



No. 4/46/2017-DIPAM-II-A
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF INVESTMENT & PUBLIC ASSET MANAGEMENT

Engagement of Transaction Advisor for Strategic Disinvestment of HLL LifeCare Ltd.- Request for Proposal

1. INTRODUCTION

1.1 The HLL Lifecare Ltd. is a listed Public Sector Company under the administrative control of Ministry of Health & Family Welfare. Total turnover of the company in Financial Year 2016-17 was Rs 1064.71 crores. The networth of the company as on 30.09.2017 is Rs 487.93 crores.

1.2 HLL's started its journey with a single contraceptive unit in 1966. Today it is a complete healthcare delivery company and is a multi-product, multi-location organization addressing various public health challenges faced by public at large. With a vast array of innovative products and social programmes, HLL Lifecare Limited is taking a step closer to its vision of 'Innovating for Healthy Generations'. HLL is the only company in the world manufacturing and marketing the widest range of contraceptives. It is unique in providing a range of Condoms, including Female Condoms, Intra Uterine Devices, Oral Contraceptive Pills - steroidal, non-steroidal and Emergency Contraceptive pills and Tubal Rings. HLL's healthcare product range includes: Blood Collection Bags, Surgical Sutures, Vaccines, Women's healthcare Pharma products, In - Vitro Diagnostic Test Kits, Hydrocephalus Shunt, Tissue Expanders, Needle Destroyers, Blood Bank equipment, Iron and Folic Acid Tablets, Sanitary Napkins, and Oral Rehydration Salts. Over the past fifteen years HLL has steadily set up a strong and sound infrastructure for direct marketing. HLL has put in place a vast distribution network covering the length and breadth of the Indian continent. HLL today reaches out to over half a million retail outlets, including over 1,00,000 villages, in the remotest corners of India. HLL's products are today exported to over 70 countries. The company set up the not-for-profit organization, the Hindustan Latex Family Planning Promotion Trust (HLFPPT), in 1992 for the purpose of designing and implementing social sector intervention projects, particularly in the area of reproductive health, women empowerment and HIV prevention and control activities, with the objective of creating planned social change. HLFPPT is today one of the top social marketing organizations in India.

1.3 The major technology collaborators for products manufactured by HLL include Okamoto of Japan; Finishing Enterprises, USA; Female Health Company, UK; and Beijing Zizhu Pharma of China.

1.4 HLL has seven state-of-the-art manufacturing facilities with quality and environmental management system certifications. Products manufactured at its plants also have several national and international quality certifications including the 'CE' marking. HLL is today a leading provider of contraceptives and healthcare products to various global public health programmes managed by international agencies like UNFPA, UNOPS, UNHCR, WHO, PSI and IDA. Its Female Condom and Unipill manufacturing facilities are UNFA-WHO pre-qualified and the products are being registered in several countries based on this pre-qualification.

1.5 The Company's registered and corporate office is at HLL Bhavan, Mahilamandiram Road, Poojappura, Thiruvananthapuram – 695 012, Kerala. Nearly 5000 employees and with several world leaders as partners, HLL has over the past four decades stood to uphold its mission to achieve and sustain a high growth path, and focus on five key thrust areas to achieve its vision. These are - customers, employees, business, industry, and social initiatives.

1.6 Subsidiaries and Joint Venture: As on date, HLL has five subsidiary companies and one joint venture company, as under:

1.6.1 HLL Biotech Limited (HBL): 100% subsidiary of HLL for production of vaccines for the National Immunization Programme and new generation vaccines with an investment of around Rs.600 Cr. The facility is being established at Chengalpattu, near Chennai in Tamil Nadu. HBL, with an annual capacity of 585 million doses, will manufacture Pentavalent combination (DPT plus Hep B plus Hib), BCG, Measles, Hepatitis B, Human Rabies, Hib and Japanese Encephalitis (JE) vaccines in the first phase.

1.6.2 HLL Infra Tech Services Limited (HITES): Formed in the year 2014, HITES is a 100% subsidiary company of HLL, specialized for infrastructure development and procurement of medical equipment and devices in healthcare sector. HITES provides services in design, engineering and execution of construction projects.

1.6.3 Goa Antibiotics and Pharmaceuticals Limited (GAPL): subsidiary of HLL – into Pharmaceutical manufacturing. HLL holds 74% shares of GAPL and the balance 26% is held by EDC Limited, Goa.

1.6.4 HLL Medipark Limited (HML): incorporated on 20th December 2016 as a subsidiary of HLL, MEDIPARK is envisaged as a world-class industrial infrastructure park providing infrastructure support for the promotion of medical equipment. Once fully

operational, MEDIPARK will be India's first sector specific infrastructure initiative in Medical Device sector. The MEDIPARK is being established at Chengalpattu, near Chennai in Tamil Nadu in 330 acres of land transferred for this project on long term lease by Government of India.

1.6.5 HLL Mother & Child Care Hospitals Limited: HLL Mother & Child Care Hospitals Limited was incorporated on 1st August 2017 as a 100% subsidiary of HLL as an SPV for operationalization of 100 bedded Mother & Child Hospitals Wings in 20 District Hospitals in UP through PPP mode on equip, finance, operate, maintain and transfer (EFOMT) basis.

1.6.6 LifeSpring Hospitals (P) Limited: LifeSpring is a 50:50 Joint Venture between HLL and Acumen Fund Inc., USA running Maternity Care Hospitals in Hyderabad. Presently, the JV is running a cluster of 11 hospitals in Hyderabad.

1.7 The web-site of the company is at -www.lifecarehll.com

2. PROPOSAL

The Government of India (GoI) has 'in-principle' decided that the vaccine venture and Medipark of HLL Lifecare Ltd. be hived off as separate SPVs within a period of three months. Then 100 percent of the Government's equity in HLL Lifecare Ltd. be strategically disinvested via a two stage auction process. The GoI proposes to engage Transaction Advisor from a reputed professional consulting firm, investment bankers, merchant bankers, financial institutions, banks, etc. for providing Advisory services and managing the disinvestment process, including hiving-off of the above two subsidiaries.

3. SCOPE OF WORK OF THE ADVISOR

3.1 The Advisor will be required to undertake tasks related to all aspects of the proposed strategic disinvestment culminating into successful completion of the transaction and would, inter alia include but not limited to advising and assisting GOI on modalities of disinvestment and the timing; recommend the need for intermediaries required for the process of sale/disinvestment and also help identification and selection of the same with proper Terms of Reference; preparation of all documents like Preliminary Information Memorandum (PIM), Confidential Information Memorandum (CIM), Request for Proposal (RFP), Confidentiality Agreement etc.; structuring the transaction; suggesting measures to fetch optimum value; positioning of the strategic sale, inviting and evaluating the bids, assisting and professionally guiding during the negotiations with prospective buyers, drawing up the sale/other agreements and advising on post-sale matters on a continuous basis. The Terms of Reference (ToR) would include:

- (i) Advising GoI on the modalities and the timing of the strategic disinvestment of HLL Lifecare Ltd. and preparing and submitting a detailed operational scheme to successfully implement the strategic disinvestment process, indicating tentative timelines for each activity.
- (ii) Preparing the deal collateral for the transaction including but not limited to:
 - (a) Preliminary Information Memorandum ("PIM") with intent to providing prospective buyers information about HLL Lifecare Ltd. and its business to enable them to send in their Expression of Interest.
 - (b) Confidential Information Memorandum ("CIM") covering detailed information about HLL Lifecare Ltd. and its business.
- (iii) Advise and assist GoI in identifying and selecting specialized professional intermediaries required for the transaction to be appointed by GoI and their work to be coordinated by the Advisor.
- (iv) Facilitating execution of Non-Disclosure Agreements ("NDA") and subsequent communication and providing the bidders with information on the asset and the transaction.
- (v) Finalizing the process of strategic disinvestment (through bidding/ auction etc).
- (vi) Supporting HLL Lifecare Ltd. in setting up of the e-data room and assisting in the smooth conduct of the due diligence process.
- (vii) Positioning the divestment of GoI equity in HLL Lifecare Ltd. to generate interest among the prospective buyers/ purchasers/ investors.
- (viii) Managing a transparent process of bidding/interest solicitation from potential buyers including:
 - (a) Preparation and issuance of advertisement/RFP etc; and organizing pre-bid meeting(s) and site visit(s);
 - (b) Analysis of and framing/drafting replies to queries of prospective bidders and making necessary modifications, if required in the bid documents;
 - (c) Invitation and evaluation of bids from prospective purchasers/ investors and preparation of requisite documents leading to short listing of bidders for negotiations.
- (ix) Assisting in negotiations with shortlisted bidders.
- (x) Assist GoI in fixing the range of the fair reserve price considering the valuation of HLL Lifecare Ltd. based on the methods like discounted cash

flow;relative valuation; Asset based valuation; and Balance sheet method and highlighting the pros and cons of various methods and also highlighting the fact that many variations of these three valuations exist, While assisting in fixing reserve price, the report of the Asset Valuer will also be taken into considered. The GoI will have the option of valuation done from any other agency.

- (xi) Preparation and execution of requisite agreements (share purchase agreement, shareholders' agreement etc), and all legal documentation required for execution of the transaction on behalf of GoI, on mutually acceptable terms with the successful bidder.
- (xii) Ensuring compliance of applicable regulatory requirements including obtaining statutory approvals and clearances, wherever necessary, and coordinating and monitoring the progress of the transaction until its completion.
- (xiii) Assist in closure of the transaction.
- (xiv) Advising on post-sale matters, if any.
- (xv) Providing any other analytical and transactional support required by GoI for successful completion of the transaction.
- (xvi) Assisting the Govt. in all the associated activities including structural, legal, financial & procedural due diligence, documentation, preparation & filing of requisite documents before agencies/regulatory authorities, formalities as per extant laws & regulations and structuring the transaction after factoring in such hiving off the subsidiaries/units of the CPSE.

3.2 The ToR mentioned above are indicative and non-restrictive in nature. There may be some services relevant but not expressly captured in the aforesaid Scope of Work, which upon being brought to the notice of the Advisor by GoI will also form an integral and mandatory part of the ToR.

4. ELIGIBILITY

4.1 Bidder should be a reputed professional consulting firm/investment banker/merchant banker/financial institution/bank having experience of at least **five years** for providing advisory services for strategic disinvestment/strategic sale/M&A activities/private equity investment transaction.

4.2 Bidders should have advised, handled and successfully completed at least one transaction of strategic disinvestment/strategic sale/M&A activities/private equity

investment transaction of the size of **Rs.300 crores or more** during the period 01.04.2014 to 30.09.2017.

4.3. The interested parties are required to furnish an Affidavit-cum-Undertaking in the format as in **Annexure-1** regarding 'no conviction' and 'no conflict of interest'.

5. PRE-BID MEETING:

A pre-bid meeting will be held before the last date of submission of Proposals. Date, time and venue will be posted on the website of the DIPAM(<http://dipam.gov.in>) in due course of time. The interested parties are required to send in their queries by e-mail to the Officer authorised to receive the Bids as given in paragraph 6 below.

6. SUBMISSION OF PROPOSAL

6.1 Proposals have to be submitted by mentioning the page number on each document and to be submitted in sequence as per the following directions:

(i) **Envelope 1:**

- (a) Covering letter on the Letter Head of Company/Firm for Bid submission by the Bidder enlisting documents attached indicating the page number. Profile of the organization with full particulars of the constitution, ownership and business activities; as well as unabridged Annual Reports or audited financial accounts for the last three years to be furnished.
- (b) Authority letter authorizing the person of the bidder to sign the proposal and other documents.
- (c) Certificate, duly signed by the authorized signatory of the bidder, as per paragraph 4.3.
- (d) Certificate, duly signed by the authorized signatory of the bidder certifying that in case of appointment the agreement as per model attached at **Annexure-2** of this RFP would be signed by the bidder.
- (e) Certificate that in case any of the members of the deal team indicated in EoI is not available for any reason like resignation etc. a person of equivalent qualification and experience would be made available with the concurrence of DIPAM.
- (f) A certificate that the team assigned for the transaction would have one expert in strategic disinvestment; one expert in valuation and one expert

in drafting of transaction documents. The format of the certificate is at **Annexure-3.**

- (g) The bank pay order/digital payment (to be credited to Govt. Account No. 34663044146, IFSC : SBIN0000625, SBI, Central Secretariat Branch, New Delhi by using Inter Bank RTGS Code R-42) of **Rs 1 lakh** (Rupees One Lakh) payable at New Delhi in favor of Pay & Accounts Officers, DIPAM, as **non-refundable fee**. In case of digital payment, a proof of the same may be attached.
- (h) A certificate to the effect that the **Performance Guarantee of Rs. 5 lakh** (Rupee Five Lakh only) by way of bank guarantee which is valid for a period of 2 years from the date of the appointment letter would be provided.
- (i) A certificate, that the Performance Guarantee would be extended by one more year if the transaction is not completed within a period of two years.
- (ii) **Envelope 2 (sealed):**
 - (i) Technical bid alongwith all schedules, certificates & Annexure, duly filled in, page numbered& signed by authorized signatory of Bidder.
 - (ii) Certificate on unconditional bid in the format at **Annexure-4.**
- (iii) **Envelope3 (sealed):**

The Financial Bid: The Financial bid, in the format at **Annexure-5**

- Note: 1. Bids with any conditionality shall stand summarily rejected.
2. Financial Bid, to be opened only of those parties who qualify in the technical evaluation.

6.2 The Expression of Interest should be sent by **1500 hours (IST) on 29th January, 2018 to Shri Priya Ranjan, Under Secretary,** DIPAM, Room No. 203, 2nd Floor, Block No.14, CGO Complex, New Delhi-110 003. The EoI must be sent in hard copies only. The EoIs received after the appointed day and time will be summarily rejected. For any clarifications or details, the parties are advised to contact the above-mentioned officer on Tel 011-24368736, Fax 011-24368502, Email: priya.ranjan@nic.in

6.3 The EoI will be opened by the Tender Opening Committee in the presence of the bidder on 29th January, 2018 at 15.30 Hrs (IST) in the Committee Room of the Department of Investment and Public Asset Management (DIPAM) (Room No. 515, 5th Floor, Block 14, CGO Complex, Lodhi Road, New Delhi-110003).

6.4 The Government reserves the sole right to accept or reject any or all proposals thus received, without assigning any reasons thereof.

6.5 The Financial Bid will be opened only in respect of those parties, who qualify in the technical evaluation.

7. Format of the Technical Bid:

7.1 The technical bid shall be in the following format:

Section (A) Strategic Sale Experience in India including merger & acquisition(weightage 15/100)

- Nature of the Transaction handled & which side was represented – buyer or seller
- Was the transaction for Government or quasi Government or private sector.
- The role played in the transaction
- Intricacies experienced in the transactions
- Innovative work done on the transactions

Section (B) Strategic Sale Experience outside India including merger & acquisition(weightage 5/100)

- Overall transactions handled
- Transaction in similar sector

Section (C) Sector Expertise & Understanding of the Co.(weightage 15/100)

- Indicate work done in the sector - like studies or research undertaken.
- Exhibit strength/expertise in the sector, if any.
- The understanding of the company.

Capital Market Experience(weightage 5/100)

- ### **Section (D)**
- Overall understanding of Indian capital market
 - The work done related to capital market
 - Is capital market experience relevant in the present case, if yes, how and how the same is proposed to be handled.

Section (E) Local Presence(weightage 5/100)

- Commitment to India, fund deployed, period of operations
- Manpower
- Office & other Infrastructure

- Deal Team
- Who in the Deal Team has executed transactions mentioned in 7.1(A) above.

Section (F) Valuation Methodology(weightage 15/100)

- Understanding of the Valuation Methodologies
- To suggest which methodology is the most suitable for the present transaction, with reasons.

Section (G) Marketing Strength(weightage 10/100)

- Exhibit marketing strength
- How the strength to help in the present case
- Proposed strategy for the present case.

Section (H) Transaction Structure(weightage 15/100)

- Proposed structure
- The advantages of the proposed structure
- The deliverables
- The strength in the proposed structure

Section (I) Deal Team and Manpower Commitment(weightage 15/100)

- Details of core team that would work on the transaction.
- Details of other professionals who would provide back up support

Note: An undertaking to be given that if during the process, any of the core team members is not available due to resignation, leave of absence, etc., another person of the same qualification and experience would be made available with the concurrence of Government.

8. BID EVALUATION

8.1 The short listed bidders would be required to demonstrate their credentials before an Inter-Ministerial Group (IMG) through a presentation, covering the areas/ criteria listed above, and to bring along 15 copies of the presentation, at the time of presentation. The date, time and venue for the presentation will be intimated in due course.

8.2 The IMG would evaluate the Bidders on the criteria mentioned in paragraph 7 above based on their presentation and Proposals received and shortlist them for the

purpose of opening of their Financial Bids. Only the parties scoring pre-determined marks/score out of 100, which will be announced before presentation, will be technically short-listed.

8.3 After the short-listing of Bidders based on their presentations, the IMG would open the Financial Bids of only the short-listed Bidders. The short-listed bidders, if so desire, may remain present at the time of opening of the financial bids. The marks scored by the short-listed bidders will be announced before opening of the financial bids.

8.4 The marks scored by the short-listed bidders in the technical evaluation will then be given a weightage of 70. Similarly, the financial bids of the short listed bidders will be given a weightage of 30. The combined score of technical and financial bids will determine the H1, H2, H3 and so on.

8.5 The party scoring the highest points/marks (H1) based on the above principles would be appointed for the transaction.

8.6 Consortium bids will not be allowed.

8.7 Sub-contracting of the assignment will not be allowed. The appointed Advisor shall be solely responsible for all the required final deliverables.

9.REQUIREMENT FOR FINANCIAL BIDS:

9.1 The Bidder is required to quote a Transaction fees as a percentage of the disinvestment proceeds i.e. the amount received in Government bank account. The fee quoted should be limited to five decimal points only. The fee quoted by the Bidder should include all the applicable taxes, cess, duties etc. The fee will be payable in Indian rupees after successful completion of the transaction.

9.2 The Fee quoted by the bidder shall remain **FIRM** till successful completion of transaction.

9.3 The fee quoted should be unconditional. The travel related expenses and all the other expenses including those related to due diligence would have to be borne by the Advisor.

9.4 Expenditure on account of fees to legal/accounting or any other consultant, if appointed by GOI should not be included in the financial bid. The travel related expenses of Government and HLL Lifecare Ltd.'s employees will be borne by the GOI/HLL Lifecare Ltd.

9.5 **Adrop-dead fee of Rs.5,00,000** (Rupees five lakh only) would be payable to the appointed Advisor in case the transaction is called off. The payment of the drop-dead fee would be made as under:

- a) 10% if the transaction is called off before issue of RFP for inviting EOIs from the prospective buyers.
- b) 50% if the transaction is called off after the data room has been set up and the due diligence by the prospective buyers completed.
- c) 100% if the transaction is called off after the documents based on which the financial bids are to be invited have been frozen by the Government.

9.6 The Bidders will be liable to pay taxes/duties/cess etc. applicable as per prevailing law at their end.

10. CONTRACT AGREEMENT:

The Bidder shall be required to enter into a Contract Agreement with the DIPAMon Non-Judicial Stamp Paper as per norms on the model form of agreement enclosed at **Annexure 2.**

11. DISCLAIMER:

- a) The GoI reserves the sole right to accept or reject any or all proposals thus received without assigning any reason thereof.
- b) The department will not be responsible for any delay on account of late submission of Bid due to online submission. Late receipt of Bid will not be considered.

12. DISPUTE:

In case of dispute, the decision of the Secretary, Department of Disinvestment will be final.

13. JURISDICTION:

The jurisdiction of Court will be at New Delhi only.

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AFFIDAVIT CUM UNDERTAKING

We, the undersigned ("**Bidder**") are submitting our bid in respect of the Request for Proposal No [●], Dated [●] ("**Bid**") issued by the Department of Investment and Public Asset Management, Ministry of Finance, Government of India, ("**Government**") in relation to [●] and in this connection we hereby solemnly affirm, declare and undertake as follows:

- (1) Details of the Bidder as disclosed in **Appendix-A** enclosed herewith are true and correct as on date.
- (2) There has been no conviction by any court of law or indictment/adverse order by any statutory or regulatory authority for a Grave Offence against us or any of our Indian Sister Concern(s) or any of our promoters or directors or that of our Indian Sister Concern(s).
- (3) No enquiry/investigations for any Grave Offence is pending against us or any of our Indian Sister Concern(s) or any of our or our Indian Sister Concern's directors, managers and/or other Senior Managerial Personnel by any regulatory authority and/or government agency.
- (4) The details of enquiry/investigations for non-Grave Offences pending against us/our Indian Sister Concern(s)/ our or our Indian Sister Concern's directors, managers and/or other Senior Managerial Personnel by any regulatory authority and/or government agency are disclosed in **Appendix-B** enclosed herewith.
- (5) There are no Conflict of Interest with respect to the Proposed Transaction as on date.
- (6) During the tenure of our engagement for the Proposed Transaction, we shall keep the Government/Company informed, without delay, of any situations, circumstances, relationships, possible source or potential areas of Conflict of Interest in the format enclosed as **Appendix-C** herewith and we shall not take up work in relation to any such assignment without obtaining prior approval of the Government/Company and granting of such approval shall be the sole discretion of Government/Company and shall be binding on us.
- (7) We ourselves and/or for/with or in association with or on behalf of or through any other Entity, shall not take up any advisory or consulting assignment or render any services on a similar transaction or any other transaction which could have a direct Conflict of Interest, in any manner or capacity to a Competitor of the Company during the term of our engagement in respect of the Proposed Transaction without prior written approval of the Government/Company and granting of such approval shall be the sole discretion of Government/Company and shall be binding on us.

- (8) We have put in place a robust mechanism to resolve any Conflict of Interest situations and circumstances that may arise or result while conducting our business or rendering of services and where-so-ever any Conflict of Interest or potential for Conflict of Interest may arise, we shall take reasonable steps to resolve the same forthwith in a fair and equitable manner. During the term of our engagement we shall ensure to and continue to exercise adequate due diligence for identifying and removing any areas, source, situations and circumstances of conflict and mitigating the effects of such conflicts to the satisfaction of the Government/Company, in case any such Conflict of interest (or apparent conflict of interest) arises or results in relation to the Proposed Transaction.
- (9) We have laid down an internal code of conduct for governing our internal procedures and operations and have prescribed the standards of appropriate conduct for our employees and officers for carrying out their duties and responsibilities with a view to appropriately ensuring proper maintenance of professional excellence and standards with integrity, confidentiality, objectivity and have made provisions for identification, avoidance and resolution of conflict of interests and for disclosure of shareholdings and interests, etc., in terms of applicable laws.
- (10) We understand that:
- (i) in cases where existing Conflict of Interest (or apparent conflict of interest) is disclosed by us, the Government/Company would be entitled to initiate appropriate actions to eliminate or address or mitigate or neutralize the conflict through or by restricting or modifying the work to be performed by us in respect of the Proposed Transaction. Government/Company may also terminate our engagement for the Proposed Transaction, in whole or in part, if such termination is absolutely necessary in view of the Government/Company to avoid the appearance of a Conflict of Interest.
 - (ii) The Government/Company would be entitled to terminate our appointment if any of the affirmation/declaration/undertaking given by us is found to be false or misleading in any manner or not adhered or fulfilled or complied by us.
 - (iii) if at any time after our appointment as an Advisor, either we or any of our Indian Sister Concern or the respective promoters/directors is convicted by a court of law in India or any indictment/adverse order is passed by a regulatory authority in India for a Grave Offence, we shall stand disqualified from continuing as Advisor to the Government/Company and shall be bound to inform them without any delay and shall voluntarily withdraw from the Proposed Transaction failing which the Government/Company may terminate our appointment after giving an opportunity of being heard.

Definitions

Unless otherwise defined in this Affidavit, the following capitalized terms used herein shall have the meanings set out below:

- 1. Advisor** means the Bidder and includes bidder(s) who have been selected for the Proposed Transaction by the Government of India/Company in terms of the Bid.
- 2. Conflict of Interest:** Conflict of interest in relation to the Proposed Transaction shall without limitation be deemed to exist or have arisen if:
 - (i) The Advisor whether itself and/or for/with or in association with/or on behalf of or through any other Entity is engaged in any activity or business which would or may be reasonably expected to directly or indirectly, materially adversely affect the interest of the Government/Company or any such activity/association would or may impair his ability to render fair, impartial, technically sound and objective assistance or advice, or unbiased services or may result in it being given an unfair competitive advantage to any other person.
 - (ii) The Advisor whether itself and/or for/with or in association with/or on behalf of or through any other Entity is engaged in advising and/or have taken up engagement for advising/consulting any other Entity whether under a formal engagement or otherwise in relation to any transaction/matter ("**Third Party Transaction**") which would or may be reasonably expected to directly or indirectly, materially adversely affect the interest of the Government/Company.
 - (iii) The Advisor has any business or financial interests in any other Entity that would impair, or give the appearance of impairing, impartial decisions in relation to Proposed Transaction, in offering any advice recommendations or in providing technical assistance or other services to the Government/Company as part of Advisor's engagement obligations/duties.
 - (iv) In relation to a strategic sale by the Government of India/Company, the Advisors has taken up engagement with buyer/potential buyer of such strategic sale or their Sister Concerns.
 - (v) Any other situation, possible source or potential areas of interests which may impair Advisor's ability to render fair, impartial, technically sound, and objective assistance or advice, or unbiased services on in conflict of their professional duties towards Government/Company in respect of the Proposed Transaction or result in it being given an unfair competitive advantage to any other person.

3. **Company** means [●]
4. **Competitor** of the Company means an Entity in India that is engaged in the business substantially similar to the business of the Company. Business of an Entity shall be deemed to be substantially similar to the business of the Company if turnover or profit of such Entity from the business activity(ies) in which the Company is engaged, exceeds 33% of its total turnover or profit (in any of the last three years).
5. **Entity** shall mean and include an individual, proprietorship, HUF, an association of person/body of Individuals, a partnership firm, limited liability partnership, company or any other persons.
6. **Grave Offence** means offences of such nature that it materially affects the reputation, business or operations adversely or outrages the moral sense of the community and such other offences which may be considered by the Government/Company as grave on a case to case basis after considering the facts and relevant legal principles.
7. **Proposed Transaction** means the transaction to be undertaken by the Government/Company as described in bid no [●], issued by the Government.
8. **Senior Managerial Personnel's** means managing director, company secretary, chief executive officer, chief financial officer or persons having equivalent positions and all such other employees of the Entity who are members of its core management team excluding Board of Directors comprising all members of management one level below the executive directors and include the functional heads.
9. **Sister Concern** in relation to the Advisor, means any Entity in which the Advisor has a significant influence or which has "significant influence" over the Advisor and includes a group and a joint venture company.
10. **'Significant influence'** means holding of at least twenty percent or more of total voting rights or the power to participate in and influence the management, financial or operating policy decisions of that Entity, or of business decisions under an agreement or has twenty percent profit sharing in such Entity.

Appendix A, B and C hereto shall constitute and shall be deemed to form an integral part of this document.

Appendix-A

BIDDER DETAILS

Name of the Bidder	
Address: Registered Office: Corporate Office Tel: Email:	
Constitution	Company/Partnership/LLP/Others (If selected others, please provide the nature of constitution)
SEBI registration no, if registered with SEBI	
Details of registration with other professional statutory bodies	

Appendix-B

DETAILS OF PENDING ENQUIRY/INVESTIGATIONS

S. No	Name of the Sister Concern(s)/concerned person(s) against whom the enquiry/investigation has been initiated	Relationship with the bidder	Name of the investigating agency	Nature of pending enquiry/investigation and law under which the enquiry has been initiated	Brief facts/interim orders /other relevant information in respect of the pending enquiry/investigation

Appendix-C

DETAILS OF PRESENT/POTENTIAL CONFLICTS/FACTS OR INTERESTS THAT MAY BE DEEMED AS POTENTIAL CONFLICT OF INTEREST

S. No	Name of the Entity, in which interests Conflicts exit/may arise	Relationship of the Bidder with the Entity	Nature/reason of conflict/potential conflict	Duration of the subsistence of conflict, if any	Such other information as may be relevant and material in deciding whether there is a conflict/potential conflict of interest

Agreement for Advisory Services

THIS AGREEMENT (hereinafter referred to as 'Agreement') is made at New Delhi on this ----- day of ----- BY AND BETWEEN THE PRESIDENT OF INDIA acting through the Joint Secretary, Department of Investment & Public Asset Management (DIPAM), Ministry of Finance, Government of India (hereinafter referred to as "GOI" which expression shall mean and include its successors and permitted assignees) of the ONE PART AND ABC having its offices at ____ (hereinafter referred to as "ABC"), which expression shall mean and include its successors and permitted assignees and having its offices at ____ (hereinafter referred to as "ABC"), of the OTHER PART.

WHEREAS

- (I) XYZ [name of the company under strategic disinvestment (hereinafter referred to as 'XYZ')] and its subsidiaries are Central Public-Sector Enterprises (CPSEs) and its Joint Venture (collectively referred to as XYZ) under the administrative control of the Ministry of ----- engaged in the activity of -----.
- (II) GOI, which presently holds % of the paid up equity of XYZ intends to disinvest up to ____% of the share capital of the XYZ through strategic sale/ESOP/other modes, with transfer of management control to a strategic partner. Pursuant to GoI having issued an advertisement in the print media and on the official website of DIPAM and or the Ministry of....., or of XYZ inviting submission of Expression of Interest from reputed professional consulting firms, merchant bankers, investment bankers, financial institutions, banks etc. to act as Advisor, ABC submitted an Expression of Interest.
- (III) Following the selection process mentioned in the RFP, including making of a presentation made by ABC to the Inter-Ministerial Group on ----- and the submission of financial bid for the assignment ABCGoI appointed ABC as its Advisor for the proposed disinvestment of XYZ vide letter No-----dated -----
-----.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES, THE DETAILED REQUEST FOR PROPOSAL CONTAINING THE TERMS AND CONDITIONS, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT ADEQUACY AND SUFFICIENCY OF WHICH HEREBY ACKNOWLEDGE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. General Provisions

1.1 Definitions

1.1.1 Unless the context requires otherwise, the following terms, wherever used in this Agreement shall have the following meanings:

- a) 'Agreement' means this Agreement and any subsequent amendments hereto between GOI and ABC.
- b) 'Business Day' means a day other than one on which either the Central Government Offices, Banks or XYZ's Offices are required to close in New Delhi.
- c) 'Effective Date' means the date on which this Agreement comes into force and effect pursuant to Clause 2.1.
- d) 'Local Currency' means Indian Rupee or any other lawful currency of the Republic of India.
- e) 'Party or Parties' means GoI and/or ABC or both, as the case may be.;
- f) 'Personnel' means persons hired by ABC as employees and assigned to the performance of the Services or any part of the Services.;
- g) 'Services' mean the services to be performed by ABC as the Advisor for this transaction and as described in Clause 3.1 of the Agreement. The responsibility and liability of successful discharge of the obligations will be jointly and severally applicable.

1.2 Relationship between the Parties

1.2.1 This Agreement shall be construed as establishing a relationship of principal and advisor and not of a principal and an agent, between GoI on the one part and ABC on the other part.

1.2.2 This agreement shall be binding upon and shall inure to the benefit of GOI and ABC and their respective successors and permitted assignees. Neither GoI nor

ABC shall assign this Agreement or their respective rights or obligations, as the case may be, under this Agreement without the consent of the other party.

1.3 Governing Law

1.3.1 This Agreement, its meaning and interpretation and the relation between the Parties, shall, in all respects be governed by and construed in accordance with the laws of the Republic of India.

1.3.2 The parties irrevocably agree that the Indian Courts at New Delhi shall, subject to provisions of Clause 6, have jurisdiction to hear and determine any action or proceedings, and to settle any dispute, which may arise out of or in connection with this Agreement and, for such purpose, irrevocably submit to the jurisdiction of such courts.

1.3.3 The Parties irrevocably waive any objection, which they might at any time have, to the courts referred to the above being nominated as the forum to hear and determine any action or proceedings, and to settle any dispute, which may arise out of or in connection with this Agreement and agree not to make any claim and that any such court is not a convenient or appropriate forum.

1.4 Headings

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

1.5 Notices

1.5.1 Subject to the provisions of clause 1.5.5, any notice request or consent required or permitted to be given or made pursuant to this Agreement shall be in writing and shall be deemed to have been given or made when sent by registered mail or air courier or facsimile to such Party at the following address and facsimile numbers:

For GOI	Department of Investment & Public Asset Management Block No. 11 CGO Complex Lodhi Road, New Delhi 110003
---------	--

For ABC	ABC ----- -----
---------	-----------------------

1.5.2 Notice will be deemed to be effective as follows:

- (a) In case of registered mail or air courier, on delivery; and
- (b) In case of facsimile or email, two Business Days following confirmed transmission.

1.5.3 Facsimile transmissions shall require to be re-transmitted in the event the receiving Party communicates illegible transmission and notice in such an event will be deemed to be effective upon receipt of legible transmission.

1.5.4 A Party may change its address, email id and facsimile numbers for notice under this Agreement by giving the other Party notice pursuant to this Clause.

1.5.5 Any action required and permitted to be taken, any document required or permitted to be executed under this Agreement may be taken or executed as follows.:

On behalf of GOI, by the Joint Secretary
DIPAM
Block No. 11 CGO Complex
Lodhi Road, New Delhi 110003
Fax number: _____
Email id: _____
For ABC : ABC

2. General Provisions

2.1 Effective date

2.1.1 This Agreement shall come into force and effect on the Effective Date being -----
-----.

2.2 Scope of the Agreement

2.2.1 This agreement contains all covenants, stipulations and provisions agreed to by the Parties. No agent or representative of either of the parties has authority to make

and the parties shall not be bound by or liable for any statement, representation, promise or agreement made prior to the date hereof but not set forth in this Agreement.

2.3 Modification

2.3.1 Modification of the terms of the Agreement including any modification of the scope of the services may only be made by written agreement between the parties. Each party shall give due consideration, and not unreasonably delay a considered response to any proposal for modification made by another Party.

2.4 Force Majeure

Definition

2.4.1 For the purpose of this Agreement, 'Force Majeure' means an event or circumstance, which is beyond the reasonable control of the affected Party and which makes affected Party's performance of its obligation under this Agreement impossible or so impractical as reasonably to be considered impossible in the circumstance and includes but is not limited to war, riots, civil disorder, earthquake, fire, explosion, storm, cyclone flood, drought or other adverse weather or other conditions and situations including breakage of equipment of facilities, structural collapse, air crash, shipwreck etc.

2.4.2 Force Majeure shall not include:

- a) Strikes, lockouts or other industrial action, confiscation or any other action in and/ or by the parties or their employees;
- b) Any event which is caused by the negligence or willful action of a party;
- c) Any event, which is in control of a party;
- d) Any event, which a diligent party could reasonably (a) have expected) to have taken into account on the Effective Date of this Agreement and/or thereafter during the terms of the Agreement; and (b) have avoided or overcome in the course of carrying out obligations under this agreement; and
- e) Insufficiency of funds or failure to make any payments.

No Breach of Agreement

2.4.3 The failure of a party to fulfil any of its obligations under this Agreement shall not be considered to be a breach of or a default under this Agreement in so far as the inability arises from an event of Force Majeure, provided the party affected by that event has complied with its obligations under para 2.4.4 in respect of such event.

Measure to be taken

2.4.4 A party affected by an event of Force Majeure shall take all reasonable measures to remove its inability to fulfil its obligations under this Agreement with a minimum of delay and shall notify the other Party in writing of the event concerned as soon as possible and in any event not later than ten days following the occurrence of the event concerned and shall similarly give notice of the restoration of normal conditions as soon as possible. Parties shall together take all reasonable measures to minimise the consequences of any event of Force Majeure.

Extensions of time

2.4.5 Subject to the above provisions of this Clause 2.4, any period within which a Party shall, pursuant to this Agreement complete any action or task shall be extended for a period equal to the time during which that Party was unable to perform such action as a result of Force Majeure.

Consultation

2.4.6 Not later than ten days after ABC has served a notice to GOI as per Paragraph 2.4.4 notifying its inability to perform a part of the services as a result of an event of Force Majeure, the Parties shall consult between themselves with a view to agreeing on appropriate measures to be taken in the circumstances.

2.5 Earlier Termination

Termination by GoI

2.5.1 GOI may, by not less than ten day's written notice of termination to ABC, terminate this agreement, if:

- a) ABC is in breach of its obligations under this Agreement and the terms and conditions mentioned in the RFP dated----- and the Affidavit-cum-Undertaking submitted by ABC at RFP stage and has not remedied the same within thirty days

(or such extended period of time as GOI may have subsequently approved in writing) following the receipt by ABC of a written notice from GOI specifying the breach.

Provided that ABC shall not be held to be in breach of any obligation under this Agreement, if breach arises as a result of failure on the part of GOI to meet GOI's obligations under this agreement.

- b) ABC fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 6.
- c) ABC is unable, as a result of Force Majeure to perform a material part of the services for a period of not less than sixty days.
- d) ABC becomes insolvent or bankrupt or goes into liquidation or receivership, whether compulsory or voluntary.
- e) GOI decided at any time to abandon the project.
- f) A suitable strategic partner willing to acquire the specified percentages of GOI's holding in XYZ is not found and GOI wishes to appoint another advisor for the sale of GOI's holding in XYZ.
- g) ABC is found guilty of any criminal offence in any court of law or of violation of regulations of a statutory body and that materially adversely affects its ability to carry out the engagement.
- h) In case the event of a conflict of interest due to handling of the transaction by ABC as Advisor to the GOI for disinvestment in XYZ during the engagement materially adversely affects the ability of ABC to carry out the engagement and is not remedied within 15 days of arising.

Termination by ABC

2.5.2 ABC may, by not less than ten days written notice to GOI, terminate the Agreement, if:

- a) GOI fails to pay any money to ABC pursuant to this Agreement, which is not subject to dispute pursuant to Clause 6, within thirty days or any further

extended period of time as may be agreed between the Parties after receiving a written notice from ABC that the payment concerned is overdue;

- b) GOI is in breach of its obligations under this Agreement and has not remedied the same within thirty days (or such period as ABC may have been subsequently approved in writing) following the receipt by GOI of ABC's written notice specifying the breach. Provided that GOI shall not be held to be in breach of any obligation under this Agreement if breach arises as a result of failure on the part of ABC to meet ABC's obligations under this agreement;
- c) GOI shall have failed to comply with any final decision reached as a result of arbitration pursuant to Clause 6; or
- d) GOI is unable, as a result of Force Majeure, to perform its obligations for a period of not less than sixty days.

2.6 Cessation of Rights and Obligations

2.6.1 On termination pursuant to any part of Clause 2.5 and / or expiration of this Agreement, all rights and obligations of the Parties shall cease, except (i) rights and obligations that have accrued as on the date of termination or expiration (ii) any right which a Party have under law; and (iii) the obligations in Clauses 3.2, 3.3 and 4.3.

2.7 Cessation of Services

2.7.1 On the termination of this Agreement by notice of either Party to the other, pursuant to Paragraphs 2.5.1 and 2.5.2, ABC will take all necessary steps to bring the services to a close within thirty days of the receipt of the notice of termination. Upon cessation of services either on expiry of termination (including earlier termination) of the agreement hereunder, ABC shall hand over to GoI such material documents and records prepared directly by ABC in connection with the services, whether in final or draft form, complete or in the process of being completed, on paper and if applicable, in electronic storage media together with material documents and records as provided by GoI to ABC, save the copies thereof to be allowed to be retained by ABC for their files.

3. Obligations of ABC

3.1 Scope of Services

3.1.1 GoI proposes to divest/undertake strategic sale of a part of its shareholding in XYZ to a prospective strategic partner, and for that purpose has appointed ABC as advisor to advise and assist GoI in selection of the prospective strategic partner, to maximise realisation from the sale of its shareholding.

3.1.2 ABC's scope of services as Advisor to GoI shall include the services as per RFP and further set out below to assist and advise GoI in identifying, negotiating and concluding the strategic sale with the most appropriate partner, keeping in view GoI's strategic objectives and evaluation criteria for the strategic partner. However, it is clarified that the decision whether to proceed with and consummate the transaction lies solely with GoI and the work and findings of ABC shall not in any way constitute recommendations as to whether GoI should or should not consummate the transaction.

ABC's services shall include the following:

Phase I: Transaction strategy

3.1.3 ABC shall, in consultation with GoI, evolve a transaction strategy covering the modalities, timing of disinvestment of XYZ, either jointly or separately and suggest the timeline for various activities. ABC will assist GoI in analysing possible transaction strategies from the perspective of GoI and the strategic partner and will not associate in any manner, directly or indirectly, with any other party or the buyer for purpose of the present transaction. ABC shall analyse financial aspects of each of the alternative strategies and advise Government accordingly.

3.1.4 ABC may be asked to advise and assist GoI in identifying and selecting specialized professional intermediaries including but not limited to legal advisors and asset valuers, required for the transaction, who will be appointed by GoI and their work will be coordinated by ABC.

Phase II: Partner log

3.1.5 Drawing upon its knowledge ABC will identify potential strategic partners with sufficient interest and apparent resources to enter into a transaction with XYZ/GoI. In doing so, ABC will use its international offices & network; its contacts & industry knowledge & include any other parties that GoI would like to be considered.

3.1.6 ABC will obtain and develop required information on each of the potential strategic partner identified and make available the same to the Government, as and when required by the Government. ABC will suggest the eligibility criteria of

the potential bidders, based on the profile of the XYZ and the profiles of the potential strategic partners so that together ABC and GoI can place in priority those strategic partners that have the best potential for consummating the transaction with GoI.

Phase III: Information Memorandum

3.1.7 ABC will incorporate the financial data and other relevant information of XYZ, in the Preliminary Information Memorandum (PIM) and the Confidential Information Memorandum (CIM), the former being restricted to information available in the public domain. The purpose of these Memoranda is to provide prospective strategic partners with the information on the business and the unique selling points of XYZ relevant for making bid.

3.1.8 These Memoranda would contain information relating to the following areas:

- Background of XYZ and key features that differentiate it from its competitors;
- Current activities;
- Rationale for divestment and inviting strategic partner(s);
- Product profile;
- Financial performance;
- Management;
- Customers and suppliers;
- Contracts;
- Research and development activities;
- Details of assets and liabilities including intangibles; and
- Any other relevant details.

3.1.9 ABC will support XYZ in setting up of an e-data room and/or a physical data room and assist in the smooth conduct of the due diligence process.

3.1.10 ABC will facilitate execution of Non-Disclosure Agreements ("NDA") and subsequent communication with the bidders including providing with further information/clarification on the assets/liabilities and the transaction. The Confidential Information Memorandum will be made available in a confidential manner to potential strategic partners.

Phase IV: Pricing/Valuation Analysis

3.1.11 ABC will assist GoI in performing a pricing/ valuation analysis of the XYZ. In performing the valuation analysis, ABC shall use, including but not limited to, the 'discounted cash-flow' approach, the 'relative valuation' approach, 'replacement cost approach' and the 'asset based valuation' approach to determine a range of fair values.

ABC should assist XYZ in preparation of the Business Plan so as to arrive at correct valuations.

3.1.12 Further, for the purpose of fixing the Reserve Price, ABC may be required to provide all assistance, as required by the GOI from time to time, considering the valuation of XYZ, based on various methods of valuation, including but not limited to discounted cash flow; relative valuation; replacement cost and asset-based valuation and highlighting the pros and cons of various methods and also emphasising that many variations of these valuation methods exist. ABC will consider the report of the Asset Valuer(s) while providing assistance to GoI in this regard. The GoI will reserve the option of getting the valuation done from any other agency also.

3.1.13 ABC will present its findings in the form of a Pricing/Valuation Analysis and on receipt of any additional information of that it may require for this purpose. ABC's findings will be subject to the following conditions and limitations:

- The findings are solely for the internal use;
- Events subsequent to the date of ABC's analysis may materially alter the valuation estimate;
- The findings are based upon the information provided to ABC by XYZ /GOI; and
- The findings can serve as only one input to the process of negotiating a price, and the actual value will be discovered/finalised through direct negotiations or biddings or auctions.

Phase V: Approaching the Strategic Investor(s)

3.1.14 ABC will assist in managing a transparent process of bidding/interest solicitation from potential buyers including:

- (a) Preparation and issuance of advertisement/RFP etc. and organizing pre-bid meeting(s) and site visit(s);
- (b) Assisting the GOI/CPSE in identifying data-room services provider and setting up of data room to facilitate due diligence;
- (c) Devising mechanism for conduct of due diligence process while maintaining confidentiality on one hand and maintaining audit logs on the other for future references;
- (d) Engaging with the bidding service provider for facilitating setting up of bidding platform and ensuring that the said platform is secure and transparent;
- (e) Assisting GOI in smooth conduct of the bidding process;
- (f) Conducting road shows in India and abroad, if required;

(g) Making analysis of queries of prospective bidders and framing/drafting replies thereto and making necessary modifications, if required, in the bid documents; and

(h) Making Invitation and evaluation of bids from prospective purchasers/ investors and preparation of requisite documents leading to short listing of bidders.

3.1.15 ABC will help Government in taking all steps as may be needed for the purpose of disinvestment of GoI equity in XYZ to generate adequate interest among prospective buyers/purchasers/investors.

Phase VI: Facilitating due diligence

3.1.16 ABC shall facilitate smooth conduct of the due diligence process of XYZ by potential strategic partners. ABC shall maintain record of due diligence conducted by the potential bidders.

3.1.17 ABC shall assist in identifying the core and non-core assets of the CPSE and shall assist in devising appropriate mechanisms for addressing issues related to such assets, if any, for the purposes of disinvestment transaction of XYZ.

3.1.18 ABC shall compile the status report of the process of disinvestment and shall furnish such reports to the GOI or any other agency notified by GOI at such intervals and such formats as GOI may prescribe from time to time.

Phase VII: Negotiations and deal support

3.1.19 ABC shall assist and provide inputs to the GoI during the negotiation process with the prospective strategic partner(s) by:

- Providing the valuation analysis and clarification, if needed;
- Negotiating the financial terms;
- Outlining preferable terms;
- Describing the tax and accounting implications of each proposal;
- Suggesting counter-proposal alternatives;
- Communicating with interested parties;
- Reporting potential problems to GoI;
- Evaluating alternative financial structures;
- Assisting in negotiating the terms and conditions of the shareholder's agreement;
- Assisting in finalizing the process of strategic disinvestment;
- Assisting in negotiation sessions; or.
- Any other task as may be needed or required by the Government.

3.1.20 ABC will be required to be present in all meetings to assist the Government and to handle all necessary arrangements during the due diligence, or, negotiation or bidding or auction processes. ABC shall maintain record the interactions of potential bidders with various stakeholders associated with the disinvestment of XYZ. ABC will maintain such records in a systematic and transparent manner so that it can be presented to various agencies subsequent to the consummation of the disinvestment transaction.

Phase VIII: Completion of the transaction

3.1.21 If Parties express continuing interest, ABC will assist GoI in concluding the transaction. In doing so, ABC will work alongside the XYZ / GoI's legal counsel to incorporate the terms and conditions of the transaction into a shareholders agreement(s) and share purchase agreement(s) and all such legal documentation required for execution of the transaction. On account of the peculiarities and complexities of this transaction, it will be crucial that ABC and legal firm take full responsibility of documentation and completion of transaction.

3.1.22 ABC will ensure compliance of applicable regulatory requirements including obtaining statutory approvals and clearances, wherever necessary, and monitoring the progress of the transaction until its completion and assist in closure of the transaction.

3.1.23 ABC will advise on post-sale matters, if any, for a period of up to 12 months, after the end of the month in which transaction documents have been signed in such a way that the transaction may be treated as closed. ABC will digitise and catalogue the documents relating to the transaction, which will be handed over to the Ministry of ----- -- and DIPAM. ABC will also assist the Ministry of ----- and DIPAM in analysing these records as and when required, even after expiry of the aforesaid period of 12 months.

3.1.24 ABC will provide any other analytical and transactional support required by GoI for successful completion of the transaction.

3.1.22 The Scope of Services mentioned in Para 3.1 are indicative and non-restrictive in nature. There may be some services relevant but not expressly captured in the aforesaid Scope of Services, which upon being brought to the notice of the Advisor by the GoI, will also form an integral and mandatory part of the Scope of Services.

3.2 Confidentiality

3.2.1 ABC and Personnel of ABC shall not disclose to any party other than the GoI, /XYZ, other consultants, appointed for the strategic sale, including valuers, lawyers etc., any information (other than information available in public domain) relating to its

services, terms of this agreement, business or operations of XYZ without the prior written consent of GoI, unless such disclosure is requested by any statutory or regulatory or judicial/ quasi – judicial authority constituted under the laws of India and having jurisdiction over a Party, or unless such disclosure is required in connection with any litigation affecting a party, or unless such disclosure is necessary to perform ABC's services or obligations under this Agreement or unless such information has entered the public domain other than by a breach of the Agreement.

3.2.2 Provided that no confidentiality is required to be maintained in respect of disclosure required and made on account of marketing strategy/ies agreed upon among the parties. External professionals appointed, if any, will also be bound by such requirement of confidentiality as may be stipulated by GoI.

3.3 Indemnification of GOI by ABC

3.3.1 ABC agrees to indemnify and hold harmless GoI/XYZ officers, employees and representatives (each, an "Indemnified Person") from and against any claim, loss or liability (including without limitation reasonable fees and expenses of solicitor and legal counsel) arising out of the negligence or wilful misconduct of ABC or its personnel in providing the services.

3.3.2 In the event that ABC disputes an indemnity claim of an Indemnified Person, any amounts to be paid by ABC will be finally decided by the Arbitration Tribunal or courts of law. It is understood and agreed that an indemnified Person shall not press for any payments to be made on account of an indemnity claim, within the period of limitation prescribed for the preferment and/or filing of appeals or revision from awards/orders/judgements/decrees, if the Indemnified Person has notice from ABC that legal action and/or appeal is intended.

3.3.3 GOI will have to be given notice of a dispute of the claim by ABC within fifteen days of the receipt of Notice of Claim.

3.3.4 In the event that the agreement is terminated as per Para 2.5.1 (except under sub-clauses (c) and (e)), ABC's Performance Guarantee (as defined in the RFP) will be invoked.

3.4 Limitation of liability

3.4.1 In the particular circumstance of this case, GoI agree that the aggregate liability of ABC and directors, officers and employees and representatives of ABC (Whether direct or indirect, in contract or tort or otherwise) to GoI arising out of this Agreement,

including any indemnity liability as per clause 3.3 above, shall be limited to the aggregate fees actually payable to ABC under this Agreement by GoI.

3.5 Documents Prepared by ABC

3.5.1 GoI and ABC agree that the analysis provided to GoI is for the use and information of GoI for the strategic sale/disinvestment of GoI's stake in XYZ. ABC shall own no responsibility to any action taken by any other person based on any advice given by ABC to GoI.

3.6 ABC's Personnel

3.6.1 For the services ABC shall deploy such personnel as are qualified and experienced in the opinion of ABC to carry out the services. Provided that in the event GoI, at any point in time while the services are being carried out, expressly communicates to ABC the opinion that any of the Personnel need to be substituted for ABC will take into account such opinion and will not unreasonably continue to deploy such personnel to carry out the services. ABC shall also share the co-ordinates of its officers and staff that are associated with the XYZ disinvestment and are privy to the disinvestment process with the Govt. within 15 days of signing of this agreement and shall update the status as and when it changes during the course of the disinvestment process.

4. Obligation of GOI

4.1 Assistance

4.1.1 GoI/XYZ shall provide to ABC all relevant information and particulars in the possession of GoI and which they have legal authority provide and all assistance required by ABC to enable ABC to perform its services.

4.1.2 Further, GoI shall issue to officials, agents and representatives of XYZ such instructions as it is competent to issue as may be specified by ABC as being necessary or appropriate for the prompt and effective rendering of the services.

4.1.3 In the event that any such information and particulars are not in the possession of GOI and AI/AI group or in the event that GOI and XYZ do not have the legal authority to provide information and particulars to ABC or in the event that assistance sought by ABC cannot be provided or in the event that instructions as specified by ABC cannot be issued then GOI/XYZ shall forthwith inform ABC of their inability.

4.1.4 GoI shall evolve a proper mechanism to take decisions and to communicate to ABC in writing regarding these decisions. GoI shall accept full responsibility for the

contents of the document/s or announcement/s that it may require and authorize ABC to issue, sign or execute.

4.2 Access to information and decision

4.2.1 GoI shall keep ABC informed of any material developments or facts of proposals in relation to the business or operations of XYZ and in particular where these may have any effect on the agreement or in execution of ABC's services.

4.2.2 GOI shall not require/insist on ABC to issue or approve, or to arrange for the issue or distribution or a particular document or announcement, if at any time ABC becomes aware of information which, in the opinion of ABC after due consultation with GoI, renders the document or announcement untrue, incomplete or misleading in any material respect.

4.3 Indemnification of ABC by GOI

4.3.1 GoI agrees to indemnify and hold harmless ABC and directors, officers, employees and representatives of ABC (each an "Indemnified Person") from and against any claim, loss or liability (including without limitation reasonable fees and expenses of solicitor and legal counsel) arising out of ABC's engagement hereunder and / or directly or indirectly arising as a consequence of any statement, data, representation or other information, whether included in any information memorandum or advertisement or otherwise given in the performance of the services, which had been provided and/ or approved by GoI/XYZ. Provided that the above mentioned indemnity to Indemnified Person(s) shall only be available in case of the liability or loss arising out of the negligence or wilful misconduct of the GoI/XYZ or its employees under this Agreement.

4.3.2 In the event that GoI disputes an indemnity claim of an Indemnified Person, any amounts to be paid by GOI will be as finally decided by the Arbitration Tribunal or by the court of law. It is understood and agreed that an Indemnified Person shall not press for any payments to be made on account of an indemnity claim, within the period of limitation prescribed for the preferment and / or filing of appeals or revision from awards/ orders/ judgement/ decree, if the Indemnified Person has notice from GoI that legal action and / or appeal is intended.

4.3.3 ABC will have to be given notice of a dispute of the claim by GOI within fifteen days of the receipt of Notice of Claim.

4.3.4. In the particular circumstances of this case, ABC agrees that the aggregate liability of GoI and its officers, employees and representatives of GoI (whether direct or indirect, in contract, tort or otherwise) to ABC arising out of this Agreement, including any indemnity liability as per clause 4.3 above shall be limited to the aggregate fees actually payable by GoI to ABC under this Agreement.

4.3.5. The provisions of the clauses 3.3 and 4.3 above shall be operative in full force and effect regardless of any termination or expiration of this Agreement.

5. Payment of ABC

5.1 Currency of payment

5.1.1 Except as may be otherwise agreed in this agreement and/or other written agreement between the parties, all payments due to ABC under this agreement shall be made in Indian Rupees.

5.2 Payments

5.2.1 In consideration of the services performed by ABC under this agreement GOI shall pay to ABC the following:

Success fee:

5.2.2 GoI shall pay ABC ___percent (-----%) of the gross consideration to be paid by the strategic partner to GoI for purchase of its shares in XYZ and/ or allotment of new shares, if any, as success fee, if any. The success fee shall be payable on the completion of the services culminating in signing of SHA/SPA, receipt of disinvestment proceeds in Government account; transfer of management control to strategic partner(s) and finishing of all closure activities.

5.2.3 The Gross consideration includes the consideration made available to XYZ or the GoI. The gross consideration also covers any staged payments or payment/ investment through equity as long as it is a payment in lieu of the GoI's stake in XYZ from the date of signing the shareholders' agreement.

Drop dead Fee

5.2.4 In the event that the agreement is terminated as per Paragraph 2.5.1(e), GoI shall pay to ABC a drop-dead fee as defined in the RFP. All payment to ABC shall be subject to deduction as per applicable laws in India.

5.3 Mode of Billing and Payment

5.3.1 As soon as practicable, after ABC is entitled to receive the amount under Clause 5.2 above, ABC shall send to GoI an invoice for the amount due. The said fee/ payment shall be payable by GoI to ABC, within 30 days of the date of entitlement and /or date of submission of claim of ABC, whichever is later.

5.4 Changes in Scope of Work

5.4.1 The Scope of Work specified above is not exhaustive but is indicative. The GOI reserves the right to specify any work to ABC that is directly related to the disinvestment transaction of XYZ. Such work shall be considered as falling with the scope of work of ABC. However, if GoI requests a change in the scope of work beyond the definition of 'Services', payment for the additional work will be determined based on the agreed scope of effort to be employed by ABC subject to the agreement of the parties on all issue involved except as mentioned in para 3.1. The decision of the GOI shall be final in this regard.

5.5 Expenses of Parties

5.5.1 In performing its services, ABC shall bear the following expenses:

- (a) All fees and expenses related to external professionals appointed by ABC; and
- (b) All out of pocket, travelling/hotel and other cost, charges and expenses incurred by ABC or its officers, employees or agents in connection with performing any services, save and except Clause 5.5.2, which shall be borne by GoI.

5.5.2 GoI shall bear the following expenses:

- (a) Fees and expenses related to external legal advisors appointed by GoI for drafting and providing shareholders agreement and such other related agreements related to the strategic sale;
- (b) Fees and expenses related to external professionals appointed by GoI and XYZ, including fees and expenses, if any related to XYZ's auditors and GoI's own legal advisors;
- (c) Travelling/hotel and other cost incurred in connection with domestic or international travel of GoI/XYZ's personnel, officers and employee;
- (d) All advertisement and printing expenses relating to the services under this agreement; and
- (e) Restructuring costs, if any, as per clause 5.4 hereof.

5.5.3 The parties shall bear the cost of their respective telephone calls, facsimile transmission, computer related hardware/software, couriers, dispatches and postage.

6. Arbitration

6.1 Amicable Settlement

6.1.1 The Parties shall use their efforts to settle amicably all disputes/differences arising out of or in connection with this agreement or its interpretation.

6.2 Arbitration

6.2.1 Any dispute or difference between the Parties as to matters arising under this agreement which cannot be settled amicably within thirty days after receipt by a Party of the other party's request for amicable settlement may be submitted by a Party to arbitration in accordance with the provisions of Paragraph 6.2.2.

6.2.2 Subject to Paragraph 6.2.1 of this Clause 6.2, in the event of any dispute, controversy or claim arising between the Parties hereto out of or in connection with this agreement or interpretation of its terms, including without limitation, its validity, enforcement, breach, performance, termination or expiration, such dispute, controversy or claim shall be finally settled by arbitration. The arbitration shall be conducted at New Delhi in accordance time and rules framed thereunder.

- (a) The arbitration tribunal shall consist of three arbitrators to be selected and appointed by mutual agreement of the Parties. The language of the arbitration shall be English.
- (b) the arbitrators appointed under Paragraph 6.2.2 sub-clause (a) shall be legal and/or technical experts with extensive experience in relation to the matters in dispute.
- (c) Any arbitration tribunal established hereunder shall state the reasons for its decisions in writing and shall make such decisions entirely on the basis of the Governing law.

7. Representations

7.1 GoI represents and warranties of GoI

7.1.1 GoI represents and warrants that:

- (a) GoI has full power and authority to enter into this agreement and to execute, deliver and perform its obligations under this agreement, and to carry out the transaction contemplated hereby.
- (b) it has taken all necessary steps required for the authorisation, execution, delivery and performance of this agreement.
- (c) This agreement constitutes legal, valid and binding obligations upon GOI enforceable against it in accordance with the terms hereof.
- (d) No representation or warranty by or information from it contained herein or in any other document furnished by it or on its behalf by AI/AI group to ABC contains or will contain any untrue statement of material fact or omit to state a material fact necessary to make such representation or warranty or information not misleading:
- (e) The execution, delivery and performance of this agreement will not conflict with any covenant, agreement, understanding, decree or order to which it is a Party.

7.2 Representation and Warranties of ABC

7.2.1 ABC represents and warrants that:

- (a) ABC is duly organized, validly existing and in good standing under the laws of jurisdiction of its incorporation.;
- (b) ABC has full power and authority to execute, deliver and perform its obligation under this agreement and to undertake the services contemplated herein.;
- (c) ABC has taken all necessary corporate and other action under relevant laws and its constitutional documents to authorize the execution, delivery and performance of this agreement;
- (d) This agreement constitutes legal, valid and binding obligations enforceable against ABC in accordance with the terms hereof.;
- (e) ABC is subject to civil and commercial laws of India with respect to this agreement and it hereby expressly irrevocably waives any immunity in any jurisdiction in respect thereof.;
- (f) ABC is not debarred from performing the services on account of any litigation.;
- (g) The execution, delivery and performance of this agreement will not conflict with any of the terms of the ABC's memorandum and articles of association or any

covenant, agreement, understanding, decree or order to which it is party or any ongoing assignment.;

- (h) No representation or warranty by or information from it contained herein or in any other document furnished by it to GoI contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty or information not misleading.

8. Other Terms of Agreement

8.1 Fairness and Good Faith

Good Faith

8.1.1 The parties undertake to act in good faith with respect to one and others rights under the agreement and to adopt all reasonable measures to ensure the realization of the objectives of this agreement.

8.1.2 Integrity and Ethics

8.1.2.1 The parties undertake to avoid all forms of corruption by following a system that is fair, transparent and free from influence and prejudice, prior to, during or subsequent to the currency of the contract.

8.1.2.2 ABC commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it.

8.1.2.3 GoI undertakes that during the pre-contract stage, it shall treat all bidders alike and will provide to all bidders the same information and will not provide any such information to any particular bidder which could afford advantage to any particular bidder in comparison to other bidders.

8.1.2.4 Any breach of aforesaid provisions by ABC or its employees or authorized representatives, shall entitle GoI to take all or any one of the following actions, wherever required:-

- (i) forfeiture of performance guarantee (as defined in the RFP);
- (ii) to immediately call-off the pre-contract negotiations without assigning any reason or providing any compensation to ABC;
- (iii) to debar ABC from participating in any bidding process in future for a minimum period of 5 years;
- (iv) to cancel all or any other contract signed with the ABC's and.
- (v) The GoI will be entitled to initiate the criminal liabilities as well.

8.1.3 Operation of the Agreement

The Parties acknowledge that it is impractical in this agreement to provide for every contingency and possibility, which may arise during the life of the agreement (in respect of the services) and the Parties agree that it is their intention that this agreement shall operate fairly between them and without detriment to the interest of either of them and that if during the term of this agreement, a party believes that this agreement is operating unfairly, the parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but failure to agree on any action pursuant to this Clause shall not give rise to a dispute to arbitration in accordance with Clause 6.

8.2 Publicity

8.2.1 The Parties shall consult each other on any publicity, press releases, advertisement and publications and public statements concerning the services and this agreement in advance, before release. If GoI completes the transaction, ABC reserves the right to publish an announcement of ABC's role. The text, if any, of such advertisement will be subject to GOI's approval, which will not be unreasonably withheld.

8.3 Waivers

8.3.1 No failure or delay of a Party hereto in exercising any right or remedy hereunder shall operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any other or future exercise, of any right and remedy. The rights and remedies provided in this agreement are cumulative and not exclusive of any rights and remedies provided by law.

8.4 Waiver of Sovereign Immunity

8.4.1 GoI hereby waives any immunity from jurisdiction of any court or arbitration proceeding of from any legal process (whether from service or notice, attachment prior to judgment, attachment in aid of execution of judgement or otherwise) in respect of itself and/or any of its property, save and except for military property, military assets, present and future premises and assets of the missions/ consulates and the constitutional authorities and their offices and assets required for scientific and technological activities of GoI.

8.5 Liability to pay stamp duty

8.5.1 The stamp duty, if any, payable on this agreement and its counterparts shall be paid by GoI.

8.6 This agreement has been prepared and signed in two originals, one to be retained by each party.

IN WITNESS WHEREOF? Parties have caused this agreement to be signed as of the day and year first above written.

FORMAT FOR THE DEAL TEAM

Certified that the deal team would comprise of the following:

S.No.	Name	Expert in the field of	Qualification	Experience	Remarks
1	Mr./Ms	strategic disinvestment			
2	Mr./Ms	Valuation			
3	Mr./Ms	documentation of strategic disinvestment			
4	Mr./Ms				

Seal with Signature of the authorized signatory of the bidder

FORMAT OF UNCONDITIONAL BID ON THE LETTERHEAD OF THE BIDDER

This is to certify that the fee quoted by us for engagement as Advisor for strategic disinvestment of HLL LifeCare Ltd. is in accordance with the terms and conditions laid down in the Request for Proposals displayed on the website of the Department of Investment & Public Asset Management and is unconditional.

Seal with signatures of authorized signatory of the Bidder

Format of Price Bid on the Letterhead of the Bidder

Sl. No.	Description of work	Fee in percentage
1.	Fee as percentage of disinvestment proceeds that are transferred into Government Account	(In Numbers and Words)

Note: (1) In case of mismatch in number and the words quoted; the words will be taken as correct for all purposes.

(2) Since the bid is inclusive of all taxes, any additional liability of tax that may arise either on account of change in tax rate or additional taxes by the Central or State Governments, shall be the responsibility of the bidder.

Seal with signatures of authorized signatory of the Bidder