



**Bureau of Energy Efficiency (BEE)
Ministry of Power, Government of India**

Expression of Interest (Eoi)
for
Engagement of IAME (Independent Agencies for Monitoring and Evaluation)
Under
Standards & Labeling Programme

Last Date & Time for Receiving Bids – 20th November, 2020 up-to 1500 hours

Complete Proposals to be submitted to:

**Secretary
Bureau of Energy Efficiency
Government of India, Ministry of Power
4th Floor, Sewa Bhawan,
R.K. Puram
New Delhi – 110 066.**

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1. LETTER OF INVITATION

Bureau of Energy Efficiency (BEE) invites proposals from interested and technically qualified National Accreditation Board for Certification Bodies (NABCB) / Bureau of Indian Standards (BIS) accredited conformity assessment / product certification agency for **“Empanelment as Independent Agencies for Monitoring and Evaluation (IAME) under Standards & Labeling (S&L) Programme of BEE”**.

Interested bidders may download the RfP document from the BEE website (www.beeindia.gov.in) from **16th October, 2020**.

The proposals may be addressed to **Secretary, Bureau of Energy Efficiency, 4th Floor, Sewa Bhawan, R. K. Puram, and New Delhi – 110066**. The complete proposal should reach on or before **20th November 2020 (1500 hours)**

BEE reserves the right to modify, amend, rescind, supplement or cancel this EoI document before finalizing the empanelment, without assigning any reason.

While this EoI document has been prepared in good faith, neither BEE nor its employees or advisors make any representation or warranty, expressed or implied, or accept any responsibility or liability, whatsoever, in respect of any statements or omissions herein, or the accuracy, completeness or reliability of information, and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of this EoI document, even if any loss or damage is caused by any act or omission on their part.

Sd/-
Secretary, BEE

2. GENERAL INFORMATION

Availability of EoI document	16th October 2020
Place for Submission of Proposal	Secretary Bureau of Energy Efficiency 4th floor, Sewa Bhawan, R K Puram 1 New Delhi – 110066.
Last Date for submission of proposals	20th November (up-to 1500 hours)
Contact Person for Queries / Clarification	<p>Mr. Kamran Shaikh Joint Director Bureau of Energy Efficiency 4th floor, Sewa Bhawan, R K Puram 1, New Delhi – 110066 Email: kamran.shaikh@beeindia.gov.in</p> <p>Mr. Manish Kumar Project Engineer Bureau of Energy Efficiency 4th floor, Sewa Bhawan, R K Puram 1, New Delhi – 110066 Email: manish.k@beeindia.gov.in</p>

3. BACKGROUND INFORMATION

Energy Conservation Act, 2001

The Energy Conservation Act, 2001 (EC Act) forms the core of the legal framework put in place by India to promote energy efficiency and conservation. EC Act came into force with effect from March 1, 2002.

About BEE

The Government of India set up Bureau of Energy Efficiency (BEE) (www.beeindia.gov.in) on 1st March 2002 under the provisions of the EC Act, 2001. The mission of the BEE is to assist in developing policies and strategies with a thrust on self-regulation and market principles, within the overall framework of the EC Act, 2001 with the primary objective of reducing energy intensity of the Indian economy. This will be achieved with active participation of all stakeholders, resulting in accelerated and sustained adoption of energy efficiency in the industries, building, transport, institutions and appliances sectors.

Functions of BEE

BEE co-ordinates with designated consumers, designated agencies and other organization; recognizes, identifies and utilizes the existing resources and infrastructure, in performing the functions assigned to it under the E.C Act, 2001. The Act provides for regulatory and promotional functions. The major functions of BEE include:

- Develop and recommend to the Central Government the norms for processes and energy consumption standards.
- Develop and recommend to the Central Government minimum energy consumption standards and labeling design for equipment and appliances.
- Develop and recommend to the Central Govt. specific energy conservation building codes.
- Recommend the Central Government for notifying any user or class of users of energy as a designated consumer.
- Take necessary measures to create awareness and disseminate information for efficient use of energy and its conservation.

4. STANDARDS AND LABELING (S&L) PROGRAMME

The key objective of this programme is to provide the consumer an informed choice about the energy saving and thereby the cost saving potential of the relevant marketed appliance. The programme was launched on 18th May 2006 and is presently invoked for 26 equipment/appliances:

Sr. No.	Appliance
1	Room Air Conditioner (Fixed Speed)
2	Room Air Conditioners (Variable Speed)
3	Room Air Conditioners (Cassette, Floor Standing Tower, Ceiling, Corner AC)
4	Frost Free Refrigerators
5	Direct Cool Refrigerators
6	Tubular Fluorescent Lamps
7	Distribution Transformers
8	Stationary Storage Type Electric Water Heaters
9	Colour Televisions
10	LED Lamps
11	Ceiling Fans
12	Computer (Notebook /Laptops)
13	Domestic Liquefied Petroleum Gas (LPG) Stoves

Sr. No.	Appliance
14	Induction Motors
15	Agricultural Pump Sets
16	Washing Machines
17	Ballast (Electronic/Magnetic)
18	Solid State Inverters
19	Office Equipment (Printer, Copier, Scanner, MFD's)
20	Diesel Engine Driven Mono-set Pumps for Agricultural Purposes
21	Diesel Generator Sets
22	Microwave Ovens
23	Solar Water Heaters
24	Light Commercial Air Conditioners
25	Deep Freezers
26	Chillers

The first 10 appliances have been notified under mandatory labeling while the other appliances are presently under voluntary labeling phase. The energy efficiency labeling programs under BEE are intended to reduce the energy consumption of appliance without diminishing the services it provides to consumers.

The S&L program of BEE has advanced at a rapid pace. From preparatory to mandatory stage, testing has been identified as a key component of S&L program. Effective testing helps to assess the actual performance of appliances in the preparatory stage, thus helping in setting realistic standards to transform the market. Testing also plays a key role in voluntary/mandatory phase to ensure authentic compliance to standards.

Considering the growing penetration of S&L program in India and the increasing number of appliances for check testing, BEE has decided to empanel agencies to support S&L programme.

5. OBJECTIVE OF APPLICATION SCRUTINY

Check all the documents submitted by the applicant for completeness, validity, consistency and correctness. After ensuring compliance of all the data submitted by the applicant with the regulation/statutory order and/or schedule of the relevant product, the request for approval (generated digitally) along with all the related documents as Annexure, BEE shall issue letter for approval to the applicant authorizing the applicant to use and affix BEE star labels on products.

6. OBJECTIVE OF CHECK TESTING

Check Testing is one of the essential activities carried out by BEE as a verification process to establish compliance of the displayed appliances / equipment label particulars with respect to the prescribed energy performance standards. The check testing is done in two stages i.e., 1st Check Testing and 2nd Check Testing (for appliances failed in 1st Check Testing)

To increase the rate of check testing of Star labeled appliances, BEE is planning to carry out testing of appliances registered under S&L program in NABL accredited / BIS recognized, Government / Private laboratories (independent third-party labs) for all categories of Star labeled appliances.

7. PRE-QUALIFYING CRITERIA

- (1) The agency must be registered in India.
- (2) The agency must be NABCB/BIS accredited conformity assessment/product certification agency which can carry out the responsibilities of IAME.
- (3) The agency should have been in the conformity assessment/product certification for not less than 6 months.
- (4) The validity of the NABCB/BIS conformity assessment/product certification accreditation must not be less than 6 months from the date of the application.
- (5) The agency must have adequate skilled and non-skilled people to conduct the application scrutiny & procurement of samples for check testing.
- (6) Agency must be registered with Goods and Services Tax (GST).
- (7) The agency should not have been blacklisted by any agency from India or abroad.

8. PREPARATION AND SUBMISSION OF PROPOSAL

(i) Though adequate care has been taken while preparing the document, the bidders shall satisfy themselves that the document is complete in all respects. The proposal shall be submitted along with following details:

- Copy of Certificate of Registration / Incorporation in India.
- Copy NABCB/BIS accredited conformity assessment/product certification
- Completed Forms - 1,2,3,4

(ii) The proposal shall be submitted in original (signed hard copies) prepared with indelible ink. It shall not contain any over-writing. The proposal shall have the first page clearly marked as "Engagement of IAME (Independent Agencies for Monitoring and Evaluation) for BEE's Standard & Labelling Program"

(iii) The last date for sending the proposal document is **20 November 2020 up-to 15:00 Hours**.

(iv) The completed proposal must be submitted in a sealed envelope on or before the time and date stated above. Any proposal received after the closing time for submission of proposals shall not be entertained.

(v) Preliminary scrutiny of the proposal will be made to determine whether the applications are complete, whether the qualifying documents are submitted and in order and the other documents have been properly signed. Proposals not conforming to such preliminary requirements will be rejected prima facie.

9. TERMS OF REFERENCE

The scope of work / services broadly covers the following:

- i. Application Scrutiny
- ii. Compilation of Sample Selection
- iii. Coordination with Labs and Transporters
- iv. Witnessing & Recording Details of Equipment Received at Lab
- v. Procurement of Samples for Verification/Check Testing and Transportation to Labs
- vi. Follow Up on Reports from Labs
- vii. Disposal of Check Tested Samples with Labs as per MSTCL Guidelines.

10. APPLICATION SCRUTINY

- (i) The IAME shall be responsible for scrutinizing all the documents submitted by the applicant to check for completeness, validity, consistency and correctness. Discrepancies, if any shall be communicated to the applicant and responses sought. Till a satisfactory response is received from the applicant, the application shall be put on hold. In case of a further discrepancy or wrong information, the application may be rejected. The decision of acceptance/rejection shall be taken on an application complete in all aspects **within 30 days of report's online submission to BEE**.
- (ii) After ensuring compliance of all the data submitted by the applicant with the regulation/statutory order and/or schedule of the relevant product, the request for approval (generated digitally) along with all the related documents shall be forwarded to BEE, with IAME's recommendations. The responsibility for final approval rests with the BEE. BEE shall issue letter for approval to the applicant authorizing the applicant to use and affix BEE star labels on products.
- (iii) IAME may need to aid manufacturers in comprehending the registration process, labelling fee payment process and other related issues.
- (iv) BEE shall issue letter for approval to the applicant authorizing the applicant to use and affix BEE star labels on registered products.

11. CHECK TESTING & CHALLENGE TESTING

Under the S&L scheme, BEE awards energy efficiency star labels based on self-declaration by manufacturers as per the stipulation of schedule/ standards. The purpose of check testing is to assess the compliance of product's energy performance against the relevant product standard/schedule prescribed by BEE on the basis of which the label was awarded. IAME has to operate BEE's check testing scheme as per the procedures that fulfills the check testing requirements are enumerated below:

- (i) Verify compliance of product's energy performance parameters as described in the respective BEE's product schedule/regulation/statutory order, on the basis of which the label has been awarded.
- (ii) **Selection of Products and Sampling Plan:** BEE shall generate sampling plan from the software on star labelling web portal (beestarlable.com) for each product. Sampling will be generated every two/three months by BEE. Sampling plan shall include product-models from the BEE registered model list. BEE may tweak sampling plan in events relating to claims made by third parties such as consumers, consumer groups or regulatory agencies, NGOs, manufacturers regarding the accuracy of claimed ratings of an appliance.
- (iii) IAME has to inform State Designated Agency (SDA) at the time of first & second check test. SDA may witness the second check test conducted at laboratory and an official may be deputed by BEE to witness above tests as per the provisions of check testing scheme.

12. FIRST CHECK TESTING

- (i) The IAME shall procure unit(s) as per sampling plan randomly from the open market or dealers or from the manufacturing facilities i.e. warehouse of users of BEE label as deemed fit by it, which includes authorized dealers / retailers / distributors.
- (ii) During the field operation, there is a probability that some samples may not be available at the identified locations. In such cases the IAME personnel shall not stop searching the other items mentioned in sampling plan. The IAME field personnel shall interchange their list so as to find the remaining units in respective areas. It is the responsibility of IAME manager to administer this entire activity and keep on changing the locations under intimation to BEE.
- (iii) IAME shall prepare a comprehensive list of dealer network for various appliances and for various brand-models with the help of information available on websites of manufacturers. BEE will also share the database of dealers, which may be referred for procurement as per the sampling plan. Also, the IAME shall keep on updating the dealer database and shall share it with BEE quarterly each year.
- (iv) Efforts should be made for taking appropriate retail discount on the face of the invoice, wherever possible, and IAME should mention the same as comment on the invoice.

13. SECOND CHECK TESTING

- (i) Second check testing of the products is required in case a specific model fails in first check testing.
- (ii) If any sample fails in first check testing, IAME shall initiate the action pertaining to purchase of 2 more samples of the failed model and shall coordinate with a different BEE empanelled lab for 2nd check testing. Hence, in such case, IAME shall identify maximum no. of locations across the country from where the unit(s) may be obtained quickly.
- (iii) In-case of non-availability of unit(s) in second check testing, all identified search locations shall be explored. Still, if the units are not available, IAME shall submit a report to BEE with all facts including locations where appliances were searched. The report shall be submitted at the end of each month or as and when such situation arises or as per directions of BEE.
- (iv) IAME has to witness the second check test and coordinate with the respective SDA of the State, user of label/manufacturer to depute officials to witness the second check test as per the provisions of check testing scheme.

14. TRANSPORTATION OF UNITS TO LABORATORIES FOR TESTING

- (i) The IAME shall be completely responsible for the transportation activity. IAME has to ensure that the sample is received at laboratory in a correct manner and it is not tampered with or damaged, till it is opened in front of authorized laboratory representative at respective lab. IAME shall adhere to all codal formalities for hiring of transport agencies.

- (ii) The transporter must have skills/capacity/facility for packing, loading, unloading, unpacking & insurance. IAME shall also be responsible for providing timely intimation to the laboratories about the samples which are in transit and about to reach there. All original bill copies and declarations shall be secured.

15. LOCATION OF CHECK TESTING

Check testing shall be performed at BEE-empanelled NABL accredited laboratories. List of the laboratories along with contact details will be provided to IAME by BEE and will be updated from time to time. BEE would track and record the entire check testing activity through S&L e-portal. The portal has a provision for creating an online account for laboratories. BEE would provide the partial administrative rights of this system to the IAME. IAME shall ensure that all laboratories are communicating with BEE through S&L e-portal.

16. WITNESS CHECK TESTING AND REPORTING

The IAME shall keep a track of check testing status through S&L e-portal and shall provide the status update to BEE at the end of every fortnight. IAME shall coordinate with the laboratories to get the testing schedule. IAME has to depute its official to witness the second check testing. However, in case of first check testing, witness will not be required. IAME has to ensure second check testing shall be carried out timely on priority.

17. VERIFICATION OF CLAIMS

- (i) Once a product is check tested as per the sampling plan at BEE empanelled laboratory, the lab shall submit the test report to IAME. Once the test reports shall be submitted, IAME has to verify compliance of test results against the energy efficiency claims made by manufacturers/ user of label for getting the BEE label on that particular model of the product as per the relevant schedule/ standard.
- (ii) IAME shall review the test reports. If the claim is met by the test results declared by the lab, the product should be declared as passed and the test reports should be submitted to BEE. If any model fails to meet the original claim made by the manufacturer for that particular model, it should be declared as failed and immediately two more samples should be picked from the market as specified in the previous sections and the 2nd check testing process should be initiated.
- (iii) The summary of verification of claims of the various models of different products shall be submitted to BEE by IAME on a monthly basis with all the supporting documents such as lab test report etc.

18. SAMPLE DISPOSAL AFTER CHECK TESTING

IAME shall take up this activity and hire any government approved evaluator through competitive bidding process and dispose-off the check tested samples as per MSTC Limited guidelines. Other expenditure on this activity like transportation of equipment will be responsibility of IAME.

19. REPORTING

IAME has to compile the status report of check testing to BEE. The same report shall be submitted to BEE on a **monthly basis**.

20. PROCEDURE OF CHECK TESTING FOR IAME

- (i) IAME will prepare a list of the authorized dealers in the cities through manufacturer's website. BEE may also share the details dealer network from the available records. IAME would pick up the samples as per the sampling plan provided by BEE. Efforts should be made for taking appropriate retail discount on the face of the invoice, wherever possible, and IAME should mention the same as comment on the invoice.
- (ii) The IAME Engineer has to procure samples as stated in 5(i) and select any of the models given in the Approved models' list.

- (iii) The IAME Engineer has to check the particulars (Model Number, Rated values and Star Rating/Efficiency Class) declared on the BEE Label and the Nameplate of the equipment. In case these values are found to be mismatching, then the Engineer need-not buy that model, and he shall inform the same to the IAME coordinator. In case, there is a mismatch then same should be discarded and a non-compliance report against that model should be submitted separately to BEE.
- (iv) In-case the values are found to be correct, the Engineer shall procure the sample and send the following details to nodal officer at BEE immediately in order to lock that particular model in the BEE S&L portal website:
 - a. Equipment name
 - b. Model Number
 - c. Name & Address of the Dealer
 - d. Serial number of the equipment
 - e. Name of the IAME Engineer
- (v) In all the cases, the invoices should mention the complete address of BEE and the serial number of the model on the face of the invoice. Any deviation from the procedure would be treated as non-compliance by IAME.
- (vi) After purchasing the equipment, the IAME Engineer has to send the Sampling Report to the IAME coordinator. The IAME Engineer has to fix the IAME Holograms on the BEE Labels. Two Holograms to be pasted on the opposite corners of each BEE label. Half of the hologram should be on the BEE label and half of the hologram should be on the equipment packing.
- (vii) Procurement from unauthorized dealer or without proper billing is not permitted. Entire sample procurement activity shall be done under close supervision of IAME coordinators/manager and it is their responsibility to manage all field related issues that may arise while actual procurement.
- (viii) The IAME shall ensure adherence to the sampling plan and in case of any non-compliance in sample procurement activity or procurement of incorrect samples or any delay in procuring samples, BEE reserves the right to apply penalty as per the agreement.
- (ix) The IAME Engineer has to coordinate with the transporter for collecting the selected model. The IAME Engineer has to hand over the sample to the transporter along with the following forms after filling up:
 - (a) Instructions to the Transporter
 - (b) Lab Request
 - (c) Original Invoice of the Equipment
- (x) The IAME Engineer is advised to keep a photocopy of the above documents for records. The IAME Engineer shall collect the challan/receipt of the sample handed over to the transporter by the laboratory.
- (xi) Testing at Laboratory: IAME has to coordinate with the laboratories for the check testing of the equipment. IAME also has to coordinate with respective SDA of the State at the time of second check test. During the testing, IAME Engineer has to collect the original invoice of the sample from laboratory and send the same to the nodal officer coordinating at BEE office.

21. PROCEDURE FOR 2ND CHECK TESTING

- (i) In case of 1st sample fails, IAME need to collect the detailed test report as well as summarized test report and send it to BEE.

- (ii) As soon as the failure report is available, IAME shall buy two more samples of the same models within 14 days and send it to a different empaneled laboratory for second check testing under intimation to BEE.
- (iii) The copy of the original invoices shall be submitted by IAME to BEE. To expedite the process, IAME would scan the document and send to BEE immediately on the day of purchase.
- (iv) BEE would then issue a letter of non-compliance to the defaulter enclosing the copy of the initial test report, copy of the invoices (2 samples), request for payment of cost of sample and check testing charges for the two samples.
- (v) In case if defaulter doesn't pay the purchase cost of samples and the testing cost, then also sample would be tested and results shall be binding on the user of label. Also, user of label will not be allowed to further register its models with BEE until payment is made to BEE.
- (vi) In any case, either payment is made or not, IAME has to coordinate with the laboratory to get the testing schedule.
- (vii) IAME has to validate that the letter of authority carried by the person deputed by manufacturer for witness testing have the same signature as authorized by BEE. In case of any change of person, the signing authority of the manufacturer needs to take permission from BEE for new authorization.
- (viii) After receiving the Testing Schedule from the concerned laboratories, IAME has to appoint the respective Engineers for Witnessing the Testing in case of 2nd check testing.
- (ix) In case if the defaulter doesn't agree to witness the second check test, BEE would go ahead with the testing in presence of inspecting engineer of IAME and the test result shall be binding on the defaulter.
- (x) After the test is completed, a docket would be prepared by IAME containing the entire information and submitted to BEE.
- (xi) Upon the receipt of the action taken report from the defaulter, docket would be prepared by IAME containing the entire information and submitted to BEE for further action.
- (xii) All application submissions are done via www.beestarlabel.com. IAME has to scrutinize the submitted applications and update their activities via the same portal. The portal has provisions for special online account for IAMEs.

22. PAYMENT TERMS

- (i) The application scrutiny charges shall be **₹ 1,350/- per application** including management charges by IAME. The charges for label change / degradation application and auto-cancelled applications shall be **₹ 750/- per application** including management charges by IAME. These costs are excluding all applicable taxes.
- (ii) For witnessing check testing services and procurement of appliances/equipment in case of local non-availability, the deputed IAME professional/ Engineer shall be eligible for the following:

Sr. No.	Particulars	Ceiling Limit
1	Per Day Charges	₹3,000/-
2	Lodging + Boarding (For outstation Travel)	Reimbursement of single room rent on actual basis, subject to a maximum of ₹ 3,000/- per day.
3	Travel as per Actuals	May travel by rail in AC 2nd tier, or by any cheapest airline in economy class. Local conveyance i.e. from airport/railway station/place of stay to BEE office & back will also be reimbursed subject to such ceiling as may be specified.

(iii) Expenses incurred by IAME towards procurement of samples and transportation of samples to empanelled labs shall be reimbursed upon the submission of actual bills/invoices to BEE.

(iv) IAME shall not receive any other remuneration in connection with the work except as provided in the EoI document.

(v) Payment authority will be Bureau of Energy Efficiency.

(vi) IAME shall raise the invoice in favor of "The Secretary, Bureau of Energy Efficiency, 4th Floor, Sewa Bhawan, Sector – 1, R. K. Puram, New Delhi".

(vii) The payment will be considered on submission of original invoices and supporting documents and penalty deduction (if any). IAME shall submit the original invoice along with supporting documents of preceding month within first week of succeeding month to BEE for consideration. Any invoice submitted after the first week would be considered for processing in the first of week of coming month.

(viii) In case of any dispute during process of verification, check testing in the laboratory, payment terms, payments, etc., the decision by DG, BEE, will be considered as final.

(ix) Delay at any stage in execution of the contract due to reasons solely attributed to IAME beyond the time schedule as agreed or any extension thereof granted by the BEE, shall attract Liquidated Damages at the rate of 0.5 % of the total contract value per week of delay or part thereof subject to maximum of 10 % of the total contract value.

23. OTHER TERMS & CONDITIONS

(i) All existing empanelled and new IAMEs will have to enter into an agreement with BEE for providing continuous services for a minimum of 2 years (two years) period from the date of signing of contract. The contract between IAME and BEE may be extended on mutual agreement at the end period of engagement.

(ii) BEE may on its own, or on receipt of a complaint regarding any error or inconsistency or misrepresentation within one year from date of submission of the complaint initiate action as deemed appropriate by it against any IAME.

(v) BEE reserves the right to transfer assigned work or a part to another IAME in case of delays in processing of applications beyond a period of 30 days. No payments will be made to the defaulter IAME in such cases.

(vi) All the declarations are to be filled up, duly signed and returned back to BEE along with the acceptance/willingness letter.

(vii) BEE reserves the right to modify, amend, supplement or cancel this EoI document, without assigning any reason.

24. CONFLICT OF INTEREST

IAME will have to maintain the confidentiality of the information compiled. In no case, IAME is allowed to use the data or share the information with a third party. BEE shall hold the copyrights over any of the data collected or compiled.

25. FORCE MAJEURE

Shall mean and be limited to the following:

War/hostilities, Riot or Civil commotion, Earthquake, flood, tempest, lightening or other natural physical disaster and restrictions imposed by the Government or other statutory bodies which prevents or delays the execution of the contract.

In the event of any force majeure cause, IAME or BEE shall not be liable for delays in performing their obligations under this contract and relevant dates may be extended, for a period not exceeding the period of delay attributable to the causes of force majeure. Neither BEE nor IAME shall be liable to pay extra costs provided it is mutually established that force majeure conditions did actually exist. IAME shall at all times, indemnify and keep indemnified, BEE and its officer's servants and agents, from and against all/any claims whatsoever, arising as a consequence of, or in the course of execution of the work (including but not limited to property loss and damage, personal accident, injury or death of or to property or person, of the consultant or any JV partner or sub-contractor, and / or the servants or agents of IAME, or any other JV partner or any sub contractor and / or of the BEE).

26. DISCLAIMER

BEE and/or its officers, employees disclaim all liability from any loss or damage, whether foreseeable or not, suffered by any person acting on or refraining from acting because of any information including statements, information, forecasts, estimates or projections contained in this document or conduct ancillary to it whether or not the loss or damage arises in connection with any omission, negligence, default, lack of care or misrepresentation on the part of BEE and/or any of its officers, employees.

27. RESOLUTION OF DISPUTES

- (1) BEE and the Agency shall make effort to resolve amicably by direct informal negotiations on any disagreement or dispute arising in connection with the contract.
- (2) The decision of Director General, BEE, shall be final and binding on both the parties.
- (3) For any arbitration proceedings, IAME will pay the cost and expenses of arbitration proceedings & shall be held at Delhi.
- (4) The laws applicable to the contract shall be the laws in force in India. The courts of Delhi only shall have exclusive jurisdiction in all matters arising under this contract.

28. EOI FORMS

The EoI must be submitted along with the following forms along with necessary supporting documents:

- a) Form 1: Agency Details.
- b) Form 2: Agency Not Black-Listed
- c) Form 3: Manpower and Application Scrutiny Capacity
- d) Form 4: Acceptance Letter for Payments

Form 1: Summary of Document Submitted

Sr. No.	Requirement	Document Required	Page Number
1	Agency must be registered in India.	Copy of Certificate of Incorporation issued by relevant authority in India	
2	Agency must be registered with Goods and Services Tax (GST)	Copy of Certificate issued by relevant GST Authority	
3	Agency must be NABCB / BIS accredited conformity assessment / product certification agency	Copy of certificate from appropriate authority	
4	Agency Details	Form - 1	
5	Declaration - Agency not black-listed	Form - 2	
6	Declaration - Manpower and Application Scrutiny Capacity	Form - 3	
7	Acceptance Letter for Payments	Form - 4	

Form - 1: Agency Details

(Typed on Agency Letter head)

Name of Agency	
Details of Agency <ul style="list-style-type: none">• Address:• Website, if any:• Year of Establishment• Total Number of Staff• Under any Ministry / State Govt. Department (Yes/No)• If Yes, please state details	
Details Chief / Head of Agency: <ul style="list-style-type: none">• Name• Designation• E-mail• Mobile Number	
Details of Authorized Persons of Agency for Communication <u>1st Person</u> <ul style="list-style-type: none">• Name• Designation• E-mail• Contact Number <u>2nd Person</u> <ul style="list-style-type: none">• Name• Designation• E-mail• Contact Number	

Form-2: Format for Declaration Agency is not black-listed by any Government Agency in India

**DECLARATION OF NOT BEING BLACK LISTED BY ANY GOVERNMENT AGENCY /
DEPARTMENT**

(To be submitted on Agency Letterhead)

To,
Secretary, BEE
New Delhi.

This is to certify that M/s (*Name of Agency*) have not been blacklisted by any Central / State Government institutions / departments / PSUs and there has been no litigation with any Government department on account of services.

M/s (*Name of Agency*) is not involved in any criminal cases, declared black listed by any department/agencies in India or abroad.

This is true to the best of my knowledge and belief.

If at any stage it is found that M/s (*Name of Agency*) has hidden any such information, BEE may take suitable action against M/s (*Name of Agency*)

Date:
Place:

(Signature)

.....
(Name of Authorized Official)
(Designation)
(Agency Seal)

Form-3: Format for Manpower and Application Scrutiny Capacity

DECLARATION FOR MANPOWER AND CAPACITY

(Typed on Agency Letterhead only for appliances/equipments for which it has sufficient manpower)

To,
Secretary, BEE
New Delhi.

This is to certify that:

(i) Below mentioned number of skilled and non skilled people shall be engaged as per requirements of BEE.

Appliance	Manpower			
	Skilled (Nos.)	Qualification	Un-Skilled (Nos.)	Qualification

(ii) Below are the application scrutiny capacities of agency (appliances-wise) per year:

Appliance	Application Scrutiny Capacity Per Year (Nos.)

(Add more rows as per requirement)

This is true to the best of my knowledge and belief.

Date:
Place:

(Signature)

.....
(Name of Authorized Official)
(Designation)
(Agency Seal)

Form-4: Acceptance Letter for Payments

ACCEPTANCE LETTER FOR PAYMENTS

(Typed on Agency Letterhead)

To,

Secretary
Bureau of Energy Efficiency
Government of India, Ministry of Power
4th Floor, Sewa Bhawan, R.K. Puram, New Delhi – 110 066

Subject: **Empanelment with BEE as IAME as per EoI**

- We hereby express our interest for empaneling with BEE as IAE on the terms and conditions stated in EoI
- We accept the following payment terms:

(i) The application scrutiny charges shall be ₹1,350/- per application including management charges by IAME. The charges for label change / degradation application and Auto-cancelled application shall be ₹ 750/- per application including management charges by IAME.

(ii) These charges are excluding all applicable taxes

(iii) For witnessing check testing services and procurement of appliances/equipment, in case of local non-availability, the deputed IAME professional/ Engineer shall be eligible for the following:

Sr. No.	Particulars	Ceiling Limit
1	Per Day Charges	₹3,000/-
2	Lodging + Boarding (For outstation Travel)	Reimbursement of single room rent on actual basis, subject to a maximum of ₹ 3,000/- per day.
3	Travel as per Actuals	May travel by rail in AC 2nd tier, or by any cheapest airline in economy class. Local conveyance i.e. from airport/railway station/place of stay to BEE office & back will also be reimbursed subject to such ceiling as may be specified.

(iv) Expenses incurred by IAME towards procurement of samples and transportation of samples to empanelled labs shall be considered for reimbursement upon the submission of actual bills/invoices to BEE.

Date:

Place:

(Signature)

(Name of Authorized Official).....

(Designation)

(Agency Seal)

29. **DRAFT AGREEMENT**

CONTRACT FOR IAME SERVICES

Between

Bureau of Energy Efficiency

And

_____ (Name of the Agency)

FORM OF CONTRACT

This Contract (hereinafter called the "Contract") is made on the _____, between the President of India acting through Secretary, Bureau of Energy Efficiency, Ministry of Power, Government of India, 4th Floor Sewa Bhavan, Sector-1, R.K. Puram, New Delhi (hereinafter called the "Employer"), of the First Part and, "_____" (Name of the Agency) having its head office at _____ (Address of the Agency). Hereinafter referred to as the 'agency' which expression unless repugnant to the context shall mean and include their successors and assigns of the second part.

WHEREAS

(a) the agency, having represented to the "Employer" that there has the required technical resources, professional skills and personnel has offered to provide in response to the expectations of the Employer;

(b) the "Employer" has accepted the offer of the agency to provide the services on the terms and conditions set forth in this Contract.

NOW, THEREFORE, IT IS HEREBY AGREED between the parties 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 the Contract;

2. The mutual rights and obligations of the "Employer" and the agency shall be as set forth in the Contract, in particular:

- the agency shall carry out and complete the Services in accordance with the provisions of the Contract; and
- the "Employer" shall make payments to the agency in accordance with the provisions of the Contract.

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.

Signed by

1. For and on behalf of BEE

2. For and on behalf of _____ (Name of the Agency)

Head of Agency, _____ (Name of the Agency)

GENERAL CONDITIONS OF CONTRACT

1. General Provisions

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 law and any other instruments having the force of law in India for the time being.

(b) "agency" means _____ (name of the agency) that will provide the Services to the "Employer" under the Contract.

- (c) "Contract" means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that is this General Conditions (GC) and the Appendices.
- (d) "Day" means working day.
- (e) "Effective Date" means the date on which this Contract comes into force and effect pursuant to Clause GC 2.1.
- (f) "Foreign Currency" means any currency other than the currency of the "Employer's" country.
- (g) "GC" means these General Conditions of Contract.
- (h) "Government" means the Government of India.
- (i) "Local Currency" means Indian Rupees.
- (j) "Member" means any of the entities that make up the joint venture/consortium/association; and "Members" means all these entities.
- (k) "Party" means the "Employer" or the agency, as the case may be, and "Parties" means both of them.
- (l) "Personnel" means professionals and support staff provided by the agency and assigned to perform the Services or any part thereof; "Foreign Personnel" means such professionals and support staff who at the time of being so provided had their domicile outside the Government's country; "Local Personnel" means such professionals and support staff who at the time of being so provided had their domicile inside the Government's country; and "Key Personnel" means the Personnel referred to in Clause GC 4.2(a).
- (m) "Services" means the work to be performed by the agency pursuant to this Contract, as described in Appendix A hereto.
- (n) "Third Party" means any person or entity other than the "Employer", or the agency.
- (o) "In writing" means communicated in written form with proof of receipt.

1.2 Relationship Between the Parties: Nothing contained herein shall be construed as established a relationship of master and servant or of principal and agent as between the "Employer" and the Agency. The Agency, subject to this Contract, has complete charge of Personnel, 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 laws of India.

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

1.5 Notices:

1.5.1 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 or the Party to whom the communication is addressed, or when sent by registered post to such Party at the address specified in the _____(name of the agency)offer.

1.5.2 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 specified in the _____(name of the lab)offer.

1.6 Location: The Services shall be performed at such locations as are specified by the Employer from time to time.

1.7 Authority of Member in Charge: The _____(name of the lab)hereby authorize Shri _____(Name), _____(Designation), to act on their behalf in exercising all the _____(name of the lab) rights and obligations towards the Owner under this Contract, including without limitation the receiving of instructions and payment from the Owner.

1.8 Taxes and Duties: The agency and Personnel shall be liable to pay such direct and indirect taxes, duties, fees and other impositions levied under the applicable laws of India.

1.9 Fraud and Corruption

1.9.1 Definitions: It is the Employer's Policy to require that Employers as well as Agency observe the highest standard of ethics during the execution of the Contract. In pursuance of this Policy, the Employers defines, for the purpose of this provision, the term set forth below as follows:

- (i) "corrupt practice" means the offering, receiving, or soliciting, directly or indirectly, of anything of value of influence the action of a public official in the selection process or in contract execution;
- (ii) "fraudulent practice" means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract;
- (iii) "collusive practices" means a scheme of arrangement between two or more Agency, with or without the knowledge of the Employer, designed to establish prices at artificial, non-competitive levels;
- (iv) "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract;

1.9.2 Measures to be taken by the Employer

- (a) The Employer may terminate the Contract, after giving a notice of minimum of 30 days, if it determines at any time that representatives of the agency were engaged in corrupt, fraudulent, collusive or coercive practices during the selection process or the execution of that contract, without the agency having taken timely and appropriate action satisfactory to the Employer to remedy the situation;
- (b) The Employer may also sanction against the agency, including declaring the agency ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the agency has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Employer-financed contract;

1.9.3 Commissions and fees:

At the time of execution of this Contract, the agency shall disclose any commissions or fees that may have been paid or are agreed to be paid to agents, representatives, or commission agents with respect to the selection process or execution of the Contract. The information disclosed must include at least the name and address of the agent, representatives, or commission agent, the amount and currency, and the purpose of the commission or fee.

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 "Effectiveness Date") of the "Employer's notice to the agency instructing the agency to being carrying out the Services.

2.2 Termination of Contract for Failure to Become Effective: If this Contract has not become effective within such time period as agreed by the parties, after the date of Contract signed by the parties, either Party may, by not less than twenty one (21) days written notice to the other Party, declare this Contract to be null and void, and 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 agency shall begin carrying out the Services not later than the number of days after the Effective Date specified in the Deliverables linked schedule i.e. _____(name of the lab)for confirming the compliance of “Expectations from Standards and Labeling Programme”.

2.4 Expiration of Contract: Unless terminated earlier pursuant to Clause GC 2.8 hereof, this Contract shall expire at the end of two years from the date of implementation of the Contract.

2.5 Entire Agreement: The Contract contains all covenants, stipulations and provisions agree 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 other statement, representation, promise or agreement not set forth herein.

2.6 Modification 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. Pursuant to Clause GC 7.2 here of, 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 Employer 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 not brought about by or at the instance of the Party claiming to be affected by such events and which has caused the non-performance or delay in performance, 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 extreme 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 by or of such Party’s 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 obligation hereunder.

(c) Subject to clause 2.7.2, Force Majeure shall not include insufficiency of funds or inability 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 or, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such 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 obligation 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 agency, upon instructions by the "Employer", shall either:

- (i) Demobilize,; or
- (ii) continue with the Services to the extent possible, in which case the agency shall continue to be paid proportionately and on prorated basis, under the terms of this Contract.

2.8 Termination

2.8.1 By the "Employer", The "Employer" may terminate this Contract in case of the Occurrence of any of the events specified in paragraphs (a) through (h) of this Clause GC 2.8.1

(a) If the agency 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 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the "Employer" may have subsequently approved in writing.

(b) If the agency becomes insolvent or go into liquidation or receivership whether compulsory or voluntary.

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

(d) If the agency in the judgment of the "Employer", has engaged in corrupt or fraudulent practices in competing for or in executing this Contract.

(e) If the agency submits to the "Employer" a false statement which has a material effect on the rights, obligations or interests of the Employer",

(f) If the agency places itself in position of conflict of interest or fails to disclose promptly any conflict of interest to the Employer.

(g) If the agency fails to provide the quality services as envisaged under this Contract.

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

2.8.2 By the agency : The agency may terminate this Contract, by not less than thirty (30) days' written notice to the "Employer" in case of the occurrence of any of events specified in paragraphs (a) through (d) of this Clause GC 2.8.2.

(a) If the "Employer" fails to pay any money due to the agency pursuant to this Contract and not subject to dispute pursuant to Clause GT 8 hereof within forty-five (45) days after receiving written notice from the agency that such payment is overdue.

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

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

(d) If the “Employer” 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 agency may have subsequently approved in writing) following the receipt by the “Employer” of the agency notice specifying such breach.

2.8.3 Cessation of Rights and Obligations: Upon termination of this Contract pursuant to Clause GC 2.2 or GC 2.8 hereof, or upon expiration of this Contract pursuant to Clause GC 2.4 hereof, all right 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, and (iii) any right which a Party may have may have under the Law.

2.8.4 Cessation of Services: Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GC 2.8.1 or GC 2.8.2 hereof, the agency 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.

2.8.5 Payment upon Termination: Upon termination of this Contract pursuant to Clauses GC 2.8.1 or GC 2.8.2 hereof, the Employer” shall make the following payments to the agency:

(a) If the Contract is terminated pursuant to Clause 2.8.2, remuneration pursuant to Clause GTC 6.3 (f) (i) hereof for Services satisfactorily performed prior to the effective date of termination, and reimbursable expenditure pursuant to Clause GC 6.3(f) (ii) hereof for expenditures actually and reasonably incurred prior to the effective date of termination.

(b) If the agreement is terminated pursuant of Clause 2.8.1 (a) to (g), the agency shall not be entitled to receive any agreed payment upon termination of the contract. However, the “Employer” may consider to make payment for the part satisfactorily performed on the basis of Quantum Merit as assessed by it, if such part is of economic utility to the Employer. Applicable under such circumstances, upon termination the client may also impose liquidated damages as per the provisions of Clause 9 of this agreement. The agency will be required to pay any such liquidated damages to client within 30 days of termination date.

2.8.6 Dispute about Event of Termination: If either Party disputes whether an event specified in paragraphs (a) through (g) of Clause GC 2.8.1 or in Clause GC 2.8.1 or in Clause GC 2.8.2 hereof has occurred, such Party may, within forth-five (45) days after receipt of notice of termination from the other Party, refer the matter to 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 AGENCY

3.1 General

3.1.1 Standard of Performance: The agency shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, 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 agency shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisor to the “Employer”, and shall at all times support and safeguard the “Employer” legitimate interests in any dealings with Sub-agency or Third Parties.

3.2 Conflict or Interests: The agency shall hold the “Employer’s” interests paramount, without any consideration for future work, and strictly avoid conflict of interest with other assignments or their own corporate interests. If during the period of this contract, a conflict arises for any reason, the agency shall promptly disclose the same to the Employer and seek its instructions.

3.2.1 agency not to benefit from Commissions, Discounts, etc.:

(a) The payment of the agency pursuant to Clause GC6 hereof shall constitute the agency's only payment in connection with this Contract and, subject to Clause GC3.2.2 hereof, the agency shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the agency shall use its best efforts to ensure that any Sub-agency, as well as the Personnel and agents or either of them, similarly shall not receive any such additional payment.

(b) Furthermore, if the agency, as part of the Services, has the responsibility of advising the "Employer" on the procurement of goods, works or services, the agency shall comply with the Employer's applicable procurement guidelines, and shall at all times exercise such responsibility in the best interest of the "Employer". Any discounts or commissions obtained by the agency in the exercise of such procurement responsibility shall be for the account of the "Employer".

3.2.2 agency and Affiliations Not to Engage in Certain Activities: The agency agrees that, during the term of this Contract and after its termination, the agency and any entity with the agency, as well as any Sub-agency and any entity affiliated with such Sub-agency, shall be disqualified from providing goods, works and services) resulting from or directly related to the agency's Services for the preparation or implementation of the project.

3.2.3 Prohibition of Conflicting Activities: The agency shall not engage, and shall cause their Personnel as well as their Sub-agency and their Personnel not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

3.3 Confidentiality: Except with the prior written consent of the "Employer", the agency and the Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the agency and its Personnel make public life recommendations formulated in the course of, or as a result of, the Services.

3.4 Insurance to be Taken out by the Agency: The Agency shall take out and maintain, and shall cause any Sub-Agency to take out and maintain insurance if required, at their (or the Sub-Agency', as the case may be) own cost.

3.5 Accounting, Inspection and Auditing: The Agency (i) shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with the internationally accepted principles and in such form and detail as will clearly identify all relevant time changes and costs, and the bases thereof.

3.6 Agency's Actions Requiring "Employer's Prior Approval: The Agency shall obtain the "Employer's prior approval in writing before taking any of the following actions:

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

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

3.7 Reporting Obligations: The Agency shall submit to the "Employer" 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.

3.8 Documents Prepared by the Agency to be the Property of the "Employer": All plans, drawings, specifications, designs, reports, other documents and software prepared by the Agency for the "Employer" under this Contract shall become and remain the property of the "Employer", and the Agency shall, not later than upon termination or expiration of this Contract, deliver all such documents to the "Employer", together with a detailed inventory thereof. The Agency may retain a copy of such documents, but shall not use anywhere, without taking permission, in writing, from the Employer and the Employer reserves the right to grant or deny any such request. If license agreements are necessary or appropriate between the Agency and third parties for purposes of development of any such computer programs, the Agency shall obtain the "Employer"'s prior written approval to such agreements, and the "Employer" shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned.

4. Agency's Personnel

4.1 General: The Agency shall employ and provide such qualified and experienced Personnel and Sub-Agency as are required to carry out the Services.

4.2 Description of Personnel

(a) The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Agency's Key Personnel are as per the Agency's proposal and are described in Appendix B. If any of the Key Personnel has already been approved by the "Employer", his / her name is listed as well.

(b) If required to comply with the provisions of Clause GC 3.1.1 hereof, adjustments with respect to the estimated periods of engagement of Key Personnel set forth in Appendix B may be made by the Agency by written notice to the "Employer", provided (i) that such adjustments shall not alter the originally estimated period of engagement of any individual by more than 25% or one month, whichever is larger, and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GC 6.1 (b) of this Contract. Any other adjustments shall only be made with the "Employer"'s written approval.

(c) If additional work is required beyond the scope of the Services specified in Appendix A, the estimated periods of engagements of Key Personnel set forth in Appendix C may be increased by agreement in writing between the "Employer" and the Agency. In case where payments under this Contract exceed the ceilings set forth in Clause GC 6.1(b) of this Contract, this will be explicitly mentioned in the agreement.

4.3 Approval of Personnel: The key personnel and Sub-Agency listed by title as well as by name in Appendix B are hereby approved by the "Employer". In respect of other Personnel which the Agency proposes to use in the carrying out of the Services, the Agency shall submit to the "Employer" for review and approval a copy of their Curricula Vitae (CVs). If the "Employer" does not object in writing (stating the reasons for the objection) within twenty-one (21) days from the date of receipt of such CVs, such Personnel shall be deemed to have been approved by the "Employer".

4.3.1 Removal and / or Replacement of Personnel:

(a) Except as the "Employer" may otherwise agree, no changes shall be made in the Personnel. If, for any reason beyond the reasonable control of the Agency, such as retirement, death, medical incapacity, among others, it become necessary to replace any of the Personnel, shall forthwith provide as a replacement a person of equivalent or better qualification.

(b) If the "Employer" (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action or (ii) has reasonable cause to be

dissatisfied with the performance of any of the Personnel, then the Agency shall, at the "Employer's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualification and experience acceptable to the "Employer".

(c) Any of the Personnel provide as a replacement under Clauses (a) and (b) above, as well as any reimbursable expenditures (including expenditures due to the number of eligible depends) the Agency may wish to claim as a result of such replacement, shall be subject to the prior written approval by the "Employer". The rate of remuneration applicable to a replacement person will be the rate of remuneration paid to the replacement person. Also (i) the Agency shall bear all additional travel and other costs arising out of or incidental to any removal and / or replacement, and (ii) the remuneration to be paid for any of the Personnel provided as a replacement shall not exceed the remuneration which would have been payable to the Personnel replaced.

5. Obligation of the "Employer"

5.1 Assistance and Exemption: The "Employer" shall use its best efforts to ensure that the Government shall, if required:

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

(b) Arrange for the Foreign Personnel to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in India.

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

(d) Provide to the Agency, Sub-Agency and Personnel any such other assistance as per requirement.

5.2 Change in the Applicable Law Related to Taxes and Duties: If, after the date of this Contract, there is any change in the Applicable Laws of India with respect to taxes and duties, which are directly payable by the Agency for providing the services i.e. service tax or any such applicable tax from time to time, which increases or decrease the cost incurred by the Agency in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Agency under this Contract shall increase or decrease accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GC 6.1 (b).

5.3 Services, Facilities and Property or the "Employer":

(a) The "Employer" shall make available to the Agency and its Personnel, for the purposes of the Services and free of any charge, facilities and property as required from time to time.

(b) In case that such services, facilities and property shall not be made available to the Agency, the Parties shall agree on any time extension that it may be appropriate to grant to the Agency for the performance of the Services.

6. PAYMENT TO THE AGENCY

6.1 Total Cost of the Services

a) The total cost of the Services payable is set forth in Appendix C as per the Agency's proposal to the Employer.

b) Except as may be otherwise agreed under Clause GC 2.6 and subject to Clause GC 6.1(c), payments under the Contract shall not exceed the amount specified in Appendix C.

c) Notwithstanding Clause GC 6.1(b) hereof, if pursuant to any of the Clause GC 4.2 (c) or 5.2 hereof, the Parties shall agree that additional payments shall be made to the Agency in order to cover any necessary additional expenditure not envisaged in the cost estimates referred to in Clause GC 6.1 (a) above, the ceiling or ceiling, 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 Currency of Payment: All payments shall be made in Indian Rupees.

6.3 Terms of Payment

a) The payment in respect of the Services shall be made as follows:

The Agency shall submit the invoice for payment when the payment is due as per the agreed terms. The payment shall be released as per the work related milestones achieved and as per the specified percentage given in the deliverable linked payment scheduled i.e. "Expectations from ____ (name of the lab) for confirming the compliance of Standards and Labeling Programme".

b) Once a milestone is complicated, the Agency shall submit the requisite deliverables as specified in this Contract. The Employer shall release the requisite payment upon acceptance of the deliverables. However, if the Employer fails to intimate acceptance of the deliverables or its objections thereto, within 15 days of receipt of it, the Employer shall release the payment to the Agency without further delay.

c) For the purpose of payment under Clause 6.3 (b) above, acceptance means; acceptance of the deliverables by the Employer after submission by the Agency with modifications if any, to be communicated in writing to the Agency by the Employer.

d) If the deliverables submitted by the Agency are not acceptable to the Employer reasons for such non-acceptance should be recorded in writing; the Employer shall not release the payment due to the Agency. This is without prejudicing the Employer's right to levy any liquidated damages under clause 9. In such case, the payment will be released to the Agency only after it re-submits the deliverables and which is accepted by the Employer.

e) All payments under this Contract shall be made to the accounts of the Agency as specified as per the payment linked deliverables i.e. "Expectations from ____ (name of the lab) for confirming the compliance of Standards and Labeling Programme".

f) In case of early termination of the contract, the payment shall be made to the Agency as mentioned here with: (i) Assessment should be made about work done from the previous milestone, for which the payment is made or to be made till the date of the termination. The Agency shall provide the details of persons reasonably worked during this period with supporting documents. Based on such details, the remuneration shall be calculated based on the annual fee plus the man day rate as specified. (ii) A reasonable assessment of the reimbursable and miscellaneous expenses shall be made based on details furnished by the Agency in this regard with supporting documents and based on the assessment of the work done and the respective rates as provided. Whenever such an assessment is difficult, the rates should be arrived at by calculating the amount on pro-rata basis. The total amount payable shall be amount calculated as per (i) and (ii) above plus any applicable tax.

7. FAIRNESS AND GOOD FAITH

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

7.2 Operation of the Contract: The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that , if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause GC 8 hereof.

8. SETTLEMENT OF DISPUTES.

8.1 Amicable Settlement: Performance of the governed by the terms & conditions of the contract. In case a dispute arises between the parties regarding any matter under the contract, either Party of the contract may send a written Notice of Dispute to the other party. The Party receiving the Notice of Dispute will consider the Notice and respond to it in writing 30 days after receipt. If that party fails to respond within 30 days, or the dispute cannot be amicably settled within 60 days following the response of that party, clause GC 8.2 shall become applicable.

8.2 Arbitration: In the case of dispute arising upon or in relation to or in connection with the contract between the Employer and the Agency, which has not been settled amicably, any party can refer the dispute for Arbitration under Indian Arbitration and Conciliation Act, 1996. Such disputes shall be referred to an Arbitral Tribunal consisting of 3 (three) arbitrator shall be chosen by the two arbitrators so appointment by the parties and shall act as Presiding Arbitrator. In case of failure of the two arbitrators, appointed by the parties to reach a consensus regarding the appointment of the third arbitrator within a period of 30 days from the date of appointment of the two arbitrators, the Presiding arbitrator shall be appointed by the Secretary of Ministry / Department. The Arbitration and Conciliation Act, 1996 and any statutory modification or re-enactment thereof, shall apply to these arbitration proceedings.

8.3 Arbitration proceedings shall be held in India at Delhi and the language of the arbitration proceedings and that of all documents and communications between the parties shall be English.

8.4 The decision of the majority of arbitrators shall be final and binding upon both parties. The expenses of the arbitrators as determined by the arbitrators shall be shared equally by the Employer and the Agency. However, the expenses incurred by each party in connection with the preparation, presentation shall be borne by the party itself. All arbitration awards shall be in writing and shall state the reasons for the award.

9. LIQUIDATED DAMAGES.

9.1 The parties hereby agree that due to negligence of act of any party, if the other party suffers losses, damages the quantification of which may be difficult, and hence the amount specified hereunder shall be constructed as reasonable estimate of the damages and both the parties agree to pay such liquidated damages, as defined hereunder as per the provisions of this Contract.

10. MISCELLANEOUS PROVISIONS:

(i) Nothing contained in this contract shall be construed as establishing or creating between the Parties, a relationship of master and servant or principal and agent.

(ii) Any failure or delay on the part of any Party to exercise right or power under this Contract shall not operate as waiver thereof.

(iii) The Contractor / Agency shall notify the Employer / the Government of India of any material change in their status, in particular, where such change would impact on performance of obligation under this Contract.

(iv) Each member / constituent of the Contractor / Agency, in case of a consortium, shall be jointly and severally liable to and responsible for all obligations towards the Employer / Government for performance of works / services including that of its Associates / Sub Contractors under the Contract.

(v) The Contractor / Agency shall at all times indemnify and keep indemnified the Employer / Government of India against all claims / damages etc. for any infringement of any Intellectual Property Right (IPR) while providing its services under the Project. The Contractor / Agency shall at all times indemnify and keep indemnified the Employer /Government of India against any claims in respect of any damages or compensation payable in consequences of any accident or injury sustained or suffered by its (the Contractor's / Agency's) employees or agents or by any other third Party resulting from or by any action, omission or operation conducted by or on behalf of the Contractor / Agency.

(vi) The Contractor / Agency shall at all times indemnify and keep indemnified the Employer / Government of India against any and all claims by Employers, Workman, Contractors, Sub-contractors, suppliers, agent(s) , employed engaged or otherwise working for the Contractor, in respect of wages, salaries, remuneration, compensation or the like.

(vii) All claims regarding indemnity shall survive the termination or expiry of the Contract.

(viii) It is acknowledged and agreed by all Parties that there is no representation of any type, implied or otherwise, of any absorption, regularization, continued engagement or concession or preference for employment of persons engaged by the (Contractor / Agency) for any engagement, service or employment in any capacity in any office or establishment of the Government of India or the Employer.