

STANDARD REQUEST FOR EXPRESSION OF INTEREST

Procurement of Individual Consultants



Royal Government of Bhutan
Ministry of Finance

2019

STANDARD REQUEST FOR EXPRESSION OF INTEREST

Procurement of Individual Consultants



Royal Government of Bhutan
Ministry of Finance

2019

PREFACE

This Standard Request for Expression of Interest (SREoI) is based on the 2009 Procurement Rules and Regulations of the Royal Government of Bhutan. The SREoI must be used in the Procurement of Individual Consultants. This document will come into effect from 1st July, 2019.

To obtain further information on procurement you may contact:

Government Procurement and Property Management Division
Department of National Properties
Ministry of Finance
Royal Government of Bhutan

TABLE OF CONTENTS

Request For Expression of Interest	1
Invitation For Expression of Interest	2
Section 1: Instructions to Consultant	3
Section 2: Standard Forms	7
Section 3: Terms of Reference	17
Section 4: Standard Forms of Contract	18
Annex I: Lump-Sum Contract	19
Annex II: Time-Based Contract	24

REQUEST FOR EXPRESSION OF INTEREST

REol # [insert: REol number]

Project Name [insert project name]

Procuring Agency [insert name]

Title of Consulting Services [insert title]

INVITATION FOR EXPRESSION OF INTEREST

[Insert Invitation Ref No & Date]

[Insert name and address of Consultant if EoI is not being published. Otherwise delete this.]

The *[insert name of Procuring Agency]* invites expression of interest to provide the following consulting services: *[insert name and brief summary of the consulting services assignment, including the period for its execution]*. More details on the services are provided in the Terms of Reference.

This Request for Expression of Interest (REoI) has been addressed to the following Consultants:

[Insert List of Consultants where applicable and delete if the REoI is advertised]

An Individual Consultant will be selected as per the procedures described in this REoI, in accordance with Procurement Rules and Regulations in force of the Royal Government of Bhutan

The EoIs are to be submitted at the latest by *[insert the date and time of submission]*.

The procedural requirements for responding to this invitation are provided in the complete REoI document, which includes the following:

Section 1: Instructions to Consultants

Section 2: Standard Forms

Section 3: Terms of Reference

Section 4: Standard Form of Contract [select Lump sum Contract or Time Based Contract]

Address for response/ Address of Procuring Agency:

[Insert address]

Yours sincerely,

[Insert signature, name, and title of Procuring Agency's representative]

SECTION 1: INSTRUCTIONS TO CONSULTANT

- | | |
|--|--|
| 1. Scope of assignment | 1.1 The Employer has received a budget from_____ (Insert <i>Source of Fund</i>) and intends to select an Individual Consultant for the specific assignment as specified in the Terms of Reference in Section 4. |
| 2. Qualifications of the Consultant | 2.1 Prospective Individuals shall demonstrate in their Eol that they meet the required qualifications and experiences and are fully capable of carrying out the assignment. |
| 3. Conflict of Interest | 3.1 The Consultant shall hold the Procuring Agency's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or its own corporate interests. For this purpose, the provisions of the Procurement Rules and Regulations on Conflict of Interest shall apply. |
| 4. Unfair Advantage | 4.1 If a Consultant could derive a competitive advantage from having provided Consulting Services related to the assignment in question, the Procuring Agency shall make available to all Consultants together with this REol all information that would in that respect give such Consultant any competitive advantage over competing Consultants. |
| 5. Fraud and Corruption | 5.1 It is RGoB policy to require that Consultants, observe the highest standards of ethics during the procurement and execution of contracts. ¹ In addition, as a condition of admission to eligibility, the Consultant shall execute and attach to their Proposals an Integrity Pact Statement in the form provided in Form 4 of Section 3 . |
| 6. Preparation of Eol | 6.1 Eol shall be typed or written in indelible ink in English language and shall be signed by the Consultant. Consultants are required to complete the following Forms:
(a) Form 1: Submission of Expression of Interest;
(b) Form 2: CV of the Consultant; and
(c) Form 3: Integrity Pact |
| 7. Submission of Eol | 7.1 The prospective Consultant can deliver their Eol by hand, mail, courier service to the address mentioned in the REol.

7.2 Eol shall be properly sealed in envelopes addressed to the Procuring Agency as mentioned in the REol advertisement and bear the name & address of the Consultant as well as the name of the assignment.

7.3 The closing date for submission of Eol is <i>[insert date]</i> up to <i>[insert time]</i> Eol must be submitted within this deadline. Any Eol received after the deadline for submission of Eol shall be declared late, and returned unopened to the Consultant. |

¹ In this context, any action taken by a Consultant to influence the procurement process or contract execution for undue advantage is improper.

- 7.4 EoI may be modified or substituted before the deadline for submission.
- 7.5 The Procuring Agency may at its sole discretion, extend the deadline for submission of EoI.
- 7.6 At any time prior to the deadline for submission of EoI the Procuring Agency for any reason or on its own initiative may revise the REoI Document by issuing an Addendum which shall form an integral part of the Document.

8. Evaluation of EoI

- 8.1 Suitability of the Consultants shall be evaluated on the basis of criteria specified in the sub clause 8.2

- 8.2 The points to be given under each of the evaluation Criteria are:

[Procuring Agency may apply the following criteria as appropriate and allocate points accordingly. The points may be further broken down for each criteria/sub criteria]

Criteria	Points
• Educational Qualification	<i>[20 - 50 points]</i>
• Relevant Working Experience and its adequacy for the assignment	<i>[20 – 30 points]</i>
• Suitability of skill (such as training, computer skills, proficiency in English and Dzongkha languages and others).	<i>[10 - 20 points]</i>
Total points:	100 points

- 8.3 Immediately after the closing date and time for submission the Procuring Agency shall open all EoI documents, including any substitutions accompanied by a properly authorized substitution notice.
- 8.4 Following the opening of the EoI, and until the Contract is signed, no Consultant shall make any unsolicited communication to the Procuring Agency. Such an attempt to influence the Procuring Agency in its decisions on the examination, evaluation, and comparison of either the EoI or Contract award may result in the rejection of the EoI.
- 8.5 After the evaluation, the highest-ranked Consultant shall be asked to submit a financial proposal, which shall be subject to negotiation. The financial proposal shall be submitted as per the Form 3 provided in Section 3.

9. Negotiations

- 9.1 The first-ranked Consultant shall then be invited for negotiations. If negotiations fail, the Procuring Agency shall inform the Consultant in writing of the reasons for termination of the negotiations and then shall invite the Consultant who's EoI was ranked second to negotiate a Contract. Once negotiations commence with the second ranked Consultant the Procuring Agency shall not reopen the earlier negotiations.
- 9.2 During negotiations, the Procuring Agency and the Consultant shall finalize the "Terms of Reference", work schedule, logistics and reporting schedule etc. These documents shall then be incorporated into the Contract as Description of Services"
- 9.3 The Financial negotiations will involve the remuneration and other reimbursable cost to be paid to the Consultant.
- 9.4 Negotiations will conclude with a review of the draft Contract. To complete negotiations, the Procuring Agency and the Consultant will finalize the agreed Contract.

10. Award of Contract

- 10.1 The Procuring Agency shall award the Contract to the selected Consultant, and:
 - (a) as soon as possible notify unsuccessful Consultants, and
 - (b) publish a notification of award on the Employer's website.
- 10.2 The notifications to all unsuccessful Consultants, and the notification on the Employer's website, shall include the following information:
 - (a) the assignment reference number;
 - (b) the name of the winning Consultant and total price it offered; and
 - (c) the date of the award decision.
- 10.3 Following the decision to award the Contract to the selected Consultant, the parties shall enter into a written Contract binding on both parties. The Contract shall be compatible with the Applicable Laws of Bhutan. The Contract shall be signed by the duly authorized representatives of the parties and shall bear the date of signature.
- 10.4 Where both the parties do not sign the Contract simultaneously,
 - (a) The Procuring Agency shall send to the selected Consultant two original copies of (1) the full agreed Contract and (2) the letter of acceptance (notification of award), each signed by its duly authorized representative together with the date of signature;
 - (b) The letter of acceptance shall indicate the deadline by which it must be accepted, which shall not be more than 15 days from the date of its receipt by the Consultant;

- (c) The Consultant, if he agrees to conclude the Contract, shall sign and date all original copies of the Contract and the letter of acceptance and return one copy of each to the Procuring Agency before the expiry of the deadline indicated in the letter of acceptance;
- (d) In case the selected Consultant fails to sign the Contract agreement within the deadline specified in the letter of acceptance the Procuring Agency may negotiate with the second ranked Consultant.

10.5 The Consultant is expected to commence the assignment on____
[Insert date] at _____[Insert place] .The duration of
the contract shall be _____[Insert Months] from the date of
commencement.

SECTION 2: STANDARD FORMS

[Comments in brackets [] provide guidance to the Consultants for the preparation of their Expression of Interest Document; they should not appear on the EoI to be submitted.]

FORM-1 Expression of Interest Submission Form

FORM-2 Consultant's Curriculum Vitae

FORM-3 Remuneration and Reimbursable

FORM-4 Integrity Pact

Form 1A: Expression of Interest Submission Form

Date:

To:

[Address of Procuring Agency]

Dear Sir/Madam:

I, hereby submit my Eol to provide the consulting Services for [Insert title of assignment] in strict accordance with your Request for Eol dated [dd/mm/yy].

I declare that I was not associated, nor have been associated in the past, directly or indirectly, with a Consultant or any other entity that has prepared the design, specifications and others documents in accordance with Clause 3.

I have not been declared ineligible by the Royal Government of Bhutan on charges of engaging in corrupt, fraudulent, collusive or coercive practices in accordance with Clause 5.

If selected, I undertake to commence the consulting Services for the assignment not later than the date indicated in Clause 10.5.

I understand that the Procuring Agency reserves the right to accept or reject any Eol at any time prior to contract award.

Yours Sincerely,

Signature

Name:

Address:

Tel:

Attachment: *[List attachments]*

Form 1B- Consultant's Information Sheet

A. Consulting Services Data

Name of the consulting services	
Assignment (Brief Description)	

B. Consultant Data

* Name	
* Country of Nationality	
* Address of consultant	
* E-mail and contact No. of consultant	

C. Assignment Specific Qualifications and Experience

* Assignment Specific Experience (Provide information demonstrating your ability, skills and experience to undertake advertised assignment and deliver inputs/ outputs required under the TOR-add additional sheet if required)
* Please provide summary of your qualifications and attach your Curriculum Vitae (CV)***

D. Eligibility Declaration

I, the undersigned, certify to the best of my knowledge and belief

- » The CV I attached correctly describes my qualifications and my experience
- » I am not part of the team who wrote the terms of reference for this consulting services assignment.
- » I have not been convicted of an offense or crime related to theft, corruption or fraud.
- » I understand that it is my obligation to notify Procuring Agency should I become ineligible to work with.
- » I understand that it is my obligation to notify Procuring Agency, or should I be convicted of an offense related to theft, corruption or fraud.

» Completed by (Name)	
Date (dd/mm/yyyy)	

Form 2- Curriculum Vitae (CV) of the Consultant

1. Name [*Insert full name*]: _____
2. Date of Birth: _____ Nationality: _____
3. Education [*Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment*]: _____

4. Membership of Professional Associations: _____

5. Other Training [*Indicate professional training relevant to the project* \]: _____
6. Countries of Work: [*List countries where staff has worked in the last ten years*]: _____

7. Languages [*For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing*]: _____

8. Employment Record [*Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.*]:
From [Year]: _____ To [Year]: _____
Employer: _____
Positions held: _____

9. Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned
[*Among the assignments in which the staff has been involved, indicate the following information for those assignments that best illustrate staff capability to handle the tasks listed under point 11.*]

Name of assignment or project: _____

Year: _____

Location: _____

Procuring Agency or Procuring Agency: _____

Main project features: _____

Positions held: _____

Activities performed: _____

Note: Attach the work experience certificate

10. Declaration :

I, the undersigned, declare that to the best of my knowledge and belief, this CV correctly describes me, my qualifications and my experience. I understand that any willful misstatement herein may lead to my disqualification or dismissal, if engaged.

[Name & Signature of the consultant]

Date: _____

Day/Month/Year

Form 3- Remuneration and Reimbursable

The highest ranked Consultant shall be asked to submit this form after the evaluation of the EoI. After negotiations, Remuneration & Reimbursable will be part of the total cost as per agreed deliverables in the contract.

(1) Remuneration

Rate (per month/ per day)	Time spent (person-months)	Total
		Sub-Total (1)

(2) Reimbursable

Item	Unit	Qty	Rate	Total
(a) Per Diem				
(b) Travel cost				
(c) Visas, resident permits, airport taxes and incidental travel costs (at cost)				
				Sub-Total (2)

Total Cost: Sub-Total (1) + Sub-Total (2)

Consultants' Representations Regarding Costs and Charges

I, hereby confirm that the basic salary indicated in the contract are taken from my payroll records and reflect the current salary rate **exempt taxes** and which have not been raised other than within the normal annual salary increase anticipated due to inflation, etc. If required I can provide the relevant copies of the latest contract papers upon which the rates are based.

(Name, Signature and date)

Form 4- Integrity Pact

INTEGRITY PACT

1. General:

Whereas (*Name of head of the procuring agency or his/her authorized representative, with power of attorney*) representing the (*Name of procuring agency*), Royal Government of Bhutan, hereinafter referred to as the “**Employer**” on one part, and (*Name of bidder or his/her authorized representative, with power of attorney*) representing M/s. (*Name of firm*), hereinafter referred to as the “**Bidder**” on the other part hereby execute this agreement as follows:

This agreement shall be a part of the standard bidding document which shall be signed by the bidder during the bid submission and employer shall sign during the bid opening time. on both the parties from This IP is applicable only to “**large**” scale works, goods and services, the threshold of which will be announced by the government from time to time. The signing of the IP shall not apply to framework contracting such as annual office supplies etc.

2. Objectives:

Whereas, the Employer and the Bidder agree to enter into this agreement, hereinafter referred to as IP, to avoid all forms of corruption or deceptive practice by following a system that is fair, transparent and free from any influence/unprejudiced dealings in the **bidding process**² and **contract administration**³, with a view to:

- 2.1 Enabling the Employer to obtain the desired contract at a reasonable and competitive price in conformity to the defined specifications of the works or goods or services; and
- 2.2 Enabling bidders to abstain from bribing or any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also refrain from bribing and other corrupt practices.

3. Scope:

The validity of this IP shall cover the bidding process and contract administration period.

4. Commitments of the Employer:

The Employer Commits itself to the following:-

- 4.1 The Employer hereby undertakes that no officials of the Employer, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favor or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process and contract administration.
- 4.2 The Employer further confirms that its officials shall not favor any prospective bidder in any form that could afford an undue advantage to that particular bidder in the bidding process and contract administration and will treat all Bidders alike.

2 Bidding process, for the purpose of this IP, shall mean the procedures covering tendering process starting from bid preparation, bid submission, bid processing, and bid evaluation.

3 Contract administration, for the purpose of this IP, shall mean contract award, contract implementation, un-authorized sub-contracting and contract handing/taking over.

- 4.3 Officials of the Employer, who may have observed or noticed or have reasonable suspicion shall report to the head of the employing agency or an appropriate government office any violation or attempted violation of clauses 4.1 and 4.2.
- 4.4 Following report on violation of clauses 4.1 and 4.2 by official (s), through any source, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings shall be initiated by the Employer and such a person shall be debarred from further dealings related to the bidding process and contract administration.

5. Commitments of Bidders

The Bidder commits himself/herself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of the bidding process and contract administration in order to secure the contract or in furtherance to secure it and in particular commits himself/herself to the following :-

- 5.1 The Bidder shall not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favor, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Employer, connected directly or indirectly with the bidding process and contract administration, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding process and contract administration.
- 5.2 The Bidder shall not collude with other parties interested in the contract to manipulate in whatsoever form or manner, the bidding process and contract administration.
- 5.3 If the bidder(s) have observed or noticed or have reasonable suspicion that the provisions of the IP have been violated by the procuring agency or other bidders, the bidder shall report such violations to the head of the procuring agency.

6. Sanctions for Violation:

The breach of any of the aforesaid provisions shall result in administrative charges or penal actions as per the relevant rules and laws.

- 6.1 The breach of the IP or commission of any offence (forgery, providing false information, misrepresentation, providing false/fake documents, bid rigging, bid steering or coercion) by the Bidder, or any one employed by him, or acting on his/her behalf (whether with or without the knowledge of the Bidder), shall be dealt with as per the terms and conditions of the contract and other provisions of the relevant laws, including De-barment Rules.
- 6.2 The breach of the IP or commission of any offence by the officials of the procuring agency shall be dealt with as per the rules and laws of the land in vogue.

7. Monitoring and Administration:

- 7.1 The respective procuring agency shall be responsible for administration and monitoring of the IP as per the relevant laws.
- 7.2 The bidder shall have the right to appeal as per the arbitration mechanism contained in the relevant rules.

We, hereby declare that we have read and understood the clauses of this agreement and shall abide by it.

The parties hereby sign this Integrity Pact at (*place*) _____ on (*date*) _____



EMPLOYER

CID :

Witness: _____

Name:

CID :



BIDDER/REPRESENTATIVE

Witness: _____

Name:

SECTION 3: TERMS OF REFERENCE

Terms of Reference normally contain the following sections:

1. Background;
2. Objective;
3. Overall task;
4. Specific Task and proposed Methodology;
5. Deliverables;
6. Reporting Requirements;
7. Qualifications and Criteria;
8. Length and Time Frame of the assignment;
9. Other Resources/ counterpart Facilities;
10. Any other Information(s).

SECTION 4: STANDARD FORMS OF CONTRACT

[Text in brackets provides guidance to the Procuring Agency for the preparation of the REol; it should not appear on the final REol to be delivered to the Consultants]

Two standard forms of contract are provided:

Annex I: Lump-Sum Contract

Annex II: Time-Based Contract

The attached Form of Contract shall be used.

ANNEX I: LUMP-SUM CONTRACT

SAMPLE CONTRACT FOR INDIVIDUAL CONSULTANTS

LUMP-SUM CONTRACT

CONTRACT

THIS CONTRACT ("Contract") is entered into this *[insert starting date of assignment]*, by and between *[insert Procuring Agency's name]* ("the Procuring Agency") having its principal place of business at *[insert Procuring Agency's address]*, and *[insert Consultant's name]* ("the Consultant") having its principal office located at *[insert Consultant's address]*.

WHEREAS the Procuring Agency wishes to have the Consultant perform the services hereinafter referred to, and

WHEREAS the Consultant is willing to perform these services,

NOW THEREFORE THE PARTIES hereby agree as follows:

1. Services

- A. The Consultant shall perform the services specified in Annex A, "Terms of Reference and Scope of Services," which is made an integral part of this Contract ("the Services").
- B. The Consultant shall submit to the Procuring Agency the reports in the form and within the time periods specified in the Terms of Reference.

2. Term

The Consultant shall perform the Services during the period commencing *[insert starting date]* and continuing through *[insert completion date]*, or any other period as may be subsequently agreed by the parties in writing.

3. Payment

A. Ceiling

For Services rendered pursuant to Annex A, the Procuring Agency shall pay the Consultant an amount not to exceed *[insert amount]*. This amount has been established based on the understanding that it includes all of the Consultant's costs and profits as well as any tax obligation that may be imposed on the Consultant.

B. Schedule of Payments

The schedule of payments is specified below:⁴

[insert amount and currency] upon the Procuring Agency's receipt of a copy of this Contract signed by the Consultant;

[insert amount and currency] upon the Procuring Agency's receipt of the draft report, acceptable to the Procuring Agency; and

[insert amount and currency] upon the Procuring Agency's receipt of the final report, acceptable to the Procuring Agency.

[insert amount and currency] Total

⁴ Modify, in order to reflect the output required, as described in Annex C.

C. Payment Conditions

Payment shall be made in *[specify currency]*, no later than 30 days following submission by the Consultant of invoices in duplicate to the Coordinator designated in paragraph 4.

4. Project Administration

A. Coordinator.

The Procuring Agency designates Mr./Ms. *[insert name]* as the Procuring Agency's Coordinator; the Coordinator will be responsible for the coordination of activities under this Contract, for acceptance and approval of the reports and of other deliverables by the Procuring Agency and for receiving and approving invoices for the payment.

B. Reports.

The reports listed in the Terms of Reference shall be submitted in the course of the assignment, and will constitute the basis for the payments to be made under paragraph 3.

5. Performance Standards

The Consultant undertakes to perform the Services with the highest standards of professional and ethical competence and integrity. The Consultant shall promptly replace any employees assigned under this Contract that the Procuring Agency considers unsatisfactory.

6. Confidentiality

The Consultant shall not, during the term of this Contract and within two years after its expiration, disclose any proprietary or confidential information relating to the Services, this Contract or the Procuring Agency's business or operations without the prior written consent of the Procuring Agency.

7. Ownership of Material

Any studies, reports or other material, graphic, software or otherwise, prepared by the Consultant for the Procuring Agency under the Contract shall belong to and remain the property of the Procuring Agency. The Consultant may retain a copy of such documents and software.⁵

8. Consultant Not to be Engaged in Certain Activities

The Consultant agrees that, during the term of this Contract and after its termination, the Consultant shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.

9. Insurance

The Consultant will be responsible for taking out any appropriate insurance coverage.

10. Assignment

The Consultant shall not assign this Contract or sub-contract any portion of it without the Procuring Agency's prior written consent.

11. Law Governing Contract and Language

The Contract shall be governed by the laws of Bhutan, and the language of the Contract shall be English.

⁵ Restrictions about the future use of these documents and software, if any, shall be specified at the end of paragraph 7.

12. Dispute Resolution⁶

Any dispute arising out of the Contract, which cannot be amicably settled between the parties, shall be referred to adjudication/arbitration in accordance with the laws of Bhutan.

13. Termination

13.1. By the Procuring Agency

The Procuring Agency may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause GC 13.1. In such an occurrence the Procuring Agency shall give not less than thirty (30) days written notice of termination to the Consultant, or sixty (60) days in the case of the event referred to in paragraph (e) of this Clause GC 13.1.

- (a) If the Consultant does not remedy a failure in the performance of its obligations under the Contract within thirty (30) days after being notified or within any further period as the Procuring Agency may have subsequently approved in writing.
- (b) If the Consultant becomes insolvent or bankrupt.
- (c) If the Consultant, in the judgment of the Procuring Agency has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
- (d) 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.
- (a) If the Procuring Agency, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.
- (e) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 12 hereof.

13.2. By the Consultant

The Consultant may terminate this Contract, by not less than thirty (30) days written notice to the Procuring Agency, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (c) of this Clause GC 13.2:

- (a) If the Procuring Agency 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 Procuring Agency fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 12 hereof.

⁶ In the case of a Contract entered into with a foreign Consultant, the following provision may be substituted for paragraph 12: "Any dispute, controversy or claim arising out of or relating to this Contract or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force."

13.3. Payment upon Termination

Upon termination of this Contract pursuant to Clauses GC 13.1 or GC 13.2, the Procuring Agency shall make the following payments to the Consultant:

- (a) payment pursuant to Clause GC 3 for Services satisfactorily performed prior to the effective date of termination;
- (b) except in the case of termination pursuant to paragraphs (a) through (c) and (f) of Clause GC 13.1, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel.

FOR THE PROCURING AGENCY

FOR THE CONSULTANT

Signed by _____

Signed by _____

Designation: _____

Designation: _____

Witness:

Witness:

Name:

Name:

Designation:

Designation:

ANNEX II: TIME-BASED CONTRACT

SAMPLE CONTRACT FOR INDIVIDUAL CONSULTANT

TIME-BASED CONTRACT

THIS CONTRACT ("Contract") is entered into this *[insert starting date of assignment]*, by and between *[insert Procuring Agency's name]* ("the Procuring Agency") having its principal place of business at *[insert Procuring Agency's address]*, and *[insert Consultant's name]* ("the Consultant") having its principal office located at *[insert Consultant's address]*.

WHEREAS the Procuring Agency wishes to have the Consultant performing the services hereinafter referred to, and

WHEREAS the Consultant is willing to perform these services,

NOW THEREFORE THE PARTIES hereby agree as follows:

1. Services

- A. The Consultant shall perform the services specified in Annex A, "Terms of Reference and Scope of Services," which is made an integral part of this Contract ("the Services").
- B. The Consultant shall provide the reports listed in Annex B, "Consultant's Reporting Obligations," within the time periods listed in such Annex, and the personnel listed in Annex C, "Cost Estimate of Services, List of Personnel and Schedule of Rates" to perform the Services.

2. Term

The Consultant shall perform the Services during the period commencing *[insert start date]* and continuing through *[insert completion date]* or any other period as may be subsequently agreed by the parties in writing.

3. Payment

A. Ceiling

For Services rendered pursuant to Annex A, the Procuring Agency shall pay the Consultant an amount not to exceed a ceiling of *[insert ceiling amount]*. This amount has been established based on the understanding that it includes all of the Consultant's costs and profits as well as any tax obligation that may be imposed on the Consultant. The payments made under the Contract consist of the Consultant's remuneration as defined in sub-paragraph B below and of the reimbursable expenditures defined in sub-paragraph C below.

B. Remuneration

The Procuring Agency shall pay the Consultant for Services rendered at the rate(s) per man/month spent (or per day spent or per hour spent, subject to a maximum of eight hours per day)⁵ in accordance with the rates agreed and specified in Annex C, "Cost Estimate of Services, List of Personnel and Schedule of Rates."

⁷ Select the applicable rate and delete the others.

C. Reimbursable

The Procuring Agency shall pay the Consultant for reimbursable expenses, which shall consist of and be limited to:

- (i) normal and customary expenditures for official travel, accommodation, printing and telephone charges; official travel will be reimbursed at the cost of less than first class travel and will need to be authorized by the Procuring Agency's coordinator;
- (ii) such other expenses as approved in advance by the Procuring Agency's coordinator.⁸

D. Payment Conditions

Payment shall be made in *[specify currency]* not later than 30 days following submission of invoices in duplicate to the Coordinator designated in paragraph 4.

4. Project Administration

A. Coordinator

The Procuring Agency designates Mr./Ms. *[insert name]* as the Procuring Agency's Coordinator; the Coordinator shall be responsible for the coordination of activities under the Contract, for receiving and approving invoices for payment, and for acceptance of the deliverables by the Procuring Agency.

B. Timesheets

During the course of their work under this Contract, including field work, the Consultant's employees providing services under this Contract may be required to complete timesheets or any other document used to identify time spent, as well as expenses incurred, as instructed by the Project Coordinator.

C. Records and Accounts

The Consultant shall keep accurate and systematic records and accounts in respect of the Services, which shall clearly identify all charges and expenses. The Procuring Agency reserves the right to audit, or to nominate a reputable accounting firm to audit, the Consultant's records relating to amounts claimed under this Contract during its term and any extension, and for a period of three months thereafter.

5. Performance Standard

The Consultant undertakes to perform the Services with the highest standards of professional and ethical competence and integrity. The Consultant shall promptly replace any employees assigned under this Contract that the Procuring Agency considers unsatisfactory.

⁸ Specific expenses can be added as an item (iii) in paragraph 3.C if so desired.

- 6. Confidentiality** The Consultant shall not, during the term of this Contract and within two years after its expiration, disclose any proprietary or confidential information relating to the Services, this Contract or the Procuring Agency's business or operations without the prior written consent of the Procuring Agency.
- 7. Ownership of Material** Any studies, reports or other material, graphic, software or otherwise, prepared by the Consultant for the Procuring Agency under the Contract shall belong to and remain the property of the Procuring Agency. The Consultant may retain a copy of such documents and software.⁸
- 8. Consultant Not to be Engaged in Certain Activities** The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, shall be disqualified from providing goods, works or services (other than the Services or any continuation thereof) for any project resulting from or closely related to the Services.
- 9. Insurance** The Consultant will be responsible for taking out any appropriate insurance coverage.
- 10. Assignment** The Consultant shall not assign this Contract or Subcontract any portion of it without the Procuring Agency's prior written consent.
- 11. Law Governing Contract and Language** The Contract shall be governed by the laws of Bhutan and the language of the Contract shall be English.
- 12. Dispute Resolution⁹** Any dispute arising out of this Contract, which cannot be amicably settled between the parties, shall be referred to adjudication/arbitration in accordance with the laws of Bhutan.
- 13. Termination**
- 13.1. By the Procuring Agency** The Procuring Agency may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause GC 13.1. In such an occurrence the Procuring Agency shall give not less than thirty (30) days written notice of termination to the Consultant, or sixty (60) days in the case of the event referred to in paragraph (e) of this Clause GC 13.1.
- (a) If the Consultant does not remedy a failure in the performance of its obligations under the Contract within thirty (30) days after being notified or within any further period as the Procuring Agency may have subsequently approved in writing.
 - (b) If the Consultant becomes insolvent or bankrupt.
 - (c) If the Consultant, in the judgment of the Procuring Agency has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

⁹ Restrictions about the future use of these documents and software, if any, shall be specified at the end of Article 7.

¹⁰ In the case of a Contract entered into with a foreign Consultant, the following provision may be substituted for paragraph 12: "Any dispute, controversy or claim arising out of or relating to this Contract or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force."

- (d) 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.
- (e) If the Procuring Agency, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.
- (f) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 12 hereof.

13.2. By the Consultant

The Consultant may terminate this Contract, by not less than thirty (30) days written notice to the Procuring Agency, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (c) of this Clause GC 13.2:

- (a) If the Procuring Agency 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 Procuring Agency fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 12 hereof.

13.3. Payment upon Termination

Upon termination of this Contract pursuant to Clauses GC 13.1 or GC 13.2, the Procuring Agency shall make the following payments to the Consultant:

- (a) payment pursuant to Clause GC 3 for Services satisfactorily performed prior to the effective date of termination;
- (b) except in the case of termination pursuant to paragraphs (a) through (c) and (f) of Clause GC 13.1, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel.

FOR THE PROCURING AGENCY

FOR THE CONSULTANT

Signed by _____

Signed by _____

Designation: _____

Designation: _____

Witness:

Witness:

Name:

Name:

Designation:

Designation: