

**CONSULTANCY AGREEMENT**

This agreement ("Agreement") is made on this \_\_\_\_ day of \_\_\_\_2014

***By and between***

**Securities & Exchange Commission of Pakistan**, a statutory body established in pursuance of the Securities and Exchange Commission of Pakistan Act, 1997 with its head office located at **NIC Building, 63 Jinnah Avenue, Islamabad** (the "Commission", which expression shall, where the context so admits, include its successors in interest and permitted assigns of the One Part)

***And***

..... (the "Consultant", which expression shall, where the context so admits, include its successors in interest and permitted assigns of the Other Part)

Commission and the Consultant shall hereinafter be referred to as the "Parties" collectively and the "Party" individually and interchangeably.

Whereas;

- a) The Commission is desirous of acquiring professional recruitment consultancy services ("**Services**") for the posts desired by the Commission.
- b) The Consultant is a well reputed and experienced candidate in similar industry.
- c) The Consultant represents and warrants that it has the requisite expertise and adequate skills to provide the Services as required by the Commission.
- d) The Commission has agreed to engage the Services of the Consultant and the Consultant has agreed to provide the same.

**Now, therefore,** upon the terms and subject to the conditions of this Agreement, it is hereby agreed by and between the Parties as under:

**1. Duration**

This Agreement will become effective on the date mentioned above and will remain in effect for a period of \_\_\_\_ (the "Term") or until terminated in accordance with Clause 7 or 8. The termination of this Agreement will not;

(a) relieve either Party from any expense, liability or obligation or any remedy therefore which has accrued or attached prior to the date of such termination, nor

(b) cause either Party to lose, surrender or forfeit any rights or benefits which have accrued at the time of termination.

Prior to the expiration of the Term, this Agreement may be extended or modified by written mutual agreement between the Parties. When used in this Agreement, the phrase "the Term" shall refer to the entire duration of the Agreement.

**2. Definition**

In this Agreement, the following terms shall have the meanings assigned as under:

- a) "Commission" means the Securities and Exchange Commission of Pakistan.
- b) "Consultant" means .....
- c) "Services" means the recruitment consultancy services to be provided by the Consultant under this Agreement.
- d) "Department" means the HR Department of the Commission.

**3. Services**

- a) The Consultant shall perform the Services under this Agreement as detailed in **Annexure-A**.
- b) The Consultant shall perform and execute the Services at the times and in the manner as specified in **Annexure-A** to this Agreement with due care and skill in accordance with the best professional standards prevailing in similar industry to the satisfaction of the Commission.
- c) The Consultant recognizes and assures that any Services performed under this Agreement and work done shall be the exclusive property of the Commission and the Consultant shall have no right or claim to it.
- d) The Parties hereby agree that this Agreement does not in any manner restrict the Commission from the appointment of any other Consultant for similar purposes. The Commission reserves the right of appointment concerning the subject matter of this Agreement and may appoint several consultants for the purpose of the Services stated herein.
- e) The Parties further agree that the Commission will not appoint any other Consultant for similar purposes during the time where certain positions are assigned to the Consultant. However the condition set forth in this sub-clause will remain in effect for

a period of ten (10) working days from the date of allocation of positions to the Consultant by the Commission.

#### **4. Responsibilities**

##### **a) Consultant**

The Consultant shall:-

- (i)** ensure the effective performance and execution of Services detailed in **Annexure-A**.
- (ii)** endeavor to effectively perform its obligations and ensure to satisfy the objective of the Commission regarding the Services.
- (iii)** make appropriate documentation available to the Department.

##### **b) Commission**

The Commission shall:-

- (i)** arrange for adequate and concise documentation in order to facilitate the Consultant for the execution of Services to be rendered under this Agreement.
- (ii)** facilitate the Consultant regarding execution of the Services.
- (iii)** provide adequate information necessary for the execution of the Services to be performed by the Consultant.
- (iv)** ensure that the terms of this Agreement are implemented as mutually agreed between the Parties.
- (v)** Ensure timely payments in accordance with the Agreement.

#### **5. Payments**

- a)** The Consultancy fee as agreed between the Parties is detailed in **Annexure-B**.
- b)** The amount provided in **Annexure-B** is the total fee which shall be paid to the Consultant subject to the satisfactory performance of Services.
- c)** All payments as agreed shall be less any Government taxes which the Commission is required by law to deduct.
- d)** The payments shall be made in Pak rupees through a mode as mutually agreed between the Parties.

#### **6. Proprietary Information/Confidentiality**

- a)** During the course of the Agreement both Parties will share information of confidential and / or proprietary nature. Recipient agrees not to disclose any information to any

third parties or to any of its employees except those employees who have a need to know the information to accomplish a stated task in accordance with the terms and conditions of this Agreement and such employees shall be made aware that the information is confidential and shall be under a written contractual restriction on nondisclosure and proper treatment of confidential information that is no less restrictive than the terms of this Agreement.

- b) Notwithstanding the foregoing, recipient may disclose the disclosing Party's information if in the opinion of its counsel, disclosure is required by law; provided, however, that recipient will use all reasonable efforts to notify disclosing Party of the obligation to make such disclosure in advance of the disclosure so that disclosing Party will have a reasonable opportunity to object to the disclosure and that recipient requests confidential treatment of the disclosed information. Recipient agrees that it shall treat the confidential information with the same degree of care it accords to its own confidential information of a similar nature; provided that in no event shall recipient exercise less than reasonable care to provide the confidential information.
- c) The treatment accorded by the foregoing clause shall be binding on both the Parties and shall remain in force for a period of five (5) years from the date of execution or completion/ termination of this Agreement.

## **7. Termination**

- a) Either Party may terminate this Agreement if the other Party fails to remedy a breach of the terms of this Agreement within fifteen (15) days of a written notice to do so.
- b) The Commission may terminate this Agreement if the Consultant fails to provide the Services in accordance with this Agreement.
- c) The Consultant may terminate this Agreement if the Commission fails to make payments in accordance with this Agreement.

## **8. Force Majeure**

- a) The obligations of each of the Parties hereunder shall be suspended during the period and to the extent that such Party is prevented or hindered from complying therewith by "Force Majeure" (as hereinafter defined). In such event, the Party shall give notice of suspension as soon as reasonably possible to the other Party stating the date and extent of such suspension and the cause thereof. Any of the Parties whose obligations have been suspended as aforesaid shall resume the performance of such obligations as soon as reasonably possible after the removal of the cause and shall so notify the other Party.
- b) "Force Majeure" means any cause beyond the reasonable control of such Party including (in so far as beyond such control but without prejudice to the generality of the foregoing expression) strikes, lock-outs, labour disputes, natural catastrophe and compliance with any law or governmental order, rule, regulation or direction but solely restricted to laws, orders, rules, regulations, or directions of governmental agencies or bodies in Pakistan or of any other organization or commission or regulatory authority binding within Pakistan, provided that a lack of funds shall not constitute "Force Majeure".
- c) Nothing herein shall require the Parties concerned to settle strikes or labour disputes by acceding to demands deemed to be unreasonable by objectively evaluating the situation but subject to this, the Party concerned shall use its reasonable endeavors to remove, avoid and / or mitigate the effects of such circumstances.

- d) If the force majeure continues, or the carrying out of this Agreement is delayed, for a prolonged period or it becomes impossible to perform a material provision of this Agreement, either Party may terminate this Agreement by notice to the other Party.
- e) For the purpose of this clause, a prolonged period is one exceeding (30) days.

## **9. Dispute Resolution/Arbitration**

- a) The Parties shall attempt to amicably resolve any and all disputes as to the interpretation of the Agreement or as to the performance of either Party hereunder.
- b) If the Parties cannot settle any dispute or difference within fifteen (15) days after first conferring, then such dispute or difference shall be settled by arbitration by a sole arbitrator unless otherwise disposed of by understanding between the Parties. The award of the arbitrator shall be final and binding. Either Party, before or during any arbitration, may apply to a court having jurisdiction for a temporary restraining order or preliminary injunction where such relief is necessary to protect its interest pending completion of the arbitration proceedings. Prior to initiation of arbitration or any other form of legal proceeding, the aggrieved Party will give the other Party written notice describing the claim and amount as to which it intends to initiate action.
- c) The arbitrator shall be appointed by mutual consent of both Parties or by the court having jurisdiction in case the Parties do not agree to the appointment of arbitrator. The arbitrator shall be a retired judge of a High Court of Pakistan. The arbitrator will have no authority to award or make any ruling, finding or award that does not conform to the terms and conditions of this Agreement.
- d) The place of arbitration shall be Islamabad, the arbitration shall be governed by the Arbitration Act, 1940 and the language of the arbitration shall be English.

## **10. Notices**

- a) Any notice required to be provided pursuant to this Agreement shall be in writing and may be given by delivering the same by hand at, or by sending the same by prepaid first class post, telex or facsimile to, the registered addresses of the Parties or such other address as the Parties may notify to each other. Any such notice given as aforesaid shall be deemed to have been given or received at the time of delivery (if delivered by hand), the first Working Day next following the day of sending (if sent by telex or facsimile) and the second Working Day next following the day it is sent (if sent by post). Without prejudice to the foregoing provisions of this Clause, if the Party to which a notice is given does not acknowledge the same by the end of the third Working Day next following the day of delivery by sending, the Party giving the notice shall communicate with the Party which has not so acknowledged and, if necessary, re-deliver or re-send the notice.
- b) **Address for notices**

For the purposes of this Clause, a Party may take the address and facsimile number of the other Party to be:

  - (i) the address and number set out below; or
  - (ii) where another address or number is notified by either of the Party to other Party, the last address of number so notified to it.

If to Commission:

Attn: .....

Head of Department (HR&T)

Securities & Exchange Commission of Pakistan

NIC Building, 63-Jinnah Avenue Islamabad

Tel: +92-51-9207091-4

If to Consultant:

Attn: .....

.....

.....

Tel: ..... Fax: .....

#### **11. Relationship**

The Parties hereby agree that no terms of this Agreement shall be construed as to portray an employer-employee relationship between the Parties and that both the Parties are acting independently and at their discretion.

#### **12. Amendment**

- a) No term and condition of this Agreement may be amended without the prior consultation and understanding between the Parties.
- b) This Agreement shall supersede any existing arrangements and or understandings between the Parties in relation to the terms agreed upon under this Agreement.

#### **13. Applicable Law and Jurisdiction**

- a) This Agreement is governed by the laws of the Islamic Republic of Pakistan.
- b) Disputes arising out of this Agreement are subject to the exclusive jurisdiction of the courts of Islamabad, to which the Parties irrevocably submit.

#### **14. Stamp Duty**

This Agreement shall be stamped in accordance with Stamp Act, 1899 by the Consultant.

#### **15. Annexure**

The Annexure to this Agreement shall form an integral part of this Agreement and shall be interpreted accordingly.

**In witness hereof the Parties have executed this Agreement on the day and year written above.**

AGREED AND ACCEPTED

**Securities and Exchange**

.....

**Commission of Pakistan**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

**WITNESS**

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

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

Title:\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

**WITNESS**

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

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

Title:\_\_\_\_\_

**ROLE OF CONSULTANT**

1. The Consultant shall be given each post and accordingly the Commission will share the following:
  - a) Number, job title, location of the position.
  - b) Job Description and specific requirements of the position.
  - c) Approved copy of the draft advertisement as well as name of selected newspapers.
2. The Consultant shall ensure the following; but not limited to:
  - a) Analyze/scrutinize the information provided by the Commission and shall give consent for accepting the assignment.
  - b) The Consultant shall coordinate with the Department for the publication of advertisement concerning the given post.
  - c) All the applications with respect to the advertised positions shall be collected by the Consultant and will perform initial review against the basic job specification, maintain a compressive database of all the applications, prepare list of all received applications containing the reasons for their shortlisting or rejection and provide the same to the Commission within 15 days after the closing date of advertisement.
  - d) By applying appropriate selection tools, the shortlisted applications shall be further scrutinize to find the best suitable match.
  - e) CVs of best suited five shortlisted applicants shall be forwarded to the Commission along with related input and profiles uniformly structured as per agreed format.
  - f) The Consultant shall be responsible for accurately and fully disclosing all relevant information and CVs alongwith providing the following attested documents of shortlisted candidates:
    - Photograph
    - All the educational documents/transcripts
    - All the experience & training certificates
    - CNIC
    - Domicile Certificate (domicile information)
    - Last Pay Drawn Certificate including all other benefits (wherever applicable)
    - A written declaration in such form as specified inter-alia stating that, he/she has not been convicted by any court of law for any offence involving, moral turpitude, terminated or dismissed or removed or compulsorily retired by



the Federal Government, Provincial Government, anybody corporate or institution as a result of disciplinary action against her/ him. Moreover, that all documents and information submitted are genuine and correct in material particular.

- Since employment in the Commission is conditional upon the satisfactory results of the following, a written willingness/no objection certificate of the candidate shall be provided by the Consultant for:
  - Pre-employment medical examination arranged by the Commission.
  - Providing all original degrees/ transcripts/ certificates/ CNIC at the time of joining (if selected) for verification from the concerned authorities.
  - Verification from previous employers and referees (wherever applicable).
  - Good Character Certificate/Police Verification.
- g) (If required by the Commission), the shortlisting may be performed mutually by the Consultant and the Department.
- h) The Commission will inform the Consultant of finally accepted CVs and if required, may also ask for more CVs.
- i) The Department will coordinate with the Consultant regarding the schedule of interview and venue etc.
- j) The Consultant will coordinate with the applicants/candidates regarding interview date/venue etc., in writing. No TA/DA shall be given to candidates for test/interview by the Commission.
- k) Commission shall communicate the names of the selected applicants/candidates to the Consultant; otherwise the process will be repeated till a suitable candidate is selected for the position.
- l) All further communication with the selected candidates pertaining to salary finalization and other related formalities like medical etc., may be made by the Commission directly or through the Consultant.
- m) Prior to the Commission making any written job offer to the selected candidate the Consultant shall arrange verification from the referees and minimum of last two employers (wherever applicable) with respect to the information mentioned in the application including job title, responsibilities, salary and benefits. However, the Commission shall also perform the same verification at its own during the probationary period.
- n) A successful pre-employment medical fitness examination is mandatory for all the selected candidates whereas, offered job shall remain conditional upon satisfactory verification of all the documents and credentials.
- o) The Consultant shall inform through email/letter to all the unsuccessful applicants about the outcome of their applications.

p) On completion of recruitment cycle of each position the Consultant shall require to provide the following to the Commission:

- Complete database of all the applicants' alongwith summary sheet.
- List of all applicants with reasons of their shortlisting or rejection.
- Declaration on informing all the unsuccessful applicants about status of their applications alongwith the list containing name, address and date of communication.
- Declaration of not referring the selected candidate to other competing employers for one year from the date of joining of candidate.

## **Annexure-B**

The payment to be made to the Consultant by the Commission in pursuance of Clause 5 of the Agreement shall be as under;

- a) The Consultant shall be paid one gross salary on the recruitment of a qualified referral as provided in **Annexure-A**.
- b) The Consultant shall send the invoice to the Commission, which shall be processed within fifteen (15) days of the receipt.
- c) Any additional costs (including advertisement cost) incurred by the Consultant in the performance of Services as directed by the Commission shall be paid on actual.
- d) It is further agreed that the payment as per clause (a) of Annexure B is contingent upon the hiring/appointment of a qualified referral by the Commission.
- e) If the Commission receives any unsolicited/solicited CV directly from a potential candidate, the Consultant shall route the CV and the payment shall be made in the below mentioned way:
  - From Management Executive till Deputy Director- 50% of the gross salary.
  - From Joint Director till Executive Director- 25% of the gross salary.