



सत्यमेव जयते

GOVERNMENT OF INDIA

Capacity Building Commission

**RFQ cum RFP from eligible Bidders to be empaneled for
developing e-learning content for various Departments including
CBC.**

RFQ cum RFP No. 01-13/2022-CBC

Date : 27th May 2022

File No. 01-13/2022-CBC
Capacity Building Commission
22nd floor, Jawahar Vyapar Bhavan,
Tolstoy Marg, New Delhi - 110001

Dated: 27.05.2022

NOTICE INVITING TENDER (NIT)

On behalf of the President of India, Capacity Building Commission (CBC) invites e-Tender from eligible Bidders to be empaneled for developing e-learning content for various Departments including CBC as per the scope of work mentioned in the tender document.

The mode of tendering is online via ([URL:http://eprocure.gov.in](http://eprocure.gov.in)) in a four-bid system. The tender document is available on the Central Procurement Portal ([URL:http://eprocure.gov.in](http://eprocure.gov.in)) from 27th May 2022. The tender is also published on CBC's website ([URL:http://cbc.gov.in](http://cbc.gov.in)). All updates, clarification and corrigenda, if any, will be uploaded on both the portals.

The Tender has to be submitted online on ([URL:http://eprocure.gov.in](http://eprocure.gov.in)) latest by **15.06.2022 by 15.00 Hrs.** Manual Bids shall not be accepted. Tenderers are advised to follow the instructions provided in the tender documents for e-submission of the online bids. The important information of the bid is as follows :-

#	Key Information	Details
1	EMD Value	NIL. (However, the bidders need to submit Bid Securing Declaration (As per Annexure 3). The Bidders shall also submit the original signed and stamped Integrity Pact as part of an envelope titled "Integrity Pact, Authorization Letter & EMD (Bid Securing Declaration)" before the last date of submission of bid, as per dates mentioned in the Data Sheet, failing

		which, the Bid submitted by the concerned Bidder will be liable to be rejected.
2	Release date of RFP	27th May 2022
3	Last date & time of receipt of pre-bid queries	09.06.2022 (11.00 AM)
4	Pre-bid meeting date, time & Venue	14.06.2022 at 12.00 hours Venue of meeting : 22nd floor, Jawahar Vyapar Bhavan, Tolstoy Marg, New Delhi - 110001
5	Last date & time of submission of bids	21.06.2022 (03:00 PM)
6	Date & Time of opening of Technical Bids	22.06.2022 (03:00 PM)
7	Date & Time of opening of Financial Bids	Will be informed subsequently to eligible & technically qualified bidders.
8	Validity of Bid	180 days from the date of submission.

Note : All times are as per the CPP e-tenders Portal Time.

Encl.: RFP Document.

(S.P. Roy)
Director

Disclaimer

1. The information contained in this Request for Qualification cum Request for Proposal document (RFQ cum RFP) or subsequently provided to the Bidders, whether verbally or in documentary or in any other form by or on behalf of the Capacity Building Commission or any of its employees or advisors, is provided to the Bidders on the terms and conditions set out in this RFQ cum RFP and all other terms and conditions subject to which such information is provided.
2. This RFQ cum RFP is not an Agreement and is neither an offer nor an invitation by the Capacity Building Commission to the Bidders or any other person. The purpose of this RFQ cum RFP is to provide interested parties with information that may be useful to them in the formulation of their Proposals. The information contained in this RFQ cum RFP has been provided to the best of knowledge of Capacity Building Commission and in good faith. However, the information may not be complete and accurate in all respects and may not be exhaustive. Specifically, the information regarding business processes provided in this RFQ cum RFP is based on the interim decisions taken by the Government and is expected to undergo changes in future. This RFQ cum RFP includes statements which reflect various assumptions and assessments arrived at by the Capacity Building Commission in relation to the project. Information provided in this RFQ cum RFP is on a wide range of matters, some of which depends on the interpretation of law. The information is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law.
3. While reasonable care has been taken in providing information in this RFQ cum RFP, the Bidders are advised not to rely on this information only but also carry out their independent due diligence and risk assessments before submitting their response to this RFQ cum RFP. Further, the Bidders are advised to conduct their own analysis of the information contained in this RFQ cum RFP, carry out their own investigations about the project, the regulatory regime which applies thereto and all matters pertaining to the Capacity Building Commission and to seek their own professional advice on the legal, financial and regulatory consequences of entering into an agreement or arrangement relating to this RFQ cum RFP.
4. The information contained in this RFQ cum RFP is subject to update, expansion, revision and amendment prior to the last day of submission of the bids at the sole discretion of the Capacity Building Commission. In

case any major revisions to this RFQ cum RFP are made by the Capacity Building Commission within seven days preceding the last date of submission of the Proposals, the Capacity Building Commission may, at its discretion, provide reasonable additional time to the Bidders to respond to this RFQ cum RFP. Neither the Capacity Building Commission nor any of its officers, employees nor any advisors nor Contractors undertakes to provide any Bidder with access to any additional information or to update the information in this RFQ cum RFP.

5. The Capacity Building Commission, its employees and advisors make no representation or warranty and shall have no liability of any nature to any person including any Bidder or Vendor 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 RFQ cum RFP.
6. The Capacity Building Commission reserves the right to change/ modify/ amend any or all provisions of this RFQ cum RFP document. The amended RFQ cum RFP will be made available on the website of Capacity Building Commission.

Table of Contents

1.		Invitation of Bid	8
2.		Acronyms & Definition(s)	9
3.		Data Sheet	10-11
4.		Scope of Work	12
5.		Project Duration and Timelines	22
6.		Instructions to Bidders	
	6.1	Eligibility	22
	6.2	Bid Preparation Cost	22
	6.3	Earnest Money Deposit (EMD) (Bid Securing Declaration)	22
	6.4	Integrity Pact	23
	6.5	Pre – Bid Meeting and Clarifications :	23
	6.6	Submission of proposals	24
	6.7	Bid Format	24
	6.7.1	Cover 1 – Integrity Pact Authorization :Latter and EMD (Bid Securing Declaration)	25
	6.7.2	Cover 2 – Pre – qualification Bid Format	25
	6.7.3	Cover 3 – Technical Bid Format	26
	6.7.4	Cover 4 – Commercial Bid	26
	6.8	Language	26
	6.9	Late Bids	27
	6.10	Capacity Building Commissions’ Right to terminate the Process	27
	6.11	Acceptance of Terms & Conditions	27
	6.12	Disqualification	27
	6.13	Contacting Capacity Building Commission	28
	6.14	Withdrawal of RFQ cum RFP	28
	6.15	Authentication of Bids	28
	6.16	Deviations	28
	6.17	Award of Contract	29
	6.18	Contract Period	29
	6.19	Signing of Contract	29
	6.20	Performance Bank Guarantee (PBG)	29
	6.21	Certificate under Rule 144 (xi) in General Financial Rules (GFRs 2017	30
7.		Selection Process for Bidder	
	7.1	Opening of Bids	31
	7.2	Clarification on Bids	31
	7.3	Evaluation Process	31
	7.3.1	Stage 1: Pre – Qualification	32
	7.3.2	Stage 2: Technical Evaluation	32
	7.3.3	Stage 3: Commercial Evaluation	32

		7.3.4	Stage 4: Final score calculation through QCBS	33
8.			Pre-Qualification Criteria	34-35
9.			Technical Evaluation Criteria/Framework	36-37
10.			Commercial Bid and Payment Terms	
	10.1		Commercial Bids	37
11.			Payment Terms and Mile-Stones	37
12.			Terms of Business	38
	12.1		Responsibilities	38
	12.2		Fees and expenses	38
	12.3		Termination	38
	12.4		Intellectual Property Rights	39
	12.5		Confidentiality	40
	12.6		Data Protection	40
	12.7		Governing Law and Jurisdiction	41
	12.8		Deliverables	41
13.			Annexures	
	13.1		Annexure 1 – Pre-Bid Queries	42
	13.2		Annexure 2 – Integrity Pact	43-49
	13.3		Annexure 3 – Bid Securing Declaration	50
	13.4		Annexure 4 – Pre-Qualification Bid Covering Letter	51
	13.5		Annexure 5 – Bidder’s General Information	52
	13.6		Annexure 6 – Citations – Work Experience (Submit separate sheets for experience quoted in prequalification and technical criteria)	53
	13.7		Annexure 7 – No Deviation Certificate	54
	13.8		Annexure 8 – No deviation Certificate	55
	13.9		Annexure 9 – Formats for submission of Profiles	56-57
	13.10		Annexure 10 – Covering Letter for Commercial Bid	58-59
	13.11		Annexure 11 – Commercial Bid Format Proposal	60
	13.12		Annexure 12 – Form of Bank Guarantee for Performance Security	61-62
	13.13		Annexure 13 – Certificate under Rule 144 (xi) in the General Financial Rules (GFRS), 2017.	63-65
14.			General Conditions of Contract	66-116
15.			Letter of Invitation	117-118

1. Invitation for Bid

Capacity Building Commission (CBC), has embarked on a learning transformation program by upskilling the civil servant through capacity building. CBC invites responses (“Proposals”/ “Bids”) to this RFQ cum RFP from eligible Bidders to be empaneled for developing e-learning content for various Departments including CBC.

Interested Bidders are advised to study this RFQ cum RFP document (both volumes) carefully before submitting their proposals in response to this RFQ cum RFP Document. Submission of a bid in response to this RFQ cum RFP shall be deemed to have been done after careful study and examination of this document with full understanding of its terms, conditions and implications. Any Bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority.

The time, date and venue details related to the pre-bid meeting and bid submission are mentioned in the Data Sheet. Proposals must be received not later than time, date and venue mentioned in the RFQ cum RFP. Proposals that are received after the deadline will not be considered. L1 will be selected under LCS procedure described in this RFQ cum RFP. All those technically qualified firms who agree to meet L1 price will be empaneled.

The Bidder shall submit the Proposal in the form and manner specified in this RFQ cum RFP. Online submission of proposals must reach CBC office as per the date and time mentioned in this document. It is the responsibility of the Bidder to submit the bid before the last date and time on the online portal, and CBC shall not be responsible for any delay due to any of the technical/server issues.

To obtain first-hand information on the assignment, Bidder is encouraged to attend the pre-bid meeting on the date and venue mentioned. Attending the pre-bid meeting is optional.

Director
Capacity Building Commission
22nd Floor, Jawahar Vyapar Bhawan
Janpath, New Delhi 110001

2. Acronyms & Definition(s)

CBC	Capacity Building Commission
RFQ cum RFP	Request for Qualification cum Request for Proposal
GST	Goods and Services Tax
BG	Bank Guarantee
ITB	Instructions to Bidders
LD	Liquidated Damages
LOA	Letter of Award
LOI	Letter of Intent
MSA	Master Service Agreement
NDA	Non-Disclosure Agreement
Bidder	means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial judicial person not falling in any of the descriptions of bidders stated herein above, including any agency, branch or office controlled by such person, participating in the RFQ cum RFP process and offering the Services in accordance with the bid submitted by such organizations/entities pursuant to and in accordance with the terms and conditions of the RFQ cum RFP.
Bidder from a country which shares land border with India	means: <ul style="list-style-type: none"> a. An entity incorporated, established or registered in such a country; or b. A subsidiary of an entity incorporated, established or registered in such a country; or c. An entity substantially controlled through entities

3. Data Sheet

Tender Reference	01-13/2022-CBC
Name of Capacity Building Commission	Capacity Building Commission
Tender Inviting Authority	Capacity Building Commission
Job Requirement	Empanelment of agencies for developing e-learning content.
Method of Selection	The method of selection is Least Cost System. All Technically qualified firms agreeing to match L1 price will be empaneled.
Availability of RFQ cum RFP documents	RFQ cum RFP is available on the Central Public Procurement Portal (URL: http://eprocure.gov.in). The RFQ cum RFP is also published on Capacity Building Commission's portal (https://cbc.gov.in/) All updates, clarifications and corrigenda (if any) will be uploaded on both the above-mentioned websites.
Date of issue of RFQ cum RFP	27.05.2022
Earnest Money Deposit(EMD)	NIL. (However, the bidders need to submit Bid Securing Declaration (As per Annexure 3). The Bidders shall also submit the original signed and stamped Integrity Pact as part of an envelope titled "IntegrityPact, Authorization Letter & EMD (Bid Securing Declaration)" before the last date of submission of bid, as per dates mentioned in the Data Sheet, failing which, the Bid submitted by the concerned Bidder will be liable to be rejected.

Date of Commencement of Sale of Tender Document	27th May 2022
Last date for Submission of Pre-Bid Queries	09.06.2022 (11.00 AM)
Pre-Bid queries to be received only online at: -	<p>All the queries should be received on or before the prescribed date & time, through email only with subject line as follows:</p> <p>“Empanelment of agencies for developing e-learning content_<Bidder’s Name></p> <p>The queries should be submitted as per the format prescribed in Annexure 1, The Pre-Bid queries to be sent to the following Email Id: cbc-dopt@gov.in</p> <p>Contact person : Shri S.P. Roy</p>
Pre-Bid Meeting and Venue	<p>14.06.2022 at 12.00 hours</p> <p>Link for the meeting will be published on the CPP Portal and CBC website at least 1 day before the Pre-Bid Meeting.</p>
Last Date and Time for receipts of tender bids	21.06.2022 (03:00 PM)
Opening of Technical Bids	22.06.2022 (03:00 PM)
Opening of Commercial Bid	Will be informed subsequently to eligible & technically qualified bidders.
Email address	cbc-dopt@gov.in
Address:	Capacity Building Commission 22nd Floor, Jawahar Vyapar Bhavan, Tolstoy Marg, New Delhi – 110001
Validity of Bid	180 days from the date of submission

4. Scope of Work

The overall aim of this RFQ cum RFP is to identify and empanel firms to design and develop online courses / blended-learning courses for the target audience that are compatible with the requirements of iGOT platform.

The content must be delivered to meet specific technical requirements to ensure compatibility with IGOT platform. Important system specifications are as follows:

4.1 Inception report including Course Design (e-learning / Blended-learning formats)

- 4.1.1 Consultation with the CBC/ Training Institutes (TI) to identify suitable Instructor-led Course material and other source materials for conversion to fully online / blended-learning courses
- 4.1.12 Understand the target audience from among the civil servants and or external audience for such courses and define suitable instructional design models & methodologies to ensure learning

4.2 Story-board submission for all the modules of the course

- 4.2.1 Engage with Subject Matter Experts (staff/ Contractors of Ministries, specialized Institutes and TIs) to develop a clear understanding on content to develop the learning goals and outcomes.
- 4.2.2 Bring in firm's own SMEs, where required by the TI, for developing the story board and the content for the e-learning package as per the agreed Instructional Design model

4.3 Submission of Beta-version of the digitized course, with machine generated voice-overs

- 4.3.1 Design and Develop e-learning / blended-learning courseware, that has a blend of modules that range in complexity and learner interactivity levels from high to low and learner engagement level from high to low, as defined in Table 1. It is expected that the firm will add features like relevant case studies to develop deeper understanding on the topic, videos/animation to better depict the complex topics, voice-guided learning, a series of short quizzes placed at the end of each learning sub-module/module and a final examination (randomly derived from a bigger question bank). The desired Interactivity levels and engagement levels from 1 to 3 as per Table 2 will be decided upon by the firm in consultation with the TIs, based on time and cost budgets.

4.4 Deployment of the course on iGOT 2 and / or any LMS suggested by CBC/TI

- 4.4.1 All courses would have human voice overs, wherever applicable, of a quality that is acceptable to the TIs.
- 4.4.2 All Courses should have a user interface which is compatible for easy access through web-browser on laptop/computers and also on handheld devices.
- 4.4.3 Courses should be compliant to the pedagogical requirement of CBC/TIs and be compatible with technical specifications of iGOT2 platform, as defined at the time of development of modules. Presently, the iGOT Framework requires that all courses be aligned with the Watch → Think → Do → Extend → Assess framework. Consequently, the chosen firm would need to develop different types of content, aligned with the 5 stages of learning as per the framework, and help the TI upload the course on the iGOT2 platform.

4.4.4 Courses should be architected in such a manner that it is easy for conversion to major Indian languages in the future.

4.4.5 As and when required, Contractor would participate in meetings and discussions with CBC and other stakeholders, along with the TIs.

Table 1: E-Learning programs by Design of Programs and Levels of complexity

No	Areas Covered	Objective and Scope	Level of Complexity of content	Level of Interactivity and Engagement of Learner (defined later in detail)
01	Induction Training Programs	<p>To provide 360' view of the MDOs overall vision, mission and goals to meet national priorities</p> <p>Illustrative List: Administrative, financial, parliamentary, establishment and personnel and other entity wise rules and policies</p>	Level 1 e-learning / blended learning programs	Level 2 Interactive
02	Technical Training Programs by attached Institutions of Ministry	<p>Leveraging the technical expertise of institutions of a Ministry for developing specialized programs for Ministry personnel as per their functional roles and responsibilities</p> <p>Illustrative List: AJNIFM for Department Expenditure NIFTEM for Ministry of Food Processing and Industry</p>	Level 2 e-learning programs	Level 2 Interactive / Level 3 Interactive
03	Common Functional Learning Programs	<p>Mostly on Program Management, Planning, Budgeting, Information and Communication Management, that are used across Government departments. This may include converting user manuals and other training modules developed by solution developers into e-learning packages</p> <p>Illustrative List: GeM and NIC e-Procurement portal operations for procurement management, ERP systems used for office management, accounting and cash management, MS Office, PPT (presentations) development,</p>	Level 1 e-learning programs	Level 2 / Level 3 Interactive

		noting and drafting of letters etc.		
04	Common Cross Cutting Capacity Development Programs	<p>These would be applicable for large number of Civil servants across Ministries and public sector entities.</p> <p>Illustrative List: Management of RTIs, Parliamentary procedures, Procurement, Vigilance, Knowledge Management, Accounting and Budgeting, Evidence Based Policy Implementation, etc.</p>	Level 2 and/or Level 3 programs	Level 1 / Level 2 / Level 3 Interactive
05	Common Behavioural Competency Based Programs	<p>These would be with personal development and change management objectives</p> <p>One of the major areas under this would be citizen centric or customer-oriented services and would impact large number of civil servants in Railways, Police, Post Office etc. where the roles and responsibilities bring the civil servants into constant interface with public</p> <p>Illustrative List: Communications, Time Management, Conflict Management Ethics, Problem Solving, Diplomacy, Leadership, Team Building, etc,</p>	Level 3 e-learning programs	Level 2 / Level 3 Interactive

The Detailed Level wise criterion is as below:

LEVEL1	
Description	This will be a medium complex (functionally) course.
Highlights	<ul style="list-style-type: none"> • Informational e-Lessons • Focus on awareness • Linear content flow consisting of text & static graphic
Splash/Intro screen	Static Screen
Interactivity	<ul style="list-style-type: none"> • No interactivities • Click-to-Reveal: (Optional, One template only) • Hot-spots (Tabs/Images) • Roll-over text
Graphical User Interface	<ul style="list-style-type: none"> • 3 options will be provided customized as per organisation's product/services (Select one)
Knowledge check/assessment	<ul style="list-style-type: none"> • Multiple Choice Single Select • Multiple Choice Multiple Select

Graphics	<ul style="list-style-type: none"> • Stock Images/photographs/live videos provided by buyer, in case of purchase or specific photo bank/live video to be created, those will be charged separately. • Simple 2D drawings such as flowcharts, diagrams only 20% in the entire course • No graphic avatar/mascot 		
Animation	<ul style="list-style-type: none"> • No Content effects (animated text, bullets, transitions etc.) • No Audio sync with animated text 		
Audio	<ul style="list-style-type: none"> • Limited choice i.e. not more than 2 pre-fixed artistes for voice over • No intro music 		
Navigation	<ul style="list-style-type: none"> • One level - Index / TOC / Menu structure • Other Functionalities: Next, Back, Exit, Help Audio On/Off, Pagecounter, Glossary (optional) 		
Technical Features	<ul style="list-style-type: none"> • Development Tool – Flash / HTML5 / Rapid Authoring Tools • SCORM Compliant – Yes, SCORM Versions 1.2, 2004, AICC • Localisation friendly – Yes 		
Number of screens per hour	50 - 60 screens with minimal or no layering		
Screen bifurcation	Screen type	Description	Count
	Total screens	Includes cover screens (introduction, objectives and summary), content screens and inline/final assessments.	50
	Static screen	Includes non-interactive screens and screens presenting course content, Splash, Help,	28
		Assessment overview, Assessment result, Completion certificate, Menu	
	Animation	Includes screens that have simple animation viz. Flow charts & diagrams	1
	Interactive Screen	Includes content screens that have some simple form of interaction	1
	Knowledge checks/assessment	Includes inline/CYK and final assessment screens	20

LEVEL 2	
Description	The courses at this level will be complex in terms of content, animation and functionality.
Highlights	<ul style="list-style-type: none"> • Procedural e-Lessons Focus on application of knowledge and skills • Non-linear content and synchronized visuals • Text effect animations • Software Application simulations • Simple scenario-based learning (offline case study) • Scored assessments • High degree of content layering • Logical and Conditional Branching of screens • Discovery learning • Non-linear flow of content, with a high degree of layering
Splash/Intro screen	20-30 seconds animated screen
Graphical User Interface	3 options will be provided customized as per organization's product/services (Select one)
Interactivity	<ul style="list-style-type: none"> • Click-to-Reveal: • Hot-spots (Tabs/Images) (One template only) • Click-plus-Pop-up: • Hot-spots (Tabs/Images) (One template only) • Roll-over text • Interactive timelines
Knowledge check/assessment	<ul style="list-style-type: none"> • Multiple Choice Single Select • Multiple Choice Multiple Select • Match the Following • Sequencing • Sorting
Graphics	<ul style="list-style-type: none"> • Stock Images/photographs/live videos provided by buyer, in case of purchase or specific photo bank/live video to be created, those will be charged separately. • Double toned, semi-realistic 2D graphics • Graphic avatars with basic animation like eye blinks & hand gestures • Backgrounds – Photographic
Animation	<ul style="list-style-type: none"> • Content effects (animated text, bullets, transitions etc.) • Audio sync with animated text • Animation with semi complex effects
Audio	<ul style="list-style-type: none"> • More than 2 pre-fixed artistes for voice over • Intro music
Navigation	<ul style="list-style-type: none"> • One or Two level - Index / TOC / Menu structure • Screen control functionality

	<ul style="list-style-type: none"> Other Functionalities: Next, Back, Exit, Help Audio On/Off, Pagecounter, Glossary, Progress Bar 																				
Technical Features	<ul style="list-style-type: none"> Development Tool – Flash / HTML5 / Rapid Authoring Tools SCORM Compliant – Yes, SCORM Versions 1.2, 2004, AICC Localisation friendly – Yes 																				
Number of screens per hour	40 - 45 screens with layered content																				
Screen bifurcation	<table border="1"> <thead> <tr> <th>Screen type</th> <th>Description</th> <th>Count</th> </tr> </thead> <tbody> <tr> <td>Total screens</td> <td>Includes cover screens (introduction, objectives and summary), content screens and inline/final assessments.</td> <td>45</td> </tr> <tr> <td>Static screen</td> <td>Includes non-interactive screens and screens presenting course content, Splash, Help, Assessment overview, Assessment result, Completion certificate, Menu</td> <td>15</td> </tr> <tr> <td>Animation</td> <td>Includes screens that have simple animation viz. Flow charts & Diagrams</td> <td>5</td> </tr> <tr> <td>Interactive Screen</td> <td>Includes content screens that have some simple form of interaction</td> <td>5</td> </tr> <tr> <td>Knowledge checks/assessment</td> <td>Includes inline/CYK and final assessment screens</td> <td>20</td> </tr> </tbody> </table>			Screen type	Description	Count	Total screens	Includes cover screens (introduction, objectives and summary), content screens and inline/final assessments.	45	Static screen	Includes non-interactive screens and screens presenting course content, Splash, Help, Assessment overview, Assessment result, Completion certificate, Menu	15	Animation	Includes screens that have simple animation viz. Flow charts & Diagrams	5	Interactive Screen	Includes content screens that have some simple form of interaction	5	Knowledge checks/assessment	Includes inline/CYK and final assessment screens	20
Screen type	Description	Count																			
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Animation	Includes screens that have simple animation viz. Flow charts & Diagrams	5																			
Interactive Screen	Includes content screens that have some simple form of interaction	5																			
Knowledge checks/assessment	Includes inline/CYK and final assessment screens	20																			

LEVEL 3	
Description	These will be high-end courses in terms of content, animation and functionality. The content will be presented through life-like skill set of complex cues and responses, branched navigation, and games/simulations.
Highlights	<ul style="list-style-type: none"> • Analytical content • Focus on Decision making • Offers a high degree of interaction and provides real-life/application oriented training • Multiple paths to accomplish an objective, and fosters learning by doing and learning through making mistakes • The design comprises elements that enhance the learning experience and includes rich multimedia elements like illustrations and animations that are created specifically for the program • Multiple branches (two to three levels) and rapid response are provided to support remediation • Simulations can be presented via graphics, including complex images and animation • Instructional design techniques for engagement in a complex interaction include complex simulations where the learner must enter actual data into fields and experience consequence for errors and faulty data. In addition, scenario-based branching logic is introduced. When using branching logic, learners experience jeopardy for incorrect responses, and their progress is determined by their decision • Non-linear flow, with a high degree of layering of content
Splash/Intro Screen	20-30 seconds animated screen
Graphical User Interface	3 options will be provided customized as per organisation's product/services (Select one)
Interactivity	<ul style="list-style-type: none"> • Click-to-Reveal: • Hot-spots (Tabs/Images) • Click-plus-Pop-up: • Hot-spots (Tabs/Images) • Slideshow: • Hot-spots (Tabs/Images) • Roll-over text • Interactive timelines • Branching • Simple games such as hangman, tic-tac-toe, word search etc. (Gamelets)

Knowledge check/assessment	Multiple Choice Single Select Multiple Choice Multiple Select Match the Following Sequencing Sorting Crossword Puzzles Scenario-based/game-based/simulation-based summative assessments Tracked formative assessments		
Graphics	Stock Images/photographs/live videos provided by buyer, in case of purchase or specific photo bank/live video to be created, those will be charged separately. Semi-realistic , realistic graphics created 2D graphics (characters and scenarios) 3D graphics (characters and scenarios) Graphic avatars/mascot with smooth animation & walk cycles Backgrounds – Illustrated		
Animation	Content effects (animated text, bullets, transitions etc.) Audio sync with animated text Animation with semi complex effects		
Audio	Up to 3 pre-fixed artistes for voice over Intro music		
Navigation	Upto 3 level and highly custom - Index / TOC / Menu structure Screen control functionality Other Functionalities: Next, Back, Exit, Help Audio On/Off, Page counter, Glossary, Progress Bar Additional notes		
Technical Features	Development Tool – Flash / HTML5 / Rapid Authoring Tools SCORM Compliant – Yes, SCORM Versions 1.2, 2004, AICC Localisation friendly – Yes		
Number of screens per hour	35 - 45 screens with layered content		
Screen bifurcation	Screen type	Description	Count
	Total screens	Includes cover screens (introduction, objectives and summary), content screens and inline/final assessments.	35
	Static screen	Includes non-interactive screens and screens presenting course content, Splash, Help, Assessment overview, Assessment result, Completion certificate,	10

	Menu	
Animation	Includes screens that have simple animation viz. Flow charts & diagrams	5
Interactive Screen	Includes content screens that have some simple form of interaction	5
Knowledge checks/assessment	Includes inline/CYK and final assessment screens	15

Types of Services Required

The service provider is expected to provide following types of services for developing E-learning content

1. Structure a course, design & develop storyboards, digitize and package in acceptable formats - e-learning content, measured in hours of learning (seat-time)
2. Design, Develop and Deploy Mobile Nuggets / Multimedia animated AV elements of 3 to 5 minutes duration (seat-time)
3. Digitize storyboards provided by the TI and deliver e-learning packages in acceptable formats
4. Translation of existing e-learning content into other languages
5. Design & develop standardized Instructor-led Training (ILT) materials for deployment in Face-to-face trainings, with a suitable variant for Virtual ILT sessions that include PowerPoint presentation decks, Faculty Guide, Learner's Guide and Activity Templates.

Languages: The content may need to be developed/translated into multiple Indian languages. An illustrative list is attached below for reference

1. Hindi
2. English
3. Marathi
4. Tamil
5. Kannada
6. Malyalam
7. Telegu
8. Bengali
9. Odiya
10. Assamese
11. Gujarati
12. Punjabi
13. Urdu
14. Others: as per requirement

Primary Devices used by Platform Users

1. Mobile
2. Pads
3. Laptop/Desktop
4. Both: Mobile & Laptop/desktop

Consequently, all digital content developed should be responsive.

Other Support Required (optional extra, as decided by the TI)

1. Training Needs assessment
2. Testing and Upload support into LMS / iGOT 2 platform
3. Subject matter expertise
4. Other

Nature of Raw Content Available

1. Hard copies-Books, Print outs etc
2. Soft Copies
3. Hard copies and soft copies

Inputs to be provided by Capacity Building Commission

CBC/TIs would share manuscripts; acts, rules, regulations and guidance notes and any courseware used for face to face training for the firm to develop the e-learning content

CBC/TIs would identify subject matter experts to guide the firms for course development and would provide all available material that could serve as the primary manuscript. The firm would be responsible to develop the source content for the course. CBC/TI identified SME would actively work with the Firm to develop clearer understanding on the course content and accordingly translate that into interactive digitized courses.

Designated SME from the CBC/TIs would coordinate all feedback from within the TI/CBC and approve Course Design, Story Boards, Beta-version of the Digitized course (with machine-generated voice overs) and Gold version (with final human voice overs) within pre-agreed TATs.

Total Anticipated hours of E-learning content

It is anticipated that around 1000 hours of e-learning content would be developed under this RFQ cum RFP. Bidders are advised to work out rates and discounts for slab of 100 hrs of content development. The L-1 bidder may get guarantee of 200 hours of e-learning content subject to quality and delivery and performance of the vendor as assessed by CBC.

5. Project Duration and Timelines

This Framework Agreement would be valid for 24 months from date of signing, extendable for further period of 12 months based on satisfactory performance and mutual agreement.

6. Instructions to Bidders

6.1 Eligibility

Bids can be submitted by any Agency with expertise in e-learning content development for Government. For details on Eligibility, kindly refer to the Pre-Qualification Criteria.

6.2 Bid Preparation Cost

The Bidder shall bear all costs incurred in connection with participation in the RFQ cum RFP process, including, but not limited to, costs incurred in conduct of informative and other diligence activities, participation in meetings/discussions/presentations, preparation and submission of bid, in providing any additional information required by the Capacity Building Commission to facilitate the evaluation process, and in negotiating a definitive contract or all such activities related to the bid process.

The Capacity Building Commission will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the entire Bidding Process.

6.3 Earnest Money Deposit (EMD) (Bid Securing Declaration)

- a) The bidder shall furnish along with its bid, a Bid Securing Declaration as mentioned in the data sheet, the same is to be provided as per the format specified under Annexure-3 in this document.
- b) The Bid Securing Declaration shall be valid for a period of forty-five (45) days beyond the validity period of the RFQ cum RFP. As validity period of RFQ cum RFP is 180 days, the Bid Securing Declaration shall be valid for 180 days from Technical Bid opening date. "Day" means calendar day.
- c) The bid submitted without Bid Securing Declaration Form will be rejected without providing any further opportunity to the bidder concerned.
- d) The bidder shall extend the validity of the offer and Bid Securing Declaration Form on request by Capacity Building Commission.

6.4 Integrity Pact

The Bidder is required to enter into an Integrity Pact with the Capacity Building Commission. For this, the Bidder shall submit the original signed and stamped Integrity Pact as part of an envelope titled “Integrity Pact, Authorization Letter & EMD (Bid Securing Declaration)” as per dates mentioned in the Data Sheet above, failing which, the Bid submitted by the concerned Bidder will be liable to be rejected. The format for the Integrity Pact is provided in Annexure 2 of this RFQ cum RFP.

6.5 Pre-Bid Meeting and Clarifications:

Pre-Bid Meeting

- a) Capacity Building Commission shall hold a pre-bid meeting with the prospective bidders as mentioned in “Data Sheet”.
- b) The Bidders will have to ensure that their queries for Pre-Bid meeting should reach the officer(s) mentioned in this document by email in Excel format as given in the Data Sheet.
- c) The queries should necessarily be submitted as per format in Annexure –1.
- d) Capacity Building Commission shall not be responsible for ensuring that the bidders’ queries have been received by them. Any requests for clarifications after the indicated date and time may not be entertained by Capacity Building Commission.

Responses to Pre-Bid Queries and Issue of Corrigendum

- a. Capacity Building Commission will endeavor to provide timely response to all queries. However, Capacity Building Commission makes no representation or warranty as to the completeness or accuracy of any response made in good faith, nor does Capacity Building Commission 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, Capacity Building Commission may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, modify the RFQ cum RFP Document by a corrigendum.
- c. The Corrigendum (if any) & clarifications to the queries from all bidders will be posted as per the details given in Data Sheet.

- d. Any such corrigendum shall be deemed to be incorporated into this RFQ cum RFP.
- e. In order to provide prospective Bidders reasonable time for taking the corrigendum into account, Capacity Building Commission may, at its discretion, extend the last date for the receipt of Proposals.

6.6 Submission of proposals

- a) A four bid system will be followed for this RFQ cum RFP with a Combined Quality and Cost Based Selection criterion. The four bids are
 - i. Integrity Pact, Authorization Letter and EMD (Bid Securing Declaration)
 - ii. Pre-Qualification Bid
 - iii. Technical Bid and
 - iv. Commercial Bid. For submission dates, kindly refer to Data Sheet in the RFQcum RFP.
- b) This RFQ cum RFP process will be administered through the Central Public Procurement Portal (URL: <https://eprocure.gov.in/eprocure/app>). The Bidders are required to submit soft copies of their proposals electronically on the CPP Portal, using valid Digital Signature Certificates of officer duly authorized to submit the bid. More information for submitting the Bids online on the CPP Portal may be obtained at <https://eprocure.gov.in/eprocure/app>
- c) All the pages of the Bid 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 Bid. Failure to submit the Bid on time could cause a bid to be rejected. The Capacity Building Commission will not accept delivery of the Bid by fax/e-mail or any other electronic/non-electronic means other than uploading on the Central Public Procurement Portal (URL: <https://eprocure.gov.in/eprocure/app>).

6.7 Bid Format

Bidder shall submit their bids in the format mentioned in the following sub-sections. **Bids not submitted in the prescribed formats will be liable for rejection.** If a format for specific document is not provided for in this RFQ cum RFP, the document shall be submitted in a format that makes it legally valid /

binding on the Bidder and that is acceptable to the Capacity Building Commission. In any event, the Capacity Building Commission shall have the right to seek clarifications, modifications etc. on the document submitted by the Bidder and the Bidder shall be obliged to provide such clarifications and modifications within the timelines specified by the Capacity Building Commission.

6.7.1 Cover 1 - Integrity Pact, Authorization Letter and EMD (Bid Securing Declaration)

Section No.	Section Heading	Details
Section 1	Integrity Pact	Scanned Copy of the Integrity Pact. Details in Annexure 2
Section 2	EMD (Bid Securing Declaration)	Scanned Copy of the EMD (Bid Securing Declaration). Details in Annexure 3
Section 3	Authorization Letter	Scanned copy of Authorization Letter/ Power of Attorney duly executed by Bidder in favor of Authorized Signatory signing the bid or a Board Resolution authorizing the Authorized Signatory to sign the bid.
Section 4	Certificate under Rule 144 (xi) in General Financial Rules (GFRs), 2017	Certificate under Rule 144 (xi) in General Financial Rules (GFRs), 2017 as per Annexure 13 .

6.7.2 Cover 2 - Pre-Qualification Bid Format

Section No.	Section Heading	Details
Section 1	Pre-Qualification Bid Covering Letter	As per format provided in Annexure 4
Section 2	Profile of the Bidding Firms	As per format provided in Annexure 5
Section 3	Pre-Qualification Criteria	Pre-Qualification criteria table as mentioned with response and reference against each criterion Citations to be provided in the format as in Annexure 6
Section 4	Power of Attorney / Copy of Board Resolution	Power of Attorney duly executed by Bidder in favor of Authorized Signatory signing the bid or a Board Resolution authorizing the Authorized

		Signatory to sign the bid.
Section 5	No Deviation Certificate	As per format provided in Annexure 7

6.7.3 Cover 3 - Technical Bid Format

Section No.	Section Heading	Details
Section 1	Technical Bid Covering Letter	As per format provided in Annexure 8
Section 2	About Bidder	Details of the Bidder
Section 3	Technical Evaluation Criteria	Response to be in line with the requirements of Technical Evaluation Criteria. Citations need to be provided in the format as in Annexure 6
Section 4	Approach and Methodology	Clearly furnish two sections as mentioned in the Technical Evaluation Criteria
Section 5	Organization Structure & Key Resources	As per format provided in Annexure 9 of this RFQ cum RFP.

6.7.4 Cover 4 - Commercial Bid

Section No.	Section Heading	Details
Section 1	Commercial Bid Covering Letter	As per format provided in Annexure 10
Section 2	Commercial Bid	As per the format provided in Annexure 11

The Bidders shall give the required details of all applicable taxes, duties, other levies and charges etc. in respect of provision of goods and services under this RFQ cum RFP. The Bidder should refer to the Cover Letter for the commercial bid for details.

A Bid submitted with an adjustable price quotation will be treated as non-responsive and rejected. Bidder should study the clauses under Payment Terms and Conditions of this RFQ cum RFP while finalizing the commercial bid.

6.8 Language

The bid and all related correspondence and documents in relation to the bidding process shall be in English language only.

6.9 Late Bids

Bids received after the due date and time as specified in the Data Sheet for any reason whatsoever, shall not be entertained by Capacity Building Commission.

6.10 Capacity Building Commissions' Right to terminate the Process

The Capacity Building Commission may terminate the RFQ cum RFP process at any time and without assigning any reason. The Capacity Building Commission makes no commitments, express or implied, that this process will result in a business transaction with anyone. The Capacity Building Commission will not be liable in any way to any person in case of termination of this Bid process except that if the EMD (Bid Securing Declaration) has been received from the Bidder prior to such termination, the EMD (Bid Securing Declaration) will be returned as promptly as possible to the respective Bidders.

6.11 Acceptance of Terms & Conditions

By responding to this RFQ cum RFP, bidders submit and confirm their acceptance to the Terms and Conditions of this RFQ cum RFP.

6.12 Disqualification

The bid is liable to be disqualified in the following cases or in case bidder fails to meet the bidding requirements as indicated in this RFQ cum RFP:

- Bid not submitted in accordance with the procedure and formats prescribed in this document or treated as non-conforming bid.
- During validity of the bid, or its extended period, if any, the bidder increases its quoted prices.
- The bidder's bid is conditional and has deviations from the terms and conditions of RFQ cum RFP.
- Bid is received in incomplete form.
- Bid is received after due date and time.
- Bid is not accompanied by all the requisite documents.
- Information submitted in technical bid is found to be misrepresented, incorrect or false, accidentally, unwillingly or otherwise, at any time during the processing of the contract (no matter at what stage) or during the tenure of the contract

including the extension period if any.

- Financial bid is enclosed with the same folder as technical bid.
- Bidder tries to influence the bid evaluation process by unlawful/corrupt/fraudulent means at any point of time during the bid process.
- In case any one bidder submits multiple bids unless additional bids are withdrawn upon notice immediately.
- Failure of the successful bidder to agree with the Terms & Conditions of the RFQ cum RFP

6.13 Contacting Capacity Building Commission

From the time of submission of RFQ cum RFP to the time of awarding the contract, if a Bidder needs to contact Capacity Building Commission for any reason relating to this RFQ cum RFP enquiry and /or its bid, it should do so only over e-mails as specified in the data sheet.

In case a Bidder attempts to influence Capacity Building Commission in its decision on scrutiny, comparison & evaluation of proposals and awarding the contract, the RFQ cum RFP of the Bidder shall be liable for rejection in addition to appropriate administrative actions being taken against that Bidder, as deemed fit by Capacity Building Commission.

6.14 Withdrawal of RFQ cum RFP

No bid should be withdrawn after the deadline for submission of RFQ cum RFP and before expiry of the RFQ cum RFP validity period. If a bidder withdraws the RFQ cum RFP during this period by any means, it will result in the vendor being disqualified from bidding for any contract with CBC for a period of one year from the date of notification.

6.15 Authentication of Bids

The Bid should be accompanied by a power-of-attorney in the name of the signatory of the Bid.

6.16 Deviations

The bidder shall not provide for any deviations in the bid. If Capacity Building Commission is of the opinion that the bid contains any deviation, then Capacity

Building Commission reserves the right to seek withdrawal of any such deviation before considering the technical and commercial bid.

6.17 Award of Contract

The contract shall be awarded to the successful Bidder determined basis on Least Cost System. All technically qualified firms will be invited to match the L1 price. All those who agree to match L1 price will be empaneled.

After signing of the contract/Agreement, no variation in or modification of the terms of the contract shall be made except by mutual written amendment signed by both the parties.

6.18 Contract Period

The terms of contract/agreement shall be for a period of **Two (02) years**, which may be extended at the sole discretion of CBC and subject to mutual consent for a further period of 1 year. However, the terms & conditions of the contract/agreement shall be applicable from the date of Letter of Award (LOA) and the Agency must sign the Contract within 21 days after issue of LOA.

The Bidder shall be relieved from its contractual obligation only when all the works and responsibilities are completely discharged by the Agency in accordance with the terms & conditions of the RFQ cum RFP/Contract.

6.19 Signing of Contract

The successful bidders will be required to execute an agreement on non-judicial stamp paper of appropriate value with Capacity Building Commission within 21 days of the date of the award letter (LOA). Format of Contract/agreement is enclosed as Volume 2 of RFQ cum RFP.

In case the successful bidder fails to enter into the agreement with Capacity Building Commission within 21 days, the bidder shall stand disqualified from bidding for any contract with Capacity Building Commission for a period of one year from the date of notification.

6.20 Performance Bank Guarantee (PBG)

The successful Bidder shall at his own expense submit to Capacity Building Commission an unconditional, irrevocable and continuing Performance Bank

Guarantee (PBG) from a nationalized bank, in the format prescribed in **Annexure 12**, payable on demand, for the due performance and fulfilment of the contract by the bidder.

This Performance Bank Guarantee will be for an amount equivalent to 3% of total contract value as further detailed in the RFQ cum RFP. Except as otherwise provided in the RFQ cum RFP, no interest shall be payable on the PBG. In case the project is delayed beyond the project schedule as mentioned in the RFQ cum RFP, the performance bank guarantee shall be accordingly extended by the Bidder till completion of scope of work as mentioned in RFQ cum RFP and six months thereafter.

For the successful bidder the Performance Bank Guarantee shall be retained by Capacity Building Commission until the completion of the assignment by the Contractor and be released 180 (one hundred and eighty) days after the completion of the assignment.

6.21 Certificate under Rule 144 (xi) in General Financial Rules (GFRs), 2017.

The bid should be accompanied by a certificate for compliance with Rule 144 (xi) in General Financial Rules (GFRs), 2017 as per certificate provided in **Annexure 13**.

7 Selection Process for Bidder

7.1 Opening of Bids

The Proposals will be opened by the Capacity Building Commission in the presence of Bidders or their representatives who may be present at the time of opening. The representatives of the bidders should be advised to carry the identity card or a letter of authority from the bidder firms for attending the opening of the bid.

There will be three bid-opening events

- a) Stage 1 Opening: Cover 1 (Integrity Pact & EMD (Bid Securing Declaration)) and Cover 2 (Pre-Qualification bid)
- b) Stage 2 Opening: Cover 3 Opening (Technical bid)
- c) Stage 3 Opening: Cover 4 Opening (Commercial bid)

The Technical Bids of only those bidders will be opened who clear the Pre-qualification stage. The Commercial Bids of only those bidders will be opened who score equal to or more than qualifying marks in the Technical Bid.

7.2 Clarification on Bids

During the bid evaluation, Capacity Building Commission may, at its discretion, ask the Bidder for a clarification of its bid. The request for clarification and the response shall be in writing, and no change in the price or substance of the bid shall be sought, offered, or permitted.

7.3 Evaluation Process

Capacity Building Commission shall evaluate the responses to this RFQ cum RFP and scrutinize the supporting documents / documentary evidence. Inability to submit the requisite supporting documents / documentary evidence, may lead to rejection. The decision of the Capacity Building Commission in the evaluation of proposals shall be final. No correspondence will be entertained outside the process of evaluation with the Capacity Building Commission. Capacity Building Commission may ask for meetings with the Bidders to seek clarifications or confirmations on their proposals. During the Bid Evaluation, Capacity Building Commission reserves the right to reject any or all the Proposals. Each of the responses/ Proposals shall be evaluated as per the criteria and requirements specified in this RFQ cum RFP.

The steps for evaluation are as follows:

7.3.1 Stage 1: Pre-Qualification

- a) Capacity Building Commission shall open Cover 1
- b) If the contents of the Cover 1 are as per requirements and the EMD (Bid Securing Declaration) and Integrity Pact in prescribed format have been received in original by the Capacity Building Commission as per the terms of this RFQ cum RFP, the Capacity Building Commission shall open "Cover 2". Each of the Pre-Qualification conditions mentioned in Section 8 is MANDATORY. In case the Bidder does not meet any one of the conditions, the bidder will be disqualified.
- c) Response to the Pre-Qualification Requirements will be evaluated in accordance with the requirements specified in this RFQ cum RFP. A checklist must be created with proper page-wise indexing of all supporting documents.
- d) Results of the Pre-Qualification Bid opening will be intimated to bidders.

7.3.2 Stage 2: Technical Evaluation

- a) Cover 3 marked as "Technical bid" will be opened only for Bidders who succeed in Stage 1.
- b) The bidders' technical solutions proposed in the bid document will be evaluated as per the requirements specified in the RFQ cum RFP and technical evaluation framework as mentioned in Section 9.

Each Technical Bid will be assigned a technical score out of a maximum of 100 marks. Minimum of 75 marks must be secured by bidder to qualify. Only the bidders who get an aggregate Technical score of 75 marks or more will qualify for commercial evaluation stage. Failing to secure minimum marks shall lead to technical rejection of the Bid and Bidder.

7.3.3 Stage 3: Commercial Evaluation

- a) All the technically qualified bidders will be notified to participate in Commercial Bid opening process.
- b) The commercial bids for the technically qualified bidders will then be opened on the notified date and time and reviewed to determine whether the commercial bids are substantially responsive. Bids that are not substantially responsive are liable to be disqualified at Capacity Building Commission's discretion.
- c) The bid price will include all taxes and levies and shall be in Indian Rupees and mentioned separately. Taxes will be paid/reimbursed as per the terms of the Agreement.
- d) Any conditional bid would be rejected.
- e) Errors & Rectification: Arithmetical errors will be rectified on the following basis:

- (i) 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.
- (ii) If there is a discrepancy between words and figures, the amount in words will prevail.”
- (iii) If the Bidder does not accept the error correction, its Bid will be rejected and, the bidder shall stand disqualified from bidding for any contract with CBC for a period of one year from the date of notification.

7.3.4 Stage 4: Selection of successful bidder through LCS

- a) Ranking will be done as per the service Charges quoted by bidders for each Level. Agency quoting the lowest rate for each Level, which meets the Eligibility Criteria and submits required documents while accepting terms and conditions of RFP may be empanelled for award of work for a period of **Two (02) years** which may be extended at the sole discretion of CBC and subject to mutual consent for a further by one (01) year.
- b) Other terms and conditions of the engagements including service charges to remain same during the extension period. Other agencies (L-2, L-3 and so on) who fulfil eligibility criteria, may also be considered for Empanelment if they agree to accept the lowest service charges quoted by L1 agency. Agencies so empanelled may be considered for award of work at the discretion of competent authority of CBC. Consequent upon Empanelment, performance will be the criteria for the award of work .
- c) CBC reserves the right to terminate the empanelment for reasons of non - performance .

8 Pre-Qualification Criteria

The Bidder's pre-qualification bid will be evaluated as per the following criteria:

Sr.#	Parameters	Requirement	Supporting Documents
1	Single Bidder	A Bidder is required to Bid on its own and no Joint Ventures or Consortiums are permitted	Declaration from the Authorized Signatory
2	Legal Entity/ Registration of Company	1. The bidder must be incorporated and registered in India under the Indian Companies Act 1956/ LLP Act 2008 & subsequent amendments thereto and should have been operating for the last 5 years 2. Registered under GST as on the date of publishing of the RFQ cum RFP	1. Certificate of Incorporation / Copy of Registration Certificate (s) 2. GST Registration Certificate
3	Experience	Must be in the business of e-learning / blended-learning courseware development for at least 5 years	Self-certified declaration from Authorized Signatory
4	Net Worth	The Bidding firm must have a positive Net Worth in each of the last three financial years (FY 2018-19, 2019-20 & 2020-21).	Certificate from Auditors/ CA firm / Audited Financial Statements (Profit & Loss Statement and Balance Sheet) for last 3 financial years
5	Annual Turnover	Shall have a financial turnover of INR 3,00,00,000 per annum from e-learning content development businesses, in at least 3 financial years from 2018-19	Certificate from Auditors/CA firm / Audited Financial Statements (Profit & Loss Statement and Balance Sheet) for last 3 financial years
6	Experience in e-learning content development	Must have developed at least 200 hrs of e-learning content development for in-service staff training in public and/or private sector, in at least 3 financial years from 2018-19	Copy of Contract/ Work Order and Completion Certificates Client

		Have had experience of developing e-learning content in English, Hindi and at least 2 other Indian languages in the last 3 years	
7	Experience in Government Processes	Must have worked with Central Government/ State Government/ private sector or International Development Agencies or any combination thereof to develop e-learning courseware for capacity building in past 3 years	Copy of Contract/ Work Order and Completion Certificates from the Capacity Building Commission; OR Copy of Contract/ Work Order and Self Certificate of Completion certified by the Authorized Signatory;
8	Not Blacklisted	The bidder should not be blacklisted by Central/State Government Ministry/ Capacity Building Commission/PSU as on the date of bid submission.	Self-declaration from the bidder on company letter head, signed by authorized signatory.

Note:

(a) For all citations, ongoing projects will be considered for evaluation if the completed component of the project meets the project value requirements. Bidders, in such cases will have to furnish - Copy of Contract/ Work Order and Certificate from the Client / Authorized Signatory clearly mentioning the completed component of the project and the value of the completed component.

(b) Pre-qualification criteria i.e. Sr. No (3)- Experience and (5)- Annual Turnover will not be applicable for vendors recognized as “Start up” by Department for Promotion of Industry and Internal Trade (DPIIT). Relevant proof of being recognized as “Start ups” by DPIIT would need to be submitted.

9 Technical Evaluation Criteria/ Framework

Sr No	Criterion	Technical Evaluation Criterion	Max Marks
1	Specific experience of the Contractor (as a firm) relevant to the Assignment:	Firm shall submit details of similar e-learning content development in the domain areas mentioned in the Table 1 of Section 4.	20
2	Quality and relevance of the approach and methodology in developing the sample e-learning packages submitted as illustrations for Level 1, Level 2 and Level 3:	CBC will assess the e-learning packages submitted by the firm against the characteristics defined for Level1, Level 2 and Level 3 in the RFP. Firm shall submit one package for each Level	30
3	Key Experts' qualifications and competence for the Assignment:	<p>Where there are more than one Key Experts proposed for a position, the maximum points allocated for each position will be equally divided</p> <p>a) Position K-1: [Team Leader]-20 marks [20]</p> <p>b) Position K-2: [Instructional Designer]-10 marks</p> <p>c) Position K-3:[Graphic Designer]-10 marks</p> <p>d) Position K-4: (Programmer)-10 marks [10]</p> <p>The number of points to be assigned to each of the above positions shall be determined considering the following three sub-criteria and relevant percentage weights:</p> <p>1) General qualifications (general education, training, and experience): 30%</p>	50

		2) Adequacy for the Assignment (relevant education, training, experience in the sector/similar assignments) : 60 %	
		3) Relevant experience in the region (working level fluency in local language(s)/knowledge of local culture or administrative system, government organization, etc.): 10%	

Note: For all Citations, ongoing projects will be considered for evaluation if the completed component of the project meets the project value requirements. Bidders, in such cases will have to furnish - Copy of Contract/ Work Order and Certificate from the Client/ Authorized Signatory clearly mentioning the completed component of the project and the value of the completed component.

Minimum Technical Score needed for qualification : 75 marks

10 Commercial Bid and Payment Terms

10.1 Commercial Bids

10.1.1 The commercial bids shall take into account all the expenses and tax liabilities and cost of insurance specified in the draft contract, levies and other impositions applicable under the prevailing law on the Contractors, sub-Contractors and their staff. For the avoidance of doubt, it is clarified that all taxes, excluding GST, shall be deemed to be included in the cost shown under different items of commercial bids. Further, all payments shall be subjected to deduction of taxes at source as per Applicable Laws.

11 Payment Terms and Mile-Stones

SI.No	Deliverable	Typical Duration from Acceptance of Call down contract	% of Contract Value
1	Inception report including Course Design (e-learning / Blended-learning formats)	2 – 3 weeks	10%
2	Story-board submission for all the modules of the course	6 – 8 weeks	30%
3	Submission of Beta-version of the digitized course, with machine generated voice-overs	10 – 12 weeks	40%
4	Deployment of the course on iGOT 2 and / or any LMS suggested by CBC/TI	12– 16 weeks	20%

12 Terms of Business

Capacity Building Commission will award the contract to the successful bidder for implementation. The award of the contract will be done to the highest scorer of the evaluation done as mentioned above. The successful bidder has to sign a contract for implementation of the project and has to commence the project within 15 working days from the date of issue of the order.

12.1 Responsibilities

Capacity Building Commission will engage Contractor with effect from their acceptance of contract to provide the services described in the contract, together with such other services as may be reasonably requested from Contractor from time to time. Contractor agrees to perform the services in a timely manner, and to exercise all reasonable skill and care in their performance of them.

Contractor shall provide Capacity Building Commission promptly with any information, data or documents that may reasonably be required in order to comply with obligations under the contract. Contractor shall undergo / undertake specific trainings in the format and to the extent as may be stipulated by Capacity Building Commission, including web-based modular trainings. Such training should be started before or immediately after commencement of the services and should be finished within 2 weeks thereafter or as prescribed under any specific training format, whichever is later.

12.2 Fees and expenses

Capacity Building Commission will pay the Contractor in respect of their professional fees and expenses as per the scope of work agreed with the Contractor in the applicable contract. Unless otherwise agreed between CBC and the Contractor, Contractor will invoice based on the billing milestones defined in the Payment Schedule. Each invoice the Contractor submits will include a description of the work the Contractor would have performed during the period to which it relates.

12.3 Termination

Capacity Building Commission may terminate the contract immediately upon written notice to Contractor if:

- i. Contractor is unable to perform the services or have materially or repeatedly

breached any of the terms of the agreement

- ii. Contractor performs the services in a manner which is unsatisfactory to Capacity Building Commission. Contractor become bankrupt (or, in the case of a partnership, any of their partners becomes bankrupt), are adjudicated insolvent, have a liquidator or an administrative or other receiver appointed to manage their affairs or have an order made against Contractor that Contractor be wound up or cease to carry on all or substantially all of their business.
- iii. Capacity Building Commission reasonably determine that such termination is required in accordance with applicable law, regulations or professional obligations (including as a result of circumstances that threaten our professional independence or create a potential conflict of interest); or the Contract is terminated.
- iv. Such termination shall be without prejudice to any rights we might have which accrued prior to termination.

12.4 Intellectual Property Rights

Capacity Building Commission will own all rights, title and interest in and to all data, reports, frameworks, specifications, designs, models, analyses, inventions, programs and other property or materials (collectively, the "Works") that Contractor or, if an entity, employees, officers, managers, directors or agents (collectively, "Personnel") develop in connection with the provision of the services including all copyright interests and intellectual property rights in the design and development of the e- learning materials. Contractor shall perform all such acts as may be reasonably necessary for the purpose of perfecting the assignment to us of all copyright and other intellectual property rights in the Works. Contractor hereby waives all moral rights in all jurisdictions.

Contractor acknowledges that during the performance of their services, they may gain access to certain methodologies, frameworks, know-how, products, processes, ideas, interpretations, models, documentation, manuals, software, discs, reports, research, working notes, papers, data, specifications, designs, analyses, inventions and/or similar items ("Materials") which are proprietary to Capacity Building Commission or other third parties. Contractor agrees that this contract shall not operate to transfer any intellectual property rights or copyright interests in such materials to them, and

Capacity Building Commission (or their Capacity Building Commission and other third parties, as the case may be) shall continue to retain all intellectual property rights and copyright interests in such materials.

Contractor shall not copy, reproduce, translate, adapt, vary, modify, disassemble, decompile or reverse engineer or otherwise deal with or cause to reduce the value of the Materials except as expressly authorized by us in writing.

12.5 Confidentiality

In the course of providing the Services Contractor will be privy to information of a confidential nature relating to Capacity Building Commission and Contractor may learn confidential information Capacity Building Commission's business, systems of work and other confidential information. Contractor agrees that they will use such Confidential Information only in compliance with their obligations under the concerned contract, that Contractor will not disclose such information to any third party except to the extent required by law and that Contractor will, in relation to confidential information which comes into their possession during the performance of the subcontract, comply with the confidentiality obligations placed upon us by the contract as if Contractor were a party to the contract in Capacity Building Commissions place. These restrictions do not apply to information which has entered the public domain or which has been disclosed to the Contractor by a third party who is not subject to any restriction on disclosure.

12.6 Data Protection

To the extent Contractor collect, use, store or otherwise process (collectively, "Process") Confidential Information that can be linked to specific individuals ("Personal Data") in connection with the performance of their Services under a contract, Contractor shall process such personal data in accordance with applicable law, rules and regulations including (without limitation) the Information Technology Act, 2000 (the "Act"), and the Information Technology (Reasonable security practices and procedures and sensitive personal data or information) Rules, 2011 (the "Rules").

Without prejudice to the generality of the preceding clause, Contractor represents that Contractor shall implement and maintain reasonable security practices and procedures (including, without limitation, managerial, technical, operational and physical security

control measures) designed to protect such Personal Data against unauthorized access, damage, use, modification, disclosure or impairment, as required by the Rules (“Data Protection Procedures”). Contractor shall not further disclose or transfer Personal Data to any other person or entity, except as required by applicable law or court order.

Contractor shall not retain Personal Data for longer than is reasonably required for the performance of their Services.

12.7 Governing Law and Jurisdiction

This RFQ cum RFP shall be governed by and construed in accordance with the laws of India. Any dispute arising out of the subsequent contract, any contract hereunder services shall be subject to the exclusive jurisdiction of the Indian courts.

12.8 Deliverables

All deliverables and source files will be shared with Capacity Building Commission after the modules have been signed- off. The Intellectual Property Rights for all the work products will rest with Capacity Building Commission.

13 Annexures

13.1 Annexure 1 - Pre-Bid Queries

Bidder shall submit all pre-bid queries in MS word in the following format.

#	Section Name & No.	Page No.	Statement as per tender document	Query by bidder	Reason for Query	Response by Capacity Building Commission
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

13.2 Annexure 2 - Integrity Pact

Integrity Pact

This Integrity Pact is entered by and between

The Capacity Building Commission, having its office located Capacity Building Commission 22nd Floor, Jawahar Vyapar Bhawan, Janpath, New Delhi 110001 of the First Part;

AND

<***>, a Company incorporated under the Companies Act, 1956, having its registered office at <***> (hereinafter referred to as “Bidder” which expression shall, unless the context otherwise requires, include its permitted successors and assigns) of the Second Part.

Preamble

The Capacity Building Commission intends to award, under laid down organizational procedures, contract for Empanelment of Agencies for E-learning content development_<Bidder’s Name>” through an open tender process and has issued RFQ cum RFP bearing number _____.The Capacity Building Commission values full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness/ transparency in its relations with its Bidder(s) and /or Vendor(s) / Contractor(s).

In order to achieve these goals, the Capacity Building Commission wishes to enter into this Integrity Pact with the Bidder(s) for this tender process and execution of the Agreement and will appoint a Contract Evaluation Committee (comprising of Technical Evaluation Committee and Financial Evaluation Committee) /Independent External Monitor (IEM), who will monitor the tender process and the execution of the Agreement for compliance with the principles mentioned above.

Section 1- Commitments of the Capacity Building Commission

- 1) The Capacity Building Commission commits itself to take all measures necessary to prevent corruption and to observe the following principles: -
 - a) No employee of the Capacity Building Commission, personally or through family members, will in connection with the RFQ cum RFP for, or the

execution of the Agreement, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.

- b) The Capacity Building Commission will during this tender process treat all Bidder(s) with equity and reason. The Capacity Building Commission will in, before and during this tender process, provide to all Bidders the same information and will not provide to any Bidder(s) confidential/ additional information through which the Bidder(s) could obtain an advantage in relation to this tender process or the Agreement execution.
 - c) The Capacity Building Commission will exclude from the process all known prejudiced persons.
- 2) If the Capacity Building Commission obtains information on the conduct of any of its officers / employees which is a criminal offence under the Indian Penal Code 1860 and/or Prevention of Corruption Act 1988, or if there be a substantive suspicion in this regard, the Capacity Building Commission will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

Section 2- Commitments of the Bidder

- a) The Bidder commits to take all measures necessary to prevent corruption. It commits itself to observe the following principles during its participation in this tender process and during the Agreement execution.
- b) The Bidder will not, directly or through any other persons or firm, offer promise or give to any of the Capacity Building Commission's employees involved in this tender process or the execution of the Agreement or to any third person any material or other benefit which he/ she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during this tender process or during the execution of the Agreement.
- c) The Bidder will not enter with other bidder(s) into any undisclosed agreement or understanding, whether formal or informal. This applies to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in this tender process.
- d) The Bidder will not commit any offence under the Indian Penal Code 1860 and / or Prevention of Corruption Act 1988; further the Bidder will not use

improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Capacity Building Commission as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

- e) The Bidder will, when presenting its bid, disclose any and all payments it has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with this tendering process or the award of Agreement under this tendering process.
- f) The Bidder will not, directly or through any other person or firm, approach any Government officials, ministers, political persons public servants, or any external agencies to influence the bidding decision making process or to attain any undue ~~fav~~usto the Bidder.
- g) The Bidder shall exclude, from this tender process or execution of the Agreement, all known prejudiced persons including those employees / Directors /management representatives of the Bidder who have family relationships with the employees or officers of the Capacity Building Commission.
- h) The Bidder shall disclose the circumstances, arrangements, undertakings or relationships that constitute, or may reasonably be considered to constitute, an actual or potential conflict of interest with its obligations specified in the tender process or under any Agreement which may be negotiated or executed with the Capacity Building Commission. Bidder and its employees, agents, advisors and any other person associated with the Bidder must not place themselves in a position which may, or does, give rise to conflict of interest (or a potential conflict of interest) between the interests of the Capacity Building Commission or any other interests during this tender process or through operation of the Agreement.
- i) The Bidder will not indulge in any corrupt, fraudulent, coercive undesirable or restrictive practice in the tender process or the execution of the Agreement.
- j) The Bidder will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3: Disqualification from tender process and exclusion from future Contracts

If the Bidder, during the tender process or before award or during execution of the Agreement has committed a transgression through a violation of Section 2 above, or in any other form, such as to put his reliability or credibility in question, the Capacity Building Commission is entitled to disqualify the Bidder from this tender process or decide not to award the work or terminate the awarded Agreement or blacklist the Bidder.

Section 4: Compensation for Damages

- a) If the Capacity Building Commission has disqualified the Bidder from this tender process prior to the award according to Section 3, the Capacity Building Commission is entitled to disqualify the bidder from bidding for any contract with Department of Personnel & Training (DoPT) for a period of one year from the date of notification.
- b) If the Capacity Building Commission has terminated the Agreement according to Section 3, or if the Capacity Building Commission is entitled to terminate the Agreement according to Section 3, the Capacity Building Commission shall be entitled to demand and recover from the Bidder / Vendor the amount equivalent to Security Deposit / Performance Bank Guarantee in addition to any other penalties/ recoveries as per terms and conditions of the Agreement.

Section 5: Previous Transgression

- a) The Bidder declares that no previous transgressions occurred in the last three years with any other Central Government / State Government or Central PSU entity in India or any entity in any other country conforming to the anti-corruption approach that could justify Bidder's exclusion from this tender process.
- b) If the Bidder makes incorrect statement on this subject or hides any material information, the Capacity Building Commission is entitled to disqualify the Bidder from this tender process or action can be taken as per the procedure mentioned in "Guidelines on Banning of business dealings"

Section 6: Equal treatment of all Bidders

- a) The Bidder undertakes to demand from all sub-Contractors of the Vendor a commitment in conformity with this Integrity Pact, and to submit it to the Capacity Building Commission before signing of the Agreement with the Capacity Building Commission.
- b) The Capacity Building Commission will enter into individual Integrity Pacts with identical conditions as this one with all sub-Contractors of the Vendor.
- c) Only if the Bidder has entered into this Integrity Pact with the Capacity Building Commission, the Bidder shall be eligible to participate in this tender process or execution of the Agreement.
- d) The Capacity Building Commission will have the right to disqualify the Bidder from this tender process if the Bidder does not get this Integrity Pact from Bidder's authorized signatory or violate any of its provisions.

Section 7: Criminal charges against violation Bidder/ Sub Contractor(s)

If the Capacity Building Commission obtains knowledge of conduct of the Bidder or its Sub Contractor, or of an employee or a representative or an associate of the Bidder or Sub Contractor which constitutes corruption, or if the Capacity Building Commission has substantive suspicion in this regard, the Capacity Building Commission will inform the same to the Chief Vigilance Officer.

Section 8: Independent External Monitor/Monitors

- a) The Capacity Building Commission appoints ___ as Independent External Monitor for this Integrity Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the Parties comply with the obligations under this Integrity Pact.
- b) The Monitor is not subject to instructions by the representatives of the Parties and performs his functions neutrally and independently. The Monitor shall report to the ___
- c) The Bidder accepts that the Monitor has the right to access without restriction to all project documentation of the Capacity Building Commission including that provided by the Bidder. The Bidder

will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Sub Contractors of the Vendor. The Monitor is under contractual obligation to treat the information and documents of the Bidder/ Sub Contractor(s) of Vendor with confidentiality.

- d) The Capacity Building Commission will provide to the Monitor enough information about all meetings among the parties related to the tender process or the execution of the Agreement provided such meetings could have an impact on the contractual relations between the Capacity Building Commission and the successful Bidder. The Parties offer to the Monitor the option to participate in such meetings.
- e) As soon as the Monitor notices, or believes to notice, a violation of this Integrity Pact, he will so inform the Capacity Building Commission and request the Capacity Building Commission to discontinue or take corrective action, or to take other relevant action. The Monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
- f) The Monitor will submit a written report to the Capacity Building Commission within 8 to 10 weeks from the date of reference or intimation to him by the Capacity Building Commission and, should the occasion arise, submit proposals for correcting problematic situations.
- g) If the Monitor has reported to the Capacity Building Commission, a substantiated suspicion of an offence under relevant Indian Penal Code 1860 and Prevention of Corruption Act 1988, and the Capacity Building Commission has not, within the reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.
- h) The word 'Monitor' would include both singular and plural.

Section 9– Pact Duration

- a) This Integrity Pact begins when both Parties have legally signed it. It expires for the successful Bidder 12 months after the last payment under the

Agreement, and for all other bidders, 6 months after the execution of the Agreement with the Vendor.

- b) If any claim is made/ lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged/determined by the Capacity Building Commission.

Section 10 – Other provisions

- a) This Integrity Pact is subject to Indian Law, place of performance and jurisdiction is the Office of the Capacity Building Commission first above written, i.e. New Delhi.
- b) Changes and supplements of this Integrity Pact as well as termination notices need to be made in writing. Parties acknowledge that side agreements have not been made.
- c) Should one or several provisions of this Integrity Pact turn out to be invalid, the remainder of this Integrity Pact remains valid. In this case, the Parties will strive to come to an agreement to their original intentions.

**For & On Behalf of
the Capacity Building Commission**

For & On Behalf of the Bidder

(Official Seal)

(Official Seal)

Place: _____

Place: _____

Date: _____

Date: _____

Witness:

Witness:

(Name & Address):

(Name & Address):

13.3 Annexure 3 – Bid Securing Declaration

<Original signed copy on company letter head>

Bid Securing Declaration

Date: _____

Tender No. _____

To
The Director
Capacity Building Commission
22nd Floor, Jawahar Vyapar Bhawan
Janpath, New Delhi 110001

Subject: Submission of the bid for “” _<Bidder’s Name>”

I/We. The undersigned, declare that:

I/We understand that, according to your conditions, bids must be supported by a Bid Securing Declaration.

I/We accept that I/We may be disqualified from bidding for any contract with you and Contracting Department for a period of one year from the date of notification if I am /We are in a breach of any obligation under the bid conditions, because I/We

- a) have withdrawn/modified/amended, impairs or derogates from the tender, my/our Bid during the period of bid validity specified in the form of Bid; or
- b) having been notified of the acceptance of our Bid by the purchaser during the period of bid validity (i) fail or reuse to execute the contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the Instructions to Bidders.

I/We understand this Bid Securing Declaration shall cease to be valid if I am/we are not the successful Bidder, upon the earlier of (i) the receipt of your notification of the name of the successful Bidder; or (ii) thirty days after the expiration of the validity of my/our Bid.

Signed: (insert signature of person whose name and capacity are shown)
in the capacity of (insert legal capacity of person signing the Bid Securing Declaration)

Name: (insert complete name of person signing the Bid Securing Declaration) Duly authorized to sign the bid for an on behalf of (insert complete name of Bidder)

Dated on _____ day of _____ (insert date of signing) Corporate Seal

(where appropriate)

(Note: In case of a Joint Venture, the Bid Securing Declaration must be in the name of all partners to the Joint Venture that submits the bid)

13.4 Annexure 4 – Pre-Qualification Bid Covering Letter

<Original signed copy on company letter head>

The Director
Capacity Building Commission
22nd Floor, Jawahar Vyapar Bhawan
Janpath, New Delhi 110001

Subject: Submission of the Pre-Qualification bid for “_<Bidder’s Name>”

Dear Sir,

We, the undersigned, offer to provide E-learning content development services to Capacity Building Commission with reference to your Request for Qualification cum Request for Proposal dated <insert date> and our Bid. We are hereby submitting our Pre-qualification bid.

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

We agree to abide by all the terms and conditions of this RFQ cum RFP document. We would hold the terms of our bid valid for the number of days as stipulated in the RFQ cum RFP document.

Yours sincerely,

(Authorized Signatory)

Signature:

Name:

Designation:

Address:

Seal:

Date:

13.5 Annexure 5 - Bidder's General Information

Bidders are requested to furnish the following information and enclose along with quotation.

S. No.	Item	Bidder's Response
1.	Company Name	
2.	Year Established	
3.	Incorporated in India (Yes or No)	
4.	Name & Designation of Authorized person	
5.	Contact Name	
6.	Address	
7.	Mobile	
8.	Telephone	
9.	Email Address	
10.	Brief Description of the Organization	

13.6 Annexure 6 - Citations – Work Experience (Submit separate sheets for experience quoted in prequalification and technical criteria)

S. No.	Item	Bidder's Response
1.	Name of Bidder entity	
2.	Assignment Name	
3.	Name of Capacity Building Commission	
4.	Country	
5.	Contact Details of Capacity Building Commission <i>(Contact Name, Address, TelephoneNumber)</i>	
6.	Approximate Value of the Contract	
7.	Duration of Assignment (months)	
8.	Award Date (month/year)	
9.	Completion Date (month/year)	
10.	Narrative description of the project	
11.	Details of Work that defines the scope relevant to the requirement	
12.	Documentary Evidence attached	

13.7 Annexure 7 - No Deviation Certificate

<Original signed copy on company letter head>

To,

The Director
Capacity Building Commission
22nd Floor, Jawahar Vyapar Bhawan
Janpath, New Delhi 110001

Dear Sir,

This is to certify that our offer is exactly in line with your tender enquiry/RFQ cum RFP (including amendments) no. dated _____. This is to certify that our offer contains no deviation on the Scope of Work, Legal or Commercial aspects in either direct or indirect form.

Sincerely,

(Authorized Signatory) Signature:

Name:

Designation:

Address:

Seal:

Date:

13.8 Annexure 8 - Technical Bid Covering Letter

<Original signed copy on company letter head>

To,
The Director
Capacity Building Commission
22nd Floor, Jawahar Vyapar Bhawan
Janpath, New Delhi 110001

Subject: Submission of the Technical bid for “_<Bidder’s Name>”

Dear Sir,

We, the undersigned, offer to provide the services for E-learning content development with reference to your Request for Bid dated <insert date>. We are hereby submitting our Technical Bid along with Commercial Bid (without prices) for your perusal.

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 agree to abide by all the terms and conditions of this RFQ cum RFP document. We would hold the terms of our bid valid for the number of days as stipulated in the RFQ cum RFP document. We understand you are not bound to accept any Bid you receive.

Yours sincerely,

(Authorised Signatory) Signature:

Name:

Designation:

Address:

Seal:

Date:

13.9 Annexure 9 - Formats for submission of Profiles

1. Name of Firm:
2. Name of Staff:
3. Contact Details:
4. Designation:
5. Areas of Expertise:
6. Date of Birth:
7. Years with the Firm:
8. Total Years of Experience:
9. Nationality:
10. Education:

<Passport Photo>

S. No.	Degree Obtained	Institution	Dates
1			

11. Key Qualifications:
12. Membership of Professional Associations:
13. Professional Certifications:
14. Other Training:
15. Countries of Work Experience:
16. Languages:

S. No.	Languages	Speak	Read	Write
1				

17. Employment Record

From/To	
Client	
Position held	
Key Duties Assigned:	

18. Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned
(Please provide the details of the projects undertaken till date)

Name of assignment or project:	
--------------------------------	--

Year:	
Location:	
Client	
Main project features:	
Positions held:	
Activities performed	

13.10 Annexure 10 – Covering Letter for Commercial Bid

<Original signed copy on company letter head>

To:

The Director
Capacity Building Commission
22nd Floor, Jawahar Vyapar Bhawan
Janpath, New Delhi 110001

Subject: Commercial Bid for <Name of the RFQ cum RFP>

Dear Sir/ Ma'am,

We, the undersigned, offer to provide E-learning content development services to Capacity Building Commission with reference to your RFQ cum RFP dated <insert date>. Our attached Commercial Bid has been prepared as per requirements specified in the RFQ cum RFP. The price(s) quoted are inclusive of all the taxes.

1. PRICE AND VALIDITY

- All the prices mentioned in our bid are in accordance with the terms as specified in the RFQ cum RFP documents. All the prices and other terms and conditions of this Bid are valid for a period of 180 calendar days from the last date of submission of the Bids.
- We hereby confirm that our prices are inclusive of all taxes. However, all the taxes are quoted separately also under relevant sections.
- We understand that the actual payment would be made as per the prevailing rates at the time of payment.
- Rates have been quoted in the relevant forms as specified in the RFQ cum RFP and is for entire scope of work.

2. QUALIFYING DATA

We confirm having submitted the information as specified in section "Instructions to Bidders". In case you require any other further information/documentary proof in this

regard before evaluation of our bid, we agree to furnish the same in time to your satisfaction.

3. 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 RFQ cum RFP document.

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

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

Thanking you, (Authorized Signatory)

Name:

Designation:

Address:

Date:

13.11 Annexure 11- Commercial Bid Format Proposal

The Commercial Bid shall be submitted in the format below:

Cost of developing per hour of e-learning content	Rate without Tax	Applicable Tax (B)	Final Rate (C = A+B)
Rates for 1st 100 hr of content development			
Level 1			
Level 2			
Level 3			
Discount for every 100 hrs slab per hour			
100-200			
200-300			
300-400			
400-500			
500-600			
600-700			
700-800			
800-900			
900-1000			
Total (with Tax) Rs.			

Notes:

- Prices quoted by the Bidder shall remain firm during the entire contract period and shall not be subject to variation on any account except change in applicable tax rates. A Bid submitted with an adjustable price quotation will be treated as non-responsive and rejected.

13.12 Annexure 12: Form of Bank Guarantee for Performance Security

(To be stamped in accordance with Stamp Act if any, of the country for issuing bank)

Ref.: Bank Guarantee:

Date:

Dear Sir,

In consideration of M/s ----- (hereinafter referred as the 'Capacity Building Commission', which expression shall, unless repugnant to the context of meaning thereof include its successors, administrators and assigns) having awarded to M/s [name of Contractor] a [type of company], established under laws of [country] and having its registered office at [address] (hereinafter referred to as the 'Contractor' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and permitted assigns), an Assignment for preparation of [name of assignment] Contract by issue of Capacity Building Commission's Contract Letter of Award No. [reference] dated [date] and the same having been unequivocally accepted by the Contractor, resulting in a Contract valued at Rs. [amount in figures and words] for (Scope of Work) (hereinafter called the 'Contract') and the Contractor having agreed to furnish a Bank Guarantee amounting to Rs. [amount in figures and words] to the Capacity Building Commission for performance of the said Agreement.

We [Name of Bank] incorporated under [law and country] having its Head Office at [address] (hereinafter referred to as the Bank), which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators executors and assigns) do hereby guarantee and undertake to pay the Capacity Building Commission immediately on demand an or, all monies payable by the Contractor to the extent of Rs. [amount in figure and words] as aforesaid at anytime up to [date] without any demur, reservation, contest, recourse or protest and/ or without any reference to the Contractor. Any such demand made by the Capacity Building Commission on the Bank shall be conclusive and binding notwithstanding any difference between the Capacity Building Commission and the Contractor or any dispute pending before any Court, Tribunal, Arbitrator or any other authority.

We agree that the Guarantee herein contained shall be irrevocable and shall continue to be enforceable until the Capacity Building Commission discharges this guarantee.

The Capacity Building Commission shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee, from time to time to vary the advance or to extend the time for performance of the Contract by the Contractor nor shall the responsibility of the bank be affected by any variations in the terms and conditions of the contract or other documents. The Capacity Building Commission shall have the fullest liberty without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the Capacity Building Commission and to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the Contract between the Capacity Building Commission and the Contractor

any other course or remedy or security available to the Capacity Building Commission. The Bank shall not be relieved of its obligations under these presents by any exercise by the Capacity Building Commission of its liberty with reference to the matters aforesaid or any of them or by reason of any other act or forbearance or other acts of omission or commission on the part of the Capacity Building Commission or any other indulgence shown by the Capacity Building Commission or by any other matter or thing whatsoever which under law would but for this provision have the effect of relieving the Bank.

The Bank also agrees that the Capacity Building Commission at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance without proceeding against the Contractor and notwithstanding any security or other guarantee that the Capacity Building Commission may have in relation to the Contractor's liabilities.

This Guarantee shall be irrevocable and shall remain in full force and effect until discharge by the Bank of all its obligations hereunder.

This Guarantee shall not be affected by any change in the constitution or winding up of the Contractor /the Bank or any absorption, merger or amalgamation of the Contractor /the bank with any other Person.

Notwithstanding anything contained herein above our liability under this guarantee is limited to Rs. [amount in figure and words] and it shall remain in force up to and including [date] and shall extend from time to time for such period(s) (not exceeding one year), as may be desired by M/s [name of Contractor] on whose behalf this guarantee has been given. Date this [date in words] day [month] of [year in 'yyyy' format] at [place].

WITNESS

1. [signature, name and address]

2. [signature, name and address]

[Official Address]

Designation

[With Bank Stamp]

Attorney as Per Power of Attorney

No. Dated

Strike out, whichever is not applicable.

The date will be fixed as indicated in S.C.C.

The stamp papers of appropriate value shall be purchased in the name of bank which issues the 'Bank Guarantee'. The bank guarantee shall be issued either by a bank (Nationalized/Scheduled) located in India or a foreign bank through a correspondent bank (scheduled) located in India or directly by a foreign bank which has been determined in advance to be acceptable to the Capacity Building Commission.

13.13 Annexure 13: Certificate under Rule 144 (xi) in the General Financial Rules (GFRs), 2017.

<Original signed copy on company letter head>

To:

The Director
Capacity Building Commission
22nd Floor, Jawahar Vyapar Bhawan
Janpath, New Delhi 110001

Dear Sir,

Ref: Your REP No. dated

Bidder Name:.....

We, M/s -----are a private/public limited company/LLP/Firm ~~<strike off whichever is not applicable>~~ incorporated under the provisions of the Companies Act, 1956/2013 Limited Liability Partnership Act 2008/ Indian Partnership Act 1932, having our registered office at -----

----- (referred to as the "Bidder") are desirous of participating in the Tender Process in response to your captioned RFP and in this connection we hereby declare, confirm and agree as under:

- a) We, the Bidder have read and understood the contents of the Office Memorandum & the Order (Public Procurement No.1) both bearing no. F.No.6/18/2019/PPD of 23rd July 2020 issued by Ministry of Finance, Government of India on insertion of Rule 144 (xi) in the General Financial Rules (GFRs) 2017 and the amendments & clarifications thereto, regarding restrictions on availing/procurement of goods and services, of any Bidder from a country which shares a land border with India and / or sub-contracting to contractors from such countries.
- b) In terms of the above and after having gone through the said amendments including in particular the words defined therein (which shall have the same meaning for the purpose of this Declaration cum Undertaking), we the Bidder hereby declare and confirm that:
 - * We, the Bidder are not from such a country which shares a land border with India, in terms of the said amendments to GFR, 2017.
 - Or
 - * We, the Bidder are from such a country and has been registered with the Competent Authority i.e the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade, as stated under Annexure I to the said Office Memorandum / Order and we submit the proof of registration herewith.

(*Delete whichever is not applicable)

- c) We, the Bidders agree and undertake that if the contract is awarded to us, we will not sub- contract or outsource the contract and / or any part thereof unless such subcontract/ outsourcing is permitted by Bank of India in writing, in which case we shall not sub-contract or outsource the work to a contractor from such countries,

unless such contractor is registered with the Competent Authority and proof of same is obtained.

2. We, the Bidders hereby confirm that we fulfill all the eligibility criteria as per RFP and are not ineligible from participating in the Tender in view of the above Office Memorandum and Order. We also agree and accept that if our declaration and confirmation is found to be false at any point of time including after awarding the contract, Bank of India shall be within its right to forthwith terminate the contract/ bid without notice to us and initiate such action including legal action against us. Bank shall also be within its right to forfeit the security deposits provided by us and also recover from us the loss and damages sustained by the Bank on account of the above.

3. This declaration cum undertaking is executed by us through our Authorized signatory/ies after having read and understood the Office Memorandum and Order (Public Procurement No.1) both bearing F.No.6/18/2019/PPD of 23rd July 2020 of Ministry of Finance, Department of Expenditure, Public Procurement Division, Government of India including the words defined in the said order (reproduced hereunder) which shall have the same meaning for the purpose of this Declaration cum Undertaking.

“ **Definitions**

"Bidder" for the purpose of this Order (including the term 'tenderer', 'Contractor'

'vendor' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency, branch or office controlled by such person, participating in a procurement process.

"Tender" for the purpose of this Order will include other forms of procurement, except where the context requires otherwise.

"Bidder from a country which shares a land border with India" for the purpose of this Order means:

- a) An entity incorporated, established or registered in such a country; or*
- b) A subsidiary of an entity incorporated, established or registered in such a country; or*
- c) An entity substantially controlled through entities incorporated, established or registered in such a country; or*
- d) An entity whose beneficial owner is situated in such a country; or*
- e) An Indian (or other) agent of such an entity; or*

- f) A natural person who is a citizen of such a country; or
- g) A consortium or joint venture where any member of the consortium or joint venture falls under any of the above

"Beneficial owner" for the purpose of above will be as under:

- (i) In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person(s), has a controlling ownership interest or who exercises control through other means.

Explanation—

- a. "Controlling ownership interest" means ownership of, or entitlement to, more than twenty-five per cent of shares or capital or profits of the company;
- b. "Control" shall include the right to appoint the majority of the directors or to control the management or policy decisions, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;

(ii) In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;

(iii) In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;

(iv) Where no natural person is identified under (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;

(v) In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

"Agent" for the purpose of this Order is a person employed to do any act for another, or to represent another in dealings with third persons."

Executed at..... On this the ...day of

(Authorized Signatory) Signature:

Name:

Designation:

Address:

Seal:

Date:

*Note: Where applicable, evidence of valid registration by the Competent Authority shall be attached.

14. General Conditions of Contract (GCC)

1. General

1.1. Tenets of Interpretation

Unless where the context requires otherwise, throughout the contract:

- 1) The heading of these conditions shall not affect the interpretation or construction thereof.
- 4) Writing or written includes matter either whole or in part, in digital communications, manuscript, typewritten, lithographed, cyclostyled, photographed, or printed under or over signature or seal or digitally acceptable authentication, as the case may be.
- 5) Words in the singular include the plural and vice-versa.
- 6) Words importing the masculine gender shall be taken to include other genders, and words importing persons shall include any company or association or body of individuals, whether incorporated or not.
- 7) Terms and expression not herein defined shall have the meanings assigned to them in the contract Act, 1872 (as amended) or the Sale of Goods Act, 1930 (as amended) or the General Clauses Act, 1897 (as amended) or of INCOTERMS, (current edition published by the International Chamber of Commerce, Paris) as the case may be.
- 8) Any reference to 'Services' shall be deemed to include the incidental Works/ Goods also.
- 9) Any generic reference to GCC shall also imply a reference to SCC as well.
- 10) In case of conflict, provisions of SCC shall prevail over those in GCC.
- 11) Any reference to 'Contract' shall be deemed to include all other documents (inter-alia GCC, SCC) as described in GCC-clause 2.5.
- 12) Any reference to any legal Act, Government Policies or orders shall be deemed to include all amendments to such instruments, from time to time, till date.
- 13) GCC-clause 5.13 (Book Examination clause) shall not apply unless invoked explicitly in the contract.

1.2. Definitions

In the contract, unless the context otherwise requires:

- 1) "Agent" is a person employed to do any act for another or represent another in dealings with a third person. In the context of public procurement, an Agent is a representative participating in the Tender Process or Execution of a Contract for and on behalf of its principals.
- 2) "Allied Firm" are all business entities that are within the 'controlling ownership interest' (ownership of or entitlement to more than twenty-five percent of the company's shares or capital or profits) or 'control' (including the right to appoint a majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholder agreements or voting agreements) of the principal firm acting alone or together or through one or more juridical persons. All successor firms or assigns of the principal firm shall be considered as allied firms.
- 3) "Beneficiary" (of Services/ Works) means the person for whom the Services/ Works are to be delivered as stipulated in the contract.
- 4) "bid" (including the term 'tender', 'offer', 'quotation' or 'proposal' in specific contexts) means an offer to supply goods, services or execution of works made as per the terms and conditions set out in a document inviting such offers.
- 5) "Bidder" (including the term 'Bidder', 'consultant' or 'service provider' in specific contexts) means any person or firm or company, including any member of a

consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a Tender Process.

6) "Bill of Quantities" (including the term Price Schedule or BOQ) means the priced and completed Bill of Quantities forming part of the bid.

7) "Commercial Bank" means a bank, defined as a scheduled bank under section 2(e) of the Reserve Bank of India Act, 1934.

8) "Contract" (including the terms 'Purchase Order' or 'Supply Order' or 'Withdrawal Order' or 'Work Order' or 'Consultancy Contract' or 'Contract for Services', 'rate contract' or 'framework contract' or 'Letter of Award – LoA' (letter or memorandum communicating to the contractor the acceptance of his bid) or 'Agreement' or a 'repeat order' accepted/ acted upon by the contractor in specific contexts), means a formal legal agreement in writing relating to the subject matter of procurement, entered into between the Procuring Entity and the contractor on mutually acceptable terms and conditions and which are in compliance with all the relevant provisions of the laws of the country;

9) "Contractor" (including the terms 'Supplier' or 'Service Provider' or 'Consultant' or 'Firm' or 'Vendor' or 'Manufacturer' or 'Successful Bidder' in specific contexts) means the person, firm, company, or a Joint Venture with whom the contract is entered into and shall be deemed to include the contractor's successors (approved by the Procuring Entity), agents, subcontractor, representatives, heirs, executors, and administrators as the case may be unless excluded by the terms of the contract;

10) "Contract Manager" means the Procurement Officer or any other officer or a third-party agency who has been assigned the authority to take all actions on behalf of the Procuring Entity during the execution of the contract by the contractor;

11) "Day", "Month", "Year" shall mean calendar day/ month or year (unless reference to financial year is clear from the context).

12) "Drawing" means the drawing or drawings stipulated in or annexed to the Specifications or the Tender Document/ Contract;

13) "Equipment" means the contractor's machinery and vehicles brought temporarily to the Site for the performance of Service.

14) "General Conditions" means the General Conditions of Contract, also referred to as GCC.

15) "Goods" (including the terms 'Stores', 'Material(s)' in specific contexts) includes all articles, material, commodity, livestock, medicines, furniture, fixtures, raw material, consumables, spare parts, instruments, machinery, equipment, industrial plant, vehicles, aircrafts, ships, railway rolling stock assemblies, sub-assemblies, accessories, a group of machines comprising an integrated production process or such other categories of goods or intangible, products like technology transfer, licenses, patents or other intellectual properties (but excludes books, publications, periodicals, etc., for a library), in specific contexts), procured or otherwise acquired by a Procuring Entity. Any reference to Goods shall be deemed to include specific small work or some services that are incidental or consequential to the supply of such goods;

16) "Government" means the Central Government or a State Government as the case may be and includes agencies and Public Sector Enterprises under it, in specific contexts;

17) "Inspection" means activities such as measuring, examining, testing,

analysing, gauging one or more characteristics of the goods or services or works, and comparing the same with the specified requirement to determine conformity.

18) “Intellectual Property Rights” (IPR) means the rights of the intellectual property owner concerning a tangible or intangible possession/ exploitation of such property by others. It includes rights to Patents, Copyrights, Trademarks, Industrial Designs, Geographical indications (GI).

19) “Joint Venture” means a Joint Venture or a Consortium (that is an association of several persons, or firms or companies - also referred to as JV/C)

20) “Materials” means all supplies, including consumables, used by the contractor for service performance or use by his staff.

21) “Outsourcing of Services” means deployment of outside agencies on a sustained long-term basis (for one year or more, excluding short-term stand-alone Services) for the performance of routine Services (e.g., Security Services, Horticultural Services, Janitor/Cooking/Catering/Management Services for Hostels and Guest Houses, Cleaning/Housekeeping Services, Errand/Messenger Services and so forth) that were traditionally being done in-house in the Government.

22) “Parties”: The parties to the contract are the “Contractor” and the “Procuring Entity”, as defined in this clause;

23) “Performance Security” (includes the terms ‘Security Deposit’ or ‘Performance Bond’ or ‘Performance Bank Guarantee’ or other specified financial instruments in specific contexts) means a monetary guarantee to be furnished by the successful Bidder or Contractor in the form prescribed for the due performance of the contract;

24) “Procurement” or “public procurement” (or ‘Purchase’, or ‘Government Procurement/ Purchase’ including an award of Public-Private Partnership projects, in specific contexts) means the acquisition of Goods/ Services/ works by way of purchase, lease, license or otherwise, either using public funds or any other source of funds (e.g. grant, loans, gifts, private investment etc.) of goods, works or services or any combination thereof, by a Procuring Entity, whether directly or through an agency with which a contract for procurement services is entered into, but does not include any acquisition without consideration. The term “procure”/ “procured” or “purchase”/ “purchased” shall be construed accordingly;

25) “Procuring Entity” means the entity in The Procuring Organization procuring Goods, Works, or Services;

26) “Procurement Officer” means the officer signing the Letter of Award (LoA) and/or the contract on behalf of the Procuring Entity;

27) “Service(s)” (including the term ‘Non-consultancy services’ or ‘Outsourcing of Services’ in specific contexts) are defined by exclusion as services that cannot be classified as Consultancy Services. Services (non-Consultancy) involve routine, repetitive physical, procedural, and non-intellectual outcomes for which quantum and performance standards can be tangibly identified and consistently applied and are bid and contracted on such basis but does not include the appointment of an individual made under any law, rules, regulations, or order issued in this behalf. Any reference to Services shall be deemed to include the supply of goods or performance of consultancy service or small works, which are incidental or consequential to such services;

28) “Special Conditions” means Special Conditions of Contract, which override the General Conditions, also referred to as SCC.

29) “Specification” or “Technical Specification” means the drawing/ document/ standard or any other details governing the construction, manufacture or supply of goods or performance of services that prescribes the requirement to which goods or

services have to conform as per the contract.

30) “Signed” means ink signed or digitally signed with a valid Digital Signature as per IT Act 2000 (as amended from time to time). It also includes stamped, except in the case of Letter of Award or amendment thereof.;

31) “Sub-Contractor” means a person or corporate body with an agreement with the contractor to carry out a specific part of the contract that may or may not include working on the Site.

32) “Temporary Works” means works designed, constructed, installed, and removed by the contractor needed during the Services' performance.

33) “Variation” means an instruction given by the Contract Manager, which varies the scope, quantum or performance standards of the Service performed.

34) “Tender”; “Tender Document”; “Tender Enquiry” or “Tender Process”: ‘Tender Process’ is the whole process from the publishing of the Tender Document till the resultant award of the contract. ‘Tender Document’ means the document (including all its sections, appendices, forms, formats, etc.) published by the Procuring Entity to invite bids in a Tender Process. The Tender Document and Tender Process may be generically referred to as “Tender’ or ‘Tender Enquiry’, which would be clear from context without ambiguity.

35) “Works” refer to any activity involving construction, fabrication, repair, overhaul, renovation, decoration, installation, erection, excavation, dredging, and so on, which make use of a combination of one or more of engineering design, architectural design, material and technology, labour, machinery, and equipment.

1.3. Document Conventions

All words and phrases defined in GCC-clause 1.2 are written as ‘Capitalised word’ and shall have the defined meaning. The rest of the words shall be as per grammar, inter-alia ‘Services’ shall indicate definition as given in the GCC while ‘services’ shall have usual dictionary meaning.

1.4. Abbreviations:

Abbreviation Definition

AITB Appendix to Instructions To Bidders

BOQ Bill of Quantities

BSD Bid Securing Declaration

DPIIT Department for Promotion of Industry and Internal Trade

EFT Electronic Funds Transfer

EPFO Employees Provident Fund Organization

ESI Employees State Insurance

GCC General Conditions of Contract

GeM Government e-Marketplace

GST Goods and Services Tax

GSTIN GST Identification Number

GTE Global Tender Enquiry (International Competitive Bidding)

HSN Harmonized System of Nomenclature

IEM Independent External Monitor

IPR Intellectual Property Rights

INR Indian Rupee

ITB Instructions To Bidders

JV Joint Venture

JV/C Joint Venture/ Consortium

LoA Letter of Award (Acceptance)

MII Make in India

MSE	Micro and Small Enterprises
MSME	Micro Small and Medium Enterprises
MSMED	MSME Development (Act)
NEFT	National Electronic Funds Transfer
NIT	Notice Inviting Tender
PAN	Permanent Account Number
PC	(Indian) Penal Code
PPD	Procurement Policy Division
PQB	Pre-Qualification Bidding
PVC	Price Variation Clause
RAP	Reverse Auction Process
RCM	Reverse Charge Mechanism
SC	Scheduled Caste
SCC	Special Conditions of Contract
ST	Scheduled Tribe
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
TIA	Tender Inviting Authority
TIS	Tender Information Summary

2. The Contract

2.1. Language of Contract

Unless otherwise stipulated in the SCC, the contract shall be written in the Official Language or English. All correspondence and other contract documents, which the parties exchange, shall also be written/ translated accordingly in that language. For purposes of interpretation of the contract, the English documents/ translation shall prevail.

2.2. The Entire Agreement

This Contract and its documents (referred to in GCC-clause 2.5 below) constitutes the entire agreement between the Procuring Entity and the contractor and supersedes all other communications, negotiations, and agreements (whether written or oral) of the Parties made before the date of this Contract. No agent or representative of either Party has the authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not outlined in this Contract.

2.3. Severability

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

2.4. Parties

The parties to the contract are the contractor and the Procuring Entity, as defined in GCC-clause 1.2 above and as nominated in the contract.

2.5. Contract Documents and their Precedence

The following conditions and documents in indicated order of precedence (higher to lower) shall be considered an integral part of the contract, irrespective of whether these are not appended/ referred to in it. Any generic reference to 'Contract' shall imply reference to all these documents as well:

- 1) Valid and authorized Amendments issued to the contract.
- 2) the Agreement consisting of the initial paragraphs, recitals and other clauses set forth immediately before the GCC and including the formats annexed to it and

signatures of Procuring Entity;

- a) Format 1.1: Description of Services;
 - a) Format 1.1.1: Personnel Deployment Plan;
 - b) Format 1.1.2: Equipment Deployment Plan;
 - c) Format 1.1.3: Material Deployment Plan;
 - d) Format 1.2: Price Schedule;
- 3) the Letter of Award (LoA)
 - 4) Final written submissions made by the contractor during negotiations, if any;
 - 5) the SCC
 - 6) the GCC
 - 7) the contractor's bid;
 - 8) any other document listed in the SCC as forming part of this Contract.
 - 9) Integrity Pact, if any

2.6. Modifications/ Amendments, Waivers and Forbearances

2.6.1 Modifications/ Amendments of Contract

1) If any of the contract provisions must be modified after the contract documents have been signed, the modifications shall be made in writing and signed by the Procuring Entity, and no modified provisions shall be applicable unless such modifications have been done. No variation in or modification of the contract terms shall be made except by a written amendment signed by the Procuring Entity. Requests for changes and modifications may be submitted in writing by the contractor to the Procuring Entity. At any time during the currency of the contract, the Procuring Entity may suo-moto or, on request from the contractor, by written order, amend the contract by making alterations and modifications within the general scope of the Contract.

2) If the contractor does not agree to the suo-moto modifications/ amendments made by the Procuring Entity, he shall convey his views within 14 days from the date of amendment/ modification. Otherwise, it shall be assumed that the contractor has consented to the amendment.

3) Any verbal or written arrangement abandoning, modifying, extending, reducing, or supplementing the contract or any of the terms thereof shall be deemed conditional and shall not be binding on the Procuring Entity unless and until the same is incorporated in a formal instrument and signed by the Procuring Entity, and till then the Procuring Entity shall have the right to repudiate such arrangements.

2.6.2 Waivers and Forbearance

The following shall apply concerning any waivers, forbearance, or similar action taken under this Contract:

1) Any waiver of a Procuring Entity's rights, powers, or remedies under this Contract must be in writing, dated, and signed by an authorized representative of the Procuring Entity granting such waiver and must specify the terms under which the waiver is being granted.

2) No relaxation, forbearance, delay, or indulgence by Procuring Entity in enforcing any of the terms and conditions of this Contract or granting of an extension of time by Procuring Entity to the contractor shall, in any way whatsoever, prejudice, affect, or restrict the rights of Procuring Entity under this Contract, neither shall any waiver by Procuring Entity of any breach of Contract operate as a waiver of any subsequent or continuing breach of Contract.

2.7. Separate Contracts in Connection with Services

The Procuring Entity shall have the right to let other contracts related to or linked

with the Services. The contractor shall afford other contractors' reasonable opportunity to store their materials, execute their services/ works, and properly connect and coordinate their services. The contractor shall inspect services/ works of other contractors(s) and promptly report to the Contract Manager any defects that may hinder a proper execution of his Services to proper performance standards. The contractor's failure to inspect and report such defects shall constitute an acceptance of the other contractor's work as fit and proper for the performance of Contractor's services, except as to defects that may develop in the other contractor's work after such a provision Services.

3. Governing Laws and Jurisdiction

3.1. Governing Laws and Jurisdiction

- 1) This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Laws of India for the time being in force.
- 2) Irrespective of the place of delivery, or the place of performance or the place of payments under the contract, the contract shall be deemed to have been made at the place from which the Letter of Award (LoA, or the contract Agreement, in the absence of LoA) has been issued. The courts of such a place shall alone have jurisdiction to decide any dispute arising out or in respect of the contract.

3.2. Changes in Laws and Regulations

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

4. Communications

4.1. Communications

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

4.2. Persons signing the Communications

For all purposes of the contract, including arbitration, thereunder all communications to the other party shall be signed by:

1) The person who has signed the contract on behalf of the contractor shall sign all correspondences. A person signing communication in respect of the contract or purported to be on behalf of the contractor, without disclosing his authority to do so, shall be deemed to warrant that he has authority to bind the contractor. If it is discovered at any time that the person, so signing has no authority to do so, the Procuring Entity reserves its right, without prejudice to any other right or remedy, to terminate the contract for default in terms of the contract and avail any or all the remedies thereunder and hold such person personally and/ or the contractor liable to the Procuring Entity for all costs and damages arising from such remedies.

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

4.3. Address of the parties for sending communications by the other party.

For all purposes of the contract, including arbitration, thereunder the address of parties to which the other party shall address all communications and notices shall be:

1) The address of the contractor as mentioned in the contract, unless the contractor has notified change by a separate communication containing no other topic to the Procuring Entity. The contractor shall be solely responsible for the consequence of an omission to notify a change of address in the manner aforesaid, and

2) The address of the Procuring Entity shall be the address mentioned in the contract. The contractor shall also send additional copies to officers of the Procuring Entity presently dealing with the contract.

3) In case of the communications from the contractor, copies of communications shall be marked to the Contract Manager and the Procuring Entity's officer signing the contract, and as relevant also to interim/ ultimate Beneficiaries of Services and the Paying Authorities mentioned in the contract. Unless already specified before the contract's start, the Procuring Entity and the contractor shall notify each other if additional copies of communications are to be addressed to additional addresses.

5. Contractor's Obligations and restrictions on its Rights

5.1. Changes in Constitution/ financial stakes/ responsibilities of a Contract's Business

the contractor must proactively keep the Procuring Entity informed of any changes in its constitution/ financial stakes/ responsibilities during the execution of the contract.

1) Where the contractor is a partnership firm, the following restrictions shall apply to changes in the constitution during the execution of the contract:

a) a new partner shall not be introduced in the firm except with the previous consent in writing of the Procuring Entity, which shall be granted only upon execution of a written undertaking by the new partner to perform the contract and accept all liabilities incurred by the firm under the contract before the date of such undertaking.

b) On the death or retirement of any partner of the contractor firm before the complete performance of the contract, the Procuring Entity may, at his option, terminate the contract for default as per the contract and avail any or all remedies thereunder.

c) If the contract is not terminated as provided in Sub-clause (b) above notwithstanding the retirement of a partner from the firm, that partner shall continue

to be liable under the contract for acts of the firm until a copy of the public notice given by him under Section 32 of the Partnership Act, has been sent by him to the Procuring Entity in writing or electronically.

5.2. Obligation to Maintain Eligibility and Qualifications

The contract has been awarded to the contractor based on specific eligibility and qualification criteria. The contractor is contractually bound to maintain such eligibility and qualifications during the execution of the contract. Any change which would vitiate the basis on which the contract was awarded to the contractor should be proactively brought to the notice of the Procuring Entity within 7 days of it coming to the Contractor's knowledge. These changes include but are not restricted to:

- 1) Change regarding declarations made by it in its bid in Form 1.2: Eligibility Declaration
- 2) Change in its qualification criteria submitted in its bid in Form 4: Qualification Criteria - Compliance and its sub-forms.

5.3. Restriction on Potential Conflict of Interests

- 1) Neither the contractor nor its Subcontractors nor the Personnel shall engage, either directly or indirectly, in any of the following activities:
 - a) during the term of this Contract, any business or professional activities in India that would conflict with the activities assigned to them under this Contract.
 - b) after the termination of this Contract, such other activities as may be stipulated in the contract.
- 2) During the term of this Contract and after its termination, the contractor, and its affiliates, as well as any Subcontractor and any of its affiliates, shall be disqualified from providing goods, works, or Services (other than the subject Service of this Contract and any continuation thereof) for any project resulting from or closely related to the subject Services of this Contract.

5.4. Consequences of breach by Constituents of a Contractor

Should the contractor or any of its partners or its Subcontractors or the Personnel commit a default or breach of GCC-clause 5.1 to 5.7, the Contractor shall remedy such breaches within 21 days, keeping the Procuring Entity informed. However, at its discretion, the Procuring Entity shall be entitled, and it shall be lawful on his part, to treat it as a breach of contract and avail any or all remedies thereunder. The decision of the Procuring Entity as to any matter or thing concerning or arising out of GCC-clause 5.1 to 5.7 or on any question whether the contractor or any partner of the contractor firm has committed a default or breach of any of the conditions shall be final and binding on the contractor.

5.4.1 In the case of Joint Venture/ Consortium

In the event of default or breach of GCC-clause 5.1 to 5.7 by any member, in the execution of his part of Contract, the Procuring Entity shall be so notified within 30 days by the Lead Member, or in the case of the Lead Member being the defaulter, by the member nominated as Lead Member of the remaining Joint Venture. Within 60 days of the said notice, the Lead Member shall assign the work of the defaulting member to any other equally competent party acceptable to the Procuring Entity to ensure the execution of that part of the contract. Failure to comply with the above provisions or if the Lead Member himself defaults shall be lawful for the Procuring Entity to terminate the contract for default and avail any or all remedies thereunder.

5.5. Assignment and Sub-contracting

- 1) the contractor shall not, save with the previous consent in writing of the Procuring Entity, sublet, transfer, or assign the contract or any part thereof or interest therein or benefit or advantage thereof in any manner whatsoever.

2) The contractor shall notify the Procuring Entity in writing all subcontracts awarded under the contract if not already stipulated in the contract. In its original bid or later, such notification shall not relieve the contractor from any of its liability or obligation under the terms and conditions of the contract. Subcontract shall be only for bought out services and incidental goods/ works. Subcontracts must comply with and should not circumvent Contractor's compliance with its obligations under GCC-clause 5.1 to 5.7, based on which Contract is awarded to him.

3) If the contractor sublets or assigns this Contract or any part thereof without such permission, the Procuring Entity shall be entitled, and it shall be lawful on his part, to treat it as a breach of contract and avail any or all remedies thereunder.

5.6. Obligation to Indemnify Procuring Entity

5.6.1 For breach of IPR Rights

1) the contractor shall indemnify and hold harmless, free of costs, the Procuring Entity and its employees and officers from and against all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which may arise in respect of the Services provided by the contractor under this Contract, as a result of any infringement or alleged infringement of any patent, utility model, registered design, copyright, or other Intellectual Proprietary Rights (IPR) or trademarks, registered or otherwise existing on the date of the contract arising out of or in connection with:

a) any design, data, drawing, specification, or other documents or Services provided or designed by the contractor for or on behalf of the Procuring Entity.

a) The sale by the Procuring Entity in any country of the services/ products produced by the Services delivered by the contractor, and

b) The delivery of the Services by the contractor or the use of the Services at the Procuring Entity's Site

2) Such indemnity shall not cover any use of the Services or any part thereof other than for the purpose indicated by or to be reasonably inferred from the contract, neither any infringement resulting from the use of the Services or any part thereof, or any service/ products produced thereby in association or combination with any other service, equipment, plant, or materials not delivered by the contractor.

3) If any proceedings are brought, or any claim is made against the Procuring Entity arising out of the matters referred above, the Procuring Entity shall promptly give the contractor a notice thereof. At its own expense and in the Procuring Entity's name, the contractor may conduct such proceedings and negotiations to settle any such proceedings or claim, keeping the Procuring Entity informed.

4) If the contractor fails to notify the Procuring Entity within twenty-eight (28) days after receiving such notice that it intends to conduct any such proceedings or claim, then the Procuring Entity shall be free to conduct the same on its behalf at the risk and cost to the contractor.

5) At the contractor's request, the Procuring Entity shall afford all available assistance to the contractor in conducting such proceedings or claim and shall be reimbursed by the contractor for all reasonable expenses incurred in so doing.

5.6.2 For Losses and Damages Caused by Contractor

1) the contractor shall indemnify and keep harmless the Procuring Entity, from and against, all actions, suit proceedings, losses, costs, damages, charges, claims, and demands of every nature and description brought or recovered against the Procuring Entity because of any act or omission or default or negligence or trespass of the contractor, his agents, or employees despite all reasonable and proper

precautions may have been taken, during the execution of the Services. The contractor shall make good at his own expense all resulting losses and/ or damages to:

- a) the Services themselves or
 - b) any other property of the Procuring Entity or
 - c) the lives, persons, or property of others
- 2) In case the Procuring Entity is called upon to make good such costs, loss, or damages, or to pay any compensation, including that payable under the provisions of the Workmen's Compensation Act or any statutory amendments thereof; the amount of any costs or charges including costs and charges in connection with legal proceedings, which the Procuring Entity may incur about it, shall be charged to the contractor. All sums payable by way of compensation under any of these conditions shall be considered as reasonable compensation to be applied to the actual loss or damage sustained and whether or not any damage shall have been sustained.
- 3) The Procuring Entity shall have the power and right to pay or to defend or compromise any claim of threatened legal proceedings, or in anticipation of legal proceedings being instituted consequent on the action or default of the contractor, to take such steps as may be considered necessary or desirable to ward off or mitigate the effect of such proceedings, charging to Contractor, as aforesaid, any sum or sums of money which may be paid and any expenses whether for reinstatement or otherwise which may be incurred and the propriety of any such payment, defence or compromise, and the incurring of any such expenses shall not be called in question by the contractor.

5.7. Confidentiality, Secrecy and IPR Rights

5.7.1 IPR Rights

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

5.7.2 Confidentiality

All documents, drawings, samples, data, associated correspondence or other information furnished by or on behalf of the Procuring Entity to the contractor, in connection with the contract, whether such information has been furnished before, during or following completion or termination of the contract, are confidential and shall remain the property of the Procuring Entity and shall not, without the prior written consent of Procuring Entity neither be divulged by the contractor to any third party, nor be used by him for any purpose other than the design, procurement, or other services and work required for the performance of this Contract. If advised by the Procuring Entity, all copies of all such information in original shall be returned on completion of the contractor's performance and obligations under this contract.

5.7.3 Secrecy

If the contract declares the subject matter of this Contract as coming under the Official Secrets Act, 1923 or if the contract is marked as "Secret", the contractor shall take all reasonable steps necessary to ensure that all persons employed in any connection with the contract, have acknowledged their responsibilities and penalties

for violations under the Official Secrets Act and any regulations framed thereunder.

5.7.4 Obligations of the contractor

- 1) Without the Procuring Entity's prior written consent, the contractor shall not use the information mentioned above except for the sole purpose of performing this contract.
- 2) The contractor shall treat and mark all information as confidential (or Secret – as the case may be) and shall not, without the written consent of the Procuring Entity, divulge to any person other than the person(s) employed by the contractor in the performance of the contract. Further, any such disclosure to any such employed person shall be made in confidence and only so far as necessary for such performance for this contract.
- 3) Notwithstanding the above, the contractor may furnish to its holding company or its Subcontractor(s) such documents, data, and other information it receives from the Procuring Entity to the extent required for performing the contract. In this event, the contractor shall obtain from such holding company/ Subcontractor(s) an undertaking of confidentiality (or secrecy – as the case may be) similar to that imposed on the contractor under the above clauses.
- 4) The obligation of the contractor under sub-clauses above, however, shall not apply to information that:
 - a) the contractor needs to share with the institution(s) participating in the financing of the contract;
 - a) now or hereafter is or enters the public domain through no fault of Contractor;
 - b) can be proven to have been possessed by the contractor at the time of disclosure and which was not previously obtained, directly or indirectly, from the Procuring Entity; or
 - c) otherwise lawfully becomes available to the contractor from a third party that has no obligation of confidentiality.
- 5) The above provisions shall not in any way modify any undertaking of confidentiality (or Secrecy – as the case may be) given by the contractor before the date of the contract in respect of the contract or the Tender Document or any part thereof.
- 6) The provisions of this clause shall survive completion or termination for whatever reason of the contract.

5.7.5 Protection and Security of Personal Data

- 1) Where the contractor is processing Personal Data, as a Data Processor or otherwise for the Procuring Entity, the contractor shall:
 - a) Process the Personal Data only as per instructions from Procuring Entity (which may be specific instructions or instructions of a general nature) as set out in this Contract or as otherwise notified by Procuring Entity;
 - b) Comply with all applicable laws;
 - c) Process the Personal Data only to the extent, and in such manner as is necessary for the discharge of the contractor's obligations under this Contract or as is required by Law or any Regulatory Body;
 - d) Implement appropriate technical and organisational measures to protect Personal Data against unauthorized or unlawful Processing and accidental loss, destruction, damage, alteration, or disclosure. These measures shall be appropriate to the harm which might result from any unauthorized or unlawful Processing, accidental loss, destruction, or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;

- e) Take reasonable steps to ensure the reliability of its staff and agents who may have access to the Personal Data;
 - f) Obtain prior written consent from the Authority to transfer the Personal Data to any sub-contractor for the provision of the Services;
 - g) Not cause or permit the Personal Data to be transferred, stored, accessed, viewed, or processed outside of India without the prior written consent of the Procuring Entity.
 - h) Ensure that all staff and agents required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause.
 - i) Ensure that none of the staff and agents publishes or disclose any personal data to any third parties unless directed in writing to do so by the Procuring Entity.
 - j) Not disclose Personal Data to any third parties in any circumstances other than with the written consent of the Procuring Entity or compliance with a legal obligation imposed upon the Procuring Entity;
- 2) Notify the Procuring Entity (within five Working Days) if it receives;
- a) a request from an employee of Procuring Entity to have access to his or other employees' Personal Data; or
 - b) a complaint or request relating to the Procuring Entity' obligations under the law;
- 3) The provision of this clause shall apply during the contract Period and indefinitely after its expiry.

5.8. Performance Bond/ Security

- 1) Within fourteen days (or any other period mentioned in Tender Document or Contract) after the issue of Letter of Award (LoA or the contract, if LoA is skipped) by the Procuring Entity, the contractor shall furnish to the Procuring Entity, performance security, valid up to sixty days (or any other period mentioned in Tender Document or Contract) after the date of completion of all contractual obligations by the contractor, including the Defect Liability obligations.
- 2) The amount of Performance security shall be as stipulated in Tender Document or Contract (or if not specified @ 3% of the contract Price) denominated in Indian Rupees or the currency of the contract and shall be in one of the following forms:
- a) Unless otherwise stipulated in Tender Document or Contract, Account Payee Demand Draft or Fixed Deposit Receipt or Banker's Cheque is drawn on any commercial bank in India, favouring the authority mentioned in therein (or FA&CAO of the Procuring Organisation, if not mentioned).
 - b) Bank Guarantee issued by a commercial bank in India, in the prescribed form provided in Format 1.3.
- 3) If the contractor, having been called upon by the Procuring Entity to furnish Performance Security, fails to do so within the specified period, it shall be lawful for the Procuring Entity at its discretion to annul the award and enforce Bid Securing Declaration (in lieu of forfeiture of the Bid Security), besides taking any other administrative punitive action like 'Removal from List of Registered Suppliers' etc.
- 4) If the contractor during the currency of the Contract fails to maintain the requisite Performance Security, it shall be lawful for the Procuring Entity at its discretion at its discretion
- (a) to terminate the Contract for Default besides availing any or all contractual remedies provided for breaches/ default, or

- (b) without terminating the Contract:
 - i) recover from the contractor the amount of such security deposit by deducting the amount from the pending bills of the contractor under the contract or any other contract with the Procuring Entity or the Government or any person contracting through the Procuring Organisation or otherwise howsoever as per GCC-clause 11.4, or
 - ii) treat it as a breach of contract and avail any or all availing any or all contractual remedies provided for breaches/ default.
- 5) In the event of any amendment issued to the contract, the contractor shall furnish suitably amended value and validity of the Performance Security in terms of the amended contract within fourteen days of issue of the amendment.
- 6) The Procuring Entity shall be entitled, and it shall be lawful on his part,
 - (a) to deduct from the performance securities or to forfeit the said security in whole or in part in the event of:
 - i) any default, or failure or neglect on the part of the contractor in the fulfilment or performance in all respect of the contract under reference or any other contract with the Procuring Organisation or any part thereof
 - ii) for any loss or damage recoverable from the contractor which the Procuring Entity may suffer or be put to for reasons of or due to above defaults/ failures/ neglect
 - (b) and in either of the events aforesaid to call upon the contractor to maintain the said performance security at its original limit by making further deposits, provided further that the Procuring Entity shall be entitled, and it shall be lawful on his part, to recover any such claim from any sum then due or which at any time after that may become due to the contractor for similar reasons.
- 7) Subject to the sub-clause above, the Procuring Entity shall release the performance security without any interest to the contractor on completing all contractual obligations, including the Defect Liability obligations, if any. Alternatively, upon the contractor submitting a suitable separate Defect Liability Security for the duration of Defect Liability obligations, the original Performance Guarantee Security shall be released mutatis mutandis.
- 8) No claim shall lie against the Procuring Entity regarding interest on cash deposits or Government Securities or depreciation thereof.

5.9. Labour Codes and Related Obligations

5.9.1 Independent Contractor

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

5.9.2 Obligations of the contractor under Labour Codes and Rules

1) In cases where Services are to be performed by the contractor at the premises of the Procuring Entity or Beneficiary of Services, the contractor shall comply with the provisions of the Labour Codes including Code on Wages, 2019, The Industrial Relations Code 2020, Code on the Social Security 2020, and The Occupational Safety, Health and Working Conditions 2020, and Draft Rules made

thereunder, as modified from time-to-time, wherever applicable and shall also indemnify the Procuring Entity from and against any claims under the aforesaid Labour codes and the Rules.

2) The contractor shall obtain a valid licence under the aforesaid Labour codes and the Rules as modified from time to time before the commencement of the contract and continue to have a valid licence until the completion of the contract. Any failure to fulfil this requirement, the Procuring Entity shall treat it as a breach of contract for default as per the contract and avail any or all remedies thereunder.

3) In respect of all labour directly or indirectly employed in the contract for the performance of the contractor's part of the contract, the contractor shall comply with or cause to comply with the provisions of the aforesaid Labour codes and the Rules wherever applicable. The contractor shall be solely responsible for submitting all the necessary returns under these Codes and the Rules. Nevertheless, the contractor shall submit monthly returns to the Procuring Entity to confirm compliance with such Codes and rules. Failure to do so shall entitle Procuring Entity to take any measure to ensure compliance to such codes and rules by the contractor and his associates, including, but not limited to, withholding contractor's on-account bills.

4) The contractor shall pay the wages as per the Code on Wages to their workers not below the rate of minimum wages, as notified by the State Government or Central Government, whichever is higher, through the bank transfer. The contractor shall, notwithstanding the contract's provisions to the contrary, cause to be paid the wages to labour directly or indirectly engaged on the contract, including any engaged by his Sub-Contractors in connection with the said contract as if he had immediately employed the labour. The Procuring Entity shall, without any commitments or being obliged to do, may its discretion, monitor that such payments are being made. The contractor shall be required to submit, every month, documentary evidence in the form of a Bank Statement of having transferred the gross minimum wages to each worker. Failure to do so shall entail Procuring Entity taking up any measure to ensure the payment of wages including, but not limited to, withholding contractor's on-account bills.

5) In every case in which, by virtue of the provisions of the aforesaid Labour codes and the Rules, the Procuring Entity is obliged to pay any amount of wages to a workman employed by the contractor or his Sub-Contractor in execution of the contract or to incur any expenditure in providing welfare and health amenities required to be provided under the aforesaid Labour codes and the Rules or to incur any expenditure on account of the contingent liability of the Procuring Entity due to the contractor's failure to fulfil his statutory obligations under the aforesaid Labour codes and the Rules the Procuring Entity shall recover from the contractor, the amount of wages so paid or the amount of expenditure so incurred, and without prejudice to the rights of the Procuring Entity under the aforesaid Labour codes and the Rules, the Procuring Entity shall be at liberty to recover such amount or part thereof by deducting it from the security deposit and/ or from any sum due by the Procuring Entity to the contractor whether under the contract or otherwise. The Procuring Entity shall not be bound to contest any claim made against it under the aforesaid Labour codes and the Rules except on the contractor's written request, and upon giving the Procuring Entity complete security for all costs, for which the Procuring Entity might become liable in contesting such claim. The decision of the Procuring Entity regarding the amount recoverable from the contractor as stated above shall be final and binding on the contractor.

5.9.3 Occupational Safety, Health, Working Conditions, Social Security, and

Industrial Relations Requirements:

As per Labour Codes, which included Code on Wages, 2019, The Industrial Relations Code 2020, Code on the Social Security 2020, and The Occupational Safety, Health and Working Conditions 2020 and rules thereunder, the following provisions shall be ensured by the contractor.

- 1) Provisions for Workers:
 - a) At his own expense, the contractor shall make adequate arrangements for the housing, supply of drinking water, and provision of clean sanitation, including urinals, etc., for his staff and workers, directly or through the petty contractors or sub-contractors.
 - b) The contractor shall also provide a temporary creche (Bal-mandir) where 50 or more workers are employed at a time.
 - c) Suitable sites on Procuring Entity's land, if available, but without any obligation to do so, may be allotted to the contractor for the erection of labour camps, either free of charge or on such terms and conditions that the Procuring Entity may prescribe.
 - d) All camp sites shall be maintained in clean and sanitary conditions by the contractor at his own cost.
- 2) During the execution of services, unless otherwise stipulated in the contract, the contractor shall at his own cost provide the following materials as is necessary for:
 - a) the safety, hygiene, satisfaction, elegance, acceptance, proper handling of assets and shall ensure that no damage, injury, or loss is caused or likely to be caused to any person or assets or hindrance to other works/ services.
 - b) environmental requirements to conserve energy, water, wood, paper, and other resources, reduce waste, phase out the use of ozone-depleting substances, and minimise the release of greenhouse gases, volatile organic compounds, and other substances damaging health and the environment.
- 3) Medical Facilities: the contractor shall provide medical facilities at the site as prescribed by the Contract Manager on the advice of the Procuring Entity's Medical Authority commensurate with the strength of the contractor's resident staff and workers. Such facilities shall include a First-Aid facility manned with staff trained in first aid as per labour codes or the Contract Manager's directions.
- 4) Medical Certificate of Fitness for Labour
the contractor shall not employ a person below 18 years of age. For delivery of Services under the contract, unless a medical certificate of fitness in the prescribed form under labour codes (or as directed by the contract manager) is granted to each worker by a certifying surgeon certifying that he is fit to work as an adult, is obtained and kept in the custody of the contractor or a person nominated by him in this behalf and the person carries with his, while at work, a token giving a reference to such certificate.
 - a) Period of Validity of Medical Fitness Certificate: A certificate of fitness granted or renewed for the above-said purposes shall be valid only for one year at a time. The certifying surgeon shall revoke a certificate granted or renewed if, in his opinion, the holder of it is no longer fit for work in the capacity stated therein. Where a certifying surgeon refuses to grant or renew a certificate or revoke a certificate, he shall, if so required by the person concerned, state his reasons in writing for doing so.
 - b) Medical Re-Examination of Labour: Where any official appointed on

this behalf by the Ministry of Labour believes that any person employed in connection with the execution of any work under this Contract in the age group 18 to 65 years is without a certificate of fitness or is having a certificate of fitness but no longer fit to work in the capacity stated in the certificate, he may serve on the contractor, or the person nominated by him in this regard, a notice requiring that a certifying surgeon and such person shall examine such persons shall not if the concerned official so directs, be employed or permitted to do any work under this Contract unless he has been medically examined and certified that he has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be.

5.9.4 Mandatory Compliance of Government Welfare Schemes

the contractor must ensure and provide documentary evidence for the following and must submit documentary evidence to show the coverage of all his workers or labour under the following schemes at all times during the contract period on an annual basis:

- 1) All the contractor's workers or labour employed directly or indirectly must be enrolled under the Pradhan Mantri Jan Dhan Yojana (PMJDY), a scheme that aims to provide all the citizens of India a bank account, credit facility, insurance cover and debit card.
- 2) All the workers or labour employed directly or indirectly by the contractor between the ages 18-70 years must be enrolled under the Pradhan Mantri Suraksha Bima Yojana (PMSBY), an accident insurance scheme which shall be a one-year cover, renewable from year to year, offering accidental death and disability cover for death or disability on account of an accident. The contractor shall pay the premium per annum per member for all his workers during the contract period.
- 3) All the workers or labour employed directly or indirectly by the contractor between the ages 18-50 years must be enrolled under the Pradhan Mantri Jeevan Jyoti Bima Yojana, an insurance scheme which shall be a one-year cover, renewable from year to year, offering life insurance cover for death due to any reason. The contractor shall pay the premium per annum per member for all his workers during the contract period.

5.9.5 Contract Labour Records and Management System

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

5.9.6 The obligation of Contractor to ensure awareness of Labour Codes

- 1) the contractor has to mandatorily provide a comprehensive day-long training carried out by a certified Third-Party agency for the awareness of Labour codes and the Rules, grievance redressal mechanism and other provisions applicable to his and his Sub-contractor's staff, workers, labour employed by him directly or indirectly in delivery of service to the Procuring Entity. The contractor must submit relevant documentary proof to Procuring Entity of having conducted such training to all workers.
- 2) The contractor must provide a comprehensive booklet (Procuring Entity approves that) containing all the relevant updated labour codes, rules, and other

applicable provisions, to every worker at the outset of the contract in the local vernacular language.

3) Procuring Entity, without any commitments or being obliged to do, may in its discretion, provide following facilities for Contractor's Contract Labour working on this Contract:

- a) Helpline for complaints from labour regarding payment of wages, work site facilities, sexual harassment etc
- b) Provision for recording anonymous complaints from workers, citizens etc., regarding violation of Labour codes and the Rules by Contractor.

5.10. Insurances

1) the contractor (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at its (or the Subcontractors', as the case may be) own cost but on terms and conditions approved by the Procuring Entity, insurance against the risks, and for the coverage, as stipulated in the contract or any applicable law including Labour Codes; and at the Procuring Entity's request, shall provide evidence to the Procuring Entity showing that such insurance has been taken out and maintained and that the current premiums have been paid.

2) the contractor at his cost shall provide, in the joint names of the Procuring Entity and the contractor, insurance cover from the start date to the date of completion of the contract, in the amounts and deductibles as per the instructions of the contract manager and the contract for the following events which are due to the contractor's risks:

- a) loss of or damage to Equipment, materials for which advances have been paid;
- b) loss of or damage to property of the Procuring Entity in connection with the contract; and
- c) Personal injury or death.
- d) Penalties and demands by labour regulatory authorities

3) Insurance policies and certificates for insurance shall be delivered to the Contract Manager for approval before the Start Date. All such insurance shall provide compensation payable in Indian Rupees to rectify the loss or damage incurred.

4) Alterations to the terms of insurance shall not be made without the approval of the Contract Manager.

5) Both parties shall comply with any conditions of the insurance policies.

5.11. Permits, Approvals and Licenses

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

5.12. Accounting, Inspection and Auditing

the contractor shall keep accurate and systematic accounts and records regarding the provision of the Services under this Contract, as per accounting principles prescribed in India.

5.13. Book Examination Clause

If explicitly invoked in the contract, the Procuring Entity reserves the right for 'Book Examination' as follows:

1) the contractor shall, whenever called upon and required to produce or cause to be produced, for examination by any Government Officer duly authorised in that behalf, any cost or other book of account, voucher, receipt, letter, memorandum, paper or writing or any copy of or extract from any such document. The contractor shall also furnish information relating to the execution of this contract or relevant for verifying or ascertaining the cost of execution of this contract to such Government Officer in such manner as may be required. The decision of such Government Officer on the question of relevancy of any document, information of return being final and binding on the parties. The obligation imposed by this clause is without prejudice to the contractor's obligations under any other statute, rules or orders which shall be concurrently binding on the contractor.

2) The contractor shall, if the authorised Government Officer so requires (whether before or after the prices have been finally fixed), afford facilities to the Government Officer concerned to visit the contractor's premises to examine the processes of production and estimate or ascertain the cost of performance of Contract. The authorised Government Officer shall have power, mutadis mutandis, to examine all the relevant books of Contractor's subcontractor, or any subsidiary or allied firm or company, If any portion of the contract is entrusted or carried out by such entities.

3) If on such examination, it is established that the contracted price is more than the actual cost-plus reasonable margin of profit, the Procuring Entity shall have the right to reduce the price and determine the amount to a reasonable level.

4) The contractor or its agency is bound to allow examination of its books within 60 days from the date the notice is received by the contractor or its agencies calling for the production of documents under sub-clause (1) above. In the event of the contractor's or his agency's failure to do so, the contract price would be reduced and determined according to the best judgment of the Procuring Entity, which would be final and binding on the contractor and his agencies.

6. Procuring Entity's Obligations

6.1. Facilities to be Provided by the Procuring Entity

1) No Facilities (including Reference Documents, Medical facilities, Rooms, Furniture, Transport, Access to IT Services etc.) other than those stipulated explicitly in the contract shall be provided or loaned by the Procuring Entity to the contractor for performance of the contract. Whenever such assets are required to be issued to the contractor as per the contract, these would be issued only as per terms and conditions and against appropriate safeguards (including Insurances, Bank Guarantee, Indemnity Bonds, Retention Money etc.) specified therein. The contractor shall use such property for the execution of the contract and for no other purpose whatsoever.

2) Unless otherwise stipulated in the contract, The Procuring Entity may hire to the contractor non-key Equipment owned and sparable by Procuring Entity for use during execution of the Services on terms and conditions and on the chargeable basis as may be stipulated in the contract or a separate agreement for Hire of such equipment.

6.2. Provision of Utilities at Site by Procuring Entity

Unless otherwise stipulated in the contract, The Procuring Entity may supply without any obligation to do so, to the contractor part or whole of the quantity of the water and electricity required for the delivery of Services from the Procuring Entity's

existing water/ electricity supply system at or near the site of Services on specified terms and conditions and on chargeable basis (unless specified otherwise), provided that the contractor shall arrange, at his own expense, to effect the connections and lay additional pipe/ power lines and accessories on the site. Nevertheless, it shall be the responsibility of the contractor to install adequate alternative arrangements to tide over outages in utilities or failure in supply by the Procuring Entity, and that the contractor shall not be entitled to any compensation– nor shall this be a reason for the delay in delivery of Services.

6.3. Custody and Return of the Procuring Entity's Assets loaned to Contractor

1) The contractors shall sign accountable receipts for all tools, plants and materials or other assets/ properties made over to him by the Contract Manager. All such assets shall be deemed to be in good condition when received by the contractor unless he has within twenty-four hours of the receipt thereof notified the Procuring Entity to the contrary. Otherwise, he shall be deemed to have lost the right to do so at any subsequent stage.

2) These assets shall remain the property of the Procuring Entity, and the contractor shall take all reasonable care of all such assets. The contractor shall be responsible for all damage or loss from whatever cause caused while assets are possessed or controlled by the contractor, staff, workmen, or agents.

3) Where the contractor insures such assets against loss or fire at the request of the Procuring Entity, such insurance shall be deemed to be by way of additional precaution and shall not prejudice the contractor's liability as aforesaid.

4) The contractor shall return all such assets in good order and repair, fair wear and tear excepted, before the completion/ closure/ termination of the contract and shall be responsible for any failure to account for the same or any damage done to that as assessed by the Procuring Entity whose decision shall be final and binding.

7. Scope of Services, Performance Standards and Quality Assurance

7.1. Scope of Services

1) This contract is for the performance/ delivery of Services of the description, scope/ quantum, performance standards and quality outlined in the contract during the contract Period specified therein. Unless otherwise specified, the Services shall conform to performance and quality standards as stipulated in the contract or as per best standards in the market, where not so specified.

2) The contractor shall deliver Services and submit the reports, deliverables, outputs, and documents stipulated in Format 1.1: Description of Services to the Procuring Entity.

3) The Services shall include all such work-elements not mentioned explicitly in this Contract, but that can be reasonably inferred from this Contract as being required for attaining Completion of the Services as if such items were expressly mentioned in this Contract.

4) Incidental Works/ Goods: If so stipulated, the contractor shall be required to perform/ deliver specified incidental Works/ Goods as an integral part of the Services in the contract.

7.2. Performance Standards

1) the contractor shall perform the Services as per Format 1.1: Description of Services, and carry out its obligations with all due diligence, efficiency, and economy, observing sound management practices, and employ appropriate advanced technology and safe methods as per the performance standards and quality control parameters as stipulated in the contract. For matters where the

contract does not specify any Standard, the Services delivered shall conform to National/ International Standards or generally accepted professional techniques and practices.

2) The shortfall in Performance: In cases where the performance or/and quality of Services is/are found to be unsatisfactory, Procuring Entity or his representatives shall impose damages for the shortfall in performance as per GCC-clause 10.5 below. This levy of damages shall not absolve the contractor from rectification or reperformance of the defective Service without further payment.

7.3. Quality Control and Defect Liability

1) The Procuring Entity shall check the quality of the Services and shall inspect the contractor's performance according to the relevant section(s) of Format 1.1: Description of Services. The Procuring Entity shall promptly notify the contractor of any identified defects, requesting the correction of the notified defect within a reasonable time.

2) If the contractor has not corrected notified defect within the time stipulated in the Procuring Entity's notice, the Procuring Entity shall assess the cost of having the defect corrected. Without prejudice to any of its other remedies under this Contract or applicable law, procuring Entity shall be legally entitled to deduct such cost from the contract's payments, together with the damages for the shortfall in performance (as per clause above), a sum equivalent to the percentage stipulated in the contract.

7.4. Eligible Services - Country of Origin and Minimum Local Content

Unless otherwise stipulated in SCC or Contract, country of origin of 'Services' and related 'Goods' under the contract shall have their origin in India or other countries and must conform to the declaration made by the contractor in its bid regarding but not limited to i) restrictions on certain countries with land-borders with India; ii) minimum local content and location of value addition (Make in India Policy); iii) Contractor's status as MSE or Start-up. The term "origin" used in this clause means the place from where the Services (and incidental Goods, including subcontracted components) are arranged and delivered, or incidental goods are mined, grown, produced, or manufactured. For purposes of this Clause, the term 'Services' shall have the meaning as defined in GCC-clause 1.2.

7.5. Quantity Tolerance

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

7.6. Contract Period and Option Clause

7.6.1 Contract Period

Unless otherwise stipulated in the contract, the contract Period for which the Service shall be provided shall be one year from the effective date of the contract, unless completed earlier or terminated as per the contract.

7.6.2 Option Clause

If stipulated otherwise in the contract, the Procuring Entity shall have the right to exercise the following options, by written notification to the contractor no later than thirty (30) days before Contract end:

- 1) extend the contract Period only once (unless otherwise stipulated in the contract) by four months period (unless otherwise stipulated in the contract).
- 2) increase the ordered quantum of Services upto the percentage specified

therein (or 25% if not specified) at any time, till the completion date of the contract, by giving reasonable notice and providing a reasonable extension in delivery period for increased quantum, even though the quantum ordered initially has been delivered in full before the completion Period.

8. Measurement, Variations and Modifications

8.1. Quantities in Contract

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

8.2. The admeasurement of Inputs and Services

1) Measurements shall be recorded based on the contractor's day-to-day records and authenticated by the Contract Manager or his representative as updated per the agreed Works Programme.

2) The contractor shall be paid for the Inputs /Services at the rates in the contract and extra inputs/ Services at rates determined under GCC-clause 8.4 below on the measurements taken by the Contract Manager or his representative. The quantities for items the unit of which in the contract is 100 or 1000 shall be calculated to the nearest whole number, any fraction below half being dropped and a half and above being taken as one; for items, the unit of which in the contract is single (if not an integral quantity), the quantities shall be calculated to two places of decimals. Such measurements shall be taken of the Services in progress from time to time and at such intervals as in the opinion of the Contract Manager shall be proper regarding the progress of Service. The date and time on which 'on account' or 'final' measurements are to be made shall be communicated to the contractor who shall be present at the site and shall sign the results of the measurements (which shall also be signed by the Contract Manager or his representative) recorded in the official measurements book as an acknowledgement of his acceptance of the accuracy of the measurements.

3) If the contractor fails to attend, the service may be measured up in his absence, and such measurements shall, notwithstanding such absence, be binding upon the contractor whether or not he has signed the measurement books.

4) It shall be open to the contractor to take specific objection to any recorded measurements or Classification on any ground within seven days of the date of such measurements. Any re-measurement taken by the Contract Manager or his representative in the contractor's presence or absence after due notice has been given to him shall be final and binding on the contractor. No claim whatsoever shall after that be entertained regarding the accuracy and classification of the measurements. If the Contract Manager finds an objection raised by the contractor to be incorrect, the contractor shall be liable to pay the actual expenses incurred in re-measurements.

8.3. Variations and Claims

8.3.1 Powers of Variations

1) the Contract Manager, on behalf of the Procuring Entity, in consultation with the Contractor, order variations in writing to enlarge or extend, diminish, or reduce the Services or make any alterations in their design, inputs, site, quantities, sequence or timing, dimensions or the method of their execution or the combination and use of materials for the execution thereof or to order any additional service to be

performed or any Services not to be performed. The contractor shall not be entitled to any compensation for any increase/reduction in the quantities of work but shall be paid only for the actual amount of work done. Such variations shall not be more than plus/ minus 15% of the value of the Contract and must be broadly within the original scope/ character and purpose of the original contract.

2) Unless otherwise stipulated, the accepted variation in the quantity of each contract item would be upto 25% of the quantity initially contracted. The contractor shall be bound to carry out the service at the agreed rates and shall not be entitled to any claim or compensation whatsoever upto the limit of 25% variation in the quantity of the individual item of services.

3) If the Contract Managers decide to increase the variation beyond 125% of Contracted quantity after internal approvals, the rates and acceptability shall be mutually agreed upon.

4) As far as items in Format 1.3: Price Schedule is concerned, the limit of 25% would apply to the value of the contract as a whole and not on individual items.

8.3.2 Valuation of Variations

The variation referred to in sub-clause above shall in no degree affect the validity of the contract; but shall be performed by the contractor as provided therein and be subject to the same conditions, stipulations, and obligations as if they had been initially and expressly included and provided for in the contract and the amounts to be paid therefore shall be calculated as per the Price Schedule. Any extra items/quantities of Services falling outside the purview of the provisions of Price Schedule above shall be paid for at the rates determined under GCC-clause 8.4 of these Conditions.

8.4. Rates for Extra Items

1) Any extra item of Service carried out by the contractor on the instructions of the Contract Manager which is not included in the Price Schedule shall be executed at the rate agreed upon between the Contract Manager and the contractor before the execution of such items of service.

2) The contractors shall be bound to notify the Contract Manager at least seven days before the necessity arises to execute such extra items of Services for which the Price Schedule/ Contract does not include rate or rates.

3) The rates payable for such extra items shall be decided at the meeting between the Contract Manager and Contractor, in as short a period as possible after the need for the extra item has come to the notice. In case the contractor fails to attend the meeting after being notified to do so or in the event of no settlement being arrived at, the Procuring Entity shall be entitled to execute such extra items of Service by other means, and the contractor shall have no claim for loss or damage that may result from such procedure.

4) Provided that if the contractor commences such items of Service or incurs any expenditure in this regard before the rates as determined and agreed upon as mentioned above, then and in such a case, the contractor shall only be entitled to be paid in respect of the Services carried out or expenditure incurred by him before the date of determination of the rates as aforesaid according to the rates as shall be fixed by the Contract Manager. However, if the contractor is not satisfied with the decision of the Contract Manager in this respect, he may appeal to the Head of Procurement within 30 days of getting the decision of the Contract Manager, supported by analysis of the rates claimed. The Head of Procurement's decision after hearing both the parties in the matter would be final and binding on the contractor and the Procuring Entity.

9. Deployment of Resources

9.1. Site and Assets thereon

9.1.1 Site of Service Delivery

1) The site for Service delivery shall be the lands, spaces, and other places on, under, in or through which the Services are to be carried out and any other lands or places provided by the Procuring Entity for the contract.

2) No land or building or any other asset belonging to or in possession of the Procuring Entity shall be occupied by the contractor without the permission of the Procuring Entity. The contractor shall not use or allow to be used the site for any purposes other than executing or concerning the execution of the services.

3) Facilities for Inspection: the contractor shall afford the Contract Manager and his representative every facility for entering in and upon every portion of the site at all hours for inspection or otherwise and shall provide all facilities required for the purpose. The Contract Manager and his representative shall have free access to every part of the site and all places at which materials, tools, and plants are stored or prepared for the Services.

4) Existing Roads and Waterways: Existing roads or water courses shall not be blocked, cut through, altered, diverted, or obstructed in any way by the contractor, except with the permission of the Contract Manager. All compensations claimed for any unauthorized closure, cutting through, alteration, diversion or obstruction to such roads or water courses by the contractor or his agent or his staff shall be recoverable from the contractor by deduction from any sums which may become due to him in terms of Contract, or otherwise according to law.

5) Non-Obstruction of Access: During the progress of Services in any street or thoroughfare, the contractor shall make adequate provision for the passage of traffic, for securing safe access to all premises approached from such street or thoroughfare and for any drainage, water supply or means of lighting which may be interrupted by reasons of the execution of the Services and shall react and maintain at his cost barriers, lights and other safeguards as prescribed by the Contract Manager, for the regulation of the traffic, and provide security staff necessary to prevent accidents.

6) No Obstruction to Flow of Work and Personnel of Procuring Entity: Contractor shall arrange his work in consultation with the Contract Manager in such a manner to avoid obstruction to the normal flow of work and personnel of the Procuring Entity at the site, preferably utilising non-business hours for such obstructive or hazardous activities.

9.1.2 Temporary Works at Site

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

9.1.3 Security Arrangements

1) The contractor shall secure security arrangements at the site against

unauthorised access/ trespass, pilferage, theft, leakage or misuse of property or belongings of his or his staff or Procuring Entity and its Staff by his staff or third parties or trespassers.

2) Preservation of Peace

a) the contractor shall take requisite precautions and use their best endeavors to prevent any riotous or unlawful behavior by or amongst their workers and others, employed directly or through the petty contractors or sub-contractors for services, and for the preservation of peace and protection of the inhabitants and security of property in the neighbourhood of the site of services.

b) If the Procuring Entity stipulates maintenance of a special Police Force at or in the vicinity of the site during the tenure of service Contract, the expenses thereof shall be borne by the contractor and, if paid by the Procuring Entity, shall be recoverable from the contractor.

3) Prohibition of Smoking and Intoxicants: the contractor or his staff or any labour employed through sub-contractors or petty contractors shall be prohibited from Smoking in 'No Smoking Zone' and in Public Places and also prohibited from the use of any intoxicating substances including, but not limited to, intoxicating beverages during the service period or on-site or near the site or in any of the facilities, sites, buildings, encampments, or tenements owned, occupied by or within the control of the contractor or any of his employees. The contractor shall exercise influence and authority to the utmost extent to secure strict compliance with this condition.

9.1.4 Safety Issues

1) the contractor shall be responsible for the safety of all activities on the Site.

2) The contractor shall be responsible for the safety of all persons employed by him on Site, directly or through petty contractors or Sub-Contractors, and shall report accidents to any of them, however, and wherever occurring on Works, to the contract manager or his representative, and shall make every arrangement to render all possible assistance and to provide prompt and proper medical attention. The compensation for affected Workers or their relatives shall be paid by the contractor in such cases expeditiously as per the Workmen's Compensation Act and other labour codes.

3) Safety of Public and Third parties: the contractor shall be responsible for taking all precautions to ensure the safety of the public and third parties, whether on public or Procuring Entity's property and shall post look out, such persons as may, in the opinion of the Contract Manager, be required to comply with regulations appertaining to the service. No explosives shall be used for the Services rendered or on the site by the contractor.

9.1.5 Clearance of Site on Completion

On completion of the services, the contractor shall clear away and remove all tools /plants and surplus materials, rubbish and temporary works of every kind and leave the whole of the site clean to the satisfaction of the Contract Manager.

1) If the contractor provides temporary huts on the Procuring Entity land for labour engaged by him to execute services, the contractor shall arrange for handing over vacant possession of the said land after the service is completed.

2) No final payment in settlement of the accounts for the Services shall be paid, held to be due or shall be made to the contractor till, in addition to any other condition necessary for final payment, site clearance shall have been affected by him.

3) In the event of failure on the part of the contractor to comply with this

provision within 7 days after receiving notice for clearance of Procuring Entity's site and lands, the Contract Manager shall cause them to be removed through public sales of such materials and property or in such a way as deemed fit and convenient and cost as increased by supervision and other incidental charges shall be recovered from the contractor. If the contractor's labour refuses to vacate and has to be ejected following due process by the Procuring Entity, necessary expenses incurred by the Procuring Entity in connection shall be borne by the contractor. The Procuring Entity shall not be held liable for any loss or damage to the contractor's property as may be on the site and due to such removal.

9.2. Key and Non-key Personnel

9.2.1 Key Personnel

- 1) The titles, job descriptions, minimum qualifications, and estimated periods of the contractor's Key Personnel engagement in carrying out the Services are described in Format 1.1.1.
- 2) Substitution of key personnel shall only be allowed in compelling or unavoidable situations, and the substitute shall be of equivalent or higher credentials. Such substitution shall not exceed the limit specified in SCC (or 30%, if not specified) of total key personnel.
- 3) Substitution of the first 10% of key personnel shall be subject to reduction of remuneration by a percentage specified in SCC (or 5%, if not specified) of the remuneration which would have been paid to the original personnel from the date of the replacement till completion of the contract. Such reduction in remuneration shall progressively increase further for subsequent substitutions as specified in SCC. If not specified, the reduction in remuneration shall be 10% and 15% respectively for the subsequent two slabs of 10% substitutions of key personnel (i.e. till 30% substitution).

9.2.2 Non-key Personnel

- 1) the contractor must ensure deployment of non-key Personnel as per the Personnel Deployment Plan in Format 1.1.1 and approved Works Programme as updated. If the Contract Manager believes that the contractor is not employing sufficient staff and workers as is specified or otherwise for the proper execution of the Services, he shall issue a notice to the contractor for remedial measures. The contractor shall forthwith on receiving intimation to this effect deploy the additional number of staff and labour as specified by the Contract Manager immediately, and failure on the part of the contractor to comply with such instructions shall entitle the Procuring Entity to penalize the contractor for the shortfall in performance or terminate the contract as per the contract and avail all the remedies thereunder. Such action shall be in addition to deduction from Contractor's payment cost of shortfall personnel as per Format 1.1.1.
- 2) The contractor shall also deploy efficient and competent supervisory staff to give the necessary directions to his workers and to see that they provide their services desirably and adequately and shall employ only such supervisors, workers & labour in or about the execution of any of these Services as are careful and skilled in the various trades. Daily attendance records of such supervisors and labour shall be maintained.
- 3) Procuring Entity reserves its right to ask for additional manpower, and the contractor shall be contractually bound to provide such manpower at one week's advance notice – which shall be paid extra at rates quoted.
- 4) Police Verification of Labour employed by Contractor: the contractor must

submit Police Verification certificates in a format prescribed by the Police Department (or as directed by the Contract Manager) for all contractual staff hired for delivery of Services for Procuring Entity.

5) Restrictions on the Employment of Retired Staff or Officers or Managers of Procuring Entity Services within One Year of their Retirement: the contractor shall not, himself be a retired Government Manager of Gazetted rank, or engage any employee or associate who is a retired Government Manager of Gazetted rank, if such persons have not completed one year from the date of retirement, in connection with this Contract in any manner whatsoever without obtaining prior permission of the relevant authority. If the contractor is found to have contravened this provision, it shall constitute a breach of contract and Procuring Entity shall be entitled to terminate the contract and avail any or all the remedies thereunder.

6) The contractor shall, when he is not personally present on the site of the workplace, shall keep a responsible agent during working hours who shall, on receiving reasonable notice, present himself to the Contract Manager and orders given by the Contract Manager or his representative to the agent shall be deemed to have the same force as if they had been given to the contractor. Before absenting herself, the contractor shall furnish the name and address of his agent for this clause and failure on the contractor's part to comply with this provision at any time shall entitle the Procuring Entity to terminate the contract and avail any or all the remedies thereunder.

9.2.3 Removal of Personnel on Orders of Contract manager

1) If the Procuring Entity finds that any of the Personnel have (i) committed severe misconduct or have been charged with having committed a criminal act, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the contractor shall, at the Procuring Entity's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Procuring Entity, subject to sub-clause 2) below.

2) The contractor shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

9.3. Key and Non-key Equipment, Tools and Plants

1) The details of Key Equipment required to be deployed are described in Format 1.1.2.

2) Except as the Procuring Entity may otherwise agree, no changes shall be made in the deployment of Key Equipment. If it becomes necessary to replace any of the Key Equipment for any reason beyond the contractor's reasonable control, the contractor shall provide Equipment of equivalent or better performance as a replacement.

3) The contractor must ensure deployment of non-key Equipment as per the Equipment Deployment Plan in Format 1.1.2 and approved Works Programme as updated. In the event of the Contract Manager believing that the contractor is not employing on the Services sufficient Equipment/Tools/ Plant as is specified or otherwise for the proper execution of the Services within the prescribed procedure and time, the contractor shall forthwith on receiving intimation to this effect deploy the additional equipment/ tools/ plants as specified by the Contract Manager immediately and failure on the part of the contractor to comply with such instructions shall entitle the Procuring Entity to penalize the contractor under shortfall in performance or terminate the contract as a breach of contract. Such action shall be in addition to a deduction from Contractor's payment cost of shortfall Equipment as per Equipment Deployment Plan in Format 1.1.2.

- 4) the Contract Manager or his representative shall be entitled to order within the time stipulated in the order:
 - a) The removal of any equipment/ tools/ plants which in their opinion are not as per the performance standards.
 - b) The substitution of proper and suitable equipment/ tools/ plants

9.4. Materials Deployment

- 1) Deployment of adequate inventory and supply chain of materials specified and provided in the contract or necessary for the delivery of Services or Personnel and Equipment deployed shall be of specified specification and quality and if not specified as per the best of market and business practices. The materials may be subjected to tests employing such machines, instruments and appliances as the Procuring Officer may direct and wholly at the contractor's expense.
- 2) Except as the Procuring Entity may otherwise agree, no changes shall be made in such materials' deployment, inventory, or supply chain. If for any reason beyond the contractor's reasonable control, it becomes necessary to do so, the contractor shall provide a replacement by materials of equivalent or better quality.
- 3) The contractor must ensure the deployment of materials as per the Materials Deployment Plan in Format 1.1.3 and the approved Works Programme as updated. In the event of the Contract Manager believing that the contractor is not employing on the Services sufficient materials/ inventory as is specified or otherwise for the proper execution of the Services within the prescribed procedure and time, the contractor shall forthwith on receiving intimation to this effect deploy additional materials/ inventory as specified by the Contract Manager immediately and failure on the part of the contractor to comply with such instructions shall entitle the Procuring Entity to penalize the contractor under shortfall in performance or terminate the contract as a breach of contract. Such action shall be in addition to deduction from Contractor's payment cost of shortfall materials as per Materials Deployment Plan in Format 1.1.3.

9.5. Property in Equipment and Materials brought to Site.

The materials and plant brought by the contractor upon the site or on the land occupied by the contractor in connection with the Services and intended to be used for the execution shall not be removed from the site without the approval of the Procuring Entity. However, materials/ equipment which the Contract Manager rejects under GCC-clause 7.3 during the progress of the Services, or which after the grant of the certificate of completion, are declared as not needed or those that remain unused, can be removed from the site or the said land by the Contractor. This clause shall not in any way diminish the liability of the contractor nor shall the Procuring Entity be in any way answerable for any loss or damage which may happen to or in respect of any such materials or plant either by the same being lost, stolen, damaged, or destroyed by fire, tempest or otherwise.

10. Delivery of Services and delays

10.1. Works Programme

- 1) Before commencement of the Services, the contractor shall submit for approval of the Contract Manager a Works Programme showing the Methods; schedule of delivery of services, the deployment plans for Personnel; Equipment and Materials for the execution of the services. The programme of delivery of Services amended as necessary by discussions with the Contract Manager shall be treated as the agreed Works programme for this Contract. The Services shall be carried out and monitored as per the approved Program as updated.

2) Unless otherwise stipulated in the contract or agreed between the parties, the Works Programme shall be based on round-the-clock (24X7) operations without violating statutory regulations.

10.2. Compliance to Contract Manager's Instructions

1) the Contract Manager shall direct the order in which the several components of the Services shall be provided, and the contractor shall execute without delay all orders given by the Contract Manager from time to time. Still, the contractor shall not be relieved thereby from responsibility for the due performance of the Services in all respects.

2) Any instructions or approval given by the Contract Manager's representative to Contractor in connection with the Services shall bind the contractor as though the Contract Manager had given it provided as follows -

a) Failure of the Contract Manager's representative to disapprove any work/ Services or materials shall not prejudice the power of the Contract Manager after that to disapprove such Services or material and order the rectification thereof.

b) If the contractor is dissatisfied because of any decision of the Contract Manager's representative, he shall be entitled to refer the matter to the Head of Procurement through the Contract Manager, who shall there upon confirm or vary such decision.

3) Compliance with Contractor's Request for Details: the Contract Manager shall furnish with reasonable promptness, after receipt of the contractor's request, additional instructions regarding procedures, specifications or otherwise, necessary for the proper performance of the Services or any part thereof. All such procedures, specifications and instructions shall be consistent with the contract Documents and reasonably inferable from them.

10.3. Commencement of Services

1) Effective Date of Contract: Contractor shall commence the Services and shall proceed with due expedition and without delay, from the effective date of Contract (all dates of delivery shall be counted from such a date), which shall be the date mentioned as the effective date in the contract, or if not so mentioned:

a) 15 days from (unless specified otherwise in that order) the date of an order to this effect from the Contract Manager, or if no such order is issued,

b) 15 days from the date Contract has been signed by the Procuring Entity

10.4. Time for Delivery of services and Extensions Thereof

The time and uninterrupted delivery of Services shall be deemed to be the essence of the contract. Subject to any requirement in the contract as to the completion of any portions or portions of the Services before completion of the whole; the contractor shall fully and finally complete the whole of the services comprised in the contract as per the Delivery and Completion Schedule stipulated in Format 1.1: Description of Services. If at any time during the currency of the contract, the contractor encounters conditions hindering the timely performance of services, the contractor shall promptly inform the Procuring Entity in writing about the same and its likely duration. He must make a request to the Procuring Entity for an extension of the delivery schedule. On receiving the contractor's communication, the Procuring Entity shall examine the situation and, at its discretion, may agree to extend the completion schedule, with or without liquidated damages and with and without denial clause by issuing an amendment to the contract in terms of the following clauses.

10.4.1 Extension Due to Modification

The Contract Manager might grant a reasonable extension of the completion date if any modifications ordered materially increase the time for delivery of the services. The contractor shall be responsible for requesting such extension of the date as soon as the cause thereof shall arise and in any case not less than one month before the expiry of the date fixed for completion of the services.

10.4.2 Extension for Delay Not Due to Contractor

1) If in the opinion of the contractor, the progress of Services has any time been delayed due to following reasons, then within 15 days of such happening causing delay, he shall give notice thereof in writing to the Contract Manager, but shall nevertheless do due diligence to bring down or make good the delays and to proceed with the services:

- a) any act or neglect of other contractor employed by the Procuring Entity or in executing the work/service not forming part of the contract but on which Contractor's performance necessarily depends or
- b) proceeding taken or threatened by or dispute with external third parties arising otherwise than from the contractor's own default etc. or
- c) any act or neglect of Procuring Entity's employees or
- d) delay authorized by the Contract Manager pending arbitration or
- e) the contractor not having received in due time necessary instructions from the Procuring Entity for which he shall have especially applied in writing to the Contract Manager or his authorized representative.
- f) hand over possession of the site or the necessary facilities/ documents/ data or instructions by the Procuring Entity to the contractor or
- g) give the necessary notice to commence the services, or
- h) any other delay caused by the Procuring Entity due to any other cause whatsoever.

2) the contractor may also indicate the period for which the Services is likely to be delayed and ask for a necessary extension of time. On receipt of such request from the contractor, the Contract Manager shall consider the same and grant such extension of time as in his opinion is reasonable regarding the nature and period of delay and the type and quantum of work affected thereby. No other compensation shall be payable for works so carried forward to the extended period. The same rates, terms, and conditions as the original Contract shall apply during the extended period.

10.4.3 Extension of Time for Delay Due to Contractor

1) If the contractor fails to deliver the Services within the fixed/ extended period for reasons other than those stipulated in GCC-clause 10.4.1 and 10.4.2 above, the Procuring Entity may, if satisfied that the service delivery can still be completed within a reasonable time, extend the period further.

2) On such extension, the Procuring Entity shall be entitled without prejudice to any other right and remedy available on that behalf to recover from the contractor as agreed damages and not by way of penalty Liquidated Damages as per GCC-clause 10.5 below.

3) Provided further, that if the Procuring Entity is not satisfied that the service can be completed by the contractor or in the event of failure on the part of the contractor to complete the service within the extension of time allowed further as aforesaid, the Procuring Entity shall be entitled without prejudice to any other right or remedy available in that behalf, treat the delay as a breach of contract and avail any or all the remedies thereunder, whether or not actual damage is caused by such default.

4) Inordinate Delays: Delays due to the contractor of more than one-fourth (25%) of the total completion period shall be treated as inordinate delays. Such inordinate delays shall be noted as poor performance and be held against the contractor in future tenders. A show-cause notice shall be issued to the contractor before declaring it a poor performance. Such delays may be considered as a breach of the contract at the option of the Procuring Entity.

10.5. Damages and Deductions Thereof

10.5.1 Right of the Procuring Entity to recover Damages.

Procuring Entity shall be entitled to, and it shall be lawful for him to recover damages for the shortfall in performance and Liquidated damages as detailed in this clause from all payments due or any Performance Security or any retention money. This clause does not limit Procuring Entity from imposing more than one damages under the contract, and such damages shall be applied concurrently.

10.5.2 Damages for Shortfall in Performance

The Procuring Entity shall, without prejudice to other rights and remedies under the contract, recover as damages for the shortfall in performance, but not as a penalty, 0.5% percent (or any other percentage prescribed) of the delivered price (including elements of GST & freight) of the defective Services, If the contractor fails to perform the Services as per Performance Standards and Quality, without having to prove actual loss incurred.

10.5.3 Liquidated damages

1) Subject to GCC-clause 10.4, if the contractor fails to perform the Services within the time frame(s) incorporated in the contract, the Procuring Entity shall, without prejudice to other rights and remedies available to the Procuring Entity under the contract, deduct from the contract price, as liquidated damages for each week of delay or part thereof until actual delivery or performance, but not as a penalty, a sum equivalent to the 0.125% percent (or any other percentage if prescribed) of the related monthly bill of the Services. Besides liquidated damages during such a delay, the denial clause as per GCC-clause 10.5.4 shall also apply.

2) Any failure or delay by any sub-contractor, though their employment may have been sanctioned, shall not be admitted as a ground for any extension of time or for exempting the contractor from liability for any such loss or damage as aforesaid.

10.5.4 Denial Clause:

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

2) Notwithstanding any stipulation in the contract for an increase in price on any other ground, including the price variation clause, no such increase after the original delivery date shall be admissible on such Services delivered after the said date.

3) Nevertheless, the Procuring Entity shall be entitled to the benefit of any decrease in price on account of reduction in or remission of GST, or on account of any other Tax or duty or any other ground as stipulated in the price variation clause, which takes place after the expiry of the original delivery date.

10.5.5 Limit on total Damages

However, deduction on account of damages for delays and performance under this clause GCC 10.5, put together shall be subject to a maximum of 10% (or any other percentage if prescribed) of the entire value of Contract of Services. Penalties/ liabilities outside this clause shall be covered by clause GCC 13.1.5.

10.6. Suspension of Services

10.6.1 Suspension Ordered by Contract Manager

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

- 1) Provided for in the contract, or
- 2) Necessary for the proper execution of the Services or because of extraneous conditions or by some default on the part of the contractor and or
- 3) Necessary for the safety of the Services or any part thereof

10.6.2 Extension of Time and Compensation

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

10.6.3 Suspension Lasting More Than 3 Months

If the Contract Manager suspends the Services or any part thereof for more than three months at a time, the contractor may serve a written notice on the Contract Manager requesting permission to proceed with the suspended part(s) of service. If such permission is not granted within 15 days from the receipt thereof, the contractor by further written notice may, treat the suspended part(s) of the service as deleted from the Contract. If the whole of the services has been suspended, he may treat it as a breach of the contract by the Procuring Entity and avail any or all remedies provided in this regard in the contract.

10.7. Force Majeure

1) On the occurrence of any unforeseen event, beyond the control of either Party, directly interfering with the delivery of Services arising during the currency of the contract, such as war, hostilities, acts of the public enemy, civil commotion, sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes, lockouts, or acts of God, the affected Party shall, within a week from the commencement thereof, notify the same in writing to the other Party with reasonable evidence thereof. Unless otherwise directed by the Procuring Entity in writing, the contractor shall continue to perform its obligations under the contract as far as reasonably practicable and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event. If the force majeure condition(s) mentioned above be in force for 90 days or more at any time, either party shall have the option to terminate the contract on expiry of 90 days of commencement of such force majeure by giving 14 days' notice to the other party in writing. In case of such termination, no damages shall be claimed by either party against the other, save and except those which had occurred under any other clause of this Contract before such termination.

2) Notwithstanding the remedial provisions contained in GCC-clause 10.5 and 13, none of the Party shall seek any such remedies or damages for the delay and/ or failure of the other Party in fulfilling its obligations under the contract if it is the result of an event of Force Majeure.

11. Prices and Payments

11.1. Prices

11.1.1 Firm Prices

Unless otherwise stipulated in the contract, Prices shall be fixed and firm. If the Price Variation Clause is included, such up and down variations shall also be payable.

11.1.2 Price Variation Clause

1) In case the contract provides for a Price Variation Clause or variation on any other account, the price shall be subject to adjustment as per such clauses, only during the original Delivery Period, subject to the following:

2) Any increase due to such variations during the extended delivery period, beyond the original delivery period, shall not be paid by the Procuring Entity; however, it shall be entitled to any reduction during this period under the GCC-clause 10.5.4 (Denial Clause).

3) Taxes and duties, if any, chargeable and payable on the Services shall be charged on the nett price after variations.

4) While claiming payments where such variations are applicable, the contractor must submit its calculations for each invoice, even if the payment on account of these variations is nil. Any price reduction due to such variations must be passed on to the Procuring Entity.

5) No Other Claim due to Variations: With the payment of such variations, no additional individual claim shall be admissible on account of fluctuations in market rates, increase in taxes/any other levies/tolls etc.

6) If the Price Variation clause is applicable as per the contract, the price shall be subject to adjustment to take care of the changes in the cost of labour, material, and fuel/ power components as per the price variation formula specified therein. The amount payable on account of Price variation shall be settled every quarter.

7) Base Month and Quarter: Unless otherwise stipulated in the contract, the Base Month for 'Price Variation Clause' shall be taken as the month before the month of the last date of bid submission, if any, unless otherwise stated elsewhere. The Base Quarter for applicability of PVC shall end on the Base Month. Unless the contract has stipulated a different time lag for reckoning Price Variation, the month of reckoning the varied price shall be the month before the month in which delivery has been made. The Quarter of reckoning for applicability of PVC shall end on the Month of reckoning. The Price Variation shall be based on the relevant Indices in the Base Quarter and Quarter of reckoning.

8) Applicability: If Contract provides for some inputs to be supplied by Procuring Entity free or at a fixed rate, cost of such inputs shall be excluded from the value of the Goods supplied in the relevant quarter for payment/recovery Of price variation.

11.2. Taxes and Duties

1) the contractor shall be entirely responsible for all taxes, duties, fees, levies etc., incurred until delivery of the Services to the Procuring Entity. Further instruction, if any, shall be as provided in the SCC.

2) If applicable under relevant tax laws and rules, the Procuring Entity shall deduct from all payments and deposit required taxes to respective authorities on account of GST Reverse Charge Mechanism; Tax Deducted at Source (TDS), and Tax Collected at Source (TCS) relating to Income Tax, labour cess, royalty etc.

3) Payment of GST Tax under the contract:

(a) The payment of GST and GST Cess to the contractor shall be made only on the latter submitting a GST compliant Bill/ invoice indicating the appropriate HSN code and applicable GST rate thereon duly supported with

documentary evidence as per the provision of relevant GST Act and the Rules made there under. The delivery of Services shall be shown being made in the name, location/ state, and GSTIN of the beneficiary of the Services only, the location of the procurement office of the procuring entity has no bearing on the invoicing.

(b) While claiming reimbursement of duties, taxes etc. (like GST) from the Procuring Entity, as and if permitted under the contract, the contractor shall also certify that in case it gets any refund out of such taxes and duties from the concerned authorities at a later date, it (the contractor) shall refund to the Procuring Entity, the Procuring Entity's share out of such refund received by the contractor. The contractor shall also refund the appropriate amount to the Procuring Entity immediately after receiving the same from the concerned authorities.

(c) All necessary adjustment vouchers such as Credit Notes/ Debit Notes for any short/ excess delivery of Services or revision in prices or any other reason under the contract shall be submitted to the Procuring Entity in compliance with GST provisions.

(d) GST shall be paid as per the rate at which it is liable to be assessed or has been assessed provided the provision of Services is legally liable to such taxes and is payable as per the terms of the contract subject to the following conditions:

i) The Procuring Entity shall not pay a higher GST rate if leviable due to any misclassification of HSN number or incorrect GST rate incorporated in the contract due to contractor's fault. Wherever the contractor invoices the Goods at GST rate or HSN number, which is different from that incorporated in the contract, payment shall be made as per GST rate, which is lower of the GST rates incorporated in the contract or billed.

ii) However, the Procuring Entity shall not be responsible for the contractor's tax payment or duty under a misapprehension of the law.

iii) Bidder is informed that he shall be required to adjust his basic price to the extent required by a higher tax rate billed as per invoice to match the all-inclusive price mentioned in the contract.

iv) In case of profiteering by the contractor relating to GST tax, the contractor shall treat it as a violation of the Code of Integrity in the contract and avail any or all punitive actions thereunder, in addition to recovery and action by the GST authorities under the Act.

(e) The contractor should issue Receipt vouchers immediately on receipt of all types of payments along with tax invoices after adjusting advance payments, if any, as per Contractual terms and GST Provisions.

(f) Liquidated damages or any other recoveries should be shown as deductions on the invoice, and GST shall be applicable only on the nett balance payment due.

4) Statutory Variation Clause: Unless otherwise stated in the contract, statutory increase in applicable GST rate only during the original delivery period shall be to Procuring Entity's account. Any increase in the rates of GST beyond the original completion date during the extended delivery period shall be borne by the contractor. The benefit of any reduction in GST rate must be passed on to the Procuring Entity during the original and extended delivery period. However, GST rate amendments shall be considered for quoted HSN code only, against documentary evidence,

provided such an increase of GST rates takes place after the last date of bid submission.

11.3. Terms and Mode of Payment

- 1) Unless otherwise stipulated, the usual payment term is 100% on delivery and acceptance of Services at 'the Site' by the Procuring Entity and the contractor's production of all required documents.
- 2) The payments shall be made in the manner as per Procuring Entity's payment procedures. Unless otherwise stipulated in the contract, payments above INR 5,000 (or any other threshold specified) to Contractors shall be made through EFT only. The contractor shall give his consent in a mandate form for receipt of payment through NEFT. In case of non-payment through EFT, or where the EFT facility is not available, payment may be released through cheque.
- 3) In Domestic Contracts, payments shall only be made in Indian Rupees. In Global Tenders, payment to foreign bidders shall be made in the currency/ currencies authorized in the contract. However, agency commission and local value addition shall be paid only in Indian Rupees.
- 4) the contractor shall send its claim for payment in writing as per GST compliant Invoice and documents, when contractually due, along with relevant documents etc., as stipulated in Contract and a manner as also specified therein.
- 5) While claiming payment, the contractor is also to certify in the bill that the payment being claimed is strictly in terms of the contract and all the obligations on the part of the contractor for claiming that payment has been fulfilled as required under the contract.

11.4. Withholding and lien in respect of sums claimed:

- 1) Whenever any claim or claims for payment of a sum of money arises against the contractor, out of or under the contract, the Procuring Entity shall be entitled, and it shall be lawful on his part, to withhold and also have a lien to retain such sum or sums, in whole or in part pending finalisation or adjudication of any such claim from -
 - a) any security or retention money, if any, deposited by the contractor.
 - b) any sum(s) payable till now or hereafter to the contractor under the same Contract or any other contract with the Procuring Entity if the security is insufficient or if no security has been taken from the contractor.
- 2) Where the contractor is a partnership firm or a limited company, the Procuring Entity shall be entitled, and it shall be lawful on his part, to withhold and also have a lien to retain towards such claimed amount or amounts in whole or in part from any sum found payable to any partner/ limited company, as the case may be, whether in his capacity or otherwise.
- 3) It is an agreed term of the contract that the sum(s) of money so withheld or retained under the lien referred above shall be kept withheld or retained till the claim arising out of or under the contract is determined under clause GCC 12 and/ or 13. The contractor shall have no claim for interest or damages whatsoever on any account in respect of such withholding or retention under the lien referred to supra and duly notified as such to the contractor.
- 4) Lien in respect of Claims in other Contracts: Any sum of money due and payable to the contractor (including the security deposit returnable to him) under the contract may be withheld or retained by way of lien by the Procuring Entity or Government against any claim of the Procuring Entity or Government in respect of payment of a sum of money arising out of or under any other contract made by the contractor with the Procuring Entity or Government.

11.5. Payments to Contractor

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

11.5.1 "On-Account" Payments

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

11.5.2 On Account Payments Not Prejudicial to Final Settlement

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

11.5.3 Claims for Variations

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

11.5.4 Advance Payments

- 1) If the contract provides explicitly for Advance Payments to be made to the contractor, the following procedure shall apply:
 - a) On the request of the contractor, the Procuring Entity shall make the following advance payment (subject to a maximum of 10% (ten percent) of the initial contract price) to the contractor against submission by the contractor of an Unconditional Bank Guarantee from a Commercial bank acceptable to the Procuring Entity in amounts equal to 110% (one hundred ten percent) of the amount of the advance payment being requested. Advance payments shall be released in not less than two instalments, commensurate with the progress of work and mobilization of required equipment etc.:

- i) Mobilization advances up to 5% (five percent) of the initial contract price.
 - ii) Equipment Advance up to 90 % (ninety percent) of the cost of the new equipment brought to the site,
- 2) The Bank Guarantee shall remain effective until the advance payment has been repaid, but the amounts repaid by the contractor shall progressively reduce the guaranteed amount. Interest shall not be charged on the advance payment. However, if the contract is terminated due to the contractor's default, the Mobilization Advance and the Equipment Advance shall be deemed an interest-bearing advance at the prevailing rate (MIBID - Mumbai Interbank Bid Rate) on the date of such advance payment.
- 3) the contractor is to use the advance payment only to pay for Equipment, plant and Mobilization expenses explicitly required for the performance of Services. The contractor shall demonstrate that the advance payment has been used in this way by Utilization certificate enclosing copies of invoices or other documents to the Contract Manager. Further instalments shall be released after getting a satisfactory utilization certificate from the contractor for the earlier instalment. In case of Equipment advance, insurance and hypothecation to the Procuring Entity must be ensured by the Contractor.
- 4) The advance payment shall be recovered in a time-based manner not linked with the progress of work by deducting proportionate amounts from payments otherwise due to the contractor for the Services performed. Any delayed recoveries due to late submission of bills by the contractor shall attract interest at the prevailing rate (MIBID - Mumbai Interbank Bid Rate). No account shall be taken of the advance payment or repayment in assessing valuations of Services performed, variations, price adjustments, or liquidated damages.

11.5.5 Preconditions for Passing the Bills

- 1) the Contract Manager shall ensure and cross-check with all relevant records before passing the bills of the contractor. Upon verification of the records by Procuring Entity, payments can be released to the contractor.
- 2) The contractor shall ensure that Minimum gross wages, including ESI, EPF etc., is paid as per the actuals by the contractor to all workers, and portions to be deposited with the relevant authorities has also been deposited by him. If the contractor fails to pay the gross minimum wages, the same shall be informed to the Regional Labour Commissioner.
- 3) the Contract Manager shall ensure that the contractor submits all the relevant records related to statutory obligations and agreement conditions for claiming monthly bills.
- 4) Procuring Entity shall upload the details of the contractor online on the Employees' Provident Fund Organisation (EPFO) portal. Every month, Procuring Entity may, if required, cross-verify the contractor's monthly statements regarding EPF and other contributions from the EPFO's records online. The contractor must provide documentary evidence to show coverage of all his workers or labour under the schemes mentioned in GCC-clause 5.9.4 annually.

11.6. Completion Certificate and Final payment

11.6.1 Completion Certificate

Upon a written intimation from the contractor, the Contract Manager shall issue a certificate of completion duly indicating the date of completion after satisfying himself of the following. The Contract Manager may also issue such a certificate indicating the date of completion concerning any part of the service (before the completion of

the whole of service), which has been completed to the satisfaction of the Contract Manager:

- 1) that the whole of the Services to be done under the provisions of the contracts have been completed or when any such certificate is given in respect of part of a service, such part shall be considered completed.
- 2) that they have been inspected by him since their completion and found to be in good and substantial order,
- 3) that such completed services have satisfactorily passed any final test or tests that may be prescribed,
- 4) that all properties, works and things, removed, disturbed, or damaged in consequence of the Services have been adequately replaced and
- 5) that the contractor has returned in good condition, all assets loaned or hired from the Procuring Entity and has given a satisfactory account of payments made to or retained by the Procuring Entity for such loaned/ hired assets,
- 6) that the contractor has made good and satisfied in conformity with the contract all expenses and demands:
 - a) incurred by or made upon by the Procuring Entity.
 - b) for or in respect of damages or losses from or in consequence of the services.

11.6.2 Approval Only by Completion Certificate:

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

11.6.3 Cessation of Procuring Entity's Liability

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

11.6.4 Unfulfilled Obligations

Notwithstanding the issue of Completion Certificate for service, the contractor and the Procuring Entity shall remain liable for the fulfilment of any obligation incurred under the provision of the contract before the issue of the Completion Certificate for service, which remains unperformed at the time such certificate is issued. The contract shall be deemed to remain in force till the nature and extent of any such obligations are determined.

11.6.5 Final Payment

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

- 1) the total quantity of service executed by the contractor upto the completion date based on the Contract Manager or his representative's certified measurements.
- 2) priced at the rates in the Price Schedule in the contract and for extra works on rates determined under GCC-clause 8.4 of these Conditions.
- 3) necessary adjustment for any payments already made or retained
- 4) any deduction which may be made under the contract,

5) a complete account of all claims Contractor may have on the Procuring Entity, and the Contract Manager gave a certificate in writing that such claims are correct,

11.6.6 No Claim Certificate and Release of Contract Securities

The contractor shall submit a 'No-claim certificate' to the Procuring Entity in such form as shall be required by the Procuring Entity after the Services are finally admeasured and before the final payment/ performance securities are released. The Procuring Entity shall release the contractual securities without any interest if no outstanding obligation, asset, or payments are due from the contractor. The contractor shall not be entitled to make any claim whatsoever against the Procuring Entity under or arising out of this Contract, nor shall the Procuring Entity entertain or consider any such claim, if made by the contractor, after he shall have signed a "No Claim" Certificate in favour of the Procuring Entity. The Contactor shall be debarred from disputing the correctness of the items covered by the "No Claim" Certificate or demanding a clearance to arbitration in respect thereof.

11.6.7 Post Payment Audit

Notwithstanding the issue of Completion Certificate and release of final Payment, the Procuring Entity reserves the right to carry out within 180 days (unless otherwise stipulated in the contract) of such completion/ final payment, a post-payment audit and/ or technical examination of the Services and the final bill including all supporting vouchers, abstracts etc. If any over-payment to the contractor is discovered due to such examination, the Procuring Entity shall claim such amount from the contractor.

11.6.8 Signature on Receipts for Amounts

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

11.7. Defects Liability Period

1) the contractor warrants that the Services have been delivered as per description, scope/ quantum, performance standards and quality outlined in the contract. This Defect Liability shall be in effect for a period stipulated in the contract (or if not specified for ninety (90) days) from completing the Services. The contract shall be deemed alive during this period, even if final payment and/ or Performance Guarantee has been released.

2) During the Defects Liability Period, upon discovering any deficiencies in outputs/ outcomes attributable to a shortfall in scope/ quantum, performance standards and quality of the performed Services, the Procuring Entity shall give written notice to the contractor.

3) Upon receiving such notice, the contractor shall, within 21 days (or within any other period, if stipulated in the contract), expeditiously remedy or reperform the Services or parts thereof, free of cost, at the site.

4) If the contractor, having been notified, fails to rectify/ replace the defect(s) within 21 days (or within any other period, if stipulated in the contract), it shall amount to breach of Contract, and the Procuring Entity shall proceed to take such remedial action(s) as deemed fit by it as detailed.

11.8. Payment Against Time-Barred Claims

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

11.9. Commissions and Fees

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

12. Resolution of Disputes

12.1. Disputes and Excepted Matters

All disputes and differences between the parties hereto, as to the construction or operation of this Contract, or the respective rights and liabilities of the parties on any matter in question; or any other account whatsoever, but excluding the Excepted Matters (detailed below); arising out of or in connection with the contract, within thirty (30) days from aggrieved Party notifying the other Party of such matters; whether before or after the completion/ termination of the contract, that cannot be resolved amicably between the Contract Manager and the contractor, shall be hereinafter called the "Dispute". The aggrieved party shall give a 'Notice of Dispute' indicating the Dispute and claims citing relevant Contractual clause to the designated authority requesting for invoking the following dispute resolution mechanism. The Dispute shall be resolved without recourse to courts through dispute resolution mechanisms detailed subsequently, in the sequence as mentioned below, and the next mechanism shall not be invoked unless the earlier mechanism has been invoked or has failed to resolve it within the deadline mentioned therein.

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

12.2. Excepted Matters

Matters for which provision has been made in any Clause of the contract shall be deemed as 'excepted matters' (matters not disputable/ arbitrable), and decisions of the Procuring Entity, thereon shall be final and binding on the contractor. The 'excepted matters' shall stand expressly excluded from the purview of the sub-clauses below, including Arbitration. However, where the Procuring Entity has raised the dispute, this sub-clause shall not apply. Unless otherwise stipulated in the contract, excepted matters shall include but not limited to:

- 1) any controversies or claims brought by a third party for bodily injury, death, property damage or any indirect or consequential loss arising out of or in any way related to the performance of this Contract ("Third Party Claim"), including, but not limited to, a Party's right to seek contribution or indemnity from the other Party in respect of a Third-Party Claim.
- 2) Issues related to the pre-award tender process or conditions

- 3) Issues related to ambiguity in Contract terms shall not be taken up after a Contract has been signed. All such issues should be highlighted before the signing of the contract by the contractor.
- 4) Provisions incorporated in the contract, which are beyond the purview of The Procurement Entity or are in pursuance of policies of Government, including but not limited to
 - a) Provisions of restrictions regarding local content and Purchase Preference to Local suppliers in terms of Make in India policy of the Government
 - b) Provisions regarding restrictions on Entities from Countries having land borders with India in terms of the Government's policies in this regard
 - c) Purchase preference policies regarding MSEs and Start-ups

12.3. Adjudication

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

12.4. Conciliation of disputes

- 1) Any party may invoke Conciliation by submitting "Notice of Conciliation" to the Head of the Procuring Organisation. Since conciliation is a voluntary process, within 30 days of receipt of "Notice of Conciliation", the Head of the Procuring Organisation shall notify a sole Conciliator if the other party is agreeable to enter Conciliation. If the other party is not agreeable to Conciliation, the aggrieved party may invoke Arbitration.
- 2) The Conciliator shall proactively assist the parties to reach an amicable settlement independently and impartially within the terms of Contract, within 60 days from the date of appointment of Conciliator.
- 3) If the parties reach an agreement on a dispute settlement, they shall draw up a written settlement agreement duly signed by the parties and conciliator. When the parties sign the settlement agreement, it shall be final and binding on the parties. The dispute shall be treated as resolved on the date of such agreement.
- 4) The parties shall not initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject matter of the conciliation proceedings.
- 5) Termination of Conciliation: Disputes shall remain alive if the conciliation is terminated as follows:
 - a) By written declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of such declaration; or

- b) By a written declaration of any party to the conciliator to the effect that the conciliation proceedings are terminated, on the date of such declaration; or
 - c) If the parties fail to reach an agreement on a settlement of the dispute, within 60 days of the appointment of Conciliator
- 6) On termination of Conciliation, if the dispute is still alive, the aggrieved party shall be free to invoke Arbitration.

12.5. Arbitration Agreement

12.5.1 This Agreement

- 1) This Arbitration Agreement (hereinafter referred to as this “Agreement”) relating to this Contract (hereinafter called the “Main Agreement” for this agreement) is made under the provisions of The Arbitration and Conciliation Act, 1996 as amended from time to time and the rules thereunder (hereinafter called The Arbitration Act). This Agreement shall continue to survive termination, completion, or closure of the Main Agreement for 120 days after that.
- 2) Subject to aforesaid provisions, relevant clauses of the contract shall apply to the appointment of arbitrators and arbitration proceedings under this Agreement.
- 3) The Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 provides parties to a dispute (where one of the parties is a Micro or Small Enterprise) to be referred to Micro and Small Enterprises Facilitation Council if the dispute is regarding any amount due under Section 17 of the MSMED Act, 2006. If a Micro or Small Enterprise, being a party to dispute, refers to the provisions in MSMED Act 2006, these provisions shall prevail over this Agreement.

12.5.2 Notice for Arbitration

- 1) Authority to Appoint Arbitrator(s): For this Arbitration Agreement ‘The Appointing Authority’, to appoint the arbitrator shall be Head of the Procuring Organisation named in the contract and includes if there be no such authority, the officer who is for the time being discharging the functions of that authority, whether in addition to other functions or otherwise.
- 2) In the event of any dispute as per GCC-clause 12.1 above, if the Adjudicator fails to decide within 60 days (as referred in 12.3 above), or the Conciliation is terminated (as referred in sub-clause 12.4 above) then, parties to the contract, after 60 days but within 120 days of ‘Notice of Dispute” (clause 12.1 above) shall request the Appointing Authority through a “Notice for Arbitration” in writing requesting that the dispute or difference be referred to arbitration.
- 3) The “Notice for arbitration” shall specify the matters in question or subject of the dispute or difference indicating the relevant contractual clause, as well as the amount of claim item-wise.

12.5.3 Reference to Arbitration

After appointing Arbitrator(s), the Appointing Authority shall refer the Dispute to them. Only such dispute or difference shall be referred to arbitration regarding which the demand has been made, together with counter-claims or set off. Other matters shall be beyond the jurisdiction of Arbitrator(s)

12.5.4 Appointment of Arbitrator

- 1) Qualification of Arbitrators:
 - a) In the case of retired officers of The Procuring organisation, he shall have retired in the rank of Senior administrative grade (or equivalent) and shall have retired at least 1 years prior and must not be over 70 years of age on the date of Notice for arbitration.

b) He/ they shall not have had an opportunity to deal with the matters to which the contract relates or who, in the course of his/ their duties as officers of the Procuring Organisation, expressed views on any or all of the matters under dispute or differences. A certification to this effect (as per Format 1.1.4) shall be taken from Arbitrators. The proceedings of the Arbitral tribunal or the award made by such Tribunal shall, however, not be invalid merely for the reason that one or more arbitrators had in the course of his service, an opportunity to deal with the matters to which the contract relates or who in the course of his/ their duties expressed views on all or any of the matters under dispute.

c) An Arbitrator may be appointed notwithstanding the total no. of arbitration cases in which he has been appointed in the past.

d) Not be other than the person appointed by The Appointing Authority and that if for any reason that is not possible, the matter shall not be referred to arbitration at all.

2) Replacement of Arbitrators

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

3) Appointment of Arbitrator:

a) In cases where the total value of all claims in question added together does not exceed Rs 50,00,000/- (Rupees Fifty Lakh only), the Arbitral Tribunal shall consist of sole Arbitrator. For this purpose, The Appointing Authority shall send to the contractor, within 60 days from the day of receipt of a written and valid notice for arbitration, a panel of at least four (4) names of retired officers, duly indicating their retirement dates.

b) The contractor shall be asked to nominate at least two names out of the panel for appointment as his nominee within 30 days from the dispatch date of the request by The Appointing Authority. The Appointing Authority shall appoint at least one out of them as the sole arbitrator within 30 days from the receipt of the names of the contractor's nominees.

c) In cases where the total value of all claims in question added together exceeds Rs 50,00,000/- (Rupees Fifty Lakh only), the Arbitral Tribunal shall consist of three (3) retired Officers of the Procuring Organisation. For this purpose, The Appointing Authority shall send a panel of at least four (4) names of such Officer(s) empanelled to work as Arbitrators duly indicating their retirement date to the contractor within 60 days from the day when a written and The Appointing Authority receives valid demand for arbitration.

d) The contractor shall be asked to nominate at least 2 names out of the panel for appointment as his nominee within 30 days from the dispatch date of the request by The Appointing Authority. The Appointing Authority shall appoint at least one out of them as the contractor's nominee. It shall also simultaneously appoint the balance number of arbitrators either from the panel or outside the panel, duly indicating the 'Presiding Arbitrator' from

amongst the 3 arbitrators so appointed, within 30 days from the receipt of the names of Contractor's nominees.

e) If the contractor does not suggest his nominees for the arbitral tribunal within the prescribed timeframe, The Appointing Authority shall proceed for appointment of the arbitral tribunal within 30 days of the expiry of such time provided to the Contractor.

12.5.5 Failure to appoint Arbitrators.

If The Appointing Authority fails to appoint an arbitrator within 60 (sixty) days, then subject to the survival of this Arbitration Agreement, in international commercial arbitration, the Supreme Court of India shall designate the arbitral institution for the appointment of arbitrators. In case of national arbitrations, the High Court shall designate arbitral institutions. The Arbitration Council of India must have graded these arbitration institutions. These arbitral institutions must complete the selection process within thirty days of accepting the request for the arbitrator's appointment.

12.5.6 The Arbitral Procedure

1) **Effective Date of Entering Reference:** The arbitral tribunal shall be deemed to have entered the reference on the date on which the arbitrator(s) have received notice of their appointment. All subsequent time limits shall be counted from such date.

2) **Seat and Venue of Arbitration:** The seat of arbitration shall be the place from which the Letter of Award or the contract is issued. The venue of arbitration shall be the same as the seat of arbitration. However, in terms of section 20 of The Arbitration Act, the arbitrator, at his discretion, may determine a venue other than the seat of the arbitration without in any way affecting the legal jurisdictional issues linked to the seat of the arbitration.

3) If the Adjudication and/ or Conciliation mechanisms had not been exhausted before such reference to Arbitration, the Arbitrator should ask the aggrieved party to approach designated authority for such mechanisms before the Arbitration proceedings are started.

4) The claimant shall submit to the Arbitrator(s) with copies to the respondent his claims stating the facts supporting the claims along with all the relevant documents and the relief or remedy sought against each claim within 30 days from the date of appointment of the Arbitral Tribunal unless otherwise extension has been granted by Arbitral Tribunal.

5) On receipt of such claims, the respondent shall submit its defence statement and counter-claim(s), if any, within 60 days of receipt of the copy of claims, unless otherwise extension has been granted by Arbitral Tribunal.

6) No new claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during arbitration proceedings subject to acceptance by the Tribunal having due regard to the delay in making it.

7) Statement of claims, counterclaims and defence shall be completed within six months from the effective reference date.

8) Oral arguments to be held on a day-to-day basis: Oral arguments as far as possible shall be heard by the arbitral tribunal on a day-to-day basis, and no adjournments shall be granted without sufficient cause. The arbitrator (s) may impose an exemplary cost on the party seeking adjournment without sufficient cause.

9) **Award within 12 (twelve) months:** The arbitral tribunal is statutorily bound to deliver an award within 12 (twelve) months from the date when the arbitral tribunal

enters reference. The award can be delayed by a maximum of six months only under exceptional circumstances where all parties consent to such extension of time. The court's approval shall be required for further extension if the award is not made out within such an extended period. During the period of an application for extension of time is awaiting before the court, the arbitrator's proceedings shall continue until the disposal of the application.

10) **Fast Track Procedure:** The parties to arbitration may choose to opt for a fast-track procedure either before or after the commencement of the arbitration. The award in fast-track arbitration is to be made out within six months, and the arbitral tribunal shall be entitled to additional fees. The salient features of the fast-track arbitration are:

- a) The dispute is to be decided based on written pleadings only.
- b) Arbitral Tribunal shall have the power to call for clarifications in addition to the written pleadings where it deems necessary.
- c) An oral hearing may be held only if all the parties request or the arbitral tribunal considers it necessary.
- d) The parties are free to decide the fees of the arbitrator(s) for fast-track procedure.

11) **Powers of Arbitral Tribunal to grant Interim Relief:** The parties to arbitration may approach the arbitral tribunal for seeking interim relief on the grounds available under section 9 of the act. The tribunal has the powers of a court while making interim awards in the proceedings before it.

12) **Confidentiality:** As provided in Section 42A of The Arbitration Act, all the details and particulars of the arbitration proceedings shall be kept confidential except in certain situations, like if the disclosure is necessary for the implementation or execution of the arbitral award.

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

12.5.7 The Arbitral Award

1) In the case of the Tribunal, comprising of three members, any ruling on award shall be made by a majority of members of the Tribunal. In the absence of such a majority, the views of the Presiding Arbitrator shall prevail.

2) The arbitral award shall state item-wise the sum and reasons upon which it is based. The analysis and reasons shall be detailed enough so that the award can be inferred from it.

3) It is further a term of this arbitration agreement that where the arbitral award is for the payment of money, no interest shall be payable on whole or any part of the money for any period till the date on which the award is made in terms of Section 31 (7) (a) of The Arbitration Act.

4) The award of the arbitrator shall be final and binding on the parties to this Contract.

5) A party may apply for corrections of any computational errors, typographical or clerical errors, or any other error of similar nature occurring in the award or interpretation of a specific point of the award to the Tribunal within 60 days of receipt of the award.

6) A party may apply to the Tribunal within 60 days of receiving the award to

make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award.

12.5.8 Savings

The Arbitral Tribunal shall decide any matter related to Arbitration not covered under this Arbitration Agreement as per the provisions of The Arbitration Act.

12.5.9 Cost of Arbitration and fees of the Arbitrator(s)

1) The concerned parties shall bear the cost of arbitration in terms of section 31 (A) of The Arbitration Act. The cost shall inter-alia include fees of the Arbitrator. Further, the fees payable to the Arbitrator shall be governed by instructions issued on the subject by the Procuring Entity and/ or the Government from time to time, in line with the Arbitration and Conciliation Act, irrespective of the fact whether the Arbitrator is appointed by the Procuring Entity or the Government under this clause or by any court of law unless directed explicitly by Hon'ble court otherwise on the matter. A sole arbitrator shall be entitled to a 25% extra fee over such a prescribed fee.

2) The arbitrator shall be entitled to a 50 percent extra fee if the award is made within 6 months in terms of provisions contained in section 29(A) (2) of The Arbitration Act.

3) Besides the above, Arbitrator shall also be entitled to this extra fee in cases where Fast Track Procedure in terms of section 29 (B) of The Arbitration Act is followed.

13. Defaults, Breaches, Termination, and closure of Contract

13.1. Termination due to Breach, Default, and Insolvency

13.1.1 Defaults and Breach of Contract

In case the contractor undergoes insolvency or receivership; neglects or defaults, or expresses inability or disinclination to honour his obligations relating to the performance of the contract or ethical standards or any other obligation that substantively affects the Procuring Entity's rights and benefits under the contract, it shall be treated as a breach of Contract. Such defaults could include inter-alia:

1) Default in Performance and Obligations: if the contractor fails to deliver any or all of the Services or fails to perform any other contractual obligations (including Code of Integrity or obligation to maintain eligibility and Qualifications based on which contract was awarded) within the period stipulated in the contract or within any extension thereof granted by the Procuring Entity.

2) Insolvency: If the contractor being an individual or if a firm, any partner thereof, shall at any time, be adjudged insolvent or shall have a receiving order or order for the administration of his estate made against him or shall take any proceeding for composition under any Insolvency Act for the time being in force or make any conveyance or assignment of his effects or enter into any assignment or composition with his creditors or suspend payment or if the firm be dissolved under the Partnership Act, or

3) Liquidation: if the contractor is a company being wound up voluntarily, or by order of a Court or a Receiver, Liquidator or Manager on behalf of the Debenture-holders is appointed, or circumstances shall have arisen which entitle the Court or Debenture- holders to appoint a Receiver, Liquidator or Manager

13.1.2 Notice for Default:

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

on invoking contractual remedies.

13.1.3 Terminations for Default

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

13.1.4 Contractual Remedies for Breaches/ Defaults or Termination for Default

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

- 1) Temporary withhold payments due to the contractor till recoveries due to invocation of other contractual remedies are complete.
- 2) Call back any loaned property or advances of payment, if any, with a levy of interest at the prevailing rate (MIBID - Mumbai Interbank Bid Rate).
- 3) Recover liquidated damages and invoke denial clause for delays.
- 4) Encash and/ or Forfeit performance or other contractual securities.
- 5) Prefer claims against insurances, if any.
- 6) Terminate Contract for default, fully or partially including its right for Risk-and-Cost Procurement as per following sub-clause.
- 7) Risk and Cost Procurement: In addition to termination for default, the Procuring Entity shall be entitled, and it shall be lawful on his part, to procure Services similar to those terminated, with such terms and conditions and in such manner as it deems fit at the "Risk and Cost" of the contractor. Such Risk and Cost Procurement must be contracted within six months from the breach of Contract. The contractor shall be liable for any loss which the Procuring Entity may sustain on that account provided the procurement, or, if there is an agreement to procure, such agreement is made. The contractor shall not be entitled to any gain on such procurement, and the manner and method of such procurement shall be in the entire discretion of the Procuring Entity. It shall not be necessary for the Procuring Entity to notify the contractor of such procurement. It shall, however, be at the discretion of the Procuring Entity to collect or not the security deposit from the firm/ firms on whom the contract is placed at the risk and cost of the defaulted firm.
Note: Regarding the Services that are not readily available in the market and where procurement difficulties are experienced, the period for making risk procurement shall be nine months instead of six months provided above.
- 8) Initiate proceedings in a court of law for the transgression of a law, tort, and loss, not addressable by the above means.

13.1.5 Limitation of Liability

Except in cases of criminal negligence or wilful misconduct, the aggregate liability of the contractor to the Procuring Entity, whether under the contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any

obligation of the contractor to indemnify the Procuring Entity concerning IPR infringement.

13.2. Termination for Default/ Convenience of Procuring Entity and Frustration

13.2.1 Notice for Determination of Contract

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

13.2.2 Frustration of Contract

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

13.3. Closure of Contract

The contract shall stand closed upon

- 1) successful performance of all obligations by both parties, including completion of Defect Liability obligations and final payment.

2) termination and settlements after that, if any, as per clause 13.1 or 13.2 above.

14. Code of Integrity in Public Procurement; Misdemeanours and Penalties

14.1. Code of Integrity

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

1) “Corrupt practice” - making offer, solicitation or acceptance of a bribe, reward or gift or any material benefit, in exchange for an unfair advantage in the Tender Process or to otherwise influence the Tender Process;

2) “Fraudulent practice” - any omission or misrepresentation that may mislead or attempt to mislead so that financial or other benefits may be obtained or an obligation avoided. Such practices include a false declaration or false information, for participation in a tender process or to secure a Contract, or in the execution of the contract;

3) “Anti-competitive practice” - any collusion, bid-rigging or anti-competitive arrangement, or any other practice coming under the purview of the Competition Act, 2002, between two or more bidders, with or without the knowledge of the Procuring Entity, that may impair the transparency, fairness, and the progress of the Tender Process or to establish bid prices at artificial, non-competitive levels;

4) “Coercive practice” - harming or threatening to harm persons or their property to influence their participation in the Tender Process or affect the execution of a contract;

5) “Conflict of interest” –participation by a bidding firm or any of its affiliates who are either involved in the Consultancy Contract to which this procurement is linked; or if they are part of more than one bid in the procurement; or if their personnel have a relationship or financial or business transactions with any official of procuring entity who are directly or indirectly related to tender or execution process of contract; or improper use of information obtained by the (prospective) bidder from the Procuring Entity with an intent to gain unfair advantage in the Tender Process or for personal gain;

6) “Obstructive practice” - materially impede procuring entity’s investigation into allegations of one or more of the above mentioned prohibited practices either by deliberately destroying, falsifying, altering; or by concealing of evidence material to the investigation; or by making false statements to investigators and/ or by coercive practices mentioned above, to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or by impeding the Procuring Entity’s rights of audit or access to information;

14.2. Obligations for Proactive Disclosures:

1) Procuring authorities, bidders, suppliers, contractors, and consultants are obliged under this Code of Integrity to suo-moto proactively declare any conflict of interest (coming under the definition mentioned above - pre-existing or as and as soon as these arise at any stage) in any Tender Process or execution of the contract. Failure to do so shall amount to a violation of this code of integrity.

2) Any bidder must declare, whether asked or not in a bid-document, any previous transgressions of such code of integrity during the last three years or of being under any category of debarment by the Central Government or by the Ministry/ Department of the Procuring Organisation from participation in Tender Processes. Failure to do so shall amount to a violation of this code of integrity.

14.3. Misdemeanours

The following shall be considered misdemeanours - if a bidder/ contractor either directly or indirectly, at any stage during the Tender Process or during the execution of resultant contracts:

- 1) commits any of the following misdemeanours:
 - (a) violates the code of Integrity mentioned in GCC-clause 14.1 or the Integrity Pact if included in the Tender/ Contract;
 - (b) any other misdemeanour, e.g., supply of sub-standard quality of material/ services/ work or non-performance or abandonment of contract or failure to abide by 'Bid Securing Declaration'.
- 2) commits any of the following misdemeanours:
 - (a) has been convicted of an offence:
 - i) under the Prevention of Corruption Act, 1988; or
 - ii) the Indian Penal Code or 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 the execution of a public procurement contract.
 - (b) is determined by the Government of India to have doubtful loyalty to the country or on national security consideration.
 - (c) employs a government servant, who has been dismissed or removed on account of corruption or employs a non-official convicted for an offence involving corruption or abetment of such an offence, in a position where he could corrupt government servants or employs a government officer within one year of his retirement, who has had business dealings with him in an official capacity before retirement.

14.4. Penalties for Misdemeanours

Without prejudice to and in addition to the rights of the Procuring Entity to other remedies as per the Tender-documents or the contract, If the Procuring Entity concludes that a (prospective) bidder/ contractor directly or through an agent has committed a misdemeanour in competing for the tender or in executing a contract, the Procuring Entity shall be entitled, and it shall be lawful on his part to take appropriate measures, including the following:

14.4.1 if his bids are under consideration in any procurement

- 1) Enforcement of Bid Securing Declaration in lieu of forfeiture or encashment of Bid Security.
- 2) calling off of any pre-contract negotiations, and;
- 3) rejection and exclusion of Bidder from the Tender Process

14.4.2 if a contract has already been awarded

- 1) Termination of Contract for Default and availing all remedies prescribed thereunder;
- 2) Encashment and/ or Forfeiture of any contractual security or bond relating to the procurement;
- 3) Recovery of payments including advance payments, if any, made by the Procuring Entity along with interest thereon at the prevailing rate (MIBID - Mumbai Interbank Bid Rate);

14.4.3 Remedies in addition to the above:

In addition to the above penalties, the Procuring Entity shall be entitled, and it shall be lawful on his part to:

- 1) File information against Bidder or any of its successors, with the Competition Commission of India for further processing, in case of anti-competitive practices;
- 2) Initiate proceedings in a court of law against Bidder or any of its successors,

under the Prevention of Corruption Act, 1988 or the Indian Penal Code or any other law for transgression not addressable by other remedies listed in this sub-clause.

3) Remove Bidder or any of its successors from the list of registered suppliers for a period not exceeding two years. Suppliers removed from the list of registered vendors or their related entities may be allowed to apply afresh for registration after the expiry of the period of removal.

4) Initiation of suitable disciplinary or criminal proceedings against any individual or staff found responsible.

5) Debar, a bidder/ contractor from participation in future procurements without prejudice to Procuring Entity's legal rights and remedies. Debarment shall automatically extend to all the allied firms of the debarred firm. In the case of a Joint Venture/ consortium, all its members shall also stand similarly debarred:

a) A Ministry/ Department (or any of its CPSUs, attached offices, autonomous bodies) may debar a bidder or any of its successors from participating in any Tender Process undertaken by all its procuring entities for a period not exceeding two years commencing from the date of debarment for misdemeanours listed in sub-clause GCC 14.3 -1) above. The Ministry/Department shall maintain such a list which shall also be displayed on their website.

b) Central Government (Department of Expenditure (DoE), Ministry of Finance) may debar a bidder or any of its successors from participating in any Tender Process undertaken by all its procuring entities for a period not exceeding three years commencing from the date of debarment for misdemeanours listed in sub-clause GCC 14.3 - 2) above. DoE shall maintain such a list which shall be displayed on Central Public Procurement Portal (CPPP).