

28/07/19

To whomsoever it may concern

The Indian Audit and Accounts Department under the Comptroller and Auditor General of India envisions designing, developing and deploying an integrated enterprise level Cloud based audit process management system (as well as knowledge management, business intelligence) and concomitantly IT enabled Admin System.

In this regard, the draft RFP Volume 2 and 3 (under preparation in line with the model MEITY template) is being shared publicly, inviting suggestions from prospective system integrators. The suggestions provided by SIs in the non-exclusive workshop conducted with prospective bidders (on 19/07/19) are not reflected in this version as they are still under consideration.

Suggestions may be forwarded to oios@cag.gov.in by 01/08/19.

Sd/-
Sreeraj Ashok
Dy. Director (IS)

Comptroller and Auditor General of India

Volume - 2



Draft Request for Proposal

For Consultation Purpose Only
One IAAD One System (OIOS) Project

Reference Number: << Document Number >>

Disclaimer

The information contained in this Request for Proposal document ("RFP") or subsequently provided to Bidders, whether verbally or in documentary or any other form by or on behalf of Comptroller & Auditor General of India (C&AG), or any of its employees or advisors, is provided to Bidders on the Terms and Conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is neither an offer nor an invitation by C&AG to the prospective Bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their Proposals pursuant to this RFP.

This RFP may not be appropriate for all companies, and it is not possible for C&AG, its employees or advisors to consider the objectives, technical expertise and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP, may not be complete, accurate, adequate or correct. Each bidder should therefore conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Bidders is on a wide range of matters, some of which depend upon interpretation of facts. The information given is not an exhaustive account of requirements and should not be regarded as a complete or authoritative statement of facts. The specifications laid out in this RFP are indicated as the minimum requirements whereas the bidders are expected to focus on the objectives of the project and formulate their solution offerings in a manner that enables achieving those objectives in letter as well as spirit.

C&AG accepts no responsibility for the accuracy or otherwise for any interpretation or opinion expressed herein. C&AG, its employees and advisors 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 this RFP or otherwise, including the accuracy, adequacy, correctness, reliability or completeness of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way in this Selection Process.

Page Intentionally Left Blank

Draft

Glossary of Acronyms

AAOs	Assistant Audit Officers/ Assistant Accounts Officers
AAP	Annual Audit Plan
AB	Autonomous Body
ACM	Audit Committee Meeting
ADAI	Additional Deputy Comptroller and Auditor General
ADAI (C)	Additional Deputy Comptroller and Auditor General (Commercial)
ADAI (P&T)	Additional Deputy Comptroller & Auditor General (Post & Telecommunications)
ADAI (RA)	Additional Deputy Comptroller and Auditor General (Receipt Audit)
ADAI (Railways)	Additional Deputy Comptroller and Auditor General (Railways)
ADAI (RC)	Additional Deputy Comptroller & Auditor General (Report Central)
ADIT	Assistant Director of Income Tax
ADM	Audit Design Matrix
AG (A&E)	Accountant General (Accounts & Entitlement)
AG (Audit)	Accountant General (Audit)
AG (P&T)	Accountant General (Post & Telecommunications)
AGCR	Accountant General, Central Revenue
AM	Audit Memo
AN	Appreciation Notes
AoA	Articles of Association
AOs	Audit Officers/Accounts Officers
APOS	Audit Para Observations System
AQMF	Audit Quality Management Framework
AsG	Accountants General
ASOSAI	Asian Organization of Supreme Audit Institutions
ATN	Action Taken Note
ATR	Action Taken Report
BCP	Business Continuity Planning
BO	Branch Officer
C&AG	Comptroller and Auditor General
C&AG's (DPC) Act	Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act
CA	Compliance Audit

Glossary of Acronyms

CAMP	Comprehensive Audit Management Platform
CAP	Central Audit Party
CBDT	Central Board of Direct Taxes
CCIT	Chief Commissioner of Income Tax
CCIT (CCA)	Chief Commissioner of Income Tax (Cadre Controlling Authority)
CIO	Chief Controlling Officer
CIT	Commissioner of Income Tax
CRA	Central Receipt Audit
CTS	Commercial Trained Staff
DAG	Deputy Accountant General
DAI	Deputy Comptroller and Auditor General of India
DAI (LB & AEC)	Deputy Comptroller and Auditor General (Local Bodies & Accounts, Establishment & Complaints)
DAI (LB)	Deputy Comptroller and Auditor General (Local Bodies)
DAI (Rlys.)	Deputy Comptroller and Auditor General (Railways)
DC	Data Center
DCA	Department Centric Audit
DCR	Demand and Collection Register
DDCRA	Deputy Director Central Revenue Audit
DDIT	Deputy Director of Income Tax
DDO	Drawing & Disbursing Officer
DG	Director General
DG (PA)	Director General (Performance Audit)
DGA	Director General of Audit
DGA (P&T)	Director General of Audit (Post & Telecommunications)
DGACR	Director General of Audit, Central Revenues
DIT	Directorate of Income Tax
DMC	Departmental Monitoring Committee
DMZ	Demilitarized zone
DNS	Domain Name System
DO	Demi Official
DOR	Department of Revenue

Glossary of Acronyms

DP	Draft Paragraph
DPC	Duties, Powers and Conditions (DPC) Act, 1971
DR	Disaster recovery
DW	Data Warehouse
E&RSA	Economic & Revenue Sector Audit
Exem.	Exemption
FA	Financial Audit
FAA	Financial Attest Audit
FAAM	Financial Attest Audit Manual 2009
FAO	Field Audit Office
FINAT	Financial Attest Audit Team
FTS	File Tracking System
G&SSA	General & Social Sector Audit
GAW	Government Accounts Wing
GIA	Grants – in - Aid
GIS	Geographical Information System
GO	Group Officer
GOI	Government of India
HCI	Hyper Converged Infrastructure
HMs	Half Margins
HQrs	Headquarters
I&CI	Intelligence and Criminal Investigation
IA&AD	Indian Audit and Accounts Department
IA&AS	Indian Audit and Accounts Service
ICISA	International Centre for Information System & Audit
IFMS	Integrated Financial Management System
INTOSAI	International Organization of Supreme Audit Institutions
Inv.	Investigation
ITD	Income Tax Department
ITO	Income Tax Officer
ITRA	Income Tax Receipt Audit

Glossary of Acronyms

Jt. CIT	Joint Commissioner of Income Tax
KD	Key Document
KMS	Knowledge Management System
LAMS	Local Audit Management System
LAP	Local Audit Party
LAR	Local Audit Report
LDAP	Light Weight Directory Access Protocol
LTU	Large Taxpayers Unit
MAB	Member Audit Board
MeitY	Ministry of Electronics & Information Technology
MICA	Manual of Instructions on Central Audit
MIP	Men In Position
MPLS	Multi-Protocol Label Switching
MSO	Manual of Standing Orders
MSO (A)	Manual of Standing Orders (Audit)
MSO (T)	Manual of Standing Orders (Technical)
MZ	Militarized Zone
NAAA	National Academy of Audit and Accounts
NAC	Network Access Control
NAO	National Audit Office
OB	Objection Book
ODT	Other Direct Taxes
OEM	Original Equipment Manufacturer
OIOS	One IA&AD One System
ORSAC	Orissa Space Application Centre
OS	Operating System
PA	Performance Audit
PAC	Public Accounts Committee
PD	Principal Director
PD (AB)	Principal Director (Autonomous Bodies)
PD (DT)	Principal Director (Direct Taxes)

Glossary of Acronyms

PDA	Principal Director of Audit
PDA (AFN)	Principal Director of Audit (Air Force & Navy)
PDA (OF)	Principal Director of Audit, (Ordnance Factories)
PDAESM	Principal Director of Audit, Economic and Services Ministries
PDP	Potential Draft Para
PIU	Project Implementing Unit
PPG	Professional Practice Group
Pr. DGIT	Principal Director General of Income Tax
QPR	Quarterly Performance Report
RADT	Receipt Audit - Direct Taxes
RBP	Record Based Permission
RDBMS	Relational Database Management System
RN	Rough Note
RPO	Recovery Point Objective
RTO	Recovery Time Objective
SAI (Chennai)	System Automation initiative (Chennai)
SAI	Supreme Audit Institution
SAI-India	Supreme Audit Institution-India
SAN	Storage Area Network
SAR	Separate Audit Report
SI	System Integrator
SMU	Strategic Management Unit
SOF	Statement of Facts
Sr. AO	Senior Audit Officer (Field level)/ Senior Administrative Officer (C&AG HQ)
Sr. DAG	Senior Deputy Accountant General
Sr. DAG (LB)	Senior Deputy Accountant General (Local Bodies)
TAR	Tax Audit Report
TBA	Theme Based Audit
TCM	Triangular Committee Meeting
TGS	Technical Guidance and Support
TO	Treasury Officers

Glossary of Acronyms

TPO	Transfer Pricing Officer
UTITSL	UTI Infrastructure Technology and Services Limited
UTM	Unified Threat Management
VLC	Voucher Level Computerization
VPN	Virtual Private Network

Draft

Table of Contents

1.	Tender Schedule: Important Dates.....	14
2.	RFP Issuing Authority	15
2.1.	Fact Sheet`	16
2.2.	Request for Proposal.....	19
2.3.	Structure of the RFP	19
2.4.	Background information - RFP Vol I	20
2.4.1.	Basic Information	20
2.4.2.	Project Background.....	20
2.4.3.	Key Information	20
2.4.4.	About CAG.....	20
2.5.	Instructions to Bidders	21
2.5.1.	General.....	21
2.5.1.1.	Eligibility to Bid	21
2.5.1.2.	Acceptance part/ whole bid/ modification – rights thereof	21
2.5.1.3.	Interlineations in Bids.....	22
2.5.1.4.	Conditions Under which this RFP is issued.....	22
2.5.1.5.	Rights to the Content of the Proposal.....	22
2.5.1.6.	Acknowledgment of Understanding of Terms	23
2.5.1.7.	Confidentiality	23
2.5.1.8.	Publicity	23
2.5.1.9.	Repeat Orders.....	23
2.5.1.10.	Government Regulations	23
2.5.2.	Compliant Proposals / Completeness of Response	23
2.5.3.	Code of integrity	24
2.5.4.	Pre-Bid Meeting & Clarifications.....	25
2.5.4.1.	Pre-bid Conference.....	25

2.5.4.2.	Responses to Pre-Bid Queries and Issue of Corrigendum	25
2.5.5.	Key instructions of the bid.....	26
2.5.5.1.	Right to Terminate the Process.....	26
2.5.5.2.	RFP document fees.....	26
2.5.5.3.	Earnest Money Deposit (EMD)/ Bid Security	26
2.5.6.	Submission of Proposals.....	27
2.5.6.1.	Online Submission on e-Procurement Portal	27
2.5.6.2.	Bidder’s authorised Signatory	30
2.5.7.	Preparation and submission of Proposals	30
2.5.7.1.	Proposal preparation costs	30
2.5.7.2.	Language.....	31
2.5.7.3.	Venue & Deadline for Submission of Proposals	31
2.5.7.4.	Proposals submitted after designated time of submission	31
2.5.8.	Deviations - Very Important - TBD	31
2.5.9.	Evaluation Process	31
2.5.9.1.	Proposal opening	32
2.5.9.2.	Proposal validity	32
2.5.9.3.	Proposal evaluation	32
2.6.	Criteria for evaluation	33
2.6.1.	Pre-qualification (PQ) criteria	33
2.6.2.	Technical Qualification Criteria.....	37
2.6.3.	Technical Scoring Model	37
2.6.4.	C&AGs Right to ask for Revised Commercial Bid	38
2.6.5.	Commercial Bid Evaluation	38
2.6.6.	Combined and Final Evaluation	39
2.7.	Appointment of Systems Implementation Agency	39
2.7.1.	Award Criteria.....	39
2.7.2.	Right to Accept Any Proposal and To Reject Any or All Proposal(s).....	39

Commercial and Bidding Terms – One IAAD One System

2.7.3.	Notification of Award.....	39
2.7.4.	C&AG Contract finalization and award.....	40
2.7.5.	Performance guarantee.....	40
2.7.6.	Signing of contract.....	40
2.7.7.	Integrity Pact.....	41
2.7.8.	Failure to Agree with the Terms and Conditions of the RFP.....	41
2.8.	Scope of Work – RFP Vol I.....	42
2.9.	Compliance to eGovernance standards – RFP Vol I.....	43
2.10.	Key Personnel – RFP Vol I.....	44
2.11.	Deliverables & Timelines – RFP Vol I.....	45
2.12.	Service Level Agreement – RFP Vol III – MSA.....	46
2.13.	Minimum Qualifications for the Manpower – RFP Vol I.....	47
2.14.	Acceptance Testing and Certification – RFP Vol I.....	48
2.15.	Payment Schedules.....	49
2.16.	Acceptance Criterion – RFP Vol I.....	50
2.17.	Downstream work.....	51
2.18.	Fraud and Corrupt Practices.....	52
2.19.	Conflict of Interest.....	53
Appendix I.	Pre-Qualification & Technical Bid Templates.....	56
Form 1.	Compliance Sheet for Pre-qualification Proposal.....	57
Form 2.	Particulars of the Bidder.....	60
Form 3.	Bank Guarantee for Earnest Money Deposit.....	61
Form 4.	Compliance Sheet for Technical Proposal.....	63
Form 5.	Letter of Proposal.....	64
Form 6.	Project Citation Format.....	66
Form 7.	Proposed Solution.....	67
Form 7 A.	Solution Proposed.....	68
Form 7 B.	Bill of Material (Software).....	69

Commercial and Bidding Terms – One IAAD One System

Form 7 C.	Bill of Material (Infrastructure)	70
Form 7 D.	Bill of Material – Cloud Resources	71
Form 8.	Proposed Work Plan	72
Form 9.	Team Composition	74
Form 10.	Curriculum Vitae (CV) of Key Personnel	75
Form 11.	Deployment of Personnel	77
Form 12.	Deviations	78
Form 13.	Illustrative Manufacturers'/Producers' Authorization Form	81
Appendix II.	Financial Proposal Templates	83
Form 1.	Covering Letter	83
Appendix III.	Template for PBG, Integrity Pact, IPBG and CCN	85
Form 1.	Performance Bank Guarantee	85
Form 2.	Integrity Pact	87
Form 3.	INTEGRITY PACT BANK GUARANTEE (IPBG)	97
Form 4.	Change Control Notice (CCN) Format – RFP Vol III	98

1. Tender Schedule: Important Dates

S No	Particular	Details (To Be Filled)
1.	Start date of Issuance / Sale of RFP Document	<< dd/mm/yyyy>>
2.	Last date of Submission of Queries	<< dd/mm/yyyy>>
3.	Pre-Bid Conference	<< dd/mm/yyyy>>
4.	Issue of Corrigendum	<< dd/mm/yyyy>>
5.	Last date of Issuance / Sale of RFP Document	<< dd/mm/yyyy>>
6.	Last date and time for RFP Submission	<< dd/mm/yyyy hh:mm>>
7.	Date & time of opening of Pre-Qualification bids	<< dd/mm/yyyy hh:mm>>
8.	Date & time of opening of Technical bids	<< dd/mm/yyyy hh:mm>>
9.	Date & time of opening of Commercial bids	<< dd/mm/yyyy hh:mm>>

2. RFP Issuing Authority

This RFP is issued by Comptroller and Auditor General of India, New Delhi.

I.	Project Title
	Implementation of One IAAD One System (OIOS)
II.	RFP Issuer
	<< Designation Officer>> , Office of the Comptroller and Auditor General of India, 9, Deen Dayal Marg New Delhi - 110124
III.	Contact Person – Nodal Officer
	Name: Sreeraj Ashok, Dy. Director (IS)
	Phone No:
	Facsimile Number:
	Email Id: oios@cag.gov.in

2.1. Fact Sheet`

S. No.	Clause Reference	Description
1.	RFP Vol II -	Tender Schedule Refer Section 1 of RFP Vol 2- Important Dates
2.	RFP Volume 2 – Section – 2.6 Page - 77	Method of Selection: The method of Selection is Quality Cum Cost Based Selection (QCBS) ; the technical proposals would be allotted weightage of <70%> while the financial proposals will be allotted weightage of <30%> << Page 52 of 602, Sec 2.6.1.3 of Model RFP >>
3.	RFP Volume 2 –	The RFP can be downloaded from https://cag.gov.in and https://eprocure.gov.in . Bidders are required to submit the tender cost in the form of a demand draft (details mentioned in the above para) along with the proposal Or Collected from the following address on or before << dd/mm/yyyy hh:mm>> Name : Address : Phone No.s Email Id:
4.	RFP Volume 2 – Section 2.5.5.3 Page 21	Earnest Money Deposit: EMD of Rs. (<i>amount</i>) in the form of Demand Draft OR Bankers Cheque OR bank guarantee OR and electronic Bank Guarantee under Structured Financial Messaging System (SFMS).

Commercial and Bidding Terms – One IAAD One System

S. No.	Clause Reference	Description
5.	RFP Volume 2 – Section 1: Important Dates & Section 2.5.4 – page 19	<p>Pre Bid Meeting and Clarification</p> <p>A pre-bid meeting will be held on as mentioned in Sec 1 of this document</p> <p>The name, address, and telephone numbers of the nodal officer is:</p> <p style="color: red;"><Name></p> <p style="color: red;"><Designation></p> <p style="color: red;"><Address></p> <p style="color: red;"><Phone Nos.></p> <p style="color: red;"><Fax Nos.></p> <p style="color: red;"><email id></p> <p>All queries should be received on or before <indicate date, time>, either through post, fax or email.</p>
6.	RFP Vol 2 – Section, Page	<p>Pre-Qualification Criteria</p> <p>Refer section 2.6.1 of RFP Volume II</p>
7.	RFP Volume 2 – Section	<p>Language of Proposal</p> <p>Proposals should be submitted in English language only</p>
8.	RFP Volume 2 –	<p>Taxes: Taxes must be explicitly mentioned in the provided bid templates.</p>
9.	RFP Volume – 2 Section – 2.5.9.2 Page 26	<p>Proposal Validity</p> <p>Proposals must remain valid <180 days> after the submission date</p>
10.	RFP Volume 2 – Section 2.5.6 page 22	<p>Submission of Proposals:</p> <p>E-Tendering only</p> <p>https://eprocure.gov.in/</p> <p>Proposal Submission / Upload</p> <p>Bidders must upload and submit on the eProcurement portal https://eprocure.gov.in/ all the items (documents), as per</p>

Commercial and Bidding Terms – One IAAD One System

S. No.	Clause Reference	Description
		the folder structure specified on the eProcurement portal. Each of the above documents must be uploaded in the format specified for this purpose.
11.	RFP Volume II – Section 1	<p>Proposal Submission Closing</p> <p>Proposals must be submitted before as per the schedule given in Section 1 : Important dates.</p> <p>Proposals submitted after <insert the date and time> will not be accepted by the eProcurement portal</p>
12.	RFP Vol II – Section 2.6.3 page 31	<p>Technical Cut Off Mark</p> <p>For each section of the Technical Evaluation Matrix, the bidder has to score a minimum cut off marks of 50 % apart from scoring a minimum of 75% marks in aggregate</p>
13.	RFP Vol II - Downstream Work Section 2.17, page 50	C&AG envisages any downstream work: No
14.	Venue for Pre Bid Conference	<p><Address></p> <p><Phone Nos.></p>
15.	RFP Volume I – Section 5 till 16	<p>Scope of Work</p> <p>For Detailed Scope of Work, refer RFP Volume 1, Section x till xx along with the annexures.</p>

1. Proposals, in its complete form in all respects as specified in the RFP, must be submitted on the portal within date & time as specified in the Section 1.
2. C&AG may, in exceptional circumstances and at its discretion, extend the deadline for submission of proposals by issuing an addendum, in which case all rights and obligations of

C&AG and the bidders previously subject to the original deadline will thereafter be subject to the deadline as extended.

2.2. Request for Proposal

Sealed tenders are invited from eligible, reputed, qualified <Information Technology (IT) firms with sound technical and financial capabilities for design, development, implementation and maintenance of an end to end IT solution along with the establishment and operation of related outsourced process operating units> as detailed out in the scope of work of this RFP Volume 1. This invitation to bid is open to all bidders meeting the minimum eligibility criteria as mentioned in Section 2.6.1 of this RFP document.

2.3. Structure of the RFP

RFP Structure for three Volume RFPs

Volume I: Functional and Technical Requirements

Volume I of RFP intends to bring out all the details with respect to scope of work, project implementation, timelines, solution and other requirements that C&AG deems necessary to share with the potential bidders. The information set out in this volume has been broadly categorized as Functional, Technical and Operational requirements covering multiple aspects of the requirements.

Volume II: Commercial and Bidding Terms

Volume II of RFP purports to detail out all that may be needed by the potential bidders to understand the commercial terms and bidding process details.

Volume III: Contractual and Legal specifications

Volume III of RFP is essentially devoted to explain the contractual terms that C&AG wishes to specify at this stage. It basically consists of a draft of Master Services Agreement (MSA) that needs to be signed between the C&AG and the successful bidder (IA). This MSA includes a separate schedule on Service Level Agreement (SLA).

The bidders are expected to examine all instructions, forms, terms, Project requirements and other information in the RFP documents. Failure to furnish all information required as mentioned in the RFP documents or submission of a proposal not substantially responsive to the RFP documents in every respect will be at the Bidder's risk and may result in rejection of the proposal.

This document is Volume II

2.4. Background information - RFP Vol I

2.4.1. Basic Information

2.4.2. Project Background

2.4.3. Key Information

2.4.4. About CAG

These sections would be articulated in RFP Vol 1

2.5. Instructions to Bidders

2.5.1. General

- a) While every effort has been made to provide comprehensive and accurate background information and requirements and specifications, Bidders must form their own conclusions about the solution needed to meet the requirements. Bidders and recipients of this RFP may wish to consult their own legal advisers in relation to this RFP
- b) All information supplied by Bidders may be treated as contractually binding on the Bidders, on successful award of the assignment by C&AG on the basis of this RFP.
- c) No commitment of any kind, contractual or otherwise shall exist unless and until a formal written contract has been executed by or on behalf of C&AG. Any notification of preferred Bidder status by C&AG shall not give rise to any enforceable rights by the Bidder. C&AG may cancel this public procurement at any time prior to a formal written contract being executed by or on behalf of C&AG.
- d) This RFP supersedes and replaces any previous public documentation & communications, and Bidders should place no reliance on such communications.

2.5.1.1. Eligibility to Bid

- a. This invitation for bids is open to all Indian firms who fulfil pre-qualification criteria as specified in this Volume of RFP.
- b. Bidders declared by C&AG or Government of India to be ineligible to participate for unsatisfactory past performance, corrupt, fraudulent or any other unethical business practices shall not be eligible.
- c. Breach of general or specific instructions for bidding, general and special conditions of contract with C&AG during the past 5 years may make a firm ineligible to participate in bidding process.
- d. A company shall submit only one response to the RFP.
- e. Consortium is not allowed

2.5.1.2. Acceptance part/ whole bid/ modification – rights thereof

C&AG reserves the right to modify the technical specifications/ quantities/ requirements/ tenure mentioned in this RFP including addition/ deletion of any of the item or part thereof after pre-bid meeting and the right to accept or reject wholly or partly bid offer, or, without assigning any reason whatsoever. No correspondence in this regard shall be entertained. C&AG also reserves the unconditional right to place order on wholly or partly bid quantity to successful bidder.

2.5.1.3. *Interlineations in Bids*

The bid shall contain no interlineations, erasures or overwriting except as necessary to correct errors made by the Bidder, in which case such corrections shall be initialled by the person or persons signing the bid.

2.5.1.4. *Conditions Under which this RFP is issued*

- a) This RFP is not an offer and is issued with no commitment. C&AG reserves the right to withdraw the RFP and change or vary any part thereof at any stage. C&AG also reserves the right to disqualify any bidder, should it be so necessary at any stage for any reason whatsoever.
- b) Timing and sequence of events resulting from this RFP shall ultimately be determined by C&AG.
- c) No oral conversations or agreements with any official, agent, or employee of C&AG shall affect or modify any terms of this RFP and any alleged oral agreement or arrangement made by a bidder with any C&AG, agency, official or employee of C&AG shall be superseded by the definitive agreement that results from this RFP process. Oral communications by C&AG to bidders shall not be considered binding on C&AG, nor shall any written materials provided by any person other than C&AG.
- d) Neither the bidder nor any of the bidder's representatives shall have any claims whatsoever against C&AG or any of their respective officials, agents, or employees arising out of, or relating to this RFP or these procedures (other than those arising under a definitive service agreement with the bidder) in accordance with the terms thereof.
- e) All bidders, until the contract is awarded and the successful bidder, during the currency of the contract shall not, directly or indirectly, solicit any employee of C&AG to leave C&AG or any other officials involved in this RFP process in order to accept employment with the organization, or any person acting in concert with the bidder, without prior written approval of C&AG

2.5.1.5. *Rights to the Content of the Proposal*

All the bids and accompanying documentation submitted as bids against this RFP will become the property of C&AG and will not be returned after opening of the technical proposals. The commercial proposals of technically disqualified bidders would be returned unopened to the bidders. C&A is not restricted in its rights to use or disclose any or all of the information contained in the proposal and can do so without compensation to the bidders. C&AG shall not be bound by

any language in the proposal indicating the confidentiality of the proposal or any other restriction on its use or disclosure. C&AG has the right to use the services of external experts to evaluate the proposal by the bidders and share the content of the proposal either partially or completely with the experts for evaluation with adequate protection of the confidentiality information of the bidder

2.5.1.6. Acknowledgment of Understanding of Terms

By submitting a proposal, each Bidder shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules and annexure hereto, and has fully informed itself as to all existing conditions and limitations.

2.5.1.7. Confidentiality

Information relating to the examination, clarification, comparison and evaluation of the bids submitted shall not be disclosed to any of the responding firms or their representatives or to any other persons not officially concerned with such process until the selection process is over. The undue use by any responding firm of confidential information related to the process may result in rejection of its bid.

2.5.1.8. Publicity

The selected bidders shall not perform any kind of promotion, publicity or advertising etc. at the C&AG and their field offices through any kinds of hoardings, banners or the like without the prior written consent of the C&AG

2.5.1.9. Repeat Orders

<<Provided as % of Bill of material>>

2.5.1.10. Government Regulations

In order to discharge the obligations in respect of supply of products and services, it is essential that the SI / OEMs confirm that there are no Government restrictions or limitations in the country of the supplier or countries from which subcomponents are being procured and / or for the export of any part of the system being supplied.

2.5.2. Compliant Proposals / Completeness of Response

- a) Bidders are advised to study all instructions, forms, terms, requirements and other information in the RFP documents carefully. Submission of the bid shall be deemed to have been done after careful study and examination of the RFP document with full understanding of its implications.

- b) Failure to comply with the requirements of this paragraph may render the Proposal non-compliant and the Proposal may be rejected. Bidders must:
- I. Include all documentation specified in this RFP;
 - II. Follow the format of this RFP and respond to each element in the order as set out in this RFP
 - III. Comply with all requirements as set out within this RFP.

2.5.3. Code of integrity

No official of a procuring entity or a bidder shall act in contravention of the codes which includes

- a. prohibition of
 - i. Making offer, solicitation or acceptance of bribe, reward or gift or any material benefit, either directly or indirectly, in exchange for an unfair advantage in the procurement process or to otherwise influence the procurement process.
 - ii. Any omission, or misrepresentation that may mislead or attempt to mislead so that financial or other benefit may be obtained or an obligation avoided.
 - iii. Any collusion, bid rigging or anticompetitive behaviour that may impair the transparency, fairness and the progress of the procurement process.
 - iv. Improper use of information provided by the procuring entity to the bidder with an intent to gain unfair advantage in the procurement process or for personal gain.
 - v. Any financial or business transactions between the bidder and any official of the procuring entity related to tender or execution process of contract; which can affect the decision of the procuring entity directly or indirectly.
 - vi. Any coercion or any threat to impair or harm, directly or indirectly, any party or its property to influence the procurement process.
 - vii. Obstruction of any investigation or auditing of a procurement process
 - viii. Making false declaration or providing false information for participation in a tender process or to secure a contract;
- b. Disclosure of conflict of interest.
- c. Disclosure by the bidder of any previous transgressions made in respect of the provisions of sub-clause (a) with any entity in any country during the last three years or of being debarred by any other procuring entity.

In case of any reported violations, the procuring entity, after giving a reasonable opportunity of being heard, comes to the conclusion that a bidder or prospective bidder, as the case may be, has contravened the code of integrity, may take appropriate measures.

2.5.4. Pre-Bid Meeting & Clarifications

2.5.4.1. Pre-bid Conference

- a. Purchaser shall hold a pre-bid meeting with the prospective Bidders on the date as specified in Section 1: Tender Schedule: Important Dates at the address as mentioned in Section 2.1 Fact Sheet, line item 14.
- b. The Bidders will have to ensure that their queries for pre-bid meeting should reach the contact person as mentioned in Section 1 through email, facsimile or post on or before the date and time as mentioned in the Section 1; Tender Schedule: Important Dates to the Contact person as mentioned in the Section 2. RFP Issuing Authority, line item III – Contact Person. The email id, facsimile number and address are mentioned there
- c. The queries should necessarily be submitted in the following format:

S. No.	RFP document reference(s) (RFP Vol , Section & page number)	Content of RFP requiring clarification(s)	Points of clarification
1.			
2.			
3.			
4.			
5.			
6.			

- d. C&AG shall not be responsible for ensuring that the Bidders’ queries have been received by them. Any requests for clarifications post the indicated date and time may not be entertained by C&AG.

2.5.4.2. Responses to Pre-Bid Queries and Issue of Corrigendum

- a. The Nodal Officer notified by C&AG will endeavour to provide timely response to all queries. However, C&AG makes no representation or warranty as to the completeness or accuracy of any response made in good faith, nor does C&AG undertake to answer all the

queries that have been posed by the Bidders.

- b. At any time prior to the last date for receipt of bids, C&AG may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, modify the RFP Document by a corrigendum.
- c. The corrigendum (if any) & clarifications to the queries from all Bidders will be posted on <https://cag.gov.in>, <https://eprocure.gov.in>. and may be emailed to all participants of the pre-bid conference.
- d. Any such corrigendum shall be deemed to be incorporated into this RFP.
- e. In order to provide prospective Bidders reasonable time for taking the corrigendum into account, C&AG may, at its discretion, extend the last date for the receipt of Proposals.

2.5.5. Key instructions of the bid

2.5.5.1. Right to Terminate the Process

- a. C&AG may terminate the RFP process at any time and without assigning any reason. C&AG makes no commitments, express or implied, that this process will result in a business transaction with anyone.
- b. This RFP does not constitute an offer by C&AG. The Bidder's participation in this process may result Purchaser selecting the Bidder to engage towards execution of the subsequent contract.

2.5.5.2. RFP document fees

- a. The RFP documents have been made available for download without any fee from website as mentioned in Factsheet.
- b. The demand draft of RFP document fees should be submitted along with the bidder's proposal. Proposals received without or with inadequate RFP Document fees shall be rejected.

2.5.5.3. Earnest Money Deposit (EMD)/ Bid Security

- a. Bidders shall submit, along with their Proposals, an EMD of Rs. < XXX in number and words> only, in the form of a demand draft OR Bankers Cheque OR bank guarantee OR and electronic Bank Guarantee under Structured Financial Messaging System (SFMS). The payment transfer related information is as follows :
 - i. EMD BG in the format specified in Appendix I: Form 4 issued by a commercial bank in favour of <Beneficiary Account details>. The EMD BG should remain valid for a period of 45 days beyond the final tender/proposal validity period.
 - ii. Demand Draft/Banker cheque : Payable at <Location/city>

iii. Electronic Bank Guarantee under Structured Financial Messaging System (SFMS) : < details>

- b. EMD of all unsuccessful Bidders would be refunded by C&AG within < 90 days > of the Bidder being notified as being unsuccessful. The EMD, for the amount mentioned above, of successful Bidder would be returned upon submission of Performance Bank Guarantee as per the format provided in Appendix III.
- c. The EMD amount is interest free and will be refundable to the unsuccessful Bidders without any accrued interest on it.
- d. Proposals not accompanied with the EMD or containing EMD with infirmity (ies) (relating to the amount or validity period etc.), mentioned above, shall be summarily rejected.
- e. The EMD may be forfeited in the event of:
 - i. A Bidder withdrawing its bid during the period of bid validity or any extension agreed by the bidder thereof
 - ii. If the bid is varied or modified in a manner not acceptable to C&AG after opening of Bid during the validity period or any extension thereof.
 - iii. If the Bidder withdraws its' bid during evaluation.
 - iv. If the Bidder does not accept the correction of errors in his bid.
 - v. A successful Bidder fails to sign the subsequent contract in accordance with this RFP
 - vi. If the Bidder, having been notified of his selection, fails or refuses to submit the required Performance Bank Guarantee within the time stipulated by C&AG.
 - vii. The Bidder being found to have indulged in any suppression of facts, furnishing of fraudulent statement, misconduct, or other dishonest or other ethically improper activity, in relation to this RFP
 - viii. A Proposal contains deviations (except when provided in conformity with the RFP) conditional offers and partial offers.

2.5.6. Submission of Proposals

2.5.6.1. Online Submission on e-Procurement Portal

E-tendering is new technology for conducting public procurement in a transparent and secured manner. Government of India has made publication of tender document and Bid Submission mandatory on e-tendering platforms for public procurements.

In line with the Government of India directives, C&AG invites proposals from the qualified bidder's on the Electronic Tender Platform as mentioned in the fact sheet. The bidders are

Commercial and Bidding Terms – One IAAD One System

required to submit soft copies of their bids electronically, duly signed using Digital Signature Certificates, on the e-tendering platform.

Bidders should submit their responses as per the procedure specified in the e-Procurement portal (<https://eprocure.gov.in>) being used for this purpose.

The documents must be uploaded in the format specified for this purpose and as per the specified folder structure in the e-Procurement portal.

The bidder must ensure that the bid is digitally signed by the Authorized Signatory of the bidding firm and has been duly submitted (freezed) within the submission timelines. C&AG will in no case be responsible if the bid is not submitted online within the specified timelines.

All the pages of the Proposal document must be sequentially numbered and must contain the list of contents with page numbers. Any deficiency in the documentation may result in the rejection of the Bidder's Proposal.

Any queries relating to the tender document and the terms and conditions contained therein should be addressed to the Tender Inviting Authority for a tender or the relevant contact person indicated in the RFP document.

Bidder instructions and user guide is available on the Homepage of the e-tendering platform under link as mentioned in the fact sheet. Bidders are requested to go through the instructions and user guide in advance. In case of any queries relating to the Bid preparation and submission on e-tendering platform, Bidder can contact the e-tendering platform helpdesk.

- i. The Bid shall be typed in English and digitally signed by the Bidder or a person duly authorized to bind the Bidder to the Contract.
- ii. All the documents uploaded in the bid envelopes must be digitally signed by the authorized representative.
- iii. Power-of-attorney Document (in the name of the signatory of the proposal) must be printed on Company letter head and **ink signed**. It should be scanned & uploaded in the Pre-Q envelop.
- iv. It is mandatory for the Bidder to quote for all the items mentioned in the RFP.
- v. Standard Commercial Bid Formats have been provided with the tender document to be filled by all the bidders. Bidders are requested to note that they should necessarily submit

their Commercial bids in the format provided and no other format is acceptable. If the Commercial bid file is found to be modified by the bidder, the bid will be rejected. Templates of Technical Bid and Commercial Bid in editable format (.docx & .xlsx) can be downloaded with RFP Document from the websites mentioned at Section 2 of this document.

- vi. The server time (which is displayed on the bidder's dash board) will be considered as the standard time for referencing the deadlines for submission of the bids by the bidders, opening of bids etc. The bidders should follow this time during bid submission.
- vii. All the documents being submitted by the bidders would be encrypted using a Pass Phrase created by the bidder himself through the e-tendering platform. Unlike a password, a Pass-phrase can be multi-word sentence with spaces between words (e.g. I love this world). A Pass-Phrase is easier to remember and more difficult to break. It is mandatory that a separate Pass-Phrase be created for each bid-part.
- viii. All bidders must fill Electronic Forms (if applicable) for each bid-part sincerely and carefully and avoid any discrepancy between information given in the Electronic Forms and the corresponding Main Bid/documents uploaded. If variation is noted between the information contained in the Electronic Forms and Main Bid/documents uploaded, the content of Main Bid/documents shall prevail.
- ix. Pass-Phrase' of Bid-Part to be opened during a particular Public Online Tender Opening Event shall be furnished online/offline by each bidder as demanded during bid opening event
- x. Upon the successful and timely submission of bids, the portal will give a successful bid submission message & a bid summary will be displayed with the bid no. and the date & time of submission of the bid with all other relevant details. Bidders are advised to take printout of the bid summary and the bid receipt and keep it safe for record purpose
- xi. **Note that Prices should not be indicated in the Pre-Qualification Proposal or Technical Proposal but should only be indicated in the Commercial Proposal.**

- xii. **Commercial Bid sheets must be uploaded in PDF and Excel Format. In case of any discrepancy in the values provided in PDF and Excel file, the values of PDF file shall prevail.**
- xiii. Bidders are advised to study this RFP document carefully before submitting their **Pre-qualification, Technical and Commercial bids** in response to the bid Invitation.
- xiv. C&AG will not accept delivery of proposal in any manner other than specified in above.
- xv. If any bidder doesn't qualify in the prequalification evaluation, the technical and commercial proposals shall not be opened.
- xvi. If any bidder doesn't qualify in technical evaluation, the commercial proposal shall not be opened.
- xvii. C&AG will not accept delivery of proposals by Post, FAX or Email. Such proposals shall be rejected.

2.5.6.2. Bidder's authorised Signatory

A Proposal should be accompanied by an appropriate board resolution or power of attorney in the name of an authorized signatory of the Bidder stating that he is authorized to execute documents and to undertake any activity associated with the Bidder's Proposal. A copy of the same should be uploaded under the relevant section/folder on the e-Procurement portal. Furthermore, the bid must also be submitted online after being digitally signed by an authorized representative of the bidding entity.

2.5.7. Preparation and submission of Proposals

2.5.7.1. Proposal preparation costs

The Bidder shall be responsible for all costs incurred in connection with participation in the RFP process, including, but not limited to, costs incurred in conduct of informative and other diligence activities, participation in meetings/discussions/presentations, preparation of proposal, in providing any additional information required by C&AG to facilitate the evaluation process, and in negotiating a definitive contract or all such activities related to the bid process.

C&AG will in no event be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

2.5.7.2. Language

The Proposal should be filled by the Bidder in English language only. If any supporting documents submitted are in any language other than English, translation of the same in English language is to be duly attested by the Bidders. For purposes of Proposal evaluation, the English translation shall govern.

2.5.7.3. Venue & Deadline for Submission of Proposals

The response to RFPs must be submitted on the eProcurement portal <https://eprocure.gov.in/> by the date and time specified for the RFP and mentioned in RFP Vol II, Section 2.1 Factsheet. Any proposal submitted on the portal after the above deadline will not be accepted and hence shall be automatically rejected. C&AG shall not be responsible for any delay in the submission of the documents.

2.5.7.4. Proposals submitted after designated time of submission

Bids submitted after the due date will not be accepted by the e-Procurement system <https://eprocure.gov.in/> and hence will automatically be rejected. C&AG shall not be responsible for any delay in the online submission of the proposal.

2.5.8. Deviations - Very Important - TBD

The Bidder may provide deviation to the contents of the RFP document in the format prescribed in Form 12.

The Purchase Committee would evaluate and classify them as “material deviation” or “non material deviation”. In case of material deviation, the committee may decide to “monetize” the value of the deviations, which will be added to the price bid submitted by the Bidder OR declare the bid as non- responsive.

The Bidders would be informed in writing on the committee’s decision on the deviation, prior to the announcement of technical scores. The Bidders would not be allowed to withdraw the deviations submitted without the prior consent of C&AG.

In case of non-material deviations, the deviations would form a part of the proposal & subsequent agreement.

2.5.9. Evaluation Process

- a. C&AG will constitute a committee to evaluate the responses of the Bidders (Purchase Committee).
- b. The Purchase Committee constituted by C&AG shall evaluate the responses to the RFP and all supporting documents / documentary evidence. Inability of a Bidder to submit

requisite supporting documents / documentary evidence within a reasonable time provided to it, may lead to the Bidder's Proposal being declared non-responsive.

- c. The decision of the Purchase Committee in the evaluation of responses to the RFP shall be final. No correspondence will be entertained outside the process of negotiation/ discussion with the Purchase Committee.
- d. The Purchase Committee may ask for meetings with the Bidders to seek clarifications on their proposals.
- e. The Purchase Committee reserves the right to reject any or all Proposals on the basis of any deviations contained in them.
- f. Each of the responses shall be evaluated as per the criteria and requirements specified in this RFP.

2.5.9.1. Proposal opening

The Proposals submitted as per schedule provided in RFP Vol II, Section 1 – Tender Schedules – Important dates or any revisions will be opened as per the date and time as mentioned in the said section or any revisions thereof by the Nodal Officer or any other officer authorized by C&AG, in the presence of the Bidder's representatives who may be present at the time of opening.

The representatives of the Bidders are advised to carry an identity card or a letter of authority from the Bidding entity to identify their bonafides for attending the opening of the Proposal.

2.5.9.2. Proposal validity

The offer submitted by the Bidders should be valid for minimum period of 180 days from the date of submission of the Proposal.

- A bid valid for a shorter period shall be rejected by C&AG as non-responsive.
- In exceptional circumstances, Department may solicit the bidder's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing (or by email / fax/ post). The EMD/ bid security validity shall also be suitably extended. A bidder may refuse the request without forfeiting his bid security. A bidder granting the request will not be required nor permitted to modify his bid.

2.5.9.3. Proposal evaluation

- a. Initial Proposal scrutiny will be held to confirm that Proposals do not suffer from the infirmities detailed below. Proposals will be treated as non-responsive, if a Proposal is found to have been:

Commercial and Bidding Terms – One IAAD One System

- i. submitted in manner not conforming with the manner specified in the RFP document
- ii. Submitted without appropriate EMD as prescribed herein
- iii. received without the appropriate or power of attorney
- iv. containing subjective/incomplete information
- v. submitted without the documents requested in the checklist
- vi. non-compliant with any of the clauses stipulated in the RFP
- vii. having lesser than the prescribed validity period.

The EMD of all non-responsive bids shall be returned to the bidders.

b. All responsive Bids will be considered for further processing as below.

CAG will prepare a list of responsive Bidders, who comply with all the Terms and Conditions of the Tender. All eligible bids will be considered for further evaluation by a Committee according to the Evaluation process define in this RFP document. The decision of the Committee will be final in this regard.

2.6. Criteria for evaluation

2.6.1. Pre-qualification (PQ) criteria

#	Basic Requirement	Specific Requirement	Documents Required
1.	RFP Document Fee	The bidder must submit tender fees in form of Demand Draft (DD) to C&AG in RFP Vol I, Section 1 (Fact Sheet)	Demand Draft of tender fees shall be submitted by Bidder
2.	EMD	The bidder must submit EMD to C&AG as per RFP/tender format	Demand Draft (DD) or Bank Guarantee against EMD shall be submitted by Bidder in favour XXX YYYY
3.	Power of Attorney	Board resolution or power of attorney in the name of an Authorized Signatory of the Bidder stating that he is authorized to execute documents and to	Notorised copy of Board Resolution or Power of Attorney in the name of the Authorized signatory

Commercial and Bidding Terms – One IAAD One System

#	Basic Requirement	Specific Requirement	Documents Required
		undertake any activity associated with the Bidder's Proposal	
4.	Legal Entity Sec 2.5.8 of Meity Template Page 42 of 602	Should be Company registered under Companies Act, 1956 or a partnership firm registered under LLP Act, 2008 Should have been operating for the last three years	Certificate of incorporation Registration Certificates
5.		The Bidder should have: (i) Valid PAN Number (ii) Valid GST Number	Copy of PAN Card Copy of GST Registration Certificate
6.	Sales turnover Sec 2.5.2 of Meity Template Page 39 of 602	The Bidder should have an annual turnover of not less than INR <<1000 Crores>> p.a. during the last three financial years (F.Y. 2016-17, 2017-18 and 2018-19 respectively). This turnover should be on account of Information and Communication Technology systems development and implementation (i.e. revenue should be on account of system Integration/turnkey solutions or implementation services etc.) only	Extracts from the audited balance sheet and profit & loss for the last 3 years OR Certificate from the statutory auditor for the last 3 years
7.	Sales Turnover in Systems Integration / Implementation Projects	The Bidder should have minimum annual turnover in System Integration / System Implementation of << Rs. 500	Extracts from the audited balance sheet and profit & loss for the last 3 years OR

Commercial and Bidding Terms – One IAAD One System

#	Basic Requirement	Specific Requirement	Documents Required
	Sec 2.5.2 of Meity Template Page 40 of 602	Cr>> for each of the last 3 financial years	Certificate from the statutory auditor for the last 3 years
8.	Net worth Requirements Sec 2.5.1 of Meity Template Page 39 of 602	The Bidder should have positive net worth in last three financial years i.e., (F.Y. 2015-16, 2016-17 and 2017-18 respectively)	Auditor's / Company Secretary Certificate mentioning Net-Worth
9.	Certifications Sec 2.5.6 of Meity Template Page 41 of 6	The Bidder should have : (iii) Valid CMMi Level 5 (iv) ISO 27001 The certifications should be valid on the date of bid submission*	Copy of Certificate
10.	Blacklisting and Debarment	The Bidder shall not be under a declaration of ineligibility / banned / blacklisted by any State or Central Government/PSU any other Government institutions in India for any reason as on last date of submission of the Bid or convicted of economic offence in India for any reason as on last date of submission of the Bid. AND	A Self Certified letter that the bidder (or any of its successor) is not in the active debarred list - published by GeM or Central Procurement Portal or Procuring Ministry/Dept/Agency /C&AG

Commercial and Bidding Terms – One IAAD One System

#	Basic Requirement	Specific Requirement	Documents Required
		<p>The Bidder should have not been debarred</p> <ul style="list-style-type: none"> ▪ Under the Prevention of Corruption Act, 1988; <p>OR</p> <ul style="list-style-type: none"> ▪ The Indian Penal Code <p>OR</p> <ul style="list-style-type: none"> ▪ Any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract. <ul style="list-style-type: none"> ▪ The Bidder should not have been under debarred list as per GFR 2017, Rule 151 	
11.	<p>Technical Capacity</p> <p style="background-color: #00FFFF; padding: 2px;">Section 2.5.3 of Meity Template Page 40 of 602</p>	<p>The Bidder should be an IT-solutions-provider incorporated in India and should have implemented or in the process of implementation of similar project in the last five financial years as below:</p> <ul style="list-style-type: none"> i. One System Integration / e-Governance project of minimum – INR 80 Crore <p>or</p> <ul style="list-style-type: none"> ii. Two System Integration / e-Governance projects of minimum – INR 60 Crores each <p>or</p>	<p>Copy of work order / client certificates.</p> <p>Completion certificates from the client; OR</p> <p>Work order + Self certificate of completion (Certified by the statutory auditor); OR</p> <p>Work order + phase</p>

Commercial and Bidding Terms – One IAAD One System

#	Basic Requirement	Specific Requirement	Documents Required
		iii. Three System Integration / e-Governance projects of minimum – INR 40 Crores each	
12.	Manpower Strength Sec 2.5.5 of Meity Template Page 41 of 602	At least 500 qualified Software Engineers in company's payroll	Self Certification by the authorized signatory with clear declaration of staff – year wise, level/designation wise.

- a. System Integration / System Implementation projects ' relates to projects involving IT Application, IT Infrastructure, Software as Service, e-service development through portals and Operations & Maintenance Services on the application and infrastructure.
- b. In case of Service Providers where the CMMi certification is under renewal, the Bidder shall provide the details of the previous CMMi certification and the current assessment details for consideration in the Bid Process
- c. Only Project Citations completed/started in the last 5 financial years (2014-2019) will be considered for Assessment.

2.6.2. Technical Qualification Criteria

Bidders who meet the pre-qualifications/eligibility requirements as on date of bid submission would be considered as qualified to move to the next stage of Technical and Financial evaluations.

2.6.3. Technical Scoring Model

The following table provides the scoring model including the cut-off marks based on which the technical bids shall be evaluated for the Implementation of OIOS Project. For each section of the Technical Evaluation Matrix, the bidder has to score a minimum cut off marks of 50 % apart from scoring a minimum of 75% marks in aggregate

TO BE INSERTED



Bidders, whose bids are responsive, based on minimum qualification criteria / documents as in Pre- Qualification Criteria and score at least <75> in aggregate and minimum 50% marks for each section in the (given) defined scoring mechanism would be considered technically qualified. Price Bids of such technically qualified Bidders alone shall further be opened

2.6.4. C&AGs Right to ask for Revised Commercial Bid

After the Technical Evaluation and before opening of the Commercial Bid, C&AG reserves the right to make changes to the specifications and Bill of Material. In this case, C&AG shall ask for revised commercial Bids only for the revised scope from the Bidders that have been qualified in the technical evaluation.

2.6.5. Commercial Bid Evaluation

- a. The Financial Bids of technically qualified Bidders will be opened on the prescribed date in the presence of Bidder representatives.
- b. If a firm quotes NIL charges / consideration, the bid shall be treated as unresponsive and will not be considered.
- c. QCBS Evaluation

The Bidder with lowest qualifying financial bid (L1) will be awarded 100% score (amongst the Bidders which did not get disqualified on the basis of point b above). Financial Scores for other than L1 Bidders will be evaluated using the following formula

Financial Score of a Bidder (Fn) =

$\{(Commercial\ Bid\ of\ L1 / Commercial\ Bid\ of\ the\ Bidder) \times 100\}\%$ (Adjusted to two decimal places)

- d. Only fixed price financial bids indicating total price for all the deliverables and services specified in this bid document will be considered.
- e. The bid price will include all taxes and levies and shall be in Indian Rupees and mentioned separately.
- f. Any conditional bid would be rejected
- g. Errors & Rectification: Arithmetical errors will be rectified on the following basis: "If there is a discrepancy between the unit price and the total price that is obtained by multiplying

the unit price and quantity, the unit price shall prevail and the total price shall be corrected. If there is a discrepancy between words and figures, the amount in words will prevail”.

2.6.6. Combined and Final Evaluation

- a. The technical and financial scores secured by each Bidder will be added using weightage of <70%> and <30%> respectively to compute a Composite Bid Score
- b. The Bidder securing the highest Composite Bid Score will be adjudicated as the most responsive Bidder for award of the Project. The overall score will be calculated as follows:-

$$\text{Bn} = 0.70 * \text{Tn} + 0.30 * \text{Fn}$$

Where

Bn = overall score of Bidder

Tn = Technical score of the Bidder (out of maximum of 100 marks)

Fn = Normalized financial score of the Bidder

- c. In the event the bid composite bid scores are ‘tied’, the Bidder securing the highest technical score will be adjudicated as the Best Value Bidder for award of the Project.

2.7. Appointment of Systems Implementation Agency

2.7.1. Award Criteria

C&AG will award the Contract to the successful Bidder whose proposal has been determined to be substantially responsive and has been determined as the most responsive bids as per the process outlined above.

2.7.2. Right to Accept Any Proposal and To Reject Any or All Proposal(s)

C&AG reserves the right to accept or reject any proposal, and to annul the tendering process/ Public procurement process and reject all proposals at any time prior to 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 C&AG action.

2.7.3. Notification of Award

Prior to the expiration of the validity period, C&AG will notify the successful Bidder in writing or by fax or email, that its proposal has been accepted (Letter of Intent). In case the tendering

process / public procurement process has not been completed within the stipulated period, C&AG, may request the Bidders to extend the validity period of their Proposal.

The decision to extend the validity period of a Bidder's Proposal shall be the Bidder's sole prerogative.

2.7.4. C&AG Contract finalization and award

C&AG shall reserve the right to negotiate with the Bidder(s) whose Proposal has been ranked best value bid on the basis of Technical and Commercial Evaluation to the proposed Project, as per the guidance provided by Central Vigilance Commission (CVC).

On this basis the draft contract agreement would be finalized for award & signing.

2.7.5. Performance guarantee

On receipt of a letter of intent from C&AG, the successful Bidder will furnish a bank guarantee, by way of performance security, equivalent to 10 per cent of the total contract value, on or before the signing of the subsequent contract, 15 days from notification of award, unless specified to the contrary (Performance Guarantee).

In case the successful Bidder fails to submit Performance Guarantee within the time stipulated, C&AG may at its sole discretion cancel the letter of intent without giving any notice and encash the EMD furnished by the Bidder, in addition to any other right available to it under this RFP. C&AG also reserves the right that if the bidder delays submission of Performance Guarantee security beyond 15 working days, C&AG may also penalize the bidder by charging 1% of the quoted value per week of delay.

The Performance Guarantee furnished by the successful Bidder shall be in the manner prescribed at Appendix III. The successful Bidder shall ensure, the Performance Guarantee is valid at all times during the Term of the subsequent contract (including any renewal) and for a period of 180 days beyond all contractual obligations, including warranty terms.

The C&AG may invoke the Performance Guarantee in the event of a material breach by the successful Bidder leading to termination for material breach.

2.7.6. Signing of contract

Subsequent to receipt of valid Performance Guarantee from the successful Bidder, the parties shall enter into a contract, incorporating all clauses, pre-bid clarifications and the Proposal of the Bidder, between C&AG and the successful Bidder.

2.7.7. Integrity Pact

All the bidders shall submit Integrity Pact agreement and Integrity Pact Bank Guarantee (IPBG) of value Rs. XXXX as per Form 3. Bidder shall upload scanned copies of Integrity Pact agreement and Integrity Pact Bank Guarantee in Commercial Envelop on e-tendering system and the original copies shall be submitted to the IIFT at the time of Commercial Bid Opening without which the bid shall be rejected.

The Integrity Pact Bank Guarantee (IPBG) shall be valid up to and including 45 days after the validity of commercial offer. However, bidders will be required to extend the Integrity Pact Bank Guarantee, as and when required by the buyer. In the case of the successful bidder, validity of the Integrity Pact Bank Guarantee will be extended up to the satisfactory completion of the contract. Integrity Pact Bank Guarantee shall be returned promptly in case of unsuccessful bidders.

2.7.8. Failure to Agree with the Terms and Conditions of the RFP

Failure of the successful Bidder to agree with the Draft Legal Agreement and Terms & Conditions of the RFP shall constitute sufficient grounds for the annulment of the award, in which event Purchaser may award the contract to the next best value Bidder or call for new proposals from the interested Bidders.

In such a case, the C&AG shall invoke the PBG of the most responsive Bidder.

This section would be articulated in RFP Vol 1

Draft

This section would be articulated in RFP Vol 1

Draft

2.10. Key Personnel – RFP Vol I

This section would be articulated in RFP Vol 1

Draft

This section would be articulated in RFP Vol 1

Draft

This section would be articulated in RFP Vol 3.

Master Services Agreement

Draft

This section would be articulated in RFP Vol 1

Draft

This section would be articulated in RFP Vol 1

Draft

2.15. Payment Schedules

Draft

2.16. Acceptance Criterion – RFP Vol I

This section would be articulated in RFP Vol 1

Draft

2.17. Downstream work

Draft

2.18. Fraud and Corrupt Practices

- a. The Bidders/Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this RFP, C&AG shall reject a Proposal without being liable in any manner whatsoever to the Bidder, if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the “Prohibited Practices”) in the Selection Process. In such an event, C&AG shall, without prejudice to its any other rights or remedies, forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority, in regard to the RFP, including consideration and evaluation of such Bidder’s Proposal.
- b. Without prejudice to the rights of C&AG under Clause above and the rights and remedies which C&AG may have under the LOI or the Agreement, if any Bidder or Systems Implementation Agency, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the issue of the LOI or the execution of the Agreement, such Bidder or Systems Implementation Agency shall not be eligible to participate in any tender or RFP issued by the C&AG during a period of <2 (two) years> from the date such Bidder or Systems Implementation Agency, as the case may be, is found by C&AG to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- c. For the purposes of this Section, the following terms shall have the meaning hereinafter respectively assigned to them
 - i. “corrupt practice” means:
 - a) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the C&AG who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOI or has dealt with matters concerning the Agreement or arising there from, before or after the execution thereof, at any

time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the C&AG, shall be deemed to constitute influencing the actions of a person connected with the Selection Process);

or

- b) save as provided herein, engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical consultant/ adviser of C&AG in relation to any matter concerning the Project;
 - ii. “fraudulent practice” means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;
 - iii. “coercive practice” means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person’s participation or action in the Selection Process;
 - iv. “undesirable practice” means
 - a) establishing contact with any person connected with or employed or engaged by C&AG with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process;
- or
- b) having a Conflict of Interest; and
 - v. “restrictive practice” means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Selection Process.

2.19. Conflict of Interest

- a. A Bidder shall not have a conflict of interest that may affect the Selection Process or the Solution delivery (the “**Conflict of Interest**”). Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the C&AG shall forfeit and appropriate the EMD, if available, as mutually agreed genuine pre-estimated compensation and damages payable to C&AG for, inter alia, the time, cost and effort of the C&AG including consideration

of such Bidder's Proposal, without prejudice to any other right or remedy that may be available to the C&AG hereunder or otherwise.

- b. C&AG requires that the Implementation Agency provides solutions which at all times hold the C&AG's interests paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The Systems Implementation Agency shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other clients, or that may place it in a position of not being able to carry out the assignment in the best interests of the C&AG.
- c. **[Some guiding principles for identifying and addressing Conflicts of Interest have been illustrated within Section 2.5.10 of "Guidance Notes: Model RFP Templates for Implementation Agencies"]**. Without limiting the generality of the above, an Bidder shall be deemed to have a Conflict of Interest affecting the Selection Process, if:
 - i. the Bidder, its consortium member (the "Member") or Associates (or any constituent thereof) and any other Bidder, its consortium member or Associate (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of an Bidder, its Member or Associate (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its consortium member or Associate is less than 5% (five per cent) of the subscribed and paid up equity share capital thereof. For the purposes of this Clause, indirect shareholding held through one or more intermediate persons shall be computed as follows:
 - where any intermediary controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "Subject Person") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on
 - a proportionate basis; provided, however, that no such shareholding shall be reckoned under this Sub-clause if the shareholding of such person in the

intermediary is less than 26% (twenty six per cent) of the subscribed and paid up equity shareholding of such intermediary; or

- ii. a constituent of such Bidder is also a constituent of another Bidder; or
 - iii. such Bidder or its Associate receives or has received any direct or indirect subsidy or grant from any other Bidder or its Associate; or
 - iv. such Bidder has the same legal representative for purposes of this Application as any other Bidder; or
 - v. such Bidder has a relationship with another Bidder, directly or through common third parties, that puts them in a position to have access to each others' information about, or to influence the Application of either or each of the other Bidder; or
 - vi. there is a conflict among this and other Systems Implementation/Turnkey solution assignments of the Bidder (including its personnel and other members, if any) and any subsidiaries or entities controlled by such Bidder or having common controlling shareholders. The duties of the Systems Implementation Agency will depend on the circumstances of each case. While providing software implementation and related solutions to C&AG for this particular assignment, the Systems Implementation Agency shall not take up any assignment that by its nature will result in conflict with the present assignment; or
 - vii. A firm hired to provide System Integration/Turnkey solutions for the implementation of a project, and its Members or Associates, will be disqualified from subsequently providing goods or works or services related to the same project;
- d. A Bidder eventually appointed to implement software solutions for this Project, its Associates, affiliates and the Financial Expert, shall be disqualified from subsequently providing goods or works or services related to the construction and operation of the same Project and any breach of this obligation shall be construed as Conflict of Interest; provided that the restriction herein shall not apply after a period of 12 months from the completion of this assignment; provided further that this restriction shall not apply to software solutions delivered to the C&AG in continuation of this systems implementation or to any subsequent systems implementation executed for the C&AG in accordance with the rules of the C&AG.

Appendix I. Pre-Qualification & Technical Bid Templates

The Bidders are expected to respond to the RFP using the forms given in this section and all documents supporting Pre-Qualification / Technical Evaluation Criteria.

Pre-Qualification Bid & Technical Proposal shall comprise of following forms:

Forms to be used in Pre-Qualification Proposal

- Form 1: Compliance Sheet for Pre-qualification Proposal
- Form 2: Particulars of the Bidder
- Form 3: Bank Guarantee for Earnest Money Deposit

Forms to be used in Technical Proposal

- Form 4: Compliance Sheet for Technical Proposal
- Form 5: Letter of Proposal
- Form 6: Project Citation Format
- Form 7: Proposed Solution
- Form 8: Proposed Work Plan
- Form 9: Team Composition
- Form 10: Curriculum Vitae (CV) of Key Personnel Form 11: Deployment of Personnel
- Form 11: Deployment of Personnel
- Form 12: Deviations
- Form 13: Manufacturers Authorisation Form

Form 1. Compliance Sheet for Pre-qualification Proposal

The pre-qualification proposal should comprise of the following basic requirements. The documents mentioned in this compliance sheet along with this form, needs to be a part of the Pre-Qualification proposal

#	Basic Requirement	Documents Required	Provided	Reference & Page Number
1.	RFP Document Fee	Demand Draft	Yes / No	
2.	Power of Attorney	Copy of Power of Attorney in the name of the Authorized signatory	Yes / No	
3.	Particulars of the Bidders	As per Form 2	Yes / No	
4.	EMD	Demand Draft / Bank Guarantee (Form 3)	Yes / No	
5.	Legal Entity	Certificate of incorporation Registration Certificates	Yes / No	
6.		Copy of PAN Card Copy of GST Registration Certificate	Yes / No	
7.	Sales turnover	Extracts from the audited balance sheet and profit & loss for the last 3 years OR Certificate from the statutory auditor for the last 3 years	Yes / No	
8.	Sales Turnover in Systems Integration /	Extracts from the audited balance sheet and profit & loss for the last 3 years	Yes / No	

Commercial and Bidding Terms – One IAAD One System

#	Basic Requirement	Documents Required	Provided	Reference & Page Number
	Implementation Projects	OR Certificate from the statutory auditor for the last 3 years		
9.	Net worth Requirements	Auditor's / Company Secretary Certificate mentioning Net-Worth	Yes / No	
10.	Certifications	Copy of Certificates	Yes / No	
11.	Blacklisting and Debarment	A Self Certified letter that the bidder (or any of its successor) is not in the active debarred list - published by GeM or Central Procurement Portal or Procuring Ministry/Dept/Agency /C&AG	Yes / No	
12.	Technical Capacity	Copy of work order / client certificates. OR Completion certificates from the client; OR Work order + Self certificate of completion (Certified by the statutory auditor); OR Work order + phase	Yes / No	
13.	Integrity Pact	Integrity pact in the prescribed form. (Form 4)	Yes / No	

Commercial and Bidding Terms – One IAAD One System

#	Basic Requirement	Documents Required	Provided	Reference & Page Number
14.	Manpower Strength	Self-Certification by the authorized signatory with clear declaration of staff – year wise, level/designation wise.	Yes / No	

Draft

Form 2. Particulars of the Bidder

#	Information Sought	Details to be Furnished
A.	Name and address of the bidding Company	
B.	Incorporation status of the firm (public limited / private limited, etc.)	
C.	Year of Establishment	
D.	Date of registration	
E.	ROC Reference No.	
F.	Details of company registration	
G.	Details of registration with appropriate authorities for service tax	
H.	Name, Address, email, Phone nos. and Mobile Number of Contact Person	

Form 3. Bank Guarantee for Earnest Money Deposit

To,

<Name>

<Designation>

<Address>

<Phone Nos.>

<Fax Nos.>

<email id>

Whereas <<Name of the Bidder>> (hereinafter called 'the Bidder') has submitted the bid for Submission of RFP # <<RFP Number>> dated <<Date>> for <<Implementation of One IAAD and One System>> (hereinafter called "the Bid") to C&AG

Know all Men by these presents that we << >> having our office at <<Address>> (hereinafter called "the Bank") are bound unto the Comptroller and Auditor General of India, (hereinafter called "the Purchaser") in the sum of Rs. <<Amount in figures>> (Rupees <<Amount in words>> only) for which payment well and truly to be made to the said Purchaser, the Bank binds itself, its successors and assigns by these presents. Sealed with the Common Seal of the said Bank this <<Date>>

The conditions of this obligation are:

1. If the Bidder having its bid withdrawn during the period of bid validity specified by the Bidder on the Bid Form; or
2. If the Bidder, having been notified of the acceptance of its bid by the Purchaser during the period of validity of bid
 - a. Withdraws his participation from the bid during the period of validity of bid document; or
 - b. Fails or refuses to participate in the subsequent Tender process after having been short listed;

We undertake to pay to the Purchaser up to the above amount upon receipt of its first written demand, without the Purchaser having to substantiate its demand, provided that in its demand

the Purchaser will note that the amount claimed by it is due to it owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to <<insert date>> and including <<extra time over and above mandated in the RFP>> from the last date of submission and any demand in respect thereof should reach the Bank not later than the above date.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN:

- I. Our liability under this Bank Guarantee shall not exceed Rs. <<Amount in figures>> (Rupees <<Amount in words>> only)
- II. This Bank Guarantee shall be valid upto <<insert date>>)
- III. It is condition of our liability for payment of the guaranteed amount or any part thereof arising under this Bank Guarantee that we receive a valid written claim or demand for payment under this Bank Guarantee on or before <<insert date>>) failing which our liability under the guarantee will automatically cease.
- IV. We also undertake not to revoke this guarantee during this period except with the previous consent of the Purchaser in writing and we further agree that our liability under the EMD / Bid Security shall not be discharged by any variation in the term of the said RFP and we shall be deemed to have agreed to any such variation.
- V. No interest shall be payable by the Purchaser to the bidder on the guarantee for the period of its currency.

(Authorized Signatory of the Bank) Seal:

Date:

Draft

Form 5. Letter of Proposal

To:

<Location, Date>

<Name>

<Designation>

<Address>

<Phone Nos.>

<Fax Nos.>

<email id>

Subject: Submission of the Technical bid for Implementation of One IAAD One System assignment

Dear Sir/Madam,

We, the undersigned, offer to provide Systems Implementation solutions to C&AG on Implementation of One IAAD One System with your Request for Proposal dated <insert date> and our Proposal. We are hereby submitting our Proposal, which includes this Technical bid and the Financial Bid sealed on the <https://eprocure.gov.in> portal.

We hereby declare that all the information and statements made in this Technical bid are true and accept that any misinterpretation contained in it may lead to our disqualification.

We undertake, if our Proposal is accepted, to initiate the Implementation services related to the assignment within 30 days of issue of LOI We agree to abide by all the terms and conditions of the RFP document. We would hold the terms of our bid valid for 180 days as stipulated in the RFP document.

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

Yours sincerely,

Authorized Signature [In full and initials]: -----

Name and Title of Signatory: -----

Name of Firm: -----

Address:-----

Location:-----Date:-----

Draft

Form 6. Project Citation Format

Relevant IT project experience (provide no more than 5 projects in the last 5 years)	
General Information	
Name of the project	
Client for which the project was executed	
Name and contact details of the client	
Project Details	
Description of the project	
Scope of services	
Service levels being offered/ Quality of service (QOS)	
Technologies used	
Outcomes of the project	
Other Details	
Total cost of the project	
Total cost of the services provided by the respondent	
Duration of the project (no. of months, start date, completion date, current status)	
Other Relevant Information	
Letter from the client to indicate the successful completion of the projects	
Copy of Work Order	

Form 7. Proposed Solution

Technical approach, methodology and work plan are key components of the Technical Proposal. You are suggested to present Approach and Methodology divided into the following sections:

- a) Solution Proposed
- b) Understanding of the project (how the solution proposed is relevant to the understanding)
- c) Technical Approach and Methodology

Draft

Commercial and Bidding Terms – One IAAD One System

Form 7 A. Solution Proposed

S. No	Proposed Solution (Provide the Product Name or fill Custom Built, in case of a new development)	Version & Year of Release	OEM	Features & Functionalities	O&M Support (Warranty/ATS/ : as required as per RFP)	Reference in the Submitted Proposal (Please provide page number/section number/ volume)

Commercial and Bidding Terms – One IAAD One System

Form 7 B. Bill of Material (Software)

S. No	Item	Proposed Solution (Provide the Product Name or fill Custom Built, in case of a new development)	Unit of Measurement	Number of Licenses (Development Environment)	Number of Licenses (UAT)	Number of Licenses (Training)	Number of Licenses (Data Center Production)	Number of Licenses (DR Site)

Form 7 C. Bill of Material (Infrastructure)

For each hardware, provide the following information in a table

- (i) Reference of the server/storage information in the Submitted Proposal (Please provide page number/section number/ volume)
- (ii) Services proposed to be hosted on the Server
- (iii) Quantity
- (iv) Make and Model
- (v) Year of Introduction
- (vi) Operating System along with version (if applicable)
- (vii) Processor and Number of Cores Offered (if applicable)
- (viii) Architecture (RISC/EPIC/CISC) (if applicable)
- (ix) RAM/HDD/LAN Ports/ HBA (as relevant)
- (x) Additional Information as required to indicate the compliance to the requirements in the RFP (ex, Capacity, Disk Space) (if applicable)

Draft

Form 8. Proposed Work Plan

No	Activity ¹	Calendar Months													
		1	2	3	4	5	6	7	8	9	10	11	12	n	
1															
2															
3															
4															
5															
N															

I. Indicate all main activities of the assignment, including delivery of reports (e.g.: inception, interim, and final reports), and other benchmarks such as Purchaser approvals. For phased assignments indicate activities, delivery of reports, and benchmarks separately for each phase.

- II. Duration of activities shall be indicated in the form of a bar chart.
- III. All activities should meet the 8/80 criteria i.e., should at least take 8 hours and a maximum of 80 hours.

Draft

Form 9. Team Composition

Name of Staff with qualification and experience	Area of Expertise	Position Assigned	Task Assigned	Time committed for the engagement

Draft

Form 10. Curriculum Vitae (CV) of Key Personnel

General Information	
Name of the person	
Current Designation / Job Title	
Current job responsibilities	
Proposed Role in the Project	
Proposed Responsibilities in the Project	
Academic Qualifications: <ul style="list-style-type: none"> • Degree • Academic institution graduated from • Year of graduation • Specialization (if any) • Key achievements and other relevant information (if any) 	
Professional Certifications (if any)	
Total number of years of experience	
Number of years with the current company	
Summary of the Professional / Domain Experience	
Number of complete life cycle implementations carried out	
Past assignment details (For each assignment provide details regarding name of organizations worked for, designation, responsibilities, tenure)	

<p>Prior Professional Experience covering:</p> <ul style="list-style-type: none"> • Organizations worked for in the past • Organization name • Duration and dates of entry and exit • Designation Location(s) • Key responsibilities • Prior project experience • Project name • Client • Key project features in brief • Location of the project • Designation • Role • Responsibilities and activities • Duration of the project <p>Please provide only relevant projects.</p>	
<p>Proficient in languages (Against each language listed indicate if peak/read/write)</p>	

Form 11. Deployment of Personnel

No	Name of Staff	Staff input in Months (in the form of a bar chart) ²													Total staff man months proposed	
		1	2	3	4	5	6	7	8	9	10	11	12	n		Total
1																
2																
3																
4																
n																
														Total		

1. Professional Staff the input should be indicated individually; for Support Staff it should be indicated by category
2. Months are counted from the start of the assignment.



Full time input



Part time input

Form 12. Deviations

<Location, Date>

To:

<Name>

<Designation>

<Address>

<Phone Nos.>

<Fax Nos.>

<Email id>

Dear Sir:

Subject: Deviations Implementation of One IAAD One System

We declare that all the services shall be performed strictly in accordance with the Tender documents except for the variations and deviations, all of which have been detailed out exhaustively in the following statement, irrespective of whatever has been stated to the contrary anywhere else in our bid.

Further we agree that additional conditions, if any, found in the Tender documents, other than those stated in deviation schedule, shall not be given effect to.

A. On the Terms of Reference

[Suggest and justify here any modifications or improvement to the Scope of Work you are proposing to improve performance in carrying out the assignment (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities). Such suggestions should be concise and to the point, and incorporated in your Proposal.]

No.	Deviation	Material	Non-Material	Impacted Deliverable(s)	Impacted Timeline(s)	Financial Impact
1.	<Deviation description>	<Yes / No>	<Yes / No>	<Name(s) of Deliverables to get affected by the	<Effect on Timelines	<Value>

Commercial and Bidding Terms – One IAAD One System

				<Deviation>	due to the Deviation	
2.	<Deviation description>	<Yes / No>	<Yes / No>	<Name(s) of Deliverables to get affected by the Deviation>	<Effect on Timelines due to the Deviation>	<Value>
3.	<Deviation description>	<Yes / No>	<Yes / No>	<Name(s) of Deliverables to get affected by the Deviation>	<Effect on Timelines due to the Deviation>	<Value>

B. Any other areas

No.	Deviation	Material	Non-Material	Impacted Deliverable(s)	Impacted Timeline(s)	Financial Impact
4.	<Deviation description>	<Yes / No>	<Yes / No>	<Name(s) of Deliverables to get affected by the Deviation>	<Effect on Timelines due to the Deviation>	<Value>
5.	<Deviation description>	<Yes / No>	<Yes / No>	<Name(s) of Deliverables to get affected by the Deviation>	<Effect on Timelines due to the Deviation>	<Value>

Commercial and Bidding Terms – One IAAD One System

6.	<Deviation description>	<Yes / No>	<Yes / No>	<Name(s) of Deliverables to get affected by the Deviation>	<Effect on Timelines due to the Deviation>	<Value>

Yours sincerely,

Authorized Signature:

Name and Title of Signatory:

Name of Firm:

Address:

Draft

Form 13. Illustrative Manufacturers'/Producers' Authorization Form

[This form has to be provided by the OEMs of the products proposed]

No.

Date:

To:

OEM Authorization Letter

Dear Sir,

Ref: Your RFP Ref: [*] dated [*]

We who are established and reputable manufacturers / producers of having factories / development facilities at (address of factory / facility) do hereby authorize M/s

(Name and address of Agent) to submit a Bid, and sign the contract with you against the above Bid Invitation.

We hereby extend our full guarantee and warranty for the Solution, Products and services offered by the above firm against this Bid Invitation.

We also undertake to provide any or all of the following materials, notifications, and information pertaining to the Products manufactured or distributed by the Supplier:

- a. Such Products as C&AG opt to purchase from the Supplier, provided, that this option shall not relieve the Supplier of any warranty obligations under the Contract; and
- b. in the event of termination of production of such Products:
 - i. advance notification to C&AG of the pending termination, in sufficient time to permit the Bank to procure needed requirements; and
 - ii. Following such termination, furnishing at no cost to C&AG, the blueprints, design documents, operations manuals, standards, source codes and specifications of the Products, if requested.

We duly authorize the said firm to act on our behalf in fulfilling all installations, Technical support and maintenance obligations required by the contract.

Yours faithfully,

(Name)

(Name of Producers)

Note: This letter of authority should be on the letterhead of the manufacturer and should be signed by a person competent and having the power of attorney to bind the manufacturer. The Bidder in its Bid should include it.

Draft

Appendix II. Financial Proposal Templates

Form 1. Covering Letter

To: <Location, Date>

<Name>

<Designation>

<Address>

<Phone Nos.>

<Fax Nos.>

<email id>

Subject: Submission of the Financial bid for Implementation of One IAAD One System

Dear Sir/Madam,

We, the undersigned, offer to provide the Implementation services for Implementation of One IAAD One System in accordance with your Request for Proposal dated <<Date>> and our Proposal (Technical and Financial Proposals). Our attached Financial Proposal is for the sum of <<Amount in words and figures>>. This amount is inclusive of the local taxes.

1. PRICE AND VALIDITY

- All the prices mentioned in our Tender are in accordance with the terms as specified in the RFP documents. All the prices and other terms and conditions of this Bid are valid for a period of <days> calendar days from the date of opening of the Bid.
- We hereby confirm that our prices include all taxes. However, all the taxes are quoted separately under relevant sections.
- We understand that the actual payment would be made as per the existing indirect tax rates during the time of payment.

2. UNIT RATES

We have indicated in the relevant forms enclosed, the unit rates for the purpose of on account of payment as well as for price adjustment in case of any increase to / decrease from the scope of work under the contract.

3. TENDER PRICING

We further confirm that the prices stated in our bid are in accordance with your Instruction to Bidders included in Tender documents.

4. QUALIFYING DATA

We confirm having submitted the information as required by you in your Instruction to Bidders. In case you require any other further information/documentary proof in this regard before evaluation of our Tender, we agree to furnish the same in time to your satisfaction.

5. BID PRICE

We declare that our Bid Price is for the entire scope of the work as specified in the <Refer Section No.>. These prices are indicated Commercial Bid attached with our Tender as part of the Tender.

6. PERFORMANCE BANK GUARANTEE

We hereby declare that in case the contract is awarded .to us, we shall submit the Performance Bank Guarantee as specified in the <Appendix III> of this RFP document.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal, i.e., [Date].

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

We hereby declare that our Tender is made in good faith, without collusion or fraud and the information contained in the Tender is true and correct to the best of our knowledge and belief.

We understand that our Tender is binding on us and that you are not bound to accept a Tender you receive.

Thanking you,
We remain,

Yours sincerely,

Authorized Signature:

Name and Title of Signatory:

Name of Firm:

Address:

Appendix III. Template for PBG, Integrity Pact, IPBG and CCN

Form 1. Performance Bank Guarantee

PERFORMANCE SECURITY:

To: <Location, Date>

<Name>

<Designation>

<Address>

<Phone Nos.>

<Fax Nos.>

<email id>

Whereas, <<name of the supplier and address>> (hereinafter called “the Bidder”) has undertaken, in pursuance of contract no. <Insert Contract No.> dated. <Date> to provide Implementation services for Implementation of One IAAD and One System to Comptroller and Auditor General of India (hereinafter called “the beneficiary”)

And whereas it has been stipulated by in the said contract that the Bidder shall furnish you with a bank guarantee by a recognized bank for the sum specified therein as security for compliance with its obligations in accordance with the contract;

And whereas we, <Name of Bank> a banking company incorporated and having its head /registered office at <Address of Registered Office> and having one of its office at <Address of Local Office> have agreed to give the supplier such a bank guarantee.

Now, therefore, we hereby affirm that we are guarantors and responsible to you, on behalf of the supplier, up to a total of Rs.<Insert Value> (Rupees <Insert Value in Words> only) and we undertake to pay you, upon your first written demand declaring the supplier to be in default under the contract and without cavil or argument, any sum or sums within the limits of Rs. <Insert Value> (Rupees <Insert Value in Words> only) 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 Bidder before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the contract to be performed there under or of any of the contract documents which may be made between you and the Bidder shall in any way release us from any liability under this guarantee and we hereby waive notice of any such change, addition or modification.

This Guarantee shall be valid until <<Insert Date>>)

Notwithstanding anything contained herein:

- I. Our liability under this bank guarantee shall not exceed Rs. <Insert Value> (Rupees <Insert Value in Words> only).
- II. This bank guarantee shall be valid up to <Insert Expiry Date>)

It is condition of our liability for payment of the guaranteed amount or any part thereof arising under this bank guarantee that we receive a valid written claim or demand for payment under this bank guarantee on or before <Insert Expiry Date>) failing which our liability under the guarantee will automatically cease.

Form 2. Integrity Pact

PRE-CONTRACT INTEGRITY PACT

General

1. Whereas CA&G, hereinafter referred to as Purchaser and the first party, proposes to implement Project “Implementation of One IAAD One System”, hereinafter referred to as Project, and M/s _____, represented by, _____ << Designation>> (which term, unless expressly indicated by the contract, shall be deemed to include its successors and its assignees), hereinafter referred to as the Bidder/Seller and the second party, is willing to offer/has offered C&AG
2. Whereas the Bidder is a private company/public company/partnership/registered export agency, constituted in accordance with the relevant law in the matter and the Purchaser is C&AG performing its duty on behalf of Gol.

Objectives

3. Now, therefore, the Purchaser and the Bidder agree to enter into this pre-contract agreement, hereinafter referred to as Integrity Pact, to avoid all forms of corruption by following a system that is fair, transparent and free from any influence / unprejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:
 - a. Enabling the Purchaser to implement the desired “Implementation of One IAAD One System” a competitive price in conformity with the defined specifications of the Services by avoiding the high cost and the distortionary impact of corruption on public procurement, and
 - b. Enabling bidders to abstain from bribing or any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also refrain from bribing and other corrupt practices and the Purchaser will commit to prevent corruption, in any form, by their officials by following transparent procedures

Commitments of the Buyer

4. The Purchaser commits itself to the following:

- a. The Purchaser undertakes that no official of the Purchaser, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the Contract.
 - b. The Purchaser will, during the pre-contract stage, treat all Bidders alike, and will provide to all Bidders the same information and will not provide any such information to any particular Bidder which could afford an advantage to that particular Bidder in comparison to other Bidders.
 - c. All the officials of the Purchaser will report to the appropriate Government office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.
5. In case of any such preceding misconduct on the part of such official(s) is reported by the Bidder to the Purchaser with full and verifiable facts and the same is prima facie found to be correct by the Buyer, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the Purchaser and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the Buyer the proceedings under the contract would not be stalled.

Commitments of Bidders

6. The Bidder commits himself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of his bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commits himself to the following:
 - a. The Bidder will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the

Purchaser, connected directly or indirectly with the bidding process, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the Contract.

- b. The Bidder further undertakes that he has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Purchaser or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the Contract or forbearing to show favour or dis-favor to any person in relation to the Contract or any other Contract with the Government.
- c. The Bidder will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract
- d. The Bidder will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
- e. The Bidder will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract
- f. The Bidder will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract
- g. The Bidder will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract
- h. The Bidder will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract
- i. The Bidder will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract

- j. The Bidder shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.

Draft

7. Previous Transgression

- a. The Bidder declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged hereunder or with any Public Sector Enterprise in India or any Government Department in India that could justify bidder's exclusion from the tender process.
- b. If the Bidder makes incorrect statement on this subject, Bidder can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

8. Integrity Pact Bank Guarantee (IPBG)

- a. Every bidder, while submitting commercial bid, shall submit an Integrity Pact Bank Guarantee for an amount of Five Lakhs in favour of the Buyer in Indian Rupees only.

Guarantee will be from an Indian Public Sector Banks promising payment of the guaranteed sum to the C&AG, on demand within three working days without any demur whatsoever and without seeking any reasons whatsoever. The demand for payment by the Buyer shall be treated as conclusive proof for payment. A Bank Guarantee format is enclosed at Form 3

- b. The Integrity Pact Bank Guarantee (IPBG) shall be valid upto and including 45 days after the validity of commercial offer. However, bidders will be required to extend the Integrity Pact Bank Guarantee, as and when required by the Purchaser. In the case of the successful bidder, validity of the Integrity Pact Bank Guarantee will be extended up to the satisfactory completion of the contract. The Integrity Pact Bank Guarantee amount is interest free and will be refundable to the unsuccessful bidders within 30 days from award of the contract to the successful bidder.
- c. In the case of successful bidder a clause would also be incorporated in the Article pertaining to Performance Bank Guarantee in the Purchase Contract that the provisions of Sanctions for Violation shall be applicable for forfeiture of Performance Bank Guarantee in case of a decision by the Buyer to forfeit the same without assigning any reason for imposing sanction for violation of this pact.

- d. No interest shall be payable by the Purchaser to the Bidder(s) on IPBG for the period of its currency.

9. Company Code of Conduct

Bidders are also advised to have a company code of conduct (clearly rejecting the use of bribes and other unethical behaviour) and a compliance program for the implementation of the code of conduct throughout the company.

10. Sanctions for Violation

- a. Any breach of the aforesaid provisions by the Bidder or any one employed by him or acting on his behalf (whether with or without the knowledge of the Bidder) or the commission of any offence by the Bidder or any one employed by him or acting on his behalf, as defined in Chapter IX of the Indian Penal Code, 1860 or the Prevention of Corruption Act 1988 or any other act enacted for the prevention of corruption shall entitle the Purchaser to take all or any one of the following actions, wherever required:
 - i. To immediately call off the pre-contract negotiations without assigning any reason or giving any compensation to the Bidder. However, the proceedings with the other Bidder(s) would continue.
 - ii. To immediately cancel the contract, if already signed, without giving any compensation to the Bidder.
 - iii. The IPBG / Performance Bank Guarantee / Other Guarantee shall stand forfeited either fully or partially, as decided by the Buyer and the Buyer shall not be required to assign any reason therefore
 - iv. To recover all sums already paid by the Purchaser, in case of an Indian Bidder with interest thereon at 2% higher than the prevailing Base Rate of SBI, and in case of a Bidder from a country other than India with interest thereon at 2% higher than the LIBOR. If any outstanding payment is due

to the Bidder from the Buyer in connection with any other contract for any other defence stores, such outstanding payment could also be utilized to recover the aforesaid sum and interest.

- v. To encash the advance bank guarantee and Performance-Bank Guarantee if furnished by the Bidder, in order to recover the payments, already made by the Buyer, along with interest.
- vi. To cancel all or any other Contracts with the Bidder.
- vii. To debar the Bidder from entering into any bid from the Government for India for a minimum period of five years, which may be further extended at the discretion of the Purchaser.
- viii. To recover all sums paid in violation of this Pact by Bidder to any middleman or agent or broker with a view to securing the contract.
- ix. If the Bidder or any employee of the Bidder or any person acting on behalf of the Bidder, either directly or indirectly, is closely related to any of the officers of the Purchaser, or alternatively, if any close relative of an officer of the Purchaser has financial interest/stake in the Bidder's firm, the same shall be disclosed by the Bidder at the time of filling the tender. Any failure to disclose the interest involved shall entitle the Buyer to rescind the contract without payment of any compensation to the Bidder.
- x. The term 'close relative' for this purpose would mean spouse whether residing with the Government servant or not, but not include a spouse separated from the Government servant by a decree or order of a competent court; son or daughter or step son or step daughter and wholly dependent upon Government servant, but does not include a child or step child who is no longer in any way dependent upon the Government servant or of whose custody the Government servant has been deprived

of by or under any law; any other person related, whether by blood or marriage, to the Government servant or to the Government servant's wife or husband and wholly dependent upon Government servant.

xi. The Bidder shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the Purchaser, and if he does so, the Purchaser shall be entitled forthwith to rescind the contract and all other contracts with the Bidder. The Bidder shall be liable to pay compensation for any loss or damage to the Buyer resulting from such rescission and the Buyer shall be entitled to deduct the amount so payable from the money(s) due to the Bidder.

xii. In cases where irrevocable Letters of Credit have been received in respect of any contract signed by the Buyer with the Bidder, the same shall not be opened.

b. The decision of the Purchaser to the effect that a breach of the provisions of this Integrity Pact has been committed by the Bidder shall be final and binding on the Bidder, however, the Bidder can approach the monitor(s) appointed for the purposes of this Pact.

11. Fall Clause

a. The Bidder undertakes that he has not supplied/is not supplying the similar systems or subsystems at a price lower than that offered in the present bid in last 2 Years (from the date of bid submission) in respect of any other of any other project of similar size Ministry/Department of the Government of India and if it is found at any stage that the similar system of sub-system was supplied by the Bidder to any other Ministry / Department of the Government of India at a lower price, then that very price, with due allowance for elapsed time, will be applicable

Commercial and Bidding Terms – One IAAD One System

to the present case and the difference in the cost would be refunded by the Bidder to the Purchaser, if the contract has already been concluded.

- b. The Bidder shall accord the most favoured customer treatment to the buyer in respect of all matters pertaining to the present case

12. Independent Monitors

- a. The Buyer has appointed Independent Monitors for this Pact (<<Names and Addresses of the Monitors to be given in RFP>>).
- b. As soon as the integrity pact is signed, the Purchaser shall provide a copy thereof, along with a brief background of the case to the Independent Monitors.
- c. The bidders if they deem it necessary, may furnish any information as relevant to their bid to the Independent Monitors
- d. If any complaint with regard to violation of the IP is resolved by the Purchaser in a procurement case, the Purchaser shall refer the complaint to the Independent Monitors for their comments/ enquiry
- e. If the Independent Monitors need to pursue the relevant records of the Purchaser in connection with the complaint sent to them by the Purchaser, the Purchaser shall make arrangement for such perusal of records by the Independent Monitors
- f. The report of enquiry, if any, made by the Independent Monitors shall be submitted to the <<Competent Authority >>, C&AG for a final and appropriate decision in the matter keeping view the provision of this pact

13. Examination of Book of Records

In case of any allegation of violation of any provisions of this Integrity Pact or payment of commission, the Purchaser or its agencies shall be entitled to examine the Books of Accounts

Commercial and Bidding Terms – One IAAD One System

of the Bidder and the Bidder shall provide necessary information of the relevant financial documents in English and shall extend all possible help for the purpose of such examination.

14. Law and Place of Jurisdiction

This Pact is subject to Indian Law. The place of performance and jurisdiction is the seat of the Purchaser i.e. New Delhi.

15. Other Legal Actions

The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

16. Validity

The validity of this Integrity Pact shall be from date of its signing and extend up to 5 years or the complete execution of the contract to the satisfaction of both the Purchaser and the Bidder/Seller, whichever is later.

Should one or several provisions of this pact turn out to be invalid; the remainder of this Pact remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

The Parties hereby sign this Integrity Pact at _____ on _____.

C&AG

PURCHASER

BIDDER

Witness

1. _____ 1.

2. _____ 3.

Commercial and Bidding Terms – One IAAD One System

Form 3. INTEGRITY PACT BANK GUARANTEE (IPBG)

In consideration of C&AG on the first part and and M/s _____ of _____ (hereinafter referred to as Bidder) on the Second Part, having agreed to accept a sum of Rs. _____) in the form of Bank Guarantee towards Integrity Pact for the Request for Proposal for procurement of _____ we _____ (Name of the Bank), (hereinafter referred to as the Bank), do hereby undertake to pay to the IIFT on demand within 3 (three) working days without any demur and without seeking any reasons whatsoever, an amount not exceeding _____ (_____) and the guarantee will remain valid upto and including 45 days after the validity of the commercial offer i.e _____ (date). The Integrity Pact Bank Guarantee shall be extended from time to time as required by the buyer.

We undertake not to revoke this guarantee during this period except with the previous consent of the C&AG in writing and we further agree that our liability under the Guarantee shall not be discharged by any variation in the term of the commercial offer.

No interest shall be payable by the C&AG to the Bidder (s) on the guarantee for the period of its currency.

Dated this _____ day of _____ 2019.

For the Bank of _____

(Agent _____ / _____ Manager)

This section to be moved to RFP Vol 3. Master Services Agreement

Change Control Note		CCN Number:
Part A: Initiation		
Title:		
Originator:		
Sponsor:		
Date of Initiation:		
Details of Proposed Change		
(To include reason for change and appropriate details/specifications. Identify any attachments as A1, A2, and A3 etc.)		
Authorized by :	Date:	
Name:		
Signature:	Date:	
Received by the IP		
Name:		
Signature:		
Change Control Note		CCN Number:

Part B : Evaluation

(Identify any attachments as B1, B2, and B3 etc.)

Changes to Services, charging structure, payment profile, documentation, training, service levels and component working arrangements and any other contractual issue.

Brief Description of Solution:

Impact:

Deliverables:

Draft

Volume - 3



Draft Request for Proposal

For Consultation Purposes only
One IAAD One System (OIOS)

Draft Master Services Agreement

Disclaimer

The information contained in this Request for Proposal document (“RFP”) or subsequently provided to Bidders, whether verbally or in documentary or any other form by or on behalf of Comptroller & Auditor General of India (C&AG), or any of its employees or advisors, is provided to Bidders on the Terms and Conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is neither an offer nor an invitation by C&AG to the prospective Bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their Proposals pursuant to this RFP.

This RFP may not be appropriate for all companies, and it is not possible for C&AG, its employees or advisors to consider the objectives, technical expertise and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP, may not be complete, accurate, adequate or correct. Each bidder should therefore conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Bidders is on a wide range of matters, some of which depend upon interpretation of facts. The information given is not an exhaustive account of requirements and should not be regarded as a complete or authoritative statement of facts. The specifications laid out in this RFP are indicated as the minimum requirements whereas the bidders are expected to focus on the objectives of the project and formulate their solution offerings in a manner that enables achieving those objectives in letter as well as spirit.

C&AG accepts no responsibility for the accuracy or otherwise for any interpretation or opinion expressed herein. C&AG, its employees and advisors 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 this RFP or otherwise, including the accuracy, adequacy, correctness, reliability or completeness of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way in this Selection Process.

Page Intentionally Left Blank

Draft

Contents

1. DEFINITIONS AND INTERPRETATION 8

 1.1. Definitions 8

 1.2. Interpretation 17

 1.3. Measurement and Arithmetic Conventions..... 18

 1.4. Ambiguities within Agreement 18

 1.5. Priority of documents..... 18

2. Scope of the Project 19

 2.1. Scope of work 19

3. TERM AND DURATION OF THE AGREEMENT 19

4. Condition Precedent & Effective Date 19

 4.1. Provisions to take effect upon fulfillment of Conditions Precedent 20

 4.2. a. Conditions Precedent of the Implementing Partner 20

 4.2. b. Conditions Precedent of the Purchaser 20

 4.3. Extension of time for fulfillment of Conditions Precedent 20

 4.4. Non-fulfillment of the Implementation Agency’s Conditions Precedent 20

5. Obligations under the SLA 21

 5.1. Change of Control..... 21

 5.2. Final testing and certification..... 22

6. Representations and Warranties 23

 6.1. Representations and warranties of the Implementation Agency..... 23

 6.2. Representations and warranties of the Implementation Agency..... 24

7. OBLIGATIONS OF THE PURCHASER OR ITS NOMINATED AGENCIES..... 25

8. OBLIGATIONS OF THE IMPLEMENTATION PARTNER 26

9. APPROVALS AND REQUIRED CONSENTS..... 26

10. USE OF ASSETS BY THE IMPLEMENTATION AGENCY 27

11. ACCESS TO THE PURCHASER OR ITS NOMINATED AGENCIES LOCATIONS 28

12. MANAGEMENT PHASE	28
12.1. Governance.....	29
12.2. Use of Services.....	29
12.3. Changes.....	29
12.4. Security and Safety	29
12.5. Cooperation	30
13. FINANCIAL MATTERS.....	30
13.1. Terms of Payment.....	30
13.2. Invoicing and Settlement.....	31
13.3. Tax.....	32
14. TERMINATION	33
14.1. FOR MATERIAL BREACH.....	33
14.2. Termination for Convenience.....	34
14.3. Effects of termination.....	35
14.4. Termination of this Agreement due to bankruptcy of Implementation Agency	36
15. INDEMNIFICATION & LIMITATION OF LIABILITY	36
16. FORCE MAJEURE	38
17. CONFIDENTIALITY	40
18. AUDIT, ACCESS AND REPORTING.....	41
19. INTELLECTUAL PROPERTY RIGHTS	41
20. WARRANTY & MAINTENANCE	42
21. LIQUIDATED DAMAGES.....	44
22. INSURANCE COVER	45
23. MISCELLANEOUS.....	45
24. GOVERNING LAW AND DISPUTE RESOLUTION.....	50
25. SCHEDULES.....	53
26. ANNEXURE	64
26.1. ANNEXURE A – FORMAT FOR CHANGE CONTROL NOTICE	64

26.2. ANNEXURE B - LIST OF SERVICES PROVIDED BY THE IMPLEMENTATION AGENCY 66

26.3. ANNEXURE C –REQUIRED DELIVERABLE AND ASSOCIATED TIMELINES..... 66

26.4. ANNEXURE D – BID 66

26.5. ANNEXURE E – BILL OF MATERIAL..... 67

26.6. ANNEXURE F – ROLES AND RESPONSIBILITIES OF THE PARTIES 67

27. NON-DISCLOSURE AGREEMENT 68

28. SERVICE LEVEL AGREEMENT 78

28.1. ANNEXURE B – SERVICE LEVELS..... 78

Draft

MASTER SERVICES AGREEMENT

THIS MASTER SERVICE AGREEMENT (“Agreement”) is made on this the <***> day of <***> 20... at

<***>, India.

BETWEEN

----- having its office at -----

----- India hereinafter referred to as ‘Purchaser’ / ‘Purchaser’ or ‘ ’,
which

expression shall, unless the context otherwise requires, include its permitted successors and assigns);

AND

<***>, a Company incorporated under the Companies Act, 1956, having its registered office at <***> (hereinafter referred to as ‘the Implementation Agency/IA’ which expression shall, unless the context otherwise requires, include its permitted successors and assigns).

Each of the parties mentioned above are collectively referred to as the ‘Parties’ and individually as a ‘Party’.

WHEREAS:

1. Purchaser is desirous to implement the project of e-Governance for Implementation of One IAAD One System.
2. In furtherance of the same, Purchaser undertook the selection of a suitable Implementation Agency through a competitive bidding process for implementing the Project and in this behalf issued Request for Proposal (RFP) dated <***> .
3. The successful bidder has been selected as the Implementation Agency on the basis of the bid response set out as **Annexure D** of this Agreement, to undertake the Project of the development and implementation of the solution, its roll out and sustained operations.

NOW THEREFORE, in consideration of the mutual covenants, promises, assurances, representations and provisions set forth herein, the Parties hereto agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

Terms and expressions used in this Agreement (including the Introduction) shall have the meanings set out below:

Term	Meaning
Adverse Effect	means material adverse effect on <ul style="list-style-type: none"> a) the ability of the Implementation Agency to exercise any of its rights or perform/discharge any of its duties/obligations under and in accordance with the provisions of this Agreement and/or b) the legal validity, binding nature or enforceability of this Agreement;
Agreement	means this Master Services Agreement, Service Level Agreement and Non-Disclosure Agreement together with all Articles, Annexures, Schedules and the contents and specifications of the RFP;
Applicable Law(s)	means any statute, law, ordinance, notification, rule, regulation, judgment, order, decree, bye-law, approval, directive, guideline, policy, requirement or other governmental restriction or any similar form of decision applicable to the relevant party and as may be in effect on the date of the execution of this Agreement and during the subsistence thereof, applicable to the Project;
Assets	shall have the same meaning ascribed to it in Clause 10.1 (a)
Software	means the software designed, developed / customized, tested and deployed by the Implementation Agency for the purposes of the Project and includes the source code (in case of Bespoke development) along with associated documentation, which is the work product of the development efforts involved in the Project and the improvements and enhancements effected during the term of the Project, but does not include the third party software products (including the COTS products used for the product), proprietary software components and tools deployed by the Implementation Agency;

Master Services Agreement - Draft

Term	Meaning
Bespoke Development	Bespoke development means development of custom-built software for One IAAD One System Project for Comptroller and Auditor General of India.
Business Hours	<p>shall mean the working time for Purchaser users which is 9:30 AM to 6:30 PM. Again for Web Server and other components which enable successful usage of web portals of Purchaser the working time should be considered as 24 hours for all the days of the week. It is desired that IT maintenance, other batch processes (like backup) etc. should be planned so that such backend activities have minimum effect on the performance;</p> <p><i>[Note: the office time should be customize as per the requirement of the project. The purpose of putting webserver is to ensure online services (if relevant to the project) 24X7]</i></p>
C&AG	Comptroller and Auditor General of India
Certificate(s) of Compliance	shall have the same meaning ascribed to it in Clause 5.4.;
Confidential Information	<p>means all information including Purchaser Data (whether in written, oral, electronic or other format) which relates to the technical, financial and business affairs, dealers, suppliers, products, developments, operations, processes, data, trade secrets, design rights, know-how, plans, budgets and personnel of each Party and its affiliates which is disclosed to or otherwise learned by the other Party in the course of or in connection with this Agreement (including without limitation such information received during negotiations, location visits and meetings in connection with this Agreement);</p> <p>All such information in whatever form or mode of transmission, which is disclosed by a Party (the "Disclosing Party") to any other Party (the "Recipient") in connection with the Project during its implementation and which has been explicitly marked as "confidential", or when disclosed orally, has been identified as confidential at the time of disclosure and has been confirmed and designated in writing within <15 days> from oral disclosure at the latest as confidential information by the Disclosing Party, is "Confidential Information".</p>
	means, in relation to any business entity, the power of a person to secure

Master Services Agreement - Draft

Term	Meaning
Control	<p>(i) by means of the holding of shares or the possession of voting power in or in relation to that or any other business entity, or</p> <p>(ii) by virtue of any powers conferred by the articles of association or other document regulating that or any other business entity, that the affairs of the first mentioned business entity are conducted in accordance with that person's wishes and in relation to a partnership, means the right to a share of more than one half of the assets, or of more than one half of the income, of the partnership;</p>
Deliverables	means the products, infrastructure and services agreed to be delivered by the Implementation Agency in pursuance of the agreement as defined more elaborately in the RFP, Implementation and the Maintenance phases and includes all documents related to the user manual, technical manual, design, process and operating manuals, service mechanisms, policies and guidelines (such as security related, data migration related), inter alia payment and/or process related etc., source code and all its modifications;
Proprietary Information	shall have the same meaning ascribed to it in Clause 19.1
Effective Date	shall have the same meaning ascribed to it in Clause 3.2;
Purchaser Data	means all proprietary data of the department or its nominated agencies generated out of operations and transactions, documents all taxpayers data and related information including but not restricted to user data which the Implementation Agency obtains, possesses or processes in the context of providing the Services to the users pursuant to this Agreement;
Final Acceptance	shall be conducted on completion of the following:
Test	<ol style="list-style-type: none"> 1) Purchaser Cloud Data Center and Cloud Disaster Recovery Center operational, 2) Deployment & operational hardware and networking at requisite locations, 3) UAT of the overall One IAAD and One System
Final Testing and Certification Agency	shall have the same meaning ascribed to it in Clause 5.4;
Force Majeure	shall have the same meaning ascribed to it in Clause 16.1;
Force Majeure Costs	shall have the same meaning ascribed to it in Clause 16.4 (b);

Term	Meaning
GoI	means the Government of India;
Go-Live	<p>[Note: An objective definition of Go-Live must be customized basis the project requirements. A sample definition is provided below.]</p> <p>1.1.1</p> <p>(a) Subject to partial acceptance of the System as described below, Go-Live shall occur in respect of the System, when</p> <p>(a) the Final Acceptance Tests, as specified in the agreed and finalized project plan have been successfully completed; or</p> <p>(b) the Final Acceptance Tests have not been successfully completed or have not been carried out for reasons that are attributable to the Purchaser within a period of <insert days> days from the date of installation or any other agreed-upon period; or</p> <p>(c) the Purchaser has put the System into production or use for 60 consecutive days. If the System is put into production or use in this manner, the Implementation Agency shall notify the Purchaser and document such use.</p> <p>1.1.2</p> <p>(b) At any time after any of the events set out in Clause above have occurred, the Implementation Agency may give a notice to the Purchaser requesting the issue of an Final Acceptance Certificate.</p> <p>1.1.3</p> <p>(c) After consultation with the Purchaser, and within fourteen (14) days after receipt of the Implementation Agency's notice, the Purchaser shall:</p> <p>(a) issue a Final Acceptance Certificate; or</p> <p>(b) notify the IA in writing of any defect or deficiencies or other reason for the failure of the Final Acceptance Tests; or</p> <p>(c) issue the Operational Acceptance Certificate, if the situation covered by sub-clause (a) arises.</p> <p>1.1.4</p>

Term	Meaning
	<p>(d) The IA shall use all reasonable endeavors to promptly remedy any defect and/or deficiencies and/or other reasons for the failure of the Final Acceptance Test that the Purchaser has notified the IA of. Once such remedies have been made by the IA, the IA shall notify the Purchaser, and the Purchaser, with the full cooperation of the IA, shall use all reasonable endeavors to promptly carry out retesting of the System or Subsystem. Upon the successful conclusion of the Final Acceptance Tests, the IA shall notify the Purchaser of its request for Final Acceptance Certification, in accordance with sub clause (b) The Purchaser shall then issue to the IA the Final Acceptance Certification in accordance with subclause</p> <p>(c), or shall notify the IA of further defects, deficiencies, or other reasons for the failure of the Final Acceptance Test. The procedure set out in this sub-clause</p> <p>(d) shall be repeated, as necessary, until a Final Acceptance Certificate is issued.</p> <p>1.1.5</p> <p>(e) If the System or Subsystem fails to pass the Final Acceptance Test(s) in accordance with these provisions, Clause 27.2, then either:</p> <p>i. the Purchaser may consider terminating the Contract, pursuant to termination provisions; or (b) if the failure to achieve Final Acceptance within the specified time period is a result of the failure of the Purchaser to fulfill its obligations under the Contract, then the IA shall be deemed to have fulfilled its obligations with respect to the relevant technical and functional aspects of the Agreement.</p> <p>ii. If within 14 days after receipt of the IA’s notice the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the IA in writing of the justifiable reasons why the Project Manager has not issued the Operational Acceptance Certificate, the System or Subsystem shall be deemed to have been accepted as of the date of the IA’s said notice.</p> <p>iii. Partial Acceptance: If so specified in the Agreement, Installation and Commissioning shall be carried out individually for each identified major component or Subsystem(s) of the System. In this event, the provisions in the Contract relating to Installation and Commissioning, including the Final</p>

Term	Meaning
	<p><i>Acceptance Test, shall apply to each such major component or Subsystem individually, and Operational Acceptance Certificate(s) shall be issued accordingly for each such major component or Subsystem of the System, subject to the limitations contained in the below clause..</i></p> <p><i>iv. The issuance of Final Acceptance Certificates for individual major components or Subsystems pursuant to clause a shall not relieve the IA of its obligation to obtain an Final Acceptance Certificate for the System as an integrated whole (if so specified in the Agreement) once all major components and Subsystems have been supplied, installed, tested, and commissioned.</i></p> <p><i>v. In the case of minor components for the System that by their nature do not require Commissioning or an Operational Acceptance Test (e.g., minor fittings, furnishings or site works, etc.), the Project Manager shall issue a Final Acceptance Certificate within fourteen (14) days after the fittings and/or furnishings have been delivered and/or installed or the site works have been completed. The IA shall, however, use all reasonable endeavors to promptly remedy any defects or deficiencies in such minor components detected by the Purchaser or IA.</i></p>
Indemnifying Party	shall have the same meaning ascribed to it in Clause 15.1;
Indemnified Party	shall have the same meaning ascribed to it in Clause 15.1;
Intellectual Property Rights	means all rights in written designs and copyrights, moral rights, rights in databases and Bespoke Software / Pre-existing work including its upgradation systems and compilation rights (whether or not any of these are registered and including application for registration);
Escrow Agreement	An agreement that pursuant to Clause 22 provides for the regular deposit into escrow of all source code, object code, and documentation with respect to all public material and Service Provider's proprietary material (and cumulative updates thereof), together with (a) continually updated instructions as to the compilation, installation, configuration, deployment and use of the Source Code, and (b) a list of all non-deposited third party software used in conjunction with the Source Code to provide the full functionality of the deposited materials.

Master Services Agreement - Draft

Term	Meaning
	[Note: insert 'not applicable' if there is no provision for Escrow relevant to the Agreement]
Insurance Cover	<p>Public liability insurance for an insured amount of INR <insert amount> per occurrence and not less than <insert amount> in aggregate - Either professional indemnity or errors and omissions insurance for an insured amount of [INR insert amount] per occurrence and not less than [INR insert amount] in aggregate. - Product liability for an insured amount of [INR insert amount] per occurrence and not less than [INR insert amount] in aggregate. - Workers compensation as required by law</p> <p>[Note: insert amount required of any other type of insurance specified at "additional insurance" definition above]</p>
Additional Insurance	<insert any additional types of insurance the Service Provider is required to maintain. Otherwise insert 'not applicable'>
Material Breach	means a breach by either Party (Purchaser or Implementation Agency) of any of its obligations under this Agreement which has or is likely to have an Adverse Effect on the Project which such Party shall have failed to cure;
Required Deliverables	shall have the same meaning ascribed to it in Annexure F of this Agreement;
Parties	means Purchaser and Implementation Agency for the purposes of this Agreement and " Party " shall be interpreted accordingly;
Performance Guarantee	Means the guarantee provided by a Nationalized Bank in favour of the Implementation Agency. The amount of Performance Security shall be 10% of the overall cost of the project. This performance security shall be valid till six months after the completion of the project i.e. ---- years from the date of signing of contract or for such time as is required under this Agreement;
Planned Application Downtime	means the unavailability of the application services due to maintenance activities such as configuration changes, upgradation or changes to any supporting infrastructure wherein prior intimation (at least two working days in advance) of such planned outage shall be given and approval sought from the Purchaser as applicable;
	means the unavailability of the network services due to infrastructure maintenance activities such as configuration changes, upgradation or

Master Services Agreement - Draft

Term	Meaning
Planned network outage	changes to any supporting infrastructure. Prior intimation of such planned outage shall be given and approval sought from the Purchaser as applicable and shall be notified at least two working days;
Project	means Pilot, Project Implementation (roll out) and Maintenance in terms of the Agreement;
Project Implementation	means Project Implementation as per the testing standards and acceptance criteria prescribed by Purchaser or its nominated agencies;
Project Implementation Phase	shall be from the Effective Date of the Agreement to the date of final acceptance testing & certification as set out in Clause 5.4 of this Agreement;
Project Implementation Unit (PIU)	shall be constituted by Purchaser to monitor the activities, deliverables and progress of the Project. PIU will comprise of the staff members of the Purchaser, other officials from concerned department and external experts (as defined in the RFP);
Project Timelines	shall have the same meaning ascribed to in Annexure F;
Providing Party	shall have the same meaning ascribed to it in Clause 12.5;
Receiving Party	shall have the same meaning ascribed to it in Clause 12.5;
Replacement Implementation Agency	means any third party that Purchaser or its nominated agencies appoint to replace Implementation Agency upon expiry of the Term or termination of this Agreement to undertake the Services or part thereof;
Required Consents	means the consents, waivers, clearances and licenses to use Purchaser's Intellectual Property Rights, rights and other authorizations as may be required to be obtained for the software and other items that Purchaser or their nominated agencies are required to make available to Implementation Agency pursuant to this Agreement;
Services	means the services delivered to the Stakeholders of Purchaser or its nominated agencies, employees of Purchaser or its nominated agencies, and to professionals, using the tangible and intangible assets created, procured, installed, managed and operated by the Implementation Agency including the tools of information and communications technology and includes but is not limited to the list of services specified in Annexure B;

Master Services Agreement - Draft

Term	Meaning
Service Level	means the level of service and other performance criteria which will apply to the Services delivered by the Implementation Agency;
SLA	means the Performance and Maintenance SLA executed as part of this Master Service Agreement;
Stakeholders	means the CAG, employees, various audit offices, Auditee Universe Citizens, Purchaser or its nominated agencies, Purchaser, employees and the Departments/ Directorates/ Agencies/ Autonomous Bodies/ ULBs/ Panchayati Raj Institutions of State Government; Ministries, Department/ Directorates/ Autonomous Bodies of GoI
Term	shall have the same meaning ascribed to it in Clause 3.1;
Third Party Systems	means systems (or any part thereof) in which the Intellectual Property Rights are not owned by the Purchaser or Implementation Agency and to which Implementation Agency has been granted a license to use and which are used in the provision of Services;
Unplanned Application Downtime	means the total time for all the instances where services in the software requirement specification document prepared by the Implementation Agency are not available for more than 5 consecutive minutes;
Network	in Purchaser users refers to all the IT assets installed by the Implementation Agency as part of the Project for networking;
Unplanned network outage	means the total time for all the instances where services in the software requirement specification document prepared by the Implementation Agency are not available for more than 5 consecutive minutes;
Application	means the software application developed as a part of scope of work set out in Clause 2.1(a)
Application Downtime	means the time for which user/s is not able to access the application. However, in calculating downtime, scheduled downtime (for example, backup time, batch processing time, routine maintenance time) would not be considered;
Network Uptime	Network Uptime refers to network availability between Purchaser's Head Quarters to Cloud Service Providers Data center. "%Uptime" means ratio of 'up time' (in minutes) in a month to Total time in the month (in minutes) multiplied by 100;

Term	Meaning
Warranty / AMC Period	shall be <insert number> years from the date of successful completion /Go-live.
Safety and Security	[Note: insert any safety and security requirements additional to those specified in clause 12.4, Otherwise insert 'not applicable']

1.2. Interpretation

In this Agreement, unless otherwise specified:

- (a) references to Clauses, Sub-Clauses, Paragraphs, Schedules and Annexures are to clauses, sub-clauses, paragraphs, schedules and annexures to this Agreement;
- (b) use of any gender includes the other genders;
- (c) references to a 'company' shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established;
- (d) references to a 'person' shall be construed so as to include any individual, firm, company, government, state or agency of a state, local or municipal authority or government body or any joint venture, association or partnership (whether or not having separate legal personality);
- (e) a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted;
- (f) any reference to a 'day' (including within the phrase 'business day') shall mean a period of 24 hours running from midnight to midnight;
- (g) references to a 'business day' shall be construed as a reference to a day (other than a Sunday) on which banks in the state of _____ are generally open for business;
- (h) references to times are to Indian Standard Time;
- (i) a reference to any other document referred to in this Agreement is a reference to that other document as amended, varied, novated or supplemented at any time; and
- (j) all headings and titles are inserted for convenience only. They are to be ignored in the interpretation of this Agreement.
- (k) System integrator (SI) or Implementation Agency (IA) has been used for the same entity i.e. bidder selected for the project.

1.3. Measurement and Arithmetic Conventions

All measurements and calculations shall be in the metric system and calculations done to two decimal places, with the third digit of five or above being rounded up and below five being rounded down except in money calculations where such amounts shall be rounded off to the nearest INR.

1.4. Ambiguities within Agreement

In case of ambiguities or discrepancies within this Agreement, the following principles shall apply:

- (a) as between two Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in a general Clause;
- (b) as between the provisions of this Agreement and the Schedules/Annexures, the Agreement shall prevail, save and except as expressly provided otherwise in the Agreement or the Schedules/Annexures; and
- (c) as between any value written in numerals and that in words, the value in words shall prevail.

1.5. Priority of documents

This Agreement, including its Schedules and Annexures, represents the entire agreement between the Parties as noted in this Clause. If in the event of a dispute as to the interpretation or meaning of this Agreement it should be necessary for the Parties to refer to documents forming part of the bidding process leading to this Agreement, then such documents shall be relied upon and interpreted in the following descending order of priority:

- (a) This Agreement along with
- (b) the SLA agreement,
- (c) NDA agreement,
- (d) Schedules and Annexures;
- (e) the RFP along with subsequently issued corrigenda
- (f) Technical and financial proposal submitted by the successful bidder, to the extent they along with subsequently issued clarifications furnished by the Implementation Agency in response to the RFP, to the extent they are not inconsistent with any terms of the RFP.

For the avoidance of doubt, it is expressly clarified that in the event of a conflict between this Agreement, Annexures / Schedules or the contents of the RFP, the terms of this Agreement shall prevail over the Annexures / Schedules and Annexures / Schedules shall prevail over the contents and specifications of the RFP.

2. Scope of the Project

The Implementation Agency shall be required to:

develop / customize and implement <Insert the details of solution>; manage and provide technical support to the solution for the period of <insert period> years from the date of Go-Live.

The roles and responsibilities of the Parties under this Agreement have been set out in detail as Annexure F of this Agreement.

For the avoidance of doubt, it is expressly clarified that this Agreement shall govern the provision of the contracted services under the SLA to the Purchaser and its nominated agencies. It is anticipated that new or renewal agreements may be undertaken by creating a separate SLA, with schedules and annexures as required, under this Agreement for each additional engagement.

2.1. Scope of work

Detailed Scope of Work for the selected bidder is as follows:

RFP Vol 1-

3. TERM AND DURATION OF THE AGREEMENT

This Agreement shall come into effect on <***> 201- (hereinafter the 'Effective Date') and shall continue till operation and maintenance completion date which shall be the date of the completion of the operation and maintenance to the Purchaser or its nominated agencies, unless terminated earlier (as per clause 14), in which case the contract will get terminated on fulfillment of all obligations mentioned as per clause 14 and Schedule-II.

4. Condition Precedent & Effective Date

4.1. Provisions to take effect upon fulfillment of Conditions Precedent

Subject to express terms to the contrary, the rights and obligations under this Agreement shall take effect only upon fulfillment of all the Conditions Precedent set out below. However, Purchaser or its nominated agencies may at any time at its sole discretion waive fully or partially any of the Conditions Precedent for the Implementation Agency.

For the avoidance of doubt, it is expressly clarified that the obligations of the Parties (or its nominated agencies) under this Agreement shall commence from the fulfillment of the Conditions Precedent as set forth below.

4.2. a. Conditions Precedent of the Implementing Partner

The Implementation Agency shall be required to fulfill the Conditions Precedent in which is as follows:

- (i) To provide a Performance Security/Guarantee and other guarantees/ payments within < 15 days> of the receipt of notification of award from the purchaser; and
- (ii) To provide the Purchaser or its nominated agencies certified true copies of its constitutional documents and board resolutions authorizing the execution, delivery and performance of this Agreement by the Implementation Agency (optional).

4.2. b. Conditions Precedent of the Purchaser

The Purchaser shall be required to fulfill the Conditions Precedents which are as follows:

To Be filled later

4.3. Extension of time for fulfillment of Conditions Precedent

The Parties may, by mutual agreement extend the time for fulfilling the Conditions Precedent and the Term of this Agreement.

4.4. Non-fulfillment of the Implementation Agency's Conditions Precedent

- (a) In the event that any of the Conditions Precedent of the Implementation Agency have not been fulfilled within 15 days of signing of this Agreement and the same have not been waived fully or partially by Purchaser or its nominated agencies, this Agreement shall cease to exist or the Purchaser may exercise the option to impose SLA for such delay.

- (b) In the event that the Agreement fails to come into effect on account of non fulfillment of the Implementation Agency's Conditions Precedent, the Purchaser or its nominated agencies shall not be liable in any manner whatsoever to the Implementation Agency and the Purchaser shall forthwith forfeit the Earnest Money Deposit.
- (c) In the event that possession of any of the Purchaser or its nominated agencies facilities has been delivered to the Implementation Agency prior to the fulfillment of the Conditions Precedent, upon the termination of this Agreement such shall immediately revert to Purchaser or its nominated agencies, free and clear from any encumbrances or claims.

5. Obligations under the SLA

- I. The SLA shall be a separate contract in respect of this Agreement and shall be entered into concurrently with this Agreement between Purchaser and Implementation Agency;
- II. In relation to any future SLA entered into between the Parties; each of the Parties shall observe and perform the obligations set out herein.

5.1. Change of Control

- (a) In the event of a change of control of the Implementation Agency during the Term, the Implementation Agency shall promptly notify Purchaser and/or its nominated agencies of the same in the format set out as Annexure A of this Agreement.
- (b) In the event that the net worth of the surviving entity is less than that of Implementation Agency prior to the change of control, the Purchaser or its nominated agencies may within 30 days of becoming aware of such change in control, require a replacement of existing Performance Guarantee furnished by the Implementation Agency from a guarantor acceptable to the Purchaser or its nominated agencies (which shall not be Implementation Agency or any of its associated entities).
- (c) If such a guarantee is not furnished within 30 days of the Purchaser or its nominated agencies requiring the replacement, the Purchaser may exercise its right to terminate the SLA and/ or this Agreement within a further 30 days by written notice, to become effective as specified in such notice.
- (d) Pursuant to termination, the effects of termination as set out in Clause 14 of this Agreement shall follow.

For the avoidance of doubt, it is expressly clarified that the internal reorganization of the Implementation Agency shall not be deemed an event of a change of control for purposes of this Clause unless the surviving entity is of less net worth than the predecessor entity.

5.2. Final testing and certification

The Project shall be governed by the mechanism of final acceptance testing and certification to be put into place by the Purchaser and Implementation Agency as under:

- (a) Final testing and certification criteria will lay down a set of guidelines following internationally accepted norms and standards for testing and certification for all aspects of project development and implementation covering software, hardware and networking including the processes relating to the design of solution architecture, design of systems and sub-systems, coding, testing, business process description, documentation, version control, change management, security, service oriented architecture, performance in relation to compliance with SLA metrics, interoperability, scalability, availability and compliance with all the technical and functional requirements of the RFP and this Agreement;
- (b) Final testing and certification criteria will be finalized from the development stage to ensure that the guidelines are being followed and to avoid large scale modifications pursuant to testing done after the application is fully developed;
- (c) Final testing and certification criteria will consider conducting specific tests on the software, hardware, networking, security and all other aspects;
- (d) Final testing and certification criteria will establish appropriate processes for notifying the Implementation Agency of any deviations from the norms, standards or guidelines at the earliest instance after taking cognizance of the same to enable the Implementation Agency to take corrective action; etc.
- (e) The Parties shall each ensure that the range of the Services under the SLA shall not be varied, reduced or increased except with the prior written agreement between the Purchaser and Implementation Agency in accordance with the Change Control Schedule set out in Schedule I of this Agreement. Save for the express terms of the Terms of Payment Schedule set out as Schedule V of this Agreement, Purchaser or its nominated agencies and its users may purchase any particular category of Services that may become necessary as per the Change Control Schedule set out in Schedule I of this Agreement, without the need to go for a separate procurement process.

6. Representations and Warranties

6.1. Representations and warranties of the Implementation Agency

The Implementation Agency represents and warrants to the Purchaser or its nominated agencies that:

- (a) it is duly organized and validly existing under the laws of India, and has full power and authority to execute and perform its obligations under this Agreement and other agreements and to carry out the transactions contemplated hereby;
- (b) it is a competent provider of a variety of information technology and business process management services;
- (c) it has taken all necessary corporate and other actions under laws applicable to its business to authorize the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- (d) from the Effective Date, it will have the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement;
- (e) in providing the Services, it shall use reasonable endeavours not to cause any unnecessary disruption to Purchaser's normal business operations
- (f) this Agreement has been duly executed by it and constitutes a legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement shall be legally valid, binding and enforceable against it in accordance with the terms hereof;
- (g) the information furnished in the Implementation Agency's response to the RFP and any subsequent clarification pertaining to the evaluation process, furnished on or before the date of this Agreement is to the best of its knowledge and belief true and accurate in all material respects as at the date of this Agreement;
- (h) the execution, delivery and performance of this Agreement shall not conflict with, result in the breach of, constitute a default by any of the terms of its Memorandum and Articles of Association or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- (i) there are no material actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its material obligations under this Agreement;

- (j) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any Adverse Effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;
- (k) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have an Adverse Effect on its ability to perform its obligations under this Agreement;
- (l) no representation or warranty by it contained herein or in any other document furnished by it to Purchaser or its nominated agencies in relation to the Required Consents contains or shall contain any untrue or misleading statement of material fact or omits or shall omit to state a material fact necessary to make such representation or warranty not misleading; and
- (m) no sums, in cash or kind, have been paid or shall be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for entering into this Agreement or for influencing or attempting to influence any officer or employee of Purchaser or its nominated agencies in connection therewith.

6.2. Representations and warranties of the Implementation Agency

Purchaser or its nominated agencies represent and warrant to the Implementation Agency that:

- (a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement and carry out the transactions contemplated hereby;
- (b) it has taken all necessary actions under Applicable Laws to authorize the execution, delivery and performance of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- (c) it has the financial standing and capacity to perform its obligations under the Agreement;
- (d) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunder including any obligation, liability or responsibility hereunder;
- (e) this Agreement has been duly executed by it and constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof and its obligations under this Agreement shall be legally valid, binding and enforceable

- against it in accordance with the terms thereof;
- (f) the execution, delivery and performance of this Agreement shall not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
 - (g) there are no actions, suits or proceedings pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the default or breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform its material (including any payment) obligations under this Agreement;
 - (h) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any Adverse Effect on the Purchaser or its nominated agencies ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;
 - (i) it has complied with Applicable Laws in all material respects;
 - (j) all information provided by it in the RFP in connection with the Project is, to the best of its knowledge and belief, true and accurate in all material respects; and
 - (k) upon the Implementation Agency performing the covenants herein, it shall not at any time during the term hereof, interfere with peaceful exercise of the rights and discharge of the obligations by the Implementation Agency, in accordance with this Agreement.

7. OBLIGATIONS OF THE PURCHASER OR ITS NOMINATED AGENCIES

Without prejudice to any other undertakings or obligations of the Purchaser or its nominated agencies under this Agreement, the Purchaser or its nominated agencies shall perform the following:

- (a) To provide any support through personnel to test the system during the Term;
- (b) To provide any support through personnel and/or test data during development, rollout, steady state operation, as well as, for any changes/enhancements in the system whenever required due to scope change that may arise due to business, delivery or statutory/regulatory reasons;
- (c) Purchaser shall provide the data (including in electronic form wherever available) to

- be migrated.
- (d) To authorize the Implementation Agency to interact for implementation of the Project with external entities such as the state treasury, authorized banks, trademark database etc.
 - (e) Provide prompt Deliverable feedback: Within a specified given working days from the submission of a deliverable/SLA and performance reports, the <purchaser> shall provide a sign offs on the deliverable or its comments for changes.

In case the <purchaser> fails to respond and provide feedback on above stated submission, the deliverables or SLA and performance reports will be deemed accepted. Post < working days> there will be no rework of the said deliverable except, in case the purchaser has provided an alternate date for acceptance. Any subsequent rework post acceptance / deemed acceptance would form the subject of a formal change request under the provisions of this Agreement.

8. OBLIGATIONS OF THE IMPLEMENTATION PARTNER

- I. It shall provide to the Purchaser or its nominated agencies, the Deliverables as set out in Annexure F of this Agreement.
- II. It shall perform the Services as set out in Section 2 <<Scope of the Project>> of this Agreement and in a good and workmanlike manner commensurate with industry and technical standards which are generally in effect for international projects and innovations pursuant thereon similar to those contemplated by this Agreement, and so as to comply with the applicable Service Levels set out with this Agreement.
- III. It shall ensure that the Services are being provided as per the Project Timelines set out in the RFP.

9. APPROVALS AND REQUIRED CONSENTS

- I. The Parties shall cooperate to procure, maintain and observe all relevant and regulatory and governmental licenses, clearances and applicable approvals (hereinafter the “**Required Consents**”) necessary for the Implementation Agency to provide the Services. The costs of such Approvals shall be borne by the Party normally responsible for such costs according to local custom and practice in the locations where the Services are to be provided.

[Note: This responsibility of taking Governmental licenses, clearances and applicable approvals requires to be explicitly worded in the Scope of work in the RFP, only then this clause in its current shape would hold]

- II. The Purchaser or its nominated agencies shall use reasonable endeavours to assist Implementation Agency to obtain the Required Consents *[or vice versa, depending on the*

Scope of work defined in the RFP. In the event that any Required Consent is not obtained, the Implementation Agency and the Purchaser or its nominated agencies will co-operate with each other in achieving a reasonable alternative arrangement as soon as reasonably practicable for the Purchaser or its nominated agencies to continue to process its work with as minimal interruption to its business operations as is commercially reasonable until such Required Consent is obtained, provided that the Implementation Agency shall not be relieved of its obligations to provide the Services and to achieve the Service Levels until the Required Consents are obtained if and to the extent that the Implementation Agency's obligations are not dependent upon such Required Consents.

10. USE OF ASSETS BY THE IMPLEMENTATION AGENCY

During the Term the Implementation Agency shall:

- (a) take all reasonable and proper care of the entire hardware and software, network or any other information technology infrastructure components used for the Project and other facilities leased / owned / operated by the Implementation Agency exclusively in terms of ensuring their usability for the delivery of the Services as per this Agreement (hereinafter the "Assets") in proportion to their use and control of such Assets; and
- (b) keep all the tangible Assets in as good and serviceable condition (reasonable wear and tear excepted) as at the date the Implementation Agency takes control of and/or first uses the Assets and during the entire Term of the Agreement.
- (c) ensure that any instructions or manuals supplied by the manufacturer of the Assets for use of the Assets and which are provided to the Implementation Agency will be followed by the Implementation Agency and any person who will be responsible for the use of the Assets;
- (d) take such steps as may be properly recommended by the manufacturer of the Assets and notified to the Implementation Agency or as may, in the reasonable opinion of the Implementation Agency, be necessary to use the Assets in a safe manner;
- (e) ensure that the Assets that are under the control of the Implementation Agency, are kept suitably housed and in conformity with Applicable Law;
- (f) procure permission from the Purchaser or its nominated agencies and any persons duly authorized by them to enter any land or premises on which the Assets are for the time being sited so as to inspect the same, subject to any reasonable third party requirements;

- (g) not knowingly or negligently use or permit any of the Assets to be used in contravention of any statutory provisions or regulation or in any way contrary to Applicable Law.

11. ACCESS TO THE PURCHASER OR ITS NOMINATED AGENCIES LOCATIONS

For so long as the Implementation Agency provides services to the Purchaser or its nominated agencies location, as the case may be, on a non-permanent basis and to the extent necessary, the Purchaser as the case may be or its nominated agencies shall, subject to compliance by the Implementation Agency with any safety and security guidelines which may be provided by the Purchaser as the case may be or its nominated agencies and notified to the Implementation Agency in writing, provide the Implementation Agency with:

- (a) reasonable access, in the same manner granted to the Purchaser or its nominated agencies employees, to the Purchaser as the case may be location twenty-four hours a day, seven days a week;
- (b) reasonable work space, access to office equipment as mutually agreed and other related support services in such location and at such other the Purchaser as the case may be location, if any, as may be reasonably necessary for the Implementation Agency to perform its obligations hereunder and under the SLA.

Access to locations, office equipments and services shall be made available to the Implementation Agency < on an “as is, where is” basis / in appropriate working condition (as per scope of work defined in the tender)> by the Purchaser as the case may be or its nominated agencies. The Implementation Agency agrees to ensure that its employees, agents and contractors shall not use the location, services and equipment referred to in RFP for the following purposes:

- (a) for the transmission of any material which is defamatory, offensive or abusive or of an obscene or menacing character; or
- (b) in a manner which constitutes a violation or infringement of the rights of any person, firm or company (including but not limited to rights of copyright or confidentiality).

12. MANAGEMENT PHASE

12.1. Governance

The review and management process of this Agreement shall be carried out in accordance with the Governance Schedule set out in Schedule V of this Agreement and shall cover all the management aspects of the Project.

12.2. Use of Services

- (a) The Purchaser as the case may be or its nominated agencies, will undertake and use the Services in accordance with any instructions or procedures as per the acceptance criteria as set out in the SLA or this Agreement or any agreement that may be entered into between the Parties from time to time;
- (b) The Purchaser as the case may be or its nominated agencies shall be responsible for the operation and use of the Deliverables resulting from the Services

12.3. Changes

Unless expressly dealt with elsewhere in this Agreement, any changes under or to this Agreement or under or to the SLA shall be dealt with in accordance with the Change Control Schedule set out in Schedule I of this Agreement.

12.4. Security and Safety

- (a) The Implementation Agency shall comply with the technical requirements of the relevant security, safety and other requirements specified in the Information Technology Act or Telegraph Act including the regulations issued by dept. of telecom (wherever applicable), IT Security Manual of the Purchaser as specifically stated in the RFP and follow the industry standards related to safety and security (including those as stated in the RFP), insofar as it applies to the provision of the Services.
- (b) Each Party to the SLA/Agreement shall also comply with Purchaser or the Government of India, and the respective State's security standards and policies in force from time to time at each location of which Purchaser or its nominated agencies make the Implementation Agency aware in writing insofar as the same apply to the provision of the Services.
- (c) The Parties to the SLA/Agreement shall use reasonable endeavours to report forthwith in writing to each other all identified attempts (whether successful or not) by unauthorized persons (including unauthorized persons who are employees of any

Party) either to gain access to or interfere with the Purchaser as the case may be or any of their nominees data, facilities or Confidential Information.

- (d) The Implementation Agency shall upon reasonable request by the Purchaser as the case may be or their nominee(s) participate in regular meetings when safety and information technology security matters are reviewed.
- (e) As per the provisions of the SLA or this Agreement, the Implementation Agency shall promptly report in writing to the Purchaser or its nominated agencies, any act or omission which they are aware that could have an adverse effect on the proper conduct of safety and information technology security at the facilities of Purchaser as the case may be.

12.5. Cooperation

Except as otherwise provided elsewhere in this Agreement or the SLA, each Party ("**Providing Party**") to this Agreement or to the SLA undertakes promptly to provide the other Party ("**Receiving Party**") with all such information and co-operation which the Receiving Party reasonably requests, provided that such information and co-operation:

- (a) does not require material expenditure by the Providing Party to provide the same;
- (b) is reasonably required by the Receiving Party in order for it to comply with its obligations under this Agreement or the SLA;
- (c) cannot be construed to be Confidential Information; and
- (d) is capable of being provided by the Providing Party.

Further, each Party agrees to co-operate with the contractors and subcontractors of the other Party as reasonably requested in order to accomplish the purposes of this Agreement.

13. FINANCIAL MATTERS

13.1. Terms of Payment

- (a) In consideration of the Services and subject to the provisions of this Agreement and of the SLA, the Purchaser shall pay the Implementation Agency for the Services rendered in pursuance of this agreement, in accordance with the Terms of Payment Schedule set out as Schedule V of this Agreement.

- (b) Payments shall be subject to the application of liquidated damages (for period prior to “Go Live”) or SLA penalties and its adjustments/corrections (for post “Go-Live”) as may be provided for in the Agreement and the SLA from the relevant milestone(s)
- (c) Save and except as otherwise provided for herein or as agreed between the Parties in writing, the Purchaser shall not be required to make any payments in respect of the Services (or, without limitation to the foregoing, in respect of the Implementation Agency performance of any obligations under this Agreement or the SLA) other than those covered in Schedule V of this Agreement. For the avoidance of doubt, it is expressly clarified that the payments shall be deemed to include all ancillary and incidental costs and charges arising in the course of delivery of the Services including consultancy charges, infrastructure costs, project costs, implementation and management charges and all other related costs including taxes which are addressed in this Clause.

13.2. Invoicing and Settlement

- (a) Subject to the specific terms of the Agreement and the SLA, the Implementation Agency shall submit its invoices in accordance with the following principles:
 - i. The Purchaser shall be invoiced by the Implementation Agency for the Services. Generally and unless otherwise agreed in writing between the Parties or expressly set out in the SLA, the Implementation Agency shall raise an invoice as per Schedule V of this Agreement; and
 - ii. Any invoice presented in accordance with this Clause shall be in a form agreed with the Purchaser.
- (b) The Implementation Agency alone shall invoice all payments after receiving due approval of completion of payment milestone from the competent authority. Such invoices shall be accurate with all adjustments or changes in the terms of payment as stated in Schedule V of this Agreement. The Implementation Agency shall waive any charge for a Service that is not invoiced within six months after the end of the month in which the change relating to such Service is (i) authorized or (ii) incurred, whichever is later.
- (c) Payment shall be made within <30 working days> of the receipt of invoice along with supporting documents by the Purchaser subject to deduction of applicable liquidated damages (till “Go Live”) or SLA penalties (post “Go Live”) . The penalties are imposed on the vendor as per the SLA criteria specified in the SLA. In the event of delay in

payment of undisputed amount beyond <30 working days>, Implementation Agency shall be entitled to a late payment interest of <Specify rate of Interest> per annum from the date of completion of <30 working days> after submission of invoice. This interest is subject to a limit of <10%> of the total contract value.

- (d) The Purchaser shall be entitled to delay or withhold payment of any invoice or part of it delivered by the Implementation Agency under Schedule V of this Agreement where the Purchaser disputes/withholds such invoice or part of it provided that such dispute is bona fide. , The withheld amount shall be limited to that which is in dispute. The disputed / withheld amount shall be settled in accordance with the escalation procedure as set out in Schedule V of this Agreement. Any exercise by the Purchaser under this Clause shall not entitle the Implementation Agency to delay or withhold provision of the Services.
- (e) The Implementation Agency shall be solely responsible to make payments to its sub contractors

13.3. Tax

- (a) The Purchaser or its nominated agencies shall be responsible for withholding taxes from the amounts due and payable to the Implementation Agency wherever applicable. The Implementation Agency shall pay for all other taxes in connection with this Agreement, SLA, scope of work and any other engagement required to be undertaken as a part of this Agreement, including, but not limited to, property, sales, use, excise, value-added, goods and services, consumption and other similar taxes or duties.
- (b) The Purchaser or its nominated agencies shall provide Implementation Agency with the original tax receipt of any withholding taxes paid by Purchaser or its nominated agencies on payments under this Agreement. The Implementation Agency agrees to reimburse and hold the Purchaser or its nominated agencies harmless from any deficiency including penalties and interest relating to taxes that are its responsibility under this paragraph. For purposes of this Agreement, taxes shall include taxes incurred on transactions between and among the Purchaser or its nominated agencies, the Implementation Agency and third party subcontractors.
- (c) If, after the date of this Agreement, there is any change of rate of levy under the existing applicable laws of India with respect to taxes and duties, which are directly payable by the Purchaser for providing the goods and services i.e. service tax or any such other applicable tax from time to time, which increase or decreases the cost

incurred by the Implementation Agency in performing the Services, then the remuneration and reimbursable expense otherwise payable to the Implementation Agency under this Agreement shall be increased or decreased accordingly by correspondence between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Schedule V. However, in case of any new or fresh tax or levy imposed after submission of the proposal the Implementation Agency shall be entitled to reimbursement on submission of proof of payment of such tax or levy.

- (d) The Parties shall cooperate to enable each Party to accurately determine its own tax liability and to minimize such liability to the extent legally permissible. In connection therewith, the Parties shall provide each other with the following:
- i. any resale certificates;
 - ii. any relevant information regarding out-of-state or use of materials, equipment or services; and
 - iii. any direct pay permits, exemption certificates or information reasonably requested by the other Party.

14. TERMINATION

14.1. FOR MATERIAL BREACH

- a) In the event that either Party believes that the other Party is in Material Breach of its obligations under this Agreement, such aggrieved Party may terminate this Agreement upon giving a one month's notice for curing the Material Breach to the other Party. In case the Material Breach continues, after the notice period, the Purchaser or Implementation Agency, as the case may be will have the option to terminate the Agreement. Any notice served pursuant to this Clause shall give reasonable details of the Material Breach, which could include the following events and the termination will become effective:
- i. If the Implementation Agency is not able to deliver the services as per the SLAs defined in RFP which translates into Material Breach, then the Purchaser may serve a 30 days written notice for curing this Material Breach. In case the Material Breach continues, after the expiry of such notice period, the Purchaser will have the option to terminate this Agreement. Further, the Purchaser may offer a reasonable opportunity to the Implementation Agency to explain the

circumstances leading to such a breach.

- ii. If there is a Material Breach by the Purchaser or its nominated agencies which results in not providing support for effecting data migration or not providing the certification of User Acceptance then the Implementation Agency will give a one month's notice for curing the Material Breach to the Purchaser. After the expiry of such notice period, the Implementation Agency will have the option to terminate the Agreement.
- b) The Purchaser may by giving a one month's written notice, terminate this Agreement if a change of control of the Implementation Agency has taken place. For the purposes of this Clause, in the case of Implementation Agency, change of control shall mean the events stated in Clause 5.1, and such notice shall become effective at the end of the notice period as set out in Clause 5.1 (c).
- c) In the event that Implementation Agency undergoes such a change of control, Purchaser may, as an alternative to termination, require a full Performance Guarantee for the obligations of Implementation Agency by a guarantor acceptable to Purchaser or its nominated agencies. If such a guarantee is not furnished within 30 days of Purchaser's demand, the Purchaser may exercise its right to terminate this Agreement in accordance with this Clause by giving 15 days further written notice to the Implementation Agency.
- d) The termination provisions set out in this Clause shall apply *mutatis mutandis* to the SLA.

14.2. Termination for Convenience

- I. The Purchaser may at any time terminate the Contract for any reason by giving the IA a notice of termination that refers to this clause.
- II. Upon receipt of the notice of termination under this clause, the IA shall either as soon as reasonably practical or upon the date specified in the notice of termination:
 - a) cease all further work, except for such work as the Purchaser may specify in the notice of termination for the sole purpose of protecting that part of the System already executed, or any work required to leave the site in a clean and safe condition;
 - b) terminate all subcontracts, except those to be assigned to the Purchaser pursuant to Clause 14.2.(I) (d) (ii) below;
 - c) remove all IA's Equipment from the site, repatriate the IA's and its Subcontractors' personnel from the site, remove from the site any wreckage, rubbish, and debris of any kind;

- d) in addition, the IA shall:
 - i. deliver to the Purchaser the parts of the System executed by the IA up to the date of termination;
 - ii. to the extent legally possible, assign to the Purchaser all right, title, and benefit of the IA to the System, or Subsystem, as at the date of termination, and, as may be required by the Purchaser, in any subcontracts concluded between the IA and its Subcontractors;
 - iii. deliver to the Purchaser all non-proprietary drawings, specifications, and other documents prepared by the IA or its Subcontractors as of the date of termination in connection with the System.

14.3. Effects of termination

- a) In the event that Purchaser terminates this Agreement pursuant to failure on the part of the Implementation Agency to comply with the conditions as contained in this Clause and depending on the event of default, Performance Guarantee furnished by Implementation Agency may be forfeited.
- b) Upon termination of this Agreement, the Parties will comply with the Exit Management Schedule set out as Schedule III of this Agreement.
- c) In the event that Purchaser or the Implementation Agency terminates this Agreement, the compensation will be decided in accordance with the Terms of Payment Schedule set out as Schedule V of this Agreement.
- d) Purchaser agrees to pay Implementation Agency for i) all charges for Services Implementation Agency provides and any Deliverables and/or system (or part thereof) Implementation Agency delivers through termination and any charges at the tendered rate, for extension period beyond termination as decided by the Nodal Agency as per Schedule 2, Clause 2.2 and ii) reimbursable expenses Implementation Agency incurs through termination.
- e) If Purchaser terminates without cause, Purchaser also agrees to pay any applicable adjustment expenses to Implementation Agency incurs as a result of such termination (which Implementation Agency will take reasonable steps to mitigate).
- f) In the event of termination of the Contract under 14.2, the Purchaser shall pay to the IA the following amounts:
 - i. the Contract Price, properly attributable to the parts of the System executed by the IA as of the date of termination;
 - ii. the costs reasonably incurred by the IA in the removal of the IA's Equipment from the site and in the repatriation of the IA's and its Subcontractors' personnel;
 - iii. any amount to be paid by the IA to its Subcontractors in connection with the

- termination of any subcontracts, including any cancellation charges;
- iv. costs incurred by the IA in protecting the System and leaving the site in a clean and safe condition pursuant to Clause 14.2; and
- v. the cost of satisfying all other obligations, commitments, and claims that the IA may in good faith have undertaken with third parties in connection with the Contract and that are not covered by Clauses 14.3 (d) above.

14.4. Termination of this Agreement due to bankruptcy of Implementation Agency

The Purchaser may serve written notice on Implementation Agency at any time to terminate this Agreement with immediate effect in the event that the Implementation Agency reporting an apprehension of bankruptcy to the Purchaser or its nominated agencies

15. INDEMNIFICATION & LIMITATION OF LIABILITY

- A. Subject to Clause 15.(D) below, Implementation Agency (the "Indemnifying Party") undertakes to indemnify, hold harmless the Purchaser (the "Indemnified Party") from and against all claims, liabilities, losses, expenses (including reasonable attorneys' fees), fines, penalties, taxes or damages (Collectively "Loss") on account of bodily injury, death or damage to tangible personal property arising in favour of any person, corporation or other entity (including the Indemnified Party) attributable to the Indemnifying Party's negligence or willful default in performance or non-performance under this Agreement.
- B. If the Indemnified Party promptly notifies Indemnifying Party in writing of a third party claim against Indemnified Party that any Service provided by the Indemnifying Party infringes a copyright, trade secret or patents incorporated in India of any third party, Indemnifying Party will defend such claim at its expense and will pay any costs or damages, that may be finally awarded against Indemnified Party.
- C. Indemnifying Party will not indemnify the Indemnified Party, however, if the claim of infringement is caused by
 - a. Indemnifying Party will not indemnify the Indemnified Party, however, if the claim of infringement is caused by
 - b. Indemnified Party's failure to use corrections or enhancements made available by the Indemnifying Party;
 - c. Indemnified Party's use of the Service in combination with any product or information not owned or developed by Indemnifying Party;

However, if any service, information, direction, specification or materials provided by Indemnified Party or any third party contracted to it, is or likely to be held to be infringing, Indemnifying Party shall at its expense and option either

- i. Procure the right for Indemnified Party to continue using it
- ii. Replace it with a noninfringing equivalent
- iii. Modify it to make it noninfringing

The foregoing remedies constitute Indemnified Party's sole and exclusive remedies and Indemnifying Party's entire liability with respect to infringement.

D. The indemnities set out in Clause 15 shall be subject to the following conditions:

- I. the Indemnified Party as promptly as practicable informs the Indemnifying Party in writing of the claim or proceedings and provides all relevant evidence, documentary or otherwise;
- II. the Indemnified Party shall, at the cost of the Indemnifying Party, give the Indemnifying Party all reasonable assistance in the Defense of such claim including reasonable access to all relevant information, documentation and personnel provided that the Indemnified Party may, at its sole cost and expense, reasonably participate, through its attorneys or otherwise, in such Defense;
- III. if the Indemnifying Party does not assume full control over the Defense of a claim as provided in this Article, the Indemnifying Party may participate in such Defense at its sole cost and expense, and the Indemnified Party will have the right to defend the claim in such manner as it may deem appropriate, and the cost and expense of the Indemnified Party will be included in Losses;
- IV. the Indemnified Party shall not prejudice, pay or accept any proceedings or claim, or compromise any proceedings or claim, without the written consent of the Indemnifying Party;
- V. all settlements of claims subject to indemnification under this Clause will:
- VI. the Indemnified Party shall account to the Indemnifying Party for all awards, settlements, damages and costs (if any) finally awarded in favour of the Indemnified Party which are to be paid to it in connection with any such claim or proceedings;
- VII. the Indemnified Party shall take steps that the Indemnifying Party may reasonably require to mitigate or reduce its loss as a result of such a claim or proceedings;
- VIII. in the event that the Indemnifying Party is obligated to indemnify an Indemnified Party pursuant to this Article, the Indemnifying Party will, upon payment of such

indemnity in full, be subrogated to all rights and defenses of the Indemnified Party with respect to the claims to which such indemnification relates; and

- IX. if a Party makes a claim under the indemnity set out under Clause 15.(A) above in respect of any particular Loss or Losses, then that Party shall not be entitled to make any further claim in respect of that Loss or Losses (including any claim for damages).
- E. The liability of either Party (whether in contract, tort, negligence, strict liability in tort, by statute or otherwise) for any claim in any manner related to this Agreement, including the work, deliverables or Services covered by this Agreement, shall be the payment of direct damages only which shall in no event exceed one time the total contract value payable under this Agreement. The liability cap given under this Clause shall not be applicable to the indemnification obligations set out in Clause 15 and breach of Clause 12.4 and 17.
- F. In no event shall either party be liable for any consequential, incidental, indirect, special or punitive damage, loss or expenses (including but not limited to business interruption, lost business, lost profits, or lost savings) nor for any third party claims (other than those set-forth in Clause 15.(A)) even if it has been advised of their possible existence.
- G. The allocations of liability in this Section 15 represent the agreed and bargained-for understanding of the parties and compensation for the Services reflects such allocations. Each Party has a duty to mitigate the damages and any amounts payable under an indemnity that would otherwise be recoverable from the other Party pursuant to this Agreement by taking appropriate and commercially reasonable actions to reduce or limit the amount of such damages or amounts.

16. FORCE MAJEURE

A. Definition of Force Majeure

“Force Majeure” shall mean any event beyond the reasonable control of the Purchaser or of the Supplier, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected.

B. Force Majeure events

A Force Majeure shall include, without limitation, the following:

- a. war, hostilities, or warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy, and civil war;
- b. strike, sabotage, lockout, embargo, import restriction, port congestion, lack of usual means of public transportation and communication, industrial dispute, shipwreck, shortage or restriction of power supply, epidemics, quarantine, and plague;

- c. earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning, or other inclement weather condition, nuclear and pressure waves, or other natural or physical disaster;
- i. If either party is prevented, hindered, or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances of the event of Force Majeure within fourteen (14) days after the occurrence of such event.
 - ii. The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered, or delayed. The time for achieving Final Acceptance shall be extended.
 - iii. The party or parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect of the event of Force Majeure upon its or their performance of the Contract and to fulfill its or their obligations under the Contract, but without prejudice to either party's right to terminate the Contract under Clause 16.
 - iv. No delay or non-performance by either party to this Contract caused by the occurrence of any event of Force Majeure shall:
 - constitute a default or breach of the Contract;
 - give rise to any claim for damages or additional cost or expense occasioned by the delay or non-performance,if, and to the extent that, such delay or non-performance is caused by the occurrence of an event of Force Majeure.
 - v. If the performance of the Contract is substantially prevented, hindered, or delayed for a single period of more than sixty (60) days on account of one or more events of Force Majeure during the time period covered by the Contract, the parties will attempt to develop a mutually satisfactory solution, failing which, either party may terminate the Contract by giving a notice to the other.
 - vi. In the event of termination pursuant to Clause 16, the rights and obligations of the Purchaser and the Supplier shall be as specified in the clause titled Termination.
 - vii. Notwithstanding Clause 16.(iv), Force Majeure shall not apply to any obligation of the Purchaser to make payments to the Supplier under this Contract.
 - viii. For the avoidance of doubt, it is expressly clarified that the failure on the part of the Implementation Agency under this Agreement or the SLA to implement any disaster contingency planning and back-up and other data safeguards in

accordance with the terms of this Agreement or the SLA against natural disaster, fire, sabotage or other similar occurrence shall not be deemed to be a Force Majeure event. For the avoidance of doubt, it is further clarified that any negligence in performance of Services which directly causes any breach of security like hacking aren't the forces of nature and hence wouldn't be qualified under the definition of "Force Majeure". In so far as applicable to the performance of Services, Service Provider will be solely responsible to complete the risk assessment and ensure implementation of adequate security hygiene, best practices, processes and technology to prevent any breach of security and any resulting liability therefrom (wherever applicable).

17. CONFIDENTIALITY

- A. The Purchaser or its nominated agencies shall allow the Implementation Agency to review and utilize highly confidential public records and the Implementation Agency shall maintain the highest level of secrecy, confidentiality and privacy with regard thereto.
- B. Additionally, the Implementation Agency shall keep confidential all the details and information with regard to the Project, including systems, facilities, operations, management and maintenance of the systems/facilities.
- C. The Purchaser or its nominated agencies shall retain all rights to prevent, stop and if required take the necessary punitive action against the Implementation Agency regarding any forbidden disclosure.
- D. The Implementation Agency shall ensure that all its employees, agents and sub-contractors involved in the project, execute individual non-disclosure agreements, which have been duly approved by the Purchaser with respect to this Project. The implementing agency may submit a declaration that it has obtained the NDA from its employees. However, if the project is critical in nature, IA may get NDAs signed from every resource involved in the project and submit it to purchaser (Optional).

For the avoidance of doubt, it is expressly clarified that the aforesaid provisions shall not apply to the following information:

- (a) information already available in the public domain;
- (b) information which has been developed independently by the Implementation Agency;
- (c) information which has been received from a third party who had the right to disclose the aforesaid information;
- (d) Information which has been disclosed to the public pursuant to a court order.

- E. To the extent the Implementation Agency shares its confidential or proprietary information with the Purchaser for effective performance of the Services, the provisions of the Clause 17.A, 17.B and 17.C shall apply mutatis mutandis on the Purchaser or its nominated agencies.
- F. Any handover of the confidential information needs to be maintained in a list, both by Purchaser & SI, containing at the very minimum, the name of provider, recipient, date of generation of the data, date of handing over of data, mode of information, purpose and signatures of both parties.
- G. Notwithstanding anything to the contrary mentioned hereinabove, the Implementation Agency shall have the right to share the Letter of Intent / work order provided to it by the Purchaser in relation to this Agreement, with its prospective purchasers solely for the purpose of and with the intent to evidence and support its work experience under this Agreement

18. AUDIT, ACCESS AND REPORTING

The Implementation Agency shall allow access to the Purchaser or its nominated agencies to all information which is in the possession or control of the Implementation Agency and which relates to the provision of the Services as set out in the Audit, Access and Reporting Schedule and which is reasonably required by the Purchaser to comply with the terms of the Audit, Access and Reporting Schedule set out as Schedule III of this Agreement.

19. INTELLECTUAL PROPERTY RIGHTS

A. Products and fixes: All products and related solutions and fixes provided pursuant to this Agreement shall be licensed according to the terms of the license agreement packaged with or otherwise applicable to such product, the ownership of which shall continue to vest with the product owner. Implementation Agency would be responsible for arranging any licenses associated with products.

“**Product**” means any computer code, web-based services, or materials comprising commercially released, pre-release or beta products (whether licensed for a fee or no charge) and any derivatives of the foregoing which are made available to Purchaser for license which is published by product owner or its affiliates, or a third party. “**Fixes**” means product fixes that are either released generally (such as commercial product service packs) or that are provided to you when performing services (such as workarounds, patches, bug fixes, beta fixes and beta builds) and any derivatives of the foregoing.

- B. Bespoke development:** Subject to the provisions of Clause **19.C** and **19.D** below, upon payment, the IPR rights for any bespoke development done during the implementation of the project will lie exclusively with the Purchaser.
- C. Pre-existing work:** All IPR including the source code and materials developed or otherwise obtained independently of the efforts of a Party under this Agreement (“**pre-existing work**”) including any enhancement or modification thereto shall remain the sole property of that Party. During the performance of the services for this agreement, each party grants to the other party (and their sub-contractors as necessary) a non-exclusive license to use, reproduce and modify any of its pre-existing work provided to the other party solely for the performance of such services for duration of the Term of this Agreement. Except as may be otherwise explicitly agreed to in a statement of services, upon payment in full, the Implementation Agency should grant Purchaser a non-exclusive, perpetual, fully paid-up license to use the pre-existing work in the form delivered to Purchaser as part of the service or deliverables only for its internal business operations. Under such license, either of parties will have no right to sell the pre-existing work of the other party to a Third Party. Purchaser’s license to pre-existing work is conditioned upon its compliance with the terms of this Agreement and the perpetual license applies solely to the pre-existing work that bidder leaves with Purchaser at the conclusion of performance of the services.
- D. Residuals:** In no event shall Implementation Agency be precluded from independently developing for itself, or for others, anything, whether in tangible or non-tangible form, which is competitive with, or similar to, the deliverables, set-out in this Agreement or Annexure. In addition, subject to the confidentiality obligations, Implementation Agency shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques that are acquired or used in the course of providing the Services.

20. WARRANTY & MAINTENANCE

- A. Standard:** The Implementation Agency warrants that the Project, including all the system(s), materials and goods supplied pursuant to the Agreement, shall be free from any defect or deficiency in the material, design, engineering, and workmanship that prevent the system and/or any of its systems(s) from fulfilling the technical requirements or that limit in a material fashion the performance, reliability, or extensibility of the system and/or any of its sub-system(s). Commercial warranty provisions of products supplied under the Agreement shall apply to the extent they do not conflict with the provisions of this Agreement.
- a. The IA also warrants that the products, materials and other goods supplied under the Agreement are new, unused and incorporate all recent improvements in design that materially affect the system’s or subsystem’s ability to fulfill the technical requirements specified in the RFP.

Master Services Agreement - Draft

- b. In addition, the IA warrants that: (i) all Goods components to be incorporated into the System form part of the IA/OEM's and/or Subcontractor's current product lines.
- c. The warranty period shall commence from the date of Go Live of the project or of any major component or subsystem for which phased Go-Live is provided for in the Agreement and shall extend for as follows: .

Component	Period
<Standard Hardware>	<6 months> post completion of the agreement>
<COTS Software>	<6 months> post completion of the agreement>
<Bespoke Software>	<6 months> post completion of the agreement>

Purchaser/Government department should approve signoff within < n days> from the submission of deliverables for Go-Live/Phased Go-live (as relevant, depending on project requirement) by the implementing agency.

In case the Purchaser/Government department fails to respond and provide feedback on the above stated submission, the deliverables will be deemed accepted for the commencement of warranty for the project.

However, in case the purchaser confirms to vendor an alternative date, then the date would stand revised for deemed acceptance. Such revisions may be limited to 2 (two).

- d. If during the warranty period any defect or deficiency is found in the material, design and performance/workmanship of the Project and other Services provided by the Implementation Agency, the Implementation Agency shall promptly, in consultation and agreement with Purchaser, and at the Implementation Agency's sole cost repair, replace, or otherwise make good (as the Implementation Agency shall, at its discretion, determine) such default, defect or deficiency as well as any damage to the system caused by such default, defect or deficiency. Any defective component, excluding hard disks, that has been replaced by the Implementation Agency shall remain the property of the Implementation Agency.
- e. The IA may, with the consent of the Purchaser, remove from the site any product and other goods that are defective, if the nature of the defect, and/or any damage to the System caused by the defect, is such that repairs cannot be expeditiously carried out at the site. If the repair, replacement, or making good is of such a character that it may affect the efficiency of the System, the Purchaser may give the IA notice requiring that tests of the defective part be made by the IA immediately upon completion of such remedial work, whereupon the IA shall carry out such tests. If such part fails the

tests, the IA shall carry out further repair, replacement, or making good (as the case may be) until that part of the System passes such tests. The tests shall be agreed upon by the Purchaser and the Supplier.

- f. If the IA fails to commence the work necessary to remedy such defect or any damage to the System caused by such defect within a reasonable time period, the Purchaser may, following notice to the IA, proceed to do such work or contract a third party (or parties) to do such work, and the reasonable costs incurred by the Purchaser in connection with such work shall be paid to the Purchaser by the IA or may be deducted by the Purchaser from any amount due to the IA.
- g. If the System or any of its sub-systems cannot be used by reason of such default, defect or deficiency and/or making good of such default, defect or deficiency, attributable to IA, the warranty period for the Project shall be extended by a period equal to the period during which the Project or any of its system could not be used by the Purchaser because of such defect and/or making good of such default, defect or deficiency. For reasons not attributable to IA, the IA shall not be liable.
- h. Items substituted for defective parts of the System during the Warranty Period shall be covered by the Warranty for the remainder of the Warranty Period applicable for the part replaced or three (3) months, whichever is greater.
- i. The Implementing Agency shall have no liability in the case of breach of this warranty due to (i) use of the deliverables on any environment (hardware or software) other than the environment recommended or approved by the Implementing Agency, (ii) the combination, operation, or use of some or all of the deliverables with information, software, specifications, instructions, data, or materials not approved by the Implementing Agency; (iii) the deliverables having been tampered with, altered or modified by Purchaser without the written permission of the Implementing Agency, or (iv) use of the deliverables otherwise than in terms of the relevant documentation.

B. Implied Warranty: The warranties provided herein are in lieu of all other warranties, both express and implied, and all other warranties, including without limitation that of merchantability or fitness for intended purpose is specifically disclaimed.

21. LIQUIDATED DAMAGES

Time is the essence of the Agreement and the delivery dates are binding on the Implementation Agency. In the event of delay or any gross negligence in implementation of the project before Go-Live, for causes solely attributable to the Implementation Agency, in meeting the deliverables, the Purchaser shall be entitled at its option to recover from the Implementation Agency as agreed, liquidated damages, a sum of <0.5%> of the value of the deliverable which suffered delay or gross negligence for each completed week or part thereof subject to a limit of <10%> of the

total contract value. This right to claim any liquidated damages shall be without prejudice to other rights and remedies available to Purchaser under the contract and law.

22. INSURANCE COVER

A. Obligation to maintain insurance

In connection with the provision of the Services, the Service Provider must have and maintain:

- a) for the Agreement Period, valid and enforceable insurance coverage for:
 - i. public liability;
 - ii. either professional indemnity or errors and omissions;
 - iii. product liability;
 - iv. workers' compensation as required by law; and
 - v. any additional types specified in Schedule I; and
- b) for <one> year following the expiry or termination of the Agreement, valid and enforceable insurance policies (if relevant), in the amount not less than the Insurance Cover specified in Schedule I.

B. Certificates of currency

The Implementation Agency must, on request by the Purchaser, provide current relevant confirmation of insurance documentation from its insurance brokers certifying that it has insurance as required by this Clause 22. The Service Provider agrees to replace any coverage prior to the date of expiry/cancellation.

C. Non-compliance

Purchaser or its nominated agencies may, at its election, terminate this Agreement as per clause 14, upon the failure of Implementation Agency or notification of such failure, to maintain the required insurance coverage. Inadequate insurance coverage for any reason shall not relieve Implementation Agency of its obligations under this Agreement.

23. MISCELLANEOUS

A. Personnel

- a) The personnel assigned by Implementation Agency to perform the Services shall be employees of Implementation Agency, and under no circumstances shall such personnel be considered employees of Purchaser or its nominated agencies. The Implementation Agency shall have the sole responsibility for the supervision and control of the personnel deployed in the Project and for payment of such personnel's compensation, including salary, withholding of income taxes and social security taxes, worker's compensation, employee and disability benefits and the like and shall be responsible for all obligations of an employer subject to Applicable Law.

- b) The Implementation Agency shall use its best efforts to ensure that sufficient Implementation Agency personnel are assigned to perform the Services and that such personnel have appropriate qualifications to perform the Services. After discussion with Implementation Agency, Purchaser or its nominated agencies shall have the right to require the removal or replacement of any Implementation Agency personnel performing work under this Agreement based on bonafide reasons. In the event that Purchaser or its nominated agencies requests that any Implementation Agency personnel be replaced, the substitution of such personnel shall be accomplished pursuant to a mutually agreed upon schedule.
- c) In the event that the Purchaser and Implementation Agency identify any personnel of Implementation Agency as “Key Personnel”, then the Implementation Agency shall not remove such personnel from the Project without the prior written consent of Purchaser or its nominated agencies unless such removal is the result of an unavoidable circumstance including but not limited to resignation, termination, medical leave, etc.
- d) Except as stated in this Clause, nothing in this Agreement or the SLA will limit the ability of Implementation Agency to freely assign or reassign its employees; provided that Implementation Agency shall be responsible, at its expense, for transferring all appropriate knowledge from personnel being replaced to their replacements. Purchaser or its nominated agencies shall have the right to review and approve Implementation Agency’s plan for any such knowledge transfer. Implementation Agency shall maintain the same or higher standards for skills and professionalism among replacement personnel as in personnel being replaced.
- e) Each Party shall be responsible for the performance of all its obligations under this Agreement or the SLA as the case may be and shall be liable for the acts and omissions of its employees and agents in connection therewith.
- f) Neither Party will solicit for employment or knowingly hire an employee of the other Party with whom such Party has contact pursuant to project engagements under this Agreement. This restriction shall not apply to employees of either Party responding to advertisements in job fairs or news media circulated to the general public.

B. Independent Contractor

Nothing in this Agreement or the SLA shall be construed as establishing or implying any partnership or joint venture between the Parties to this Agreement or the SLA and, except as expressly stated in this Agreement or the SLA, nothing in this Agreement or the SLA shall be deemed to constitute any Parties as the agent of any other Party or authorizes either Party to:

- a) incur any expenses on behalf of the other Party;

- b) enter into any engagement or make any representation or warranty on behalf of the other Party;
- c) pledge the credit of or otherwise bind or oblige the other Party; or
- d) commit the other Party in any way whatsoever without in each case obtaining the other Party's prior written consent.

C. Sub-contractors

Implementation Agency shall only subcontract work related to provisioning of Cloud Resources from MeitY empanelled and STQC audited Cloud Services providers for hosting of <One IAAD One System> without Purchaser's prior written consent. No other work shall be sub contracted by the Implementation Agency. It is clarified that the Implementation Agency shall be the principal employer for all claims arising from the liabilities statutory or otherwise, concerning the sub-contractors. The Implementation Agency undertakes to indemnify the Purchaser or its nominated agencies from any claims on the grounds stated hereinabove.

D. Assignment

- a) All terms and provisions of this Agreement shall be binding on and shall inure to the benefit of the Purchaser and their respective successors and permitted assigns.
- b) Subject to Clause 5.1, the Implementation Agency shall not be permitted to assign its rights and obligations under this Agreement to any third party.
- c) The Purchaser may assign or novate all or any part of this Agreement and Schedules/Annexures, and the Implementation Agency shall be a party to such novation, to any third party contracted to provide outsourced services to Purchaser or any of its nominees

E. Trademarks, Publicity

Neither Party may use the trademarks of the other Party without the prior written consent of the other Party except that Implementation Agency may, upon completion, use the Project as a reference for credential purpose. Except as required by law or the rules and regulations of each stock exchange upon which the securities of one of the Parties is listed, neither Party shall publish or permit to be published either along or in conjunction with any other person any press release, information, article, photograph, illustration or any other material of whatever kind relating to this Agreement, the SLA or the business of the Parties without prior reference to and approval in writing from the other Party, such approval not to be unreasonably withheld or delayed provided however that Implementation Agency may include Purchaser or its client lists for reference to third parties subject to the prior written consent of Purchaser not to be unreasonably withheld or delayed. Such approval shall apply to each specific case and relate only to that case.

F. Notices

- a) Any notice or other document which may be given by either Party under this Agreement or under the SLA shall be given in writing in person or by pre-paid recorded delivery post, email or by facsimile transmission.
- b) In relation to a notice given under this Agreement, any such notice or other document shall be addressed to the other Party's principal or registered office address as set out below:

<Insert Address> Tel:

Fax:

Email:

Contact:

With a copy to:

Implementation Agency

Tel:

Fax:

Email:

Contact:

In relation to a notice given under the MSA / SLA, a Party shall specify the Parties' address for service of notices, any such notice to be copied to the Parties at the addresses set out in this Clause.

- c) Any such notice or other document shall be deemed to have been given to the other Party (or, if relevant, its relevant associated company) when delivered (if delivered in person) if delivered between the hours of 9.00 am and 5.00 pm at the address of the other Party set forth above or if sent by fax, provided the copy fax is accompanied by a confirmation of transmission, or on the next working day thereafter if delivered outside such hours, and 7 days from the date of posting (if by letter).
- d) Either Party to this Agreement or to the SLA may change its address, telephone number, facsimile number and nominated contact for notification purposes by giving the other reasonable prior written notice of the new information and its effective date.

G. Variations and Further Assurance

- a) No amendment, variation or other change to this Agreement or the SLA shall be valid unless authorised in accordance with the change control procedure as set out in the

Change Control Schedule set out in Schedule I of this Agreement. Such amendment shall be made in writing and signed by the duly authorised representatives of the Parties to this Agreement or the SLA.

- b) Each Party to this Agreement or the SLA agrees to enter into or execute, without limitation, whatever other agreement, document, consent and waiver and to do all other things which shall or may be reasonably required to complete and deliver the obligations set out in this Agreement or the SLA

H. Severability and Waiver

- a) If any provision of this Agreement or the SLA, or any part thereof, shall be found by any court or administrative body of competent jurisdiction to be illegal, invalid or unenforceable the illegality, invalidity or unenforceability of such provision or part provision shall not affect the other provisions of this Agreement or the SLA or the remainder of the provisions in question which shall remain in full force and effect. The relevant Parties shall negotiate in good faith in order to agree to substitute for any illegal, invalid or unenforceable provision a valid and enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the illegal, invalid or unenforceable provision or part provision.
- b) No failure to exercise or enforce and no delay in exercising or enforcing on the part of either Party to this Agreement or the SLA of any right, remedy or provision of this Agreement or the SLA shall operate as a waiver of such right, remedy or provision in any future application nor shall any single or partial exercise or enforcement of any right, remedy or provision preclude any other or further exercise or enforcement of such right, remedy or provision or the exercise or enforcement of any other right, remedy or provision.

I. Compliance with Applicable Law

Each Party to this Agreement accepts that its individual conduct shall (to the extent applicable to its business like the Implementation Agency as an information technology service provider) at all times comply with all laws, rules and regulations of government and other bodies having jurisdiction over the area in which the Services are undertaken provided that changes in such laws, rules and regulations which result in a change to the Services shall be dealt with in accordance with the Change Control Schedule set out in Schedule I of this Agreement.

J. Professional Fees

All expenses incurred by or on behalf of each Party to this Agreement and the SLA, including all fees of agents, legal advisors, accountants and actuaries employed by either of the Parties in connection with the negotiation, preparation and execution of this Agreement or the SLA shall be borne solely by the Party which incurred them.

K. Ethics

The Implementation Agency represents, warrants and covenants that it has given no commitments, payments, gifts, kickbacks, lavish or expensive entertainment, or other things of value to any employee or agent of Purchaser or its nominated agencies in connection with this agreement and acknowledges that the giving of any such payment, gifts, entertainment, or other things of value is strictly in violation of Purchaser standard policies and may result in cancellation of this Agreement, or the SLA.

L. Entire Agreement

This Agreement and the SLA with all schedules & annexures appended thereto and the contents and specifications of the RFP constitute the entire agreement between the Parties with respect to their subject matter, and as to all other representations, understandings or agreements which are not fully expressed herein, provided that nothing in this Clause shall be interpreted so as to exclude any liability in respect of fraudulent misrepresentation.

M. Amendment

Any amendment to this Agreement shall be made in accordance with the Change Control Schedule set out in Schedule I of this Agreement by mutual written consent of all the Parties

24. GOVERNING LAW AND DISPUTE RESOLUTION

- A. This Agreement shall be governed by and construed in accordance with the laws of India, without giving effect to conflict of law rules. The parties expressly agree to exclude the application of the U.N. Convention on Contracts for the International Sale of Goods (1980) to this Agreement and the performance of the parties contemplated under this Agreement, to the extent that such convention might otherwise be applicable.
- B. Any dispute arising out of or in connection with this Agreement or the SLA shall in the first instance be dealt with in accordance with the escalation procedure as set out in the Governance Schedule set out as Schedule V of this Agreement.
- C. In case the escalations do not help in resolution of the problem within 3 weeks of escalation, both the parties should agree on a mediator for communication between the two parties. The process of the mediation would be as follows:
 - Aggrieved party should refer the dispute to the identified mediator in writing, with a copy to the other party. Such a reference should contain a description of the nature of the dispute, the quantum in dispute (if any) and the relief or remedy sought suitable.
 - The mediator shall use his best endeavours to conclude the mediation within a certain number of days of his appointment.
 - If no resolution can be reached through mutual discussion or mediation within 30 days then the matter should be referred to Experts

for advising on the issue.

- D. In case the mediation does not help in resolution and it requires expertise to understand an issue, a neutral panel of 3 experts, agreeable to both parties should be constituted. The process of the expert advisory would be as follows:
- Aggrieved party should refer the dispute to the identified mediator in writing, with a copy to the other party. Such a reference should contain a description of the nature of the dispute, the quantum in dispute (if any) and the relief or remedy sought suitable.
 - The mediator shall use his best endeavours to conclude the mediation within a certain number of days of his appointment.
 - If no resolution can be reached through mutual discussion or mediation within 30 days then the matter should be referred to Experts for advising on the issue.
- E. Any dispute or difference whatsoever arising between the parties to this Contract out of or relating to the construction, meaning, scope, operation or effect of this Contract or the validity of the breach thereof shall be referred to a sole Arbitrator to be appointed by mutual consent of both the parties herein. If the parties cannot agree on the appointment of the Arbitrator within a period of one month from the notification by one party to the other of existence of such dispute, then the Arbitrator shall be appointed by the High Court of New Delhi/ -----, India. The provisions of the Arbitration and Conciliation Act, 1996 will be applicable and the award made there under shall be final and binding upon the parties hereto, subject to legal remedies available under the law. Such differences shall be deemed to be a submission to arbitration under the Indian Arbitration and Conciliation Act, 1996, or of any modifications, Rules or re-enactments thereof. The Arbitration proceedings will be held at *<insert city>*, India. Any legal dispute will come under the sole jurisdiction of New Delhi, India / state jurisdiction of *<insert state>*, India.
- F. Compliance with laws: Each party will comply with all applicable export and import laws and regulations.
- G. Risk of Loss: For each hardware item, Implementation Agency bears the risk of loss or damage up to the time it is delivered to the Implementation/Purchaser-designated carrier for shipment to Purchaser or Purchaser's designated location.
- H. Third party components: Implementation Agency will provide all third party components solely on a pass-through basis in accordance with the relevant third party terms and conditions.

IN WITNESS WHEREOF the Parties have by duly authorized

Representatives set their respective hands and seal on the date first above Written in the presence of:

WITNESSES:

Signed by:

(Name and designation) **For and on behalf of Purchaser**

(FIRST PARTY)

Signed by:

(Name and designation)

IMPLEMENTATION AGENCY

(SECOND PARTY)

(Name and designation) For and on behalf of Implementation Agency Signed by:

25. SCHEDULES

SCHEDULE I – CHANGE CONTROL SCHEDULE

This Schedule describes the procedure to be followed in the event of any proposed change to the Master Service Agreement (“MSA”), Project Implementation Phase, SLA and Scope of Work and Functional Requirement Specifications. Such change shall include, but shall not be limited to, changes in the scope of services provided by the Implementation Agency and changes to the terms of payment as stated in the Terms of Payment Schedule.

The Purchaser and IA recognize that frequent change is an inevitable part of delivering services and that a significant element of this change can be accomplished by re-organizing processes and responsibilities without a material effect on the cost. The IA will endeavour, wherever reasonably practicable, to effect change without an increase in the terms of payment as stated in the Terms of Payment Schedule and Purchaser or its nominated agencies will work with the Implementation Agency to ensure that all changes are discussed and managed in a constructive manner. This Change Control Schedule sets out the provisions which will apply to all the changes to this agreement and other documents except for the changes in SLAs for which a separate process has been laid out in Clause 11 of the SLA.

This Change Control Schedule sets out the provisions which will apply to changes to the MSA.

CHANGE MANAGEMENT PROCESS

- a. **CHANGE CONTROL NOTE ("CCN")**
 - i. Change requests in respect of the MSA, the Project Implementation, the operation, the SLA or Scope of work and Functional Requirement specifications will emanate from the Parties' respective Project Manager who will be responsible for obtaining approval for the change and who will act as its sponsor throughout the Change Control Process and will complete Part A of the CCN attached as Annexure A hereto. CCNs will be presented to the other Party's Project Manager who will acknowledge receipt by signature of the CCN.
 - ii. The IA and the Purchaser or its nominated agencies, during the Project Implementation Phase and the Purchaser or its nominated agencies during the Operations and Management Phase and while preparing the CCN, shall consider the change in the context of the following parameter, namely whether the change is

beyond the scope of Services including ancillary and concomitant services required and as detailed in the RFP and is suggested and applicable only after the testing, commissioning and certification of the Pilot Phase and the Project Implementation Phase as set out in this Agreement.

- iii. It is hereby also clarified here that any change of control suggested beyond 25 % of the value of this Project will be beyond the scope of the change control process and will be considered as the subject matter for a separate bid process and a separate contract. It is hereby clarified that the 25% of the value of the Project as stated in herein above is calculated on the basis of bid value submitted by the Implementation Agency and accepted by the Purchaser or its nominated agencies or as decided and approved by Purchaser or it Nominated Agencies. For arriving at the cost / rate for change upto 25% of the project value, the payment terms and relevant rates as specified in Annexure D shall apply.

b. Quotation

- i. The IA shall assess the CCN and complete Part B of the CCN, in completing the Part B of the CCN the IA shall provide as a minimum:
 - 1. a description of the change
 - 2. a list of deliverables required for implementing the change;
 - 3. a time table for implementation;
 - 4. an estimate of any proposed change
 - 5. any relevant acceptance criteria
 - 6. an assessment of the value of the proposed change;
 - 7. material evidence to prove that the proposed change is not already covered within the Agreement and the scope of work
- ii. Prior to submission of the completed CCN to the Purchaser, or its nominated agencies, the Service Provider will undertake its own internal review of the proposal and obtain all necessary internal approvals. As a part of this internal review process, the IA shall consider the materiality of the proposed change in the context of the MSA and the Project Implementation affected by the change and the total effect that may arise from implementation of the change.

c. Costs

Each Party shall be responsible for its own costs incurred in the quotation, preparation of CCNs and in the completion of its obligations described in this process provided the IA meets the obligations as set in the CCN. In case of recertification due to proposed changes, required cost will be borne by the party that initiated the change. In the event the IA is unable to meet the

obligations as defined in the CCN then the cost of getting it done by third party will be borne by the IA.

d. Obligations

The IA shall be obliged to implement any proposed changes once approval in accordance with above provisions has been given, with effect from the date agreed for implementation and within an agreed timeframe. IA will not be obligated to work on a change until the parties agree in writing upon its scope, price and/or schedule impact. The cost associated with any hardware/goods/License for COTS product should not exceed the price quoted in the bidders proposal. Any costs associated with changes to Software specifications which can not be arrived at on the basis of the IA's proposal shall be mutually agreed to between the IA and the Purchaser.

SCHEDULE II - EXIT MANAGEMENT SCHEDULE

1 PURPOSE

- 1.1 This Schedule sets out the provisions, which will apply on expiry or termination of the MSA, the Project Implementation, Operation and Management SLA.
- 1.2 In the case of termination of the Project Implementation and/or Operation and Management, the Parties shall agree at that time whether, and if so during what period, the provisions of this Schedule shall apply.
- 1.3 The Parties shall ensure that their respective associated entities carry out their respective obligations set out in this Exit Management Schedule.

2 TRANSFER OF ASSETS

- 2.1 Purchaser shall be entitled to serve notice in writing on the IA at any time during the exit management period as detailed hereinabove requiring the IA and/or its sub contractors to provide the Purchaser with a complete and up to date list of the Assets within 30 days of such notice. Purchaser shall then be entitled to serve notice in writing on the IA at any time prior to the date that is 30 days prior to the end of the exit management period requiring the IA to sell the Assets, if any, to be transferred to Purchaser or its nominated agencies at book value as determined as of the date of such notice in accordance with the provisions of relevant laws.
- 2.2 In case of contract being terminated by Purchaser, Purchaser reserves the right to ask IA to continue running the project operations for a period of 6 months after termination orders are issued.
- 2.3 Upon service of a notice under this Article the following provisions shall apply:

- (i) in the event, if the Assets to be transferred are mortgaged to any financial institutions by the IA, the IA shall ensure that all such liens and liabilities have been cleared beyond doubt, prior to such transfer. All documents regarding the discharge of such lien and liabilities shall be furnished to the Purchaser.
- (ii) All risk in and title to the Assets to be transferred / to be purchased by the Purchaser pursuant to this Article shall be transferred to Purchaser, on the last day of the exit management period.
- (iii) Purchaser shall pay to the IA on the last day of the exit management period such sum representing the Net Block (procurement price less depreciation as per provisions of Companies Act) of the Assets to be transferred as stated in the Terms of Payment Schedule.
- (iv) Payment to the outgoing IA shall be made to the tune of last set of completed services / deliverables, subject to SLA requirements.
- (v) The outgoing IA will pass on to Purchaser and/or to the Replacement IA, the subsisting rights in any leased properties/ licensed products on terms not less favorable to Purchaser/ Replacement IA, than that enjoyed by the outgoing IA.

3 COOPERATION AND PROVISION OF INFORMATION

3.1 During the exit management period:

- (i) The Implementation Agency will allow the Purchaser or its nominated agency access to information reasonably required to define the then current mode of operation associated with the provision of the services to enable the Purchaser to assess the existing services being delivered;
- (ii) promptly on reasonable request by the Purchaser, the IA shall provide access to and copies of all information held or controlled by them which they have prepared or maintained in accordance with this agreement relating to any material aspect of the services (whether provided by the Implementation Agency or subcontractors appointed by the Implementation Agency). The Purchaser shall be entitled to copy of all such information. Such information shall include details pertaining to the services rendered and other performance data. The Implementation Agency shall permit the Purchaser or its nominated agencies to have reasonable access to its employees and facilities as reasonably required by the Chairman, PIU to understand the methods of delivery of the services

employed by the Implementation Agency and to assist appropriate knowledge transfer.

4 CONFIDENTIAL INFORMATION, SECURITY AND DATA

4.1 The Implementation Agency will promptly on the commencement of the exit management period supply to the Purchaser or its nominated agency the following:

- (i) information relating to the current services rendered and customer and performance data relating to the performance of subcontractors in relation to the services;
- (ii) documentation relating to Computerization Project's Intellectual Property Rights;
- (iii) documentation relating to sub-contractors;
- (iv) all current and updated data as is reasonably required for purposes of Purchaser or its nominated agencies transitioning the services to its Replacement Implementation Agency in a readily available format nominated by the Purchaser, its nominated agency;
- (v) all other information (including but not limited to documents, records and agreements) relating to the services reasonably necessary to enable Purchaser or its nominated agencies, or its Replacement Implementation Agency to carry out due diligence in order to transition the provision of the Services to Purchaser or its nominated agencies, or its Replacement Implementation Agency (as the case may be).

4.2 Before the expiry of the exit management period, the Implementation Agency shall deliver to the Purchaser or its nominated agency all new or up-dated materials from the categories set out in Schedule above and shall not retain any copies thereof, except that the Implementation Agency shall be permitted to retain one copy of such materials for archival purposes only.

4.3 Before the expiry of the exit management period, unless otherwise provided under the MSA, the Purchaser or its nominated agency shall deliver to the Implementation Agency all forms of Implementation Agency confidential information, which is in the possession or control of Chairperson, PIU or its users.

5 EMPLOYEES

5.1 Promptly on reasonable request at any time during the exit management period,

the Implementation Agency shall, subject to applicable laws, restraints and regulations (including in particular those relating to privacy) provide to the Purchaser or its nominated agency a list of all employees (with job titles) of the Implementation Agency dedicated to providing the services at the commencement of the exit management period.

- 5.2 Where any national, regional law or regulation relating to the mandatory or automatic transfer of the contracts of employment from the Implementation Agency to the Purchaser or its nominated agency, or a Replacement Implementation Agency ("**Transfer Regulation**") applies to any or all of the employees of the Implementation Agency, then the Parties shall comply with their respective obligations under such Transfer Regulations.

6 TRANSFER OF CERTAIN AGREEMENTS

On request by the Purchaser or its nominated agency the Implementation Agency shall effect such assignments, transfers, licences and sub-licences as the Chairperson, PIU may require in favour of the Chairperson, PIU, or its Replacement Implementation Agency in relation to any equipment lease, maintenance or service provision agreement between Implementation Agency and third party lessors, vendors, and which are related to the services and reasonably necessary for the carrying out of replacement services by the Purchaser or its nominated agency or its Replacement Implementation Agency.

7 RIGHTS OF ACCESS TO PREMISES

- 7.1 At any time during the exit management period, where Assets are located at the Implementation Agency's premises, the Implementation Agency will be obliged to give reasonable rights of access to (or, in the case of Assets located on a third party's premises, procure reasonable rights of access to) the Purchaser or its nominated agency and/or any Replacement Implementation Agency in order to make an inventory of the Assets.
- 7.2 The Implementation Agency shall also give the Purchaser or its nominated agency or its nominated agencies, or any Replacement Implementation Agency right of reasonable access to the Implementation Partner's premises and shall procure the Purchaser or its nominated agency or its nominated agencies and any Replacement Implementation Agency rights of access to relevant third party premises during the exit management period and for such period of time following termination or expiry of the MSA as is reasonably necessary to migrate the

services to the Purchaser or its nominated agency, or a Replacement Implementation Agency.

8 GENERAL OBLIGATIONS OF THE IMPLEMENTATION AGENCY

- 8.1 The Implementation Agency shall provide all such information as may reasonably be necessary to effect as seamless a handover as practicable in the circumstances to the Purchaser or its nominated agency or its Replacement Implementation Agency and which the Implementation Agency has in its possession or control at any time during the exit management period.
- 8.2 For the purposes of this Schedule, anything in the possession or control of any Implementation Agency, associated entity, or sub contractor is deemed to be in the possession or control of the Implementation Agency.
- 8.3 The Implementation Agency shall commit adequate resources to comply with its obligations under this Exit Management Schedule.

9 EXIT MANAGEMENT PLAN

- 9.1 The Implementation Agency shall provide the Purchaser or its nominated agency with a recommended exit management plan ("Exit Management Plan") which shall deal with at least the following aspects of exit management in relation to the MSA as a whole and in relation to the Project Implementation, and the Operation and Management SLA.
 - (i) A detailed program of the transfer process that could be used in conjunction with a Replacement Implementation Agency including details of the means to be used to ensure continuing provision of the services throughout the transfer process or until the cessation of the services and of the management structure to be used during the transfer;
 - (ii) plans for the communication with such of the Implementation Agency's sub contractors, staff, suppliers, customers and any related third party as are necessary to avoid any material detrimental impact on the Purchaser's operations as a result of undertaking the transfer;
 - (iii) (if applicable) proposed arrangements for the segregation of the Implementation Agency's networks from the networks employed by Purchaser and identification of specific security tasks necessary at termination;
 - (iv) Plans for provision of contingent support to Purchaser, and Replacement Implementation Agency for a reasonable period after

transfer.

- 9.2 The Implementation Agency shall re-draft the Exit Management Plan annually thereafter to ensure that it is kept relevant and up to date.
- 9.3 Each Exit Management Plan shall be presented by the Implementation Agency to and approved by the Purchaser or its nominated agencies.
- 9.4 The terms of payment as stated in the Terms of Payment Schedule include the costs of the Implementation Agency complying with its obligations under this Schedule.
- 9.5 In the event of termination or expiry of MSA, and Project Implementation, each Party shall comply with the Exit Management Plan.
- 9.6 During the exit management period, the Implementation Agency shall use its best efforts to deliver the services.
- 9.7 Payments during the Exit Management period shall be made in accordance with the Terms of Payment Schedule.
- 9.8 This Exit Management plan shall be furnished in writing to the Purchaser or its nominated agencies within 90 days from the Effective Date of this Agreement.

SCHEDULE III - AUDIT, ACCESS AND REPORTING

1 PURPOSE

This Schedule details the audit, access and reporting rights and obligations of the Purchaser or its nominated agency and the Implementation Agency.

2 AUDIT NOTICE AND TIMING

- 2.1 As soon as reasonably practicable after the Effective Date, the Parties shall use their best endeavours to agree to a timetable for routine audits during the Project Implementation Phase and the Operation and Management Phase. Such timetable during the Implementation Phase, the Purchaser or its nominated agency and thereafter during the operation Phase, the Purchaser or its nominated agency shall conduct routine audits in accordance with such agreed timetable and shall not be required to give the Implementation Agency any further notice of carrying out such audits.
- 2.2 The Purchaser or its nominated agency may conduct non-timetabled audits at his/her own discretion if it reasonably believes that such non-timetabled audits are

necessary as a result of an act of fraud by the Implementation Agency, a security violation, or breach of confidentiality obligations by the Implementation Agency, provided that the requirement for such an audit is notified in writing to the Implementation Agency a reasonable period time prior to the audit (taking into account the circumstances giving rise to the reasonable belief) stating in a reasonable level of detail the reasons for the requirement and the alleged facts on which the requirement is based. If the Implementation Agency considers that the non-timetabled audit was not appropriate, the matter shall be referred to the escalation procedure as set out in the Governance Schedule.

- 2.3** The frequency of audits shall be a (maximum) half yearly, provided always that the Purchaser or its nominated agency shall endeavour to conduct such audits with the lowest levels of inconvenience and disturbance practicable being caused to the Implementation Agency. Any such audit shall be conducted by with adequate notice of 2 weeks to the Implementation Agency.
- 2.4** Purchaser will ensure that any 3rd party agencies (except CAG) appointed to conduct the audit will not be the competitor of Implementation Agency and will be bound by confidentiality obligations.

3 ACCESS

The Implementation Agency shall provide to the Purchaser or its nominated agency reasonable access to employees, subcontractors, suppliers, agents and third party facilities as detailed in the RFP, documents, records and systems reasonably required for audit and shall provide all such persons with routine assistance in connection with the audits and inspections. The Chairperson, PIU / Steering Committee shall have the right to copy and retain copies of any relevant records. The Implementation Agency shall make every reasonable effort to co-operate with them.

4 AUDIT RIGHTS

- 4.1** The Purchaser or its nominated agency shall have the right to audit and inspect suppliers, agents and third party facilities (as detailed in the RFP), data centres, documents, records, procedures and systems relating to the provision of the services, but only to the extent that they relate to the provision of the services, as shall be reasonably necessary to verify:
- (i) The security, integrity and availability of all data processed, held or conveyed by the Partner on behalf of Purchaser and documentation related thereto;
 - (ii) That the actual level of performance of the services is the same as specified in the SLA;

- (iii) That the Implementation Agency has complied with the relevant technical standards, and has adequate internal controls in place; and
- (iv) The compliance of the Implementation Agency with any other obligation under the MSA and SLA.
- (v) Security audit and implementation audit of the system shall be done once each year, the cost of which shall be borne by the Implementation Agency.
- (vi) For the avoidance of doubt the audit rights under this Schedule shall not include access to the Implementation Agency's profit margins or overheads, any confidential information relating to the Implementation Agency' employees, or (iii) minutes of its internal Board or Board committee meetings including internal audit, or (iv) such other information of commercial-in-confidence nature which are not relevant to the Services associated with any obligation under the MSA.

5 AUDIT RIGHTS OF SUB-CONTRACTORS, SUPPLIERS AND AGENTS

- 5.1 The Implementation Agency shall use reasonable endeavours to achieve the same audit and access provisions as defined in this Schedule with sub-contractors who supply labour, services in respect of the services. The Implementation Agency shall inform the Purchaser or its nominated agency prior to concluding any sub-contract or supply agreement of any failure to achieve the same rights of audit or access.
- 5.2 REPORTING: The Implementation Agency will provide quarterly reports to the Chairperson, PIU / Steering committee regarding any specific aspects of the Project and in context of the audit and access information as required by the Purchaser or its nominated agency.

6 ACTION AND REVIEW

- 6.1 Any change or amendment to the systems and procedures of the Implementation Agency, or sub- contractors, where applicable arising from the audit report shall be agreed within thirty (30) calendar days from the submission of the said report.
- 6.2 Any discrepancies identified by any audit pursuant to this Schedule shall be immediately notified to the Purchaser or its nominated agency and the Implementation Agency Project Manager who shall determine what action should be taken in respect of such discrepancies in accordance with the terms of the MSA.

7 TERMS OF PAYMENT

The Purchaser shall bear the cost of any audits and inspections. The terms of payment are exclusive of any costs of the Implementation Agency and the sub-contractor, for all reasonable assistance and information provided under the MSA, the Project Implementation, Operation and Management SLA by the Implementation Agency pursuant to this Schedule.

8 RECORDS AND INFORMATION

For the purposes of audit in accordance with this Schedule, the Implementation Agency shall maintain true and accurate records in connection with the provision of the services and the Implementation Agency shall handover all the relevant records and documents upon the termination or expiry of the MSA.

SCHEDULE IV - GOVERNANCE SCHEDULE

SCHEDULE V - TERMS OF PAYMENT SCHEDULE

26. ANNEXURE

26.1. ANNEXURE A – FORMAT FOR CHANGE CONTROL NOTICE

Change Control Note		CCN Number:
Part A: Initiation		
Title:		
Originator:		
Sponsor:		
Date of Initiation:		
Details of Proposed Change		
(To include reason for change and appropriate details/specifications. Identify any attachments as A1, A2, and A3 etc.)		
Authorised by Purchaser	Date:	
Name:		
Signature:	Date:	
Received by the IA		
Name:		
Signature:		
Change Control Note		CCN Number:
Part B : Evaluation		
(Identify any attachments as B1, B2, and B3 etc.)		
Changes to Services, charging structure, payment profile, documentation, training, service levels and component working arrangements and any other contractual issue.		

Brief Description of Solution:	
Impact:	
Deliverables:	
Timetable:	
Charges for Implementation: (including a schedule of payments)	
Other Relevant Information: (including value-added and acceptance criteria)	
Authorised by the Implementation	Date:
Agency	
Name:	
Signature:	

Change Control Note	CCN Number :
Part C : Authority to Proceed	
Implementation of this CCN as submitted in Part A, in accordance with Part B is: (tick as appropriate)	
Approved	

Rejected	
Requires Further Information (as follows, or as Attachment 1 etc.)	

Master Services Agreement - Draft

For Purchaser and its nominated agencies	For the Implementation Agency
Signature	Signature
Name	Name
Title	Title
Date	Date

26.2. ANNEXURE B - LIST OF SERVICES PROVIDED BY THE IMPLEMENTATION AGENCY

Various services to be offered by the Implementation Agency will consist of:

- i.
- ii.
- iii.
- iv.
- v.

Note:

- Purchaser will sign the end user license agreement for the software brought from any 3rd party for the purpose of this Project however Implementation Agency shall be solely responsible to make payment for the cost of software to such third party software vendor.

26.3. ANNEXURE C –REQUIRED DELIVERABLE AND ASSOCIATED TIMELINES

26.4. ANNEXURE D – BID

1. TECHNICAL BID RESPONSE – EXTRACTED AS APPENDIX – A
2. FINANCIAL BID RESPONSE
 - 2a. Summary of Cost Components
 - 2b. Summary of Man-month rates

3. Details of Cost Component

26.5. ANNEXURE E – BILL OF MATERIAL

26.6. ANNEXURE F – ROLES AND RESPONSIBILITIES OF THE PARTIES

To Be brought for RFP Vol 1

Draft

27. NON-DISCLOSURE AGREEMENT

THIS AGREEMENT is made on this the <***> day of <***> 20--- at <***>, India.

BETWEEN

----- having its office at -----
----- India hereinafter referred to as '**Purchaser**' or '**-----**
-----', which expression shall, unless the context otherwise requires, include its permitted
successors and assigns);

AND

<***>, a Company incorporated under the *Companies Act, 1956*, having its registered office
at <***> (hereinafter referred to as '**the Implementation Agency/IA**' which expression shall,
unless the context otherwise requires, include its permitted successors and assigns).

Each of the parties mentioned above are collectively referred to as the '**Parties**' and
individually as a '**Party**'.

WHEREAS:

1. Purchaser is desirous to implement the project of----- --.
2. The Purchaser and Implementation Agency have entered into a Master Services Agreement dated <***> (the "**MSA**") as well as a Service Level Agreement dated <***> (the "**SLA**") in furtherance of the Project.
3. Whereas in pursuing the Project (the "**Business Purpose**"), a Party ("Disclosing Party) recognizes that they will disclose certain Confidential Information (*as defined hereinafter*) to the other Party ("Receiving Party").
4. Whereas such Confidential Information (*as defined hereinafter*) belongs to Receiving Party as the case may be and is being transferred to the Disclosing Party to be used only for the Business Purpose and hence there is a need to protect such information from unauthorized use and disclosure.

NOW THEREFORE, in consideration of the mutual covenants, promises, assurances, representations and provisions set forth herein, the Parties hereto agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Terms and expressions used in this Agreement (including the Introduction) shall have the same meanings set out in Schedule I of MSA.

1.2 Interpretation

In this Agreement, unless otherwise specified:

- (a) references to Clauses, Sub-Clauses, Paragraphs and Schedules are to clauses, sub- clauses, paragraphs of and schedules to this Agreement;
- (b) use of any gender includes the other genders;
- (c) references to a '**company**' shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established;
- (d) references to a '**person**' shall be construed so as to include any individual, firm, company, government, state or agency of a state, local or municipal authority or government body or any joint venture, association or partnership (whether or not having separate legal personality);
- (e) a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re- enacted;
- (f) any reference to a '**day**' (including within the phrase 'business day') shall mean a period of 24 hours running from midnight to midnight;
- (g) references to a '**business day**' shall be construed as a reference to a day (other than a Sunday) on which banks in the state of <***> are generally open for business;
- (h) references to times are to Indian standard time;
- (i) a reference to any other document referred to in this Agreement is a reference to that other document as amended, varied, novated or supplemented at any time; and
- (j) all headings and titles are inserted for convenience only. They are to be ignored in the interpretation of this Agreement.

1.3 Measurements and Arithmetic Conventions

All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third

digit of 5 (five) or above being rounded up and below 5 (five) being rounded down except in money calculations where such amounts shall be rounded off to the nearest INR.

1.4 Ambiguities within Agreement

In case of ambiguities or discrepancies within this Agreement, the following principles shall apply:

- (a) as between two Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in a general Clause;
- (b) as between the provisions of this Agreement and the Schedules, the Agreement shall prevail, save and except as expressly provided otherwise in the Agreement or the Schedules; and
- (c) as between any value written in numerals and that in words, the value in words shall prevail.

1.5 Priority of agreements

The Parties hereby expressly agree that for the purpose of giving full and proper effect to this Agreement, the MSA and this Agreement shall be read together and construed harmoniously. In the event of any conflict between the MSA and this Agreement, the provisions contained in the MSA shall prevail over this Agreement.

2. TERM

This Agreement will remain in effect for five years from the date of the last disclosure of Confidential Information ("**Term**"), at which time it will terminate, unless extended by the disclosing party in writing.

3. SCOPE OF THE AGREEMENT

- (a) This Agreement shall apply to all confidential and proprietary information disclosed by Disclosing Party to the Receiving Party and other information which the disclosing party identifies in writing or otherwise as confidential before or within (30) thirty days after disclosure to the Receiving Party ("Confidential Information"). Such Confidential Information consists of certain specifications, documents, software, prototypes and/or technical information, and all copies and derivatives containing such Information that may be disclosed to the Disclosing Party for and during the Business Purpose, which a party considers proprietary or confidential.
- (b) Such Confidential Information may be in any form or medium, tangible or intangible, and may be communicated/disclosed in writing, orally, or

through visual observation or by any other means to the Receiving Party.

4. OBLIGATIONS OF THE RECEIVING PARTY

The Receiving Party shall:

- (a) Use the Confidential Information only for the Business Purpose and shall hold the Confidential Information in confidence using the same degree of care as it normally exercises to protect its own proprietary information, taking into account the nature of the Confidential Information, and
- (b) Grant access to Confidential Information only to its employees on a 'need to know basis' and restrict such access as and when not necessary to carry out the Business Purpose.
- (c) Cause its employees to comply with the provisions of this Agreement;
- (d) Reproduce Confidential Information only to the extent essential to fulfilling the Business Purpose, and
- (e) Prevent disclosure of Confidential Information to third parties;
- (f) Disclose the Confidential Information to its consultants/contractors on a need to know basis; provided that by doing so, the Receiving Party agrees to bind such consultants/contractors to terms at least as restrictive as those stated herein. The Receiving Party upon making a disclosure under this Clause shall:
 - i. Advise the consultants/contractors of the confidentiality obligations imposed on them by this Clause.
- (g) Upon the Disclosing Party's request, the Receiving Party shall either return to the disclosing party all Confidential Information or shall certify to the disclosing party that all media containing Confidential Information have been destroyed. Provided, however, that an archival copy of the Confidential Information may be retained in the files of the Receiving Party's counsel, solely for the purpose of proving the contents of the Confidential Information.
- (h) Not to remove any of the other Party's Confidential Information from the premises of the Disclosing Party without prior written approval.
- (i) Exercise extreme care in protecting the confidentiality of any Confidential Information which is removed, only with the Disclosing Party's prior written approval, from the Disclosing Party's premises. Each Party agrees to comply with any and all terms and conditions the disclosing party may impose upon

any such approved removal, such as conditions that the removed Confidential Information and all copies must be returned by a certain date, and that no copies are to be made off of the premises.

- (j) Upon the Disclosing Party's request, the Receiving Party shall promptly return to the Disclosing Party all tangible items containing or consisting of the disclosing party's Confidential Information all copies thereof.

5. EXCEPTIONS TO CONFIDENTIAL INFORMATION

The foregoing restrictions on each party's use or disclosure of Confidential Information shall not apply to the Confidential Information that the Receiving Party can demonstrate that such Confidential Information:

- (a) was independently developed by or for the Receiving Party without reference to the Information, or was received without restrictions; or
- (b) has become generally available to the public without breach of confidentiality obligations of the Receiving Party; or
- (c) was in the Receiving Party's possession without restriction or was known by the Receiving Party without restriction at the time of disclosure; or
- (d) is the subject of a subpoena or other legal or administrative demand for disclosure; provided, however, that the Receiving Party has given the disclosing party prompt notice of such demand for disclosure and the Receiving Party reasonably cooperates with the disclosing party's efforts to secure an appropriate protective order; or
- (e) is disclosed with the prior consent of the disclosing party; or
- (f) was in its possession or known to it by being in its use or being recorded in its files or computers or other recording media prior to receipt from the disclosing party and was not previously acquired by the Receiving Party from the disclosing party under an obligation of confidence; or
- (g) the Receiving Party obtains or has available from a source other than the disclosing party without breach by the Receiving Party or such source of any obligation of confidentiality or non-use towards the disclosing party.

6. OWNERSHIP OF THE CONFIDENTIAL INFORMATION

- (a) Each Party recognizes and agrees that all of the disclosing Party's Confidential Information is owned solely by the Disclosing Party (or its licensors) and that the unauthorized disclosure or use of such Confidential Information would cause irreparable harm and significant injury, the degree of which may be difficult to ascertain.
- (b) By disclosing the Confidential Information or executing this Agreement, Disclosing Party does not grant any license, explicitly or implicitly, under any

trademark, patent, copyright, mask work protection right, trade secret or any other intellectual property right. The Disclosing Party disclaims all warranties regarding the information, including all warranties with respect to infringement of intellectual property rights and all warranties as to the accuracy or utility of such information.

- (c) Access to Confidential Information hereunder shall not preclude an individual who has seen such Confidential Information for the purposes of this Agreement from working on future projects for the Disclosing Party which relate to similar subject matters, provided that such individual does not make reference to the Confidential Information and does not copy the substance of the Confidential Information during the Term. Furthermore, nothing contained herein shall be construed as imposing any restriction on the Receiving Party's disclosure or use of any general learning, skills or know-how developed by the Receiving Party's personnel under this Agreement.
- (d) Execution of this Agreement and the disclosure of Confidential Information pursuant to this Agreement do not constitute or imply any commitment, promise, or inducement by either Party to make any purchase or sale, or to enter into any additional agreement of any kind.

7. DISPUTE RESOLUTION

- (a) If a dispute arises in relation to the conduct of this Contract (Dispute), a party must comply with this clause 7 before starting arbitration or court proceedings (except proceedings for urgent interlocutory relief). After a party has sought or obtained any urgent interlocutory relief that party must follow this clause 7.
- (b) A party claiming a Dispute has arisen must give the other parties to the Dispute notice setting out details of the Dispute.
- (c) During the 14 days after a notice is given under clause 7(b) (or longer period if the parties to the Dispute agree in writing), each party to the Dispute must use its reasonable efforts through a meeting of Senior Executive (or their nominees) to resolve the Dispute. If the parties cannot resolve the Dispute within that period then any such dispute or difference whatsoever arising between the parties to this Contract out of or relating to the construction, meaning, scope, operation or effect of this Contract or the validity of the breach thereof shall be referred to a sole arbitrator to be appointed by mutual consent of both the parties herein. If the parties cannot agree on the appointment of the arbitrator within a period of one month from the notification by one party to the other of existence of such dispute, then the Arbitrator shall be appointed by the High Court of the jurisdiction specified in

this agreement. The provisions of the Arbitration and Conciliation Act, 1996 will be applicable and the award made there under shall be final and binding upon the parties hereto, subject to legal remedies available under the law. Such differences shall be deemed to be a submission to arbitration under the Indian Arbitration and Conciliation Act, 1996, or of any modifications, Rules or re-enactments thereof. The Arbitration proceedings will be held at the jurisdiction specified in Item 27. Any legal dispute will come under the sole jurisdiction specified in Item 27.

- (d) The Receiving Party agrees that the Disclosing Party shall have the right to obtain an immediate injunction enjoining any breach of this Agreement, as well as the right to pursue any and all other rights and remedies available at law or in equity for such a breach.

8. VARIATION

This Agreement may only be varied in writing and signed by both Parties.

9. WAIVER

Waiver including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:-

- (a) shall be in writing
- (b) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
- (c) shall be executed by a duly authorized representative of the Party; and
- (d) shall not affect the validity or enforceability of this Agreement in any manner.

10. EXCLUSION OF IMPLIED WARRANTIES

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

11. ENTIRE AGREEMENT

This Agreement and the Annexure together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn.

12. SEVERABILITY

If for any reason whatever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties shall negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to the dispute resolution procedure set forth under this Agreement or otherwise.

13. NO PARTNERSHIP

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party, and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party except as expressly provided under the terms of this Agreement.

14. THIRD PARTIES

This Agreement is intended solely for the benefit of the Parties and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.

15. SUCCESSORS AND ASSIGNS

The Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

16. NOTICES

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall be given by hand delivery, recognized courier, registered post, email or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

If to Purchaser:

Attn: <***>

Tel:

Fax:

Email:

Contact:

With a copy to:

If to the Implementation Agency:

Attn. <***>

Phone: <***>

Fax No. <***>

17. LANGUAGE

All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in the English language.

18. COUNTERPARTS

This Agreement may be executed in counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement.

19. MITIGATION

Without prejudice to any express provisions of this Agreement on any mitigation obligations of the Parties, each of the Purchaser and the Implementation Agency shall at all times take all reasonable steps to minimize and mitigate any loss for which the relevant Party is entitled to bring a claim against the other Party pursuant to this Agreement.

20. REMOVAL OF DIFFICULTIES

The Parties acknowledge that it is conceivable that the Parties may encounter difficulties or problems in the course of implementation of the Project and the transactions envisaged under this Agreement. The Parties agree and covenant that they shall mutually discuss such difficulties and problems in good faith and take all reasonable steps necessary for removal or resolution of such difficulties or problems.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

Master Services Agreement - Draft

For and on behalf of the Implementation

For and on behalf of the Purchaser

Agency by:

(Signature)

(Signature)

(Name)

(Name)

(Designation)

(Designation)

(Address)

(Address)

(Fax No.)

(Fax No.)

In the presence of:

- 1.
- 2.

Draft

28. SERVICE LEVEL AGREEMENT

28.1. ANNEXURE B – SERVICE LEVELS

Draft

