



TELECOM REGULATORY AUTHORITY OF INDIA

**Notice inviting Quotation for Engagement of a Consultant for
Calculation and Determination of Weighted Average Cost of
Capital (WACC) for
Indian Telecom service Sector**

4th June 2018

**Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhavan, Jawahar Lal Nehru Marg
(Old Minto Road), New Delhi – 110 002**

Invitation for Engagement of a Consultant for Calculation and Determination of Weighted Average Cost of Capital (WACC) for Indian Telecom service Sector

1. Telecom Regulatory Authority of India (hereinafter referred to as "TRAI"). Mahanagar Doorsanchar Bhavan, Jawahar Lal Nehru Marg (Old Minto Road), New Delhi – 110 002 invites sealed quotations for Calculation and Determination of Weighted Average Cost of Capital (WACC) for Indian Telecom service Sector.

2. The terms & conditions and terms of reference (containing Scope of Work) relating to the invitation to bid are given in Section-I & Section-II respectively. The bid shall be submitted in a sealed cover, as per the prescribed format and complete in all respects, to Shri Anil Kumar Dhingra, Joint Advisor (F&EA), Telecom Regulatory Authority of India, Mahanagar Doorsanchar Bhavan, Jawahar Lal Nehru Marg (Old minto Road), New Delhi – 110 002, not later than 1500 hrs (3.00 p.m.) on **28th June 2018** as per details given below :-

Issuing Office	:	Telecom Regulatory Authority of India, Mahanagar Doorsanchar Bhawan, Jawahar Lal Nehru Marh, (Old Minto Road), New Delhi – 110 002
Quotation No	:	No.13-01/2018-F&EA
Date of issue of Quotation	:	04/06/2018
Last date of receipt of Quotation	:	Upto 28 th June 2018, Time 1500 hrs (3.00 p.m.)
Date of opening of Quotation	:	28 th June, 2018, Time 1530 hrs(3.30 p.m.)
Quotation Forms Available From	:	Enclosed/Attached

3. The quotation should be submitted in a sealed cover duly superscribed **“Engagement of Consultant” for Calculation and Determination of Weighted Average Cost of Capital (WACC) for Indian Telecom service Sector.**
4. Bidders are advised to go through the document carefully and understand various requirements contained therein.
5. No request for change in rates quoted will be entertained for any reason.
6. Rates should be quoted without erases and overwriting. Any correction in rates is required to be signed by the bidder otherwise the quotation will be summarily rejected.
7. Canvassing in any case or form is strictly prohibited and bidders who resorts to canvassing, their bid will be summarily rejected.
8. Work order will be issued to the firm approved by the Competent Authority in TRAI.
9. Conditional quote shall be summarily rejected.
10. The competent authority reserves the right to reject any or all the quotation without assigning any reason thereof.
11. Clarification: In case the prospective bidders need any clarification regarding any terms and conditions of the tender, the bidder may contact Shri Anil Kumar Dhingra, Joint Advisor (F&EA) at 011-23664516, atleast 10 days before the last date for submission of quotation.



Index

S.No.	Title	Reference
1.	Terms & Conditions relating to submission of Bids	Section-I
2.	Terms of Reference	Section-II
5.	Standard formats- Technical Bid	Schedule I
	Proposal submission form	Form 1
	Bidder's References	Form 2
	Descriptions of the methodology of work plan	Form 3
	Composition of the Team Personnel	Form 4
	Format of Curriculum Vitae for professional staff	Form 5
6.	Specimen Agreement	Schedule II
7.	Performance Bank Guarantee	Schedule III

Section-I

Terms & Conditions relating to submission of Bids

- 1 The prospective bidder shall submit the quotation in two separate sealed covers, one containing the EMD and Technical Bid and the other containing Financial Bid respectively and put in one bid cover duly sealed and superscribed as **“Engagement of Consultant” for Calculation and Determination of Weighted Average Cost of Capital (WACC) for Indian Telecom service Sector**, addressed to Shri Anil Kumar Dhingra, Joint Advisor (F&EA), Telecom Regulatory Authority of India, Mahanagar Doorsanchar Bhavan, Jawahar Lal Nehru Marg (Old Minto Road), New Delhi – 110 002, not later than 1500 hrs (3.00 p.m.) on **28th June 2018**. The quotation shall be inclusive of all taxes at the prevailing rates.
- 2 The standard formats for submitting technical proposals are given in **Schedule I**. The following are the technical requirements for applying for the consultancy work:-
 - (i) The assignment team should have atleast one professionally qualified expert(e.g. MBA/CA/ICWA/CFA/Ph.D etc) in the field of finance/ capital market.
 - (ii) The Consultant should have the experience of successfully completing minimum of two projects of similar nature in the last five financial years in the field of (i) stock/capital markets, (ii) financial sector, (iii) credit rating(s) for infrastructure sector/financial sector/telecom sector or any regulatory Authority of India or Aborad.
- 3 The following documents are required to be submitted along with the technical bid:
 - (i) Proof of experience in the form of appointment/ engagement letter, certificate of completion from client(s) etc. showing experience of the company/firm of consultancy with any regulatory body in the infrastructure sector/service sector/financial sector/telecom sector relating to Stock/capital Markets or Financial Sector or Credit Rating or of similar nature of work in India or abroad.
 - (ii) Detailed resume of the experts who will form a part of the Assignment Team to undertake the Consultancy work, indicating the date of appointment of each team member in the company/firm.
 - (iii) Detailed note outlining of how the company/ firm shall carry out the assignment if selected including the timelines of activities.

- 4 The bidder shall be required to give a presentation to explain aspects of his proposal and demonstrate his technical capabilities to the Evaluation Committee nominated by TRAI to evaluate the Technical Bids. Such presentations, if required, would be arranged in TRAI premises for which date(s) shall be intimated separately.
- 5 Earnest Money Deposit - The Bidders are required to furnish Earnest Money Deposit (EMD) along with the bid, in the form of Demand Draft/Pay Order drawn on any Nationalized Bank favouring Telecom Regulatory Authority of India, New Delhi, payable at New Delhi for amount of Rs.10,000/- (Rs. Ten Thousand only). The bids, not accompanied with the required EMD, are liable to be summarily rejected.
- 6 The EMD of the bidder shall be forfeited if the bidder furnishes any false information or misleads TRAI during the course of evaluation of the bid. EMD shall also be forfeited, if the bidder does not accept the work order on being asked to do so. The EMD of the unsuccessful bidders shall be released only after the selection of the successful bidder or six months whichever is earlier. The EMD of the successful bidder shall be released only after the Performance Bank Guarantee is received.
- 7 The bidder should submit the Financial Bid in INR.
- 8 The Financial Bids of only those bidders shall be opened, who qualify in the Technical Bid stage (fulfilling the technical requirements specified at para 2 of terms & conditions above). The Financial Bid of technically non-qualified bidders shall not be opened and shall be returned to them.
- 9 The financial proposals of the technically qualified bidders will be opened by the designated committee at the date and time communicated to bidder. The bidder shall have their representative(s) present during the opening of the financial bids, if they so desire.
- 10 The Financial Bids of the technically qualified bidders shall be ranked as L1, L2,, Ln, in accordance with the amount quoted in the financial bid. Based on the rankings in the financial bid, the final selection of the bidder shall be made by the Competent Authority.
- 11 If two bidders quote the same amount in the Financial Bid, the further evaluation of such bidders shall be done on the basis of the experience of the bidder.
- 12 The successful bidder shall be issued a letter of award of assignment by the TRAI and the bidder shall communicate his formal acceptance of the same through an acceptance letter within 7 days of issue of award letter.
- 13 For payment towards the work undertaken, the Consultant shall submit invoice for the same to TRAI after submission of the

consultancy work report. The consultant shall be paid for the work undertaken by him after acceptance of the report submitted by the consultant by TRAI.

- 14 The bidder shall enter into an Agreement with TRAI before commencement of the assignment. Specimen of the Agreement is given in **Schedule II**.
- 15 The bidder shall submit draft report, final report and post study evaluation for a period of one year, as per Terms of Reference (TOR) and Terms & Conditions of the Agreement.
- 16 All documentation including hard/soft copies of the reports as finalized by the consultant including word files, excel spreadsheets, power point and other relevant files & records prepared during the assignment shall be submitted to TRAI. TRAI shall have ownership over all the original documents produced by the consultant. The consultant shall not disclose the contents of such reports, data, survey results, etc, to any third party without the written consent of the TRAI. These conditions shall survive the termination of the contract with the consultant.
- 17 If the performance in full or part as specified in the contract is prevented, restricted, delayed or interfered by reasons of-
 - (i) fire, explosion, cyclone, floods;
 - (ii) war, revolution, acts of public enemies, blockage, or embargo;
 - (iii) any law, order, proclamation, ordinance, demand or requirements of any Government, or Authority or representative of any Government, including restrictive trade practices or regulations;
 - (iv) strikes, shut-downs or labour disputes which are not instigated for the purpose of avoiding obligations herein; or
 - (v) any other circumstances beyond the control of the party affected;then, notwithstanding anything hereinbefore contained, the party affected shall be excused from its performance to the extent such performance relates to prevention, restriction, delay or interference and provided the party so affected uses its best efforts to remove such cause of non-performance and when removed, the party shall continue performance with utmost dispatch.
- 18 In the event of any question, dispute or difference arising in connection with this assignment, the same shall be referred to the sole arbitrator appointed by TRAI, New Delhi, India as per the provisions of the Arbitration and Conciliation Act, 1996. The award of the Arbitrator shall be final and binding on the parties to this contract. The place of the Arbitration shall be New Delhi. The language of the arbitration shall be English.
- 19 The selected bidder shall furnish a Performance Bank Guarantee (PBG) in the Proforma given at **Schedule III** from any Scheduled Bank

in India within 7 days from the date of issue of the letter of acceptance. The amount of PBG shall be equivalent to 10% of the quoted value valid for a period of twelve months from the date of Agreement. The Performance Bank Guarantee shall be forfeited in case the selected bidder fails to -

- (a) undertake the consultancy work or
- (b) fails to carry out the consultancy work in accordance with the terms of reference and terms & conditions relating to submission of bids respectively.

20 Penalty – In case the Consultant fails to submit the consultancy work report within the prescribed time period. TRAI may impose penalty not exceeding to an amount equivalent to 1% (one percent) of the quoted value, for each week of delay subject to maximum of 10% (ten percent) after consultant has been given a reasonable opportunity of being heard by TRAI. The amount so determined shall be deducted from the payment due to the Consultant.



Section-II

**Terms of Reference
For
Engagement of a Consultant for Calculation and Determination of
Weighted Average Cost of Capital (WACC) for Indian Telecom Service
Sector**

1. Background & Overview

1.1 The Telecom Regulatory Authority of India (TRAI) regulates the telecommunications services and the matters connected therewith. One of the main objectives of TRAI is to provide a fair and transparent policy environment to promote a level playing field and facilitate fair competition. In pursuance of the overall objectives of promoting competition in various telecom services and at the same time keeping telecom services affordable, TRAI has been regularly using Weighted Average Cost of Capital (WACC) for its various regulatory exercises like Spectrum Valuation, Interconnection Usage Charges, SMS Termination Charges, Calling Cards etc.

1.2 WACC is an important cost component which is used by regulators in the cost-based calculations. WACC is the minimum return that a company must earn on its existing capital to satisfy the respective stakeholders like shareholders, creditors, lenders etc.

2 Objectives of the Report

2.1 The Entrepreneur finances its enterprise(s) through two sources of Capital i.e. Equity Capital (owners funds) and Debt Capital (loans, debentures etc), to conduct the smooth operation of the company. Cost of capital encompasses the two fundamental sources of financing the Capital (Equity and Debt). The cost of

capital is the rate of return that must be earned on an investment / project so that the enterprise market value remains unchanged. The determination of cost of capital / reasonable rate of return is essential for regulatory decision making process by the regulator.

2.2 The key parameters that determine the cost of capital/equity under CAPM framework are thus Risk Free Rate (R_f), Market Risk Premium (MRP), and Equity Beta (β). The Market Risk Premium and Equity Beta are calculated using equity market indices of the listed companies whose shares/stocks are traded on the Stock Exchange(s). The Cost of Capital i.e. Cost of Equity and Cost of Debt under Capital Asset Pricing Model (CAPM) framework is determined as under:

2.3 **Cost of Equity (K_e)** is the minimum rate of return which a company must generate in order to convince investors to invest in the company. The cost of equity is determined as under:

• **$K_e = R_f + \beta * EMRP$**

- K_e is the post-tax Cost of Equity;
- R_f is the Risk-free Rate; and measured from government debt
- β is the Equity beta; and measured from stock price movements;
- EMRP is the Equity Market Risk Premium

The risk premium is defined as the product of two variables:

- a general Equity Market Risk Premium (EMRP) – the additional return, above the return on risk-free assets (R_f), required by investors for investing in equities of average risk; and
- β (Beta) – being a measure of the relative non-diversifiable risk of a particular investment in relation to the rest of the market.

2.4 **Cost of Debt (K_d)** is the rate of a risk free bond (generally government security bonds) whose duration matches the term structure of the corporate debt plus risk component (risk

premium). Thus the cost of debt is the rate of interest which the company pays on its debt and preference share capital.

2.5 As the firms are generally financed through a mixture of debt and equity, the costs of debt and equity capital are different. The overall measure of the cost of capital of a firm is the weighted average cost of capital (WACC). The cost of equity is post tax, to compute pre tax cost of equity, the cost of equity is discounted by the tax rate. Thus pre-tax WACC is computed as:

$$\text{WACC (Pre-tax)} = K_e / (1-T) * E / (D+E) + K_d * D / (D+E)$$

Where:

- E is the value of equity (market capitalisation);
- D is the value of debt; and
- T is the corporate tax rate.

2.6 TRAI has been using 15% pre-tax WACC in various regulatory calculations/ exercises for quite a considerable time. The telecom sector has witnessed tremendous changes with regard to the interest rates and tax rates during the last decades. These lending rates / interest rates affect the cost of equity and cost of debt and in turn effect on the Weighted Average Cost of Capital of the Indian telecom service sector.

2.7 Keeping in view the changes that have taken place during the last two decades in the telecom service sector in India, there is an urgent need to review and determine WACC which represents the current financing rate and relevant for Indian telecom service sector.

3. Scope of Work

3.1 Calculate the Weighted Average Cost of Capital (WACC) for the Indian telecom service sector as on date using stock market and other related data for: -



- (a) Two years average Cost of Equity for overall Indian telecom service sector (only listed companies),
 - (b) Two years average Cost of Equity for overall Indian telecom service sector (only non-listed companies),
 - (c) Two years average Cost of Equity for overall Indian telecom service sector (for both listed and non-listed companies),
 - (d) Two years average Cost of Debt for overall Indian telecom service sector (for both listed and non-listed companies),
 - (e) Two years average Beta for Indian telecom service sector (both listed and non-listed companies)
- 3.2 Calculate the Weighted Average Cost of Capital associated with the Indian telecom service sector as on date using stock market and other related data for two years (previous year and current year) as in 3.1 above.
- 3.3 Submit a complete report indicating the methodology of calculation and all base data.
- 3.4 Update the calculations at 3.1 and 3.2 on half yearly basis for a further period of one year.
- 3.5 Determine an ideal debt-equity ratio norm for the Indian telecom service sector.

4. Deliverables

- 4.1 The Consultant shall be responsible for the following deliverables that will be submitted to TRAI for acceptance at the end of each task:
- (i) **Background paper:**
A detailed background paper shall be prepared by the consultant on the various methodologies for calculation of Weighted Average Cost of Capital, highlighting international best practices and other issues pertaining to their implementation and how these methodologies can be harmonized for calculation of WACC with the reporting by the

operators to TRAI under the Reporting System on Accounting Separation Regulations, 2016 by the service providers.

(ii) **Report on the study of Weighted Average Cost of Capital:**

The Consultant shall submit a Report covering the scope of work as described in para 3. The draft Report shall be submitted within 45 days of commencement of the assignment and the final Report indicating the methodology of calculation and all the base data to TRAI shall be submitted within 60 days of commencement of the assignment. A presentation on the methodology of calculation and all base data used in the report shall also be made by the Consultant to the Authority before finalization of the aforementioned report.

(iii) **Post study evaluation**

The Consultant shall update the calculations at para 3.1 and 3.2 on half yearly basis for a further period of one year after the date of acceptance of final report by the Authority.

4.2 Any other related issue that may come up in the course of the report shall be addressed.

4.3 The acceptance of the Final Report and further updated calculations shall be subject to approval of the Authority.

4.4 **Workshop for TRAI's Officials**

The consultant shall make a presentation before submitting the report / conduct an internal workshop for the officials of TRAI to get acquainted with the subject and issues dealt in the consultancy.

4.5 **Documentation**

All documentation including hard / soft copies as finalized by the consultant including word files, excel spreadsheets, power point files

and other relevant files as finalized during the consultancy shall be provided to TRAI.

5. Reporting Requirement

5.1 TRAI will appoint an officer to work as Project Coordinator. The Consultant shall work under the overall guidance of such Project Coordinator in carrying out the assignment.

5.2 TRAI will provide proper office support within TRAI premises and will facilitate access of data, reports etc. to the Consultant available in TRAI, under non-disclosure clause of the Agreement to be signed with TRAI. All other resources which are necessary for completion of the work will be arranged by the Consultant on its own.

6. Performance Bank Guarantee

6.1 The selected Consultant shall furnish a Performance Bank Guarantee (PBG) in the format given at **Schedule III** from any Scheduled Bank in India within 7 (seven) days from the date of issue of the letter of acceptance. The amount of PBG shall be equivalent to 10% (ten percent) of the contract value. In case the furnishing of an acceptable Performance Bank Guarantee is delayed by the Consultant beyond the afore-mentioned period, TRAI may cancel the award of work.

6.2 Initially, the bank guarantee(s) shall be valid for a period of twelve months from the date of Agreement. The Consultant on its own shall extend the validity period of the Bank Guarantee on similar terms at least one month prior to the day of its expiry without any demand or notice from the TRAI. Any failure to do so shall amount to violation of the terms of the Agreement and entitle TRAI to encash the Bank Guarantee and to convert it into a cash security without any reference to the Consultant at his risk and cost. No interest or compensation whatsoever shall be payable by TRAI on such encashment. On successful completion of the



assignment, the Performance Bank Guarantee shall be returned to the Consultant.

6.3 Without prejudice to its right to terminate the Agreement and to pursue any other remedy available to it under the law, the Performance Bank Guarantee shall be forfeited in case the selected bidder fails to -

- (a) undertake the consultancy work or
- (b) fails to carry out the consultancy work in accordance with the Terms of Reference and Terms & Conditions relating to submission of bids respectively.

7. Terms of Payments:

7.1 Payments for the assignment shall be made as per the following schedule:

- 40% of the contracted amount after submission of draft Report,
- 50% of the contracted amount on acceptance of final Report,
- Remaining 10% would be released after successful completion of work of updating of calculations at para 3.1 and 3.2 on half yearly basis for a further period of one year.

8. Confidentiality

8.1 The consultant shall treat all the information provided by TRAI as confidential and shall not share this information without the written approval of TRAI.

9. Copyright

9.1 TRAI shall have exclusive copyright over any material developed during the period and the final report. Also, TRAI shall be free to use the information provided by the consultant in the manner it desires.

SCHEDULE I

STANDARD FORMATS – TECHNICAL BID

The standard formats for the following are given in Form - 1 to 5 below.

Form 1 Proposal Submission Form

Form 2 Bidder's References

Form 3 Description of the Methodology of Work Plan

Form 4 Composition of the Team Personnel

Form 5 Format of Curriculum Vitae for Professional Staff

Form 1
PROPOSAL SUBMISSION FORM
(To be submitted on Bidder's letter head)

From
(Name and address of the company/firm)

To:
Jt. Advisor (F&EA)
Telecom Regulatory Authority of India,
Mahanagar Door Sanchar Bhawan
Jawahar Lal Nehru Marg,
New Delhi-110002

Subject: Invitation of bids for undertaking study on Weighted Average Cost of Capital (WACC) for Indian telecom service sector.

Sir,

We, the undersigned offer to provide our services for the work of study on calculation and determination of Weighted Average Cost of Capital (WACC) for Indian telecom service sector in accordance with terms and conditions for submission of bids and of the Terms of Reference. We are hereby submitting our Proposal which includes both Technical & Financial Bids, sealed under separate covers.

We understand you are not bound to accept any proposal you receive.

Dated, the.....day of2018

Yours faithfully,

Authorised signatory:
Name and Title of Signatory
Name of company/ firm



Form 2

BIDDER'S REFERENCES

**Work of similar nature carried out in the last five financial years
that best illustrate experience for eligibility to bid**

Using the format below, provide information on each reference assignment for which your company/ firm was legally contracted. **(Please attach a copy of the documentary evidence supporting the assignment/experience)**

Assignment	Country
Location within Country	Professional Staff provided by the company/ firm (Profiles):
Name of Client:	No. of Staff:
Address:	No. of Staff-Months; duration of assignment:
Start Date (Month/Year):	Completion Date (Month/Yr.):
Approx. Value of Services contracted	Rs.
Name of Associated Firm/Outside Professionals, if any	No. of months of professional staff, provided by Associated Firm/Outside Professionals
Name of Senior Staff (Project Director/Coordinator, Team Leader) involved and functions performed:	
Narrative Description of Project	
Description of actual services provided by Your Staff:	

Authorised signatory:

Name and Title of Signatory

Name of Bidder



Form 3

**DESCRIPTION OF THE METHODOLOGY INCLUDING SAMPLE DESIGN
AND WORK PLAN FOR PERFORMING THE STUDY**

Authorized signatory:
Name and Title of Signatory
Name of Bidder

Form 4

**COMPOSITION OF THE TEAM PERSONNEL AND
TASK(S) OF EACH TEAM MEMBER**

1. Professional/Managerial Staff

Sl.	Name & Qualification	Position	Task
1			
2			
3			
4			
.			

2. Support Staff

Sl.	Name & Qualification	Position	Task
1			
2			
3			
4			
.			

Authorised signatory:

Name and Title of Signatory

Name of Bidder



Form 5

**FORMAT OF CURRICULUM VITAE (CV) FOR
EACH PROPOSED PROFESSIONAL STAFF**

Proposed Position: _____
Name of company/ firm: _____
Name of Staff: _____
Profession: _____
Educational & Professional Qualification: _____
Date of Birth: _____
Years with company/ firm: _____ Nationality: _____
Membership in Professional Institutes/ Societies: _____
Detailed Tasks Assigned: _____

Key Qualifications:

[Give an outline of staff member's experience and training most pertinent to tasks on assignment. Describe degree of responsibility held by staff member on relevant previous assignment and give dates and locations. Use about 200 words.]

Education:

[Summarize college/university and other specialized education of staff member, giving names of schools degrees obtained. Use about 100 words]

Employment Record:

[Starting with present position, list reverse order every employment held. List all positions held by staff member in last 10 years, giving period, names of employing organizations, titles of positions held, and locations of assignment. Also give types of activities performed and client references, where appropriate. Use about 300 words].

Training Undertaken:

[Brief about the topics of the training attended relevant to the assignment, Institute, Period].

Research and Literature work:

[Summarize the type of Research and Literature work performed].

Languages:

[For each language indicate proficiency: excellent, good, fair or poor; in speaking, reading and writing]

Certification:

I, the undersigned, certify that to the best of my knowledge and belief, these data correctly describe me, my qualifications, and my experience.

_____ Date: _____

[Signature of staff member]

Authorised signatory:

Name and Title of Signatory

Name of Bidder



SCHEDULE II

Specimen Agreement

THIS AGREEMENT is executed on this the _____ day of _____, 2018 between Telecom Regulatory Authority of India (TRAI) having its office at Mahanagar Doorsanchar Bhawan, J.L. Nehru Marg, New Delhi-110002 (hereinafter called as "TRAI" as the first party, which expression shall, unless excluded by the context, include its successor and assignees), through Shri _____ working as _____ who is duly authorized to sign and execute the present agreement.

And

M/s. _____ a company/ firm registered under _____ having its registered office at _____ (hereinafter referred to as the "Consultant" as the second party which expressions shall unless excluded by the context include their executors, administrators, successors and assignees) through Shri _____ who has been duly authorized vide resolution No. _____ dated _____ / in any other form to execute this agreement and a copy of such authorization is appended as Appendix-I to this agreement.

WHEREAS the TRAI intending to engage company/firm (hereafter referred to as the "Consultant") to a study on calculation and determination of Weighted Average Cost of Capital (WACC) for Indian telecom service sector. The consultant shall prepare an exhaustive report on the study as mentioned in the 'scope of work' section of Terms of Reference. The work shall entail updating of Weighted Average Cost of Capital calculation associated with the Indian telecom service sector as at para 3.1 and 3.2 of Terms of Reference on half yearly basis for a further period of one year.

AND WHEREAS M/s. _____ have represented to TRAI that it possesses the requisite professional skills and technical resources, and has agreed to provide the work on the terms and conditions set forth in this agreement.

Now this Agreement witnesses as follows:-

1. The Pr. Advisor (F&EA)/ any other designated officer of TRAI shall be the person authorized by the first party to give necessary instructions to the Consultant and shall be responsible for the administration of this agreement and for providing the Consultant all information, which in its opinion, may be relevant to carry out the assignment under this agreement.
2. The Consultant shall complete the assignment as contained in Terms of Reference, within a period of sixty days commencing from _____(date). The period may be extended further by TRAI on its sole discretion on the same terms and conditions.

3. The Consultant shall be paid as per the following schedule of payments:
 - 40% of the contracted amount after submission of draft Report,
 - 50% of the contracted amount on acceptance of final Report,
 - Remaining 10% would be released after successful completion of work of updation of calculations at para 3.1 and 3.2 of Terms of Reference on half yearly basis for a further period of one year.
4. No TA/DA shall be admissible to the Consultant for local journeys performed by its team in connection with the assignment.
5. As far as possible TRAI will arrange suitable office space within the office of TRAI for the Consultant's representatives during their visit to TRAI. The facility of the internet would also be extended during that period. However, this cannot be construed as a right. Non provision of such facilities, due to any circumstances, shall not be a ground for the delay in completion of the assignment.
6. At the end of completion of report the Consultant shall give presentation of his findings/recommendations to the Authority.
7. The Consultant shall not disclose to any unauthorized person any document, information and/or data that may be supplied to him/it by TRAI, or by any other organization, under the directions of TRAI, or any information that may have come to him/its knowledge directly or indirectly by virtue of the assignment. All such documents, data or information shall be the property of TRAI. Similarly, all reports, data, survey results, etc, to be submitted by the Consultant under this agreement shall be the exclusive property of TRAI and the Consultant shall not disclose the contents of such reports, data, survey results, etc, to any third party without the consent of TRAI. This condition shall survive any foreclosure, termination or cancellation of this agreement.
8. The Consultant undertakes that this assignment shall not be in conflict with prior or current obligations of the Consultant to other clients nor shall it place it in a position of not being able to carry out the assignments objectively and impartially.
9. TRAI reserves the right to make minor modifications/ changes in the scope of work, if considered necessary, which will be covered within the contract amount and no extra payment will be made to the Consultant.
10. In case of any default on the part of the Consultant in completion of the work within the time schedule agreed to between the parties as herein above, TRAI shall be at liberty to get the work completed from any other company/firm at the risk and cost of the Consultant.

11. The Consultant shall not assign this agreement or sub-contract any portion of it without the prior written consent of TRAI.
12. The Consultant shall indemnify and hold TRAI harmless against any and all claims, demands or judgment of any nature brought against TRAI arising out of the services provided by the Consultant under this agreement. TRAI shall be entitled to deduct the monetary loss, if any, suffered by it from the amount payable to the Consultant or in case no such amount is payable, to get the same reimbursed from the Consultant. TRAI may also at its discretion terminate the agreement in such circumstances and encash the Performance Bank Guarantee to compensate the monetary loss suffered by it, without prejudice to the obligation of the Consultant under this paragraph which shall survive the termination of this agreement.
13. The Consultant undertakes to carry out the assignment in accordance with high standard of professional and ethical competence and integrity, having due regard to the nature and purpose of the assignment, and to ensure that its staff assigned to perform services under this agreement shall conduct themselves in a manner consistent herewith.
14. The Consultant shall be responsible for taking appropriate insurance coverage in respect of all matters relating to the services to be provided under this agreement, including general liability insurance so as to indemnify TRAI from any loss arising out of or in connection with services provided under this agreement.
15. This agreement, its meaning and interpretation and relations between the parties shall be governed by the laws of India as may be applicable.
16. The Consultant has furnished a Performance Bank Guarantee Bond No. _____ dated _____ from _____ (Name of Bank) for an amount of Rupees _____ representing for _____ of the value of the agreement. Initially, the bank guarantee(s) shall be valid for a period of 18 months. The Consultant agrees to extend the validity period of the Performance Bank Guarantee on similar terms at least one month prior to the day of its expiry i.e. without any demand or notice or intimation from TRAI. Any failure to do so shall amount to violation of the terms of this agreement and entitle TRAI to encash bank guarantee and to convert it into cash security without any reference to the Consultant at the risk and cost of the Consultant. No interest or compensation whatsoever shall be payable by TRAI on such encashment.
17. The Consultant shall, under the contract, complete the assignment within the stipulated time frame. In case the Consultant is not able to complete the assignment on time, then the amount payable to him may be withheld, partly or wholly, unless the delay is condoned by TRAI for good and sufficient cause.

18. In case of any default on the part of the Consultant in completion of the work within the time schedule agreed to between the parties as herein above, TRAI shall be at liberty to get the work completed from any other company/firm at the risk and cost of the Consultant.
19. In the event of any dispute arising between TRAI and the Consultant in any matter covered under this Agreement or arising directly or indirectly therefrom or connect or concerned with the said agreement in any manner of its implementation of any terms and conditions of the said agreement, the matter shall be referred to the Secretary, TRAI who may himself act as sole arbitrator or may nominate an officer of TRAI as sole arbitrator, notwithstanding the fact that such officer has been directly or indirectly associated with this agreement. The Consultant shall not be entitled to raise any objection for the appointment of such officer of TRAI as the sole arbitrator. The award of the arbitrator shall be final and binding on both the parties to the agreement subject to provisions of Arbitration and Conciliation Act, 1996 and rules made there under. The parties expressly agree that the arbitration proceedings shall be held at New Delhi. The language of arbitration shall be English only.
20. The payment of the contracted amount to the Consultant shall be made by TRAI after the deduction of tax at source in accordance with law for the time being in force in India. TRAI, however, undertakes to pay the service tax on the fee at the applicable rates.
21. TRAI reserves right to foreclose, terminate or cancel the engagement of the Consultant without assigning any reasons. In such an event, the Consultant shall not be entitled to claim damages from TRAI.
22. In respect of any matter for which no provision has been made in this agreement, the provisions contained in the general instructions of the Government on the subject for engagement of the Consultant shall apply.

In witness where of the parties have here to set and subscribed their respective hands to this agreement on the date and year appearing hereinabove.

Signed by _____, for _____, in the presence of _____.

Signed by _____, for and on behalf of TRAI in the presence of _____.

Place, New Delhi

Date



SCHEDULE III

PERFORMANCE BANK GUARANTEE

(To be stamped in accordance with the Stamp Act)

To

The Secretary,
Telecom Regulatory Authority of India,
Mahanagar Door Sanchar Bhawan,
Jawahar Lal Nehru Marg
New Delhi - 110002.

WHEREAS ----- (Name and address of the company/ firm) (hereinafter called "the Consultant") has undertaken, in pursuance of Agreement dated ----- (hereinafter called "the Contract") to conduct study on calculation and determination of Weighted Average Cost of Capital (WACC) for Indian telecom service sector for TRAI.

AND WHEREAS it has been stipulated by TRAI in the said Contract that the Consultant shall furnish TRAI with a bank Guarantee from a scheduled Bank in India for the sum specified herein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS (name and address of bank) have agreed to give the Consultant such a Bank Guarantee:

NOW THEREFORE we (name of bank) hereby affirm that we are the Guarantors and responsible to TRAI, on behalf of the Consultant up to a total of ----- (amount of Guarantee)----- (in words and figures), and we hereby unconditionally, irrevocably and without demur undertake to immediately pay TRAI, upon your first written demand and without cavil or argument, any sum or sums within the limits of ----- (amounts of Guarantee) as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We (name of bank) hereby waive the necessity of your demanding the said debt from the Consultant before presenting us with the demand.

We (name of bank) further agree that no change or addition to or other modification of the terms of the Contract or of the works to be performed thereunder or of any of the contract documents which may be made between you and the Consultant shall in any way release us from any liability under the guarantee and we hereby waive notice of any such change, addition or modification.



We (name of bank) further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Contract and that it shall continue to be enforceable till all the dues of TRAI, by virtue of the said Contract have been fully paid and its claims satisfied or discharged and till TRAI, accordingly, discharges this guarantee.

We (name of bank) lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the TRAI in writing.

This Guarantee shall be valid upto and including the day of The pendency of any dispute or arbitration or other proceedings shall not affect this Guarantee in any manner.

Dated, the.....day of2018

SIGNATURE AND SEAL OF THE
AUTHORISED OFFICER OF THE BANK

Name & Designation of the Officer-----

NAME OF BANK -----

ADDRESS -----

DATE -----

Note: The stamp papers of appropriate value shall be purchased in the name of the Bank, who issues the 'Bank Guarantee'.

