasad Gurung</td>
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<td>Atul Mendiratta</td>
<td>Accounts Officer</td>
<td>Indian</td>
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<td>Office Furniture, Equipments etc.</td>
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**Total** 7189000
APPENDIX F

SUMMARY OF COST ESTIMATES

(Page 56 to 67)
### FIN-2: SUMMARY BY COSTS

**Design Supervision Consultancy (DSC) Bhimtal, Infrastructure Development Investment Program for Tourism Uttarakhand (IDIPT: UK) (Loan No. 2833 – IND)**

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<th>Competitive Components</th>
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<td>Remuneration</td>
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<td>Out-of-Pocket Expenses</td>
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<td><strong>Sub-Total</strong></td>
<td>41884000</td>
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<table>
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<th>Non-Competitive Components</th>
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<tbody>
<tr>
<td>Provisional Sums</td>
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<tr>
<td>Contingences</td>
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<td><strong>Sub-Total</strong></td>
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<td><strong>Total Costs of Financial Proposal</strong> *</td>
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*Note: * Service Tax to be paid extra.
APPENDIX G

SERVICES, FACILITIES AND EQUIPMENT TO BE PROVIDED BY THE CLIENT

(Page 68 to 69)
WORKING ARRANGEMENTS

The DSC will be attached to the PIUs and will be based at Bhimtal from where the consultants will carry out their duties. The consultants will work alongside the PIU staff and have frequent interactions with the PMU/PIUs, PMC and will assist and carry out on-the-job training as a routine part of their activities.

The Client will provide suitable counterpart staff to work in the PMU and PIUs and will make available to the consultants support facilities including all relevant and available reports, documents, maps, and photographs etc.

CONSULTANT WILL BE RESPONSIBLE FOR:

- Arranging office space, refurbishment of office space, furniture, equipment, etc: required for setting up and maintenance of its office;
- Arrange for communication facilities (telephone, fax and internet), data processing, computers, printing equipments and necessary stationeries;
- Arrange for all transportation and travelling required throughout the State and;
- Arrange for any training material, printouts, etc., required for the Services.
FORM OF ADVANCE PAYMENT GUARANTEE

(Page 70 to 72)
APPENDIX H - FORM OF ADVANCE PAYMENT GUARANTEE
BANK GUARANTEE FOR ADVANCE PAYMENT

[Bank’s Name and Address of Issuing Branch or Office]

Beneficiary: [Name and Address of Client]

Date: __________________________

ADVANCE PAYMENT GUARANTEE No.: __________

We have been informed that [name of Consulting Firm] (hereinafter called “the Consultants”) has entered into Contract No. [reference number of the contract] dated [insert date] with you, for the provision of [brief description of Services] (hereinafter called “the Contract”).

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of [amount in figures] ([amount in words]) is to be made against an advance payment guarantee.

At the request of the Consultants, we [name of Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [amount in figures] ([amount in words]) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Consultants are in breach of their obligation under the Contract because the Consultants have used the advance payment for purposes other than toward providing the Services under the Contract.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Consultants on their account number __________________________ at [name and address of Bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Consultants as indicated in copies of your certified statements to such effect which shall be presented to us by the Consultants. This guarantee shall expire, at the latest, upon our receipt of the certified payment certificate issued by you indicating that the

---

2 The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Client.
Consultants have made full repayment of the amount of the advance payment, or on the day of [month] [year] \(^3\) whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

________________________

[signature(s)]

Note: All italicized text is to assist in preparing this form and shall be deleted from the final product.

\(^3\) Insert the expected expiration date. In the event of an extension of the time for completion of the Contract, the Client would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Client might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months/one year], in response to the Client's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."
APPENDIX I

DISPUTE NOTIFICATION FORM

(Page 73 to 74)
# APPENDIX I - DISPUTE NOTIFICATION FORM

<table>
<thead>
<tr>
<th>Dispute No.</th>
<th>Dispute notified at Level One on: [insert date] at: [insert time]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description of Dispute:</td>
<td>(Attach additional sheets if needed)</td>
</tr>
<tr>
<td>Result of discussion at Level One: resolved ☐ escalated to Level Two ☐ [check the relevant box]</td>
<td></td>
</tr>
<tr>
<td>If resolved, give a brief description of resolution:</td>
<td></td>
</tr>
<tr>
<td>Sent to Level Two on: [insert date] at: [insert time]</td>
<td></td>
</tr>
<tr>
<td>Client's Authorized Representative:</td>
<td>[insert name and signature]</td>
</tr>
<tr>
<td>Consultant's Authorized Representative:</td>
<td>[insert name and signature]</td>
</tr>
<tr>
<td>Date: [insert date]</td>
<td></td>
</tr>
</tbody>
</table>

| Dispute notified at Level Two on: [insert date] at: [insert time] |
| Result of discussion at Level Two: resolved ☐ not resolved ☐ [check the relevant box] |
| If resolved, give a brief description of resolution: | |
| Client's official responsible: | [insert name and signature] |
| Consultants' official responsible: | [insert name and signature] |
| Date: [insert date] | |
APPENDIX J

Minutes of Contract Negotiations

(Page 75 to 83)
DEPARTMENT OF TOURISM, GOVERNMENT OF UTTARAKHAND

MINUTES OF DRAFT CONTRACT NEGOTIATIONS WITH

WAPCOS LTD.
IN ASSOCIATION WITH
M/S PRIMA-ACS COLLABORATIVE

06 FEBRUARY 2013

QUALITY- AND COST-BASED SELECTION (QCBS)

SUBJECT: ADB LOAN No: 2833, INDIA
Infrastructure Development Investment Program for Tourism – Uttarakhand (Project – 2)
Design Supervision Consultancy Services (DSC) at Bhimtal

PRESENT: For the Department of Tourism, Government of Uttarakhand

Mr. R.K. Joshi, Additional Program Director, PMU
Mr. V.S. Chauhan, Publicity Officer, UTDB

For the Consultant - WAPCOS Ltd. in Association with M/s PRIMA-ACS Collaborative

Mr. Sanjay Sharma, Additional Chief Engineer (Commercial)
Ms. Indica, Civil Engineer

1. Opening remarks

On behalf of Department of Tourism, Mr. R.K. Joshi, Additional Program Director, PMU, welcomed the Consultants and the Government’s representatives to the contract negotiations. He then proposed an agenda, which was accepted.

2. Submission of written authorization

On behalf of the Consultant, Mr. Sanjay Sharma, Additional Chief Engineer (Commercial), WAPCOS Ltd. in association with M/s PRIMA-ACS Collaborative expressed his thanks for being invited to contract negotiations. The Representative submitted an authorization letter to negotiate and sign a contract with Department of Tourism on behalf of WAPCOS Ltd. in association with M/s PRIMA-ACS Collaborative.
3. **Scope of work and terms of reference**

The terms of reference (TOR) were reviewed and the Consultants confirmed that TOR and scope of services are clear and agreed with the following clarifications:

(i) The Consultant was briefed upon mobilization for the Program about the preparation of detailed project report for various subprojects coming under their purview as per the Procurement Plan, Periodic Financing Request Report for IDIPT (Project-2), Uttarakhand (Project Number: 40648, December 2011).

(ii) The Client conveyed that the Consultant is expected to identify subprojects and prepare Subproject Appraisal Reports (SARs) for the subsequent tranches. Tentatively, the preparation of SARs for the subsequent Tranche will commence in the 4th quarter of 2013. However, it may defer based on the progress of the Program.

(iii) The Consultant agreed that during the preparation of SARs, and DPRs, all their key experts will be mobilized (in consultation with PMU and PMC).

(iv) The Consultant was also provided an insight on the status of the staff deployment in PMU and PIUs.

(v) The Consultant is required to set-up their office within one month from date of mobilization for the Program with necessary office hardware’s and computer softwares for smooth functioning of the office and staff.

(vi) The Consultant has agreed to abide by the provisions of the RFP document issued to them (especially Section 1-Letter of Invitation, Point No. 7), which states that "Out of four consultancy packages (one PMC and three DSCs) any consultant will not be awarded more than one consultancy assignment, however if any consultant is evaluated rank one in more than one consultancy assignment, the EA will determine the award of consultancy package to such bidder on the basis of least cost combination to the client."

4. **Work program and personnel schedule**

The work program and personnel schedule were reviewed and agreed with the following minor adjustments:

(i) The Consultant agreed to mobilize all the experts immediately required to review/preparation of the DPRs for assigned subprojects, assisting the Program in seeking the required clearances from the relevant departments and other priority activities. The priority initial mobilization of experts will at least include:

- Civil Engineer/Team Leader
- Civil Engineer- Building and Infrastructure Bridge and Highway
- Cultural Heritage Conservation Specialist
- Field Engineers – 1 (No.)
- Accounts Officer
- Office Support Staff
(ii) During the progress of the assignment, the Team Leader of DSC (Bhimtal) shall mobilise other team Experts for the Program based on the requirements and in consultation with PMC, PMU and PIU.

(iii) The Client conveyed that the Consultant is expected to mobilise all the key experts (in consultation with PMU, PMC and PIU) required to identify subprojects and for the preparation of SARs for the subsequent tranches followed by the preparation of DFRs and bidding documents.

(iv) The Consultant has prepared the work schedule and personnel schedule by dividing the contract period into two phases – Design, and Construction - for the prevailing tranche. The schedules provided in the technical proposal are also generic. The Client has conveyed that the Consultant is expected to prepare SARs, DFRs and other relevant reports/documents for the subsequent tranches as well. Hence, the work schedule and personnel schedule should reflect, in detail, the activities and expert's services for both prevailing and subsequent tranches. The Consultant has agreed to submit both the schedules by 20 Feb 2013.

(v) The Consultant has agreed to prepare a detailed work plan and personnel schedule at the inception stage, which will clearly present the subproject wise plan and schedule. This will be prepared considering the Program status upon their mobilization.

(vi) The personnel schedule covering national experts will be reviewed every 12 months and assess inputs levels based on actual field level utilization / progress. The review will include additional needs based on the project progress, site level issues, etc. The Client clarified to review the same by increasing or decreasing inputs of personnel, addition or deletion of positions. However, these changes and substitutions will remain financially neutral over the total contract amount.

(vii) The Consultant is required to arrange their own office space, furniture, equipment, etc., required for setting up and functioning of their services.

(viii) The Consultant will follow work days as per Client office pattern. However, the Consultants will be available at the service of Client for all Program related requirements as when required, especially for timely completion of construction activities and civil contract management.

As per RFP, the duration of the assignment is 54 months. It was agreed that if all contractual formalities stand completed, the consultant services will commence within two weeks from the date of issue of Letter for Notice to Proceed by the Client. It was informed that the tentative commencement of consulting services will be from the first week of March 2013 and the assignment will be completed upon the submission of Final Completion Report in 54 months.

The complete reporting schedule was agreed as follows:

(i) Inception Report (5 copies) - Within one month after mobilization for the program;

(ii) Construction Supervision Manual (5 copies) – Within two months of mobilization for the program;

(iii) Maintenance Manual (5 copies) – Within two months of mobilization for the program;
(iv) Interim Reports (5 copies) - At the end of 18 months of the assignment.
(v) Completion Report (5 copies) – Draft Completion Report within one month prior to the completion of the services, and Final Completion Report within 2 weeks upon acceptance of Draft Report.
(vi) Monthly Progress Reports (5 copies) - Submission on 10th day subsequent to the reporting month.
(vii) Quarterly Progress Reports and Annual Reports (5 copies) - Submission within two weeks of the end of the reporting period.

In addition to above submissions, the Consultant has agreed to submit the survey & design, and other related reports as mentioned in the TOR and as per the Program requirements during the progress of the assignment in the agreed format and time schedule.

5. Personnel

The Consultant confirmed the availability of all experts in the team for their respective assignments in accordance with the staffing schedule except for the positions of Civil Engineer Building and Infrastructure Bridge and Highway, and Community Mobilisers and Skill Development Trainers.

The Consultant suggested for minor changes in the man-months/inputs for some experts, and creation of the new positions; however, the Consultant has agreed man-months/inputs of the experts as per the RFP issued. The Client asserted that the Consultant’s suggestion could be discussed during the annual review of the man-months based on the Program’s progress and requirements. The Consultant is required to seek approval from the Program Director for any such requests.

In the Technical proposal, the Consultant proposed the same Expert for the position of Civil Engineer/Team Leader as well as Civil Engineer Building and Infrastructure Bridge and Highway. Hence, the Client sought the replacement CV for the position of Civil Engineer Building and Infrastructure Bridge and Highway. Also, the Consultant informed that Mr. S.S. Kumar proposed for the position of Community Mobilisers and Skill Development Trainers, left the firm on 19th Jan 2013; as a result, the Consultant is not in a position to mobilise this expert for the Program. Thus, the Client requested to propose a replacement CV for this position as well. The Consultant agreed to submit the two required CVs by 20 Feb 2013.

The Consultant submitted the following original CVs proposed in their Technical Proposal with expert’s original signatures signed in their respective CVs:

(i) Structural Engineer;
(ii) Forest Conservation Specialist;
(iii) Landscape Architect;
(iv) Cultural Heritage Conservation Specialist;
(v) Procurement Specialist;
(vi) Safeguards Specialist Environment;
(vii) Safeguards Specialist Social;
(viii) Accounts Officer

The Consultant submitted fax copy of the following CVs proposed in their Technical Proposal with expert's signatures signed in their respective CVs:

(i) Civil Engineer/Team Leader;
(ii) Eco Tourism Planner;
(iii) Cultural Heritage Management Expert;
(iv) Institutional Development Specialist;
(v) Community Development Specialist;
(vi) Field Engineers (2 Nos.)

The Client has conveyed to the Consultant to submit all the fax copy of CVs in original with original signatures of the experts by 15 Feb 2013.

6. Counterpart support

Department of Tourism confirmed to provide the following on a no-cost basis to the Consultant's team:

(i) The Client will provide suitable counterpart staff in PMU and PIU.
(ii) The Client will also make available all the relevant and available reports, documents, maps, etc., concerning the Program.

All the counterpart support, facilities and information shown above would be provided by the Government in kind and would be free of charge to the Consultant.

7. Equipment

The Consultant agreed to arrange telephone connection, internet network, computer peripherals, telephone sets, fax, scanners and necessary software licenses under the office establishment/operations. Given the long term nature of the task and owing to technology changes over time period of the assignment, the requirements may vary from time to time, hence, additional equipments/software requirements may also rise in future, which Consultant will consider. Costing for above items is adequately budgeted in the financial proposal. After completion of the services, all such equipments will be Consultant's property and free at his disposal.

Amount set aside under Provisional sums is earmarked for undertaking various technical and social surveys / investigations, workshops/seminars as required from time to time for the Program outside the Consultant office only. Primarily these surveys/investigations/workshops/seminars are meant for assisting the reporting process of the Consultant/Program. Prior approval from Client is required for expenditure under Provisional Sums.
8. **Financial terms**

The EA and the Consultant reviewed the Consultant’s financial proposal. There is no arithmetical and technical adjustments found required. Details of financial terms are reproduced in Appendix C of the Contract. Some of the financial terms discussed, clarified and agreed during negotiations are as follows:

(i) All the payments shall be made in Indian Rupees (INR);

(ii) In the financial proposal, the consulting firm has included the cost of Support Staff in FIN-3 (i.e., Remuneration) instead of FIN-5 (i.e., Breakdown of Reimbursable Expenses) as per the RFP requirements. Thus, the cost of Support Staff is removed from Total Remuneration component (i.e., FIN-3) and added in Reimbursable Expenses (i.e., FIN-5) (refer Table below), resulting no effect of adjustments on the total financial proposal. The Consultant has accepted these changes;

<table>
<thead>
<tr>
<th>Head</th>
<th>Original Values</th>
<th>Adjusted Values</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>INR</td>
<td>INR</td>
</tr>
<tr>
<td>Remuneration</td>
<td>34,660,000</td>
<td>32,770,000</td>
</tr>
<tr>
<td>Out of Pocket Expenses</td>
<td>7,189,000</td>
<td>9,109,000</td>
</tr>
</tbody>
</table>

(iii) Payment of remuneration shall be made against the proof of attendance/time sheet.

(iv) The Consultant agreed that the Client would pay only Service Tax to the Consultant as applicable. The Consultant shall submit audited statement to this effect for reconciliation on quarterly basis. The Client shall not pay or reimburse any other Taxes to the Consultant.

(v) Use of contingency funds and provisional sums shall be done only with the prior written permission of the Client, against requisition submitted by Consultant.

(vi) All reimbursable expenses will be on fixed rate basis as provided in Appendix E and no supporting documents are required (except for mobilization and demobilization travel expense proofs like tickets, boarding pass, way bill etc.).

(vii) The Client clarified that escalation of remuneration is the part of remuneration; therefore, it will be paid under item of remuneration and will meet out of contingency as included in the RFP. The index for reference is agreed as “Consumer Price Index (CPI) – Urban” issued by Central Statistics Office (CSO), Ministry of Statistics and Programme Implementation (MOSPI), Government of India (GOI). Thus, the formula for escalation for national experts is modified as under:

\[
R_1 = R_0 \times \left[ 0.1 + 0.9 \times \frac{I}{k} \right]
\]

where \( R_1 \) is the adjusted remuneration,

\( R_0 \) is the remuneration payable on the basis of the rate set forth in Appendix
is the All India General CPI Urban issued by Ministry of Statistics and Programme Implementation (MOSPI) for the first month for which the adjustment is to have effect.

is the All India General CPI Urban issued by Ministry of Statistics and Programme Implementation (MOSPI) for the month of the date of the contract.

(viii) The Client shall pay an advance amount of 10% of the Contract Value minus Provisional Sums and Contingencies within 60 days after the Effective Date to the Consultant against the equivalent amount of Bank Guarantee valid for 15 months from the date of issue. The advance payment will be set off by the Client in equal instalments against the statements for the first 12 months commencing from third month of the Services until the advance payment has been fully set off.

(ix) National Experts will be paid necessary travel cost during mobilization and demobilization from home office to project office as per agreed staffing schedule under the head of reimbursable expense. These Experts will be eligible for travel by low cost air flights by most direct practicable route and support staff will be eligible by land transport (maximum by 2 tier AC). Travel cost shall be paid based on actual against proof of journey like purchase receipt, original boarding pass, purchased tickets, etc.

(x) Consultant agreed that the support staff and experts shall be reasonably paid and shall be provided all means of working equipment, and furniture items, softwares, transportation, communication, office stationery, etc.

(xi) If, at later date, any Bhimtal based Expert is accepted, then per diem allowance shall not be claimed. However, such Experts shall be paid per diem for outstation travel with the quoted rates.

(xii) Use of Provisional Sums: It is mutually agreed to utilize amount set aside under provisional sums for activities that are directly beneficial and essential for delivery of output (such as technical and social surveys, investigations/tests, workshops/meetings, etc.) as required for the Program. Also, the Client conveyed that a prior request justifying the requirement, maximum/estimated amount is required for providing approval by the Client.

In accordance with Section 7.02 of the General Conditions of the Contract, the Consultant will permit the duly authorized representatives of the EA and if so required, ADB, including auditors selected by the EA and ADB, to audit the Consultant’s accounts and records relating to the payments made under this Contract. Where an audit identifies that the Consultant, during negotiations or implementation of the project, has misused the EA and/or ADB or contravened the principles stated in ADB's Guidelines on the Use of Consultants (Guidelines), the EA and/or ADB may sanction the Consultant from participating in any future consulting services assignments financed by ADB.

9. Anti-corruption

In accordance with the prevailing Government regulations and the established policy in ADB's Anti-corruption Policy and ADB's Guidelines, the Government, the Consultant and ADB must observe the highest standards of ethics during the execution of this project. No fees,
gratuities, rebates, gifts, commissions or payments other than those shown in the contract are to be given or received in connection with the contract execution.

10. **Consultant’s contract**

    The draft contract will be prepared by the Program Director, PMU, IDIPT-Uttarakhand, on behalf of Department of Tourism, Government of Uttarakhand (EA) and will be sent to the Consultant for its review and comment. After receiving Consultant’s acceptance to draft contract, it will be forwarded to ADB for approval. The EA and the Consultant will execute the contract upon receiving approval from the Government authorities concerned and ADB.

11. **Performance evaluation**

    The method that the Department of Tourism, Government of Uttarakhand would use for evaluating the performance of the Consultant was explained and the Consultant agreed to undergo this evaluation.

12. **Contract administration**

    Detailed procedures for processing payments and contract administration are specified in the contract.

    Signed this ___ day of (month) 2013.

    FOR THE
    CONSULTANT

    FOR THE
    [EXECUTING AGENCY]

    Consultant’s Representative

    Chief Negotiator

    THE OBSERVER [if any]

    [Name of Observer]
APPENDIX K

General Annexures
(Page 84)
POWER OF ATTORNEY

By this Power of Attorney, M/s. WAPCONS Limited – A Government of India Undertaking (hereinafter called WAPCONS) a company registered under the Indian Companies Act, 1956 and having its Registered office at “Kailash” 26, Kasturba.
Gandhi Marg, New Delhi hereby appoints its Dy. Chief (Business Development), Mr. M.A. Khan as its attorney in the name and on behalf of WAPCOS for signing the contract for "Design Supervision Consultancy (DSC) Bhimtal, Infrastructure Development Investment Program for Tourism Uttarakhand (IDIPT:UK) (Loan No. 2833 - IND) (ADB Funded)".

In witness whereof Sr. General Manager (Corporate)-cum-Company Secretary, WAPCOS has executed these presents this 12th day of March, 2013.

Signature of witnesses

1. 

[Signature]

WAPCOS Ltd

2. 

[Signature]

[Title]

WAPCOS

[Stamp]

WAPCOS LTD

[Stamp]
17th August 2012

Program Director,
Infrastructure Development Investment Program Utrahhand (IDIFT:UK)
Uttarakhand Tourism Development Board (UTDB),
Fandik Deendyal Upadhaya Paryatan Bhawan,
Near ONGC Helpad, Garhi Cantt, Dehradun.

Letter of Association ADB LOAN No. 2033—IND, Infrastructure Development Investment Program for Tourism. DESIGN AND SUPERVISION CONSULTANT BHIMTAL

Dear Sir/Madam,

We, PRIMA- ACS Collaborative, India confirm our Association (EXCLUSIVE) with WAPCOS Ltd., exclusively for the above titled project activity.

We also confirm that WAPCOS Ltd. shall be the LEAD Consultant for this project activity.

PRIMA- ACS Collaborative will provide the following experts/key professional staffs for the proposed ISC team:
1. Landscape Architect
2. Institutional Development Specialist
3. Cultural Heritage Conservation Specialist
4. Cultural Heritage Management Specialist
5. Eco-Tourism Planner
6. Community Development Specialist

Yours Sincerely,

Tushar Chakravarty
Director
PRIMA- ACS Collaborative,
NOIDA