

## **CONSULTANCY SERVICES AGREEMENT**

THIS AGREEMENT made and entered into this **Monday 2nd April 2012**, by and between Delcons Consultants India Private Limited, Pune – the “Consultant” having its office at Building No. 5, Flat No. 49, Nutan Society, Lokmanya Nagar, Pune 411 030 and [Name of Client] – the “Client”, having its office at [Address of Registered Office of the Client]

And WHEREAS, the Client has decided to execute [Full details of the project] for which the Client, after having examined that the Consultant has all the required professional skills, personnel and technical resources, has decided to engage the professional services of the Consultant and the Client accepted the offer made by the Consultant subject to Terms and Conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein, and other good and valuable consideration the sufficiency of which is hereby acknowledged, Client and Consultant covenant and agree as follows:

### **1. Term**

This Agreement shall come into force and effect on the date (the “Effective Date”) on which this Agreement is signed by both the parties. The Consultant shall proceed with rendering his service within 2 working days after Advance Payment and all the prerequisites/preliminary data is received from the Client. If this Agreement has not become effective within such time period after the date of the Agreement signed by the Parties either party may, by not less than four (4) weeks written notice to the other party, declare this Agreement to be null and void and in the event of such a declaration by either party, neither party shall have any claim against the other party with respect hereto.

### **2. Scope of Services**

- 2.1 Consultant will DESIGN the structures by referring to appropriate IS codes as far as possible, however it would neither be a condition nor obligation of this Agreement to follow it strictly and more practical, feasible and widely acceptable standards of design would be employed in the DESIGN as long as the Structural Stability and compliance of local governing laws are concerned.
- 2.2 Designing and Analysis of the Structures being a multifaceted and multipronged activity, Consultant will apply his expertise that has stood the test of time for several years and the best alternative in the given set of conditions would be presented considering the site statistics, material properties and behavior of structural elements in view of the structural stability. However if any DESIGN of the Consultant is required to be approved by any other qualified consultant or any other authority by the Client, if any changes are suggested in the Consultant’s DESIGN by any such authority should be accepted and executed the sole discretion of the Client without any obligation on the Consultant.
- 2.3 Consultant shall prepare and send General arrangement (G.A.) drawing marking column positions along with design basis for the approval/comments within 3 working days from the receipt of architectural drawings (soft copy or prints) from the client.
- 2.4 Client shall send approved copy of the G.A. drawing/column positions and also design basis duly signed by him with company’s seal along with soil investigation report. If client has not done soil investigation, the Consultant shall visit the project site for verification of strata for which trial pits shall be taken by the client at his cost and inform the same to the Consultant in advance before visit of the Consultant.
- 2.5 Consultant shall prepare foundation drawing and, if applicable, bar bending schedule of RCC members and send it to the client or client’s representative as the case may be for execution.

- 2.6 Consultant shall revise the foundation drawing, if requested by the client, and send the revised foundation drawing for execution. The revisions shall be charged at the pro rata basis rates.
- 2.7 Consultant shall then be subsequently sending the drawings of slabs of upper floors as per the requirements of the client. However, this requirement be communicated to the Consultant at least 4 days in advance.
- 2.8 Consultant shall issue design adequacy certificate to the Client after completion of the work on receipt of certificate in a standard form duly filled and signed by the site engineer/qualified site supervisor appointed by the Client on site.
- 2.9 The Consultant shall do the site visits, with 24 Hrs prior intimation for local and 2 days for outstation, to verify the correctness of reinforcement provided by the client in execution and make suggestions for modifications required, if any, through site memos/inspection reports. Client to ensure that all activities pertaining to this visit of Consultant are completed in all respects and incomplete work in any respect will neither be inspected nor certified. (NA for overseas)

### **3. Liability of the Consultants**

The liability of the Consultant shall expire after 2 years from the date of issue of design adequacy certificate and the Consultant shall not be responsible for any of the following at any point of time.

- 3.1 Noncompliance to the instructions issued through Consultant's site inspection memos
- 3.2 Not adhering to the codes of practices and stipulations which were not in force during the stage of structural design
- 3.3 Safety of the scaffolding/staging and such other temporary structures
- 3.4 Consultant shall not guarantee the work of any contractor
- 3.5 Any part of the work not designed by him or part of any work executed contrary to his specifications.
- 3.6 Any damage to the concerned property or any adjacent property / structure and life of the pertinent structure(s) resulting from any act of Client, contractors, suppliers, or other agencies during execution of the work.
- 3.7 Any violation of legal provisions of rights of the third parties, Government etc. unless otherwise these provisions or rights are brought to his notice by the Client in writing well in advance
- 3.8 Any damage to the property after completion of the work due to bad maintenance, overloading, additions/alterations without proper technical advice in writing from the competent authority, structural changes made by the occupiers and like.

### **4. Exclusions**

- 4.1 To provide BOQ's and draft tender document for the project unless specifically requested by the Client and Client has agreed to pay extra for the same.
- 4.2 Soil investigation, testing of materials, cost of carrying out load test or any other test relating to the structural work
- 4.3 To act as engineer of the Client for day to day supervision of the contractor's work and give quality assurance of contractor's work
- 4.4 Work carried out by the contractor contrary to the instructions of the Consultant and work executed through nonstandard engineering workmen in unprofessional manner by not following the proper sequence of work
- 4.5 Any work executed by the site contractor which is not related to the design
- 4.6 Specialized or advisory consultation in matters of structural design including computer simulation, modeling for wind tunnel and seismic analysis, fees towards such consultants shall not form the part of the fees of the Consultants stipulated in Appendix C of this Consultancy Agreement. So also, attending meetings with the Consultants of other disciplines and inputs required by them, if requested by the Client, shall be charged extra on hourly/visit basis.

- 4.7 Preparation of bar bending schedule and fabrication drawings checking of shuttering provided by the contractor.
- 4.8 Procuring quality materials and further executing the work in a professional manner by following accepted sequence in execution of civil works.
- 4.9 Any holes made by the laborers in the RCC members to pass plumbing pipes/outlet pipes of Nahani trap and like which has effect on the structure as a whole.

## 5. **Payment**

Professional fees of the Consultant for the project defined in this Consultancy Agreement shall be Rs. -----/sq. ft. Service Tax at 12.36% as per the present Central Government Policy effective from 1 Apr 2012 in force shall be charged extra on the professional fees. If there is any change in the percentage of Service Tax by Central Government during the operative period of this Consultancy Agreement, the revised percentage shall be payable by the Client.

Sr.	Stage	Fees payable
1.	Advance	15% of the estimated fees or Rs. 10,000 whichever is higher
2.	Release of 1 <sup>st</sup> foundation drawing	(25%) Bill given on actual area basis minus Advance
3.	Release of drawing of 2nd slab	(25%) Bill given on actual area basis minus Payments
4.	Release of drawing of 5th slab	(25%) Bill given on actual area basis minus Payments
5.	Release of drawing of OHWT/staircase cap	(10%) Entire 100% payment as per the Final bill
6.	2nd and subsequent revisions in any drawing	Rs. 2,000/- Lump sum per revision
7.	Re-visit charges for the same work which was not ready from the Clients side after request is made by Client for checking.	Rs. 2,500/- in old PMC limit Rs. 5,000/- in extended PMC limit Rs. 7,500/- beyond 50 KM from the office of the Consultant. These charges are required to be paid in advance in the office of the Consultant without which the revisit would not happen.
8.	If DESIGN of the Consultant is required to be approved by any other qualified consultant or any other authority by the Client, extra charges as per case to be paid by the client.	

## 6. **Relationship of the Parties**

Nothing herein shall be construed to create an employer-employee relationship between Client and Consultant. The Consultant is an independent entity and not an employee of the Client or any of his/her subsidiaries or affiliates. The consideration set forth in Clause No 5 shall be the sole consideration due to the Consultant for the services rendered hereunder. It is understood that the Clients will not withhold any amounts from the professional fees of Consultant except the mandatory taxes. Consultant will not represent to be or hold himself out as an employee of the Clients' Organization.

## 7. **Confidential Information**

Consultant agrees that all Inventions and all other business, technical and financial information Consultant develops, learns or obtains during the period over which he is or is supposed to be providing Services that relate to Clients or the business or demonstrably anticipated business of Clients in connection with Services or that are received by or for Clients in confidence, constitute "Confidential Information." Consultant will hold in confidence and not disclose without prior written consent or, except in performing the Services, use any Confidential Information. Consultant agrees not to disclose or disseminate the Confidential Information of Client to any individual, entity, institute or organization without the written consent of the Client for the same as the case may be.

**8. Intellectual Property**

Clients shall own all right, title and interest (including patent rights, copyrights, trade secret rights, mask work rights, trademark rights and all other intellectual property rights throughout the world) relating to any and all inventions, works of authorship, mask works, designations, designs, know-how, ideas and information made or conceived or reduced to practice, in whole or in part (collectively, "Inventions") by Consultant during the term of this Agreement that relate to the subject matter of, or arise out of the Services. Consultant shall promptly disclose and provide all Inventions to Client. Consultant shall provide to Client any and all copies of all materials created for Client under this Agreement at the conclusion of Consultant's Services under this agreement or from the Termination Date, whichever occurs first.

**9. Miscellaneous**

The failure of either party to enforce its rights under this Agreement at any time for any period shall not be construed as a waiver of such rights. No changes or modifications or waivers to this Agreement will be effective unless in writing and signed by both parties. In the event that any provision of this Agreement shall be determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. This Agreement shall be governed by and construed in accordance with the laws of the State of Maharashtra without regard to the conflicts of law's provisions thereof. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys fees. Headings herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.

- a. Entire Agreement and Amendments. This Agreement constitutes the entire agreement of the parties with regard to the subject matter hereof, and replaces and supersedes all other agreements or understandings, whether written or oral made or executed on a prior date. No amendment or extension of the Agreement shall be binding unless in writing and signed by both parties.
- b. Binding Effect, Assignment. This Agreement shall be binding upon and shall inure to the benefit of both the parties i.e. the Consultant as well as the Clients and their respective successors and assigns.
- c. Governing Law, Severability. This Agreement shall be governed by the laws of the State of Maharashtra. The invalidity or unenforceability of any provision of the Agreement shall not affect the validity or enforceability of any other provision.

Wherefore, the parties have executed this Agreement as of the date first written above.

SIGNED and DELIVERED FOR and ON BEHALF OF CONSULTANT

Name: Bal Bhimrao Kulkarni  
Director, DELCONS Consultants India Pvt. Ltd.

Signature: \_\_\_\_\_

SIGNED AND DELIVERED FOR AND ON BEHALF OF CLIENT

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

In the presence of

1) Name: \_\_\_\_\_

Signature: \_\_\_\_\_

2) Name: \_\_\_\_\_

Signature: \_\_\_\_\_