

No.F.1/11/2019-PPD  
Government of India  
Ministry of Finance  
Department of Expenditure  
Procurement Policy Division

\*\*\*

512, Lok Nayak Bhawan,  
New Delhi. Dated the 5<sup>th</sup> March, 2021

**OFFICE MEMORANDUM**

**Subject: - Seeking inputs from stakeholders on Draft Model Request for Proposals(RfP) Document for procurement of Non-consultancy Services - reg.**

In continuations of this Department's various initiatives for increasing effectiveness, good governance, competition, and value-for-money in public procurement, a Draft Model Request for Proposals Document for the procurement of Non-consultancy Services, has now been developed.

2. Feedback is solicited from all stakeholders including Ministries/ Departments, attached/subordinate offices, CPSUs, Industry and individuals etc, for this Model RfP Document only in the format (word file) placed at Annexure-I.

3. The feedback may be sent to undersigned, [kanwal.irss@gov.in](mailto:kanwal.irss@gov.in) and [girish.bhatnagar@gmail.com](mailto:girish.bhatnagar@gmail.com) by 15.04.2021. The copy of this OM is also available on the website of Department of Expenditure.



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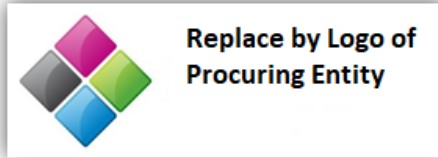
To,

All the Secretaries/ Financial Advisers of Central Government  
Ministries/ Departments

**Draft Model RfP Document for procurement of Non-consultancy Services**

Name of Organisation:		Ref No. and Date	
Name and Designation of contact person:		Phone/ Email clarifications:	

Sr. No.	Section No. and Clause No.	Existing Provision	Proposed Changes	Justification and reasons for suggested change



**Procuring Organisation**

**Model Request for Proposal for Services**  
**Tender Reference Number: Tend No./ xxxx**  
For the Procurement of  
**Non-Consultancy Services**

**For Internal Official only - Not for Bidders**

**Disclaimer**

While every care has been taken to ensure that the contents of this document are accurate and updated upto 28-02-2021 the procuring entities are advised to check the precise current provisions of law and other applicable instructions from the original sources. In case of any conflict between the provisions stipulated in this document and in the original source such as GFR or the prevailing laws, this document may be suitably modified. PPD, DoE, Ministry of Finance may be apprised of such changes.

**Compliance with Government Policies/ Orders**

The Tender Inviting Authority (TIA) hereby confirms that while formulating the Tender Document, following regulations have been complied with:

<b>Sr No.</b>	<b>Description</b>	<b>Subject</b>
1.	Ministry of Finance, Department of Expenditure, Public Procurement Division, Orders (Public Procurement 1, 2 and 3) F.No.6/18/2019-PPD dated 23rd/24th July 2020	Eligibility of bidders from specified countries
2.	Ministry of Finance, Department of Expenditure, Public Procurement Division OM No F.20\212014-PPD dated 25.07.2016 and subsequent clarifications dt 20.09.2016; 27.07.2019; 29.06.2020	Relaxation of prior turnover and experience for Start-ups
3.	GFR Rule 170(i) as amended on 25.07.2017	Exemption from EMD for MSEs and Start-ups.
4.	Public Procurement Policy for the Micro and Small Enterprises (MSEs) Order, 2012 and its amendments 09.11.2018	Purchase Preference and facilities to MSEs
5.	"Public Procurement (Preference to Make in India) Order 2017" (PPP-MII) of Department for Promotion of Industry and Internal Trade, (DPIIT - Public Procurement Section) as revised by No. P-45021/2/2017-PP (BE-II) dated 16th September 2020	To encourage 'Make in India' and promote manufacturing and production of goods and services in India.
6.	No.F.6/ 18/ 2019-PPD Dated the 23rd January 2020 issued by Procurement Policy Division, Department of Expenditure Ministry of Finance	Undertaking that category of goods/ services being tendered/ procured is not available on GeM.

**Procuring Organisation  
Model Request for Proposal for Services  
Tender Reference Number: Tend No./ xxxx  
For Procurement of  
Non-Consultancy Services**

Draft beta V01-2

**Document Authentication**

<b>PPD, Department of Expenditure, Ministry of Finance Government of India</b>	
<b>Valid upto</b>	02-2021
<b>Version:</b>	ft beta V01-2
<b>Issued by</b>	Central Government Ministries/ Departments and their attached and subordinate offices, Central Public Sector Entities, Autonomous Bodies and Statutory Bodies. No restriction on use by State Governments also.
<b>Applicable for</b>	Single Stage, Two Covers, Domestic Open Tenders, Time-based (inputs) type of BOQ/ contract through GePNIC eProcurement of Non-Consultancy Services. With suitable changes in AITB and SCC, it may also be customised for Time-based (outputs) or Unit Rate or Percentage Basis or Indefinite delivery (Rate contract/ retainership) types of Contract and also for PQB/EOI stage or Global Tenders.
<b>File Name</b>	del Services RFP Draft Beta V01-2 28022021.docx
<b>Prepared by:</b>	sh Bhatnagar
<b>Reviewed by:</b>	
<b>Approved by:</b>	

**For Internal Official only - Not for Bidders**

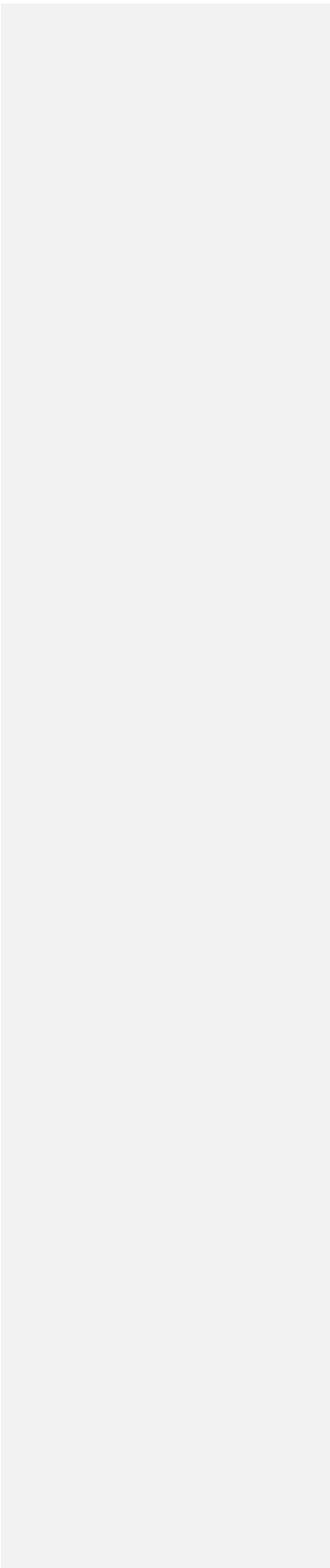
1. {As a convention all grey text in italics within curly brackets {e.g., this paragraph} must be deleted before publishing. All grey text in italics within square/ box brackets [as in Tender Information Summary (TIS) appended to NIT] must be replaced by appropriate information}

2. {This document is advisory in nature and aims to facilitate the Procuring Entities in preparation of Tender Document for the Procurement of Services. The document is based on General Financial Rules 2017, Manual for Procurement of Consultancy and Other Services 2017 as amended till date of its publishing. This document does not intend to replace alternative Tender Document as agreed (if any) with the Multilateral Development Banks (MDBs) i.e. The World Bank, Asian Development Bank etc. for procurements financed by loans/ grants extended by such MDBs.}.

3. {For customization certain variable used throughout the document are embedded as 'DocProperty' in this word-file in menu: File → Info → Properties ↓ Advance Properties → Custom tab. If you select the specific property and modify the 'value' and save in this menu, these shall change throughout the document (including headers or footers) automatically. (↓ means dropdown menu, Properties is on right side of Info page). After changing these, 'select all' from editing menu (Ctrl+A to select all text), and press F9 to update all (some computers need Fn+F9).

<b>DocProperty Name</b>	<b>Existing Value</b>	<b>Replace by value specific to this Tendere.g.,</b>	<b>Hereinafter called generically in text in this document</b>
Document Name	Model Request for Proposal for Services	If its EOI, then "Request for Expression of Interest"	the Tender Document
Document number	Tend No./ xxxx	Tender number	the Tender Reference Number
Subject Matter of Procurement	Non-Consultancy Services	Short description of non-consultancy service being procured to serve as Tender Title	the Services
On behalf of	President of India	Authority in whose name the Contract is to be entered – President/ Governor or CMD	the Authority
Procuring Organisation	Procuring Organisation	Name of your Organisation	the Procuring Organisation
The Legal Head	Head of Procuring Organisation	Designation who would appoint the Arbitrator	the Head of Procuring Organisation
Head of Procurement	Head of Procurement	Designation to whom Bids are to be formally addressed	the Head of Procurement
Procuring Entity	Procuring Entity	Office inviting the tender	the Procuring Entity
eProcurement URL	<a href="https://eprocure.gov.in/eprocure/app">https://eprocure.gov.in/eprocure/app</a>	If you use a different URL or use both CPPP and your own	the Portal

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## Acronyms

Acronym	Definition
AITB	Annexure to Instructions To Bidders
BOQ	Bill Of Quantities
DPIIT	Department for Promotion of Industry and Internal Trade
DSC	Digital Signature Certificate
ECS	Electronic Clearing System
EFT	Electronic Funds Transfer
EMD	Earnest Money Deposit
EPF	Employees Provident Fund
EPFO	Employees Provident Fund organization
e-RA	Electronic Reverse Auction
ESI(C)	Employees State Insurance (Corporation)
GCC	General Conditions of Contract
GST	Goods and Services Tax
GSTIN	GST Identification Number
GTE	Global Tender Enquiry
HSN	Harmonized System of Nomenclature
IEM	Independent External Monitor
INR	Indian Rupee
ITB	Instructions To Bidders
JV/C	Joint Ventures/ Consortium
MII	Make In India
MSE	Micro and Small Enterprises
MSME	Micro Small and Medium Industries
MSMED	MSME Development (Act)
NIT	Notice Inviting Tender
NoA	Notification Of Award
PC	(Indian) Penal Code
PPD	Public Procurement Division
PQB	Pre-Qualification Bidding
PVC	Price Variation Clause
RAP	Reverse Auction Process
RCM	Reverse Charge Mechanism
SC	Scheduled Caste
SCC	Special Conditions of Contract
ST	Scheduled Tribe
TIA	Tender Inviting Authority
TIS	Tender Information Summary

## Section I: Notice Inviting Tender (NIT)

### 1. Notice Inviting Tender (NIT)

This Model Request for Proposal for Services(RfP) reference number Tend No./ xxxx (hereinafter called 'the Tender Document') for and on behalf of The President of India (hereinafter referred as 'the Authority') through the Head of Procurement (herein after called 'the Head of Procurement'), Procuring Entity(hereinafter referred as 'the Procuring Entity')in the Procuring Organisation (hereinafter referred as 'the Procuring Organisation') is for inviting proposals (hereinafter referred as the 'Bid(s)') from eligible and qualified Bidders on or before the scheduled bid submission closing date and time, through the <https://eprocure.gov.in/eprocure/app> portal (hereinafter called 'the Portal'), for entering into contract for delivery of Non-Consultancy Services (hereinafter called 'the Services') as per details in this Tender Document

### 2. The Tender Document

#### 2.1 Bidders must read the full 'Tender Document'

This NIT is an integral part of the Tender Document and serves a limited purpose of invitation and does not purport to contain all relevant details for submission of bids. 'Tender Information Summary' (TIS) appended to this notice gives salient summary of information of this tender. Any generic reference to NIT shall also imply a reference to TIS as well. However, Bidders must go through the full Tender Document for details before submission of their Bids.

#### 2.2 Availability of the Tender Document

The Tender Document shall be published and be available for download as mentioned in TIS, after the date and time of start of availability till the deadline of availability. Unless otherwise stipulated in TIS, the downloaded Tender Document is free of cost. If the Procuring Entity happens to be closed on the deadline of availability of the bids as specified above, this deadline shall *not* be extended. Any query/ clarification regarding downloading and uploading of Bids on the e-Procurement portal may be addressed to portal Help Desk (contact details given in TIS).

#### 2.3 Clarifications

A Bidder requiring any clarification regarding the Tender Document may ask questions in writing/ electronically from Office/ Contact Person as mentioned in TIS, provided the questions are raised before the clarification end date mentioned in TIS (or if not mentioned, before 7 days of deadline for submission of bids). This deadline shall not be extended in case of any intervening holidays.

### 3. Eligibility to Participate and Preference Policies:

Subject to provisions in the Tender Document, this invitation for Bids is open to all solvent bidders who fulfil following 'Eligibility' Criteria:

- 1) Bidders should be a provider of the Non-Consultancy Services offered with valid registration with Employees Provident Fund organization (EPFO) under EPF and Miscellaneous Provisions Act, 1952, and
- 2) Bidder should be a natural person or private entity or public entity (legally and financial autonomous Government owned enterprises), or Joint Venture/ Consortium (JV/C - unless otherwise stipulated in the TIS/ AITB).
- 3) Bidder should be a going concern – i.e., not insolvent, bankrupt, under receivership, under legal proceeding for similar disruptions etc
- 4) The bidder, their affiliates, or subsidiaries – including subcontractors or Contractors for any part of the Contract – should not stand declared ineligible/ blacklisted/ banned/ debarred by any Government Agency, for participating in its Bids.



- 5) The bidder, their proprietor of the firm, its employee, partner or representative, directors and officers should not have been convicted of offences involving moral turpitude in business dealings under any applicable laws, within a period of three years preceding the commencement of the Tender Process
- 6) Any bidder having conflict of interest with other bidders or with relevant executives of Procuring Entity, which substantially affects fair competition, shall not be eligible to Bid in this tender.
- 7) Bidder should not have been penalized for violation of labour laws for three or more times in the previous two years (from the date of opening of tender) by the appropriate enforcing agency like the Labour Commissioner etc,
- 8) Not have its previous contract terminated by the Procuring Organisation in the previous two years (from the date of opening of tender) for Contractor's default
- 9) Bidder should neither be himself nor be associated with - a retired Government Officer who has not completed the mandatory cooling off period.
- 10) Eligibility of Class-II Local Suppliers and Non-Local Suppliers (as defined in Make-in-India policy) shall be subject to certain conditions as mentioned in the Tender Document/ TIS.
- 11) Eligibility of Bidders from specified countries having land borders with India (but not in development partnership with India) shall be subject to certain conditions as mentioned in the Tender Document/ TIS.
- 12) If so indicated, in the TIS/ AITB, all Bidders must sign the Integrity Pact
- 13) Bidder must fulfil any additional eligibility criteria laid down in TIS.
- 14) Procuring Entity reserves its right to grant purchase preferences to Class-I Local Suppliers; Micro and/ or Small Enterprises (MSEs); and/ or Start-ups and/ or any other category of Bidders as mentioned in the TIS/ ITB/ AITB.

#### 4. Pre-bid Conference:

If so indicated, in TIS in appendix to this notice, Bidders are requested to attend a Pre-bid conference for clarification on techno-commercial conditions of the Tenders, on the time, Date and Place mentioned therein. Participation in such Pre-bid Conference is not mandatory, however, in case a bidder chooses not to participate (or fails to do so), it shall be assumed that they have no issues regarding the Techno-commercial specifications/ conditions and no subsequent representations from them in this regard shall be entertained.

#### 5. Submission of Bids:

- 1) Bids must be uploaded till the deadline of submission mentioned in TIS. If the office happens to be closed on the deadline of submission of the bids as specified above, this deadline shall *not* be extended.
- 2) If so specified, in TIS, originals (or self-attested copies of originals – as specified therein) of specified scanned uploaded documents must be physically submitted sealed in double cover and acknowledgement be obtained before the date and time specified at the venue mentioned. Failure to do so, is likely to result in bid being rejected. In case of office being closed on the deadline for physical submission of originals, it shall stand extended to next working day at the same time and venue.
- 3) No manual Bid shall either be made available or accepted for submission (except for originals of scanned copies as per sub-clause above) and the bidder must comply with the conditions of the eProcurement portal including registration, compatible Digital Signature Certificate (DSC) etc. In case of downloaded documents, the bidder must not make any changes to the contents of the documents while uploading, except for filling the required information.
- 4) Bid Security (EMD) amount, if any, mentioned in TIS shall be furnished in one of the specified forms mentioned therein, otherwise the Bid shall not be accepted. The financial

## Procurement of Non-Consultancy Services

instruments shall be drawn in the manner specified in TIS. Self-attested scans of original financial instruments relating to Bid-security should be uploaded along with bids. Unless otherwise stipulated in ITB/ AITB, the bidders must submit the original financial instruments in the office mentioned in TIS to reach on or before date and time mentioned for such submission, failing which the Bid shall be rejected.

### 6. Opening

Bids received shall be opened online at the specified date and time given in TIS. Bidders can witness the opening of bids online as per procedure specified by the eProcurement portal. If the office happens to be closed on the date of opening of the bids as specified, the bids shall be opened on the next working day at the same time and venue.

### 7. Disclaimers and Rights of Procuring Entity

The issue of the Tender Document does not imply that the Procuring Entity is bound to select Bid(s) and it reserves the right to reject any or all of the Bids or cancel the tender process; or abandon the procurement of the Services; or issue another tender for same or similar Services, without assigning any reason.

8. For further details please refer to annexed TIS and the full Tender Document.

Digitally Signed by  
Tender Inviting Authority (TIA)

*[Insert Name, Designation, and contact details of Tender Inviting Authority]*

Appendix: Tender Information Summary (TIS)

Appendix to Notice Inviting Tender

**Appendix to NIT: Tender Information Summary**

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

*{Default values printed in black may be replaced if a different value is applicable in the tender}*

Tender Information Summary			
Basic Tender Details (clause ITB 1.1)			
Tender Title	Non-Consultancy Services		
Tender Reference Number	Tend No./ xxxx	Tender Type	Open Tender - Domestic
Tender Category	Services	No. of Covers	Two Covers
Bidding System	Single Stage RfP	the Procuring Organisation:	Procuring Organisation
Head of Organisation	Head of Procuring Organisation	The Procuring Entity:	Procuring Entity
Authority on whose behalf Tender is invited	President of India	Through	Head of Procurement
Requirement Details (clause ITB 4.0)			
<u>Contract Period:</u>	<u>One Year</u>	<u>Product Category</u>	<sup>1</sup> <i>Indicate Product Category</i>
<sup>2</sup> Form of Contract (Clause ITB 4.4)	Time Based (input Admeasurement)		
Schedule	<i>[Add more rows if more than one schedule]</i>		
Service Details:	<i>[Add more rows if more than one Services in a schedule]</i>		
Location/ State:			
Critical Dates (clause ITB 6.0; 8.0; 9.0 and 10.0)			
Published Date	<i>[Fill up]</i>	Bid Validity (Days from date of Tender Opening) – ITB 1.7	<i>[fill up both period (default 90 days) in days and the calculated date]</i>
Document Download Start Date & Time	<i>[Normally start of business on the day after publishing]</i>	Document Download End Date & Time	<i>[Normally up to few hours/ one day before time of Tender Opening]</i>
Clarification Start Date & Time	<i>[Normally start of business on</i>	Clarification End Date & Time	<i>[Normally later than 7 days before bid submission]</i>

<sup>1</sup>For example: Manpower; Health/ pathology; Publishing/ Printing/ Advertising/ Media; AMC/ Maintenance/ Repair/Job Work; Data Processing; Photography/ videography; Laundry; Vehicle/ Transport/ Logistic; Facility Management;Catering/ Hospitality; Marine; Technology Transfer; Research/ Testing/ Inspection; Survey; Legal/ Taxation/ Audit; Training; Recreational/ Cultural/ Artwork; Outsourcing of functions (e.g., Housekeeping Procurement/ Accountancy/ Stock-verification; Fire & Safety;; Security; Photocopy; Documentation etc); Help Desk/ Call Centre; Miscellaneous etc

<sup>2</sup> Based on BOQ Template: Item-wise or Mixed or Item-rate Templates

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	<i>the day after publishing]</i>		<i>deadline, to give time to the Procuring Entity for a response]</i>
Bid Submission Start Date & Time	<i>[Normally start of business on the day after publishing]</i>	Bid Submission closing Date & Time	<i>[Normally up to few hours/ one day before time of Tender Opening]</i>
Tender Opening (Techno-commercial Bid) Date & Time	<i>[Please allow enough time for bidders to prepare responsive bids, depending on the documents and details required to be submitted]</i>	Tender Opening (Financial Bid) Date & Time	To be intimated later <i>[In case it is pre-decided, indicate Date and Time]</i>
<b>Eligibility to Participate and Purchase preferences (clause ITB 3.0)</b>			
Nature of Bidders eligible	Individual Service Provider/ Firms/ JVs <i>[in case it is proposed to exclude Individual Service Provider, specifically mention that]</i>		
<b>Make in India Policy (clause ITB 3.7)</b>			
<b>Thresholds for Eligibility to participate and preference to Make in India Products ITB</b>			
Classification of Local Suppliers based on Minimum local content (clause ITB 3.7.2)	Class-I Local Suppliers: 50% Class -II Local Supplier: more than 20% but less than 50% Non-Local Supplier less than 20%		
Minimum local content for eligibility to participate (clause ITB 3.7.4)	50%		
Margin of purchase preference	20%		
Entities from countries not eligible to participate on reciprocal basis (clause ITB 3.7.3)	<i>[Indicate if any otherwise delete]</i>		
Classes of Local Suppliers eligible to participate (clause ITB 3.7.4)	<i>[Only Class I local Suppliers eligible Or Only Class-I and Class-II local Suppliers not eligible Or All classes of Contractors (Class-I, Class-II and Non-local) eligible]</i>		
Is the requirement divisible for preference (clause ITB 3.7.6)	No		
Would the Contract be split among more than one bidder (clause ITB 3.7.6)	No		
Mandatory Joint venture with Indian Company (clause ITB 3.7.8)	<i>[Indicate if yes, otherwise delete]</i>		
<b>Obtaining the Tender Document and clarifications (clause ITB 6.0)</b>			
Sr No.	Document Name	Document Description	

Model Request for Proposal for Services - Tend No./ xxxx

1	NIT_1.pdf	NIT Document	
2	Tend_1.pdf	Tender Document	
3	Price_Schedule.xls	Financial Bid	
eProcurement Portal and helpdesk for Document availability and submission	https://eprocure.gov.in/eprocure/app	0120-4001 002; 0120-4001 005; 0120-6277 787 or support-eproc@nic.in	
	<i>[Fill in your organisation's portal URL and helpdesk, if Tender Document download/ submission facility is also provided there]</i>		
Cost of Tender Document (INR)	Not applicable		
Office/ Contact Person/ email for clarifications	<i>[Fill in Name, Designation, Address; Phones; Fax and Email]</i>		
<b>Pre-bid Conference (clause ITB 7)</b>			
Pre-bid Conference applicable or not		No <i>[delete 3 rows below in case of No]</i>	
<i>[Include if Applicable] Place, Time, and date of Pre-bid Conference]</i>			
<i>[Include if Applicable] Place, Time, and date before which Written queries for Pre-bid conference must be received.</i>			
<i>[Include if Applicable] Place, Time, and date before which registration of participants for Pre-bid conference must be received.]</i>			
<b>Preparation and Submission of Bids (clause ITB 8.0 and 9.0)</b>			
Bids to be Addressed to	President of India, Through Head of Procurement, Procuring Entity Head of Procuring Organisation		
Instructions for Online Bid Submission	https://etenders.gov.in/eprocure/app?page=HelpForContractors&service=page		
E-Reverse Auction Following the Financial Bid Opening	No		
<b>Cover No</b>	<b>Cover Type</b>	<b>Description</b>	<b>Document Type</b>
1	Fee/ EMD/ Techno-commercial Bid	Form 7: Documents Relating To EMD	.pdf
		Bid Document as per ITB clause 8.2.1 (Forms: 1 to 6)	.pdf
	List of Originals to be physically submitted	Form 7: Documents related to EMD	
2	Financial Bid	Scanned Form 8: Bid-Form Financial	.pdf

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		Bid	
		Price Schedule*	.xls
	*Price Structure	Time Based (Input Admeasurement)	
<b>Originals/ Self-attested copies of Originals of Scanned Documents</b>			
Deadline for physical submission of originals/ self-attested copies of Originals of uploaded scanned documents		<i>[fill up date and time, usually within 2 days of Tender opening]</i>	
Address of Physical Submission of Originals	<i>[Fill in Address for submission of originals of uploaded scanned documents]</i>		
Tender Opening Place	On e-procurement portal(s) mentioned above		
	<i>[Fill in Address if the Tender shall also be opened in your organisation, or for submission of originals of uploaded scanned documents]</i>		
Alternate Bids allowed or not	Only one Bid meeting the conflict-of-interest criteria (as mentioned in this document) shall be considered as valid from a bidder.		
<b>Bid Securities (clause ITB 8.4)</b>			
EMD Details	EMD Amount (INR)	Payment Mode of EMD	Offline
Categories of EMD Exemption Allowed	MSEs, Start-up <i>[add any other category]</i>	EMD Validity	<i>[Normally 45 days beyond Bid Validity, mention period as well as calculated date]</i>
Online Payment Modalities	<i>[payment Gateway or ECS/ RTGS (give account Number/ IFSC code/ Details for RTGS and ECS)] as applicable]</i>		
Off-line Payment Instruments Types acceptable	<i>[upload self-attested scanned copy and submit originals physically]</i> Account Payee Demand Draft or Fixed Deposit Receipt or Banker's cheque drawn on a scheduled commercial bank in India		
Original Bid Security to be submitted to	<i>[Fill in Designation and Address]</i>		
EMD Payable To	<i>[Fill in Designation and Address]</i>	EMD Payable At	<i>[Fill in the place where payable at]</i>
Performance Security	<i>[Applicable @ 10% of Order value]</i>		
<b>Additional Clauses</b>			
Clause	Description		
Integrity Pact to be Signed and Submitted along with Bid	No	<i>Independent External Monitor</i>	<i>[Include below if applicable] Name and Contact Details of Independent External Monitor (IEM) for Integrity Pact</i>
Price Variation Clause	No	Fall Clause	Not Included
Book Examination Clause	No	Advance Payments Provided	No

Model Request for Proposal for Services - Tend No./ xxxx

Facilities to be Provided by Procuring Entity	<i>[Mention office space, utilities, documents if to be provides]</i>
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## Section II: Instructions to Bidders (ITB)

### 1. The Tender Document

#### 1.1 Basic Tender Details

This Model Request for Proposal for Services Document (hereinafter referred as the 'the Tender Document') details terms and conditions for invitation of Bids for entering into contract for delivery of the Services (hereinafter called 'the Services') mentioned in Section VI: "Schedule of Requirements". Bidders must go through the Tender Document for further details, but for your ready reference, 'Tender Information Summary' (TIS) is appended to Section I: Notice Inviting Tender (NIT). In case of conflict, provisions of ITB/ AITB shall prevail over those in TIS.

#### 1.2 Definitions

Definitions which have been used in the Tender Document, shall have the meanings as indicated in clause 1.1 of Section IV: General Conditions of Contract (GCC).

#### 1.3 Document Conventions

All words and phrases which are defined in clause 1.2 of section IV: General Conditions of Contract (GCC) are written in 'Capitalised font' and shall have the meaning as defined. Rest of the words shall be as per grammar, inter-alia 'Services' shall indicate definition as given in the GCC while 'services' shall have normal dictionary meaning.

#### 1.4 Overview of Contents

- 1) Unless otherwise stipulated in TIS/ AITB, the Sections, Forms and Formats comprising this Tender Document is described in clauses 1.6, 1.7 and 1.8 below. A BOQ file separately available on the Portal is also part of this Tender Document. Any Exhibits of BOQ in this document are generic samples for guidance only and may not reflect the actual BOQ excel file. TIS shall indicate the names of these and any other files available on the Portal that comprise this Tender Document. Any generic reference to Tender Document shall also imply a reference to any/ all the sections, Forms, Formats and BOQ file or other files that comprise this Tender Document. In case of any conflict between provisions of different sections/ files of this Tender Document, a harmonious interpretation considering the context shall prevail.
- 2) The Bid is to be submitted by the Bidder in the Forms mentioned in clauses 1.6 and 1.7 below which must comply with all the requirements set out in Tender Documents. The sections mentioned in clause 1.5 below need not be signed or returned by the bidders; however, the Bidder must declare in his Bid Form (Form 1), that he has read, understood, complied, and stands bound by all such requirements of these sections:

#### 1.5 Sections

##### 1.5.1 Section I: Notice Inviting Tender (NIT) and its Appendix: Tender Information Summary (TIS)

Section I – Notice Inviting Tender (NIT) and its Appendix – Tender Information Summary (TIS) provides a synopsis of information relevant for a Bidder to decide on participating in the Tender. Any generic reference to NIT shall also imply a reference to TIS as well. In case of any conflict between provisions of NIT/ TIS with those in subsequent sections, the provisions in latter sections shall prevail.

##### 1.5.2 Section II: Instructions to Bidders (ITB) and Section III: Appendix to Instructions to Bidders (AITB)

Section II: "Instructions to Bidders" - ITB along with Section III: "Appendix to Instructions to Bidders – AITB" provides the relevant information as well as instructions to assist the prospective Bidders in preparation and submission of Bids. It also includes the mode and procedure to be adopted for receipt and opening as well as scrutiny and evaluation of Bids



and subsequent award of contract. In case of a conflict, provisions of AITB shall prevail over those in the ITB. Any generic reference to ITB shall also imply a reference to AITB as well. With this limited objective, ITB is not intended to be complete by itself and the rest of this document - AITB, GCC and SCC must also be thoroughly studied before preparing the Bid.

**1.5.3 Section IV: General Conditions of Contract (GCC) and Section V: Special Conditions of Contract (SCC)**

- 1) Section IV – General Conditions of Contract (GCC) and Section V – Special Conditions of Contract (SCC) describe the conditions that shall govern the resulting contract. In case of a conflict, provisions of SCC shall prevail over those in the GCC. Any generic reference to GCC shall also imply a reference to SCC as well. In case of any conflict, provisions of GCC/ SCC shall prevail over those in ITB/ AITB.
- 2) Bidders must fill-up Form 5: Terms and Conditions - Confirmations/ Deviations in regard to this Schedule:

**1.5.4 Section VI: Schedule of Requirements and Section VI-1: Services Schedule**

- 1) Section VI: Schedule of Requirements and Section VI-1: Service Schedule describe the background, purpose and objectives, description/ scope, deliverables/ outcomes, quantum, and timelines of Services required; as well as EMD stipulated etc. The requirements may consist of more than one schedule and each schedule may contain more than one Service.
- 2) Bidders must fill-up following Forms in regard to this Schedule:
  - a) Form 2: Services and Activities Schedule

**1.5.5 Section VII: Performance Standards and Quality Assurance**

- 1) Section VII – Performance Standards and Quality Assurance stipulates the quantitative and qualitative parameters/ limits/ thresholds for Performance standards/ Service Levels; functional/ technical specifications to which the service must be performed. It shall stipulate procedures for measurement, reporting and monitoring of performance parameters including institutional or third-party arrangements for this purpose. It shall also stipulate procedure for resolution and escalation in case of deficiency in performance/ quality/ service levels. In case of long-term and complex services it may stipulate a Service-Level Agreement (SLA) agreement which must be complied during delivery of Services . Performance Standards shall also include statutory compliance required for Environmental, Social, Health and Safety (ESHS) requirements during delivery of Services .
- 2) Bidders must fill-up following Forms in regard to this Schedule:
  - a) Form 3: Performance Standards and Quality Assurance - Confirmations/ Deviations
  - b) Form 3.1: Method Statement (This should include statutory compliance to Environmental, Social, Health and Safety regulations)
  - c) Form 3.2: Work-Plan
  - d) Form 3.3: Personnel Deployment Plan
  - e) Form 3.4: Equipment Deployment Form
  - f) Form 3.5: Materials Deployment Plan

**1.5.6 Section VIII: Qualification Criteria; Section VIII-1: Key Personnel Schedule and Section VIII-2: Critical Equipment Schedule:**

- 1) These Sections laydown the Qualifying Criteria for a bid/ Bidder to be considered as a responsive bid/ bidder for further evaluation. Bids/ bidders not meeting these criteria shall be rejected and shall not be considered for further evaluation. Unless otherwise stipulated in Section VII: Qualification Criteria, the Qualification Criteria shall include:
  - a) Criteria 1: Experience and Past Performance
    - (i) Similar Experience
    - (ii) No Non-performing Contracts and Litigation

- b) Criteria 2: Performance Capability
  - (i) Key Personnel
  - (ii) Critical Equipment
- c) Criteria 3: Financial Capability
  - (i) Financial Ratios
  - (ii) Turnover
  - (iii) Financial Liquidity
- 2) Bidders must fill-up following Forms in regard to this Schedule:
  - a) Form 4.1: Performance Statement.
  - b) Form 4.2: Non-performance, Litigation Statement
  - c) Form 4.3: Financial Capability Statements
  - d) Form 3.3: Personnel Deployment Plan
  - e) Form 3.5: Equipment Deployment Plan

### 1.6 Forms (To Be Filled, Digitally Signed, and Uploaded by Bidders)

Please refer to clause 1.5 above to relate the following forms to the corresponding Sections.

- 1) Form 1: Bid Form – Techno-Commercial Bid (to serve as a covering letter to the Bid)
  - a) Form 1.1: Bidder Information
  - b) Form 1.2: Eligibility Declarations
  - c) Form 1.3: Declaration by Agents of Foreign Principals
- 2) Form 2: Services and Activities Schedule
- 3) Form 3: Performance Standards and Quality Assurance - Confirmations/ Deviations
- 4) Form 4: Qualification Criteria – Confirmations/ Deviations
  - a) Form 4.1: Performance Statement
  - b) Form 4.2: Non-performance, Litigation Statement
  - c) Form 4.3 Financial Capability Statements
  - d) Form 3.3: Personnel Deployment Plan
  - e) Form 3.5: Equipment Deployment Plan
- 5) Form 5: Terms and Conditions - Confirmations/ Deviations
- 6) Form 6: Checklist for the Bidders
- 7) Form 7: Documents Relating to EMD
- 8) Form 8: Bid Form – Financial Bid (to serve as a covering letter for the Financial Bid)
- 9) BOQ Excel Sheet (To be Downloaded from the Portal). Just as generic sample for guidance and without any commitment, Exhibit 1, 1.1, 1.2 and 1.3: BOQ Sample are shown. But actual Excel Sheet may be slightly different and must be downloaded and filled. These Exhibits are not to be filled or uploaded.
- 10) Form 9: Integrity Pact

### 1.7 Other Formats (to be used if/ as required as per ITB/ AITB/ GCC/ SCC)

- 1) Format 1: Contract Form
  - a) Annexe 1 to Contract: Description of Services
    - (i) Annexe 1-A to Contract: Personnel Deployment Plan
    - (ii) Annexe 1-B to Contract: Equipment Deployment Plan
    - (iii) Annexe 1-C to Contract: Materials Deployment Plan
  - b) Annexe 2 to Contract: Price Schedule
  - c) Annexe 3 to Contract: Bank Guarantee Format for Performance Security
  - d) Annexe 4 to Contract: Certification by Prospective Arbitrators
- 2) Format 2: Authorization for Attending Pre-bid Conference

## 2. Procuring Entity - Rights and Disclaimers

### 2.1 The Procuring Entity

Bids are to be addressed to the Head of Procurement, Procuring Entity in the Procuring Organisation (headed by Head of Procuring Organisation), for and on behalf of President of India. The Tender

Model Request for Proposal for Services - Tend No./ xxxx

Inviting Authority (TIA) is the designated officer for uploading and clarification of this Tender Document. Contract shall designate counterpart Contract Manager (or Contract Management Team); interim/ ultimate Receiver(s) of Services and Paying authority who shall discharge designated function during contract execution.

**2.2 Right to Intellectual Property and confidentiality:**

The Tender Document and associated correspondence are subject to laws of copyright and shall always remain the property of the Procuring Entity. These must not be shared with third parties or reproduced, whether in whole or part, without the Procuring Entity's prior written consent. This condition shall also apply to bidders who do not submit a Bid after downloading it or who are not awarded contract in the process.

**2.3 Disclaimers**

**2.3.1 Regarding Purpose of the Tender Document**

The Tender Document is neither an agreement nor an offer to prospective Bidder(s) or any other party hereunder. The purpose of the Tender Document is to provide the Bidder(s) with information to assist them in the formulation of their Bids for submission.

### 2.3.2 Regarding Documents/ guidelines

The Tender Document and ensuing bids; communications and Contracts shall alone determine the legal and commercial relationship between the bidders/ contractors and the Procuring Entity. No other Government or Procuring Entity's document/ guidelines/ Manuals including its Procurement Manual (which are for internal and official use of its officers), notwithstanding any mention thereof in the Tender Documents shall have any locus standi in such a relationship. Any reference or citation of such documents/ guidelines/ Manuals therefore shall not be admissible in any legal or dispute resolution or grievance redressal proceedings.

### 2.3.3 Regarding Tender Document and Information Provided

- 1) **Terms and Conditions under which Information is Provided:** The information contained in the Tender Document or subsequently provided to Bidder(s), whether verbally or in documentary or any other form directly or indirectly by the Procuring Entity or by any of its employees or associated agencies, is provided to Bidder(s) on the terms and conditions set out in the Tender Document and such other terms and conditions subject to which such information is provided.
- 2) **Disclaimer regarding Tender Document:**
  - (a) The Tender Document does not purport to contain all the information Bidder(s) may require. The Tender Document may not be appropriate for all bidders, and it is not possible for the Procuring Entity to consider needs of each Bidder. Each Bidder should conduct its own due-diligence, investigation, and analysis, and should check the accuracy, reliability, and completeness of the information in the Tender Document and obtain independent advice from appropriate sources. Information provided in the Tender Document to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Procuring Entity, its employees and other associated agencies accept no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.
  - (b) The Procuring Entity, its employees and other associated agencies make no representation or warranty and shall have no liability to any person, including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in the Tender Document or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the Tender Document and any assessment, assumption, statement or information contained therein or deemed to form part of the Tender Document or arising in any way for participation in this Tender. The Procuring Entity, its employees and other associated agencies also accept no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance by any Bidder(s) upon the statements contained in the Tender Document.

## 3. Bidders –Eligibility and Preferential Policies

### 3.1 Bidders

Subject to provisions in following clauses in this section and provisions in NIT/ TIS/ AITB, this invitation for Bids is open to all bidders who fulfil the 'Eligibility Criteria' specified in the Tender Document. In case of Second Stage (after the Request for Expression of Interest (REOI) stage) of two Stage Bidding or in case of Special Limited Tenders this invitation is open only to such bidders who have been shortlisted and specifically invited.

### 3.1.1 Sub-Contractors

Subject to the restrictions set forth in this Tender Document (including GCC/ SCC), any Bidder may propose to sub-contract a part of the Contract and provided that the names and details of the sub-contracts are clearly stated in the Bid submitted by the Bidder and provided further that such sub-contractor should not circumvent the eligibility condition laid down below. Despite any approval granted by the Procuring Entity for such arrangements, the Bidder/ Contractor shall be solely responsible for the execution of sub-contracted portion of Contract.

### 3.2 Joint Venture/ Consortium

In the case where a Bidder is or proposes to be a Joint Venture/ Consortium (that is an association of several persons, or firms or companies - hereinafter referred as JV/C), then it must comply with the requirement laid down in clause 2.3.2 of GCC and in the Bid:

- 1) JV/C agreement/ MOU should be submitted in Form-1 Bid Form. In case a member is a foreign national/ entity his full credentials must also be given.
- 2) The JV/C and all members (including non-substantial members) must satisfy all the eligibility requirements set out in this Bidding Document; and
- 3) JV/C and its members must meet the qualification criteria jointly or severally as laid down in Section VIII – Qualification Criteria as relevant for JV/C. Qualification credentials of only substantial members shall be considered and qualification of non-substantial members (refer GCC clause 2.3.2 for definition) shall not be considered for evaluation. However, Procuring Entity, may at its discretion, also lay down in TIS/ AITB, minimum qualification for non-substantial members over and above the qualification criteria.
- 4) JV/C must submit documents as specified in clause 2.3.2 of GCC.
- 5) Keep in view provision and penalties regarding changes in constitution as mention in clause 5.1.2 of GCC.

### 3.3 Eligible Bidders and Purchase Preferential Policies

Any participant in this Tender Process (bidder/ sub-contractor/ member of JV/C):

- 1) shall be a provider of the Non-Consultancy Services offered with valid registration with Employees Provident Fund organization (EPFO) under EPF and Miscellaneous Provisions Act, 1952, and be a:
  - (a) natural person or private entity or public entity (legally and financial autonomous Government owned enterprises).

Or

  - (b) Unless otherwise stipulated in the TIS/ AITB- Joint Venture/ Consortium (JV/C).
- 2) including their affiliates or subsidiaries or constituents must:
  - (a) Not be insolvent, in receivership, bankrupt or being wound up, not have its affairs administered by a court or a judicial officer, not have its business activities suspended and must not be the subject of legal proceedings for any of the foregoing reasons. A declaration to this effect shall be submitted by the bidder in the Bid Form (Form 1);
  - (b) Not be under a declaration of ineligibility or any category of debarment for corrupt and fraudulent practices or for any other misdemeanour by the central government, the state government or any public undertaking, autonomous body, authority by whatever name called under the central or the state government and also not have changed its name or created a new business entity as covered by the definition of "Allied Firm", consequent to having been banned business dealings or suspended business dealings. A declaration to this effect shall be submitted by the bidder in the Bid Form (Form 1);
  - (c) Not have been convicted (including their proprietor of the firm, its employee, partner or representative, directors and officers) of any offence by a court under

the Prevention of Corruption Act, 1988 or under the Indian Penal Code or any other law for the time being in force for offences involving moral turpitude in business dealings within a period of three years preceding the commencement of the Tender Process. A declaration to this effect shall be submitted by the bidder in the Bid Form (Form 1);

- (d) not have a conflict of interest as laid down in the following clause which substantially affects fair competition.
  - (e) Not have been levied with a penalty for violation of labour laws for three or more times in the previous two years (from the date of opening of tender) by the appropriate enforcing agency like the Labour Commissioner etc,
  - (f) Not have its previous contract terminated by the Procuring Organisation in the previous two years (from the date of opening of tender) for Contractor's default
  - (g) must fulfil any other additional eligibility condition, if any, as may be prescribed, in TIS or elsewhere in Tender Document.
  - (h) Not have association (as a bidder himself or as partner or as a Director or as an employee in any capacity)
    - (i) of retired Manager (of Gazetted Rank) or of a retired Gazetted Officer of the Central or State Government or its Public Sector Undertakings if such a retired person has not completed the cooling off period of one year after his retirement.
    - (ii) Of the near relations of executives of Procuring Entity involved in this Procurement Process
  - (i) must provide such evidence of their continued eligibility satisfactory to the Procuring Entity, it may reasonably request.
  - (j) must sign the Integrity Pact, If so indicated, in the TIS/ AITB
- 3) in case of Class-II Local Suppliers and Non-Local Suppliers (as defined in Make-in-India policy) shall be subject to certain conditions as mentioned subsequent clauses.
- 4) In case of Bidders from specified countries having land borders with India (but not in development partnership with India) shall be subject to certain conditions as mentioned subsequent clauses.
- 5) In case of Class-I Local Suppliers; Micro and/ or Small Enterprises (MSEs); Start-ups and/ or any other category of Bidders as mentioned in the TIS/ ITB/ AITB -Procuring Entity reserves its right to grant purchase preferences to

### **3.4 Ineligibility of bidders having conflict of interest**

#### **3.4.1 Conflict of Interest among Bidders/ Agents**

Any participant in this Tender Process (bidder/ sub-contractor/ member of JV/C) having conflict of interest with other participants in this tender, which substantially affects fair competition, shall not be eligible to participate in this tender. All bids found to have a conflict of interest with other bids shall be disqualified. A participant in this Tender Process shall be considered to have a conflict of interest with one or more participants in this Tender Process, if:

- 1) They have controlling partner (s) in common; or
- 2) They receive or have received any direct or indirect subsidy/ financial stake from any of them; or
- 3) They have the same legal representative/ agent for purposes of this Bid; or
- 4) They have relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder; or
- 5) they participate in more than one Bid in this tender process. Participation in any capacity by a Bidder (including participation of a Bidder as sub-contractor in another bid or vice-versa) in more than one Bid shall result in the disqualification of all bids in

which the parties are involved. However, this does not limit the participation of a firm as a sub-contractor in more than one bid: or

- 6) a Bidder or any of its affiliates was associated as a consultant or in any other capacity in the preparation of the Detailed Project Report/ feasibility report or Terms of Reference (ToR) or Schedule of Requirements of the Service Assignment that is the subject of the Bid;

#### **3.4.2 Conflict of Interest in case of Agents and Principal**

Therefore, one agent cannot represent two Bidders or quote on their behalf in a Tender Process. Such bids shall be rejected. One Principal can also authorize only one agent. There can be only one Bid from:

- 1) The principal directly or through one Indian agent on his behalf
- 2) One Agent on behalf of only one Principal.

#### **3.4.3 Conflict of Interest among associated businesses**

- 1) In case of a holding company having more than one independent manufacturing units or more than one unit having common business ownership/ management, only one unit should quote. Similar restrictions shall apply to closely related sister companies.
- 2) Bidder's sister/ Associated/ Allied concern(s) participating or applying against the same tender, shall lead to disqualification of Bidders. Sister/ Associated/ Allied concern means a company, society, partnership firm or proprietorship firm having one or more common persons as Director/ Partner/ Member/ Owner.
- 3) Bidders must proactively declare in their bids (Form 1.2: Eligibility Declarations) such sister/ allied/ associated companies and holding/ common business ownership/ management in same/ similar line of business.

### **3.5 Eligibility Conditions for use of Agents by Foreign Principals**

#### **3.5.1 Foreign Principals utilizing services of Indian Agents**

Wherever the foreign principal desires to avail the services of an Indian Agent, the dealings with Indian Agents are to be regulated as follows:

- 1) Such Agents shall provide in Form 1.3: Declaration by Agents of Foreign Principals, self-attested documentary evidence about their identity (PAN, Aadhar Card, GSTIN registration, proof of address etc), business details (ownership pattern and documents, type of firm, year of establishment, sister concerns etc) to establish that they are a bonafide business as per Indian Laws. A declaration in this regard must be submitted vide Form 1.1: Bidder Information.
- 2) Agency agreement between the foreign principal and the Indian Agent (including their associates), should be submitted to the Procuring Entity in Form 8: Bid Form – Financial Bid, which should cover - the precise relationship, services to be rendered, mutual interests in business - generally and/ or specifically for the tender. Any payment, which the agent or associate receives in India or abroad from the foreign principal, whether as commission or as a general retainer fee should be brought on record in the Agreement and be made explicit.
- 3) Failure to furnish correct and detailed information as called for in sub-clause (1) and (2) above shall render the concerned Bid liable to rejection or in the event of a contract materializing, the same shall be liable to termination. Besides this there shall be a penalty of banning business dealings of the Agent and the foreign principal with the Procuring Entity or damage/ recovery of EMD/ LD/ PBG.

#### **3.6 Eligibility of bidders from specified countries**

Orders issued by the Government of India restricting procurement from bidders of certain countries which shares a land border with India shall apply to this procurement.

## Procurement of Non-Consultancy Services

- 1) Any bidder from a country which shares a land border with India<sup>3</sup>, excluding countries as listed in the website of Ministry of External Affairs<sup>4</sup>, to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects – hereinafter called 'Restricted Countries') shall be eligible to bid in this tender only provided the bidder is registered<sup>5</sup> with the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT). The bidders shall enclose certificate in this regard in the Bid Form (Form 1):
- 2) In Bids for Turnkey contracts including Works contracts, the successful bidder shall not be allowed to sub-contract works to any contractor from a such Restricted Counties unless such contractor is similarly registered with the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT). In such cases the bidders shall enclose certificate in the Bid Form (Form 1):
- 3) "Bidder" (including the term 'Bidder', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a Tender Process.
- 4) "Bidder from such Restricted Countries" for the purpose of this clause means: -
  - a) An entity incorporated, established, or registered in such a country; or
  - b) A subsidiary of an entity incorporated, established, or registered in such a country; or
  - c) An entity substantially controlled through entities incorporated, established, or registered in such a country; or
  - d) An entity whose beneficial owner is situated in such a country; or
  - e) An Indian (or other) agent of such an entity; or
  - f) A natural person who is a citizen of such a country; or
  - g) A consortium or joint venture where any member of the consortium or joint venture falls under any of the above
- 5) The beneficial owner for the purpose of (4) above shall be as under:
  - (a) In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s). who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.
  - (b) Explanation-
    - (i) "Controlling ownership interest" means ownership of or entitlement to more than twenty-five per cent. of shares or capital or profits of the company.
    - (ii) In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership.
    - (iii) In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or

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<sup>3</sup><https://mea.gov.in/india-and-neighbours.htm>

<sup>4</sup><http://meadashboard.gov.in/indicators/92>

<sup>5</sup><https://dipp.gov.in/sites/default/files/Revised-Application-Format-for-Registration-of-Bidders-15Oct2020.pdf>



- entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
- (iv) Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official.
  - (v) In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.
  - (vi) An Agent is a person employed to do any act for another, or to represent another in dealings with third person.

### 3.7 Eligibility to participate and preference to Make in India Products

#### 3.7.1 Make in India Order

Orders issued by the Government of India regarding eligibility to participate and for purchase preference to "Local Suppliers" to encourage 'Make in India' and promote manufacturing and production of goods and services in India, shall apply to this procurement.

#### 3.7.2 Categories of Local Suppliers

Bidders/ Contractor are divided into three categories based on Local Content (the total value of the service procured (excluding net domestic indirect taxes) minus the value of imported content in the service (including all customs duties) as a proportion of the total value, in percent):

- 1) 'Class-I local Supplier' with local content equal to or more than that prescribed in TIS or 50% whichever is higher
- 2) 'Class-II local Supplier' with local content more than that prescribed in TIS or 20%, whichever is higher, but less than that applicable for Class-I local Supplier
- 3) 'Non - Local Supplier' with local content less than that applicable for Class-II local Supplier, in sub-clause above.

#### 3.7.3 Ineligibility based on reciprocity

If so indicated, in TIS and/ or Section VI: Schedule of Requirements, entities from such countries identified as not allowing Indian companies to participate in their Government procurement, shall not be allowed to participate on reciprocal basis in this tender. The term 'entity' of a country shall have the same meaning as under the FDI Policy of DPIIT as amended from time to time.

#### 3.7.4 Eligibility to participate

- 1) **Minimum local content for eligibility to participate:** Only bidders meeting the minimum prescribed local content for the product shall be eligible to participate subject to following conditions. This threshold shall be declared in TIS and/ or Section VI: Schedule of Requirements
- 2) **Classes of Local Suppliers eligible to Participate:** Based on the Make in India Policy, classes of local/ non-local Suppliers eligible to participate in tender shall be declared in TIS and/ or AITB. If not so declared only Class-I and Class-II local Supplier shall be eligible to participate and not non-local Suppliers.

#### 3.7.5 Thresholds

- 1) Following thresholds shall be declared in TIS and/ or AITB.
  - a) **Minimum local content for Contractor classification:** local content percentage prescribed to qualify as Class-I or Class-II local Suppliers for various products.
  - b) **Minimum local content for eligibility to participate:** Minimum local content percentage prescribed for eligibility for a bid to be considered

- c) **Margin of purchase preference:** Bid price quoted by Class-II Local Supplier should be within this percentage from the L-1 price quoted by Non-local or Class-II bidders, for being eligible for purchase preference
- 2) If not so declared, default threshold shall be as follows:
  - (a) Local content for eligibility for Class-I; Class-II local Suppliers and Non-local Suppliers shall be 50% and above; 20% and above but less than 50%; and less than 20% respectively.
  - (b) Minimum local content for eligibility to participate shall be 50%,
  - (c) Margin of purchase preference shall be 20%

### 3.7.6 Purchase preference to Class-I local Suppliers

- 1) Where the Services are divisible by nature:
  - a) Among all qualified bids, the lowest bid shall be termed as L 1. If L 1 is 'Class-I local Supplier', the Contract for full quantity shall be awarded to L 1.
  - b) If L 1 bid is not a 'Class-I local Supplier', 50% of the order quantity shall be awarded to L 1. Thereafter, the lowest bidder among the 'Class-I local Supplier' shall be invited to match the L-1 price for the remaining 50% quantity subject to the Class-I local Supplier's quoted price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such 'Class-I local Supplier' subject to matching the L 1 price. In case such lowest eligible 'Class-I local Supplier' fails to match the L 1 price or accepts less than the offered quantity, the next higher 'Class-I local Supplier' within the margin of purchase preference shall be invited to match the L 1 price for remaining quantity and so on, and contract shall be awarded accordingly. In case some quantity is still left uncovered on Class-I local Suppliers, then such balance quantity shall also be ordered on the L 1 bidder.
- 2) Where the Services are not divisible in nature, and in procurement of Services where the bid is evaluated on price alone:
  - a) Among all qualified bids, the lowest bid shall be termed as L 1. If L 1 is 'Class-I local Supplier', the Contract shall be awarded to L 1.
  - b) If L-1 is not 'Class-I local Supplier', the lowest bidder among the 'Class-I local Supplier', shall be invited to match the L 1 price subject to Class-I local Supplier's quoted price falling within the margin of purchase preference, and the Contract shall be awarded to such 'Class-I local Supplier' subject to matching the L 1 price.
  - c) In case such lowest eligible 'Class-I local Supplier' fails to match the L 1 price, the 'Class-I local Supplier' with the next higher bid within the margin of purchase preference shall be invited to match the L 1 price and so on and contract shall be awarded accordingly. In case none of the 'Class-I local Supplier' within the margin of purchase preference matches the L 1 price, the Contract shall be awarded to the L 1 bidder.
- 3) Where parallel contracts are to be awarded to multiple bidders: In Bids where parallel contracts are to be awarded to multiple bidders subject to matching of L-1 rates or otherwise, the 'Class-I local Supplier' shall get purchase preference over 'Class-II local Supplier' as well as 'Non-local Supplier', as per following procedure:
  - a) In case there is sufficient local capacity and competition for the service to be procured, as notified by the nodal Ministry, only Class I local Suppliers shall be eligible to bid. As such, the multiple Contractors, who would be awarded the Contract, should be all and only 'Class I Local Suppliers'.
  - b) In other Bids, whereas mentioned above, 'Class II local Suppliers' or both 'Class II local Suppliers' and 'Nonlocal Suppliers' may also participate in the tender process along with 'Class I Local Suppliers'. If 'Class I Local Suppliers' qualify for award of contract for at least 50% of the tendered quantity in any tender, the

Contract shall be awarded to all the qualified bidders as per award criteria stipulated in the Tender Documents. However, in case 'Class Local Suppliers' do not qualify for award of contract for at least 50% of the tendered quantity as per award criteria, purchase preference should be given to the 'Class I local Supplier' over 'Class II local Suppliers' / 'Non-local Suppliers' provided that their quoted rate falls within margin of purchase preference of the highest bidder considered for award of contract. To ensure that the 'Class I Local Suppliers' taken in totality are considered for award of contract for at least 50% of the tendered quantity, first purchase preference has to be given to the lowest among such 'Class-I local Suppliers', subject to its meeting the prescribed criteria for award of contract as also the constraint of maximum quantity that can be sourced from any single Contractor. If the lowest among such 'Class-I local Suppliers', does not qualify for purchase preference because of aforesaid constraints or does not accept the offered quantity, an opportunity shall be given to next higher among such 'Class-I local Supplier', and so on.

**3.7.7 Verification of local content and violations:**

- 1) The 'Class-I local Supplier' / 'Class-II local Supplier' at the time of tender, bidding or solicitation shall be required to indicate percentage of local content and provide self-certification that the service offered meets the local content requirement for 'Class-I local Supplier' / 'Class-II local Supplier', as the case may be. They shall also give details of the location(s) at which the local value addition is made.
- 2) In cases of procurement for a value in excess of Rs. 10 crores, the 'Class-I local Supplier' / 'Class-II local Supplier' shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of Contractors other than companies) giving the percentage of local content.
- 3) Complaints about Local content declarations may be made through the channels of Procuring Entity. Procuring Entity and Nodal Ministries may prescribe fees for such complaints.
- 4) For False declarations, a bidder or its successors can be debarred for up to two years by following debarment procedures along with such other actions as may be permissible under law. Such lists shall be consolidated and displayed on websites.

**3.7.8 Manufacture under license/ technology collaboration agreements with phased indigenization**

- 1) If so, declared in TIS and/ or AITB, foreign companies shall have to enter into a joint venture with an Indian company to participate.
- 2) The Procuring Entity reserves its right, but without being under any obligation to do so, to grant exemption from meeting the stipulated local content to Bidders manufacturing indigenously a product developed abroad under a license from a foreign manufacturer (who holds intellectual property rights) under a technology collaboration agreement/ transfer of technology agreement with clear phasing of increase in local content. In avail such an exemption the Bidder must obtain such an exemption letter and submit along with his bid.

**3.7.9 Information to be provided by Bidders regarding Make in India policy**

- 1) Self-declaration of their local content (and required certificate, in case of procurements above Rs 10 Crores) and hence their status as Class-I/ Class-II/ Non-local Supplier and also their eligibility to participate as per this clause.
- 2) If TIS and/ or AITB indicates countries identified as not allowing Indian companies to participate in their Government procurement, then a declaration that they are not an 'Entity' of such countries (as per criteria of the FDI Policy of DPIIT as amended from time to time) and are therefore eligible to participate in this tender.

- 3) If a Bidder is claiming exemption (as obtained from relevant authorities) from meeting the stipulated local content on account of manufacturing the product in India under a license from a foreign manufacturer with clear phasing of increase in local content, he must provide proof thereof.

### **3.8 Support/ Preferential Treatment to Micro & Small Enterprises (MSEs):**

#### **3.8.1 Support to MSEs**

Policies of the Government to support Micro and Small Industries (MSEs) in comparison to the large-scale Industries shall apply to this procurement and:

- a) Tender sets shall be provided free of cost to MSEs registered with agencies (as mentioned in clause 3.9.3 below, for the service tendered).
- b) MSEs registered with the agencies (as mentioned in clause 3.9.3 below, for the service tendered) shall be exempted from payment of Earnest Money.

#### **3.8.2 Purchase Preference to MSEs**

The Procuring Entity reserves its option to give price preference to Micro and Small Industries in comparison to the large-scale Industries as per policies of the Government from time to time: If a MSE bidder quotes a price within the band of the lowest (L-1) +15 per cent in a situation where the L-1 price is quoted by someone other than an MSE, the MSE bidders are eligible for being awarded 25 per cent of the total tendered value if they agree to match the L-1 price. In case of more than one such eligible MSE, the 25 per cent quantity is to be distributed proportionately among these bidders. Within this, a purchase preference of 4 per cent is reserved for MSEs owned by Scheduled Caste (SC)/ Scheduled Tribe (ST) entrepreneurs and 3 per cent is reserved for procurement from MSEs owned by women (if they participate in the tender process and match the L-1 price). Provided that, in event of failure of such SC/ ST or Women MSE to participate in tender process or meet tender requirements and L-1 price, 4 per cent sub-target shall be met from other MSE.

#### **3.8.3 Registration of MSEs**

MSEs, who are interested in availing such benefits, must:

- 1) enclose with their offer the proof of their being MSE registered with any of the agencies mentioned in the notification of Ministry of MSME indicated below: -
  - a) District Industries Centres
  - b) Khadi and Village Industries Commission
  - c) Khadi and Village Industries Board
  - d) Coir Board
  - e) National Small Industries Corporation
  - f) Directorate of Handicraft and Handloom
  - g) Any other body specified by Ministry of MSME
- 2) MSEs shall be treated as owned by SC/ ST or women entrepreneurs:
  - a) In case of proprietary MSE, proprietor(s) shall be SC/ ST or women
  - b) In case of partnership MSE, the SC/ ST or women partners shall be holding at least 51% shares in the unit
  - c) In case of Private Limited Companies, at least 51% share shall be held by SC/ ST or women promoters.
- 3) The MSEs must also indicate the terminal validity date of their registration.

### **3.9 Support to Start-up Enterprises**

#### **3.9.1 Definition of Start-up Enterprises**

As defined by DPIIT an entity shall be considered as a 'start-up':

- 1) Up to five years from the date of its incorporation/ registration,
- 2) If its turnover for any of the financial years has not exceeded Rs 25 (Rupees twenty-five) crore

- 3) It is working towards innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property.
- 4) Provided further that in order to obtain support a start-up so identified under the above definition shall be required to obtain and submit along with the tender, a certificate of an eligible business from the inter-Ministerial Board of Certification.

### 3.9.2 Support to Start-ups

Government of India has ordered following support to Start-ups (as defined by Department of Promotion of Industrial and Internal Trade - DPIIT).

- 1) **Exemption from submission of EMD:** Such Start-ups, shall be exempted from payment of Earnest Money.
- 2) **Relaxation in Prior Turnover and Experience:** the Procuring Entity reserves its right, to relax the condition of prior turnover and prior experience for such Start-up enterprises subject to meeting of quality & technical specifications. Decision of the Procuring Entity in this regard shall be final. Exemption for such an exemption shall be indicated in AITB.

## 4. The Schedule of Requirements and Form of Contract

### 4.1 Eligible Services –Origin and Minimum Local Content

Unless otherwise stipulated in NIT/ TIS/ AITB, all 'Services' and related 'Goods and Works' to be delivered under the Contract shall have their origin in India or other countries and must conform to i) restrictions on certain countries with land-borders with India; ii) minimum local content (Make in India Policy). In case a purchase preference is availed by the bidder as Class-I Local Supplier or as MSE or Start-up enterprise, the Services delivered must not circumvent the provisions for granting such purchase preference. The term "origin" used in this clause means the place from where the services and related works are arranged/ delivered or from where related goods are mined, grown, produced, or manufactured. For purposes of this Clause, the term 'Services' and incidental goods and works shall be as defined in clause 1.2 of GCC.

### 4.2 Quotation for All Schedules and all Services

Unless otherwise stipulated in TIS/ AITB, Bidder must quote for all the schedules (and all the Services in a Schedule) in the Schedule of Requirement otherwise his bid would be rejected as unresponsive.

### 4.3 Contract Period

Unless otherwise stipulated in TIS/ AITB, the Contract Period for which the Service shall be contracted shall be one year, unless sooner terminated as per provisions of GCC. In addition, at the option of the Procuring Entity, the Contract Period may be extended by four months period (unless otherwise stipulated in TIS/ AITB). Written notice of renewal shall be provided to the Service Provider and mailed no later than thirty (30) days prior to contract end.

### 4.4 Form of Contract

#### 4.4.1 Form of BOQ/ Contract

Unless otherwise stipulated in TIS/ AITB, the Form of BOQ/ Contract shall be Time-Based (Input admeasurement- sum of price of Inputs per month). Otherwise as stipulated in TIS/ AITB, one of the following Price Structure of BOQ shall be applicable:

- 1) Unit Rate (Output admeasurement - based on price per unit of quantity of Service)
- 2) Lump-sum Price
- 3) Percentage of value of Transactions

The evaluation of bids and payments in the resulting Contract shall be as per such price structure.

#### 4.4.2 TimeBased(Inputs Admeasurement)<sup>6</sup>

- 1) In Time-based BOQ/ Contract, price of services per month (based on price of Inputs deployed per month - Personnel, Equipment, Materials and Others) is evaluated. Bidder shall quote the rates of inputs included in Financial Bid/ BOQ. The quantum of inputs per month in BOQ shall correspond to those in the Techno-commercial Bid in respective Deployment Plan – Form 3.3: Personnel Deployment Plan, Form 3.4: Equipment Deployment Plan, and Form 3.5: Material Deployment Plan etc. Section VI: Schedule of Requirement shall indicate the Contract Period (one year, unless otherwise stipulated) of service required. Evaluation of Bids shall be on total price for Services for such duration. Time Based generic Exhibit 1: BOQ sample is for guidance only. Actual BOQ available for download on the Portal may be different from the Exhibit.
- 2) If so, stipulated in AITB/ TIS, instead of asking bidder to quote rate separately of each element of input - rates for each element of Inputs (Personnel, equipment, materials etc) shall be pre-indicated (based on Schedule of Rates (SOR) or otherwise) in BOQ and Bidders shall indicate only one %age figure above or below (negative %age not allowed in personnel schedule) such indicated rates, and evaluation shall be based on the %age quoted.

#### 4.4.3 Unit Rate (Output admeasurement) BOQ

- 1) If TIS/ AITB specifies Unit Rate (Output admeasurement) BOQ/ Contract, bidders shall quote per unit (of quantum e.g., Kms or Tonne-Km in Transportation) price of output of Services. Section VI: Schedule of Requirement shall indicate the volume of service-outputs required as well as the Contract Period (one year, unless otherwise stipulated) over which such volume shall be availed. Evaluation shall be done based on total price of such specified volume of Services, however there shall be no firm commitment to avail entire volume of services, within the Contract Period.
- 2) Unless otherwise stipulated in AITB/ TIS, prices of Input Deployments (Personnel, equipment, materials etc.) shall also be called for but shall be used only for the purpose of pricing the variations and for monitoring of performance standards, but not for evaluation of bids or payment of Services .

#### 4.4.4 Lumpsum BOQ

- 1) If TIS/ AITB specifies Lumpsum BOQ/ Contract, Bidder shall quote Lumpsum price of complete Services (say one-time deep cleaning service for the office block). Section VI: Schedule of Requirement shall indicate the scope of Services required. Evaluation shall be done based on the Lump-sum price of such of Services .
- 2) Unless otherwise stipulated in AITB/ TIS, prices of Input Deployments (Personnel, equipment, materials etc.) shall also be called for but shall be used only for the purpose of pricing the variations and for monitoring of performance standards, but not for evaluation of bids or payment of Services .

#### 4.4.5 Percentage (of Value of Transactions) BOQ

- 1) If TIS/ AITB specifies Percentage (of Value of Transactions e.g., value of goods in Quality Assurance or Procurement Services) form of BOQ/ Contract, Bidders shall quote a percentage as service charge on the value of transactions. Section VI: Schedule of Requirement shall indicate the estimated value of required transactions as well as the Contract Period (one year, unless otherwise stipulated) over which such volume shall be availed. Evaluation shall be done for the percentage quoted

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<sup>6</sup> Relevant for Facility Management; Housekeeping, Training, Advisory Services, Construction Supervision

multiplied by specified value of transactions, however there shall be no firm commitment to avail entire value of transactions, within the Contract Period.

- 2) Unless otherwise stipulated in AITB/ TIS, prices of Input Deployments (Personnel, equipment, materials etc.) may also be called for but shall be used only for the purpose of pricing the variations and for monitoring of performance

## 5. Bid Prices, Taxes and Duties

### 5.1 Prices

#### 5.1.1 Price Components

- 1) The quoted price shall be considered to include all relevant financial implications including inter-alia the nature of the Services to be delivered and the incidental goods/ works to be supplied, location of the bidder, site(s) of the delivery of Services, terms of delivery, extant rules and regulations about taxes, duties, customs, transportation, environment, labour of the bidder's country and in India.
- 2) All costs related to Personnel shall be based on the prevailing minimum wages and shall show applicable liabilities of EPF and ESI and Other statutory allowances. Quotation of 'Nil' Service charge/ margin over such minimum wages cost of personnel shall be considered as unresponsive bids and would be rejected.
- 3) If specified in the Section VI: Schedule of Requirements, the price of the Services, quoted should include concomitant/ contingent goods/ work.

#### 5.1.2 Price Schedule

- 1) Bidders are to upload only the downloaded BOQ (in excel format) after entering the relevant fields without any alteration/ deletion/ modification of other portions of the excel sheet.
- 2) Bidders shall fill in their rates other than zero value in the specified cells without keeping it blank.
- 3) The Bidder shall indicate in the Price Schedule all the specified components of prices shown therein including the unit prices and total Bid prices of the Services it proposes to deliver against the requirement. All the columns shown in the price schedule should be filled up as required. If any column does not apply to a Bidder, same should be clarified accordingly by the Bidder.

#### 5.1.3 Currencies of Bid and Payment

- 1) Unless otherwise stipulated in TIS/ AITB, the currency of Bid and payment shall be quoted by the bidder entirely in Indian Rupees. All payments shall be made in Indian Rupees only.
- 2) Where the AITB specifies acceptance of quotations in different currencies, then, for Services performed in India, prices shall be quoted in Indian rupees only and for Services performed from foreign locations, prices shall be quoted either in Indian rupees or in the currency stipulated in the AITB, mentioning, inter-alia, the exchange rate adopted and the reference date for converting foreign currency into Indian Rupees.
- 3) As regards price(s) for incidental works/ goods, if any required with the Services, the same shall be quoted in Indian Rupees if such works/ goods are to be performed in or sourced from India.
- 4) Commission for Indian Agent, if any and if payable shall be indicated in the space provided for in the price schedule and quoted in Indian Rupees only.

#### 5.1.4 Non-compliance

Tenders, where prices are quoted in any other way shall be treated as unresponsive and rejected.

### 5.2 Firm/ Variable Price

#### 5.2.1 Firm Price

Unless otherwise stipulated in the AITB, prices quoted by the Bidder shall remain firm and fixed during the currency of the Contract and not subject to variation on any account.

#### 5.2.2 Price Variation Clause:

- 1) In case the Tender Documents require offers on variable price basis, the price quoted by the Bidders shall be subject to adjustment during original Delivery Period to take care of the changes in the cost of labour, material, and fuel/ power components in accordance with the price variation formula to be specified in the AITB.
- 2) If a Bidder submits firm price quotation against the requirement of variable price quotation, that tender shall be prima-facie acceptable and considered further, taking price variation asked for by the Bidder as zero.
- 3) However, as regards taxes and duties, if any, chargeable on the Services and payable, the conditions stipulated in ITB Clause 13 shall apply for both firm price tender and variable price tender.

### 5.3 Taxes and Duties

#### 5.3.1 Goods and Services Tax (GST)

- 1) **GST Registration Status:**
  - a) All the Bidders should ensure that they are GST compliant and their quoted tax structure/ rates as per GST Act/ Rules. The bidder should be registered under GST and furnish GSTIN number and GST Registration Certificate issued by appropriate authority of India in their offer unless they are specifically exempted from registration under specific notification/ circular/ section/ rule issued by statutory authorities. The bidder claiming exemption in this respect shall submit certificate from practicing Chartered Accountant (CA) to the effect that the bidder is fulfilling all conditions prescribed in notification to make him exempted from registration.
  - b) **GST Registration Number (15-digit GSTIN).** In case bidder has multiple business verticals in a state and having separate registration for each business vertical, GSTIN of each vertical concerned with the delivery of Services involved, as per the scope of Schedule of Requirements and Price Schedule to be informed to the Procuring Entity. If delivery of Services provided is from multiple states, then bidder should mention GST Registration Number for each state separately.
  - c) **Composition scheme:** Where the bidder has opted for composition levy under Section 10 of CGST, he should declare the fact while bidding along with GSTIN and GST registration certificate.
  - d) **Exemption from Registration:** If bidder is not liable to take GST registration, i.e., having turnover below threshold, bidders need to submit undertaking/ indemnification against tax liability. The bidder/ dealer shall not charge any GST and/ or GST Compensation Cess on the bill/ invoice. In such case, applicable GST shall be deposited under Reverse Charge Mechanism (RCM) by the Procuring Entity directly to concerned authorities. Further the bidder should notify and submit to the Procuring Entity within 15 days from the date of becoming liable to registration under GST.
  - e) The Procuring Entity's state-wise GSTINs are indicated in Section VI – Schedule of Requirements and/ or TIS/ AITB.
- 2) **HSN Code and GST Rate:**
  - (a) HSN (Harmonized System of Nomenclature) code for the services being offered by the bidder for each service covered under the Tender Document shall be declared in the Technical bid.
  - (b) While submitting offer, it shall be the responsibility of the bidder to ensure that they quote correct GST rate and HSN number.
  - (c) As per the GST Act the bid and contract must show the GST Tax Rates (and GST Cess if applicable) and GST Amount explicitly and separate from the bid/ contract price (exclusive



- of GST). In case the price is stated to be inclusive of GST, the current rate included in the price must be declared by the bidder.
- (d) If a Bidder asks for GST (and GST Cess if applicable) to be paid extra, the rate and nature of such taxes applicable should be shown separately. Bidders should quote 'GST' if payable extra on total basic rate of each service and must quote GST in '%' inclusive of cess. GST shall be applicable on 'basic rate + Packing & forwarding charges + Freight + Insurance'. In case GST is quoted extra but with the provision that it shall be charged as applicable at the time of delivery; the offer shall be evaluated for comparison purpose by loading maximum existing rate of GST for the product.
  - (e) In case GST, other taxes, duties are not clearly specified, or column is left blank in price schedule then it shall be presumed that no such tax/ levy is applicable or payable by the Procuring Entity.

## 5.4 Payments

### 5.4.1 General

- 1) Unless otherwise stipulated in AITB/ SCC, usual payment term is 100% on delivery and acceptance of Services at 'the Site' by the Procuring Entity and on production of all required documents by the Contractor. However, unless otherwise stipulated periodic "On Account" payments shall be made as per procedure laid down in GCC.

### 5.4.2 No Advance Payments

- 1) Unless otherwise stipulated in TIS/ AITB/ SCC no advance payment of any type (Mobilization, secured advances etc.), shall be made by the Procuring Entity to the Contractor. If so provided the conditions for such advances shall be as per conditions in GCC. 12.4

## 6. Downloading the Tender Document; Corrigenda and Clarifications

### 6.1 Downloading the Tender Document

The Tender Documents shall be published and be available for download as mentioned in TIS appended to NIT. The Bidders can obtain the Tender Document after the date and time of start of availability till the deadline of availability. If the office happens to be closed on the deadline of availability of the bids, the deadline shall not be extended.

### 6.2 Corrigenda/ Addenda to Tender Document

Before the deadline for submission of bids, the Procuring Entity may in its discretion, but without being under any obligation to do so, update, amend, modify, or supplement the information, assessment or assumptions contained in the Tender Document by issuing corrigenda and addenda. The corrigenda and addenda shall be published in the same manner as the original Tender Document. The Portal may, without any liability or obligation, send intimation of such corrigenda/ addenda to bidders, who have downloaded the document under their login. However, it is responsibility of bidders to check the website(s) for any corrigenda/ addenda. Any corrigendum or addendum thus issued shall be considered a part of the Tender Document. To give reasonable time minimum 7 days to the prospective bidders to take a corrigendum/ addendum into account in preparing their bids, the Procuring Entity may extend as necessary the deadline for submission of bids.

### 6.3 Clarification on the Tender Document

A Bidder may seek any clarification of the Tender Document from Office/ Contact Person/ e-procurement Help Desk as mentioned in TIS appended to NIT, provided the clarifications are raised before the clarification end date mentioned in TIS (or if not mentioned, within 7 days prior to the deadline for submission of bids). The Procuring Entity shall respond within 5 working days of receipt of such a request for clarification. Any modification of the Tender Document which may become necessary as a result of the clarification shall be made by the Procuring Entity through the issue of an Addendum/ Corrigendum pursuant to Clause above.

## 7. Pre-bid Conference

- 1) In case Pre-bid conference is stipulated in the TIS appended to NIT, prospective bidders interested in participating in this tender may attend a Pre-bid conference for clarification on techno- commercial conditions of the Tenders, at the venue, date and time specified therein. Participation in the Pre-bid conference is restricted to prospective bidders who have downloaded the Tender Document.
- 2) Participation is not mandatory, however, in case a bidder chooses not to (or fails to)participate in the Pre-bid conference, it shall be assumed that they have no issues regarding the Techno-commercial specifications/ conditions.
- 3) The date and time by which the written queries for the Pre-bid must reach the authority and also the last date for registration for participation in the Pre-bid conference is also mentioned in the TIS.
- 4) Delegates participating in the Pre-bid conference must provide a photo identity and an authorization letter as per Format 2: "Authorization for attending a Pre-bid Conference" from their Company/ principals, else they shall not be allowed to participate. Pre-bid conference may also be held online at the discretion of the Procuring Entity.
- 5) After the Pre-bid conference, if required, a clarification letter and corrigendum to Tender Document(in accordance with clause 6.2 above) shall be issued.

## 8. PreparationofBids

### 8.1 The Bid

#### 8.1.1 Language of the Bid

Unless otherwise stipulated in the AITB, the Bid submitted by the Bidder and all subsequent correspondence and documents relating to the Bid exchanged between the Bidder and the Procuring Entity, shall be written in the English or the Official Language. However, the language of any printed literature furnished by the Bidder in connection with its Bid may be written in any other language provided the same is accompanied by translation in the language of the Bid. For purposes of interpretation of the Bid, the English translation shall prevail.

#### 8.1.2 Acquaintance with Local Conditions and Factors

- 1) It is imperative that each bidder at his own cost, responsibility, and risk, fully acquaints himself with all the local conditions and factors, which would have any effect on the price to be quoted by him or affecting performance/ completion of the Contract, in all respects inter alia including the legal, environmental, infrastructure, logistics, Site location, communications and any other conditions or factors. Bidders shall themselves be responsible for compliance with Rules, Regulations, Laws and Acts in force from time to time at relevant places. On such matters, the Procuring Entity shall have no responsibility and shall not entertain any request from the bidders in these regards.

#### 8.1.3 Cost of Bidding

The Bidder(s) shall bear all direct or consequential costs, losses and expenditure associated with or relating to the preparation, submission and subsequent processing of their Bids including but not limited to preparation, copying, postage, delivery fees, expenses associated with any submission of samples, demonstrations or presentations which may be required by the Procuring Entity or any other costs incurred in connection with or relating to their Bids. All such costs, losses and expenses shall remain with the Bidder(s) and the Procuring Entity shall not be liable in any manner whatsoever for the same or for any other costs, lossesand expenses incurred by a Bidder(s) in preparation or submission of the Bid, regardless of the conduct or outcome of the Tender process.

#### 8.1.4 Interpretation of Provisions of the Tender Document

The provisions in the Tender Document, must be interpreted in the context in which these appear. Any interpretation of these provisions far removed from such context or any other contrived or between-the-lines interpretation is not acceptable.

#### **8.1.5 Quote Quantities/ Prices in Both Numerals and in Words**

Although the software on the Portal may convert quantities/ rates/ amounts in numerical digits in Bids to words, the bidders are advised to ensure that there is no ambiguity in this regard.

#### **8.1.6 Alternate Bids not Allowed**

Unless otherwise stipulated in TIS/ AITB, only one Bid shall be allowed per bidder by the portal.

### **8.2 Documents comprising the Bid:**

#### **8.2.1 Techno-commercial Bid/ Cover**

"Technical Bid" shall include inter-alia the original or scanned copies of duly signed or digitally signed copies of the following documents. If so specified in AITB/ ITB, specified originals or self-certified copies of originals shall also be required to be physically submitted as per instruction contained therein. *No price details should be given or hinted in the Technical Bid:*

- 1) Form 7: Documents relating to Earnest Money Deposit (amount as specified in the Section VI: Schedule of Requirements) furnished or alternatively, documentary evidence for claiming exemption from payment of earnest money shall be uploaded in accordance with ITB clause 8.4. Original EMD securities or Self certified copies of exemption from EMD are also to be physically submitted as per instructions in ITB/ AITB.
- 2) Form 1: Bid Form (to serve as covering letter and declarations applicable for the Technical Bid);
  - a) Form 1.1: Bidder Information;
  - b) Form 1.2: Eligibility Declarations;
  - c) If applicable. Form 1.3: Declaration by Agents of Foreign Principals (clause 3.5.1 above)
- 3) Form 4: Qualification Criteria - Confirmations/ Deviations: Documentary evidence and following related forms needed to establish the Bidder's qualifications as specified in Section VIII: Qualification Criteria. Beside the stipulated documents, other supporting documents, literature. Pamphlets may also be attached.
  - a) Form 4.1: Performance Statement
  - b) Form 4.2 Non-performance, Litigation Statement
  - c) Form 4.3 Financial Capability Statements
- 4) Form 2: Services and Activities Schedule
- 5) Form 3: Performance Standards and Quality Assurance - Confirmations/ Deviations.
  - a) Form 3.1: Method Statement
  - b) Form 3.2: Work-Plan
  - c) Form 3.3: Personnel Deployment Plan
  - d) Form 3.4: Equipment Deployment Plan
  - e) Form 3.5: Materials Deployment Plan
    - (i) To establish Technically Suitability and compliance with ITB clause 4.1 Eligible Services and Section VII: Performance Standards and Quality Assurance, each bidder is also required to provide, clause by clause compliance/ deviation Statement in a chart form (without ambiguity or conditionality along with justification,) relating to all parameters of Performance Standards, Quality Assurance, Methods Statement and Work Plan.
    - (ii) The Bidder shall upload in its Bid the required and relevant documents like technical data, literature, drawings, and other documents. to establish that

the Services offered in the Bid fully conform to the Services specified by the Procuring Entity in the Tender Document.

- (iii) All such Statements and Documents shall be uploaded as Form 3.
  - (iv) If a Bidder furnishes wrong and/ or misleading data, statement(s) etc. about technical acceptability of the Services offered by it, its Bid shall be liable to be ignored and rejected in addition to other remedies available to the Procuring Entity in this regard.
- 6) Form 5: Terms and Conditions - Confirmations/ Deviations. Bidder must comply with the entire commercial and other clauses of this Tender Document. In case there are any deviations, these should be listed in a chart form without any ambiguity or conditionality along with justification and supporting documents. All such Statements and Documents shall be uploaded as Form 5. Even in case of no deviation, please fill in confirmations and nil deviation statement.
  - 7) Form 6- Checklist for the Bidders: The bidder must also upload the Checklist given in the Tender Document as Form 6, to confirm that he has complied with all the instructions in the Tender Document and nothing is inadvertently left out. This checklist is only for generic guidance and is not comprehensive and does not absolve the Bidder from complying with all the requirements stipulated elsewhere in the Tender Document.
  - 8) If stipulated in TIS/ AITB, duly signed Form 9: Integrity Pact
  - 9) Any other format/ Formif specified in AITB or if considered relevant by the bidder.

#### 8.2.2 Financial Bid/ Cover

"Financial Bid" shall include inter-alia following. *No additional Technical details, which have not been brought out in the Technical Bid shall be brought out in the Financial Bid:*

- 1) Scanned copy of duly signed or digitally signed copy of Form8: Bid Form – Financial Bid, confirming the terms and conditions for the prices offered. Any other financial implications left out in the Price Schedule may also be mentioned here.
- 2) Price Schedule/ BOQ (To be submitted separately as an excel sheet) considering all financially relevant details including Taxes and Duties as per clause 5.1 above. Prices shall be quoted duly taking into consideration, all financial implications inter-alia conditions in GCC and SCC. As a generic sample for guidance, an Exhibit 1: BOQ Sample is shown in this Tender Document. But actual Excel Sheet may be different and must be downloaded and filled. These Exhibits are not to be filled or uploaded.

#### 8.3 Bid Validity

- 1) Unless specified to the contrary in the TIS/ AITB, Bids shall remain valid for a period not less than 90 from the deadline for Bid submission specified in TIS. A Bid valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.
- 2) In case the day upto which the bids are to remain valid falls on/ subsequently declared a holiday or closed day for the Procuring Entity, the Bid validity shall automatically be deemed to be extended upto the next working day.
- 3) In exceptional circumstances, prior to expiry of the original time limit, the Procuring Entity may request the bidders to extend the period of validity for a specified additional period. The request and the bidders' responses shall be made in writing or electronically. A bidder may agree to or reject the request. A bidder who has agreed to the Procuring Entity's request for extension of Bid validity, a matching extension of the period of EMD instrument shall also be done by the Bidder but in no case, he shall be permitted to modify his Bid.

#### 8.4 Bid Security (EMD)

- 1) The Bidder shall furnish along with its Bid, earnest money for amount as shown in the Section VI: Schedule of Requirements. The earnest money is required to protect the Procuring Entity against the risk of the Bidder's unwarranted conduct as amplified under sub-clause (6) below.

- 2) In case of JV/C, normally Earnest Money Deposit (EMD) shall be submitted only in the name of the JV/C and not in the name of constituent member. However, in exceptional cases, EMD in the name of Lead Member can be accepted subject to submission of specific request letter from Lead Member stating the reasons for not submitting EMD in the name of JV/C and giving written confirmation from JV/C members to the effect that EMD submitted by the Lead Member may be deemed as EMD submitted by JV.
- 3) Following category of Bidders are exempted from payment of earnest money. In case the Bidder falls in these categories, it should furnish/ upload certified copy of its valid registration details:
  - a) Bidders who are currently registered and, also, shall continue to remain registered during the Bid validity period as Micro & Small Enterprises (MSEs) with agencies mentioned in clause 3.8.3 above
  - b) Start-ups as per definition of DPIIT, mentioned in clause 3.9.1 above
  - c) Any other category of Bidders exempted from submission of EMD as mentioned in TIS/ AITB
- 4) Unless otherwise stipulated in the TIS/ AITB, the earnest money shall be furnished in one of the following forms:
  - a) Account Payee Demand Draft or
  - b) Fixed Deposit Receipt or
  - c) Banker's cheque
  - d) Bank Guarantee, only in the case of Global Tender (International Competitive Bidding), if so stipulated, in TIS/ AITB
- 5) The demand draft, fixed deposit receipt or banker's cheque shall be drawn on any scheduled commercial bank in India, in favour of Account specified in the TIS. Unless otherwise stipulated in TIS, the earnest money shall be valid for a period of forty-five days beyond the validity period of the Bid. Document for establishing submission or waiver of EMD must be uploaded as Form 7.
- 6) Earnest money of a Bidder shall be forfeited, if the Bidder withdraws or amends its Bid or impairs or derogates from the Bid in any respect within the period of validity of its Bid. The successful Bidder's earnest money shall be forfeited if it fails to furnish the required performance security within the specified period. In case of forfeiture of EMD, GST if applicable as per prevailing rate and shall be recovered from the Contractor/ bidder.
- 7) Unsuccessful Bidders' earnest monies shall be returned to them without any interest, after expiry of the Bid validity period, but not later than thirty days after conclusion of the resultant contract.
- 8) The Bid Security (EMD) of the successful bidder shall be discharged when the bidder has furnished the required Performance Security and signed the Agreement.

#### **8.5 Non-compliance of these provisions**

- 1) Interested Bidders before formulating the Bid and submitting the same to the Procuring Entity, should read and examine all the terms, conditions, instructions etc. contained in all the sections of the Tender Document. Failure to provide and/ or comply with the required information, instructions etc. incorporated in the Tender Document shall be liable to be ignored and rejected.
- 2) Any Bid, that does not fulfil any of the above stipulations and/ or gives evasive information/ reply against any such stipulations, shall be liable to be ignored and rejected. Bids submitted by any other means than that specified in TIS appended to NIT shall be ignored.

### **9. Signing and Uploading of Bids**

#### **9.1 Relationship between Bidder and eProcurement Portal**

The Procuring Entity is neither a party to nor a principal in relationship between the bidder and the organisation hosting e-procurement portal (hereinafter called the Portal). Bidders must acquaint

and train themselves with the rules, regulations, procedures, and implied conditions/ agreements of the Portal. Bidders intending to participate in the Bid shall be required to register in the Portal using his/ his active personal/ official e-mail ID as his/ his Login ID and attach his/ his valid Digital Signature Certificate (DSC) to his/ his unique Login ID. He/ She must submit the relevant information as asked by the Portal about the firm/ bidder. Bidders shall settle clarifications and disputes, if any, regarding the Portal directly settled with them. In case of conflict between provisions of the Portal with the Tender Document, provisions of the Tender Document shall over-ride. Bidders may study the resources (Online Registration, Downloads, Announcements, Help for Contractors, Information about DSC, FAQ, Contact Us, Bidders' Manual Kit), help, demo-site, and training provided by the Portal for participation in tenders. Foreign Bidders may study requirements for DSC available under 'Downloads'.

### 9.2 Signing of Bid

The individual signing/ digitally signing the Bid or any other documents connected therewith should submit authenticated copy of the document(s) which authorizes the signatory to commit on behalf of the bidder, in this submission of Bid in Form 1.1: Bidder Information.

### 9.3 Submission/ uploading of Bids

#### 9.3.1 Submission/ Uploading in e-Procurement

- 1) No manual Bids shall either be made available or accepted for submission (except for originals of scanned copies as per sub clause 5 below). In case of downloaded documents, the bidder must not make any changes to the contents of the documents while uploading, except for filling the required information.
- 2) Bid shall be received only *Online* on or before the deadline of submission of bids as notified in TIS appended to NIT. The bidder shall log on to the portal with his/ his DSC and move to the desired Bid for uploading the documents in appropriate place one by one simultaneously checking the documents.
- 3) Only one copy of Bid can be uploaded, and the bidder shall digitally sign all statements, documents, certificates uploaded by him, owning sole and complete responsibility for their correctness/ authenticity as per the provisions of the IT Act 2000. Uploaded Pdf documents should not be password protected.
- 4) Unless otherwise stipulated in ITB/ AITB, it is not necessary for the Bidder to sign or up-load the Schedules in clause 1.5 above while uploading his Bid. It is assumed that the bidder commits itself to comply with all the Sections and documents uploaded on the Portal.
- 5) Besides scanned copies of originals (or self-attested copies of originals – as specified in TIS), the bidder shall also upload scanned originals of self-attested copies of document in support of fulfilment of qualification criteria; cost of the Tender Document (if any); EMD and any other document as required by clause 8 above. The Bidder should ensure clarity/ legibility of the scanned documents uploaded by him.
- 6) All such uploaded scanned documents must also be physically submitted sealed in double cover and acknowledgement be obtained before the specified deadline at the venue mentioned. Failure to do so, is likely to result in bid being rejected. In case of office being closed on the deadline for physical submission of originals, it shall stand extended to next working day at the same time and venue. The Procuring Entity reserves its right to call for verification originals of all such self-certified documents from the Bidders at any stage of evaluation, especially from the successful Bidder(s) before issue of Letter of Award.
- 7) Regarding protected Price Schedule (excel format, Cover-2), the bidder shall write his name in the space provided in the specified location only. The bidder shall type rates in figure only in the rate column of respective service(s) without any blank cell or Zero values in the rate column, without any alteration/ deletion/ modification of other portions of the excel sheet.
- 8) To facilitate easy uploading, bidders are required to upload beforehand documents like Regn certificate, PAN card, BIS certificate, etc. in other Important Documents/

MyDocuments of the Bidder. Additional documents/ information or where space provided is inadequate shall be uploaded under "Additional Documents" in the "Bid Cover Content."

- 9) The date and time of Bid submission shall remain unaltered even if the specified date for the submission of bids declared as a holiday for the Tender Inviting Officer.
- 10) Date and time of e-Procurement server clock, is displayed on the dashboard of the bidders, shall be taken as reference time for deciding the closing time of Bid submission. Bidders should not wait till the last minute to upload their bids and must submit their Bid within the due date and time of Bid submission taking server clock as reference, failing which the portal shall not accept the Bids. No request on the account that the server clock was not showing the correct time and that a particular bidder could not submit their Bid because of this shall be entertained. Failure or defects in internet or heavy traffic at the server shall not be accepted as a reason for a complaint. The Procuring Entity shall not be responsible for any failure, malfunction or breakdown of the electronic system used during the e-Tender Process.
- 11) All Bids uploaded by the Bidder to the portal shall get automatically encrypted. The encrypted Bid can only be decrypted/ opened by the authorised persons on or after the due date and time. The Bidder should ensure correctness of the Bid prior to uploading and take print out of the system generated summary of submission to confirm successful uploading of Bid.
- 12) The Procuring Entity may extend the date for submission of bids by issuing an amendment in accordance with clause 6.2 above, in which case all rights and obligations of the Procuring Entity and the bidders previously subject to the original date shall then be subject to the new date of submission.
- 13) Bid submitted through modalities other than those specified in TIS shall be ignored.

#### **9.3.2 Implied acceptance of procedures by Bidders**

Submission of Bid in response to the Tender Document is deemed to be acceptance of the e-Procurement and tender procedures and conditions of contract included in the Tender Document.

#### **9.3.3 Late Bids**

The Bidder shall not be able to submit his Bid after expiry of the date and time of submission of Bid (server time). Therefore, in eProcurement, situation of Late Tender does not arise.

### **9.4 Modification, Resubmission and Withdrawal of Bids**

#### **9.4.1 Modification & Resubmission**

Once submitted in e-Procurement, the Bidder cannot view or modify his bid, since it is locked by encryption. However, resubmission of Bid by the bidders for any number of times before the date and time of submission is allowed. Resubmission of Bid shall require uploading of all documents including financial bid afresh. If the bidder fails to submit his modified bids within the deadline for submission of bids, the system shall consider only the last Bid submitted.

#### **9.4.2 Withdrawal**

- 1) Bidder may withdraw his bid before the deadline of Bid Submission, and it shall be marked as withdrawn.
- 2) No Bid should be withdrawn after the deadline for submission of Bid and before expiry of the Bid validity period. If a Bidder withdraws the Bid during this period, it shall result in forfeiture of the earnest money furnished by the Bidder in its Bid besides other sanctions by the Procuring Entity.

## **10.Tender Opening**

- 1) The date & time of opening Bid is as specified in TIS. Bids cannot be opened before the specified date & time, even by the Tender Inviting Officer or the Procurement Officer or the Publisher. In case the specified date of tender opening falls on a subsequently declared holiday or closed day for the Procuring Entity, the Bids shall be opened at the appointed time and place on the next working day.
- 2) All Tender Opening Officers shall log-on to the portal to decrypt the Bid submitted by the bidders. The bidders & guest users can view the summary of opening of bids by logging on to the portal with their credentials from any system. Bidders are not required to be present during the Bid opening at the opening location but can do so if they so desired by them.
- 3) In case of all the bids being non-responsive, the Tender Inviting Officer shall complete the e-Tender Process by uploading the official letter for cancellation/ re-bid.
- 4) The bids are to be opened (technical bid in the first instance, in case of multiple cover Tender Process) at the prescribed time and date. These bids shall be scrutinized and evaluated by the competent committee/ authority with reference to parameters prescribed in the Tender Document.
- 5) In case of multiple cover Tendering Process, after declaration of results of Technical Bid evaluation, the financial bids of only the technically acceptable offers shall be opened on the announced date and time (if not already announced in TIS) for further scrutiny and evaluation. The authenticity, integrity, and sanctity of unopened Financial Bids during the period between Technical Bid opening and Financial bid opening is ensured by software in eProcurement.

## **11. Evaluation of Bids and Award of Contract**

### **11.1 General norms**

#### **11.1.1 Evaluation only on the basis of declared criteria**

Evaluation of bids shall be based only on the criteria/ conditions included in the Tender Document. No other criteria/ condition shall form the basis of this evaluation.

#### **11.1.2 Infirmary/ Irregularity/ Non-Conformity - Substantive or Minor**

- 1) If during evaluation, the Procuring Entity finds any infirmity/ irregularity/ non-conformity in any Bid, it shall be considered as a substantive deviation as per following norm and the rest shall be considered as Minor deviation.
  - a) which affects in any substantive way the scope, quality, or performance standards of the Services;
  - b) which limits in any substantive way, inconsistent with the Tender Document, the Procuring Entity's rights or the Bidder's obligations under the Contract; or
  - c) Whose rectification would affect unfairly the competitive position of other Bidders presenting substantively responsive Bids.
- 2) Decision of the Procuring Entity shall be final in this regard. Bids with substantive deviations shall be considered as unresponsive and shall be rejected and not evaluated further.
- 3) Variations and deviations and other offered benefits which are in excess of the scope/ quantum of Services specified in the Tender Documents shall not influence evaluation Bids. If the Bid is otherwise successful such benefits shall be availed by the Procuring Entity and these would become part of the Contract.
- 4) The Procuring Entity reserves the right to accept or reject bids with any minor deviations. Wherever necessary, the Procuring Entity shall convey its observation as per sub-clause below, on such 'minor' issues to the Bidder by registered/ speed post/ electronically etc. asking the Bidder to respond by a specified date. If the Bidder does not reply by the specified date or gives evasive reply without clarifying the point at issue in clear terms, that Bid shall be liable to be ignored.

#### **11.1.3 Clarification of Bids and shortfall documents**



- 1) During evaluation of Techno commercial or Financial Bids of bids, the Procuring Entity may, at its discretion, but without any obligation to do so, ask the bidder for clarification of its Bid by a specified date. The clarification should be answered by the bidder within that specified date (or if not specified 7 days from date of receipt of such request). The request for and the clarification shall be in writing and no change in prices or substance of the Bid shall be sought, offered, or permitted that may grant any undue advantage to such bidder.
- 2) The Procuring Entity reserves its right to, but without any obligation to do so, to seek any shortfall information/ documents only in case of historical documents which pre-existed at the time of the tender opening and which have not undergone change since then and does not grant any undue advantage to any bidder. There is a provision on the portal for requesting Short-fall documents from the bidders. The system allows to take the shortfall documents from any bidders only once after the technical bid opening.

#### **11.1.4 Contacting Procuring Entity during evaluation**

From the time of submission of tender to the time of awarding the Contract, no Bidder shall contact the Procuring Entity on any matter relating to the submitted Bid. If a Bidder needs to contact the Procuring Entity for any reason relating to this tender and/ or its Bid, it should do so only in writing. Any effort by a Bidder to influence the Procuring Entity during processing of bids, evaluation, Bid comparison or award decisions shall be treated as Corrupt & Fraudulent Practices, mentioned under clause 14, and shall result in the rejection of the Bidders' Bid.

#### **11.1.5 Right to accept any Bid and to reject any or all Bids**

The Procuring Entity reserves the right to accept or reject any or all Bid; cancel the Tender process and reinvoke the Tender at any time prior to the award of Contract, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders of the grounds for the Procuring Entity's action.

### **11.2 Evaluation of Bids**

#### **11.2.1 Preliminary Examination of Bids - Determining Responsiveness**

A substantively responsive Bid is one which is complete and conforms to essential and important terms, conditions, and requirements of the Tender Document, without substantive deviation or reservation or infirmity. Only substantively responsive bids shall be considered for further evaluation. If a Bid is not substantively responsive, it shall be considered as unresponsive, rejected, and not considered for further evaluation. Unless otherwise stipulated in the AITB, following are some of the important aspects, for which a Bid shall be declared unresponsive and ignored:

- 1) The Bid is not in the prescribed format or is unsigned or not signed as per the stipulations in the bid document.
- 2) Required EMD has not been provided, or exemption from EMD is claimed without acceptable proof of exemption
- 3) The bidder is not eligible to participate in the bid as per laid down eligibility criteria;
- 4) The Services offered are not eligible as per provision of this tender.
- 5) The Bidder has quoted conditional bid or more than one bids or alternative bids unless this is specifically permitted in the TIS/ AITB.
- 6) The tender validity is shorter than the required period.
- 7) The bid departs from the essential requirements specified in the bidding document;
- 8) Bidder has not quoted for all Schedules or against a schedule in the Section VI: Schedule of Requirement (incorporated in the Tender Document), the Bidder has not quoted for the entire Services as specified in that schedule.
- 9) The Bidder has quoted 'Nil' Service charges/ margin over the minimum wages in Personnel Deployment Schedule.
- 10) Non submission or submission of illegible scanned copies of stipulated documents/ declarations shall render the Bid non-responsive. Also, in case discrepancies are

observed between scanned uploaded documents and the copies/ original documents submitted physically then the Bid shall be declared as unresponsive. In case it is determined to be violation of Procurement Code of Ethics (refer clause 14 below), punitive actions shall also be taken as per that clause.

#### **11.2.2 Evaluation process in Single Cover and Multiple CoversTenders**

- 1) Only substantively responsive bids shall be evaluated by the Procuring Entity with a view to select the lowest (L-1) bidder who meets the qualification criteria and techno-commercial aspects.
- 2) In case of single Cover tender, the opening of bids and evaluation of qualification of bidders, techno-commercial, and financial aspect is done simultaneously.
- 3) In multiple Covers, initially only the techno-commercial bids shall be opened and evaluated for bids which successfully meet the qualification criteria and techno-commercial aspects. The list of successful bidders in techno-commercial evaluation shall be announced on the Portal and also individually to all participant bidders and a date, time, and venue for opening of financial bids shall be declared, if not already indicated in TIS. Financial bids of only such successful bidders shall be opened for selecting the L-1 bidder among these. Financial bids of unsuccessful bidders shall remain unopened, secure, and inaccessible on the Portal.
- 4) In case of second stage of Pre-Qualification Bidding(PQB) for evaluation of responses from the shortlisted qualified bidders after the PQB stage, evaluation shall be done as in case of multiple Covers tenders.

#### **11.3 Techno-commercial Evaluation**

In evaluation of the techno-commercial Bid, conformity to the eligibility/ qualification criteria; Performance Standards and Quality Assurance; and commercial conditions of the offered Services to those in the Tender Document is ascertained. Additional factors, if any, incorporated in the Tender Document may also be considered in the manner indicated therein.

##### **11.3.1 Evaluation of eligibility**

Procuring Entity shall determine, to its satisfaction, whether the Bidders are eligible, to participate in the Contract as per submission in Form 1.2: Eligibility Declarations. Tenders that do not meet the required eligibility criteria prescribed shall be treated as unresponsive and not considered further. Such determination shall be based upon scrutiny and examination of all relevant data and details submitted by the Bidder in its/ his Bid as well as such other allied information as deemed appropriate by Procuring Entity.

##### **11.3.2 Evaluation of Qualification Criteria**

Procuring Entity shall determine, to its satisfaction, whether the Bidders are qualified, and capable in all respects to perform the Contract satisfactorily as per submission in Form 4 and its sub-forms (4.1 to 4.3). Tenders that do not meet the required qualification criteria prescribed shall be treated as unresponsive and not considered further. This determination shall, inter-alia, consider the Bidder's Experience/ Past Performance; Performance and Financial Capabilities; for satisfying all Procuring Entity's requirements as incorporated in the Tender Document. Such determination shall be based upon scrutiny and examination of all relevant data and details submitted by the Bidder in its/ his Bid as well as such other allied information as deemed appropriate by Procuring Entity. Additional determination of qualification shall be done, if so specified in AITB.

##### **11.3.3 Evaluation of Conformity to Performance Standards and Quality Assurance**

The Performance Standards and Quality Assurance; Methods Statement, Input Deployment Plans and Work Plans shall be examined by the Procuring Entity, as per submission of Form 3, 3.1, 3.2, 3.3, 3.4 and 3.5. The Form 3 regarding exceptions/ deviation submitted by the Bidders shall be examined by the Procuring Entity. It shall be determined omissions/

reservations/ exception/ deviation, if any from Performance Standards and Quality Assurance is minor or substantive.

**11.3.4 Evaluation of Conformity to Commercial and Other Clauses**

Bidder must comply with all the Commercial and other clauses of the Tender Document as per submissions in Form 5. The Procuring Entity shall also evaluate the commercial conditions quoted by the Bidder to confirm that all terms and conditions specified in the GCC/ SCC have been accepted without omissions/ reservations/ exception/ deviation by the Bidder. It shall be determined if an omissions/ reservations/ exception/ deviation is minor or substantive.

#### **11.3.5 Considering Minor Deviations during Techno-commercial Evaluation**

Procuring entity reserves its right, without any commitment to do so, to consider and allow minor deviations qualification Criteria; Performance Standards and Quality Assurance and Techno-commercial conditions, which do not amount to substantive deviations as per clause 14.1.2. Unless indicated in AITB/ TIS, no loading of Financial bid shall be done based on acceptable/ unacceptable deviations. The Procuring Entity's decision in this regard shall be final. Bids with substantive exception, deviation, reservation, or omission shall be rejected.

#### **11.3.6 Declaration of Technically Suitable Bidders and Opening of Financial Bids**

- 1) Bids that pass all the above steps shall be declared as successful in of techno-commercial evaluation.
- 2) If it is a multiple Covers tender, then the Procuring Entity shall declare the list of successful bidders (including informing the failed Bidders). Financial bids shall be opened at a pre-publicised date, time on the portal in case of e-Procurement.
- 3) In single cover tender, no interim declaration of results of techno-commercial evaluation shall be done.

### **11.4 Evaluation of Financial Bids and Ranking of Bids**

#### **11.4.1 Ranking of Financial Bids**

- 1) Unless otherwise stipulated in AITB, evaluation of the financial bids shall be on the price criteria only. Evaluation of Financial Bids of all technically suitable bids shall be done to rank them and to determine the lowest priced bidder.
- 2) Unless otherwise stipulated in the AITB, the comparison of the responsive Bids shall be on total outgo from the Procuring Entity's pocket, for the procurement to be paid to the Contractor or any third party, including all elements of costs as per the terms of the proposed contract, duly delivered, commissioned, etc. as the case may be, including any taxes, duties, levies etc.
- 3) Unless otherwise stipulated in AITB, in case the Schedule of Requirements contains more than one schedule, the financial ranking of bids shall be done on the basis of all schedule put together. The tender for a schedule shall not be considered if the complete requirements prescribed in that schedule are not included in the Bid;
- 4) If any bidder offers conditional discounts/ rebates in his bid or suo motu discounts and rebates after opening of the tender (techno-commercial or financial), such rebates/ discounts shall not be considered for the purpose of ranking the offer. But if such a bidder does become L-1 without discounts/ rebates, such discounts/ rebates shall be incorporated in the Contracts;
- 5) Unless announced beforehand in AITB, the quoted price shall not be loaded on the basis of deviations in the commercial conditions. If it is so declared such a loading of financial bid shall be done as per the relevant provision;
- 6) As per policies of the Government from time to time, the Procuring Entity reserves its option to give purchase preferences as indicated in the Tender Document
- 7) **Price Variation:** If the tenders have been invited on variable price basis, the tenders shall be evaluated, compared, and ranked on the basis of the position as prevailing on the day of (technical bid) tender opening and not on the basis of any future date.
- 8) **Ambiguous Financial bid:** If the financial bid is ambiguous so that it may very well lead to two equally valid total price amounts, then the Bid shall be treated as unresponsive and rejected and shall not be considered for further evaluation.

#### **11.4.2 Global Tender Enquiry (GTE)**

Additional aspects of evaluation of the financial offer in GTE tenders are:

- 1) **Currency of Tender**

In GTE tenders, if permitted in AITB, the price of the Bid could be in foreign currencies, in addition to the Indian Rupees, except for expenditure incurred in India (including incidental Goodssourced from India and agency commission if any) which should be stated in Indian Rupees.

**2) Evaluation of Offers**

- a) For financial evaluation, all Bids shall be converted to Indian Rupees based on the "Bill currency selling" exchange rate on the date of tender opening (Techno-commercial offer) from a source as specified in the Tender Document. The comparison of the offers would be done on the principle of the total outgo from Procuring Entity's pocketsincluding all applicable taxes and duties. For bids with Letter of Credit (LC) payment, the likely LC charges (as ascertained from the Procuring Entity's bankers) should also be loaded.
- b) The terms FOB, FAS, CIF etc. for imported Services offered from abroad, shall be governed by the rules & regulations prescribed in the current edition of INCOTERMS, published by the International Chamber of Commerce, Paris
- c) The need for indication of all such price components by the Bidders, as required in this clause (viz., ITB clause 5.1) is for the purpose of comparison of the Bids by the Procuring Entity and shall no way restrict the Procuring Entity's right to award the Contract on the selected Bidder on any of the terms offered.

**11.4.3 Cartel Formation/ Pool Rates**

- 1) Cartel formation or quotation of Pool/ Coordinated rates, leading to "Appreciable Adverse Effect on Competition" (AAEC) as identified in Competition Act, 2002, as amended by Competition (Amendment) Act, 2007, shall be considered as a serious misdemeanour and shall be dealt accordingly as per clause 14 below, besides filing of the information with the Competition Commission of India, for further action.
- 2) Unless the Procuring Entity decides this to be case of Cartel/ Pool Rates, if more than one bidder quote same total evaluated price, then the Procuring Entityreserves its right to distribute unequal quantities to the bidders based on considerations like past experience/ performance, performance capabilities and financial capabilities, any extra features/ benefits offered etc.

**11.4.4 Consideration of Abnormally Low Bids**

An Abnormally Low Bid is one in which the Bid price, in combination with other elements of the Bid, appears so low that it raises substantive concerns as to the capability of the Bidder to perform the Contract at the offered price. Procuring Entity shall in such cases seek written clarifications from the Bidder, including detailed price analyses of its Bid price in relation to scope, schedule, allocation of risks and responsibilities, and any other requirements of the bids document. If, after evaluating the price analyses, procuring entity determines that the Bidder has substantively failed to demonstrate its capability to deliver the Contract at the offered price, the Procuring Entityshall reject the Bid/ proposal.

**11.4.5 Price Negotiation**

Normally there shall be no price negotiations. However, the Procuring Entity reserves its right to negotiate with the lowest acceptable bidder (L-1), who is technically cleared/ approved for delivery of Services and on whom the Contract would have been placed but for the decision.

**11.4.6 Evaluation Process in Tender cum e-Reverse Auction**

If so specified, in the TIS/ AITB, e-Reverse Auction process shall be mandatorily conducted on the same portal after the financial bid opening (declaration of L-1 landed price/s), provided the number of valid bidders is more than the stipulated number (3 if not specified). Unless otherwise stipulated in AITB following procedure shall be followed:

- 3) **Shortlisting of bidders eligible to participate in e-Reverse Auction:**

- a) The bids disallowed from participating in the Reverse Auction(e-RA) shall be the highest bidder(s) in the tabulation of prices in financial bid. In case more than one Bidders quote the same highest rate, the Price Offer received last, as per time log of the Portal, shall be removed first, on the principle of last in first out by the system.
  - b) In case number of valid bidders is 3 or less Reverse auction shall not be conducted, and evaluation of the original financial bids as already opened shall be done. In case of 4 to 6 valid bidders lowest three (3) bidders shall be allowed to participate in reverse auction. In case of more than 6 valid bidders only 50% of the bidders (rounded up to next integer) shall be allowed to participate.
  - c) However, if MSE bidders or Class-I Local suppliers under Make in India policy who do not come under above criteria but their prices in financial bids are within the margin of preference of the policy, they shall be allowed to participate. Such bidders would be over and above the short-list mentioned above.
- 4) **Reverse Auction Process (RAP)**
- a) Upon opening of the financial bids, a reverse auction platform shall be created. Reverse auction shall start within specified period in AITB (two hours if not specified) of the Bid. There shall be no participation fees for e-Reverse auction.
  - b) Unless modified by TIA, L-1 landed price in financial bid (as per the calculation schema based on evaluation criteria of the Tender Document) shall be the start bid price on which the auction shall be initiated.
  - c) The decrement value shall be as specified by the TIA before start of e-Reverse Auction (or if not specified 0.5% of the start bid price rounded off to next unit, tens, hundreds, thousands etc with minimum of Rs. 1). The reduction shall have to be made as per decrement value or in multiple thereof.
  - d) Initial period of reverse auction shall be as stipulated in AITB (or two hours if not specified). All times and periods are as per server timestamp. There shall be auto extensions every time by specified minutes (ten minutes if not specified) in case of any reduction is recorded in the last auto-extension period. The reverse auction shall end only when there is no further reduction recorded in the last extension periods.
  - e) In case of disruption of service at the service provider's end during reverse auction, the reverse auction process shall start all over again, with the last recorded lowest price of prematurely ended RAP as the 'Start Bid' price. The prices quoted in the prematurely ended RAP shall be binding on all the bidders for consideration if the restarted process does not trigger within the stipulated time (or by the 5.00pm on the same day, if not stipulated). Disruption and restarting of RAP shall be intimated to all the bidders through system/ SMS/ e-mail through e procurement portal.
- 5) Bidders must submit only the landed price in reverse auction and only the service wise L-1 price shall be displayed without disclosing number of bids and names of the bidders. The landed price cannot be same for two bidders even if any bidder makes such an attempt. While evaluating the bids, the exchange rate captured by the e-procurement system shall be considered for conversion of foreign currency into Indian Rupees.
  - 6) On expiry of the closing of the auction, the bid history showing all the last valid bids offered along with name of the bidders shall be published. All bidders shall have the facility to see and get a print of the same for their record.
  - 7) All electronic bids submitted during the reverse auction process shall be legally binding on the bidder. Only the chronologically last bid submitted by the bidder till the end of the auction shall be considered as the valid financial bid of the bidder and consideration of the same for entering into a contract by the Procuring Entity shall binding on the bidder. If a bidder does not submit his bid in the Reverse Auction, the price quoted by him in the financial bid shall be considered as the valid price of that bidder. The status of the bidder (L-1, L2 etc) shall be evaluated considering either the bid price submitted in Reverse auction or the Price quoted in the financial bid, whichever is lower.

8) The successful L-1 bidder after the reverse auction has to upload within a stipulated period (within 2 working days, if not specified) the breakup of Landed Prices in the shortfall documents, at which the Contract shall be awarded. While giving the breakup, the bidder shall include the same rate of taxes and duties as quoted while submitting the e financial bid. In case the L-1 bidder fails to submit the breakup of landed price within stipulated period, the Procuring Entity shall place order on the basis of the breakup of the financial bid submitted by the bidder and the same shall be binding on the bidder.

**9) Purchase Preference**

In case ITB/ AITB provides for purchase preference Policies to any category of bidders, and if any of the short-listed bidders are eligible for such purchase preference in terms of policy, such bidders would get opportunity to match the L-1 prices concluded after reverse auction, if their final prices in Reverse Auction fall within the permitted percentage.

## **12. Award of Contract**

### **12.1 Selection of Successful Bidder(s)**

The Procuring Entity shall award the Contract to the Bidder(s) whose Bid(s) has been determined to be substantively responsive, eligible, and Qualified, Technically suitable and who has offered the lowest evaluated Bid price as per evaluation criteria detailed in the Tender Document.

### **12.2 Procuring Entity's Right to Vary Quantities at the Time of Award:**

At the time of award of contract, the Procuring Entity reserves the right to increase or decrease the quantum of Services originally specified in Section VI: Schedule of Requirements, provided this increase/ decrease does not exceed 25 (twenty-five) per cent of tendered quantity (or any other percentage indicated in the clause GCC 7.4.2), and without any change in the unit prices or other terms and conditions of the Bid and the Bidding Document.

### **12.3 Parallel Contracts or Splitting of Award**

Unless otherwise stipulated in TIS/ AITB, there shall be no parallel orders or splitting if quantities among more than one Bidders.

However, if TIS/ AITB stipulates such splitting of quantities due to the critical/ strategic/ specific nature of the Services, the manner of deciding relative share of lowest bidder (L-1) contractor and the rest of the Bidders shall be clearly defined, along with the minimum number of Bidders sought for the contract. In such cases the bidders should not quote for less than 25% of the tendered quantity; otherwise, their offer shall be considered as unresponsive. Unless otherwise stipulated in the AITB, in case of splitting in two and three, the ratio of 70:30; 50:30:20, respectively shall be used. These ratios are approximate, and the Procuring Entity reserves its right to marginally vary quantities to suit capacity of the bidder/ unit loads of packing or transportation.

### **12.4 Notification of Award**

The Bidder, whose Bid has been accepted, shall be notified of award by the Procuring Entity prior to expiration of the Bid validity period by written or electronic means and confirmed by letter sent through post. This notification (hereinafter and in the Conditions of Contract called the "Notification of Award" - NoA) shall state the sum (hereinafter and in the Contract called the "Contract Price") that the Procuring Entity shall pay the Bidder in consideration of the delivery of the Services by the Contractor. The notification of award shall constitute legal formation of the Contract, subject only to the furnishing of a performance security in accordance with the provisions of clause 12.4 below.

### **12.5 Verification of Original Documents**

Along with NoA, before signing the Contract, the Procuring Entity shall ask the Bidder to submit for verification the originals of all such documents whose scanned copies were submitted on-line along with Technical Bid. The photocopies of such self-certified documents shall be verified and signed by the competent officer and shall be kept in the

records as part of the Contract agreement. In case of Bidder's failure to provide such originals or in case of serious discrepancies in such documents, it shall be treated as breach of Contract and of Code of Integrity as per clause 14 and it shall be lawful for the Procuring entity to avail all remedies under such provisions.

#### **12.6 Performance Security**

- 1) Within 14 days of receipt of the Notification of Award, performance Security (unless otherwise stipulated otherwise in AITB, @ 10% of the Contract Price) through Account Payee Demand Draft, Fixed Deposit Receipt, Banker's Cheque or Bank Guarantee (in Annexe 3 to Contract) from any of the commercial banks in acceptable form shall be submitted by the Contractor to the Procuring Entity with validity up to 60 days beyond the discharge of all obligations in the Contract by the Contractor including Service Warranty period, if any, of the delivered Services. It shall be returned/ refundable after satisfactory completion of all obligations under the Contract including Service warranty obligation, if any.
- 2) In case of JV, all the Guarantees like Performance Guarantee, Bank Guarantee for Mobilization Advance, Machinery Advance etc. shall be accepted only in the name of the JV/C and no splitting of guarantees amongst the members of the JV/C shall be permitted.
- 3) Failure to Submit Performance Security within time: In the event of the successful Bidder failing to comply with the provisions of this clause shall constitute a breach of contract resulting in annulment of the award, forfeiture of the Bid Security (EMD), and any other remedy available to the Procuring Entity under the Contract, including debarment of the Bidder from participation in its future procurements.
- 4) In the eventuality of failure on the part of the lowest successful bidder to produce the original documents, or submit the performance security, the next successful bidder shall be required to produce his original documents for consideration of his Bid at the counter-offered rate equal to lowest bidder. Otherwise, the tender shall be cancelled.

#### **12.7 Signing of Contract**

- 1) Within seven working days of receipt of performance security, the Procuring Entity shall send the Contract form (as per Format 1: Contract Form along with Annexes) duly completed and signed, in duplicate, to the successful Bidder by registered/ speed post.
- 2) Within seven days from the date of issue of the Contract, the successful Bidder shall return the original copy of the Contract, duly signed, and dated, to the Procuring Entity by registered/ speed post.

#### **12.8 Return of EMD**

Upon the furnishing by the successful Bidder of the Performance Security, the Procuring Entity shall promptly notify the other Bidders that their Bids have been unsuccessful. The earnest money of the successful Bidder and the unsuccessful Bidders shall be returned to them without any interest, whatsoever, in terms of ITB clause 8.4 above.

#### **12.9 Publication of Tender Result**

The name and address of the successful Bidder(s) receiving the Contract(s) shall be published in the Portal and notice board/ bulletin/ web site of the Procuring Entity.

#### **13. Grievance Redressal/ Complaint Procedure**

- 1) The bidder has the right to submit a written and signed complaint or seek de-briefing regarding rejection of his Bid within 10 days of declaration of results of pre-qualification, technical or financial evaluation stages of Tender Process. The complaint shall be addressed to the Head of Procurement.



- 2) The Tender Inviting Officer shall, within 5 working days of receipt of the complaint, acknowledge the receipt in writing to the complainant indicating that it has been received and the response shall be sent in due course after detailed examination.
- 3) The Tender Inviting Officer shall convey the final decision to the complainant within 15 days of receiving the complaint. No response shall be given regarding the confidential process of evaluation of bids and award of contract, before the award is notified, although the complaint shall be kept in view during such process. However, no response shall be given regarding following topics explicitly excluded from such complaint process:
  - a) Only a bidder who has participated in the concerned Tender Process i.e., pre-qualification, bidder registration or bidding, as the case may be, can make such representation
  - b) Only a directly affected bidder can represent in this regard.
    - (i) In case pre-qualification bid has been evaluated before the bidding of Technical/ financial bids, an application for review in relation to the technical/ financial bid may be filed only by a bidder who has qualified in pre-qualification bid;
    - (ii) In case technical bid has been evaluated before the opening of the financial bid, an application for review in relation to the financial bid may be filed only by a bidder whose technical bid is found to be acceptable
  - c) Following decisions of the Procuring Entity shall not be subject to review:
    - (i) Determination of the need for procurement.
    - (ii) Complaints against performance standards except under the premise that they are either vague or too specific so as to limit competition shall not be permissible.
    - (iii) Selection of the mode of procurement or bidding system;
    - (iv) Choice of selection procedure.
    - (v) Provisions limiting participation of bidders in the Tender Process, in terms of policies of the Government.
    - (vi) Provisions regarding purchase preferences to certain categories of bidders in terms of policies of the Government
    - (vii) The decision to enter into negotiations with the L-1 bidder; and
    - (viii) Cancellation of the Tender Process except where it is intended to subsequently re-tender the same Services

#### **14. Code of Integrity in Public Procurement and Serious Misdemeanours:**

Procuring authorities as well as bidders, suppliers, contractors, and consultants - should observe the highest standard of ethics and should not indulge in prohibited practices or other serious misdemeanours, either directly or indirectly, at any stage during the Tender Process or during execution of resultant contracts. In this regard the clause 15 of the GCC shall apply mutadis mutandis during the pre-award tender process including the penalties prescribed therein.

### Section III: Appendix to Instructions to Bidders (AITB)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

*[the Procuring Entity shall fill up the details required in the AITB, only in case ITB clause is not to be applied or additional provision are to be added or existing provisions to be altered, otherwise such rows may be deleted. Clauses other than those mentioned below may also be mentioned, if these need to be changed]*

Following clauses, wherever these appear in ITB shall be taken to be negated or additional provision be added to, or existing provisions be altered as following:	
ITB clauses	To be read as
<b>ITB 1 The Tender Document</b>	
ITB 1.4	<i>[Mention any changes in composition of Sections/ Forms/ Formats]</i>
<b>ITB 3 Bidders - Eligibility and Preferential Policies</b>	
ITB 3.2	<i>[Mention any additional condition for JV/C]</i>
ITB 3.3	<i>[Mention any additional condition for determining eligibility of bidder]</i>
ITB 3.7	<i>[Mention if under ITB 3.7.8 (MII policy), formation of JV for indigenisation is mandatory and if yes, dispensations allowed in such cases]</i>
ITB 3.9.2	<i>[Mention extent of relaxation in prior turnover and experience for Start-ups, if any]</i>
<b>ITB 4 The Schedule of Requirements and Form of Contract</b>	
ITB 4.1	<i>[Mention any restriction on origin/ source of Services other than those in Clause 3/]</i>
ITB 4.2	<i>[Mention if Bidder is not required to quote for all Schedules and all Services in any Schedule]</i>
ITB 4.3	<i>[Mention if Contract Period is different from One Year, or if number and period of extensions are different from the clause]</i>
ITB 4.4	<i>[Mention if Form of BOQ/ Contract is different from Time Based (Input admeasurement), or if any other changes are required in the clause]</i>
<b>ITB 5. Bid Prices, Taxes and Duties</b>	
ITB 5.1.3	<i>[If prices are permitted to be quoted in currencies other than INR also, please mention it here, as in case of Global Tenders]</i>
ITB 5.2.1	<i>[Mention if Price Variation Clause is applicable, also mention the formula and indices]</i>
ITB 5.4.2	<i>[Mention if Advance Payments are allowed – including types and %age]</i>
<b>ITB 6 to 10 Download, Preparation, Submission and Opening of Bids</b>	
ITB 8.1.1	<i>[Language in which bids are to be submitted other than Official language specified in NIT and English, please specify it here].</i>
ITB 8.1.6	<i>[Mention if Alternate Bids are permissible]</i>
ITB 9.3.1	<i>[Mention if additional sections of the Bid Documents are to be signed and uploaded by Bidder]</i>
<b>ITB 11 and 12 Evaluation of Bids and Award of Contract</b>	
ITB 11.2.1	<i>[Mention if additional criteria for responsive bids are proposed]</i>
ITB 11.4.1	<i>[Mention if Financial Bids are to be ranked on basis other than price criteria or on basis other than all-inclusive prices]</i>
ITB 11.4.1	<i>[Mention any additional condition for determining responsiveness of the bid]</i>
ITB 11.4.1	<i>[Mention If evaluation is to be done Schedule by Schedule separately or if Bidders need not quote for all the Services in a Schedule]</i>
ITB 11.4.6	<i>[Mention procedure for e-Reverse Auction if it so decides]</i>

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ITB 12.4	<i>[Mention if a %age different from 10%, is intended as Performance Guarantee, or if acceptable instruments are different]</i>
ITB 12.2	<i>[Mention if a %age different from 25%, is intended as quantity variation at the time of Award of Contract]</i>
ITB 12.3,	<i>[If it is decided to conclude parallel contracts on more than one bidder, please specify the number of parallel contracts and ratios (in %, say 70:30 or 50:30:20 etc) for such distribution. Please also ensure matching entry in TIS under Make in India]</i>

## Section IV: General Conditions of Contract (GCC)

### 1. General

#### 1.1 Defined Terms

Unless the context otherwise requires, following terms (hereinafter referred as "the Defined Terms" shall have the meaning as assigned below and such terms shall be hereinafter referred as capitalised word i.e., the Contractor shall refer to the Defined Term "Contractor" in the context of this Contract and contractor shall refer to dictionary meaning of the word:

- 1) "Agent" is a person employed to do any act for another, or to represent another in dealings with third person. In the context of public procurement, an Agent is a representative participating in the Tender Process for and on behalf of its principals.
- 2) "Beneficiary" (of Services/ Works) means the person for whom the Services/ Works are to be delivered as specified in the Contract.
- 3) "Bid" (including the term 'tender', 'offer', 'quotation' or 'proposal' in certain contexts) means an offer to supply goods, services or execution of works made in accordance with the terms and conditions set out in a document inviting such offers.
- 4) "Bidder" (including the term 'bidder', 'consultant' or 'service provider' in certain contexts) means any eligible person or firm or company, including a Joint Venture or consortium (that is an association of several persons, or firms or companies), participating in a tender process with a Procuring Entity.
- 5) "Bill of Quantities" (including the term Price Schedule or BOQ) means the priced and completed Bill of Quantities forming part of the Bid.
- 6) "Contract" means the letter or memorandum communicating to the Contractor the acceptance of his Bid and includes Notification of Award,; General Conditions of Contract, Special, and the other conditions and formal Agreement document including its Annexes, if executed;
- 7) "Contractor" or "Supplier" means the individual or the firm supplying the goods and services. The term includes his employees, agents, successors, authorized dealers, stockists, and distributors. Other homologous terms are: Vendor, Firm, Manufacturer, OEM, Bidder etc.;
- 8) "Day" means calendar day.
- 9) "Drawing" means the drawing or drawings specified in or annexed to the Specifications or the Tender Document/ Contract;
- 10) "Equipment" means the Contractor's machinery and vehicles brought temporarily to the Site to for performance of Service.
- 11) "General Conditions" means the General Conditions of Contract, also referred to as GCC.
- 12) "Goods" (including the term 'Services', 'Material(s)' in certain contexts) includes all articles, material, commodity, livestock, medicines, furniture, fixtures, raw material, consumables, spare parts, instruments, machinery, equipment, industrial plant, vehicles, aircrafts, ships, Procuring Entity rolling stock assemblies, sub-assemblies, accessories, a group of machines comprising an integrated production process or such other categories of goods or intangible, products like technology transfer, licenses, patents or other intellectual properties (but excludes books, publications, periodicals, etc., for a library), procured or otherwise acquired by a Procuring Entity. Procurement of goods may include certain small work or some services, which are incidental or consequential to the supply of such goods, such as transportation, insurance, installation, commissioning, training, and maintenance;
- 13) "Government" means the Central Government or a State Government as the case may be;
- 14) "Inspection" means activities such as measuring, examining, testing, analysing, gauging one or more characteristics of the product or service, and comparing the same with the specified requirement to determine conformity.

- 15) "Joint Venture" means a Joint Venture or a Consortium (that is an association of several persons, or firms or companies - also referred as JV/C)
- 16) "Materials" means all supplies, including consumables, used by the Contractor for performance of Service or for use by his staff.
- 17) "Outsourcing of Services" means deployment of outside agencies on a sustained long term (for one year or more) for performance of other services which were traditionally being done in-house by the employees of Ministries/Departments (e.g., Security Services, Horticultural Services, Janitor/Cooking/Catering/Management Services for Hostels and Guest Houses, Cleaning/Housekeeping Services, Errand/Messenger Services and so forth). Besides outsourcing, other services also include procurement of short-term standalone services.
- 18) "Parties": The parties to the Contract are the "Contractor" and the "Procuring Entity", as defined in this Clause;
- 19) "Performance Security" means monetary guarantee to be furnished by the successful Bidder in the form prescribed for due performance of the Contract placed on it. Performance Security is also known as Security Deposit or Performance Bank Guarantee.
- 20) "Procurement" or "public procurement" (or 'Purchase', or 'Government Procurement/ Purchase' in certain contexts) means acquisition by way of purchase, lease, license or otherwise, either using public funds or any other source of funds (e.g. grant, loans, gifts, private investment etc.) of goods, works or services or any combination thereof, including award of Public Private Partnership projects, by a Procuring Entity, whether directly or through an agency with which a contract for procurement services is entered into, but does not include any acquisition of goods, works or services without consideration, and the term "procure" or "procured" shall be construed accordingly;
- 21) "Procuring Entity" means the entity in The Procuring Organization procuring Goods, Works or Services as incorporated in the Tender Document;
- 22) "Contract Manager" means the officer who has been assigned the authority to execute the relevant Contract on behalf of the Procuring Entity;
- 23) "Procurement Process" means the process of procurement extending from the assessment of need; issue of invitation to pre-qualify or to register or to bid, as the case may be; the award of the procurement contract; execution of contract till closure of the Contract;
- 24) "Scheduled Commercial Bank" means a bank, defined as a scheduled bank under section 2(e) of the Reserve Bank of India Act, 1934.
- 25) "Service(s)" (including the term 'Non-consultancy services' or 'Outsourcing of Services' in certain contexts) are defined by exclusion as services that cannot be classified as Consultancy Services. Services involve routine repetitive physical or procedural non-intellectual outcomes for which quantum and performance standards can be tangibly identified and consistently applied and are bid and contracted on such basis but does not include appointment of an individual made under any law, rules, regulations, or order issued in this behalf. It may include small works, supply of goods or consultancy service, which are incidental or consequential to such services. Other services may include housekeeping, training, transport services; logistics; clearing and Forwarding; courier services; upkeep and maintenance of office/buildings/Estates (other than Civil & Electrical Works etc.); drilling, aerial photography, satellite imagery, mapping, and similar operations etc. ;
- 26) "Site of Delivery" means the lands, spaces, and other places on, under, in or through which the services are to be carried out and any other lands or places provided by the Procuring Entity for the purpose of the Contract.
- 27) "Special Conditions" means Special Conditions of Contract, which over-ride the General Conditions, also referred to as SCC.

- 28) "Specification" or "Technical Specification" means the drawing/ document/ standard that prescribes the requirement to which product or service has to conform.
- 29) "Signed" includes digitally signed and or stamped, except in the case of an acceptance of Bid or any amendment thereof;
- 30) "Sub-Contractor" means is a person or corporate body who has a Contract with the Contractor to carry out a part of the construction work and/ or routine maintenance in the Contract, which includes work on the Site.
- 31) "Temporary Works" means works designed, constructed, installed, and removed by the Contractor that are needed during the performance of Services.
- 32) "Variation" means an instruction given by the Contract manager, which varies the scope, quantum or performance standards of the Service performed.
- 33) "Tender"; "Tender Document"; "Tender Enquiry" or "Tender Process": Tender Document means the document (including all its sections, Forms, and formats etc.) published by the Procuring Entity to invite bids in a Tender Process, which is the whole process from publishing of the Tender Document till the resultant award of the Contract. Both the Tender Document, as well as Tender Process may be generically referred as "Tender" or "Tender Enquiry" which would be clear from context without ambiguity.

## 2. The Contract

### 2.1 Interpretation and General Matters

#### 2.1.1 General Interpretations

Except where the context requires otherwise, throughout this Contract:

- 1) The headings are for reference only and shall not limit, alter, or affect the interpretations in the Contract.
- 2) Writing or Written includes matter either in whole or in part, in electronic communications, manuscript, typewritten, lithographed, cyclostyled, photographed, or printed under or over signature or seal or digitally acceptable authentication, as the case may be.
- 3) Words in the singular include the plural and vice-versa.
- 4) Words importing the masculine gender shall be taken to include other genders and words importing persons shall include any company or association or body of individuals, whether incorporated or not
- 5) Terms and expression not herein defined shall have the meanings assigned to them in the Indian Sale of Goods Act, 1930 (as amended) or the Indian Contract Act, 1872 (as amended) or the General Clauses Act, 1897 (as amended) as the case may be.
- 6) Any generic reference to GCC shall also imply a reference to SCC as well.
- 7) In case of conflict, provisions of SCC shall prevail over those in GCC.

#### 2.1.2 The Entire Agreement

This Contract constitutes the entire agreement between the Procuring Entity and the Contractor and supersedes all communications, negotiations, and agreements (whether written or oral) of the Parties made prior to the date of this Contract. No agent or representative of either Party has the authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth in this Contract.

#### 2.1.3 Severability

If any provision or condition of this Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of this Contract

### 2.2 Language of Contract

Unless otherwise stipulated in SCC, the Contract shall be written in English language or the Official Language. All correspondence and other documents pertaining to the Contract, which the parties

exchange, shall also be written accordingly in that language. For purposes of interpretation of the Contract, the English translation shall prevail.

### **2.3 Modification/ Amendment, Waivers and Forbearances**

- 1) No variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties. In the event of any of the provisions of the Contract requiring to be modified after the Contract documents have been signed, the modifications shall be made in writing and signed by the Procuring Entity and the Contractor and no service shall proceed under such modifications until this has been done. Requests for changes and modifications may be submitted in writing by the Contractor to the Procuring Entity. The Procuring Entity at any time during the currency of the Contract, may suo-moto or on request from the Contractor, by a written order, amend the Contract by making alterations and modifications within the general scope of Contract.
- 2) If the Contractor does not agree to the suo-moto amendment/ modification made by the Procuring Entity, the Contractor shall convey its views to the Procuring Entity within twenty-one days from the date of the Contractor's receipt of the Procuring Entity's amendment/ modification of the Contract. Otherwise, it shall be assumed that the Contractor has consented to the amendment.
- 3) Any verbal or written arrangement abandoning, modifying, extending, reducing, or supplementing the Contract or any of the terms thereof shall be deemed conditional and shall not be binding on the Procuring Entity unless and until the same is incorporated in a formal instrument and signed by the Procuring Entity and the Contractor, and till then the Procuring Entity shall have the right to repudiate such arrangements.

### 2.3.1 Waivers and Forbearance

- 1) The following shall apply with respect to any waivers, forbearance, or similar action taken under this Contract:
  - a) Any waiver of a Procuring Entity's rights, powers, or remedies under this Contract must be in writing, dated, and signed by an authorized representative of the Procuring Entity granting such waiver, and must specify the terms under which the waiver is being granted.
  - b) No relaxation, forbearance, delay, or indulgence by Procuring Entity in enforcing any of the terms and conditions of this Contract or granting of extension of time by Procuring Entity to the Contractor shall, in any way whatsoever, prejudice, affect, or restrict the rights of Procuring Entity under this Contract, neither shall any waiver by Procuring Entity of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

## 2.4 Parties

### 2.4.1 Parties

The parties to the Contract are the Contractor and the Procuring Entity, as defined in Clauses 1.1 above.

### 2.4.2 Joint Venture/ Consortium as a Contractor

Where the Contractor is a Joint Venture or Consortium (that is an association of several persons, or firms or companies - hereinafter referred as JV/C), then upon issue of NoA (Notification of Award) it must comply with following requirements:

- 1) JV/C must execute and register before the Registrar of the Companies under Companies Act or before the Registrar/Sub-Registrar under the Registration Act, 1908, an agreement among the members of the JV/C (to whom the work has been awarded) and submit it the Procuring Entity before signing the Contract agreement for the service. In case the Bidder fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall be forfeited and other penal actions due shall be taken against members of the JV/C and the JV. This Joint Venture Agreement shall have, inter- alia, following Clauses:
  - a) An identity/name separate from its constituents must be given to the Joint Venture Firm
  - b) Duration of the Joint Venture Agreement - It shall be valid during the entire currency of the Contract including the period of extension, if any and Service Warrantee period after the service is completed, if any.
  - c) Governing Laws - The Joint Venture Agreement shall in all respect be governed by and interpreted in accordance with Indian laws.
- 2) The JV/C shall clearly and unambiguously identify (including their nationality) and define the role and responsibilities for each member in the JV/C agreement/ MOU submitted. In case a member is a foreign national/ entity his full credentials must also be given. Number of members in a JV/C shall not be more than three.
- 3) JV/C shall nominate a Lead member who will have the authority to incur liabilities and receive instructions for and on behalf of all members of JV/C. The execution of the entire Contract, including payments, shall be done exclusively with the Lead member and
- 4) Lead member must be one of the substantial members in the JV/C i.e., those having a minimum of 26% financial stake in the JV/C.
- 5) all of the members of such JV/C shall be jointly and severally liable to the Procuring Entity for the fulfilment of the provisions of this Contract.
- 6) Documents to be Submitted by JV/C in the Bid
  - a) In case one or more of the members of the JV/C is/are partnership firm(s), following documents shall be submitted:
    - (i) Notary certified copy of the Partnership Deed,



- (ii) Consent of all the partners to enter into the Joint Venture Agreement on a stamp paper of appropriate value (in original).
  - (iii) Power of Attorney (duly registered as per prevailing law) in favour of one of the partners of the partnership firm to sign the JV/C Agreement on behalf of the partnership firm and create liability against the firm.
- b) In case one or more members is/are Proprietary Firm or HUF, the following documents shall be enclosed:
  - (i) Affidavit on Stamp Paper of appropriate value declaring that his/his Concern is a Proprietary Concern, and he/she is sole proprietor of the Concern Or he/she is in position of "KARTA" of Hindu Undivided Family (HUF) and he/she has the authority, power and consent given by other partners to act on behalf of HUF.
- c) In case one or more members is/ are limited companies, the following documents shall be submitted:
  - (i) Notary certified copy of resolutions of the Directors of the Company, permitting the company to enter into a JV/C agreement, authorizing MD or one of the Directors or Managers of the Company to sign JV/C Agreement, such other documents required to be signed on behalf of the Company and enter into liability against the company and/or do any other act on behalf of the company.
  - (ii) Copy of Memorandum and Articles of Association of the Company.
  - (iii) Power of Attorney (duly registered as per prevailing law) by the Company authorizing the person to do/act mentioned in the sub-clause (a) above.

#### 2.5 Documents and Precedencies Thereof

Besides GCC and SCC following conditions and documents in that order of priority shall also be considered integral part of the Contract, irrespective of the fact these are not attached to the Contract document. Any generic reference to 'Contract' shall imply reference to all these documents as well:

- a) Valid and authorized Amendments issued to the Contract
- b) the Agreement consisting of the initial paragraphs, recitals other clauses set forth immediately prior to the GCC and including the Annexes thereto and signatures of Parties to the Contract;
- c) the Notification of Award
- d) the SCC and Annexes to this Contract
  - (i) Annexe 1 to Contract: Description of Services;
  - (ii) Annexe 1-A to Contract: Personnel Deployment Plan;
  - (iii) Annexe 1-B to Contract: Equipment Deployment Plan;
  - (iv) Annexe 1-C to Contract: Material Deployment Plan;
  - (v) Annexe 2 to Contract: Price Schedule; and
- e) the GCC to this Contract
- f) the Contractor's Bid;
- g) any other document listed in the SCC as forming part of this Contract.
- h) Integrity Pact if any signed in terms of the Tender Document

#### 2.6 Separate Contracts in Connection with Services

The Procuring Entity shall have the right to let other contracts related to or linked with the Services . The Contractor shall afford other Contractors reasonable opportunity for the storage of their materials and the execution of their works/services and shall properly connect and coordinate his Services with theirs. If any part of the Contractors' Services depends for proper execution or result upon the works/services of another contractor(s), the Contractor shall inspect and promptly report to the Contract Manager about any defects in such works/ services that render it unsuitable for such proper execution and results of hid Services. The Contractor's failure so to inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the performance

of Contractor's services, except as to defects which may develop in the other contractor's work after the provision of such Services.

### **3. Governing Laws and Jurisdiction**

#### **3.1 Governing Laws and Jurisdiction**

- 1) This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Laws of India for the time being in force.
- 2) Irrespective of the place of delivery, or the place of performance or the place of payments under the Contract, the Contract shall be deemed to have been made at the place from which the Notification of Award has been issued. The courts of such a place shall alone have jurisdiction to decide any dispute arising out or in respect of the Contract.
- 3) Following Laws of the country shall also be applicable and shall be considered as part of the Contract:
  - a) Indian Contracts Act, 1872
  - b) Arbitration and Conciliation Act, 1996 and its amendment acts of 2015 and 2019
  - c) Competition Act, 2002 as amended by Competition (Amendment Act), 2007
  - d) Any other law as specified in SCC or applicable as per subject matter of the Contract

#### **3.2 Labour Laws and Related Obligations**

##### **3.2.1 Independent Contractor**

- 1) The status of the Contractor shall be that of an independent contractor and Primary Employer of staff deployed during the Contract by him or his sub-contractors or other associates. The Contractor, its employees, agents, and any subcontractors performing under this Contract are not employees or agents of the Procuring Organisation or Procuring Entity or Central or State Government or their agencies/ Enterprises, simply by virtue of Services delivered pursuant to this Contract.

### 3.2.2 Obligations of the Contractor under Labour Laws and Regulations

- 1) The contractor shall be solely and independently responsible for ensuring compliance by himself and his Sub-contractors and associates with all the legal obligations related to the Labour Laws and Regulations. Contractor is himself responsible for ascertaining various law and regulations applicable in delivery of Services. However, an indicative, without being comprehensive list is as under:
  - e) Apprentices Act, 1961
  - f) Child Labour Act, 1986
  - a) Contractor Labour (Regulation and Abolition) Act, 1970
  - b) Employees' Pension Scheme, 1995
  - c) Employees' State Insurance Act, 1948
  - d) Enforcement of Employment of Manual Scavengers and construction of Dry Latrines (Prohibitions) Act, 1993
  - e) Equal Remuneration Act, 1976
  - f) Factories Act, 1948
  - g) Industrial Disputes Act, 1947
  - h) Industrial Employment (Standing Orders) Act, 1946
  - i) Maternity Benefit Act, 1961
  - j) Minimum Wages Act, 1948
  - k) Payment of Bonus Act, 1965
  - l) Payment of Gratuity Act, 1972
  - m) Payment of Wages Act, 1936
  - n) Provisions of Employees Provident Fund and Miscellaneous Provisions Act, 1952
  - o) Safai Karamcharis Act, 1993
  - p) Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
  - q) The Workman's Compensation Act, 1923
  - r) Trade Unions Act, 1926
- 2) Provisions of these laws are not being reproduced here since the Contractor is solely responsible for ascertaining such provisions and complying with them. He shall be solely responsible for submitting all the necessary returns under such provision. Nevertheless, the Contractor shall submit monthly returns to the Procuring Entity to give evidence of compliance with such laws and regulations. Failure to do so shall entitle Procuring Entity to take any measure to ensure the compliance to such laws and regulations by the Contractor and his associates including, but not limited to, withholding contractor's on-account bills.
- 3) The Procuring Entity shall without any commitments or being obliged to do, may its discretion, monitor that the Contractor shall pay the wages to their workers not below the rate of minimum wages, as notified by the State Government or Central Government, whichever is higher, through the bank transfer. The Contractor shall be required to submit every month, documentary evidence in the form of Bank Statement of having transferred the gross minimum wages to each of the workers. Failure to do so will entail in Procuring Entity taking up any measure to ensure the payment of wages including, but not limited to, withholding contractor's on-account bills.

### **3.2.3 Obligation of Contractor to ensure awareness of Labour Laws**

- 1) The Contractor has to mandatorily provide a comprehensive day-long training carried out by a certified Third-Party agency for the awareness of labour laws, grievance redressal mechanism and other provisions applicable to his and his Sub-contractor's staff, workers, labour employed by him directly or indirectly in delivery of service to the Procuring Entity. The Contractor must submit relevant documentary proof to Procuring Entity of having conducted such a training to all workers.
- 2) The Contractor must provide a comprehensive booklet (that is approved by Procuring Entity) containing all the relevant updated labour legislations, rules, and other applicable provisions, to every worker at the outset of the Contract in the local vernacular language.
- 3) Procuring Entity, without any commitments or being obliged to do, may its discretion, provide following facilities for Contract Labour working on this Contract:
  - a) Helpline for complaints from labour regarding payment of wages, work site facilities, sexual harassment etc.
  - b) Provision for recording anonymous complaints from workers, citizens etc. regarding violation of labour laws by Contractor

### **3.3 Changes in Laws and Regulations**

If after the date of 28 days prior to date of Bid submission, any law, regulation, ordinance, order or bye law having the force of law is enacted, promulgated, abrogated, or changed in India (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/ or the Contract Price, then such Delivery Date and/ or Contract Price shall be correspondingly increased or decreased, to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable.

## **4. Communications**

### **4.1 Communications**

- 1) All communications under the Contract shall be served by the parties on each other in writing, in the language of the Contract and served in a manner customary and acceptable in business and commercial transactions.
- 2) The effective date of such communications shall be either the date when delivered to the recipient or the effective date specifically mentioned in the communication, whichever is later.
- 3) No communication shall amount to amendment of the terms and conditions of the Contract, except a formal letter of amendment of Contract, so designated.
- 4) Such communications would be either an instruction, a notification, an acceptance or a certificate from the Procuring Entity or it would be a submission or a notification from the Contractor. A notification or certificate which the Contract requires must be communicated separately from other communications.
- 5) The Contract Manager shall direct the order in which the several components of the Services shall be provided, and the Contractor shall execute without delay all orders given by the Contract Manager from time to time; but the Contractor shall not be relieved thereby from responsibility for the due performance of the Services in all respects.

### **4.2 Person signing the Communications**

- 1) For all purposes of the Contract, including arbitration thereunder all communications to other party shall be signed by:
  - (a) In case of the Contractor, the person who has signed the Contract on his behalf.  
A person signing communication in respect of the Contract on purported to be

or to be on behalf of the Contractor, without disclosing his authority to do so, shall be deemed to warrant that he has authority to bind the Contractor. If it is discovered at any time, that the person so signing has no authority to do so, the Procuring Entity may, without prejudice to any other right or remedy, terminate the Contract for default in terms of clause 14.1 below and avail all the remedies available therein and hold such person personally liable to the Procuring Entity for all costs and damages arising from such remedies for termination of the Contract.

- (b) Unless otherwise stipulated in the Contract or the SCC, the Contract Manager signing the Contract shall administer the Contract and sign communications on behalf of the Procuring Entity. Beneficiaries of Services and the Paying Authorities mentioned in the Contract or SCC shall also administer respective functions during Contract Execution.

#### **4.3 Address of the parties for sending communications by the other party**

- 1) For all purposes of the Contract, including arbitration thereunder the address of parties to which all communications and notices shall be addressed by the other party shall be:
- a) The address of the Contractor mentioned in the Contract, unless the Contractor has notified change by a separate letter containing no other communication and sent by any means of acknowledged receipt to the Procuring Entity. The Contractor shall be solely responsible for the consequence of an omission to notify a change of address in the manner aforesaid, and
- b) The address of the Procuring Entity shall be the address mentioned in the Contract. Contractor shall also send additional copies to officers of the Procuring Entity presently dealing with the Contract.
- c) In case of the Procuring Entity copies of communications shall be marked to the Contract Manager and the Procuring Entity's officer signing the Contract, Beneficiaries of Services and the Paying Authorities mentioned in the Contract or SCC. Unless already specified in the Contract or SCC before the start of the Contract the Procuring Entity and the Contractor shall notify each other if additional copies of communications are to be addressed to additional addresses.

### **5. Contractor's Obligations and restrictions on its Rights**

#### **5.1 Changes in Contractor's business**

##### **5.1.1 Changes in a Firm**

No changes in the constitution of Contractor's Firm/ Entity/ JV/ Consortium shall be permitted during the execution of the Contract. The Contractor must proactively keep the Procuring Entity informed of such changes.

- 1) Where the Contractor is a partnership firm,
- a) a new partner shall not be introduced in the firm except with the previous consent in writing of the Procuring Entity, which shall be granted only upon execution of a written undertaking by the new partner to perform the Contract and accept all liabilities incurred by the firm under the Contract prior to the date of such undertaking.
- b) On the death or retirement of any partner' of the Contractor firm before complete performance of the Contract, the Procuring Entity may, at his option terminate the Contract for default in accordance with clause 14.1 and avail any or all remedies thereunder.
- c) If the Contract is not terminated as provided in Sub-clause (2) above notwithstanding the retirement of a partner from the firm that partner shall continue to be liable under the Contract for acts of the firm until a copy of the public notice given by him under Section 32 of the Partnership Act, has been sent by him to the Procuring Entity by registered post acknowledgement due.

**5.1.2 Changes in constitution/ financial stakes/ responsibilities in JV/C:**

- a) In case of JV/C, change in constitution or percentage participation shall not be permitted at any stage after their submission of bid and signing of Contract as the case may be.
- b) Any abrogation /subsequent re-assignment of any responsibility by any substantive/non-substantive member of JV/C in favour of other JV/C member or any change in constitution of members of JV/C (without written approval of Procuring Entity) from the one given in JV/C agreement/MOU at tender stage, will be treated, as
  - (i) Having renegaded from its bid within its validity if this happens before award of contract and shall be liable to penalties as per clause 8.4 of Instructions to Bidders (ITB).
  - (ii) As a 'breach of contract condition' and/or 'fraudulent practice' as the case may be if this happens after the award of contract. The Procuring Entity in such cases, may in its sole discretion take action under GCC against any member(s) for failure in Bidder's obligation and further declare member(s) of JV/C as ineligible for award of any tender or take action to terminate the Contract in part or whole under clause 14.1 of GCC as the situation may demand and recover the cost/damages as provided in contract.

**5.2 Obligation to Maintain Eligibility and Qualifications**

The Contract has been awarded to the Contractor based on certain eligibility and qualification criteria. The Contractor is contractually bound to maintain such eligibility and qualifications. Any change which would affect Contractor's eligibility or qualification to receive this Contract should be pro-actively brought to the notice of the Procuring Entity, within 7 days of it coming to Contractor's knowledge, otherwise it would amount to breach of contract and also violation of Code of Integrity. These changes include but not restricted to:

- 1) Change regarding declarations made by it in its Bid including but not restricted to:
  - a) its ownership and incorporation pattern
  - b) its status as a going concern – insolvency, bankruptcy, receivership
  - c) Suspension of its business or commercial activities for any reason including a legal proceeding
  - d) Its (including their members or affiliates or subsidiaries – including subcontractors or Contractors for any part of the Contract) being declared ineligible or debarred for corrupt and fraudulent practices or for any other misdemeanour by Government or Public Entity
  - e) Its proprietor, employee, partner or representative, directors and officers being convicted of any offence by a court involving moral turpitude in business dealings
  - f) A conflict of interest as defined in the Tender Document, having developed/ discovered between staff of the Procuring Entity and staff/ representatives of the Service Provider or its Agents, involved in the Procurement process;
  - g) Change in its declared status under the following
    - (i) restriction on entities from countries with land-borders with India,
    - (ii) Make in India provisions or local content of its offered product(s)
    - (iii) MSE and Start-up
- 2) **Change in its qualification criteria submitted in its Bid** – Experience; Past Performance; Non-performing Contracts/ Litigation; Performance Capability; Key Personnel; Critical Equipment; Financial Capability etc.

**5.3 Restriction on Potential Conflict of Interests**

- 1) During the term of this Contract and after its termination, the Contractor, and its affiliates, as well as any Subcontractor and any of its affiliates, shall be disqualified from providing goods, works, or Services (other than the subject Service of this Contract and any

continuation thereof) for any project resulting from or closely related to the subject Services of this Contract.

- 2) Neither the Contractor nor its Subcontractors nor the Personnel shall engage, either directly or indirectly, in any of the following activities:
  - a) during the term of this Contract, any business or professional activities in the India which would conflict with the activities assigned to them under this Contract.
  - b) after the termination of this Contract, such other activities as may be specified in the SCC.

#### **5.4 Consequence of breach by Constituents of a Contractor**

##### **5.4.1 In case of Partnership Firm**

- 1) Should a partner in the Contractor firm commit a default or breach of clause 5.1, it shall be lawful for the Procuring Entity to terminate the Contract for default as per clause 14.1 and avail any or all remedies available to thereunder.

##### **5.4.2 In case of Joint Venture/ Consortium**

- 1) In the event of default or breach of clause 5.1 above by any member, in the execution of his part of Contract, the Procuring Entity shall be so notified within 30 days by the Lead Member, or in the case of the Lead Member being the defaulter, by the member nominated as Lead Member of the remaining Joint Venture. The Lead Member shall, within 60 days of the said notice, assign the work of the defaulting member to any other equally competent party acceptable to the Procuring Entity to ensure the execution of that part of the Contract, as envisaged at the time of bid. Failure to comply with the above provisions or if the Lead Member himself defaults, it shall be lawful for the Procuring Entity to terminate the Contract for default as per clause 14.1 and avail any or all remedies available to thereunder.

##### **5.4.3 Decision of the Procuring Entity Shall be Final**

The decision of the Procuring Entity as to any matter or thing concerning or arising out of this clause or on any question whether the Contractor or any partner of the Contractor firm or member of JV/C has committed a default or breach of any of the conditions in this clause shall be final and binding on the Contractor.

#### **5.5 Assignment and Sub-contracting**

##### **5.5.1 Subletting and Assignment**

- 1) the Contractor shall not, save with the previous consent in writing of the Procuring Entity, sublet, transfer, or assign the Contract or any part thereof or interest therein or benefit or advantage thereof in any manner whatsoever.
- 2) the Contractor shall notify the Procuring Entity in writing of all subcontracts awarded under the Contract if not already specified in its Bid. Such notification, in its original Bid or later, shall not relieve the Contractor from any of its liability or obligation under the terms and conditions of the Contract. Subcontract shall be only for bought out services and incidental goods/ works. Subcontracts must comply with and should not circumvent Contractor's compliance with its obligations under this clause 5 of Instruction to Bidders (ITB).
- 3) If the Contractor's subletting or assigning this Contract or any part thereof without such permission, the Procuring Entity shall be entitled, and it shall be lawful on his part, to treat it as breach of contract as per clause 14.1 and avail any or all remedies there under.

#### **5.6 Obligation to Indemnify Procuring Entity**

##### **5.6.1 For breach of Patents etc.**

- 1) the Contractor shall indemnify and hold harmless, free of costs, the Procuring Entity and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which may arise in respect of the Services provided

by the Contractor under this Contract, as a result of any infringement or alleged infringement of any patent, utility model, registered design, copyright, or other Intellectual Proprietary Rights (IPR) or trademarks, registered or otherwise existing on the date of the Contract arising out of or in connection with:

- a) any design, data, drawing, specification, or other documents or Services provided or designed for or on behalf of the Procuring Entity
  - b) The sale by the Procuring Entity in any country of the services/ products produced by the Services delivered by the Contractor, and.
  - c) The delivery of the Services by the Contractor or the use of the Services at the Procuring Entity's Site
- 2) Such indemnity shall not cover any use of the Services or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the use of the Services or any part thereof, or any service/ products produced thereby in association or combination with any other service, equipment, plant, or materials not delivered by the Contractor.
  - 3) If any proceedings are brought or any claim is made against the Procuring Entity arising out of the matters referred above, the Procuring Entity shall promptly give the Contractor a notice thereof, and the Contractor may at its own expense and in the Procuring Entity's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim, keeping the Procuring Entity informed.
  - 4) If the Contractor fails to notify the Procuring Entity within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Procuring Entity shall be free to conduct the same on its own behalf at the risk and cost to the Contractor.
  - 5) The Procuring Entity shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.

#### **5.6.2 For Losses and Damages Caused by Contractor**

- 1) The Contractor shall indemnify and save harmless the Procuring Entity, from and against, all actions, suit proceedings, losses, costs, damages, charges, claims and demands of every nature and description brought or recovered against the Procuring Entity by reason of any act or omission or default or negligence or trespass of the Contractor, his agents, or employees although all reasonable and proper precautions may have been taken, in the execution of the Services wherever applicable. The Contractor shall make good at his own expense all resulting losses and/ or damages to:
  - a) the Services themselves or
  - b) any other property of the Procuring Entity or
  - c) the lives, persons, or property of others
- 2) In case the Procuring Entity shall be called upon to make good such costs, loss, or damages, or to pay any compensation, including that payable under the provisions of the Workmen's Compensation Act or any statutory amendments thereof; the amount of any costs or charges including costs and charges in connection with legal proceedings, which the Procuring Entity may incur in reference thereto, shall be charged to the Contractor. All sums payable by way of compensation under any of these conditions shall be considered as reasonable compensation to be applied to the actual loss or damage sustained, and whether or not any damage shall have been sustained.
- 3) The Procuring Entity shall have the power and right to pay or to defend or compromise any claim of threatened legal proceedings or in anticipation of legal proceedings being instituted consequent on the action or default of the Contractor, to take such steps as may be considered necessary or desirable to ward off or mitigate the effect of such proceedings, charging to Contractor, as aforesaid, any sum or sums of money which may be paid and any



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expenses whether for reinstatement or otherwise which may be incurred and the propriety of any such payment, defence or compromise, and the incurring of any such expenses shall not be called in question by the Contractor.

## 5.7 Confidentiality, Secrecy and IPR Rights

### 5.7.1 IPR Rights

All deliverables, outputs, plans, drawings, specifications, designs, reports, and other documents and software submitted by the Contractor under this Contract shall become and remain the property of the Procuring Entity and subject to laws of copyright and must not be shared with third parties or reproduced, whether in whole or part, without the Procuring Entity's prior written consent. The Contractor shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Procuring Entity, together with a detailed inventory thereof. The Contractor may retain a copy of such documents and software but shall not use it for any commercial purpose.

### 5.7.2 Confidentiality

- 1) All documents, drawings, samples, data, or other information furnished by or on behalf of the Procuring Entity to the Contractor, in connection with the Contract and the Tender Document, whether such information has been furnished prior to, during or following completion or termination of the Contract, are confidential and shall remain the property of the Procuring Entity and shall not, without the prior written consent of Procuring Entity neither be divulged by the Contractor to any third party, nor be used by him for any purpose other than the design, procurement, or other work and services required for the performance of this Contract.
- 2) The obligation of the Contractor under this Clause, however, shall not apply to information that:
  - a) now or hereafter enters the public domain through no fault of Contractor.
  - b) can be proven to have been possessed by Contractor at the time of disclosure and which information was not previously obtained, directly or indirectly, from the Procuring Entity;
  - c) otherwise lawfully becomes available to Contractor from a third party that has no obligation of confidentiality; or
  - d) is required to be shared to comply with applicable law.

### 5.7.3 Secrecy

If SCC declare the subject matter of this Contract as coming under the Official Secrets Act, 1923 or if the Contract is marked as "Secret", the Contractor shall take all reasonable steps necessary to ensure that all persons employed in any work in connection with the Contract, have acknowledged their responsibilities and penalties for violations under the Official Secrets Act and any regulations framed thereunder.

### 5.7.4 Restrictions on the Contractor

- 1) the Contractor shall not, without the Procuring Entity's prior written consent, make use of information mentioned above except for the sole purpose of performing this Contract.
- 2) The above provisions shall not in any way modify any undertaking of confidentiality (or Secrecy – as the case may be) given by the Contractor prior to the date of the Contract in respect of the Contract/ the Tender Document or any part thereof.
- 3) The provisions of this clause shall survive completion or termination for whatever reason, of the Contract.

#### **5.7.5 Protection and Security of Personal Data**

- 1) Where the Contractor is processing Personal Data, as a Data Processor or otherwise for the Procuring Entity, the Contractor shall:
  - a) Process the Personal Data only in accordance with instructions from Procuring Entity (which may be specific instructions or instructions of a general nature) as set out in this Contract or as otherwise notified by Procuring Entity;
  - b) Comply with all applicable laws;
  - c) Process the Personal Data only to the extent; and in such manner as is necessary for the provision of the Contractor's obligations under this Contract or as is required by Law or any Regulatory Body;
  - d) Implement appropriate technical and organisational measures to protect the Personal Data against unauthorized or unlawful Processing and against accidental loss, destruction, damage, alteration, or disclosure. These measures shall be appropriate to the harm which might result from any unauthorized or unlawful Processing, accidental loss, destruction, or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;
  - e) Take reasonable steps to ensure the reliability of its staff and agents who may have access to the Personal Data;
  - f) Obtain prior written consent from the Authority in order to transfer the Personal Data to any sub-contractor for the provision of the Services;
  - g) Not cause or permit the Personal Data to be transferred, stored, accessed, viewed, or processed outside of India without the prior written consent of the Procuring Entity
  - h) Ensure that all staff and agents required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause
  - i) Ensure that none of the staff and agents publish disclose or divulge any of the Personal Data to any third parties unless directed in writing to do so by the Procuring Entity
  - j) Not disclose Personal Data to any third parties in any circumstances other than with the written consent of the Procuring Entity or in compliance with a legal obligation imposed upon the Procuring Entity; and
- 2) Notify the Procuring Entity (within five Working Days) if it receives:
  - a) a request from an employee of Procuring Entity to have access to his or other employees' Personal Data; or
  - b) a complaint or request relating to the Procuring Entity' obligations under the law;
- 3) The provision of this clause shall apply during the Contract Period and indefinitely after its expiry.

#### **5.7.6 Penalties for violation**

Any breach of the aforesaid conditions shall entitle the Procuring Entity to treat it as breach of contract as per Clause 14.1 and avail any or all remedies thereunder.

#### **5.8 Performance Bond/ Security**

- 1) Within fourteen days after the issue of notification of award by the Procuring Entity, the Contractor shall furnish performance security to the Procuring Entity for an amount mentioned in the Contract (and if not mentioned equal to 10% (Ten per cent) of the total value of the Contract), valid up to sixty days after the date of completion of all contractual obligations by the Contractor, including the Service Warranty obligations, if any.
- 2) In case of JV/C all the Guarantees like Performance Guarantee, Bank Guarantee for Mobilization Advance, Machinery Advance etc. shall be accepted only in the name of the JV/C and no splitting of guarantees amongst the members of the JV/C shall be permitted.

- 3) The Performance security shall be denominated in Indian Rupees or in the currency of the Contract and shall be in one of the following forms:
  - a) Unless otherwise stipulated in SCC, Account Payee Demand Draft or Fixed Deposit Receipt drawn on any commercial bank in India, in favour of the Procuring Entity.
  - b) Bank Guarantee issued by a commercial bank in India, in the prescribed form as provided in Annexe 3 to Contract Form.
- 4) If the Contractor, having been called upon by the Procuring Entity to furnish security, fails to make and/ or maintain a performance security within the specified period, it shall be lawful for the Procuring Entity:
  - (a) To recover from the Contractor the amount of such security deposit by deducting the amount from the pending bills of the Contractor under the Contract or any other contract with the Procuring Entity or the Government or any person contracting through the Procuring Organisation or otherwise howsoever, or
  - (b) To treat it as breach of contract as per Clause 14.1 and avail any or all remedies thereunder.
- 5) In the event of any amendment issued to the Contract, the Contractor shall, within fourteen days of issue of the amendment, furnish suitably amended value and validity of the Performance Security in terms of the amended Contract.
- 6) The Procuring Entity shall be entitled, and it shall be lawful on his part,
  - (a) to deduct from the performance securities or to forfeit the said security in whole or in part in the event of:
    - (i) any default, or failure or neglect on the part of the Contractor in the fulfilment or performance in all respect of the Contract under reference or any other contract with the Procuring Organisation or any part thereof
    - (ii) for any loss or damage recoverable from the Contractor which the Procuring Entity may suffer or be put to for reasons of or due to above defaults/ failures/ neglect
  - (b) and in either of the events aforesaid to call upon the Contractor to maintain the said performance security at its original limit by making further deposits, provided further that the Procuring Entity shall be entitled, and it shall be lawful on his part, to recover any such claim from any sum then due or which at any time thereafter may become due for similar reasons.
- 7) Subject to sub-clause above, the Procuring Entity shall release the performance security without any interest to the Contractor on completion of the Contractor's all contractual obligations including the Service Warranty obligations, if any.
- 8) No claim shall lie against the Procuring Entity in respect of interest on cash deposits or Government Securities or depreciation thereof.

#### 5.9 Insurances

- 1) The Contractor (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at its (or the Subcontractors', as the case may be) own cost but on terms and conditions approved by the Procuring Entity, insurance against the risks, and for the coverage, as specified in the Contract/ GCC/ SCC or any applicable law including Labour Laws; and at the Procuring Entity's request, shall provide evidence to the Procuring Entity showing that such insurance has been taken out and maintained and that the current premiums have been paid.
- 2) The Contractor at his cost shall provide, in the joint names of the Procuring Entity and the Contractor, insurance cover from the Start Date to the date of completion, in the amounts and deductibles as per the instructions of the Contract manager and the Contract for the following events which are due to the Contractor's risks:
  - a) loss of or damage to Equipment, materials for which advances have been paid;

- b) loss of or damage to property of the Procuring Entity in connection with the Contract; and
  - c) Personal injury or death.
  - d) Penalties and demands by labour regulatory authorities
- 3) Insurance policies and certificates for insurance shall be delivered by the Contractor to the Engineer for the Engineer's approval before the Start Date. All such insurance shall provide for compensation to be payable in Indian Rupees to rectify the loss or damage incurred.
  - 4) Alterations to the terms of insurance shall not be made without the approval of the Employer.
  - 5) Both parties shall comply with any conditions of the insurance policies.

#### **5.10 Permits, Approvals and Licenses**

Whenever the delivery of Services and incidental Goods/ Works requires the Contractor to obtain permits, approvals, and licenses from local public authorities, it shall be sole responsibility of the Contractor to obtain these and keep these current and valid. This may include but not be restricted to licences or environmental clearance, if required. The Procuring Entity shall, if required by the Contractor, make its best effort to assist the Contractor in complying with such requirements in a timely and expeditious manner, without any dilution of Contractor's responsibility in this regard.

#### **5.11 Accounting, Inspection and Auditing**

The Contractor shall keep accurate and systematic accounts and records in respect of the provision of the Services under this Contract, in accordance with accounting principles prescribed in India.

#### **5.12 Book Examination Clause**

*If so explicitly specified in SCC or the Contract*, the Procuring Entity reserves the right for 'Book Examination' as follows:

- 1) the Contractor shall whenever called upon and required to produce or cause to be produced for examination by any Government Officer duly authorised in that behalf, any cost or other account book of account, voucher, receipt, letter, memorandum, paper or writing or any copy of or extract from any such document and also furnish information any way relating to such transaction and procedure before the duly authorised Government Officer returns verified in such manner as may be required relating in any way to the execution of this Contract or relevant for verifying or ascertaining the cost of execution of this Contract (the decision of such Government Officer on the question of relevancy of any document, information of return being final and binding on the parties). The obligation imposed by this clause is without prejudice to the obligation of the Contractor under any statute, rules or orders shall be binding on the Contractor.
- 2) the Contractor shall, if the authorised Government Officer so requires (whether before or after the prices have been finally fixed), afford facilities to the Government Officer concerned to visit the Contractor's works for the purpose of examining the processes of manufacture and estimating or ascertaining the cost of production of the articles. If any portion of the work be entrusted or carried out by a sub-contractor or any of its subsidiary or allied firm or company, the authorised Government Officer shall have power to examine all the relevant books of such subcontractor or any subsidiary or allied firm or company shall be open to his inspection as mentioned in sub-clause above.
- 3) If on such examination, it is established that the Contracted price is in excess of the actual cost-plus reasonable margin of profit, the Procuring Entity shall have the right to reduce the price and determine the amount to a reasonable level.
- 4) The Contractor or its agency is bound to allow examination of its books within a period of 60 days from the date the notice is received by the Contractor, or its agencies calling for the production of documents as under sub-clause (1) above. In the event of Contractor's or his agency's failure to do so, the Contract price would be reduced and determined according to

the best judgment of the Procuring Entity which would be final and binding on the Contractor and his agencies.

**5.13 Custody and Return of the Procuring Entity's Materials/ Equipment/ Documents loaned to Contractor**

- 1) Unless stipulated in the SCC or the Contract, no asset/ property/ drawings/ material/ samples/ equipment/ utility shall be provided or loaned to the Contractor for performance of the Contract. Whenever such assets are required to be issued to the Contractor as per the Contract, these would be issued only as per terms and conditions specified therein and against appropriate safeguards prescribed therefor in the Contract (Insurances, Bank Guarantee, Indemnity Bonds, Retention Money etc). The Contractor shall use such property for the purpose of the execution of the Contract and for no other purpose whatsoever.
- 2) All such property shall be deemed to be in good condition when received by the Contractor unless he has within twenty-four hours of the receipt thereof notified the Procuring Entity to the contrary, otherwise he shall be deemed to have lost the right to do so at any subsequent stage.
- 3) Such assets of the Procuring Entity provided/ loaned to the Contractor shall remain to be the property of the Procuring Entity. The Contractor shall be liable for loss or damage to such property from whatever cause happening while such property is in the possession of or under the control of the Contractor, his Staff, workmen or agents.
- 4) Where such property is insured by the Contractor against loss or fire at the request of the Procuring Entity such insurance shall be deemed to be by way of additional precaution and shall not prejudice the liability of the Contractor as aforesaid.
- 5) The Contractor shall return all such property in good working condition, before the completion/ closure/ termination of the Contract and shall be responsible for the full value thereof to be assessed by the Procuring Entity whose decision shall be final and binding.

**6. Obligations of Procuring Entity**

**6.1 Facilities to be Provided by the Procuring Entity**

No Facilities (including Reference Documents, Medical, Rooms, Furniture, Transport, Electricity connection, Water connection, Access to IT Services etc.) other than those specifically stipulated in TIS/ Schedule of Requirement, shall be provided by the Procuring Entity to Contractor at Site. Unless otherwise stipulated in the SCC/ Contract any utilities if stipulated to be provided, shall be provided on chargeable basis and the Contractor must ascertain the rate of charge thereof.

**6.2 Provision of Utilities at Site by Procuring Entity**

- 1) Unless otherwise stipulated in the SCC or the Contract, The Procuring Entity may supply to the Contractor part or whole of the quantity of the water and electricity required for the delivery of Services from the Procuring Entity's existing water/ electricity supply system at or near the site of Services on specified terms and conditions and free of cost (unless specified otherwise), provided that the Contractor shall arrange, at his own expense, to effect the connections and lay additional pipe/ power lines and accessories on the site.
- 2) Nevertheless, it shall be responsibility of The Contractor to install adequate back-up arrangements like DG Sets and Tankers to tide over outages in utilities.
- 3) In case interruption or failure in supply of these utilities by the Procuring Entity, the Contractor shall be responsible for making alternative arrangements of these utilities necessary for the services. and that the Contractor shall not be entitled to any compensation— nor shall this be a reason for delay in delivery of Services.

**6.3 Procuring Entity's Assets to be Loaned or Hired to The Contractor**

- 1) The Contractor shall take all reasonable care of all tools, plant and materials or other property whether of a like description or not belonging to the Procuring Entity and

committed to his charge for the purpose of the Services and shall be responsible for all damage or loss caused by his, his agents, permitted subcontractor, or his workers or others while they are in his charge. The Contractors shall sign accountable receipts for tools, plants and materials made over to his by the Contract Manager and on completion of the Services shall hand over the unused balance of the same to the Contract Manager in good order and repair, fair wear and tear excepted, and shall be responsible for any failure to account for the same or any damage done thereto.

- 2) The Procuring Entity may hire to the Contractor non-key Equipment owned and sparable by Procuring Entity for use during execution of the Services on such terms as may be specified in the special conditions or in a separate agreement for Hire of such equipment.

## 7. Scope of Services

### 7.1 Scope of Services

- 1) This Contract is for the delivery of the Services on/ during specified the date or dates and of the description, scope/ quantum, performance standards, and quality assurance set forth in the Contract.
- 2) The Contractor shall deliver Services and submit to the Procuring Entity the reports, deliverables, outputs, and documents as specified in Annexe 1 to Contract: Description of Services.
- 3) The Services shall include all such work-elements not specifically mentioned in this Contract but that can be reasonably inferred from this Contract as being required for attaining Completion of the Services as if such items were expressly mentioned in this Contract.

### 7.2 Eligible Services - Country of Origin and Minimum Local Content

Unless otherwise stipulated in SCC or Contract, country of origin of 'Services' and related 'Goods' under the Contract shall have their origin in India or other countries and must conform to declaration made by the Contractor in its Bid regarding but not limited to i) restrictions on certain countries with land-borders with India; ii) minimum local content (Make in India Policy); iii) Contractor's status as MSE or Start-up. The term "origin" used in this clause means the place from where the Services (and related works, including subcontracted components) are arranged and delivered or related goods are mined, grown, produced, or manufactured. For purposes of this Clause, the term 'Services' shall have the meaning as defined in Clause 1.1.

### 7.3 Quantity Tolerance

Unless otherwise stipulated in the SCC, the obligation for completing Services shall be considered complete if the Services have been performed to the tolerance of plus or minus 5% of the quantity or of total value of Services ordered in the Contract. Only the actually delivered quantity shall be paid for as per the terms of the Contract.

### 7.4 Contract Period and Option Clause

#### 7.4.1 Contract Period

Unless otherwise stipulated in SCC/ Contract, the Contract Period for which the Service shall be provided shall be one year from the effective date of the Contract, unless sooner completed or terminated as provided in GCC.

#### 7.4.2 Option Clause

Unless otherwise stipulated in the SCC/ Contract, the Procuring Entity shall have the right to exercise following options, by written notification to the Contractor no later than thirty (30) days prior to Contract end:

- 1) extend the Contract Period only once (unless otherwise stipulated in SCC/ Contract) by four months period (unless otherwise stipulated in SCC/ Contract).
- 2) increase the ordered quantum of Services by 25% at any time, till final completion date of the Contract, by giving reasonable notice and providing a reasonable extension in delivery period for increased quantum, even though the quantum ordered initially has been delivered in full before the completion Period.



## **8. Measurement, Variations and Modifications**

### **8.1 Quantities in Contract**

The quantities set out in the Contract are the estimated quantities of the Services and they shall not be taken as the actual and correct quantities of the Services to be executed by the Contractor in fulfilment of his obligations under the Contract. Payment shall be made for the actual quantities deployed/ delivered; however, payments shall not be made for quantities over and above those indicated in the Contract unless extra quantity has been asked in a written order by the Contract manager.

### **8.2 Admeasurement of Inputs and Services**

- 1) Measurements shall be recorded on the basis of day-to-day records maintained by Contactor and authenticated by the Contract manager or his representative as per agreed Works Programme as updated.
- 2) The Contractor shall be paid for the Inputs /Services at the rates in the Contract and for extra inputs/ Services at rates determined under Clause 8.4 of these Conditions on the measurements taken by the Contract Manager or the Contract Manager's representative. The quantities for items the unit of which in the Contract is 100 or 1000 shall be calculated to the nearest whole number, any fraction below half being dropped and half and above being taken as one; for items, the unit of which in the Contract is single, the quantities shall be calculated to two places of decimals. Such measurements will be taken of the Services in progress from time to time and at such intervals as in the opinion of the Contract Manager shall be proper having regard to the progress of Service. The date and time on which 'on account' or 'final' measurements are to be made shall be communicated to the Contractor who shall be present at the site and shall sign the results of the measurements (which shall also be signed by the Contract Manager or the Contract Manager's representative) recorded in the official measurements book as an acknowledgement of his acceptance of the accuracy of the measurements.
- 3) Failing the Contractor's attendance, the service may be measured up in his absence and such measurements shall, notwithstanding such absence, be binding upon the Contractor whether or not she shall have signed the measurement books provided always that any objection made by him to measurement shall be duly investigated and considered in the manner set out as following:
- 4) It shall be open to the Contractor to take specific objection to any recorded measurements or Classification on any ground within seven days of the date of such measurements. Any re-measurement taken by the Contract Manager or the Contract Manager's representative in the presence of the Contractor or in his absence after due notice has been given to his in consequence of objection made by the Contractor shall be final and binding on the Contractor and no claim whatsoever shall thereafter be entertained regarding the accuracy and classification of the measurements. If an objection raised by the Contractor is found by the Contract Manager to be incorrect, then the Contractor shall be liable to pay the actual expenses incurred in measurements.

### 8.3 Variations and Claims

#### 8.3.1 Powers of Variations

- 1) The Contract Manager on behalf of the Procuring Entity shall be entitled by order in writing to enlarge or extend, diminish or reduce the Services or make any alterations in their design, character, inputs, site, quantities, dimensions or in the method of their execution or in the combination and use of materials for the execution thereof or to order any additional service to be done or any Services not to be done and the Contractor will not be entitled, to any compensation for any increase/reduction in the quantities of work but will be paid only for the actual amount of work done and for approved materials supplied against a specific order.
- 2) Unless otherwise stipulated in the special conditions of the Contract, the accepted variation in quantity of each individual item of the Contract would be upto 25% of the quantity originally contracted. The Contractor shall be bound to carry out the service at the agreed rates and shall not be entitled to any claim or any compensation whatsoever upto the limit of 25% variation in quantity of individual item of services.
- 3) In case after internal approvals the Contract Managers decides to increase the variation beyond 125% of Contracted quantity, the rates and acceptability shall be mutually agreed upon.
- 4) As far as Price Schedule items are concerned, the limit of 25% would apply to the value of Contract as a whole and not on individual items. However, in case of items not in Price Schedule the limit of 25% would apply on the individual items irrespective of the manner of quoting the rate (single percentage rate or individual item rate).

#### 8.3.2 Valuation of Variations

The variation referred to in Sub-Clause 8.3.1 above shall in no degree affect the validity of the Contract; but shall be performed by the Contractor as provided therein and be subject to the same conditions, stipulations, and obligations as if they had been originally and expressively included and provided for in the Contract and the amounts to be paid therefore shall be calculated in accordance with the Price Schedule. Any extra items/quantities of Services falling outside the purview of the provisions of Price Schedule above shall be paid for at the rates determined under Clause –8.4 of these Conditions.

#### 8.4 Rates for Extra Items

- 1) Any additional item of work carried out by the Contractor on the instructions of the Contract Manager which is not included in the Price Schedule shall be executed at the rate agreed upon between the Contract Manager and the Contractor before the execution of such items of work.
- 2) The Contractors shall be bound to notify the Contract Manager at least seven days before the necessity arises for the execution of such items of Services for which the Price Schedule/ Contract does not include rate or rates.
- 3) The rates payable for such items shall be decided at the meeting to be held between the Contract Manager and Contractor, in as short a period as possible after the need for the special item has come to the notice. In case the Contractor fails to attend the meeting after being notified to do so or in the event of no settlement being arrived at, the Procuring Entity shall be entitled to execute the extra works by other means and the Contractor shall have no claim for loss or damage that may result from such procedure.
- 4) Provided that if the Contractor commences work or incurs any expenditure in regard thereto before the rates as determined and agreed upon as mentioned above, then and in such a case the Contractor shall only be entitled to be paid in respect of the Services carried out or expenditure incurred by him prior to the date of determination of the rates as aforesaid according to the rates as shall be fixed by the Contract Manager. However, if the Contractor is not satisfied with the decision of the Contract Manager in this respect, she

may appeal to the Head of Procurement within 30 days of getting the decision of the Contract Manager, supported by analysis of the rates claimed. The Head of Procurement's decision after hearing both the parties in the matter would be final and binding on the Contractor and the Procuring Entity.

## 9. Performance Standards and Quality Assurance

### 9.1 Performance Standards

- 1) The Contractor shall perform the Services in accordance with Annexe1 to Contract: Description of Services, and carry out its obligations with all due diligence, efficiency, and economy, observing sound management practices, and employ appropriate advanced technology and safe methods in accordance with the performance standards and quality control parameters as specified in the Contract. For matters where the Contract does not specify any Standard, the Services delivered shall conform to National/ International Standards or generally accepted professional techniques and practices.
- 2) **Damages for Lack of Performance:**In cases, where performance or/and quality of Services is/are found to be dissatisfactory, Procuring Entity or his representatives shall impose Damages for Lack of Performance, but not as a penalty, without having to prove actual loss incurred as per clause 12.9 below. This levy of damages shall not absolve the Contractor from rectification or reperformance of the defective Service without any further payment.

### 9.2 Quality Control and Defect Liability

- 1) The Procuring Entity shall check the quality of the Services and shall inspect the Contractor's performance according to the relevant section(s) of Annexe1 to Contract: Description of Services. The Procuring Entity shall promptly give notice to the Contractor of any defects that are identified, requesting the correction of the notified defect within a reasonable time.
- 2) If the Contractor has not corrected a Defect within the time specified in the Procuring Entity's notice, the Procuring Entity shall assess the cost of having the defect corrected. Without prejudice to any and all of its other remedies under this Contractor applicable law, procuring Entity shall be legally entitled to deduct such cost from the Contract's payments, together with the damages for lack of performance (as per clause above), a sum equivalent to the percentage specified in the Contract.

## 10. Deployment of Resources

### 10.1 Site and Assets thereon

#### 10.1.1 Site of Service Delivery

- 1) The site shall be the lands, spaces, and other places on, under, in or through which the Services are to be carried out and any other lands or places provided by the Procuring Entity for the purpose of the Contract.
- 2) No land or building or any other asset belonging to or in the possession of the Procuring Entity shall be occupied by the Contractor without the permission of the Procuring Entity. The Contractor shall not use, or allow to be used, the site for any purposes other than that of executing, or in relation to the execution of the services.
- 3) **Facilities for Inspection:** The Contractor shall afford the Contract Manager and the Contract Manager's Representative every facility for entering in and upon every portion of the site at all hours for the purpose of inspection or otherwise and shall provide all facilities of every kind required for the purpose and the Contract Manager and the Contract Manager's Representative shall at all times have free access to every part of the site and to all places at which materials / tools and plant for the Services are stored or being prepared.
- 4) **Existing Roads and Waterways:** Existing roads or water courses shall not be blocked, cut through, altered, diverted, or obstructed in any way by the Contractor, except with the permission of the Contract Manager. All compensations claimed for any unauthorized closure, cutting through, alteration, diversion or obstruction to such roads or water courses by the Contractor or his agent or his staff shall be recoverable from the Contractor by deduction from any sums which may become due to him in terms of Contract, or otherwise according to law.
- 5) **Non-Obstruction of Access:** During progress of Services in any street or thoroughfare, the Contractor shall make adequate provision for the passage of traffic, for securing safe access to all premises approached from such street or thoroughfare and for any drainage, water supply or means of lighting which may be interrupted by reasons of the execution of the Services and shall react and maintain at his own cost barriers, lights and other safeguards as prescribed by the Contract Manager, for the regulation of the traffic, and provide watchers necessary to prevent accidents.
- 6) **No Obstruction to Flow of Work and Personnel of Procuring Entity:** Contractor shall arrange his work in consultation with the Contract Manager in such a manner to avoid obstruction to normal flow of work and personnel of the Procuring Entity at the site, preferably utilising non-business hours for such obstructive or hazardous activities.

#### 10.1.2 Temporary Works at Site

- 1) The Contractor shall at his own expense provide himself with temporary works e.g. sheds, yards and storehouses in such situations and in such numbers as in the opinion of the Procuring Entity is requisite for performing the Services and the Contractor shall keep at each such sheds, yards and store-houses a sufficient quantity of materials / plant in stock as not to delay the performance of the Services with due expedition and the Procuring Entity and its representative shall have free access to the said sheds/yards/ store houses at any time for the purpose of inspecting the stock of materials or plant so kept in hand, and any materials or plant which the Procuring Entity may object to shall not be brought upon or used in the services, but shall be forthwith removed from the sheds/yards/store houses by the Contractor.

#### 10.1.3 Security Arrangements

- 1) Contractor shall put in place security arrangements at site against unauthorised access/ trespass, pilferage, theft, leakage or misuse of property or belongings of his own or his staff or of Procuring Entity and its Staff by his staff or third parties or trespassers.

2) **Preservation of Peace**

- a) The Contractor shall take requisite precautions and use their best endeavours to prevent any riotous or unlawful behaviour by or amongst their workers and others, employed directly or through the petty contractors or sub-contractors for services, and for the preservation of peace and protection of the inhabitants and security of property in the neighbourhood of the site of services.
  - b) In the event of the Procuring Entity requiring the maintenance of a special Police Force at or in the vicinity of the site during the tenure of service Contract, the expenses thereof shall be borne by the Contractor and if paid by the Procuring Entity shall be recoverable from the Contractor.
- 3) **Prohibition of Smoking and Intoxicants:** The Contractor or his staff or any labour employed through sub-contractors or petty contractors, shall be prohibited from Smoking in 'No Smoking Zone' and Public Places and also prohibited from the use of any intoxicating substances including, but not limited to, intoxicating beverages during the service period or on site or near the site or in any of the facilities, sites, buildings, encampments, or tenements owned, occupied by or within the control of the Contractor or any of his/ his employees. The Contractor shall exercise influence and authority to the utmost extent to secure strict compliance with this condition.

**10.1.4 Clearance of Site on Completion**

- 1) On completion of the services, the Contractor shall clear away and remove from the site all tools /plants and surplus materials, rubbish and temporary works of every kind and leave the whole of the site clean to the satisfaction of the Contract Manager.
  - a) If temporary huts are provided by the Contractor on the Procuring Entity land for labour engaged by him for the execution of services, the Contractor shall arrange for handing over vacant possession of the said land after the service is completed.
  - b) No final payment in settlement of the accounts for the Services shall be paid, held to be due or shall be made to the Contractor till, in addition to any other condition necessary for final payment, site clearance shall have been affected by him.
  - c) In the event of failure on the part of the Contractor to comply with this provision within 7 days after receiving notice for clearance of Procuring Entity's site and lands, the Contract Manager shall cause them to be removed by means of public sales of such materials and property or in such a way as deemed fit and convenient to the Contract Manager and cost as increased by supervision and other incidental charges shall be recovered from the Contractor. If the Contractor's labour refuse to vacate and have to be ejected following due process by the Procuring Entity, necessary expenses incurred by the Procuring Entity in connection therewith shall be borne by the Contractor. The Procuring Entity shall not be held liable for any loss or damage to such of the Contractor's property as may be on the site and due to such removal.

**10.1 Key and Non-key Personnel**

**10.1.1 Key Personnel**

- 1) The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Contractor's Key Personnel are described in Annexe1-A to Contract.
- 2) Except as the Procuring Entity may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Contractor, it becomes necessary to replace any of the Key Personnel, the Contractor shall provide as a replacement a person of equivalent or better qualifications, subject to sub-clause 10.1.4 below.

**10.1.2 Non-Key Personnel**

- 1) The Contractor must ensure deployment of non-key Personnel as per the Personnel Deployment Plan in Annexe 1-A to Contract and as per approved Works Programme as updated. In the event of the Contract Manager being of the opinion that the Contractor is not employing on the Services a sufficient number of staff and workers as is specified or otherwise for proper execution of the Services within the prescribed procedure and time, the Contractor shall forthwith on receiving intimation to this effect deploy the additional number of staff and labour as specified by the Contract Manager immediately and failure on the part of the Contractor to comply with such instructions shall entitle the Procuring Entity to penalize the Contractor for lack of performance or terminate the Contract as per clause 14.1 and avail all the available remedies thereunder. Such action shall be in addition of deduction from Contractor's payment cost of shortfall personnel as per Annexe 1-A to Contract.
- 2) The Contractor shall also deploy efficient and competent supervisory staff to give the necessary directions to his workers and to see that they provide their Services in proper and desirable manner and shall employ only such supervisors, workers & labour in or about the execution of any of these Services as are careful and skilled in the various trades. Daily attendance record of such supervisors and labour shall be maintained.
- 3) Procuring Entity reserves its right to ask for additional manpower and the Contractor shall be contractually bound to provide such manpower at one week's advance notice – which shall be paid extra at rates quoted.
- 4) **Police Verification of Labour employed by Contractor:** The Contractor is required to submit Police Verification certificates in a format prescribed by the Police Department (or as directed by the Contract Manager) for all contractual staff that he will be hiring for delivery of Services for Procuring Entity.
- 5) **Restrictions on the Employment of Retired Staff or Officers or Managers of Procuring Entity Services within One Year of their Retirement:** The Contractor shall not, himself be a retired Government Manager of Gazetted rank, or engage any employee or associate who is a retired Government Manager of Gazetted rank, if such persons have not completed one year from the date of retirement, in connection with this Contract in any manner whatsoever without obtaining prior permission of the relevant authority. If the Contractor is found to have contravened this provision it will constitute a breach of contract and Procuring Entity shall be entitled to terminate the Contract as per clause 14.1 and avail all available remedies thereunder.
- 6) The Contractor shall, when he is not personally present on the site of the workplace, shall keep a responsible agent during working hours who shall on receiving reasonable notice, present himself to the Contract Manager, and orders given by the Contract Manager or his representative to the agent shall be deemed to have the same force as if they had been given to the Contractor. Before absenting herself, the Contractor shall furnish the name and address of his agent for the purpose of this clause and failure on the part of the Contractor to comply with this provision at any time will entitle the Procuring Entity to terminate the Contract under Clause 14.1 of the GCC and avail all the available remedies thereunder.

#### 10.1.3 **Contract Labour Records and System**

A comprehensive record needed for contract labour management and monitoring attendance (Identity Cards, Labour Records, Attendance, Time Sheets, Training Record, acknowledgements of labour laws) for efficient performance and for safeguarding workers' welfare must be maintained by the Contractor and shall be inspected during Site Inspections by the Contract Manager. This system shall be put in place by the Contractor unless otherwise stipulated in the Special Conditions of Contract. If so specified in Special

**Comment [GB1]:** Details can be cut

Conditions of Contract<sup>7</sup>, use of a computerised Contract Labour Management system shall be mandatory.

**10.1.4 Removal of Personnel on Orders of Contract manager**

- 1) If the Procuring Entity finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Contractor shall, at the Procuring Entity's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Procuring Entity, subject to sub-clause 2) below.
- 2) The Contractor shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

**10.1.5 Environmental, Social, Health, and Safety, Requirements:**

- 1) Provisions for Workers:
  - a) The Contractor shall at his own expense make adequate arrangements for the housing, supply of drinking water and provision of clean sanitation including urinals etc. for his staff and workers, directly or through the petty contractors or sub-contractors
  - b) The Contractor shall also make provision for temporary creche (Bal-mandir) where 50 or more workers are employed at a time.
  - c) Suitable sites on Procuring Entity's land, if available, but without any obligation to do so, may be allotted to the Contractor for the erection of labour camps, either free of charge or on such terms and conditions that may be prescribed by the Procuring Entity.
  - d) All camp sites shall be maintained in clean and sanitary conditions by the Contractor at his own cost.
- 2) During the execution of services, unless otherwise stipulated in SCC, the Contractor shall at his own cost provide the materials for and execute all Services as is necessary
  - a) for the safety, hygiene, satisfaction, elegance, acceptance, proper handling of assets and shall ensure that no damage, injury, or loss is caused or likely to be caused to any person or assets or hindrance to other works / services.
  - b) For environmental requirements to conserve energy, water, wood, paper, and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment
- 3) Medical Facilities: The Contractor shall provide medical facilities at the site as may be prescribed by the Contract Manager on the advice of the Procuring Entity's Medical Authority in relation to the strength of the Contractor's resident staff and workers. This shall include a First-Aid facility manned with staff trained in first aid as per labour laws or as per Contract Manager's directions.
- 4) Medical Certificate of Fitness for Labour

The Contractor shall not employ a person below 18 years of age. For the purpose of delivery of Services under the Contract, unless a medical certificate of fitness in the prescribed form under labour regulation (or as directed by the Contract manager) granted to each worker by a certifying surgeon certifying that he is fit to work as an adult, is obtained and kept in the custody of the Contractor or a person nominated by him in this behalf and the person carries with him, while at work, a token giving a reference to such certificate.

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<sup>7</sup> in labour intensive service contracts i.e., facility management and housekeeping etc

- a) Period of Validity of Medical Fitness Certificate: A certificate of fitness granted or renewed for the above said purposes shall be valid only for a period of one year at a time. The certifying surgeon shall revoke a certificate granted or renewed if in his opinion the holder of it is, no longer fit for work in the capacity stated therein. Where a certifying surgeon refuses to grant or renew a certificate or revoke a certificate, he shall, if so required by the person concerned, state his reasons in writing for doing so.
- b) Medical Re-Examination of Labour: Where any official appointed in this behalf by the Ministry of Labour is of the opinion that any person employed in connection with the execution of any work under this Contract in the age group 18 to 65 years is without a certificate of fitness or is having a certificate of fitness but no longer fit to work in the capacity stated in the certificate, he may serve on the Contractor, or on the person nominated by him in this regard, a notice requiring that such persons shall be examined by a certifying surgeon and such person shall not if the concerned official so directs, be employed or permitted to do any work under this Contract unless he has been medically examined and certified that she has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be.

#### 10.1.6 Mandatory Compliance of Government Welfare Schemes

- 1) The Contractor must ensure and provide documentary evidence for the following and must submit documentary evidence to show the coverage of all her workers or labour under the above-mentioned schemes at all times during the Contract period on an annual basis:
  - a) All the workers or labour employed directly or indirectly by the Contractor must be enrolled under the Pradhan Mantri Jan Dhan Yojana (PMJDY), a scheme that aims to provide all the citizens of India a bank account, credit facility, insurance cover and debit card.
  - b) All the workers or labour employed directly or indirectly by the Contractor between the ages 18-70 years must be enrolled under the Pradhan Mantri Suraksha Bima Yojana (PMSBY), an accident insurance scheme which will be a one-year cover, renewable from year to year, offering accidental death and disability cover for death or disability on account of an accident. The Contractor will be responsible to pay the premium per annum per member for all her workers during the Contract period.
  - c) All the workers or labour employed directly or indirectly by the Contractor between the ages 18-50 years must be enrolled under the Pradhan Mantri Jeevan Jyoti Bima Yojana, an insurance scheme which will be a one-year cover, renewable from year to year, offering life insurance cover for death due to any reason. The Contractor will be responsible to pay the premium per annum per member for all her workers during the Contract period.

#### 10.1.7 Safety Issues

- 1) The Contractor shall be responsible for the safety of all activities on the Site.
- 2) The Contractor shall be responsible for safety of all persons, employed by him on Site, directly or through petty contractors or Sub-Contractors, and shall report accidents to any of them, however, and wherever occurring on Works, to the Contract manager or his representative, and shall make every arrangement to render all possible assistance and to provide prompt and proper medical attention. The compensation for affected Workers or their relatives shall be paid by the Contractor in such cases expeditiously in accordance with the Workmen's Compensation Act and other labour Laws and regulations.
- 3) **Safety of Public and Third parties:** The Contractor shall be *responsible to take all precautions to ensure* the safety of the public and third parties, whether on public or Procuring Entity's property and shall post such look out, such persons as may, in the opinion of the Contract Manager, be required to comply with regulations appertaining to the service. No explosives shall be used for the Services rendered or on the site by the Contractor.



#### 10.2 Key and Non-key Equipment, Tools and Plants

- 1) The details of Key Equipment required to be deployed are described in Annexe 1-B to Contract.
- 2) Except as the Procuring Entity may otherwise agree, no changes shall be made in the deployment of Key Equipment. If, for any reason beyond the reasonable control of the Contractor, it becomes necessary to replace any of the Key Equipment, the Contractor shall provide as a replacement an Equipment of equivalent or better performance.
- 3) The Contractor must ensure deployment of non-key Equipment as per the Equipment Deployment Plan in Annexe 1-B to Contract and as per approved Works Programme as updated. In the event of the Contract Manager being of the opinion that the Contractor is not employing on the Services a sufficient Equipment/Tools/ Plant as is specified or otherwise for proper execution of the Services within the prescribed procedure and time, the Contractor shall forthwith on receiving intimation to this effect deploy the additional equipment/ tools/ plants as specified by the Contract Manager immediately and failure on the part of the Contractor to comply with such instructions shall entitle the Procuring Entity to penalize the Contractor under lack of performance or terminate the Contract as breach of contract. Such action shall be in addition of deduction from Contractor's payment cost of shortfall Equipment as per Equipment Deployment Plan in Annexe 1-B to Contract.
- 4) The Contract Manager or his Representative shall be entitled to order within the time specified in the order:
  - a) The removal of any materials/ equipment/ tools/ plants which in their opinion are not in accordance with the performance standards
  - b) The substitution of proper and suitable materials/ equipment/ tools/ plants

#### 10.3 Materials Deployment

- 1) Deployment of adequate inventory and supply chain of materials specified and provided in the Contract or that may be necessary for delivery of Services or for Personnel and Equipment deployed shall be of specified specification and quality and if not so specified as per the best of market and business practices. The materials may be subjected to tests by means of such machines, instruments and appliances as the Procuring Officer may direct and wholly at the expense of the Contractor.
- 2) Except as the Procuring Entity may otherwise agree, no changes shall be made in the deployment, inventory, or supply chain of such materials. If, for any reason beyond the reasonable control of the Contractor, it becomes necessary to do so, the Contractor shall provide as a replacement by materials of equivalent or better quality.
- 3) The Contractor must ensure deployment of materials as per the Materials Deployment Plan in Annexe 1-C to Contract and as per approved Works Programme as updated. In the event of the Contract Manager being of the opinion that the Contractor is not employing on the Services sufficient materials/ inventory as is specified or otherwise for proper execution of the Services within the prescribed procedure and time, the Contractor shall forthwith on receiving intimation to this effect deploy additional materials/ inventory as specified by the Contract Manager immediately and failure on the part of the Contractor to comply with such instructions shall entitle the Procuring Entity to penalize the Contractor under lack of performance or terminate the Contract as breach of contract. Such action shall be in addition of deduction from Contractor's payment cost of shortfall materials as per Materials Deployment Plan in Annexe 1-C to Contract.

#### 10.4 Property in Equipment and Materials brought to Site

The materials and plant brought by the Contractor upon the site or on the land occupied by the Contractor in connection with the Services and intended to be used for the execution thereof shall immediately, as they are brought upon the site of the said land, be deemed to be the property of the Procuring Entity. Such of them as during the progress of the Services

are rejected by the Contract Manager under Clause 10.2 -4) of these conditions or are declared by him not to be needed for the execution of the Services or such as on the grant of the certificate of completion remain unused, shall immediately on such rejection, declaration or grant cease to be deemed the property of the Procuring Entity and the Contractor may then (but not before) remove them from the site or the said land. This clause shall not in any way diminish the liability of the Contractor nor shall the Procuring Entity be in any way answerable for any loss or damage which may happen to or in respect of any such materials or plant either by the same being lost, stolen, damaged, or destroyed by fire, tempest or otherwise.

## 11. Delivery of Services and delays

### 11.1 Works Programme

- 1) Before commencement of the Services, the Contractor shall submit for approval of the Contract Manager a Works Programme showing the Methods; schedule of delivery of services, the deployment plans for Personnel; Equipment and Materials for execution of the services. The programme of delivery of Services amended as necessary by discussions with the Contract Manager, shall be treated as the agreed Works programme for the purpose of this Contract. The Services shall be carried out and monitored in accordance with the approved Program as updated.
- 2) Unless otherwise stipulated in SCC or agreed between the parties, the Works Programme shall be based on round-the-clock (24X7) operations without violation of statutory regulations.

### 11.2 Compliance to Contract Manager's Instructions

- 1) The Contract Manager shall direct the order in which the several components of the Services shall be provided, and the Contractor shall execute without delay all orders given by the Contract Manager from time to time; but the Contractor shall not be relieved thereby from responsibility for the due performance of the Services in all respects.
- 2) Any instructions or approval given by the Contract Manager's representative to Contractor in connection with the Services shall bind the Contractor as though it had been given by the Contract Manager provided always as follows -
  - a) Failure of the Contract Manager's representative to disapprove any work/ Services or materials shall not prejudice the power of the Contract Manager thereafter to disapprove such Services or material and to order the rectification thereof.
  - b) If the Contractor shall be dissatisfied by reason of any decision of the Contract Manager's representative, he shall be entitled to refer the matter to the Head of Procurement through the Contract Manager who shall there upon confirm or vary such decision.
- 3) **Compliance with Contractor's Request for Details:** The Contract Manager shall furnish with reasonable promptness, after receipt of the Contractor's request for the same, additional instructions by means of procedures, specifications or otherwise, necessary for the proper performance of the Services or any part thereof. All such procedures, specifications and instructions shall be consistent with the Contract Documents and reasonably inferable therefrom.

### 11.3 Commencement of Services

- 1) Contractor shall commence the Services (all dates of delivery shall be counted from such a date) and shall proceed with due expedition and without delay, from the effective date of Contract which shall be the date (whichever is later) on which
  - a) Contract has been signed by the Procuring Entity or
  - b) Contract is received by the Contractor or
  - c) Is mentioned in the Contract as the effective date, or

- d) within 15 days after the receipt of an order (unless specified otherwise in that order) in writing to this effect from the Contract Manager or as directed by him

#### **11.4 Time for Delivery of services and Extensions Thereof**

The time and uninterrupted delivery of Services shall be deemed to be the essence of the Contract and subject to any requirement in the Contract as to completion of any portions or portions of the Services before completion of the whole, the Contractor shall fully and finally complete the whole of the services comprised in the Contract (with such modifications as may be directed under conditions of this Contract) in accordance with the Delivery and Completion Schedule specified in Annexe 1 to Contract: Description of Services. If at any time during the currency of the Contract, the Contractor encounters conditions hindering timely performance of services, the Contractor shall promptly inform the Procuring Entity in writing about the same and its likely duration and make a request to the Procuring Entity for extension of the delivery schedule. On receiving the Contractor's communication, the Procuring Entity shall examine the situation and, at its discretion, may agree to extend the completion schedule, with or without liquidated damages and with and without denial clause by issuing an amendment to the Contract in terms of the following clauses.

##### **11.4.1 Extension Due to Modification**

If any modifications have been ordered which in the opinion of the Contract Manager have materially increased the time for delivery of the services, then such extension of the Contracted date of completion may be granted as shall appear to the Contract Manager to be reasonable in the circumstances, provided moreover that the Contractor shall be responsible for requesting such extension of the date as may be considered necessary as soon as the cause thereof shall arise and in any case not less than one month before the expiry of the date fixed for completion of the services.

##### **11.4.2 Extension for Delay Not Due to either Procuring Entity or Contractor**

- 1) If in the opinion of the Contractor, the progress of Services has any time been delayed due to following reasons, then within 15 days of such happening causing delay, he shall give notice thereof in writing to the Contract Manager, but shall nevertheless do due diligence to bring down or make good the delays and to proceed with the services:
  - a) any act or neglect of Procuring Entity's employees or
  - b) other contractor employed by the Procuring Entity or in executing the work/service not forming part of the Contract but on which Contractor's performance necessarily depends or
  - c) proceeding taken or threatened by or dispute with external third parties arising otherwise than from the Contractor's own default etc. or
  - d) delay authorized by the Contract Manager pending arbitration or in consequences of the Contractor not having received in due time necessary instructions from the Procuring Entity for which he shall have specially applied in writing to the Contract Manager or his authorized representative
- 2) The Contractor may also indicate the period for which the Services is likely to be delayed and shall be bound to ask for necessary extension of time. The Contract Manager on receipt of such request from the Contractor shall consider the same and shall grant such extension of time as in his opinion is reasonable having regard to the nature and period of delay and the type and quantum of work affected thereby. No other compensation shall be payable for works so carried forward to the extended period of time, the same rates, terms, and conditions of Contract being applicable as if such extended period of time was originally provided in the original Contract itself.

##### **11.4.3 Extension for Delay Due to Procuring Entity**

In the event of any failure or delay by the Procuring Entity, in discharging following obligations under the Contract or that are necessary for the delivery of the services, then

such failure or delay shall in no way affect or vitiate the Contract or alter the character thereof or entitle the Contractor to damages or compensation therefore, but in any such case, the Procuring Entity shall grant such extension or extensions of the completion date as may be considered reasonable:

- a) hand over to the Contractor possession of the site or
- b) give the necessary notice to commence the services, or
- c) provide the necessary facilities/ documents/ data or instructions or
- d) any other delay caused by the Procuring Entity due to any other cause whatsoever.

**11.4.4 Extension of Time for Delay Due to Contractor**

- 1) If the Contractor fails to deliver the Services within the period fixed for such delivery in the Contract or as extended or at any time or repudiates the Contract before the expiry of such period for the reasons other than the reasons specified in sub-clauses above, the Procuring Entity may, if satisfied that the service delivery can be completed by the Contractor within reasonable short time, thereafter, allow the Contractor further extension of time as the Contract Manager may decide.
- 2) On such extension, the Procuring Entity shall be entitled without prejudice to any other right and remedy available on that behalf, to recover from the Contractor as agreed damages and not by way of penalty Liquidated Damages as per clause 12.9 below.
- 3) Provided further, that if the Procuring Entity is not satisfied that the service can be completed by the Contractor or in the event of failure on the part of the Contractor to complete the service within further extension of time allowed as aforesaid, the Procuring Entity shall be entitled without prejudice to any other right or remedy available in that behalf, treat the delay as a breach of contract as per clause 14.1 below and avail any or all the remedies therein, whether or not actual damage is caused by such default.
- 4) Inordinate Delays: Delay due to the Contractor of more than one-fourth (25%) of the total completion period shall be treated as inordinate delays and may (at the discretion of the Contract manager) amount to breach of the Contract. Such inordinate delays shall be noted as poor performance against the Contractor. A show-cause notice shall be issued to the Contractor before declaring it as a breach of the Contract or poor performance. Such poor performance would disable the Contractor from qualifying in future tenders.

## **11.5 Suspension of Services**

### **11.5.1 Suspension Ordered by Contract Manager**

The Contractor shall on the order of the Contract Manager, suspend the progress of the Services or any part thereof for such time or times and in such manner as the Contract Manager may consider necessary, and shall during such suspension, properly protect and secure the site and assets so far as is necessary in the opinion of the Contract Manager. If such suspension is -

- a) Provided for in the Contract, or
- b) Necessary for the proper execution of the Services or by the reason of extraneous conditions or by some default on the part of the Contractor, and or
- c) Necessary for the safety of the Services or any part thereof

### **11.5.2 Extension of Time and Compensation**

The Contractor shall not be entitled to the extra costs, if any, incurred by him during the period of suspension of the service, but in the event of any suspension ordered by the Contract Manager for reasons other than aforementioned and when each such period of suspension exceeds 14 days, the Contract Manager shall extend the time of service for completion of the Services as he may consider proper, having regard to the period or periods of such suspensions and to such compensations as the Contract Manager may consider reasonable in respect of salaries or wages paid by the Contractor to his employees/ workers during the periods of such suspension.

### **11.5.3 Suspension Lasting More Than 3 Months**

If the progress of the Services or any part thereof is suspended on the order of the Contract Manager for more than three months at a time, the Contractor may serve a written notice on the Contract Manager requiring permission within 15 days from the receipt thereof to proceed with the service or that part thereof in regard to which progress is suspended and if such permission is not granted within that time the Contractor by further written notice may, but is not bound to, elect to treat the suspension where it affects part only of the service as an omission of such part or where it affects the whole of the services, as an abandonment of the Contract by the Procuring Entity.

## **11.6 Force Majeure**

- 1) On the occurrence of any unforeseen event, beyond the control of either Parties, directly interfering with the delivery of Services arising during the currency of the Contract, such as war, hostilities, acts of the public enemy, civil commotion, sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes, lockouts, or acts of God, the affected Party shall, within a week from the commencement thereof, notify the same in writing to the other Party with reasonable evidence thereof. Unless otherwise directed by the Procuring Entity in writing, the Contractor shall continue to perform its obligations under the Contract as far as reasonably practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event. If the force majeure condition(s) mentioned above be in force for a period of 90 days or more at any time, either party shall have the option to terminate the Contract on expiry of 90 days of commencement of such force majeure by giving 14 days' notice to the other party in writing. In case of such termination, no damages shall be claimed by either party against the other, save and except those which had occurred under any other clause of this Contract prior to such termination.
- 2) Notwithstanding the remedial provisions contained in GCC clause 14, none of the Party shall not be seeking any such remedies or damages for the delay and/ or failure of the other Party in fulfilling its obligations under the Contract if it is the result of an event of Force Majeure.

## **12. Prices and Payments**

### **12.1 Prices**

### 12.1.1 Firm Prices

Unless otherwise stipulated in the SCC or the Contract, Prices shall be fixed and firm. In case a Price Variation Clause is included, such up and down variations shall also be payable.

### 12.2 Taxes and Duties

- 1) the Contractor shall be entirely responsible for all taxes, duties, fees, levies etc. incurred until delivery of the Contracted Services to the Procuring Entity. Further instruction, if any, shall be as provided in the SCC.
- 2) If applicable under relevant tax laws and rules, the Procuring Entity shall deduct from all payments and deposit these to respective authorities on account of GST Reverse Charge Mechanism; Tax Deducted at Source (TDS) and Tax Collected at Source (TCS) relating to Income Tax, labour cess, royalty etc.
- 3) **Payment of GST Tax under the Contract:**
  - (a) Wherever the successful bidder invoices the Services at GST rate or HSN number which is different from that incorporated in the Contract; payment shall be made as per GST rate which is lower of the GST rates incorporated in the Contract or billed. The Procuring Entity shall not be responsible for the payment of tax or duty made by the Contractor under misapprehension of law. Contractor shall be required to adjust his basic price to the extent required by higher tax billed as per invoice to match the all-inclusive price as mentioned in the Contract.
  - (b) The payment of GST and GST Cess to Contractor shall be made only on the latter submitting a Bill/ invoice in accordance with the provision of relevant GST Act and the rules made there under. While claiming reimbursement of duties, taxes etc. (like GST) from the Procuring Entity, the Contractor shall also certify that, in case he gets any refund out of such taxes and duties from the concerned authorities at a later date, he shall refund to the Procuring Entity, the Procuring Entity's share out of such refund immediately on receiving the same from the concerned authorities.
  - (c) All necessary adjustment vouchers such as Credit Notes/ Debit Notes for any short/ excess supplies or revision in prices or for any other reason under the Contract shall be submitted to the Procuring Entity in compliance with GST provisions.
  - (d) In case of profiteering by the Contractor relating to GST tax, the Contractor shall be liable to administrative actions such as deregistration, suspension of business dealing and/ or banning of business dealing, in addition to recovery and action by the GST authorities under the Act.
  - (e) Contractor should issue Receipt vouchers immediately on receipt of all types of payments along with tax invoice after adjusting advance payments if any as per Contractual terms and GST Provisions.
  - (f) Any late delivery i.e., delivery after the due date attracts payment of damages by the vendor/ Contractor as agreed mutually. It is agreed by the Contractor that such damages become recoverable by the Procuring Entity with applicable GST thereon.
- 4) **GST Compliance Rating of Bidders:**
  - (a) Contractor of Goods/ Services shall make all out efforts to comply with the provisions under GST Act and Rules thereunder and also strive to maintain high compliance rating score under GST during the period of Contract with the Procuring Entity.
  - (b) In case the GST rating of vendor on the GST portal/ Govt. official website is negative/ blacklisted, then
    - (i) the bids shall be rejected by the Procuring Entity, if award of contract has not yet been announced
    - (ii) If this happens after award of work for supply of goods/ services, then the Procuring Entity shall not be obligated or liable to pay or reimburse GST to such Contractors and shall also be entitled to deduct/ recover such GST along with all penalties/ interest, if any, incurred by the Procuring Entity.

- (c) In the event of default on Contractor's part in payment of tax and submission/ uploading of monthly returns, the Procuring Entity shall be well within its contractual right to withhold payments, especially the tax portion, until Contractor corrects the default and/ or complies with the provisions of GST and produces satisfactory evidence to that effect or upon GST appearing on the Procuring Entity's GST portal.

**5) Statutory Variations:**

Any amendment to GST rate or HSN number in the Contract shall be as per the Contractual conditions and statutory amendments in the quoted GST rate and HSN number. Unless a different intention appears from the terms of the Contract, statutory variations in duties and taxes shall be only allowed during the original or re-fixed delivery period but not during any extension period.

**12.3 Terms and Mode of Payment**

- 1) Unless otherwise stipulated in SCC, usual payment term is 100% on delivery and acceptance of Services at 'the Site' by the Procuring Entity and on production of all required documents by the Contractor.
- 2) The payments shall be made in the manner as per Procuring Entity's payment procedures. Unless otherwise stipulated in the SCC, payments above INR 5,000 (or any other threshold specified in SCC/ Contract) to Contractors shall be made through ECS only. The Contractor shall give his consent in a mandate form for receipt of payment through NEFT. In case of non-payment through EFT, or where EFT facility is not available, payment may be released through cheque.
- 3) In Domestic Contracts payments shall only be made in Indian Rupees. In case of Foreign Contractor in Global Tenders, payment shall be made in the currency/ currencies authorized in the Contract. However, agency commission and local value addition shall be paid only in Indian Rupees.
- 4) the Contractor shall send its claim for payment in writing as per GST compliant Invoice and documents, when contractually due, along with relevant documents etc., duly signed with date, as specified in Contract and in a manner as also specified therein.
- 5) While claiming payment, the Contractor is also to certify in the bill that the payment being claimed is strictly in terms of the Contract and all the obligations on the part of the Contractor for claiming that payment has been fulfilled as required under the Contract.
- 6) **Withholding and lien in respect of sums claimed:**
  - a) Whenever any claim or claims for payment of a sum of money arises out of or under the Contract against the Contractor, the Procuring Entity shall be entitled, and it shall be lawful on his part, to withhold and also have a lien to retain such sum or sums, in whole or in part pending finalisation or adjudication of any such claim from -
    - (i) any security or retention money, if any, deposited by the Contractor.
    - (ii) In the event of the security being insufficient to cover the claimed amount or amounts or if no security has been taken from the Contractor, from any sum or sums found payable or which at any time thereafter may become payable to the Contractor under the same Contract or any other contract with the Procuring Entity.
  - b) Where the Contractor is a partnership firm or a limited company, the Procuring Entity shall be entitled, and it shall be lawful on his part, to withhold and also have a lien to retain towards such claimed amount or amounts in whole or in part from any sum found payable to any partner/ limited company, as the case may be, whether in his individual capacity or otherwise.
  - c) It is an agreed term of the Contract that the sum of money or moneys so withheld or retained under the lien referred to above, by the Procuring Entity shall be kept withheld or retained as such by the Procuring Entity till the

claim arising out of or under the Contract is determined by the Arbitrator (if the Contract is governed by the Arbitration Agreement) or by the competent court, as the case may be, and that the Contractor shall have no claim for interest or damages what so ever on any account in respect of such withholding or retention under the lien referred to supra and duly notified as such to the Contractor.

- d) Lien in respect of Claims in other Contracts: Any sum of money due and payable to the Contractor (including the security deposit returnable to him) under the Contract may be withheld or retained by way of lien by the Procuring Entity or Government against any claim of the Procuring Entity or Government in respect of payment of a sum of money arising out of or under any other contract made by the Contractor with the Procuring Entity or Government.

#### **12.4 Payments to Contractor**

- 1) Time Based (Inputs admeasurement): Unless instructed in writing by the Procuring entity, payments shall not be made for any extra inputs deployed over and above the Input Deployment Plans (Personnel, equipment, materials etc) mentioned in the Contract. Nevertheless, if such inputs are deployed less than those stipulated therein, deductions shall be made based on the rates indicated for the inputs (Personnel, equipment, materials etc) in the Contract.
- 2) Unit-Rate (Output admeasurements): Unless otherwise stipulated, payments shall be made every month for volume of Services actually rendered during the period.
- 3) Lump-sum: Unless otherwise stipulated, payments shall be made only on completion of Services.
- 4) Percentage (of Value of Transactions): The payment for the total price of Services calculated at the percentage of the actual value of Activities rendered, shall be made either every month or on completion of milestones or on completion of entire Services whichever is stipulated in the Contract.

##### **12.4.1 "On-Account" Payments**

The Contractor shall be entitled to be paid every month (unless otherwise stipulated in SCC or the Contract) by way of "On-Account" payment, only for such Services, as in the opinion of the Contract Manager, the Contractor has executed in terms of the Contract. All payments due against the Contract Manager's or his Representative's certificates of measurements shall be subject to any deductions, which may be made under the Contract, always provided that, the Contract Manager may by any certificate make any correction or modification in any previous certificate, which shall have been issued by him. The Contract Manager may withhold any certificate, if the Services or any part thereof are not being carried out as per the contractual performance standards.

##### **12.4.2 On Account Payments Not Prejudicial to Final Settlement**

"On-Account" payments made to the Contractor shall be without any prejudice to the final settlement of the accounts (except where measurements are specifically noted in the Measurement Book as "Final Measurements" and as such have been signed by the Contractor) and shall in no respect be considered or used as evidence of any facts stated in or to be inferred from such accounts nor of any particular quantity of service having been executed nor of the manner of its execution being satisfactory.

##### **12.4.3 Advance Payments**

- 1) If SCC/ Contract specifically provides for Advance Payments to be made to the Contractor, following procedure shall apply.
- 2) On the request of the Contractor, the Procuring Entity shall make the following advance payment (subject to a maximum of 10% (ten percent) of the initial contract price) to the Contractor against submission by the Contractor of an Unconditional Bank Guarantee from



a scheduled Commercial bank acceptable to the Procuring Entity in amounts equal to 110% (one hundred ten percent) of the amount of the advance payment being requested:

- a) Mobilization advance up to 5% (five percent) of the initial contract price
  - b) Equipment Advance up to 90 % (ninety percent) of the cost of the new equipment brought to the site,
- 3) The Bank Guarantee shall remain effective until the advance payment has been repaid, but the amount of the guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest will not be charged on the advance payment. However, if the Contract is terminated due to default of the Contractor, the Mobilization Advance and the Equipment Advance shall be deemed to be an interest-bearing advance at the base rate of the State Bank of India, as application on the date of such advance payment.
  - 4) The Contractor is to use the advance payment only to pay for Equipment, plant and Mobilization expenses required specifically for performance of Services. The Contractor shall demonstrate that the advance payment has been used in this way by supplying copies of invoices or other documents to the Contract Manager.
  - 5) The advance payment shall be recovered by deducting proportionate amounts from payments otherwise due to the Contractor for the construction work. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, or liquidated damages.

#### **12.4.4 Preconditions for Passing the Bills**

- (a) Contract Manager shall ensure and cross check with all relevant records before passing the bills of the Contractor.
- (b) Contractor shall ensure that gross Minimum wages including ESI, EPF etc. is paid as per the actuals by the Contractor to all workers and portions to be deposited with the relevant authorities has also been deposited by him. In case, if the Contractor fails to pay the gross minimum wages, the same shall be informed to Regional Labour Commissioner.
- (c) Contract Manager shall ensure that all the relevant records related to statutory obligations and agreement conditions are submitted by the Contractor for claiming monthly bills.
- (d) Procuring Entity shall upload the details of the Contractor online on the Employees' Provident Fund Organisation (EPFO) portal. Every month, Procuring Entity may, if required, cross - verify the Contractor's monthly statements regarding EPF and other contributions from the EPFO's records online. The Contractor is required to provide documentary evidence to show the coverage of all his workers or labour under the schemes mentioned in Clause 3.3 on an annual basis. Upon verification of the records by Procuring Entity, payments can be released to the Contractor.

### **12.5 Completion Certificate and Final payment**

#### **12.5.1 Completion Certificate**

- 1) Upon a written intimation from the Contractor, the Contract Manager shall issue a certificate of completion duly indicating the date of completion after satisfying himself of the following:
  - a) that the whole of the Services to be done under the provisions of the Contracts have been completed or when any such certificate is given in respect of part of a service, such part shall be considered as completed
  - b) that they have been inspected by him since their completion and found to be in good and substantial order,
  - c) that such completed services have satisfactorily passed any final test or tests that may be prescribed,
  - d) that all properties, works and things, removed, disturbed, or damaged in consequence of the Services have been properly replaced and

- e) that the Contractor has returned in good condition, all assets loaned or hired from the Procuring Entity and has given a satisfactory account of payments made to or retained by the Procuring Entity for such loaned/ hired assets,
  - f) that the Contractor has made good and satisfied in conformity with the Contract all expenses and demands:
    - (i) incurred by or made upon by the Procuring Entity
    - (ii) for or in the respect of damages or losses from or in consequence of the services,.
- 2) The Contract Manager may also issue such a certificate indicating date of completion with respect to any part of the service (before the completion of the whole of service), which has been completed to the satisfaction of the Contract Manager.

**12.5.2 Approval Only by Completion Certificate:**

No certificate other than completion certificate referred to in Clause 12.5.1 of the Conditions shall be deemed to constitute approval of any service or other matter in respect of which it is issued or shall be taken as an admission of the due performance of the Contract or any part thereof or of the accuracy of any claim or demand made by the Contractor or of additional varied work having been ordered by the Contract Manager nor shall any other certificate conclude or prejudice any of the powers of the Contract Manager.

**12.5.3 Cessation of Procuring Entity's Liability**

After the issue of Completion Certificate, the Procuring Entity shall not be liable to the Contractor for any matter arising out of or in connection with the Contract for the delivery of the Services, unless the Contractor shall have made a claim in writing in respect thereof before the issue of the Completion Certificate for service in Contract.

**12.5.4 Unfulfilled Obligations**

Notwithstanding the issue of Completion Certificate for service. the Contractor and the Procuring Entity, shall remain liable for the fulfilment of any obligation incurred under the provision of the Contract prior to the issue of the Completion Certificate for service, which remains unperformed at the time such certificate is issued. For the purposes of determining the nature and extent of any such obligations, the Contract shall be deemed to remain in force between the parties thereto.

**12.5.5 Final Payment**

On the Contract Manager's certificate of completion in respect of the services, the Contractor shall submit a Final bill based.. The Final payment shall be made as per following calculations to the contractor after receiving a clear "No Claim Certificate" signed from him:

- 1) total quantity of service executed by the Contractor upto the date of completion based on the Contract Manager or his representative's certified measurements
- 2) priced at the rates in the Price Schedule in the Contract and for extra works on rates determined under Clause 8.4 of these Conditions
- 3) necessary adjustment for any payments already made or retained
- 4) any deduction which may be made under the Contract,
- 5) a full account of all claims Contractor may have on the Procuring Entity and the Contract Manager given a certificate in writing that such claims are correct,

**12.5.6 Post Payment Audit**

Notwithstanding the issue of Completion Certificate and release of final Payment, the Procuring Entity reserves the right, to carry out within 180 days (unless otherwise stipulated in SCC/ Contract) of such completion/ final payment, a post-payment audit and/ or technical examination of the Services and the final bill including all supporting vouchers, abstracts etc. If as a result of such examination any over-payment to the Contractor is discovered the Procuring Entity shall be entitled to make a claim on the Contractor for the refund of any excess amount paid to him.

**12.5.7 Production of Vouchers etc. by the Contractor**

Section IV: General Conditions of Contract (GCC)

- 1) For a Contract of more than Rs 2 crore, the Contractor shall, whenever required, produce or cause to be produced for examination by the Contract Manager, any quotation, invoice, cost or other account, book of accounts, voucher, receipt, letter, memorandum, paper of writing or any copy of or extract from any such document and also furnish information and returns verified in such manner, as may be required in any way relating to the execution of this Contract, or relevant for verifying or ascertaining cost of execution of this Contract (and the decision of the Contract Manager on the question of relevancy of any documents, information or return being final and binding on the parties). The Contractor shall similarly produce vouchers etc., if required to prove to the Contract Manager, that input materials used by him, are in accordance with the specifications laid down in the Contract.
- 2) If any portion of the service in a Contract of value more than Rs 2 crore be carried out by a sub-contractor or any subsidiary or allied firm or company (as per Clause 5.5 of the General Conditions of Contract), the Contract Manager shall have power to demand similar vouchers and document from them for his inspection.
- 3) The obligations imposed by this clause is without prejudice to the obligations of the Contractor under any statute, rules or orders binding on the Contractor.

#### **12.5.8 Signature on Receipts for Amounts**

Every receipt for money, which may become payable, or for any security which may become transferable to the Contractors, under the Contract, shall, if signed in the partnership name by any one of the partners of a Contractor's firm (or by any member of JV/C) be a good and sufficient discharge to the Procuring Entity in respect of the moneys or security purported to be acknowledged thereby. In the event of death of any of the Contractor, partners, members of JV/C during the pendency of the Contract, every receipt by anyone of the surviving constituents shall be good and sufficient discharge as aforesaid. Nothing in this Clause shall be deemed to prejudice or effect any claim which the Procuring Entity may hereafter have against the legal representative of any contractor partner/member so dying for or in respect to any breach of any of the conditions of the Contract. Nothing in this clause shall be deemed to prejudice or effect the respective rights or obligations of the Contractor partners/ members and of the legal representatives of any deceased Contractor partners/ members inter se.

#### **12.6 Price Variation Clause**

##### **12.6.1 Price Variation Clause**

- 1) In case the Contracts provides for a Price Variation Clause, the price shall be subject to adjustment during original Delivery Period to take care of the changes in the cost of labour, material, and fuel/ power components in accordance with the price variation formula specified therein. The amount payable on account of Price variation shall be settled every quarter.
- 2) However, as regards taxes and duties, and damages for Lack of Performance or Liquidated Damages, if any, chargeable on the Services and payable, the conditions stipulated in clause 12.9 shall apply for both firm price tender and variable price tender.
- 3) While claiming payments where Price Variation Clause (PVC) is applicable, the Contractor must submit with each invoice its calculations for PVC, even if payment on account of these variations is nil.
- 4) **Applicability:** If Contract includes some materials supplied by Procuring Entity free or at fixed rate, such payments shall be excluded from the value of the Service performed in the relevant quarter for the purpose of payment/recovery Of price variation.
- 5) **Base Month and Quarter:** Unless otherwise stipulated in SCC/ Contract, the Base Month for 'Price Variation Clause' shall be taken as month of opening of bids including extensions, if any, unless otherwise stated elsewhere. The Base Quarter for applicability of PVC shall commence from the month following the Base Month. The Price Variation shall be based on the relevant Index of the relevant quarter under consideration as per the formula.

- 6) **No Other Claim due to Variations:**With the payment of price variations no additional individual claim shall be admissible on account of fluctuations in market rates, increase in taxes/any other levies/tolls etc. except that payment/recovery for overall market situation shall be made as per Price Variation Clause given hereunder.

#### **12.7 Payment Against Time Barred Claims**

All claims against the Procuring Entity shall be legally time barred after a period of three years calculated from the date when the payment falls due unless the payment claim has been under correspondence. The Procuring Entity is entitled to and it shall be lawful for it to reject such claims.

#### **12.8 Commissions and Fees**

The Service Provider shall disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents with respect to the selection process or execution and performance of this Contract. The information disclosed must include the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee in a format similar to Form 1.3 of the Tender Document.

#### **12.9 Damages and Deductions Thereof**

##### **12.9.1 Right of the Procuring Entity to recover Damages**

Procuring Entity shall be entitled to and it shall be lawful for him to recover damages for Lack of Performance and Liquidated damages as per clauses from all payments due or from any Performance Security or from any retention money. This clause does not limit Procuring Entity from imposing more than one damages under the Contract and such damages will be applicable concurrently.

##### **12.9.2 Damages for Lack of Performance**

Subject to GCC clause 9.1, if the Contractor fails to perform the Services as per Performance Standards and Quality incorporated in the Contract, the Procuring Entity shall, without prejudice to other rights and remedies available to the Procuring Entity under the Contract, deduct from the Contract price, as damages for Lack of Performance, but not as a penalty, a sum equivalent to the 0.1% percent (or any other percentage if prescribed in the SCC) of the delivered price (including elements of GST & freight) of the defective Services.

##### **12.9.3 Liquidated damages**

- 1) Subject to GCC clause 11.4, if the Contractor fails to perform the Services within the time frame(s) incorporated in the Contract, the Procuring Entity shall, without prejudice to other rights and remedies available to the Procuring Entity under the Contract, deduct from the Contract price, as liquidated damages, but not as a penalty, a sum equivalent to the 0.1% percent (or any other percentage if prescribed in the SCC) of the delivered price (including elements of GST & freight) of the delayed Services for each week of delay or part thereof until actual delivery or performance. During such a delayed period of performance, beside liquidated damages, the denial clause as per clause 12.9.4 shall also apply.
- 2) Any failure or delay on the part of sub-contractor, though their employment may have been sanctioned under clause 5.5 above, shall not be admitted as a ground for any extension of time or for exempting the Contractor from liability for any such loss or damage as aforesaid.

##### **12.9.4 Denial Clause:**

- 1) No increases in price on account of any statutory increase in or fresh Imposition of GST, or on account of any other taxes/ duty/ cess/ levy), leviable in respect of the Services and incidental goods/ works specified in the said Contract which takes place after the original delivery date, shall be admissible on such of the said Services, as are delivered after the said date; and

- 2) Notwithstanding any stipulation in the Contract for increase in price on any other ground including price variation clause no such increase which takes place after the original delivery date shall be admissible on such of the said Services as are delivered after the said date.
- 3) But nevertheless, the Procuring Entity shall be entitled to the benefit of any decrease in price on account of reduction in or remission of GST, or on account of any other Tax or duty or on any other ground as stipulated in the price variation clause which takes place after the expiry of the original delivery date.

#### **12.9.5 Limit on total Damages**

However, deduction on account of various damages, put together shall be subject to a maximum of the 10% (or any other percentage if prescribed in the SCC) of the delivered price (including elements of GST & freight) of the entire value of Contract of Services.

#### **12.10 Claims**

##### **12.10.1 Monthly Claim Statement**

The Contractor shall prepare and furnish to the Contract Manager once in every month an account giving full and detailed particulars of all claims for any additional expenses to which the Contractor may consider himself entitled to and of all extra or additional works ordered by the Contract Manager which he has executed during the preceding month and no claim for payment for and such work will be considered which has not been included in such particulars.

##### **12.10.2 Signing Of "No Claim" Certificate**

The Contractor shall not be entitled to make any claim whatsoever against the Procuring Entity under or by virtue of or arising out of this Contract, nor shall the Procuring Entity entertain or consider any such claim, if made by the Contractor, after he shall have signed a "No Claim" Certificate in favour of the Procuring Entity in such form as shall be required by the Procuring Entity after the works are finally measured up. The Contractor shall be debarred from disputing the correctness of the items covered by "No Claim" Certificate or demanding a clearance to arbitration in respect thereof.

#### **13.Resolution of Disputes**

##### **13.1Disputes and Excepted Matters**

All disputes and differences between the parties hereto as to the construction or operation of this Contract; or the respective rights and liabilities of the parties on any matter in question; or on any other account whatsoever but excluding the Excepted Matters (detailed below); arising out of or in connection with the Contract; whether during the currency of the Contract or after its delivery; and whether before or after the completion/ termination of the Contract that cannot be resolved amicably between the Contract Manager and the Contractor, shall be hereinafter called the "Dispute". The Dispute shall be resolved without recourse to courts through dispute resolution mechanisms detailed subsequently, in the sequence as mentioned below and the next mechanism shall not be invoked unless the earlier mechanism has been invoked or has failed to resolve it within the deadline mentioned therein. Aggrieved party shall give a 'Notice of Dispute' indicating the Dispute and claims with relevant Contractual clause to the designated authority requesting for invoking the mechanism.

- 1) Adjudication
- 2) Conciliation
- 3) Arbitration

##### **13.2Excepted Matters**

Matters for which provision has been made in any Clause of the Special or General Conditions of the Contract shall be deemed as 'excepted matters' (matters not disputable/ arbitrable) and decisions of the Procuring Entity, thereon shall be final and binding on the Contractor. The 'excepted matters' shall stand specifically excluded from the purview of the

sub-clauses below, including Arbitration. However, where the Procuring Entity has raised the dispute, this sub-clause shall not apply. Unless otherwise stipulated in SCC, excepted matters shall include but not limited to:

- 1) Issues related to pre-award tender process or conditions
- 2) Issues related to ambiguity in Contract terms shall not be taken up after a Contract has been signed, all such issues should be highlighted before signing of the Contract by the Contractor
- 3) Provisions incorporated in the Contract, which are beyond the purview of The Procurement Entity or are in pursuance of policies of Government, including but not limited to
  - (i) Provisions regarding local content and Class-I Local suppliers in terms of Make in India policy of the Government
  - (ii) Provisions regarding restrictions on Entities from Countries having land-borders with India in terms of Government's policies in this regard.
  - (iii) Purchase preference policies in regard to MSEs and Start-ups

### 13.3 Adjudication

After exhausting efforts to resolve the Dispute with the Contract Manager executing the Contract on behalf of the Procuring Entity, the Contractor shall give a 'Notice of Dispute' specifying the matters which are in question, or subject of the dispute or difference indicating the relevant contractual clause, as also the amount of claim item-wise to Head of Procuring Organisation (hereinafter called the "Adjudicator") for invoking resolution of dispute through Adjudication. During his adjudication, the Adjudicator, shall give adequate opportunity to the Contractor to present his case. The Adjudicator shall, within 60 days after receipt of the representation, make and notify decisions on all matters referred to by the Contractor in writing. The parties shall not initiate, during the adjudication proceedings, any conciliation or arbitral or judicial proceedings in respect of dispute that is the subject matter of the conciliation proceedings. If not satisfied by the decision in adjudication, the Contractor may proceed to invoke the process of Conciliation as follows.

### 13.4 Conciliation of disputes

- 1) Any of the parties may invoke Conciliation by submitting "Notice of Dispute" specifying the matters which are in question, or subject of the dispute or difference indicating the relevant contractual clause, as also the amount of claim item-wise to the Head of Procuring Organisation. Since conciliation is a voluntary process, the Head of Procuring Organisation shall, provided the other party is agreeable to enter Conciliation, within 30 days after receipt of "Notice of Dispute", notify the name of sole conciliator to the parties. If other party is not agreeable to Conciliation, the aggrieved party shall be informed to invoke Arbitration if he so chooses to do.
- 2) The Conciliator shall proactively assist the parties to reach an amicable settlement in an independent and impartial manner within the terms of Contract.
- 3) If the parties reach agreement on settlement of the dispute, they shall draw up a written settlement agreement duly signed by parties and conciliator. When the parties sign the settlement agreement, it shall be final and binding on the parties. The conciliation/ dispute shall be treated as resolved on the date of such agreement.
- 4) The parties shall not initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of dispute that is the subject matter of the conciliation proceedings.
- 5) Termination of Conciliation: Disputes shall remain alive if the conciliation is terminated as follows:

- (a) By written declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of such declaration; or
- g) By a written declaration of any party to the conciliator to the effect that the conciliation proceedings are terminated, on the date of such declaration;
- 6) On termination of Conciliation, the aggrieved party shall be free to invoke Arbitration, if it is so inclined.

### **13.5 Arbitration Agreement**

#### **13.5.1 This Agreement**

- 1) This Arbitration agreement (hereinafter referred to as this "Agreement") relating to this Contract (hereinafter called the "Main Agreement" for the purpose of this agreement) is made under the provisions of The Arbitration and Conciliation Act, 1996 as amended by Arbitration and Conciliation (Amendment) Act, 2015 and 2019 and the rules there under and any statutory modifications thereof for the time being in force (all of these taken together, hereinafter called The Arbitration Act). This Agreement shall continue to survive termination, completion, or closure of the Main Agreement for a period of 120 days thereafter.
- 2) Subject to aforesaid provisions relevant clauses of GCC and SCC of Contract and any statutory modifications thereof shall apply to the appointment of arbitrators and arbitration proceedings under this Agreement.
- 3) The Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 provides parties to a dispute (where one of the parties is a Micro or Small Enterprise) to make a reference to Micro and Small Enterprises Facilitation Council, if the dispute is in regard to any amount due under Section 17 of the MSMED Act, 2006. In case a Micro or Small Enterprise, being a party to dispute, makes a reference under the provisions in MSMED Act 2006, the provisions of the MSMED Act 2006, shall prevail over this Agreement.

#### **13.5.2 Notice for Arbitration**

- 1) **Authority to Appoint Arbitrator(s):** For the purpose of this Arbitration Agreement 'The Appointing Authority', to appoint the arbitrator shall be Head of Procuring Organisation named in the SCC and includes, if there be no such authority, the officer who is for the time being discharging the functions of that authority, whether in addition to other functions or otherwise.
- 2) In the event of any dispute or difference between the parties hereto as to the construction or operation of this Contract, or the respective rights and liabilities of the parties on any matter in question, dispute or difference on any account but excluding the Excepted Matters, or if the Adjudicator fails to make a decision within 60 days (as referred in clause 13.3 above), or the Conciliation is terminated (as referred in sub-clause 13.4 above) then and in any such case, parties to the Contract, after 60 days but within 120 days of 'Notice of Dispute' shall request the Appointing Authority through a "Notice for Arbitration" in writing requesting that the dispute or difference be referred to arbitration.
- 3) The "Notice for arbitration" shall specify the matters which are in question, or subject of the dispute or difference indicating the relevant contractual clause, as also the amount of claim item-wise.

#### **13.5.3 Reference to Arbitration**

The Appointing Authority after appointing Arbitrator(s) refer the Dispute to them. Only such dispute or difference, in respect of which the demand has been made, together with counter claims or set off, shall be referred to arbitration and other matters shall not be included in the reference.

#### **13.5.4 Appointment of Arbitrator**

**1) Qualification of Arbitrators:**

- a) In case of retired officers of The Procuring organisation, he shall have retired in the rank of Senior administrative grade (or equivalent) and shall have retired at least 1 years prior and must not be over 70 years of age on the date of Notice for arbitration.
- b) In case of serving officer, he shall be at least in the grade of Junior Administrative Grade (Or equivalent).
- c) He/ they shall not have had an opportunity to deal with the matters to which the Contract relates or who in the course of his/ their duties as officers of the Procuring Organisation expressed views on any or all of the matters under dispute or differences. A certification to this effect (as per Annex 4 to Contract) shall be taken from Arbitrators. The proceedings of the Arbitral tribunal or the award made by such Tribunal shall, however, not be invalid merely for the reason that one or more arbitrator had in the course of his service, opportunity to deal with the matters to which the Contract relates or who in the course of his/ their duties expressed views on all or any of the matters under dispute.
- d) Such arbitrators once appointed shall continue to be arbitrators even after their transfer or retirement.
- e) An Arbitrator may be appointed notwithstanding the total no. of arbitration cases in which he has been appointed in the past.
- f) Not be other than the person appointed by The Appointing Authority and that if for any reason that is not possible, the matter shall not to be referred to arbitration at all.

**2) Replacement of Arbitrators**

If one or more of the arbitrators appointed as above refuses to act as arbitrator, withdraws from his office as arbitrator, or in the event of the arbitrator dying, neglecting/ unable or unwilling or refusing to act or resigning/ vacating his/ their office/ offices for any reason, or his award being set aside by the court for any reason, or in the opinion of The Appointing Authority fails to act without undue delay, the Appointing Authority shall appoint new arbitrator/ arbitrators to act in his/ their place in the same manner in which the earlier arbitrator/ arbitrators had been appointed. Such re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous arbitrator (s).

**3) Waiver of Sub-section 12(5)**

The parties may waive off the applicability of Sub-Section 12(5) of The Arbitration Act, if they agree for such waiver in writing, after dispute having arisen between them.

**4) Appointment of Arbitrator where applicability of section 12 (5) of Arbitration and Conciliation Act has been waived off:**

- (a) In cases where the total value of all claims in question added together does not exceed Rs 1,00,00,000/- (Rupees One Crore only), the Arbitral Tribunal shall consist of a Sole Arbitrator who shall be a serving officer of the Procuring Organisation nominated by The Appointing Authority. The sole arbitrator shall be appointed within 60 days from the day when a written and valid notice for arbitration is received by The Appointing Authority.
- (b) In cases where the total value of all claims in question added together exceeds Rs. 1,00,00,000/- (Rupees One Crore only), the Arbitral Tribunal shall consist of a panel of three serving Officers of the Procuring Organisation or 2 such officers and a retired Officer of the Procuring Organisation, as the arbitrators. For this purpose, The Appointing Authority shall send a panel of at least four (4) names of such officers of one or more departments of the Procuring Organisation which may also include the name(s) of retired Officer(s) empanelled to work as Arbitrator to the Contractor within 60 days from the day when a written and valid demand for arbitration is received by The Appointing Authority.
- (c) Contractor shall be asked to suggest to The Appointing Authority at least 2 names out of the panel for appointment as Contractor's nominee within 30 days from the date of dispatch of the request by The Appointing Authority. The Appointing Authority shall appoint at least one out of them as the Contractor's nominee and shall, also



simultaneously appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the 'presiding arbitrator' from amongst the 3 arbitrators so appointed. The Appointing Authority shall complete this exercise of appointing the Arbitral Tribunal within 30 days from the receipt of the names of Contractor's nominees.

- (d) If the Contractor does not suggest his nominees for the arbitral tribunal within the prescribed timeframe, The Appointing Authority shall proceed for appointment of arbitral tribunal within 30 days of the expiry of such time provided to Contractor.
- 5) **Appointment of Arbitrator where applicability of Section 12 (5) of Arbitration and Conciliation Act has not been waived off:**
- (a) In cases where the total value of all claims in question added together does not exceed Rs 50,00,000/- (Rupees Fifty Lakh only), the Arbitral Tribunal shall consist of a retired officer of the Procuring Organisation as the arbitrator. For this purpose, The Appointing Authority shall send a panel of at least four (4) names of such Officer(s) empanelled to work as Arbitrator duly indicating their retirement dates to the Contractor within 60 days from the day when a written and valid notice for arbitration is received by The Appointing Authority.
- (b) Contractor shall be asked to suggest to The Appointing Authority at least 2 names out of the panel for appointment as arbitrator within 30 days from the date of dispatch of the request by The Appointing Authority. The Appointing Authority shall appoint at least one out of them as the arbitrator.
- (c) In cases where the total value of all claims in question added together exceeds Rs 50,00,000/- (Rupees Fifty Lakh only), the Arbitral Tribunal shall consist of three (3) retired Officers of the Procuring Organisation. For this purpose, The Appointing Authority shall send a panel of at least four (4) names of such Officer(s) empanelled to work as Arbitrators duly indicating their retirement date to the Contractor within 60 days from the day when a written and valid demand for arbitration is received by The Appointing Authority.
- (d) Contractor shall be asked to suggest to The Appointing Authority at least 2 names out of the panel for appointment as Contractor's nominee within 30 days from the date of dispatch of the request by The Appointing Authority. The Appointing Authority shall appoint at least one out of them as the Contractor's nominee and shall, also simultaneously appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the 'Presiding Arbitrator' from amongst the 3 arbitrators so appointed. The Appointing Authority shall complete this exercise of appointing the Arbitral Tribunal within 30 days from the receipt of the names of Contractor's nominees.
- (e) If the Contractor does not suggest his nominees for the arbitral tribunal within the prescribed timeframe, The Appointing Authority shall proceed for appointment of arbitral tribunal within 30 days of the expiry of such time provided to Contractor.

#### **13.5.5 Failure to appoint Arbitrators**

If The Appointing Authority fails to appoint an arbitrator within 60 (sixty) days, or in case of 3-member arbitral tribunal, if the two appointed arbitrators fail to agree on the third arbitrator, then subject to survival of this Arbitration agreement, the Supreme Court of India shall designate the arbitral institution for the appointment of arbitrators (in international commercial arbitration) whereas the High Court shall designate arbitral institutions in case of national arbitrations. These arbitration institutions must have been graded by the Arbitration Council of India. It is mandatory that these arbitral institutions must complete the process of selection within thirty days from the acceptance of the request for the arbitrator's appointment.

#### **13.5.6 The Arbitral Procedure**

- 1) **Effective Date of Entering Reference:**The arbitral tribunal shall be deemed to have entered the reference on the date on which the arbitrator(s) have received notice of their appointment. All subsequent time limits shall be counted from such a date.
- 2) **Venue of Arbitration:** The venue of arbitration shall be the place from which the Notice of Award or the Contract is issued or such other place as the arbitrator at his discretion may determine in terms of section 20 of The Arbitration Act.
- 3) If the mechanisms of Adjudication and/ or Conciliation had not been exhausted before such reference to Arbitration, the Arbitrator shall ask the aggrieved party to approach designated authority for such mechanisms before the Arbitration proceedings are started.
- 4) The claimant shall submit to the Arbitrator(s) with copies to the respondent, his claims stating the facts supporting the claims along with all the relevant documents and the relief or remedy sought against each claim within a period of 30 days from the date of appointment of the Arbitral Tribunal unless otherwise extension has been granted by Arbitral Tribunal.
- 5) On receipt of such claims, respondent shall submit its defence statement and counter claim(s), if any, within a period of 60 days of receipt of copy of claims, unless otherwise extension has been granted by Arbitral Tribunal.
- 6) No new claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during the course of arbitration proceedings subject to acceptance by Tribunal having due regard to the delay in making it.
- 7) Statement of claims, counterclaims and defence shall have to be completed within six months from the effective date of reference.
- 8) **Oral arguments to be held on a day-to-day basis:** Oral arguments as far as possible shall be heard by the arbitral tribunal on a day-to-day basis and no adjournments shall be granted without sufficient cause. Arbitrator(s) may impose exemplary cost on the party seeking adjournment without sufficient cause.
- 9) **Award within 12 (twelve) months:** The arbitral tribunal is statutorily bound to deliver an award within 12 (twelve) months from the date when arbitral tribunal enters reference. The award can be delayed by a maximum period of six months only under the special circumstances where all parties give their consent to such extension of time. Where the award is not made out within such extended period the court's approval shall be required for further extension. During the period of an application for extension of time is awaiting before the court the proceedings of the arbitrator shall continue till the disposal of the application.
- 10) **Fast Track Procedure:** The parties to arbitration may choose to opt for a fast-track procedure either before or after the commencement of the arbitration. The award in fast-track arbitration is to be made out within six months and the arbitral tribunal shall be entitled to additional fees. The salient features of the fast-track arbitration are:
  - a) Dispute is to be decided based on written pleadings only.
  - b) Arbitral Tribunal shall have the power to call for clarifications in addition to the written pleadings where it deems necessary.
  - c) Oral hearing maybe held only if all the parties make a request or if the arbitral tribunal considers it necessary.
  - d) The parties are free to decide the fees of the arbitrator(s) for fast-track procedure.
- 11) **Powers of Arbitral Tribunal to grant Interim Relief:** The parties to arbitration may approach the arbitral tribunal for seeking interim relief on the grounds available under section 9 of the act. The tribunal has the powers of a court while making interim awards in the proceedings before it.
- 12) **Confidentiality:** As provided in Section 42A of The Arbitration Act all the details and particulars of the arbitration proceedings shall be kept confidential excluding facts of the

arbitral award in certain situations like if the disclosure is necessary for the implementation or execution of that arbitral award.

- 13) **Obligation During Pendency of Arbitration:** Performance of the Contract shall, unless otherwise directed by the Procuring Entity, continue during the arbitration proceedings, and no payment due or payable by the Procuring Entity shall be withheld on account of such proceedings, provided, however, it shall be open for Arbitral Tribunal to consider and decide whether or not the performance of the Contract or payment therein should continue during arbitration proceedings.

#### **13.5.7 The Arbitral Award**

- 1) In case of the Tribunal, comprising of three members, any ruling on award shall be made by a majority of members of Tribunal. In the absence of such a majority, the views of the Presiding Arbitrator shall prevail.
- 2) The arbitral award shall state item wise, the sum and reasons upon which it is based. The analysis and reasons shall be detailed enough so that the award could be inferred there from.
- 3) It is further a term of this arbitration agreement that where the arbitral award is for the payment of money, no interest shall be payable on whole or any part of the money for any period till the date on which the award is made in terms of Section 31 (7) (a) of The Arbitration Act.
- 4) The award of the arbitrator shall be final and binding on the parties to this Contract.
- 5) A party may apply for corrections of any computational errors, any typographical or clerical errors or any other error of similar nature occurring in the award of a Tribunal and interpretation of a specific point of award to Tribunal within 60 days of receipt of the award.
- 6) A party may apply to Tribunal within 60 days of receipt of award to make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award.

**13.5.8 Savings:** Any matter related to Arbitration, not covered under this Arbitration Agreement shall be decided by the Arbitral Tribunal as per the provisions of The Arbitration Act.

#### **13.5.9 Cost of Arbitration and fees of the Arbitrator(s)**

- 1) The cost of arbitration shall be borne by the concerned parties in terms of section 31 (A) of The Arbitration Act: The cost shall inter-alia include fees of the Arbitrator. Further, the fees payable to the Arbitrator shall be governed by instructions issued on the subject by the Procuring Entity and/ or the Government from time to time, in line with the Arbitration and Conciliation Act, irrespective of the fact whether the Arbitrator is appointed by the Procuring Entity or the Government under this clause or by any court of law unless specifically directed by Hon'ble court otherwise on the matter. Sole arbitrator shall be entitled for 25% extra fee over such prescribed fee.
- 2) Arbitrator shall be entitled to 50 percent extra fee, if award is made within 6 months in terms of provisions contained in section 29(A) (2) of The Arbitration Act.
- 3) Besides above, Arbitrator shall also be entitled for this extra fee, in cases, where Fast Track Procedure in terms of section 29 (B) of The Arbitration Act is followed.

### **14. Defaults, Breaches, Termination, and closure of Contract**

#### **14.1 Termination due to Breach, Default, and Insolvency**

##### **14.1.1 Defaults and Breach of Contract**

In case the Contractor undergoes insolvency or receivership; neglects or defaults or expresses inability or disinclination to honour his obligations relating to performance of Contract or ethical standards or any other obligation that substantively affects the

Procuring Entity's rights and benefits under the Contract, it shall be treated as a breach of Contract. Such defaults could include inter-alia:

- 1) **Default in Performance and Obligations:** if the Contractor fails to deliver any or all of the Services or fails to perform any other contractual obligations (including Code of Ethics) within the time period specified in the Contract, or within any extension thereof granted by the Procuring Entity pursuant to GCC clause 11.4.
- 2) **Insolvency:** if the Contractor being an individual or if a firm, any partner thereof, shall at any time, be adjudged insolvent or shall have a receiving order or order for administration of his estate made against him or shall take any proceeding for composition under any Insolvency Act for the time being in force or make any conveyance or assignment of his effects or enter into any assignment or composition with his creditors or suspend payment or if the firm be dissolved under the Partnership Act, or
- 3) **Liquidation:** if the Contractor being a company is wound up voluntarily or by the order of a Court or a Receiver, Liquidator or Manager on behalf of the Debenture— holders is appointed, or circumstances shall have arisen which entitle the Court or Debenture— holders to appoint a Receiver, Liquidator or Manager

#### 14.1.2 Notice for Default:

As soon as a breach of contract is noticed, a show-cause 'Notice of Default' shall be issued to the Contractor, giving two weeks' notice, reserving the right to invoke contractual remedies. After such a show-cause notice, all payments to the Contractor would be temporary withheld to safeguard needed recoveries, that may become due on invoking contractual remedies.

#### 14.1.3 Terminations for Default

- 1) **Notice for Termination for Default:** In the event of unsatisfactory resolution of 'Notice of Default' within two weeks of issue of Notice of Default to the Contractor as per sub-clause above, the Procuring Entity, if so decided, shall by written Notice of Termination for Default sent to the Contractor, terminate the Contract in whole or in part, without compensation to the Contractor
- 2) Such termination shall not prejudice or affect the rights and remedies which have accrued and/ or shall accrue thereafter to the Procuring Entity.
- 3) Unless otherwise instructed by the Procuring Entity, the Contractor shall continue to perform the Contract to the extent not terminated.
- 4) All Service Warranty obligations if any shall continue to survive despite the termination.

#### 14.1.4 Contractual Remedies for Breaches and Defaults

If there is an unsatisfactory resolution within this period, the Procuring Entity shall take one; or more of following contractual remedies.

- 1) Temporary withhold payments due to the Contractor till recoveries due to invocation of other contractual remedies are complete.
- 2) Call back any loaned property or advances of payment, if any with levy of interest at prevailing rate
- 3) Recover liquidated damages and invoke denial clause for delays
- 4) Encash and/ or Forfeit performance or other contractual securities
- 5) Prefer claims against insurances if any
- 6) Terminate Contract for default, fully or partially including its right for Risk-and-Cost Procurement as per following sub-clause
- 7) Risk and Cost Procurement: In addition to above termination, the Procuring Entity shall be entitled, and it shall be lawful on his part, to procure Services similar to those terminated, with such terms and conditions and in such manner as it deems fit at the "Risk and Cost" of the Contractor. Such Risk and Cost Procurement must be

contracted within six months from the breach of Contract. The Contractor shall be liable for any loss which the Procuring Entity may sustain on that account provided the procurement, or, if there is an agreement to procure, such agreement is made. The Contractor shall not be entitled to any gain on such procurement and the manner and method of such procurement shall be in the entire discretion of the Procuring Entity. It shall not be necessary for the Procuring Entity to serve a notice of such procurement on the Contractor. It shall, however, be at the discretion of the Procuring Entity to collect or not, the security deposit from the firm/ firms on whom the Contract is placed at the risk and expense of the defaulted firm.

*Note: In respect of the Services which are not easily available in the market and where procurement difficulties are experienced, the period for making risk procurement shall be nine months instead of six months provided above.*

- 8) Debar the Contractor following due process, from participation in the Procuring Organisations tenders, including delisting from list of registered suppliers.
- 9) Initiate proceedings in court of law for transgression of law, tort, and loss, not addressable by above means.

#### **14.1.5 Limitation of Liability**

Except in cases of criminal negligence or wilful misconduct, the aggregate liability of the Contractor to the Procuring Entity, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Contractor to indemnify the Procuring Entity with respect to patent infringement.

#### **14.2 Termination for Convenience and Frustration**

##### **14.2.1 Notice for Determination of Contract**

- 1) The Procuring Entity reserves the right to terminate the Contract, in whole or in part for its (the Procuring Entity's) convenience or frustration of Contract as per clause 14.2.2 below, by serving written 'Notice for Determination of Contract' on the Contractor at any time during the currency of the Contract. The notice shall specify that the termination is for the convenience of the Procuring Entity or for frustration. The notice shall also indicate inter-alia, the extent to which the Contractor's performance under the Contract is terminated, and the date with effect from which such termination shall become effective.
- 2) Such termination shall not prejudice or affect the rights and remedies which have accrued and/ or shall accrue thereafter to the Procuring Entity.
- 3) Unless otherwise instructed by the Procuring Entity, the Contractor shall continue to perform the Contract to the extent not terminated.
- 4) All Service Warranty obligations if any shall continue to survive despite the termination.
- 5) The Services and incidental goods/ works which are work-in-progress and can be delivered or performed within thirty days after the Contractor's receipt of the notice of termination shall be accepted by the Procuring Entity following the Contract terms, conditions, and prices. For the remaining Services and incidental goods/ works, the Procuring Entity may decide:
  - a) To get any portion of the balance completed and delivered at the Contract terms, conditions, and prices; and/ or
  - b) To cancel the remaining portion of the Services and incidental goods/ works and compensate the Contractor by paying an agreed amount for the cost incurred by the Contractor, if any, towards the remaining portion of the Services and incidental goods/ works.

##### **14.2.2 Frustration of Contract**

- 1) **Notice of Frustration Event:** Upon a supervening cause occurring after the effective date of the Contract, including a change in law, beyond the control of either party whether as a result of Force Majeure clause or within the scope of section 56 of the Indian Contract Act, 1872, that makes it impossible to perform the Contract within a reasonable timeframe, the affected party shall give a 'Notice of Frustration Event' to the other party giving justification. The parties shall use reasonable efforts to agree to amend the Contract, as may be necessary to complete its performance. However, if the parties cannot reach mutual agreement within 60 days of the initial notice, the Procuring Entity, shall issue a 'Notice for Determining the Contract' and terminate the Contract due to its frustration as in sub-clause above.
- 2) However, following shall not be considered as such a supervening cause
  - a) Commercial impossibility or unviability or unprofitability or lack of funds
  - b) if caused by either party's breach of its obligations under this Contract or failure to act in good faith or use commercially reasonable due diligence to prevent such an event.

### 14.3 Closure of Contract

#### 14.3.1 No Claim Certificate and Release of Contract Securities

After mutual reconciliations of outstanding payments and assets on either side the Contractor shall submit a 'No-claim certificate' to the Procuring Entity requesting further for release of its contractual securities, if any. The Procuring Entity shall release the Contractual securities without any interest, if there is no outstanding obligation, asset, or payments due from Contractor.

#### 14.3.2 Completion of obligation

The Contract shall stand closed upon successful performance of all obligations by both parties to the Contract, including completion of warranty obligations and final payment.

#### 14.3.3 Upon Termination

Contract shall also be treated as closed on Termination and settlements if any thereafter as per clause 14.1 and 14.2 above.

## 15. Code of Integrity in Public Procurement and Serious Misdemeanours:

### 15.1 Code of Integrity

Procuring authorities as well as bidders, suppliers, contractors, and consultants - should observe the highest standard of ethics and should not indulge in following prohibited practices, either directly or indirectly, at any stage during the Tender Process or during execution of resultant contracts:

- 1) **"Corrupt practice"** - making offer, solicitation or acceptance of bribe, reward or gift or any material benefit, in exchange for an unfair advantage in the Tender Process or to otherwise influence the Tender Process;
- 2) **"Fraudulent practice"** - any omission, or misrepresentation that may mislead or attempt to mislead so that financial or other benefit may be obtained, or an obligation avoided. This includes making false declaration or providing false information for participation in a tender process or to secure a Contract or in execution of the Contract;
- 3) **"Anti-competitive practice"** - any collusion, Bid rigging or anti-competitive arrangement, or any other practice coming under the purview of The Competition Act, 2002, between two or more bidders, with or without the knowledge of the Procuring Entity, that may impair the transparency, fairness, and the progress of the Tender Process or to establish Bid prices at artificial, non-competitive levels;
- 4) **"Coercive practice"** - harming or threatening to harm, persons, or their property to influence their participation in the Tender Process or affect the execution of a contract;

- 5) **“Conflict of interest”** –participation by a bidding firm or any of its affiliates who are either involved in the Consultancy Contract to which this procurement is linked; or if they are part of more than one Bid in the procurement; or if their personnel have relationship or financial or business transactions with any official of procuring entity who are directly or indirectly related to tender or execution process of contract; or improper use of information obtained by the (prospective) bidder from the Procuring Entity with an intent to gain unfair advantage in the Tender Process or for personal gain;
- 6) **“Obstructive practice”** - materially impede procuring entity’s investigation into allegations of one or more of the above mentioned prohibited practices either by deliberately destroying, falsifying, altering; or by concealing of evidence material to the investigation; or by making false statements to investigators and/ or by coercive practices mentioned above, to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or by impeding the Procuring Entity’s rights of audit or access to information;

#### 15.2 Obligations for proactive disclosures:

- 1) Procuring authorities as well as bidders, suppliers, contractors, and consultants, are obliged under this Code of Integrity to *suo-moto* proactively declare any conflict of interest (coming under the definition mentioned above - pre-existing or as and as soon as these arise at any stage) in any Tender Process or execution of contract. Failure to do so shall amount to violation of this code of integrity.
- 2) Any bidder must declare, whether asked or not in a Bid-document, any previous transgressions of such code of integrity with any entity in any country during the last three years or of being debarred by any other procuring entity. Failure to do so shall amount to violation of this code of integrity.

#### 15.3 Restriction on Potential Conflict of Interests

During the term of ensuing Contract and after its termination, the successful Contractor, and its affiliates, as well as any Subcontractor and any of its affiliates, shall be disqualified from providing goods, works, or Services (other than the subject Service of this Contract and any continuation thereof) for any project resulting from or closely related to the subject Services of this Contract. Neither the Contractor nor its Subcontractors nor the Personnel shall engage, either directly or indirectly, in any of the following activities:

- a) during the term of this Contract, any business or professional activities in the India which would conflict with the activities assigned to them under this Contract.
- b) after the termination of this Contract, such other activities as may be specified in the SCC.

#### 15.4 Serious Misdemeanours

##### 15.4.1 Serious Misdemeanours

Following shall be considered serious misdemeanours - if a bidder/ contractor:

- 1) Other than in situations of force majeure, after opening of financial bids, the Contractor withdraws from the Tender Process or after being declared as successful bidder: (a) withdraws from the process; (b) fails to enter into a procurement contract; or (c) fails to provide performance security or any other document or security required in terms of the Tender Document.
- 2) directly or through an agent violates during procurement or execution of the Contract - the code of ethics mentioned in clause 15 of the GCC or the Integrity Pact, if applicable as per the SCC;
- 3) Violates the safety or statutory norms that result in industrial accidents leading to loss or injury to life or property or to any other legal liability to the Procuring Entity;
- 4) Employs a government servant, who has been dismissed or removed on account of corruption or employs a non-official convicted for an offence involving corruption or

abetment of such an offence, in a position where he could corrupt government servants or employs a government officer within two years of his retirement, who has had business dealings with him in an official capacity before retirement; or

- 5) Is determined by an appropriate agency of the Government, to have doubtful loyalty to the country or national security consideration.

#### 15.5 Penalties

Without prejudice to and in addition to the rights of the Procuring Entity to other remedies as per the Bid-documents or the Contract, If the Procuring Entity concludes that a (prospective) bidder/ contractor directly or through an agent has violated this code of integrity or committed a serious misdemeanour in competing for the Contract or in executing a contract, the Procuring Entity shall take appropriate measures including the following:

- 1) **if his bids are under consideration in any procurement**
  - a) Forfeiture or encashment of Bid Security (EMD)
  - b) calling off of any pre-contract negotiations, and;
  - c) rejection and exclusion of the bidder from the Tender Process
- 2) **if a contract has already been awarded**
  - a) Termination of Contract for Default and availing all remedies prescribed thereunder;
  - b) Encashment and/ or Forfeiture of any contractual security or bond relating to the procurement;
  - c) Recovery of payments including advance payments, if any, made by the Procuring Entity along with interest thereon at the prevailing rate;
- 3) **Remedies in addition to above:**
  - a) Debarment from participation in future procurements of the Procuring Entity for a period upto a period of two years and/ or removal from the list of registered Contractors or
  - b) In case of anti-competitive practices, information for further processing shall be filed under a signature of the Joint Secretary level officer, with the Competition Commission of India;
  - c) Initiate proceedings in court of law for transgression not addressable by above means.
  - d) Initiation of suitable disciplinary or criminal proceedings against any individual or staff found responsible.



## Section V: Special Conditions of Contract (SCC)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

*[the Procuring Entity shall fill up the details required in the SCC, only in case GCC clause is not to be applied or additional provision are to be added or existing provisions to be altered, otherwise such rows may be deleted. Clauses other than those mentioned below may also be mentioned, if these need to be changed]*

Following clauses, wherever these appear in GCC shall be taken to be negated or additional provision be added to, or existing provisions be altered as following:		
GCC Clause No.	Topic	To be Read as
<b>GCC 1, 2, 3 and 4: General, The Contract, Governing Laws and Jurisdiction, Communications</b>		
GCC 2.2	Language of Contract	<i>[Add additional Language if any]</i>
GCC 3.1, 3.2.2	Governing Laws and jurisdiction	<i>[Add additional laws if any]</i>
GCC 4.2	Persons Signing Communications	<i>[Mention any deviations from the clause]</i>
<b>GCC 5 and 6: Contractor's and Procuring Entity's Obligations</b>		
GCC 5.7.3	Secrecy	<i>[Mention confidentiality or secrecy requirements, if any. If the Contract is covered by official secrets act, please prominently mark Contract and correspondence as Secret]</i>
GCC 5.8	Performance Bond/ Security	<i>[Add additional information if any]</i>
GCC 6.1, 6.2	Facilities, Utilities to be provided by Procuring Entity	<i>[Add additional information if any]</i>
<b>GCC 7 and 8: Scope of Services, Measurements etc.</b>		
GCC 7.2	Eligible Services	<i>[Add additional information if any]</i>
GCC 7.3	Quantity Tolerance	<i>[Add additional information if any]</i>
GCC 7.4	Contract Period and Option Clause	<i>[Add additional information if any]</i>
GCC 8.3.1	Threshold for maximum variation	<i>[Add additional information if any]</i>
<b>GCC 10: Deployment of Resources</b>		
GCC 10.1.5	ESHS requirements	<i>[Add additional information if any]</i>
<b>GCC 11: Delivery of Services and Delays</b>		
GCC 11.1	Works Programme	<i>[Add additional information if any]</i>
<b>GCC 11: Prices and Payments</b>		
GCC 12.1.1	Price Variation	<i>[Specifically mention if applicable]</i>
GCC 12.3	Terms and Mode of Payment	<i>[Add additional information if any]</i>
GCC 12.4	Payment to Contractors	<i>[Add additional information if any, including any Advance Payments provide – indicating types and %ages]</i>
GCC 12.5	Completion Certificate and Final Payment	<i>[Add additional information if any]</i>
GCC 12.6	Price Variation Clause	<i>[Add additional information if any, include Price]</i>

Procurement of Non-Consultancy Services

		<i>Variation Formula and applicable indices]</i>
<b>GCC 11: Resolution of Disputes and Defaults/ Breaches</b>		
13.2	Excepted Matters	<i>[Mention any change in excepted matters if any]</i>
13.5	Arbitration	<i>[Mention any change in Arbitration parameters if any]</i>
14.1.4-7)	Risk and Cost Procurement	<i>[Mention specifically if not applicable]</i>

## Section VI: Schedule of Requirements

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services  
Bidders must fill-up following Forms in regard to this Schedule:

- 1) Form 2: Services and Activities Schedule

### Background of Services

- 1) Background of Procuring Organisation and Services;
- 2) Purpose/Objectives (including sites) of Services and impact on Procuring Organisation's performance/ objectives.
- 3) Short Description and Scope of Services
- 4) Contract Period: (Unless otherwise stipulated in TIS/ AITB, the period for which Service shall be Contracted shall be one year from the date of Contract, with a provision for extension for four months (unless otherwise stipulated in TIS/ AITB) thereafter.
- 5) Deliverables/ Outcomes (including reports/ reporting) and Timelines (period of contract including Milestones) of Services;
- 6) Facilities and Utilities to be provided by the Employer to service provider at Site: Indicate if any facility/ utility (Reference Documents, Emergency Medical, Rooms, Furniture, Transport, Electricity connection, Water connection, Access to IT Services) etc would be made available to the successful bidder to carry out the service. Especially mention facilities and utilities which will not be provided, or the facilities which would be provided on chargeable basis. In case it is proposed to charge the Utilities/ Electricity/ Water mention the rate of charges.
- 7) Institutional and organisational arrangement for Services
  - a) Counterpart Contract Manager (or Contract management Team) of the Procuring Entity
  - b) Chain of Command for reporting and monitoring
  - c) Interim/ ultimate Receiver(s) of Services
- 8) Statutory and contractual obligations to be complied with by the Contractor: Indicate compliance required for various statutory provisions (other than those mentioned in ITB/ AITB/ TIS) relating to labour, taxation, Workmen Safety, Child and Women Labour, Private Security Agencies, Environmental Protection and Hazards Materials handling, Mining, Forest clearance, Employment reservations and employer's own regulation about safety, security, confidentiality etc., so that price implications and compliance is taken care of by the bidder.
- 9) Insurances: Required to be taken by the Contractor

Procurement of Non-Consultancy Services

**Services and Activities Schedule**

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Services and Activities Schedule									
Contract Period		<i>[one year from date of Contract]</i>		Extendable by			<i>[Four Months beyond Contract Period]</i>		
Tender Title			Tender Reference No			Tend No./ xxxx			
Schedule	1	<i>[Description of Schedule]</i>		EMD Rs Thousands	<i>[Enter EMD]</i>				
Service Sr	Activity Sr	Description and Scope of Services; Outcomes, Deliverables, reports	Timelines and Milestones	Quantum	Units	Minimum Local Content (%)	HSN Code	Service Site/ State	GSTIN
1	2	3	4	5	6	7	8	9	10
Service 1.1									
	1.1.1								
	1.1.2								
	1.1.3								
Service 1.2									
	1.2.1								
	1.2.2								
	1.2.3								

Model Request for Proposal for Services - Tend No./ xxxx

Schedule	2	[Description of Schedule]	EMD Rs Thousands	[Enter EMD]					
Service Sr	Activity Sr	Description and Scope of Services; Outcomes, Deliverables, reports	Timelines and Milestones	Quantum	Units	Minimum Local Content (%)	HSN Code	Service Site/ State	GSTIN
1	2	3	4	5	6	7	8	9	10
Service 1.1									
	1.1.1								
	1.1.2								
	1.1.3								
Service 1.2									
	1.2.1								
	1.2.2								
	1.2.3								

If further elaboration required, please mention these in the Background of Services:

- 1) Description/ Scope of Service (indicate what is (and more important – what is not) included in the Services and conditions under which Services are to be performed);
- 2) Outcomes, Deliverables, reports, timelines, milestones etc
- 3) Frequency/ Quantum/ Length & Duration of Activities
- 4) Task dependencies and sequencing
- 5) Mention (if not/ or as already mentioned in TIS) if there is any country is identified as not allowing Indian Companies to participate in their Government procurements – so that bidders from that country are restricted as per ITB clause 3.6

## Section VII: Performance Standards and Quality Assurance

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

*Note: Bidder's attention is drawn to ITB clause 8.2 and AITB.*

Bidders must fill-up following Forms in regard to this Schedule:

- 1) Form 3: Performance Standards and Quality Assurance - Confirmations/ Deviations
- 2) Form 3.1: Method Statement
- 3) Form 3.2: Work-Plan
- 4) Form 3.3: Personnel Deployment plan
- 5) Form 3.4: Equipment Deployment plan
- 6) Form 3.5: Materials Deployment Plan

*[Procuring Entity may indicate here overall and/ or Activity-wise (as required)]*

- 1) *Performance standards/ Service Levels; functional/ technical specifications (indicate quantitative and qualitative parameters/ limits/ thresholds for performance)*
- 2) *Any Service Level Agreement and Key Performance Indicators indicating how measurement, reporting, and tracking of performance parameters would be done for Quality Assurance and Monitoring of Service (Indicate procedure for quality assurance and monitoring of services, including institutional or third-party arrangements for this purpose)*
- 3) *Procedure for resolution and escalation procedures in case of deficiency in performance/ quality/ service levels*

## Section VIII: Qualification Criteria

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services  
(To be submitted as part of Technical Bid)

*[Procuring entity should specifically mention, if any and to what extent dispensation shall be permissible for Start-ups under ITB 3.8.2-2) and to MII-JVs under ITB 3.6.8-2]*

Bidder to furnish stipulated documents in support of fulfilment of qualifying criteria. Non-submission or incomplete submission of documents may lead to rejection of offer.

Bidders must fill-up following Forms in regard to this Schedule:

- 1) Form4: Qualification Criteria - Confirmations/ Deviations
- 2) Form 4.1: Performance Statement
- 3) Form 4.2: Non-performance, Litigation Statement
- 4) Form 4.3: Financial Capability Statements
- 5) Form 3.3: Personnel Deployment Plan
- 6) Form 3.4: Equipment Deployment plan

1) <b>Criteria 1 - Experience and Past Performance:</b>	<b>Please submit evidence in</b>
<p>a) <b>Similar Experience:</b> Successfully completed or substantially (at least 80% payments received) completed similar works during last [7] years should be either of the following: -</p> <p>(i) Three similar completed works costing not less than the amount equal to 40(forty) percent of the estimated cost; or</p> <p>(ii) Two similar completed works costing not less than the amount equal to 50 (fifty) percent of the estimated cost; or</p> <p>(iii) One similar completed work costing not less than the amount equal to 80 (eighty) percent of the estimated cost;</p> <p>Define the similar work based on value/ scope, methodology etc. Work experience certificate from public sector or from public listed company/private company/Trusts having annual turnover of Rs 500 crore and above subject to the same being issued from their Head office by a person of the company duly enclosing his authorisation by the Management for issuing such credentials. Certificate from private individual shall not be accepted.</p>	<p>Form 4.1: Performance Statement.</p>
<p>b) <b>No Nonperforming Contracts and Litigation:</b> The Bidder shall furnish documentary evidence to demonstrate that</p> <p>(iv) non-performance of a contract did not occur within the last [5] years prior to the deadline for submission of Bids, based on all information on fully settled disputes or litigation.</p> <p>(v) All pending litigation shall in total not exceed [10] % of the Bidder's net worth.</p> <p>(vi) Failure to sign a contract after receiving a notice of award has not occurred in the past [5] years prior to the deadline for submission of Bids.</p>	<p>Form 4.2: Non-performance, Litigation Statement</p>

**Comment [GB2]:** Add Available Bid Capacity p/63 Works Manual

<p>2) <b>Criteria 2 – Performance Capability</b></p>	
<p>a) <b>Key Personnel:</b> The Bidder shall furnish documentary evidence that it would deploy (employed, hired) Key Personnel (as specified in Section VIII-1 below) needed to perform the Service to the specified performance Standards.</p>	<p>Form 3.3: Personnel Deployment Plan</p>
<p>b) <b>Critical Equipment:</b> The Bidder shall furnish documentary evidence that it would deploy (own, hire, lease) Critical Equipment (as specified in Section VIII-2 below) needed to perform the Service to the specified performance Standards.</p>	<p>Form 3.4: Equipment Deployment Plan</p>
<p>3) <b>Criteria 3 - Financial Capability</b></p>	
<p>The Bidder shall furnish documentary evidence to demonstrate the current soundness of the Bidder’s financial position and its prospective long-term profitability and to demonstrate the following sub-criteria. The documentary evidence as audited balance sheet for last 3 years certified by chartered accountant with stamp, signature and membership number shall be considered. Failure to submit one of the two documents as evidence of financial capacity may result in the rejection of the Bid. The statement must be counter-signed by an authorized representative of the Bidder. If the Bid is submitted by a joint venture or other association, all parties in the Joint Venture/Consortium are required to submit their financial statements. The documentary evidence should be submitted in order of the partner’s significance in the partnership, greatest to least.</p>	
<p>a) <b>Financial Viability Ratios</b></p> <ul style="list-style-type: none"> <li>(i) <b>Average coefficient of Current ratio</b> (Current Assets / Current Liabilities): Greater than [1(one)]</li> <li>(ii) <b>Average coefficient of Debt ratio</b> (Total Debt / Total Assets): Less than [50%]</li> </ul> <p>b) <b>Turnover:</b> Minimum average annual turnover of [at least 60% of the advertised value of this tender, at least 50% of which should be from Service Contracts], calculated as total certified payments received for contracts in progress or completed, within the last [5] years., and</p> <p>c) <b>Financial Liquidity:</b>The bidder should have access to or has available liquid assets, lines of credit and other financial means, other than any contractual advance payments, to meet 3 months’ cash flow of the estimated bid value net of applicant’s 3 month’s commitments for other contracts. The audited balance sheet and/or banking reference certified by chartered accountant with stamp, signature and membership number shall be submitted by the bidder along with bid. Banking reference should contain in clear terms the amount that bank will be in a position to lend for this work to the applicant/member of the Joint Venture/Consortium. In case the Net Current Assets (as seen from the Balance Sheets) are negative, only the Banking references will be considered.</p>	<p>Form 4.3: Financial Capability Statements</p>

**Comment [GB3]:** Add networth



Otherwise, the aggregate of the Net Current Assets and submitted Banking references will be considered for working out the Liquidity. The banking reference should be from a Scheduled Bank in India and it should not be more than 3 months old as on date of submission of bids.	
--	--

*The figures for each of the members of a joint venture/Consortium (JV/C) shall be added together to determine the Bidder's compliance with the minimum qualifying criteria; however, for a JV/C to qualify the Lead member must meet at least 40 percent of those minimum criteria for an individual Bidder and other members at least 25% of the criteria. Failure to comply with this requirement will result in rejection of the JV/C's Bid.*

*Subcontractors' experience and resources will not be taken into account in determining the Bidder's compliance with the qualifying criteria, unless otherwise stated in the Qualification Requirements above.*

*In case of Criteria 1 (b) Nonperforming Contracts and Litigation is not mandatory for any member of JV/C if the Contract relates to a JV/C in which he was a member of with less than 20% participation.*

### Section VIII-1: Key Personnel Schedule

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services  
Bidders must fill-up Form 3.3 Personnel Deployment Plan in regard to this Schedule where besides key personnel, he shall also quote the number of staff required category-wise to perform the Services to the performance stands.

This is an estimate of minimum number of key personnel considered necessary for providing the required services. The number of personnel below does not include leave reserve and relieving staff. The bidder, if deemed necessary may quote more numbers of key personnel, but not less.

Key Personnel Schedule					
Tender Title					
Tender Reference No		Tend No./ xxxx			
Sr	Position/ Location	Qualification/ Certification/ Licence/ Training	Work Experience in similar position & Projects (Yr)	Work Experience Total (Yr)	Man-Months
1	2	3	4	5	6
1					
2					
3					
4					
5					
6					

*[Indicate here only key Personnel required (Managers/ Supervisors/ Executives/ Specialists/ Technicians) for each location, estimated number, and length of engagement to carry out the services. No need to list non-key personnel.]*

### Section VIII-2: Critical Equipment Schedule

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidders must fill-up Form 3.4: Equipment Deployment Plan in regard to this Schedule.

This is an estimate of minimum number of Critical Equipment considered necessary to perform the services to the performance standards prescribed. The number of equipment below does not include back-up reserve or maintenance and downtime. Bidder may deploy more essential or other equipment in his bid. Operators/ Materials & Consumables for all equipment must be included in the Form 3.3: Personnel Deployed and Form 3.5: Material Deployed, respectively.

Equipment Schedule				
Tender Title				
Tender Reference No		Tend No./ xxxx		
Equipment Sr	Description/ Category	Specifications/ Capacity/ Condition and Age	Location	Number Deployed
1	2	3	5	6
1.				
2.				
3.				
4.				
5.				
6.				

*[Indicate here only Critical Equipment(not others) required to carry out the Services . Indicate if desired the categories of equipment – IT Equipment/ Motor Vehicles, Cranes, Washing Machines, vessels/ crafts, plant & machinery etc. Indicate if desired for each location, estimated number of each category]*

## Form 1: Bid Form– Techno-Commercial Bid

(Ref Clause 8.2 of ITB)

(To be submitted as part of Technical Bid, along with supporting documents, if any)

(on Bidder's Letterhead)

(Strike out alternative phrases not relevant to you)

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

To

The President of India, through

Head of Procurement

Procuring Organisation

[Complete address of the Procuring Entity]

Ref: Your Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

### 1) **Credentials:**

<sup>8</sup>We ..... hereby certify that we are a firm of proven, established, and reputed Service Provider having Experience, past performance, Personnel, Machinery and Financial capability, with offices at ..... Our company law and taxation regulatory requirements as well as authorization for signatories and related documents are submitted in Form 1.1: Bidder Information of this Bid Form.

Or

We.....are agents of our Indian/ foreign principals M/ s..... who are a firm of proven, established, and reputed Service Provider having Experience, past performance, Personnel, Machinery and Financial capability, with offices at ..... Our foreign Principals' company law and taxation regulatory requirements as well as authorization for signatories and related documents are submitted in Form 1.1: Bidder Information of this Bid Form.

### 2) **Our eligibility to participate**

We comply with all the eligibility criteria of this tender and the relevant declarations are made along with documents in Form 1.2 of this Bid-form.

### 3) **Our Bid to deliver:**

We offer to deliver the subject Services within Delivery Schedules as specified in the Schedule of Requirements and in conformity with the Tender Document at the price as mentioned separately in Financial Bid (Price Schedule).

### 4) **Affirmation to terms and conditions of the Bid Document:**

We confirm that we have understood the Instructions to Bidders and Additional Instructions to Bidders (ITB and AITB), and also the General and Special Conditions of Contract (GCC and SCC) attached to the tender and have thoroughly examined requirements in Section VI: Schedule of Requirements; Section VII – Performance Standards and Quality Assurance; Section VII: Qualification Criteria and are thoroughly aware of the nature of Services required and our offer is to deliver Services strictly in accordance with the terms of the tender. Notwithstanding the fact that we are not signing and submitting some of the sections of the Tender Document, we hereby confirm unconditional acceptance and compliance to abide by all the techno-commercial and financial terms and conditions as mentioned in Tender Document without any omissions, reservations, or deviations whatsoever, except those submitted by us in Form 3, 4, 5 and 8. We also confirm acceptance of Arbitration Agreement as given in Tender Document.

### 5) **Abiding by the Bid Validity**

<sup>8</sup> Strikeout what is not applicable to you!

We agree to keep our Bid valid for acceptance for a period upto -----, as required in the ITB clause 8.3, read with modification, if any in Section-III: "Appendix to Instructions to Bidders" or for subsequently extended period, if any, agreed to by us. We also accordingly confirm to abide by this Bid upto the aforesaid period and this Bid may be accepted any time before the expiry of the aforesaid period.

**6) Performance Guarantee and Signing the Contract**

We further confirm that, if our Bid is accepted, we shall provide you with a performance security of required amount in an acceptable form in terms of GCC clause 5.8, read with modification, if any, in Section V – "Special Conditions of Contract", for due performance of the Contract. We are fully aware of the fact that in the event of our failure to deposit the required security amount and failure to execute the agreement, our earnest money deposited with the Procuring Entity shall be forfeited besides other penalties under the conditions of this Tender Document.

**7) Non-tempering of Downloaded Bid Document and Uploaded Scanned Copies**

We confirm that in case of downloaded Tender Document, we have not changed/ edited its contents. We realise that in case any such change is noticed at any stage including after the award of contract, we shall be liable to action under clause 9.3.1 of the ITB. We also confirm that scanned copies of documents/ affidavits/ undertakings, uploaded along with our Technical Bid are valid, true, and correct to the best of our knowledge and belief. In case any dispute, if arises, related to the validity and truthfulness of any of such documents/ affidavits/ undertakings, we shall be fully responsible and liable for the same. Upon acceptance of our Financial Bid, we undertake to submit for scrutiny, on demand by the Procuring Entity, originals, and self-certified copies of all such certificates, documents, affidavits/ undertakings.

**8) A Binding Contract:**

We further confirm that, if our Bid is accepted, all such terms and conditions shall continue to be acceptable and applicable to the resultant contract, even though some of these documents may not be included in the Contract Documents signed by us. We do hereby undertake that, until a formal Contract is signed, or notification of award is issued, this bid, together with your written acceptance thereof, shall constitute a binding contract between us.

**9) Signatories:**

We confirm that we are duly authorized to submit this Bid on behalf of the bidder and to make commitments on behalf of the bidder in all respects related to this tender, and supporting documents are submitted in Form 1.1 to this Bid-Form. We acknowledge that our digital/digitized signature is valid and legally binding.

**10) Rights of the Procuring Entity to Reject Bid(s):**

We further understand that you are not bound to accept the lowest or any Bid you may receive against your above-referred Tender Document.

.....  
(Signature with date)

.....  
(Name and designation)

Duly authorized to sign Bid for and on behalf of  
[name & address of the Bidder and seal of company]

**Form 1.1: Bidder Information**

(Ref Clause 8.2 of ITB)  
(To be submitted as part of Technical Bid)  
(on Company Letterhead)  
(Along with supporting documents, if any)

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

The Bidder shall fill in this Form in accordance with the instructions indicated below. No alterations to its format shall be permitted and no substitutions shall be accepted. Wherever necessary and applicable, the Bidder shall upload certified copy as documentary proof/ evidence to substantiate the corresponding statement.

In case a bidder furnishes a wrong or misleading answer against any of the under mentioned question/ issues, its tender shall be liable to be ignored.

**1) Bidder/ Contractor particulars:**

- a) Name of the Company:.....
- b) Corporate Identity No. (CIN): .....
- c) Registration if any with 'The Procuring Entity': .....
- d) Place of Registration/ Principal place of business" .....
- e) Complete Postal Address: .....
- f) Pin code/ ZIP code: .....
- g) Telephone nos. (with country/ area codes): .....
- h) Fax No.: (with country/ area codes): .....
- i) Cell phone Nos.: (with country/ area codes): .....
- j) Contact persons/ Designation: .....
- k) Email IDs: .....

*Documents to be submitted to demonstrate eligibility as per Clause 3 of ITB: Self-certified copy of article of incorporation or registration certificate – in case of partnership firm – Deed of Partnership; in case of Company – Notarized and certified copy of its Registration; and in case of Society – its Byelaws and registration certificate of firm; in case of JV/C Agreement or Letter of intent to form JV/C – each member must also submit information as above for bidders.*

**2) Taxation Registrations:**

- a) PAN number: .....
- b) Type of GST Registration (Registered, Unregistered, Composition, SEZ, RCM etc.): .....
- c) GSTIN number: ..... in Contractor and Service Site States
- d) Registered/ Certified Offices from where the Services would be supported and Place of Service Site for GST Purpose: .....
- e) Contact Names, Nos. & email IDs for GST matters (Please mention primary and secondary contacts): .....

We solemnly declare that our GST rating on the GST portal Govt. official website is not negative/ blacklisted

*Documents to be submitted: Self attested Copies of PAN card and GSTIN Registration*

**3) Authorization of Person(s) signing the Bid on behalf of the Bidder**

- a) Full Name: \_\_\_\_\_
- b) Designation: \_\_\_\_\_
- c) Signing as: \_\_\_\_\_

- <sup>9</sup>A sole proprietorship firm and the person signing the bid document is the sole proprietor/ constituted attorney of sole proprietor, (submit the notarized copy of the affidavit on Non-Judicial Stamp Paper of Rs.1,000/- (Rupees one thousand only))
- A partnership firm, and the person signing the bid document is a partner of the firm and he has authority to make commitments on behalf of all partners concerning the business of the partnership by virtue of the partnership agreement/by virtue of general power of attorney, (submit self-attested copies of (i) registered/notarized Partnership Deed and (ii) Original of Power of Attorney issued in favour of Authorized Person by the Bidder on Non-Judicial Stamp Paper of Rs.1,000/- (Rupees one thousand only))
- A company and the person signing the bid document is the constituted attorney by a resolution passed by the Board of Directors or in pursuance of the Authority conferred by Memorandum of Association. (submit notarized copy of the MoU on Non-Judicial Stamp Paper of Rs.1,000/- (Rupees one thousand only))
- A Society and the person signing the bid document is the constituted attorney (submit (i) self-attested copy of the Certificate of Registration, (ii) Deed of Formation and (iii) Original of Power of Attorney issued in favour of Authorized Person by the Society on Non-Judicial Stamp Paper of Rs.1,000/- (Rupees one thousand only))
- A Joint Venture/ Consortium, and the person signing the bid is the designated lead member as named in the JV/C agreement/ MOU or similar document in connection with the formation of the JV/C or are all future proposed members in case (JV/C) has not been legally constituted at the time of bidding. (submit notarized copy of the documents as in clause 3.2 of ITB on Stamp Paper of Rs.1,000/- (Rupees one thousand only))

4) **Bidder's Authorized Representative Information**

- a) Name: \_\_\_\_\_
- b) Address: \_\_\_\_\_
- c) Telephone/ Fax numbers: \_\_\_\_\_
- d) Email Address: \_\_\_\_\_

(Signature with date)

.....

(Name and designation)

Duly authorized to sign Bid for and on behalf of

[name & address of the Bidder and seal of company]

DA: As above

---

<sup>9</sup> Strikeout whichever is not applicable to you!

## Form 1.2: Eligibility Declarations

(Ref Clause 8.2 of ITB)

(To be submitted as part of Technical Bid)

(On Company Letter head)

(Along with supporting documents, if any)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

[Statements and Documents to Performance Statement may be mentioned/ attached here. The list below is indicative only, you may attach more documents as required to confirm your eligibility criteria.]

### Eligibility Declarations

*(Please cross out any declaration not applicable to the bidder)*

#### ITB 3.3 Eligible Bidders

we hereby confirm that we are comply with all the stipulation of this clause and declare as under:

- 1) Legal Entity of Bidder: \_\_\_\_\_
- 2) Bidder/ Agent/ JV/C Status: \_\_\_\_\_
- 3) we declare that in accordance with ITB clause 3.3) we are not insolvent, in receivership, bankrupt or being wound up, not have our affairs administered by a court or a judicial officer, not have our business activities suspended and are not the subject of legal proceedings for any of the foregoing reasons;
- 4) We, solemnly declare, in accordance with ITB clause 3.3) that neither we nor any of our affiliates or subsidiaries – including subcontractors or Contractors for any part of the Contract – do not stand declared ineligible/ blacklisted/ banned/ debarred by any Government Agency anywhere in the world, for participating in its Bids, under that country's laws or official regulations.
- 5) We, solemnly declare, in accordance with ITB clause 3.3) that neither we and none of our proprietor, employee, partners or representatives, directors and officers have been convicted of any offence by a court under the Prevention of Corruption Act, 1988 or under the Indian Penal Code or any other law for the time being in force for offences involving moral turpitude in business dealings within a period of three years preceding the commencement of the Tender Process;
- 6) We certify that we have no conflict of interest in accordance with ITB clause 3.4, and the prices quoted against the Tender are competitive and without adopting any unfair/ unethical means including cartelization. As part of this, we certify that:
  - a) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to:
    - (i) those prices;
    - (ii) the intention to submit an offer; or
    - (iii) the methods or factors used to calculate the prices offered.
  - b) The prices in this offer have not been and will not be knowingly disclosed by us, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
  - c) No attempt has been made or will be made by us to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.
- 7) we certify that we fulfil any other additional eligibility condition, if any, as are prescribed, in AITB or elsewhere in Tender Document.



- 8) **Restrictions on procurement from bidders from a country or countries, or a class of countries under Rule 144 (xi) of the General Financial Rules 2017**  
*"We have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; and solemnly certify that we are not from such a country or, if from such a country, we are registered with the Competent Authority (copy enclosed). We hereby certify that we fulfil all requirements in this regard and are eligible to be considered."*  
And;  
*"We have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries; and solemnly certify that we are not from such a country or, if from such a country, we are registered with the Competent Authority (copy enclosed) and we shall not subcontract any work to a contractor from such countries unless such contractor is registered with the Competent Authority. We hereby certify that we fulfil all requirements in this regard and are eligible to be considered."*
- 9) **MSME Status:**  
Having read and understood the Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012 (as amended and revised till date), and solemnly declare the following:  
a) Company/ Partnership Firm/ Proprietary Concern/ Society/ Trust/ NGO/ Others (Please Specify):.....  
b) Micro/ Small/ Medium Enterprise/ SSI/ Govt. Deptt./ PSU/ Others:.....  
c) Name of MSME Registering Body (NSIC/ DIC/ KVIC/ KVIB etc.):.....  
d) MSME Registration no. (with copy of registration):.....  
e) Udyog Aadhaar Memorandum no.....  
f) Whether Proprietor/ Partner belongs to SC/ ST or Women category. (Please specify names and percentage of shares held by SC/ ST Partners):.....
- 10) **Start-up Status**  
we confirm that we are/ are not a Start-up entity as per the definition of Department of Promotion of Industrial and Internal Trade – DPIIT.
- 11) **Make in India Status:**  
Having read and understood the Public Procurement (Preference to Make in India PPP - MII) Order, 2017 (as amended and revised till date) and related notifications from the relevant Nodal Ministry/ Department, and solemnly declare the following:  
g) Self-Certification for category of suppliers:  
(provide a certificate from statutory auditors/ cost accountant in case of Tenders above Rs 10 Crore for Class-I or Class-II Local Suppliers)  
 Class Local Supplier/  
 Class I Local Supplier/  
 Not Local Supplier.  
h) We also declare that  
 There is no country whose bidders have been notified as ineligible on reciprocal basis under this order for offered product, or  
 We do not belong to any Country whose bidders are notified as ineligible or reciprocal basis under this order
- 12) **Self-Declaration by Indian Agents of Foreign Principals**  
a) Self-attested documentary evidence about their identity (PAN, Aadhar Card, GSTIN registration, proof of address etc), business details (ownership pattern and documents, type of firm, year of establishment, sister concerns etc) to establish that they are a bonafide business as per Indian Laws – are submitted as part of Form 1.3 attached.  
b) Agency Agreement covering the precise relationship, services to be rendered, mutual interests in business - generally and/ or specifically for the tender; any payment, which

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the agent or associate receives in India or abroad from the foreign Principals, whether as commission or as a general retainer fee shall be submitted with Form 8: Bid Form – Financial Bid.

- c) The name and address of the foreign principals, if any, indicating their nationality as well as their status, specifically authorizing the agent to make an offer in India in response to tender either directly or in association with the agents/ Bidders is shown in Form 1.3 attached.
- d) Confirmation of the foreign principals of the Bidder that the commission/ remuneration, if any, reserved for the Bidder in the quoted price(s), shall be paid by the Procuring Entity in India in equivalent Indian Rupees on satisfactory completion of the Project or supplies of Services given in Form 1.3 attached.

**13) Penalties for false or misleading declarations:**

we hereby confirm that the particulars given above are factually correct and nothing is concealed and also undertake to advise any future changes to the above details. We understand that any wrong or misleading self-declaration by us would be violation of Code of Integrity and would attract penalties as mentioned in this Tender Document, including debarment.

.....  
(Signature with date)

.....  
(Name and designation)

Duly authorized to sign Bid for and on behalf of

.....  
.....  
[name & address of the Bidder and seal of company]  
DA: As in Sr 9 to 14 above, as applicable

### Form 1.3: Declaration by Agents of Foreign Principals

(Required only for Agents representing Foreign Principals)

(Ref Clause 3.5 of ITB)

(On Company Letter Head)

(Along with supporting documents, if any)

(To be submitted as part of Technical Bid)

Agent's Name \_\_\_\_\_

[Address and Contact Details]

Principal's Reference No. \_\_\_\_\_ Date.....

The President of India, through

Head of Procurement

Procuring Organisation

[Complete address of the Procuring Entity]

Dear Sirs,

Ref. Your Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

- 1) We, \_\_\_\_\_, are a bonafide business as per Indian Laws. We have been retained as agent/ associates by our Principals, Messrs.....  
(name and address of the principal) to associate with them in participation in this Contract.
- 2) Agency agreement with Principals containing details including payments as per clause 3.5) is enclosed with Form8: Bid Form – Financial Bid.
- 3) We understand that any failure or non-disclosures as per that clause may render our/ principal's bid as unresponsive, beside any further action under violation of Code of Ethics.
- 4) The required details as per clause 3.5 of ITB are as follows.
  - a) Name of the Agent:.....
  - b) Documents regarding ownership pattern: Self-certified copy of registration certificate – in case of partnership firm – Deed of Partnership; in case of Company – Notarized and certified copy of its Registration; and in case of Society – its Byelaws and registration certificate of firm.
  - c) Year of establishment.....
  - d) Sister Concerns.....
  - e) Corporate Identity No. (CIN): .....
  - f) Aadhar Card of Owner/ CEO/ Partner
  - g) PAN number: .....
  - h) Complete Postal Address: .....
  - i) Pin code/ ZIP code: .....
  - j) Telephone nos. (with country/ area codes): .....
  - k) Fax No.: (with country/ area codes): .....
  - l) Cell phone Nos.: (with country/ area codes): .....
  - m) Contact persons/ Designation: .....
  - n) Email IDs: .....
  - o) Type of GST Registration (Registered, Unregistered, Composition, SEZ, RCM etc.): .....
  - p) GSTIN number: ..... in Consignor and Consignee States
  - q) Registered office from where agency services would be mainly provided for GST Purpose: .....
  - r) Contact Names, Nos. & email IDs for GST matters (Please mention primary and secondary contacts): .....
- 5) Details required under clause 3.5 regarding the Principals are given below.
  - a) Name of the Company:.....
  - b) Nationality/ Country of operation/ incorporation.....

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- c) Status (Ownership type):
- d) Complete Postal Address: .....
- e) Telephone nos. (with country/ area codes): .....
- f) Fax No.: (with country/ area codes): .....
- g) Cell phone Nos.: (with country/ area codes): .....
- h) Contact persons/ Designation: .....
- i) Email IDs: .....
- 6) Our agreement with Principals in line with clause 3.5) shall be enclosed with Form8: Bid-Form – Financial Bid, duly indicating any payments.
- 7) In accordance with clause 3.5) we are authorized to confirm on behalf of our principals that that the commission/ remuneration, if any, reserved for us in the quoted price(s), shall be paid by the Procuring Entity in India in equivalent Indian Rupees on satisfactory completion of the Project or supplies of Services.
- 8) We enclose herewith:
  - a) Self-certified copy of registration certificate – in case of partnership firm – Deed of Partnership; in case of Company – Notarized and certified copy of its Registration; and in case of Society – its Byelaws and registration certificate.
  - b) Original of Power of Attorney or Authority Letter issued in favour of Authorized Person signing this letter.

Yours faithfully,

.....  
.....

[signature with date, name, and designation]

for and on behalf of Messrs.....

[name & address of the Principal Service Provider and seal of company]

DA: 1. Registration Certificate etc 2. Power of Attorney etc.

Model Request for Proposal for Services - Tend No./ xxxx

## Form 2: Services and Activities Schedule

(Ref Clause 8.2 of ITB)

(To be submitted as part of Technical Bid)

(Along with supporting documents, if any)

(on Company Letterhead)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

*[Bidders must fill-up this Form in regard to Section VI: Schedule of Requirements maintaining the same numbering and structure. The adequacy of the Bidder's Bid to meet the Requirements and delivery schedule is important to determine if the Bid is substantially responsive. Please do not include any pricing information here]*

We hereby agree to fully comply with, abide by, and accept without variation, deviation, or reservation all requirements detailed in Section VI: Schedule of Requirements, except for deviations/ exceptions mentioned in statement below and any other contrary terms and conditions if mentioned in our Bid (Un-priced as well as Priced Part), shall not be recognized, and shall be treated as null and void. Any exceptions/ deviations brought out elsewhere in the Bid shall not be construed as valid.

.....

(Signature with date)

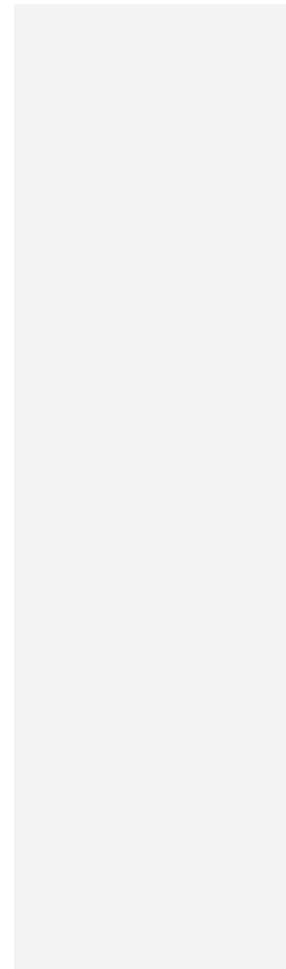
.....

(Name and designation)

Duly authorized to sign Bid for and on behalf of

.....

[name & address of the Bidder and seal of company]



**Statement of Confirmations and Deviations**

(Ref Clause 8.2 of ITB)

(To be submitted as part of Technical Bid)

(Along with supporting documents, if any)

(on Company Letterhead)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

*Highlight any deviations from Section VI: Schedule of Requirements, Background and Services and Activities Schedule. For clarity you may add your own Background.*

- 1) *Description/ Scope of Service (indicate what is (and more important – what is not) included in the Services and conditions under which Services are to be performed);*
- 2) *Outcomes, Deliverables, reports, timelines, milestones etc*
- 3) *Frequency/ Quantum/ Length & Duration of Activities*
- 4) *Task dependencies and sequencing*

Sl. No.	Ref of Tender Document Section, Clause		Subject	Confirmation/ Omission/ Deviation/ Exception/ Reservation	Justification/ Reason
	Section	Clause/ Clause			

Model Request for Proposal for Services - Tend No./ xxxx

### Services and Activities Schedule

(Ref Clause 8.2 of ITB)

(To be submitted as part of Technical Bid)

(Along with supporting documents, if any)

(on Company Letterhead)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

Contract Period		[one year from date of Contract]	Extendable by			[Four Months beyond Contract Period]			
Schedule	1	[Description of Schedule]	EMD Rs Thousands	[Enter EMD]					
Service Sr	Activity Sr	Description and Scope of Services; Outcomes, Deliverables, reports	Timelines and Milestones	Quantum	Units	Minimum Local Content (%)	HSN Code	Service Site/ State	GSTIN
1	2	3	4	5	6	7	8	9	10
Service 1.1									
	1.1.1								
	1.1.2								
	1.1.3								
Service 1.2									
	1.2.1								
	1.2.2								
	1.2.3								

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Schedule	2	[Description of Schedule]	EMD Rs Thousands	[Enter EMD]					
Service Sr	Activity Sr	Description and Scope of Services; Outcomes, Deliverables, reports	Timelines and Milestones	Quantum	Units	Minimum Local Content (%)	HSN Code	Service Site/ State	GSTIN
1	2	3	4	5	6	7	8	9	10
Service 1.1									
	1.1.1								
	1.1.2								
	1.1.3								
Service 1.2									
	1.2.1								
	1.2.2								
	1.2.3								



### Form3: Performance Standards and Quality Assurance - Confirmations/ Deviations

(Ref Clause8.2 of ITB)

(To be submitted as part of Technical Bid)

(Along with supporting documents, if any)

(on Company Letterhead)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

*[Bidders shall comply with Section VII: Performance and Quality Assurance; and submit a clause-by-clause confirmation and deviation in this Form, failing which its Bid is liable to be ignored. Bidder may also submit relevant documents like technical data, literature, drawings, and other documents.]*

#### Statement of Confirmations and Deviations

(Ref Clause 8.2 of ITB)

(To be submitted as part of Technical Bid)

(Along with supporting documents, if any)

(on Company Letterhead)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

Sl. No.	Ref of Performance Standards and Quality Assurance Clause		Subject	Confirmation/ Omission/ Deviation/ Exception/ Reservation	Justification/ Reason
	Section	Clause/ Clause			

We hereby agree to fully comply with, abide by, and accept without variation, deviation, or reservation all Technical Specifications, Quality Assurance and Warranty requirements except for Omissions/deviations/ exceptions/ reservations mentioned above and any contrary terms and conditions if mentioned in our Bid (Un-priced as well as Priced Part), shall not be recognized, and shall be treated as null and void. Any exceptions/ deviations brought out elsewhere in the Bid shall not be construed as valid.

.....

(Signature with date)

.....

(Name and designation)

Duly authorized to sign Bid for and on behalf of

.....

[name & address of the Bidder and seal of company]

Procurement of Non-Consultancy Services

DA: Relevant documents like technical data, literature, drawings, and other documents

### Form3.1: Method Statement

(Ref Clause 8.2 of ITB)

(To be submitted as part of Technical Bid)

(Along with supporting documents, if any)

(on Company Letterhead)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

- 1) Bidders must detail the method of performing the activity, indicating quantum and type of - personnel, equipment, and materials to be used. Indicate supervision, reports/ reporting procedure, performance parameters/ specification – target and measurements, documentation, and quality control records and any other relevant detail to distinguish your performance as compared to other bidders. Also indicate complaint redressal procedures and response times.
- 2) It is necessary for Bidders to demonstrate a complete understanding of the scope, nature and resource needed for the delivery of the Services.
- 3) The Method Statement shall, therefore, include, but shall not necessarily be limited to, the following:
  - (a) Description of the Bidder's proposed programming and sequencing of all main activities, identifying those for which timing may be critical.
  - (b) Description of the measures included in the Bid which will be implemented to achieve the performance standards and quality of execution required under the Contract.
  - (c) If the Tender Document so require a proposed Service Level Agreement shall also be included – in appropriate details/ format
  - (d) Description of arrangements which the Bidder proposes to adopt and has included in the Bid to ensure compliance with the environmental, social, gender, health and safety requirements called for in the Tender Document.
  - (e) Commentary on the Procurement Entity's Requirements, including status of the information available and relevant issues for the Works, detailing how the critical requirements will be achieved.
  - (f) This must be supplemented by information in Work Plan. Personnel Deployment Plan; Equipment Deployment Plan and Materials Deployment Plan
  - (g) [Insert anything else, as may be appropriate.]

**Form3.2: Work-Plan**

(Ref Clause 8.2 of ITB)

(To be submitted as part of Technical Bid)

(Along with supporting documents, if any)

(on Company Letterhead)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

*Bidder must show here the timelines of performance and delivery of activities, bringing out the dependencies and sequencing of activity. This may be done preferably in a Gantt Chart format.*

**Form3.3: Personnel Deployment Plan**

(Ref Clause 8.2 of ITB)

(To be submitted as part of Technical Bid)

(Along with supporting documents, if any)

(on Company Letterhead)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

Including personnel required for operation and maintenance of equipment in equipment schedule.

The number of personnel should include leave reserve and relieving staff.

**A. Key Personnel**

The Bidder shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key personnel listed in Section VIII-1: Key Personnel Schedule. At a minimum, CVs must be provided for the Key Personnel for the following positions, using the forms provided for that purpose:

No.	Position/ Location	Name	Qualification/ Certification/ Licence/ Training	Work Experience in similar position in similar Projects (Yr)	Work Experience Total (Yr)
1					
2					
3					
4					
5					
6					

**CVs of Key Personnel**

Name of Bidder		
Position		
Personnel information	Name:	Date of birth:
	Qualification/ Certification/ Licence/ Training	
Present employment	Name of employer:	
	Address of employer:	
	Telephone	Contact (manager / personnel officer)
	Fax	E-mail
	Job title	Years with present employer
Summarize professional experience over the last 10 years, in reverse chronological order. Indicate technical and managerial experience relevant to the project.		
<b>From</b>	<b>To</b>	<b>Company / Project / Position / Relevant technical and management experience</b>


*[Highlight any deviations from Section VIII-1: Key Personnel Schedule]*

**B. Other Personnel**

Sr. No.	Staff Category	Nos to be Deployed/ Location
1		
2		
3		
4		
5		
6		

**Form3.4: Equipment Deployment Plan**

(Ref Clause 8.2 of ITB); (To be submitted as part of Technical Bid); (Along with supporting documents, if any)

(on Company Letterhead)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

The number of equipment below does not include back-up reserve or maintenance and downtime requirements – that is included in rate quoted for each equipment in the financial bid. Operators/ Materials & Consumables for all equipment must be included in the Personnel Schedule and Material Schedule, respectively. Personnel and materials required for operation and maintenance of the equipment shall be covered in respective Personnel Deployment Plan and Material Deployment Plan (Form 3.3 and 3.5 respectively).

Equipment Schedule				
Equipm ent Sr	Description/ Category	Specifications/ Capacity/ Condition and Age	Ownership Details	Number Deploye d/ Location s
1	2	3	5	6
<b>Critical Equipment Deployment Plan</b>				
1.				
2.				
3.				
<b>Other Equipment Deployment Plan</b>				
1.				
2.				
3.				

*[Highlight any deviations from Section VIII-2: Critical Equipment Schedule]*



### Form3.5: Materials Deployment Plan

(Ref Clause 8.2 of ITB)

(To be submitted as part of Technical Bid)

(Along with supporting documents, if any)

(on Company Letterhead)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

Including materials required for operation and maintenance of equipment in equipment schedule.

The quantities below do not include wastages and leakages – that is to be included in rate quoted for materials in financial bid.

Material Schedule				
Item Sr	Description/ Category	Specifications/ Capacity/ Condition and Age	Location	Quantity per Service/ per day or shift/ per personnel/ per location
1	2	3	5	6
1.				
2.				
3.				
4.				
5.				

**Form4: Qualification Criteria - Confirmations/ Deviations**

(Ref Clause 8.2 of ITB)  
 (To be submitted as part of Technical Bid)  
 (Along with supporting documents, if any)  
 (on Company Letterhead)  
 Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services  
 Bidder’s Name \_\_\_\_\_  
 [Address and Contact Details]  
 Bidder’s Reference No. \_\_\_\_\_ Date.....

Summary of Response to Qualification Criteria

1) <b>Criteria 1 - Experience and Past Performance:</b>	<b>Summary</b>
(a) <b>Similar Experience</b> (as per Form 4.1):Number of service contracts (at least [80] percent completed)of a nature and complexity equivalent to the Services over the last [3] years	
(b) <b>No Nonperforming Contracts and Litigation:</b> (as per form 4.2) (i) Number occurrencesof non-performance of a contract within the last five (5) years (ii) Value of All pending litigation as a percentage of the Bidder’s net worth. (iii) Number of occurrences of failure to sign a contract after receiving a notice of award in the past five (5) years.	
<b>Criteria 2 – Performance Capability</b>	
(a) <b>Key Personnel:</b> Capability to deploy Key Personnel needed to perform the Service to the specified performance Standards. (Details given in Form 3.3)	Yes/ No
(b) <b>Critical Equipment:</b> Capability todeploy (own, hire, lease) Critical Equipment needed to perform the Service to the specified performance Standards. (Details given in Form 3.4)	Yes/ No
<b>Criteria 3 - Financial Capability: (as per form 4.3)</b>	
(a) <b>Financial Ratios</b> (i) <b>Average coefficient of Current ratio</b> (ii) <b>Average coefficient of Debt ratio</b> (b) <b>Average Turnover:</b> Within last (3) years (c) <b>Financial Liquidity:</b> (i) Overall cash flow requirements for this Contract and our current commitments. (ii) Access to cash-flow	

Bidders shall provide such evidence of their continued qualification to perform the Services (including any changes in their litigation history) in a manner satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request at any time prior to the award of contract.

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2) Documents Attached supporting the compliance to qualification criteria:

Sr	Document Attached, duly filled, signed, and copies self-attested
1	
2	
3	

.....  
(Signature with date)

.....  
(Name and designation)

Duly authorized to sign Bid for and on behalf of

.....  
[name & address of the Bidder and seal of company]

DA: As above if any

**Form4.1: Performance Statement**

**Statement of Supplies During Last Five Years and Current Outstanding Orders**

(Ref Clause 8.2 of ITB)

(To be submitted as part of Technical Bid)

(on Company Letterhead)

(Along with supporting documents, if any)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

Each Bidder or member of a Joint Venture/Consortium (JV/C) making up a Bidder must fill in this form and include information about relevant past contracts to which the Bidder or member of a JV/C is or has been a party whether as a Service Provider, affiliate, associate, subsidiary, Subcontractor, or in any other role.

Statements and Documents may be mentioned/ attached here to prove confirmation of meeting Criteria 1 – Experience and Past Performance in Section VIII – Qualification Criteria.

Contracting Entity – Name and Address	Contract Title, Number and Date	Role in Contract	Total value of order	Delay in performance (if any) with reasons thereof

.....  
(Signature with date)

.....  
(Name and designation)

Duly authorized to sign Bid for and on behalf of

.....  
.....

[name & address of the Bidder and seal of company]

DA: Performance records/ contracts

**Form 4.2 Non-performance, Litigation Statement**

(Ref Clause 8.2 of ITB)  
 (To be submitted as part of Technical Bid)  
 (Along with supporting documents, if any)  
 (on Company Letterhead)  
 Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services  
 Bidder's Name \_\_\_\_\_  
 [Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

*The following table shall be filled in for the Bidder and for each member of a joint venture or other association that is a party to the Bidder.*

<b>Non-Performing Contracts in accordance with Criteria 1 (b) Section VIII, Qualification Criteria</b>			
<input type="checkbox"/> Contract non-performance did not occur during the five years prior to the deadline for Bid submission in accordance with <b>Section III. Qualification and Evaluation Criteria</b> . <b>Or</b> <input type="checkbox"/> Contract(s) not performed during the five years prior to the deadline for Bid submission in accordance with <b>Section III. Qualification and Evaluation Criteria</b> are listed below			
<b>Year</b>	<b>Non performed portion of contract</b>	<b>Contract Identification</b>	<b>Total Contract Amount</b>
[insert year]	[insert amount and percentage]	Contract identification: [indicate complete contract title, number, and any other identification] Name of institution: [insert full name] Address of institution: [insert street/city/country] Reason(s) for non-performance: [indicate main reason(s)]	[insert amount]

**Current and Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations and Disputes, the process or outcome of which the Procuring Entity could reasonably interpret may impact or have the potential to impact the financial or operational condition of the Bidder in a manner that may adversely affect the Bidder's ability to satisfy any of its obligations under the Contract in accordance with Section VIII. Qualification Criteria**  
 (Bidder and each member of a Joint Venture/Consortium making up a Bidder must complete this table)

The Bidder, or a related company or entity, is currently, or within the past five (5) years has been, involved in any proceeding, litigation, arbitration, action, claim, investigation or dispute the process or outcome of which the Procuring Entity could reasonably interpret may impact or have the potential to impact the financial condition of the Bidder in a manner that may adversely affect the Bidder's ability to satisfy any of its obligations under the Contract:

No Or  Yes  
**If Yes, Describe:**

<b>Year</b>	<b>Matter in Dispute</b>	<b>Contract Identification</b>	<b>Value of Award (Actual or Potential) Against Bidder</b>

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[insert year]	[insert amount and percentage]	Contract identification: [indicate complete contract title, number, and any other identification] Name of institution: [insert full name] Address of institution: [insert street/city/country] Reason(s) for non-performance: [indicate main reason(s)]	[insert amount]
---------------	--------------------------------	--	-----------------

### Form 4.3 Financial Capability Statements

(Ref Clause 8.2 of ITB)

(To be submitted as part of Technical Bid)

(Along with supporting documents, if any)

(on Company Letterhead)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

#### 1: Financial Statements and Ratios

Each Bidder or member of a Joint Venture/Consortium making up a Bidder must fill in this form.

Financial Data for Previous Three (3) Years			
	Year 1:	Year 2:	Year 3:
<b>Information from Balance Sheet</b>			
<b>Total Assets</b>			
<b>Total Liabilities</b>			
<b>Net Worth</b>			
<b>Current Assets</b>			
<b>Current Liabilities</b>			
<b>Information from Income Statement</b>			
<b>Total Revenues</b>			
<b>Profits Before Taxes</b>			
<b>Profits After Taxes</b>			
<b>Financial Ratios</b> (Bidders to fill this table. The Procuring Entity will verify during the review process)			
<b>Current Ratio</b>			
<b>Debt Ratio</b>			

- Attached are copies of financial statements (either audited financial statements supported by audit letters or certified financial statements, supported by tax returns) as indicated above, complying with the following conditions.
- All such documents reflect the financial situation of the Bidder or member of a Joint Venture or other Association, and not sister or parent companies.
  - Historic financial statements must be audited by a Chartered accountant.
  - Historic financial statements must be complete, including all notes to the financial statements.
  - Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

**2: Average Annual Turnover**

(Ref Clause 8.2 of ITB)

(To be submitted as part of Technical Bid)

(Along with supporting documents, if any)

(on Company Letterhead)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

Each Bidder or member of a Joint Venture/Consortium making up a Bidder must fill in these forms.

<b>Annual Turnover Data for the Last Three (3) Years (Services only)</b>	
<b>Year</b>	<b>Turnover Amount</b>
<b>Average Annual Construction Turnover</b>	



**3: Financial Resources**

(Ref Clause 8.2 of ITB)

(To be submitted as part of Technical Bid)

(Along with supporting documents, if any)

(on Company Letterhead)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

Each Bidder or member of a Joint Venture/Consortium making up a Bidder must fill in this form, specifying proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject Contract or contracts as indicated in **Section VIII. Qualification Criteria.**

No.	Source of Financing	Amount (Rs Lakh)
1		
2		
3		
4		

Attach Supporting Documents – i.e., Statement from Bankers etc.

**4: Current Contract Liabilities/ Works in Progress**

(Ref Clause 8.2 of ITB)

(To be submitted as part of Technical Bid)

(Along with supporting documents, if any)

(on Company Letterhead)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

Each Bidder and each member of a Joint Venture/Consortium making up a Bidder should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

Title, No., and date of Contract	Contracting Entity; contact details	Value of outstanding work Rs Lakh	Estimated completion date	Avg monthly invoicing over last six months (Rs Lakh)
Total Monthly Commitment				

### Form5: Terms and Conditions - Confirmations/ Deviations

(Ref Clause 8.2 of ITB)  
 (To be submitted as part of Technical Bid)  
 (on Company Letterhead)  
 (Along with supporting documents, if any)  
 Bidder's Name \_\_\_\_\_  
 [Address and Contact Details]  
 Bidder's Reference No. \_\_\_\_\_ Date.....  
 Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Sl. No.	Ref of Tender Document Section, Clause		Subject	Confirmation/ Omission/ Deviation/ Exception/ Reservation	Justification/ Reason
	Section	Clause/ Clause			

We hereby agree to fully comply with, abide by, and accept without variation, deviation, or reservation all commercial conditions except for deviations/ exceptions mentioned above and any contrary terms and conditions if mentioned in our Bid (Un-priced as well as Priced Part), shall not be recognized, and shall be treated as null and void. Any exceptions/ deviations brought out elsewhere in the Bid shall not be construed as valid.

.....  
 (Signature with date)  
 .....  
 (Name and designation)  
 Duly authorized to sign Bid for and on behalf of  
 .....  
 .....  
 [name & address of the Bidder and seal of company]  
 DA: If any, at the option of the Bidder.

**Form 6: Checklistfor Bidders**

(Ref Clause 8.2 of ITB)

(To be submitted as part of Technical Bid)

(on Company Letterhead)

Bidder’s Name \_\_\_\_\_

[Address and Contact Details]

Bidder’s Reference No. \_\_\_\_\_ Date.....

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

*(This checklist is merely to help the bidders to prepare their bids, it does not over-ride or modify the requirement of the tender. Bidders must do their own due diligence also.)*

Sr	Documents submitted, duly filled, signed	Yes/ No/ NA
1.	Form 1.- Bid Form (to serve as covering letter and declarations applicable for both the Technical Bid)	
2.	Form 1.1: Bidder Information along with Power of attorney and Registration Certificates etc.	
3.	Form 1.2: Eligibility Declarations, along with supporting documents	
4.	If applicable, Form 1.3: Declaration by Agents of Foreign Principals	
5.	Form 2: Services and Activities Schedule	
6.	Form 3: Performance Standards and Quality Assurance - Confirmations/ Deviations	
6.a	Form 3.1, Form 3.2, Form 3.3, Form 3.4, and Form 3.5 to support Performance Standards and Quality Assurance	
7.	Form 4: Qualification Criteria - Confirmations/ Deviations	
7.a	Form 4.1, Form 4.2, and Form 4.3 supporting Qualification criteria	
8.	Form 5: Terms and Conditions - Confirmations/ Deviations	
9.	Form 6: This Checklist	
10.	Form 7: Documents Relating To EMD	
11.	Form8: Bid Form – Financial Bid. As part of Financial Bid	
12.	If applicable, Form9: Duly signed Integrity Pact, If stipulated in AITB,.	
13.	Price Schedule (BOQ) Excel Sheet (only sample given here, actual excel sheet should be downloaded from the Portal)	
14.	Any other requirements, if specified in TIS/ AITB; or if considered relevant by the Bidder	

.....  
(Signature with date)

.....  
(Name and designation)

Duly authorized to sign Bid for and on behalf of.....

[name & address of the Bidder and seal of company]

Model Request for Proposal for Services - Tend No./ xxxx

### Form 7: Documents Relating To EMD

(Ref Clause 8.2 of ITB)

(To be submitted as part of Technical Bid)

(on Company Letterhead)

(Along with supporting documents, if any)

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

We hereby enclose the documents relevant for compliance/ waiver of Earnest Money Deposit.

.....

(Signature with date)

.....

(Name and designation)

Duly authorized to sign Bid for and on behalf of.....

[name & address of the Bidder and seal of company]

DA:.....

**Form8:Bid Form – Financial Bid**

(Ref Clause8.2 of ITB)

(To be submitted as part of Financial Bid only)

(on Company Letterhead)

(Along with supporting documents, if any)

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

To

The President of India, through

Head of Procurement

Procuring Organisation

[Complete address of the Procuring Entity]

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Sir/ Madam

Having examined the abovementioned Tender Document and having submitted the techno commercial bid for the same, we, the undersigned, hereby submit the financial bid for delivery of Services as per the Schedule of Requirements and in conformity with the said Tender Documents.

- 1) **Competitive Prices:**We hereby offer to deliver the Goods/Services at the prices and rates mentioned in the separately uploaded Price-Schedule in Excel format. We have quoted our lowest prices and certify that these prices are competitive and without adopting any unfair/unethical means including cartelization.
- 2) **Terms, Conditions and Validity:** All terms, conditions and declarations contained in Form 1 and its sub-Forms, as well as the rest of Techno-commercial Bid submitted by us, shall apply mutadis mutandis to this Financial Bid. Our prices shall remain valid for the validity period confirmed in Form 1.
- 3) **The Financial Bid:** This Financial bid comprises the Price-schedule in the Excel format, filled up as per guidelines and as per commitment of non-tampering given by us in Form1: Bid Form – Techno-commercial Bid. Statement of Confirmations/ Deviations from Financial Terms and Conditions over and above Form 5 are given below:

Sl. No.	Ref of Tender Document Section, Clause		Subject	Confirmation/ Omission/ Deviation/ Exception/ Reservation	Justification/ Reason
	Section	Clause/ Clause			

4) **Agents of foreign Principal Service Providers:**

We are submitting this bid on our own behalf and hence there are no agents/ dealers involved in this tender and hence no agency agreement or payments/ commissions/ gratuity is involved.

Or;

As mentioned in Form 1 and its sub-Forms, agreement between us and our principals containing details in accordance with clause 3.5) is enclosed herewith. We have paid/ received, or will pay/ receive the following commissions, gratuities, or fees with respect to the tender process or execution of the Contract: [insert complete name of each recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity. If none has been paid or is to be paid, indicate —none.]

Name of Recipient	Address	Services to be provided	Amount

5) **Taxes and Duties:**

a) **Taxation Registrations:** Details have already been submitted in Form 1.1

b) **Statutory Variations on inputs:** We understand that during the Contract period for supply NO additional payment shall be payable to us towards any increase in prices of related ingredients/ components, such as input material, electricity, transportation cost, labour, revision of applicable taxes on raw material, or for any other increase whatsoever.

6) **Incidental Goods/ Works:** The Prices Quoted is inclusive of all incidental Goods/ Works

7) **Scope of Services:** Cost break-up of the quoted cost, showing inter-alia costs (including taxes and duties thereon) of all the included incidental Goods and Works considered necessary to make the proposal self-contained and complete has been indicated in the above referenced Price Schedule Excel Sheet.)

8) **Terms of Delivery and Delivery Schedule:** It is hereby confirmed that the prices quoted by us are based on terms of delivery and delivery schedule confirmed by us in Section VI – Schedule of Requirements.

9) **Terms and Mode of Payments:** It is hereby confirmed that the prices quoted by us are based on the terms and mode of payment as specified in the GCC and SCC. We have understood that if any deviation to terms and mode of payment is quoted by us in Form5: Confirmations/ Deviations from Terms and Conditions, our bid is liable to be rejected.

10) **Additional Financial Details:** Any financial detail left out in excel sheet or paras above are as follows:

-----

Dated.....

.....

(Signature with date)

.....

(Name and designation)

Duly authorized to sign Bid for and on behalf of.....

[name & address of the Bidder and seal of company]

DA: Agency/ Dealership Agreement form



## Form9: Integrity Pact

(If specified in TIS, ref Claus 8.2.1 of ITB)

(To be signed on Plain Paper)

(To be submitted as part of Technical Bid)

### **Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services**

This Agreement (hereinafter called the Integrity Pact) is made on \_\_\_\_ day of the month of \_\_\_\_ 202\_\_ at \_\_\_\_\_, India

#### BETWEEN

Procuring Organisation, ----- through Head of Procuring Organisation, for and on behalf of President of India (hereinafter called the "The Principal", which expression shall mean and include, unless the context otherwise requires, his successors in office and assigns) of the First Part

AND

M/ s. \_\_\_\_\_ (hereinafter called the "The Bidder/ Contractor" which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns) of the Second Part.

#### PREAMBLE

'The Principal' intends to award, under laid down organizational procedures, contract/ s for \_\_\_\_\_, 'The Principal' values full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness/ transparency in its relations with its Bidder(s) and/ or Contractor(s).

In order to achieve these goals, the Principal shall appoint Independent External Monitors (IEMs) who shall monitor the tender process and the execution of the Contract for compliance with the principles mentioned above.

#### **Section 1 - Commitments of the 'The Principal'**

(1) 'The Principal' commits itself to take all measures necessary to prevent corruption and to observe the following principles: -

a. No employee of the Principal, personally or through family members, shall in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.

b. The Principal shall, during the tender process treat all Bidder(s) with equity and reason. The Principal shall in particular, before and during the tender process, provide to all Bidder(s) the same information and shall not provide to any Bidder(s) confidential/ additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the Contract execution.

c. The Principal shall exclude from the process all known prejudiced persons.

(2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC/ PC Act, or if there be a substantive suspicion in this regard, the Principal shall inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

**Section 2 - Commitments of the 'Bidder/ Contractor'**

(1) The 'Bidder/ Contractor' commit themselves to take all measures necessary to prevent corruption. The 'Bidder/ Contractor' commit themselves to observe the following principles during participation in the tender process and during the Contract execution.

a. The 'Bidder/ Contractor' shall not, directly or through any other person or firm, offer, promise, or give to any of the Principal's employees involved in the tender process or the execution of the Contract or to any third person any material or other benefit which he/ she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the Contract.

b. The 'Bidder/ Contractor' shall not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelisation in the tender process.

c. The 'Bidder/ Contractor' shall not commit any offence under the relevant IPC/ PC Act; further the 'Bidder/ Contractor' shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals, and business details, including information contained or transmitted electronically.

d. The 'Bidder/ Contractor' of foreign origin shall disclose the name and address of the Agents/ representatives in India, if any. Similarly, the Bidder/ Contractors of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the "Guidelines on Indian Agents of Foreign Suppliers" shall be disclosed by the Bidder/ Contractor. Further, as mentioned in the Guidelines all the payments made to the Indian agent/ representative have to be in Indian Rupees only. Copy of the "Guidelines on Indian Agents of Foreign Suppliers" is placed at Annexure to this agreement.

e. The 'Bidder/ Contractor' shall, when presenting their bid, disclose any and all payments made, is committed to, or intends to make to agents, brokers, or any other intermediaries in connection with the award of the Contract.

f. Bidder/ Contractor who have signed the Integrity Pact shall not approach the Courts while representing the matter to IEMs and shall wait for their decision in the matter.

(2) The 'Bidder/ Contractor' shall not instigate third persons to commit offences outlined above or be an accessory to such offences.

**Section 3 - Disqualification from tender process and exclusion from future contracts**

If the 'Bidder/ Contractor', before award or during execution has committed a transgression through a violation of Section 2, above or in any other form such as to put their reliability or credibility in question, the Principal is entitled to disqualify the 'Bidder/ Contractor' from the tender process or take action as per the procedure mentioned in the "Guidelines on Banning of business dealings".

**Section 4 - Compensation for Damages**

(1) If the Principal has disqualified the 'Bidder/ Contractor' from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover from 'Bidder/ Contractor' the damages equivalent to Earnest Money Deposit/ Bid Security.

(2) If the Principal has terminated the Contract according to Section 3, or if the Principal is entitled to terminate the Contract according to Section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages of the Contract value or the amount equivalent to Performance Bank Guarantee.

**Section 5 - Previous transgression**

(1) The Bidder declares that no previous transgressions occurred in the last three years with any other Company in any country conforming to the anti-corruption approach or with any Public Sector Enterprise in India that could justify his exclusion from the tender process.

(2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action can be taken as per the procedure mentioned in "Guidelines on Banning of business dealings".

**Section 6 - Equal treatment of all Bidders/ Contractors/ Subcontractors**

- (1) In case of Sub-contracting, the Principal Contractor shall take the responsibility of the adoption of Integrity Pact by the Sub-contractor.
- (2) The Principal shall enter into agreements with identical conditions as this one with all Bidders and Contractors.
- (3) The Principal shall disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

**Section 7 - Criminal charges against violating Bidder(s)/ Contractor(s)/ Subcontractor(s)**

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal shall inform the same to the Chief Vigilance Officer.

**Section 8 - Independent External Monitor**

- (1) The Principal appoints competent and credible Independent External Monitor for this Pact after approval by Central Vigilance Commission. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- (2) The Monitor is not subject to instructions by the representatives of the parties and performs his/ his functions neutrally and independently. The Monitor would have access to all Contract documents, whenever required. It shall be obligatory for him/ his to treat the information and documents of the Bidders/ Contractors as confidential. He/ she reports to Head of Procuring Organisation of Procuring Organisation.
- (3) The Bidder(s)/ Contractor(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal including that provided by the Contractor. The Contractor shall also grant the Monitor, upon his/ his request and demonstration of a valid interest, unrestricted and unconditional access to their project documentation. The same is applicable to Sub-contractors.
- (4) The Monitor is under contractual obligation to treat the information and documents of the Bidder/ Contractor(s)/ Sub-contractor(s) with confidentiality. The Monitor has also signed declarations on 'Non-Disclosure of Confidential Information' and of 'Absence of Conflict of Interest'. In case of any conflict of interest arising at a later date, the IEM shall inform Head of Procuring Organisation of Procuring Organisation and recuse himself/ herself from that case.
- (5) The Principal shall provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the Contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.
- (6) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he/ she shall so inform the Management of the Principal and request the Management to discontinue or take corrective action, or to take other relevant action. The monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action, or tolerate action.
- (7) The Monitor shall submit a written report to Head of Procuring Organisation of Procuring Organisation within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.
- (8) If the Monitor has reported to Head of Procuring Organisation of Procuring Organisation, a substantiated suspicion of an offence under relevant IPC/ PC Act, and Head of Procuring Organisation of Procuring Organisation has not, within the reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.
- (9) The word 'Monitor' would include both singular and plural.

**Section 9 - Pact Duration**

## Procurement of Non-Consultancy Services

This Pact begins when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the Contract, and for all other Bidders 6 months after the Contract has been awarded. Any violation of the same would entail disqualification of the bidders and exclusion from future business dealings.

If any claim is made/ lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged/ determined by Head of Procuring Organisation of Procuring Organisation.

### **Section 10 - Other provisions**

- (1) This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal, i.e., New Delhi.
- (2) Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- (3) If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- (4) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties shall strive to come to an agreement to their original intentions.
- (5) Issues like Warranty/ Guarantee etc. shall be outside the purview of IEMs.

Model Request for Proposal for Services - Tend No./ xxxx

(6) In the event of any contradiction between the Integrity Pact and its Annexure, the Clause in the Integrity Pact shall prevail.

For and on behalf of the Principal

(Name of the Officer and Designation)

(Office Seal)

For and on behalf of 'Bidder/ Contractor'

(Name of the Officer and Designation)

(Office Seal)

For and on Behalf of the Principal

Place

Date

Witness 1:

(Name & Address)

Witness 2:

(Name & Address)

⇔

**Annexe to Integrity Pact**  
**Guidelines for Indian Agents of Foreign Suppliers**

1.0 There shall be compulsory registration of agents for all Global (Open) Tender and Limited Tender. An agent who is not registered with 'The Principal' shall apply for registration in the registration form with appropriate unit.

1.1 Registered agents shall file an authenticated Photostat copy duly attested by a Notary Public/ Original certificate of the Principal confirming the agency agreement. It should cover - the precise relationship, services to be rendered, mutual interests in business - generally and/ or specifically for the tender. Any commission/ remuneration/ salary/ retainership, which the agent or associate receives in India or abroad from the Principal/ Or, whether should be brought on record in the Agreement and be made explicit.

1.2 Wherever the Indian representatives have communicated on behalf of their principals and the foreign parties have stated that they are not paying any commission to the Indian agents, and the Indian representative is working on the basis of salary or as retainer, a written declaration to this effect should be submitted by the party (i.e., Principal) before finalizing the order.

2.0 Disclosure of particulars of agents/ representatives in India, if any.

2.1 Bidders of Foreign nationality shall furnish the following details in their offers:

2.1.1 The 'Bidder/ Contractor' of foreign origin shall disclose the name and address of the agents/ representatives in India if any and the extent of authorization and authority given to commit the Principals. In case the agent/ representative be a foreign Company, it shall be confirmed whether it is existing Company and details of the same shall be furnished.

2.1.2 The amount of commission/ remuneration included in the quoted price(s) for such agents/ representatives in India.

2.1.3 Confirmation of the Bidder that the commission/ remuneration, if any, payable to his agents/ representatives in India, may be paid by 'The Principal' in Indian Rupees only.

2.2 Bidders of Indian Nationality shall furnish the following details in their offers:

2.2.1 The 'Bidder/ Contractor' of Indian Nationality shall furnish the name and address of the foreign principals, if any, indicating their nationality as well as their status, i.e., whether manufacturer or agents of manufacturer holding the Letter of Authority of the Principal specifically authorizing the agent to make an offer in India in response to tender either directly or through the agents/ representatives.

2.2.2 The amount of commission/ remuneration included in the price (s) quoted by the Bidder for himself.

2.2.3 Confirmation of the foreign principals of the Bidder that the commission/ remuneration, if any, reserved for the Bidder in the quoted price(s), may be paid by 'The Principal' in India in equivalent Indian Rupees on satisfactory completion of the Project or supplies of Services.

2.3 In either case, in the event of contract materializing, the terms of payment shall provide for payment of the commission/ remuneration, if any payable to the agents/ representatives in India in Indian Rupees on expiry of 90 days after the discharge of the obligations under the Contract.

2.4 Failure to furnish correct and detailed information as called for in clauses above shall render the concerned tender liable to rejection or in the event of a contract materializing, the same liable to termination by 'The Principal'. Besides this there would be a penalty of banning business dealings with 'The Principal' or damage or payment of a named sum.

### Format 1: Contract Form

(Ref Clause 12.2 of ITB)  
The President of India, through  
Head of Procurement  
Procuring Organisation  
[Complete address of the Procuring Entity]

Contract No..... dated.....  
To

Contractor [Write Name]  
[Complete address of the Contractor]

**Subject:** .....

- Ref:** 1. This office' Notification of Award No..... dated .....
2. This office Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services, dated..... and subsequent Amendment No....., dated..... (If any). (Hereinafter referred as 'the Tender Document')
3. Your Tender No..... dated..... and subsequent communication(s)/ Revised Offer No..... dated ..... (If any), exchanged between you and this office in connection with this tender. (Hereinafter referred as 'Your Offer')

Dear Sir/ Madam,

You are hereby informed that 'your bid' referred above read with subsequent letters mentioned above for the Services specified in the Schedules annexed herewith have been accepted. This contract shall be governed by the terms and conditions as brought in this Contract Form and in the documents listed in clause below.

2. In addition to this Contract Form, the terms, and conditions, which are included in the documents mentioned under Reference no: 1, 2 and 3 above (including General and Special Conditions of Contract), shall also be deemed to form and be read and construed as part of this contract.

Note: The words, expressions, definitions, and abbreviations used in this Contract shall have the same meanings as are respectively assigned to them in the General Condition of Contract of 'the Tender Document'.

(Signature, name and address of [Procuring Entity]'s authorized official)

For and on behalf of.....

Received and accepted this Contract .....

(Signature, name, and address of the Contractor's executive duly authorized to sign on behalf of the Contractor)

For and on behalf of .....

(Name and address of the Contractor)

.....

(Seal of the Contractor)

Place: \_\_\_\_\_ Date:

### Annexe 1 to Contract: Description of Services

Procuring Entity

Procuring Organisation

[Complete address of the Procuring Entity]

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Contract No \_\_\_\_\_; Date \_\_\_\_\_

Contractor's Name \_\_\_\_\_

[Address and Contact Details]

*[Give detailed descriptions of the Services to be provided, dates for delivery of various tasks, place of performance for different tasks, specific tasks to be approved Procuring Entity, etc. This Description of Services is to be based on the Section VI: Schedule of Requirements in the Tender Document and **incorporates changes agreed upon during evaluation**. It must be noted that this Description of Services takes precedence over the Service Provider's Bid, so any changes recommended or requested by the Service Provider do not alter the Services the Service Provider is required to perform **unless agreed to during evaluation and incorporated into this Description of Services.**]*

In the event of any inconsistency between this Description of Services and the 'Bid', the priority of interpretation shall be given to this Description of Services.

This annexe shall cover all details from Sections VI and VII; Forms 2; 3; 3.1; 3.2 of the Bid



Model Request for Proposal for Services - Tend No./ xxxx

**Annexe 1-A to Contract: Personnel Deployment Plan**

Procuring Entity

Procuring Organisation

[Complete address of the Procuring Entity]

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Contract No \_\_\_\_\_; Date \_\_\_\_\_

Contractor's Name \_\_\_\_\_

[Address and Contact Details]

*[List all Personnel and Subcontractors to be deployed in the delivery of the Services, with position, job description and minimum qualifications as per the Schedule of Requirements/ Bid]*

**Annexe 1-B to Contract: Equipment Deployment Plan**

Procuring Entity

Procuring Organisation

[Complete address of the Procuring Entity]

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Contract No \_\_\_\_\_; Date \_\_\_\_\_

Contractor's Name \_\_\_\_\_

[Address and Contact Details]

*[List all Equipment to be deployed in the delivery of the Services, as per the Schedule of Requirements/ Bid]*

Model Request for Proposal for Services - Tend No./ xxxx

**Annexe 1-C to Contract: Materials Deployment Plan**

Procuring Entity

Procuring Organisation

[Complete address of the Procuring Entity]

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Contract No \_\_\_\_\_; Date \_\_\_\_\_

Contractor's Name \_\_\_\_\_

[Address and Contact Details]

*[List all Materials to be deployed in the delivery of the Services, as per the Schedule of Requirements/  
Bid]*

**Annexe 2 to Contract: Price Schedule**

Procuring Entity

Procuring Organisation

[Complete address of the Procuring Entity]

Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Contract No \_\_\_\_\_; Date \_\_\_\_\_

Contractor's Name \_\_\_\_\_

[Address and Contact Details]

*[Price Schedule as per BOQ submitted along with all Schedules]*

**Annexe 3 to Contract: Bank Guarantee Format for Performance Security**

(Ref Clause12.4 of ITB and clause5.8 of GCC)

To  
The President of India, through  
Head of Procurement  
Procuring Organisation  
[Complete address of the Procuring Entity]

Whereas..... (name and address of the Contractor) (hereinafter called "the Contractor") has undertaken, in pursuance of contract no ..... date..... to delivery ..... (description of Services ) (herein after called "the Contract").

And Whereas it has been stipulated by you in said contract that the Contractor shall furnish you with a bank guarantee by a scheduled commercial bank recognized by you for the sum specified therein as security for compliance with its obligations in accordance with contract;

And Whereas we have agreed to give the Contractor such a bank guarantee.

Now Therefore we hereby affirm that we are guarantors and responsible to you, on behalf of the Contractor, up to total of .....(amount of the guarantee in words and figures), and we undertake to pay you, upon your first written demand declaring the Contractor to be in default under the Contract and without cavil or argument, any sum or sums within the limits of (amount of guarantee) as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with demand.

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

Procurement of Non-Consultancy Services

This guarantee shall be valid until the .....day of .....20.....

Our.....branch at..... \*(Name & Address of the ..... \*(branch) is liable to pay the guaranteed amount depending on the filing of claim and any part thereof under this Bank Guarantee only and only if you serve upon us at our .....\* branch a written claim or demand and received by us at our .....\* branch on or before Dt..... otherwise, bank shall be discharged of all liabilities under this guarantee thereafter.

(Signature of the authorized officer of the Bank)

.....  
.....

Name and designation of the officer

.....

Seal, name & address of the Bank and address of Branch

\*Preferably at the headquarters of the authority competent to sanction the expenditure for procurement of goods/ service or at the concerned district headquarters or the state headquarters.

### Annexe 4 to Contract: Certification by Prospective Arbitrators

(Ref Clause13.5 of GCC)

To

Head of Procuring Organisation

Procuring Organisation

[Complete address of the Procuring Entity]

#### Certification by Prospective Arbitrators

1. Name: \_\_\_\_\_
2. Contact Details: \_\_\_\_\_
3. I hereby certify that I have retired from *[Name of Organisation]* w.e.f. \_\_\_\_\_ in \_\_\_\_\_ grade.

Or

I hereby certify that I am serving officer of *[Name of Organisation]* and am presently posted as \_\_\_\_\_ in \_\_\_\_\_ grade.

4. I have no past or present relationship in relation to the subject matter in dispute, whether financial, business, professional or other kind.

Or

I have past or present relationship in relation to the subject matter in dispute, whether financial, business, professional or other kind. The list of such interests is as under:

5. I have no past or present relationship with or interest in any of the parties whether financial, business, professional or other kind, which is likely to give rise to justifiable doubts as to my independence or impartiality in terms of the Arbitration and Conciliation Act 1996 and its amendments in 2015 and 2019.

Or

I have past or present relationship with or interest in any of the parties whether financial, business, professional or other kind, which is likely to give rise to justifiable doubts as to my independence or impartiality in terms of the Arbitration and Conciliation Act 1996 and its amendments of 2015 and 2019. The details of such relationship or interest are as under:

6. There are no concurrent circumstances which are likely to affect my ability to devote sufficient time to the arbitration and in particular to finish the entire arbitration within twelve months.

Or

There are circumstances which are likely to affect my ability to devote sufficient time to the arbitration and in particular to finish the entire arbitration within twelve months. The list of such circumstances is as under:

(Signature)

(Name & Designation)

### Format2: Authorization for Attending Pre-bid Conference

(Refer Clause7 of ITB)

(on Company Official Letter Head)

Bidder's Name \_\_\_\_\_

[Address and Contact Details]

Bidder's Reference No. \_\_\_\_\_ Date.....

To

The President of India, through

Head of Procurement

Procuring Organisation

[Complete address of the Procuring Entity]

Ref: Tender Document No. Tend No./ xxxx; Tender Title: Non-Consultancy Services

Subject: Authorization for attending Pre-bid Conference on \_\_\_\_\_ (date).

Following persons are hereby authorized to attend the Pre-bid Conference for the tender mentioned above on behalf of \_\_\_\_\_ (Bidder) in order of preference given below.

Sr.	Name	Government Photo ID Type/ Number
I.		
II.		
Alternate Representative		

Note:

1. Maximum of two representatives (carrying valid Government photo IDs) will be permitted to attend the Pre-bid opening. Alternate representative will be permitted when regular representatives are not able to attend.
2. Permission for entry to the hall where pre-bid conference is conducted may be refused in case authorization as prescribed above is not submitted.

Signatures of bidder

or

Officer authorized to sign the bid

Documents on behalf of the bidder

[name & address of the Bidder and seal of company]



### Exhibit 1: Price Schedule Sample

Only a sample for guidance, not to be filled/ uploaded. Download actual BOQ Excel Sheet from the Portal and do not modify/replace and upload after filling the relevant columns (shown here in grey), else the bid is liable to be rejected.

**Time-Based (Inputs admeasurement) BOQ (Based on Item-wise Template)  
Domestic Tenders - Rates are to be Given In Rupees (INR) Only**

Name of Work:		Procurement of Non-Consultancy Services									
Tender No:		Tend No./ xxxx									
Name of the Bidder/ Bidding Firm/ Company:											
No.	Text	No.	Text	No.	No.	No.	Text	No.	No.	Text	
Sl. No.	Service Description	Quantity	Units	Basic Rate in Fig entered by Bidders in Rs. P	GST Amount in INR Rs. P	Any Other Taxes in Rs. P	Any Other Duties/ Levies in Rs. P	Total Rate w/o Taxes Rs. P	Total Rate with Taxes Rs. P	Total Amount in Words	
1	2	4	5	6	7	8	9	10	11	12	
	<b>Personnel Cost as per cost breakup tab</b>							6X4	(6+7+8+9)X4		
1.0	Minimum Wage Personnel Schedule per Month		Months								
1.0	EPF per month		Months								
1.0	ESI per month		Months								
1.0	Other/ Statutory Allowances per month		Months								
1.0	Service Charge per month		Months								
1.0	<b>Total Monthly Personnel Cost (1.01 to 1.05)</b>		Months								
2	<b>Equipment Cost as per cost breakup tab</b>										
2.0	Monthly Cost other than personnel and materials	1	Months								
2.0	Service Charge	1	Months								

Procurement of Non-Consultancy Services

<b>2.0</b>	<b>Total Monthly Equipment Cost (2.01 to 2.02)</b>		Months								
<b>3</b>	<b>Material Schedule as per cost breakup tab</b>										
3.0	All Inclusive Monthly Cost	1	Months								
3.0	Service Charge	1	Months								
<b>3.0</b>	<b>Total Monthly Material Cost (3.01 to 3.02)</b>		Months								
<b>4</b>	<b>Other Charges as per cost breakup tab</b>										
4.0	All Inclusive Monthly Cost	1	Months								
4.0	Service Charge	1	Months								
<b>4.0</b>	<b>Total Monthly Other Cost (4.01 to 4.02)</b>		Months								
			<b>Total Rate in Figure (1.0.6 + 2.0.3+3.0.4+4.06)</b>								
			<b>Quoted Rate in Word (1.0.6 + 2.0.3+3.0.4+4.06)</b>								

**Exhibit 1.1:<sup>10</sup> Personnel Schedule Cost Breakup**

Sr. No.	Staff Category	Minimum Wages per day	Monthly wages	Nos to be Deployed	Category Monthly Minimum wages	EPF	ESI	Other/ Statutory Allowance	Service Charges
		(Duty cycle as per regulations)	(3X26 days)		4X5	(@ --%age of 6)	(@ --%age of 6)	(@ --%age of 6)	(@ --%age of 6)
	Managers								
	Supervisors								
	Technicians								
	Skilled Labour								
	Unskilled Labour								
<b>Total Monthly Personnel Cost</b>									

<sup>10</sup> Including personnel required for operation and maintenance of equipment in equipment schedule

**Exhibit 1.2: Equipment Schedule Cost Breakup**

Sr. No.	Description/ Category of Equipment	Total No of Equipment to be deployed	<sup>11</sup> Monthly Expenses excluding materials personnel cost
1.			
<b>Total Monthly Equipment Cost</b>			

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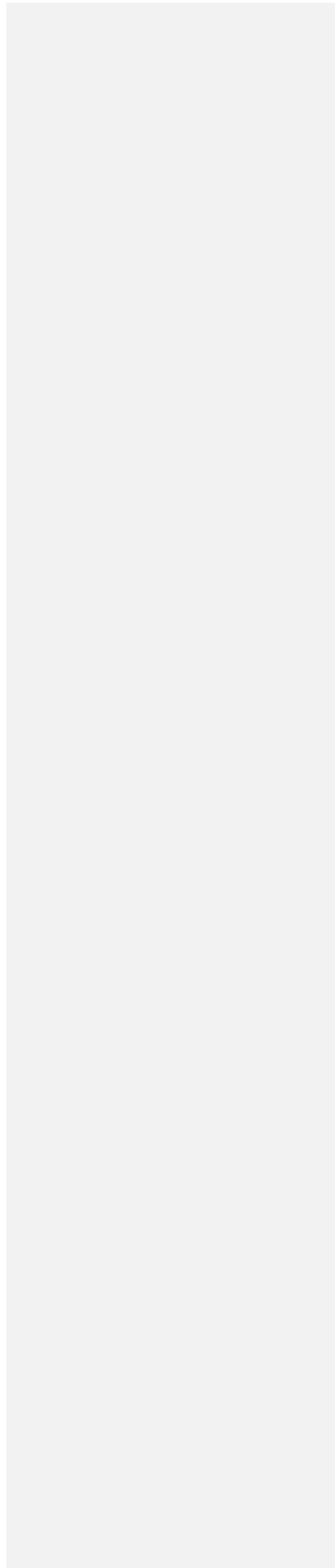
<sup>11</sup> Show personnel and materials in respective schedules.

**Exhibit 1.3: <sup>12</sup>Material Schedule Cost Breakup**

Sr. No.	Description of Material	Quantity Per month	All-inclusive Rate Rs. P	Monthly cost. Rs. P
		<b>Total Monthly Materials Cost</b>		

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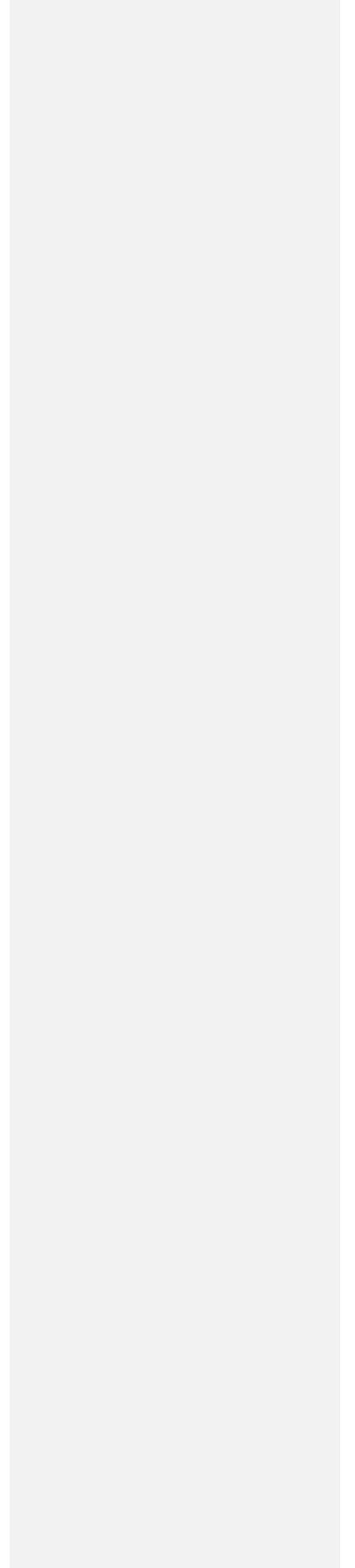
<sup>12</sup> Including material required for operation and maintenance of equipment in equipment schedule



**Exhibit 1.4: Other Costs Breakup**

Sr. No.	Description of Other Costs	Quantity Per month	All-inclusive Rate Rs. P	Monthly cost. Rs. P
	<b>Total Monthly Other Cost</b>			

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**Procuring Organisation  
Model Request for Proposal for Services  
Tender Reference Number: Tend No./ xxxx  
For Procurement of  
Non-Consultancy Services**

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