

CENTRAL ELECTRICITY REGULATORY COMMISSION

3rd & 4th Floor, Chanderlok Building, 36, Janpath, New Delhi-110001

Regulatory Impact Assessment of Renewable Energy Certificate Mechanism Terms of Reference (TOR)

1. Context/Background

1.1 Renewable Energy Certificate (REC) Mechanism, a market based instrument, was introduced in 2010 by Central Electricity Regulatory Commission (CERC) through notification of CERC (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificates for Renewable energy Generation) Regulations, 2010 (henceforth REC Regulations) on January 14, 2010. The REC Mechanism was designed by considering energy generated from Renewable Energy (RE) generator into two components to facilitate inter-state procurement of green power through market mechanism.

1.2 The implementation of regulations enables the obligated entities to meet their respective Renewable Purchase Obligation (RPO) targets through purchase of REC which may have been generated in other States. Further, the Regulations notified by the CERC also envisage the price of the REC to be determined through market mechanism at the exchange platform only. However, in order to safeguard the interests of various stakeholders it is also envisaged that the price of REC shall be governed by the forbearance (ceiling) price and a floor price to be determined by the CERC from time to time. The CERC, in order to operationalize the REC Mechanism, has issued the orders in the matter of determination of forbearance and floor price for the REC Framework.

1.3 Thereafter, CERC has also formulated procedures for accreditation, registration, issuance and redemption of RECs along with applicable fees and charges. Further, it has approved rules/bye laws and mechanism for REC price discovery on power exchanges. In addition to the initiative taken by the CERC, the Forum of Regulators (FOR) has approved the Model Regulations on Renewable Purchase Obligation, its compliance and Implementation of REC Framework for the State Electricity Regulatory Commissions.

1.4 From 2010 onwards, capacity of 4,469 MW has been registered under REC mechanism. These included 1,489 MW capacity from older projects (before 2010) and the remaining 2,980 MW capacity have been registered under REC mechanism after 2010. In addition, around 7% of new renewable energy investment in the period 2010-2017 came through REC mechanism.

2. Objective of the Study

2.1 To undertake impact assessment of CERC REC Regulations.

3 Scope of work

The Consultants shall undertake study including detailed consultation with various stakeholders to assess the Regulatory Impact of REC Mechanism. Some of the key issues as currently identified and to be covered as part of this Study shall be as under:

3.1 To study and suggest the methodologies which need to be adopted for Regulatory Impact Assessment of renewable energy certificate based on National and International Experiences.

3.2 To develop RIA tools for impact assessment of CERC REC Regulations.

3.3 To undertake Regulatory Impact Assessment of the CERC REC Regulations as follows :

3.3.1 Study of Salient Features and Objectives

To study and list down salient features and objectives of framing regulations and subsequent amendments in:-

- CERC (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificates for Renewable energy Generation) Regulations, 2010 (hereinafter as “CERC REC Regulations”).
- CERC approved Procedures and Orders regarding REC Mechanism.
- Amendments in the REC Regulations and its implications.
- To identify issues arising in the context of the CERC REC Regulations including based on judicial pronouncements.

3.3.2 Impact on Eligible Entities

- To undertake impact analysis of, including but not limited to REC Regulations and its subsequent amendments, REC Procedures, Notification of Forbearance and Floor Price of REC etc. for the Eligible Entities.
- To analyse inventory statements of renewable energy generators and reflect on their performance (e.g. status of inventory, participation in trading sessions, clearing ratio etc.) in the light of amendments in REC Regulations, Floor and Forbearance Price, judicial pronouncements etc.
- To analyse and compare the trends in preference of routes opted for off-take of power by eligible entities.
- Review of existing methodology of interaction with Central Agency and State Agency, Power Exchanges and suggest modifications required if any.
- Impact analysis of external factors like Government policies and taxes, duties, funding etc.

3.3.3 Impact on Obligated Entities

- To undertake impact analysis of including but not limited to REC Regulations and its subsequent amendments, REC Procedures, Notification of Forbearance and Floor Price of REC etc. for Obligated Entities buyer/beneficiary.
- Analysis of participation of obligated entities in the REC mechanism.
- Impact analysis in terms of availability of RECs, trends of participation in trading sessions and volume purchased etc.
- Comparison of cost of RPO Compliance through REC Mechanism vis-à-vis other modes of RPO Compliance

3.3.4 Impact on Central Agency, State Agency and Power Exchanges

- To undertake impact analysis of the methodology adopted by State Agency and Central Agency while granting accreditation and registration to eligible renewable energy generators.
- Review of parameters of operational efficiency (e.g. time taken for final grant of accreditation or registration, pendency of applications, petitions filed with SERCs and CERC, manpower and technical support, communication with stakeholders etc.).
- Grading of State Agencies involved in the REC mechanism for promoting better discipline and efficiency.
- Identifying barriers and challenges before State Agency, Central Registry and Power exchange and suggest way forward to overcome these barriers.

3.3.5 Notified norms vs Actual Economic/Financial Conditions and operation efficiency

- To review extant norms, financial, legal as well as technical for accreditation and registration of renewable energy generators by State Agency and Central Agency respectively, issuance of RECs by Central Agency and redemption of RECs.
- Analysis of CERC notified floor and forbearance price in the light of the emerging market realities like tariff discovery through competitive bidding process.

3.3.6 Investment Promotion

- To undertake assessment of CERC REC Regulations on promotion of investment in renewable energy technologies
- To perform a comparative analysis on the investment in renewable energy projects registered in REC mechanism vis-à-vis projects being established under other routes.

3.3.7 Review of Reports and literature published on REC Mechanism

- Review extant reports issued by the Ministry, Other literature published by other organisations, institutions, think-tanks etc.
- Analyse the key findings and the recommendations in the reports and recommend changes which shall enhance the operational efficiency.

3.3.8 Review of extant and similar renewable energy generation based certificate mechanism across other countries

- Review extant mechanisms including but not limited regulatory structure, participation of market players, methodology of determining the price of the certificate, denomination and trading of renewable energy certificates, clearing price etc. which are currently/proposed to be enforced in other countries.
- Analyse the key methodologies in force and suggest best practices which shall enhance the operational efficiency of the REC mechanism.

3.4 Cost of regulatory compliance/enforcement

- Analysis of cost of regulatory compliance for market players (eligible entities, obligated entities, voluntary buyers etc.) and cost of enforcement for the entire mechanism.

3.5 Review the relevance of REC mechanism in the context of current scenario

- The Consultant shall analyse and assess the relevance of REC in present market conditions including but not limited to alternate methods of RPO compliance, cost of RPO compliance, renewable energy installations across States, availability of renewable power for procurement by obligated entities, utility of REC purchase by small size open access and captive consumers as means of RPO compliance, benefit in form of RECs to distribution utilities upon procuring renewable energy, in excess of the renewable purchase obligation etc.

3.6 Way Forward

- To suggest modifications in the CERC REC Regulations or REC Procedures or any other operational aspect involved in the entire REC mechanism and propose a way forward by framing an approach paper or a discussion paper for consultation with the stakeholders.

3.7 Findings and Suggestions - The Consultant shall present the detailed findings of the study including recommendations and suggestions to be implemented in future for further development of REC mechanism in a report for the approval of the Commission.

3.8 Any other task required in pursuance of achieving the objectives.

4. Deliverables and Duration of Assignments

4.1 All deliverables will be with effect from the date of signing of agreement.

4.2 The assignment shall be completed within a period of 120 days.

4.3 The Consultant will be required to submit the inception report at the end of 10 days;

4.4 Submit first progress report by the end of 30 days;

4.5 Submit second progress report by the end of 60 days;

4.6 Submit the first draft of the Report by the end of 90 days;

4.7 Submit the revised draft Report after discussion with CERC secretariat by the end of 110 days followed by a presentation before Central Electricity Regulatory Commission;

4.8 Submit the final Report "Regulatory Impact Assessment of REC Mechanism" by the end of 120 days from the date of signing of the agreement or within 60 days from when the report is accepted by the CERC in its meeting, whichever is later.

4.9 The timelines for deliverables is to be strictly adhered to. The individual task should be completed in phased manner and overlapping of one or more study shall not be a constraint to adhere to the timelines. In case of delay, the penalty/liquidated damages as per clause 8 of the Agreement will be applicable on the consultant.

4.10 Time is essence of the contract. Hence no abnormal delay would be tolerated. In case of any such contingency, the study would be got conducted from alternate source at the cost of the bidder.

5. Payment Schedule

5.1 10% of the professional fee as advance of the total fee of the study at the time of signing agreement. The Consultant shall provide an irrevocable Performance Bank Guarantee of 10% of amount stipulated in the agreement at the time of signing the agreement to be valid till 3(three) month after the expiry of the agreement; In the event of extension of assignment/Contract, the Performance Bank Guarantee shall be suitably extended by the consultant. If advance is not requested by the Consultant, 10% of the fee can be claimed at the end of the contract period on submission of the final report.

5.2 20% of the professional fee on the submission of the inception report of the Study;

5.3 20% of the professional fee on submission of first Draft Report of the study;

5.4 20% of the professional fee on submission of Final Report of the study;

5.5 30% of the professional fee on successful completion and acceptance of the Final Report, at the end of the contract period.

5.6 Performance Bank Guarantee will be kept as performance security and can be invoked to appropriate against breach of any terms of this Agreement or for non-performance

6. Qualification Criteria:

6.1 The Consultant should have completed at least three assignments in the last five years of assisting SERC/CERC/FOR/MNRE on Renewable Energy related matters. The consultant should also have experience in advising on regulatory issues regarding Renewable Energy in general and Renewable Energy Certificate Mechanism in particular.

6.2 The bidder is expected to have complete knowledge of Electricity Act,2003 as well as policies, Rules, Regulations and guidelines issued under the Act.

6.3 The Consultant should have legal and financial background.

6.4 The organization should not be blacklisted/debarred for conducting studies or consultancy services, by any Government/semi-Government/quasi-judicial agency. An undertaking in this regard shall be given by the consultant in the format at Annexure-III.

6.5 The Turnover and Net Worth of the Consultant should be a minimum of Rs.50 lakh.

7. Application and Evaluation Criteria

7.1 The format of application is at Annexure – I and Annexure – II.

7.2 The bidder is required to submit two (2) copies of bids for Technical offer (each of which will be treated as original) along with soft copy (in word format) and one copy of Financial offer, duly sealed in separate envelopes.

7.3 Technical component will carry 70% weightage and financial evaluation will carry 30% weightage.

7.4 The bids of the eligible bidders as per Clause 6 will be scrutinized by Consultancy Evaluation Committee (CEC) and shortlisted bidders will be called for interaction with the CEC (to be supplemented with a presentation not exceeding 6 slides). Their technical performance will be evaluated based on the following criteria:

Technical Parameters	Marks
The Consultant's relevant experience for the assignment	30
Understanding of the issues and approach to be followed	10
The qualifications and experience of the key staff (who would actually be working on the project) proposed	40
Quality of presentation made before CEC	20
Total Technical Score	100

7.5 The minimum qualifying marks in the Technical Evaluation is 70% of the total score for technical component.

7.6 Only those bidders, who qualify technically as per Clause 7.5, would be considered for Financial Evaluation.

7.7 Weight for Financial Evaluation Proposal with the lowest quoted price will be given a financial score of 100 and other proposals would be given financial scores that are inversely proportional to their prices.

7.8 The total score will be obtained by weighting the Technical and Financial scores.

7.9 Only successful bidder would be communicated the award of consultancy assignment.

7.10 The right to reject any or all bids rests with the CERC Secretariat without assigning any reason.

7.11 No requests for extension of date for submission of bids will be entertained unless decided so by CERC secretariat.

7.12 The 'CERC' will have an option to terminate the contract by giving a notice of one month. In such cases, the Consultant shall be paid fees after taking into consideration the part of work completed prior to such foreclosure, termination or cancellation of the engagement as may be decided by the 'CERC', and the decision of the 'CERC' shall be conclusive and binding. The fees so fixed and paid shall be deemed to be final payment in such cases. The consultant shall abide by the terms and conditions of the Agreement as per Annexure – IV.

7.13 The address for submission of the proposal and seeking any clarification (within the due date of submission of the ToR) is given below:

Advisor (Renewable Energy),

C/o Central Electricity Regulatory Commission,
Ground Floor, Chanderlok Building,
36, Janpath, New Delhi – 110001
Ph: 91-11-23353503 Fax: 91-11-23753923

DETAILED PROPOSAL FOR STUDY

(TECHNICAL)

Two (2) copies of the proposal along with project summary to be submitted to Advisor (Renewable Energy), CERC

I. GENERAL INFORMATION:

1. Title of the Proposed Study :
2. Name and address of the Organization/
Institution
3. Name & Designation of the Key Person:
4. Contact address of the Key Person: (e-mail/fax/telephone)
5. Net-worth/Turnover of the Organization/ :
Institution
6. PAN No of the Organization/
Institution

II. TECHNICAL SPECIFICATIONS:

7. i. Department(s) of the organization/Institution(s) where the study will be carried out
- ii. Other department(s), if any, which will collaborate in this study
8. Brief review of the state-of-art in the field (National and International)
9. Detailed Approach & Methodology for undertaking the assignment
10. Facilities available for the proposed work in the applicant's organization/institution
11. Previous experience of the proposer in this or related field
12. Biographical sketch of the Study Team
 - (i) Name
 - (ii) Designation
 - (iii) Date of Birth
 - (iv) Education and Experience
 - (v) Man days to be spent on this assignment

(a) Academic Qualifications

Degree	University	Field(s)	Year

(b) Experience

Institution	Topic of work done	Period

(v) Field of major interest

(vi) Additional information (if any)

13. Capacity to impart training/transfer of knowledge

14. Whether blacklisted/debarred for conducting studies or consultancy services, by any Government/semi-government/quasi-judicial agency, if so the details thereof:

[Undertaking to be given as per Annexure-III]

DETAILED PROPOSAL FOR STUDY

(FINANCIAL)

I. GENERAL INFORMATION:

1. Title of the Proposed Study:
2. Name and address of the Organization/
Institution
3. Name & Designation of the Key Person:
4. Contact address of the Key Person: (e-mail/fax/telephone)
5. Net-worth/Turnover of the Organization/
Institution
6. Certificate of authorization in case of Institutes/other organizations (Format enclosed at Appendix-‘A’).

II. Fee Proposed:

07. Amount of Fee proposed for:

Components	Basis	Amount (in Rs)
(I) Consultant Charges		
(II) Misc./Others (if any) Total		
TOTAL		

(The amount quoted is exclusive of statutory levies and taxes etc.)

(RUPEES _____)

Signature of the Principal Investigator /
Head of the Study Team

Declaration/Certification

To

The Advisor (Renewable Energy)
Central Electricity Regulatory Commission
Ground Floor, 36, Chanderlok Building
Janpath New Delhi - 110001

Sir

I have carefully gone through the Terms & Conditions contained in the Terms of Reference (TOR) regarding study on “Regulatory Impact Assessment of REC Mechanism”. I hereby declare that my firm has not been debarred/blacklisted by any reputed Government/Semi Government Organizations from conducting Studies or consultancy services within last three years nor is there any pending dispute in this regard. I further certify that I am an authorised signatory of my company/firm and therefore competent to make this declaration.

Yours sincerely

Name: _____

Designation: _____

Company/firm: _____

Address: _____

CERTIFICATE

The undersigned agree to abide by the conditions of the grants and certify that available facilities for proposed work shall be extended to the investigator/study team.

Signature of Executive Authority
Investigator/of the Organisation

Signature of the Principal
Head of the Study Team

Name and Designation
Date

Name and Designation
Date

Signature of Co-investigator
Name and Designation
Date

Official Stamp of
Organisation/Institution

On 50 Rs. Stamp Paper

AGREEMENT

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

WHEREAS

(A) the CERC, on being satisfied that there is a need to appoint a [**Corporate consultant or Professional Expert**] to conduct a study on “**Regulatory Impact Assessment of REC Mechanism**” invited quotations vide notice [here give the No and date of the notice]

(B) the [consultant/Professional Expert] responded to the above notice and submitted his quotations vide his letter [here give the No and date of the quotation of the consultant]

(C) the CERC, on scrutiny of the responses received in response to its above-mentioned notice dated [here give the date of the notice inviting quotations] including the one received from the [consultant/professional Expert] has decided to engage the consultant/professional expert for the above said assignment.

(D) the consultant/professional expert has agreed, to take up the above said assignment

NOW THIS AGREEMENT WITNESSETH AS UNDER:

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

1. Definitions:

(i) “Confidential information” means any and all information communicated to the consultant by the CERC duly marked so.

(ii) “Person” shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;

(iii) “Secretary” means the Secretary of the CERC.

2. Nature of work: The consultant/professional expert shall be engaged as [**Corporate consultant or Professional Expert**] to conduct a study on “**Regulatory Impact Assessment of REC Mechanism**” [hereafter called the ‘**Agreement**’] on the following areas but not limited to (individually for States if need be):-

2.1 To study and suggest the methodologies which need to be adopted for Regulatory Impact Assessment of renewable energy certificate based on National and International Experiences.

2.2 To develop RIA tools for impact assessment of CERC REC Regulations.

2.3 To undertake Regulatory Impact Assessment of the CERC REC Regulations as follows :

2.3.1 Study of Salient Features and Objectives

To study and list down salient features and objectives of framing regulations and subsequent amendments in:-

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- To identify issues arising in the context of the CERC REC Regulations including based on judicial pronouncements.

2.3.2 Impact on Eligible Entities

- To undertake impact analysis of, including but not limited to REC Regulations and its subsequent amendments, REC Procedures, Notification of Forbearance and Floor Price of REC etc. for the Eligible Entities.
- To analyse inventory statements of renewable energy generators and reflect on their performance (e.g. status of inventory, participation in trading sessions, clearing ratio etc.) in the light of amendments in REC Regulations, Floor and Forbearance Price, judicial pronouncements etc.
- To analyse and compare the trends in preference of routes opted for off-take of power by eligible entities.
- Review of existing methodology of interaction with Central Agency and State Agency, Power Exchanges and suggest modifications required if any.
- Impact analysis of external factors like Government policies and taxes, duties, funding etc.

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- To undertake impact analysis of including but not limited to REC Regulations and its subsequent amendments, REC Procedures,

Notification of Forbearance and Floor Price of REC etc. for Obligated Entities buyer/beneficiary.

- Analysis of participation of obligated entities in the REC mechanism.
- Impact analysis in terms of availability of RECs, trends of participation in trading sessions and volume purchased etc.
- Comparison of cost of RPO compliance through REC Mechanism vis-à-vis other modes of RPO compliance.

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- To undertake impact analysis of the methodology adopted by State Agency and Central Agency while granting accreditation and registration to eligible renewable energy generators.
- Review of parameters of operational efficiency (e.g. time taken for final grant of accreditation or registration, pendency of applications, petitions filed with SERCs and CERC, manpower and technical support, communication with stakeholders etc.).
- Grading of State Agencies involved in the REC mechanism for promoting better discipline and efficiency.
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2.3.5 Notified norms vs Actual Economic/Financial Conditions and operation efficiency

- To review extant norms, financial, legal as well as technical for accreditation and registration of renewable energy generators by State Agency and Central Agency respectively, issuance of RECs by Central Agency and redemption of RECs.
- Analysis of CERC notified floor and forbearance price in the light of the emerging market realities like tariff discovery through competitive bidding process.

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- To undertake assessment of CERC REC Regulations on promotion of investment in renewable energy technologies.
- To perform a comparative analysis on the investment in renewable energy projects registered in REC mechanism vis-à-vis projects being established under other routes.

2.3.7 Review of Reports and literature published on REC Mechanism

- Review extant reports issued by the Ministry, Other literature published by other organisations, institutions, think-tanks etc.
- Analyse the key findings and the recommendations in the reports and recommend changes which shall enhance the operational efficiency.

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- Review extant mechanisms including but not limited regulatory structure, participation of market players, methodology of determining the price of the certificate, denomination and trading of renewable energy certificates, clearing price etc. which are currently/proposed to be enforced in other countries.
- Analyse the key methodologies in force and suggest best practices which shall enhance the operational efficiency of the REC mechanism.

2.4 Cost of regulatory compliance/enforcement

- Analysis of cost of regulatory compliance for market players (eligible entities, obligated entities, voluntary buyers etc.) and cost of enforcement for the entire mechanism.

2.5 Review the relevance of REC mechanism in the context of current scenario

- The Consultant shall analyse and assess the relevance of REC in present market conditions including but not limited to alternate methods of RPO compliance, cost of RPO compliance, renewable energy installations across States, availability of renewable power for procurement by obligated entities, utility of REC purchase by small size open access and captive consumers as means of RPO compliance, benefit in form of RECs to distribution utilities upon procuring renewable energy, in excess of the renewable purchase obligation etc.

2.6 Way Forward

- To suggest modifications in the CERC REC Regulations or REC Procedures or any other operational aspect involved in the entire REC mechanism and propose a way forward by framing an approach paper or a discussion paper for consultation with the stakeholders.

2.7 Findings and Suggestions - The Consultant shall present the detailed findings of the study including recommendations and suggestions to be implemented in future for further development of REC mechanism in a report for the approval of the Commission.

2.8 Any other task required in pursuance of achieving the objectives

3. Commencement and duration of assignment: The above assignment shall commence with effect from [the date of this agreement] and shall be valid for a period of 120 days.

4. Obligations of the Consultant:

- (i) The consultant shall adhere to the time-frame and submit the deliverables to the Secretary as follows:
 - a) Submission of Inception Report at the end of 10 days from the date of signing of agreement
 - b) Submission of first progress report by the end of 30 days from the date of signing of the agreement;
 - c) Submission of second progress report by the end of 60 days from the date of signing of the agreement;
 - d) Submission of first draft of the Report by the end of 90 days from the date of signing of the agreement;
 - e) Submission of revised report by the end of 110 days followed by a presentation before the Central Electricity Regulatory Commission.
 - f) Submission of Final report at the end of 120 days from the date of signing of agreement or within 60 days from when the report is accepted by the CERC in its meeting, whichever is later.
- (ii) The consultant shall make presentations before the CERC
- (iii) The consultant shall ensure that findings of the study and the contents of the reports to the CERC are not disclosed to any person unless expressly authorized by CERC.

5. Entitlements of the Consultant:

- (i) The consultant/professional expert shall be entitled to Rs. [Here give the amount payable and the schedule of payment and any other provision such as TDS, etc.]
- (ii) The consultant/professional expert shall be paid as per the conditions specified below
 - a. 10% of the professional fee as advance of the total fee of the study at the time of signing agreement.
 - b. 20% of the professional fee on the submission of the inception report of the Study;
 - c. 20% of the professional fee on submission of first Draft Report of the study;
 - d. 20% of the professional fee on submission of Final Report of the study;
 - e. 30% of the professional fee on successful completion and acceptance of the Final Report, at the end of the contract period.

If advance amount is not requested by the Consultant, 10% of the fee can be claimed at the end of the contract period on submission of the final report.

(iii) The consultant/professional expert shall not be entitled to any other remuneration or reimbursement or perquisites or facilities.

6. Restrictive terms:

(i) The consultant further affirms and confirms that the current assignment is not and shall not be, in conflict with any of its present obligations to any party with whom he/she/it has association.

(ii) The consultant further affirms and confirms that he/she/it shall hold all Confidential Information in confidence and with the same degree of care he/she/it uses to keep his/her/its own similar information confidential, but in no event shall it use less than a reasonable degree of care; and shall not, without the prior written consent of CERC, disclose such information to any person for any reason at any time;

(iii) The CERC shall be entitled to, without prejudice to any other right for civil or criminal proceedings, receive from the consultant/ professional expert a compensation for the damages for violation by him/her/it of any of the terms of the agreement which shall be limited to the total fee of the assignment.

7 Performance Guarantee

The Consultant shall furnish an irrevocable Performance Bank Guarantee of 10% of value amount stipulated in the agreement at the time of signing the agreement and shall be kept valid for 3(three) month after the expiry of the agreement; In the event of extension of assignment/Contract, the Performance Bank Guarantee shall be suitably extended by the consultant. The Performance Bank Guarantee and/or the extended Bank Guarantee shall be kept as security for performance of the contract/work and shall if need be, invoked for breach of any of any of the terms of this Agreement and/or for non-performance.

8. Liquidated Damages

The timelines for deliverables as per clause 4, above shall be strictly adhered by the consultant. The tasks should be completed in a phased manner and overlapping of one or more study shall not be a constraint for adherence to the timelines specified. In case of any delay in adhering to the timelines of completion of study and error/variation in submitted report, liquidated damages shall be levied in the following manner.

8.1 Liquidated Damages for delay

In case of delay in completion of Report/Services in each deliverables/schedule as per clause 4, liquidated damages not exceeding an amount equal to 0.5% (zero point five per cent) per day of the Agreement Value, subject to a maximum of 10% (ten per cent) of the Agreement Value will be imposed and shall be recovered from the payments to be made as per schedule. However, in case of delay due to reasons beyond the control of the Consultant, suitable extension of time with no additional financial commitment shall be granted.

8.2 Liquidated Damages for error/variation in the report

In case any error or variation is detected in the reports submitted by the Consultant and such error or variation is the result of negligence or lack of due diligence on the part of the Consultant, the consequential damages thereof shall be quantified by CERC in a reasonable manner and shall be recovered from the Consultant by way of liquidated damages from the payment to be made as per clause 5(ii) above, subject to a maximum of 50% (fifty per cent) of the Agreement Value.

In addition to the liquidated damages as specified above, warning may be issued to the Consultant for minor deficiencies noted by CERC. In the case of non-completion of study/ assignment within the stipulated time or extended time, CERC shall have the right to get the study / assignment completed at the risk and cost of the Consultant. In the case of significant deficiencies in services causing adverse effect on the Project or on the reputation of CERC, other penal action including debarring for a specific period may also be initiated

9. Termination of contract:

At the option of the CERC:

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

(a) It has come to notice that the consultant/professional expert has been convicted for an offence involving moral turpitude or unethical professional practices. In such context, Performance Bank Guarantee amount will be invoked and encashed. Further legal action may also be taken against consultant.

(ii) With one-month notice: The assignment may be terminated by the CERC, under any of the following circumstance, by giving one month's notice and after providing an opportunity to the consultant/professional expert to offer explanation. In case the explanation is not satisfactory, the Performance Bank Guarantee amount will be invoked/ encashed:

(a) It has come to the notice of the CERC that the consultant/professional has resorted to fraud or suppression of material

information or submission of false information or unethical means to secure the assignment.

(b) It has come to the notice of the CERC that there is a material change in the circumstances of the Consultant based on which the assignment was awarded to the consultant/professional expert.

(c) The consultant/professional expert has failed, without any valid justification, to adhere to the time-frame specified by the CERC in the assignment.

(d) The consultant has violated any of the provisions of the agreement.

(iii) The CERC and the Consultant have the option to terminate the assignment on mutual consent by giving notice of one month to the other. This is however subject to adjustment of Liquidated Damages imposed if any for error/variation or delay in completion of the work schedule in that event.

10. Effect of termination:

On pre-mature termination of the assignment any time under the circumstances other than above mention in para 8.1 and 8.2 above, the CERC shall pay the consultant/professional expert, the remuneration for the work performed by him/her/it till the date of termination of the Contract subject to any Liquidated Damage imposed by CERC as per Clause 8 of the agreement.

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

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

12. Arbitration:

(i) Any difference, dispute, claims which may arise between the parties hereto as to the construction or true intent and meaning of any of the terms and conditions herein contained or as to any payment to be made in pursuance hereof or as to any other matter arising out or as to any other matter arising out of or connected with or incidental to these presents or as to the rights, duties and obligations of any of the parties, such difference, dispute or claim shall be mutually settled amicably by the parties failing which the parties must resort by arbitration in terms of the Arbitration and Conciliation Act 1996 as amended from time to time. In the event of arbitration, CERC shall appoint sole arbitrator which shall be binding on the Consultant.

(ii) The venue of the arbitration will be Delhi/New Delhi and the language shall be English.

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

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

Signed by:

Signed by:

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[The consultant/Professional
CERC]
party or on his behalf of]

[on behalf of the

in the presence of [witness]
[witness]

the presence of

Signature.....

Signature.....

.....

Name.....

Name.....

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