

Request For Proposal (RFP)

For

Appointment of Project Design & Management Agency (PDMA) for
Implementation of SMART grid Infrastructure including Enhancing
of Existing Network in NDMC Power Distribution Area

Last date for submission is _____ 2016 up-to 1300 Hours

NEW DELHI MUNICIPAL COUNCIL (NDMC)
PALIKA KENDRA, NEW DELHI



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Disclaimer

The NDMC has prepared this Request for Proposals (RFP) to Appointment of Project Design & Management Agency (PDMA) **for SMART Grid Infrastructure Establishment including enhancing Existing Network in NDMC**. The RFP has been prepared with an intention to invite prospective bidders and to assist them in making their decision of whether or not to submit a proposal. The RFP is a detailed document with specific terms and conditions on which the bidder is expected to work. These terms and conditions are designed keeping in view the overall aim and objectives of the system. NDMC has taken due care in preparation of information contained herein and believes it to be accurate. However, neither NDMC or any of its authorities or agencies nor any of their respective officers employees, agents, or advisors gives any warranty or make any representations, express, or implied as to the completeness or accuracy of the information contained in this document or any information which may be provided in association with it.

The information provided in this document is to assist the bidder(s) for preparing their proposals. However this information is not intended to be exhaustive. Interested parties are required to make their own inquiries and respondents will be required to confirm in writing that they have done so and they do not rely on the information in submitting a Proposal. The information is provided on the basis that it is non-binding on NDMC, any of its authorities or agencies, or any of their respective officers, employees, agents, or advisors. Each bidder is advised to consider the RFP as per its understanding and capacity. The bidders are also advised to do appropriate examination, enquiry and scrutiny of all aspects mentioned in the RFP before bidding. Bidders are encouraged to take professional help of experts on financial, legal, technical, taxation, and any other matters / sectors appearing in the document or specified work. We would also request the bidders to go through the RFP in detail and bring to notice (of NDMC) any kind of error, misprint, inaccuracies, or omission in the document.

NDMC reserves the right not to proceed with the project, to alter the timetable reflected in this document, or to change the process or procedure to be applied. It also reserves the right to decline to discuss the Project further with any party submitting a proposal. No reimbursement of cost of any type will be paid to persons, entities, or consortiums submitting a Proposal.

Interested parties, after careful review of all the clauses of this RFP, are encouraged to send their suggestions in writing to NDMC. Such suggestions, after review by NDMC, may be incorporated into this RFP as an addendum which shall be uploaded onto the NDMC website. Interested parties should check the website to download the final terms and conditions before submitting Proposals.



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Section-1 (Notice for Inviting Request for Proposal)

NDMC invites sealed envelopes from eligible agencies for Project Design & Management work for Implementation of SMART Grid Infrastructure including enhancing Existing Network in NDMC's Licensed Area. The engagement period will be two years for implementation phase and two year for post-implementation Hand-Holding, Capacity Building and Vendor Management Support. The final selection of the consultant for Project Management and Consultancy Work will be on Quality and Cost based (QCBS). 70% weightage will be given to the Technical Score and 30% weightage will be given to Financial Score.

1.1 Key Information

Sr. No.	Particular	Details
1.0	RFP Identification No.	NDMC / SMART Grid / 2016-17 / 01
2.0	Project Name	PDMA Work for NDMC SMART Grid Infrastructure
3.0	Type of Tender	Open Tendering-Single Stage Three Envelope
4.0	EMD	Rs. 55 Lacs to be deposited as per details in the document.
5.0	Validity of Bids	90 days from the date of bid submission date.
6.0	Calendar of Events	
6.1	Last date and Time for Receipt of Queries	05.06.2016 at 1700 Hrs
6.2	Pre-Bid Meeting	06.06.2016 at 1100 Hrs
6.3	Last Date and Time for receipt of Tenders	16.06.2016 at 1300 Hrs
6.4	Date and Time for Opening of Technical Bids	16.06.2016 at 1500 Hrs
6.5	Date and Time for Opening of Financial Bids	To be notified later on.
7.0	Tender Processing Fess	Rs. 7,500/- in the form of Demand Draft in favour of Secretary, NDMC payable at New Delhi.
8.0	Tender Currency	Indian Rupees Only.
9.0	Estimate Cost	Rs. 453 Crores.
10.0	Duration of Contract	2 years for implementation phase and 2 years for post implementation hand-holding/capacity building and vendor management support.
11.0	Solvency	Rs. 18 Crores

- 1.2 NDMC reserves the right to cancel the bid process or reject all bids without assigning any reason thereof and will bear no liability whatsoever consequent upon such a decision.
- 1.3 For clarifications regarding the scope of work and technical features of the bid enquiry, interested bidders can contact Mr. Sundeep Gaur (Executive Engineer, Electrical), Office Address:- Room No. 1804 A, 18th Floor, Palika Kendra, Sansad Marg, New Delhi-110001 or at ndmc.ipds@gmail.com. The RFP document can be downloaded from NDMC website www.ndmc.gov.in.
- 1.4 No tender shall be accepted / **opened** after the due date and time of receipt of tender irrespective of delay due to postal services or any other reasons and NDMC shall not assume any responsibility for late receipt of the tender. In case the due date happens to be a holiday, the bids shall be received/ opened on the next working day at the same time & place.
- 1.5 The Technical cum Commercial and Price bid along with specified Bid Security and cost of Tender documents should reach the office of the Project Nodal officer not later than the submission date and time.
- 1.6 Any bid i.e. Technical, price or Bid Security cover received after the due date and time will not be accepted and the offer will be categorically ignored without any communication.
- 1.7 It should be clearly understood that the NDMC will not reimburse any cost incurred by you for the preparation of offer, site visit, collection of information, or, if you are selected, for contract or negotiations.
- 1.8 Bidders should observe a high standard of ethic during the selection process and in the executive of this contract.
- 1.9 Bidders have to submit their offer in line with the requirements as specified in the RFP/Bid Document. Separate rates shall be quoted for the PDMA work of system strengthening work.
- 1.10 The bid, even though fulfilling the specified qualifying requirements/criteria as specified in the RFP bid document, are liable to be disqualified in case of non-compliance to the followings by the bidders.
- a. Made misleading or false representations in the forms statements and attachments submitted in proof of the qualification requirements (undertaking as per Annexure 8)
 - b. Has been blacklisted by any company, Board, organization or government body (undertaking as per Annexure 9).
- 1.11 Each bidder shall provide necessary undertaking stating compliance to the above requirement in their bid along with the cover letter.
- 1.12 The work will be considered as a whole and indivisible between member of consortium.

Section-2 (Instruction to the Bidders)

This section includes all the important information related to RFP document required to bid for this project.

2.1 General Information and Guidelines

- a) NDMC invites bids to this Request for Proposals ("**RFP document**") from eligible Bidders as per the scope of work defined in this RFP document. RFP document means this RFP document, supporting annexure / appendices / formats etc., any addenda to this RFP document and all other such documents.
- b) Any contract that may result from this bidding process will be effective from the date of Signing of the Agreement and shall, unless terminated earlier in accordance with its terms, continue for a period defined in RFP.
- c) The assumptions, assessments, statements and information provided in this RFP document is for the assistance to the Bidders who are expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Bids. The Bidder shall visit the site and examine the project in detail for PDMA. Nothing contained in this RFP document shall be binding on the NDMC nor confer any right on the Bidders, and the NDMC shall have no liability whatsoever in relation to or arising out of any or all contents of the RFP document.
- d) Bidders may carry out Project Site visits/ inspections/ testing at their own cost.
- e) All information supplied by Bidders may be treated as contractually binding on the Bidders on successful award of the assignment by NDMC on the basis of this RFP document.
- f) No commitment of any kind, contractual or otherwise shall exist unless and until a formal written Agreement has been executed by or on behalf of NDMC. Any notification of Preferred Bidder status (including issue of a Letter of Acceptance) by NDMC shall not give rise to any enforceable rights by the Bidder. NDMC may cancel this process at any time prior to a formal written Agreement being executed by or on behalf of NDMC.
- g) The Bid should be furnished clearly indicating the bid amount in both figures and words, in Indian Rupees, and signed by the Bidder's authorized signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.

- h) The Bidder shall deposit an Earnest Money Deposit (EMD) of Rs. 55 Lacs in accordance with the provisions of this RFP document. The Bidder has the option to provide the EMD either as a Demand Draft/Pay order/Bankers Cheque/FDR/TDR in favour of "Secretary, NDMC" payable at Delhi/New Delhi or in the form of a Bank Guarantee acceptable to the NDMC, as per format at **Annexure- 5**.
- i) The validity period of the Bank Guarantee shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the NDMC and the Bidder. Where a demand draft is provided, its validity shall not be less than 90 (Ninety days) from the Bid Due Date, for the purposes of encashment by the NDMC. The Bid shall be summarily rejected if it is not accompanied by the Earnest Money Deposit (EMD). The EMD shall be refundable no later than 60 (sixty) days from the date of issuance of Letter of Acceptance to the Preferred Bidder except in the case of the Preferred Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Contract Agreement.
- j) No Bidder shall submit more than one Application for the Project. Bidder applying individually or as a member of Consortium shall not be entitled to submit another Application either individually or as a member of any Consortium, as the case may be.
- k) The Bidder shall acquaint himself with the proposed site of work, and other details before submitting the bid.
- l) The Bidder should submit a Power of Attorney authorizing the signatory of the Application to commit the Bidder.
- m) In the case of a Consortium, the Members should submit a Power of Attorney in favor of the Lead Member.
- n) If for any reason, any project area in whole or part is not available for work, the agreed schedule shall be suitably modified. However, under no circumstances the successful Bidder shall be entitled to any relaxation, whatsoever, on this ground and he shall re-organize his resources to suit the modified schedule.
- o) The successful Bidder shall abide by and comply with all the Applicable Laws and statutory requirements, including Minimum Wages Act 1948, Payment of Wages Act 1936, Contract Labour

(Regulation & Abolition) Act 1970, Employees' Provident Funds and Miscellaneous Provisions Act 1952 etc.

- p) Organizational Structure during Project Establishment and Maintenance Phase: The Bidder shall submit its proposed organizational structure during establishment and maintenance stages commensurate with targeted Project Completion Schedule, which will form the basis of Resource Deployment Schedule. The Bidder shall also enclose CV's of the key persons including tasks assigned to them.
- q) The successful Bidder shall be responsible for all the scope of work defined as per the terms set out in the RFP document.
- r) If during the course of execution of the project any minor revisions to the work requirements etc. are to be made to meet the goals of the project, such changes shall be carried out without any cost.
- s) Bidder shall be liable for disqualification and forfeiture of Earnest Money Deposit if any legal, financial or technical adviser of the NDMC in relation to the Project is engaged by the Bidder, its Members or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the Project during the Bidding Process or subsequent to the (i) issue of the Letter of Acceptance or (ii) execution of the Contract Agreement. In the event any such adviser is engaged by the Preferred Bidder or PDMA, as the case may be, after issue of the incidental to Project, then notwithstanding anything to the contrary contained herein or in the Letter of Acceptance or the Contract Agreement and without prejudice to any other right or remedy of the NDMC, including the forfeiture and appropriation of the Earnest Money Deposit or Performance Security, as the case may be, which the NDMC may have thereunder or otherwise, the Letter of Acceptance or the Agreement, as the case may be, shall be liable to be terminated without the NDMC being liable in any manner whatsoever to the Preferred Bidder for the same. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated prior to the Application Due Date. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the project.

2.2 Change in Ownership

By submitting the Bid, the Bidder shall be deemed to have acknowledged and agreed that in the event of a change in control of a Consortium Member or an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of qualification under and in accordance with the RFP document, the Bidder shall be deemed to have knowledge of the same and

shall be required to inform the NDMC forthwith along with all relevant particulars about the same and the NDMC may, in its sole discretion, disqualify the Bidder or withdraw the letter of agreement from the Selected Bidder, as the case may be. In the event such change in control occurs after signing of the Contract Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Contract Agreement, be deemed to be a breach of the Contract Agreement, and the same shall be liable to be terminated without the NDMC being liable in any manner whatsoever to the PDMA. In such an event, notwithstanding anything to the contrary contained in the Contract Agreement, the NDMC shall be entitled to forfeit and appropriate the Earnest Money Deposit or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the NDMC under the RFP document.

2.3 Cost of Bidding

The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bidding Process. The NDMC will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.4 Site visit and verification of information

- a. Bidders are encouraged to submit their respective Bids after visiting the Project site and ascertaining for themselves the site conditions, weather data, Applicable Laws and regulations, and any other matter considered relevant by them.
- b. It shall be deemed that by submitting a Bid, the Bidder has:
 - (i) Made a complete and careful examination of this RFP Document and unconditionally and irrevocably accepted the terms thereof;
 - (ii) Received all relevant information requested from the NDMC;
 - (iii) Made a complete and careful examination of the various aspects of the Project including but not limited to:
 - (a) Existing facilities and structures;
 - (b) All other matters that might affect the Bidder's performance under this RFP document;
 - (iv) Accepted the risk of inadequacy, error or mistake in the information provided in the RFP document furnished by or on behalf of the NDMC relating to any of the matters referred to in this RFP document;
 - (v) Satisfied itself about all matters, things and information, including matters referred to in Clause 4 (a) hereinabove, necessary and required for submitting an informed Bid,

execution of the Project in accordance with this RFP Document and performance of all of its obligations thereunder;

- (vi) Acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in this RFP Document or ignorance of any of the matters referred to in Clause 2.4 (a) hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the NDMC, or a ground for termination of the Agreement by the successful Bidder;
 - (vii) Acknowledged that it does not have a Conflict of Interest; and
 - (viii) Agreed to be bound by the undertakings provided by it under and in terms hereof.
- c. NDMC shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP Document or the Bidding Process, including any error or mistake therein or in any information or data given by the NDMC.

3 Verification and Disqualification

- a. The NDMC reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP document and the Bidder shall, when so required by the NDMC, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by the NDMC shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the NDMC thereunder.
- b. **The NDMC reserves the right to reject any Bid and appropriate the Earnest Money Deposit if:**
- (a) At any time, a material misrepresentation is made or uncovered, or
 - (b) The Bidder does not provide, within the time specified by the NDMC, the supplemental information sought by the NDMC for evaluation of the Bid, or
 - (c) Any act or omission of the Bidder results in violation of or non-compliance with this RFP document or any Applicable Laws (Clause No. 9.8).

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium and each Member may be disqualified / rejected. If such disqualification / rejection occurs after the Bids have been opened and the Preferred Bidder gets disqualified / rejected, then the NDMC reserves the right to take any such measure as may be deemed fit in the sole discretion of the NDMC, including annulment of the

Bidding Process.

- c. In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, including the contract thereby granted by the NDMC, that one or more of the qualification conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the PDMA either by issue of the Letter of Acceptance or entering into of the Agreement, and if the Preferred Bidder has already been issued the Letter of Acceptance or has entered into the Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP document, be liable to be terminated, by a communication in writing by the NDMC to the Preferred Bidder or the PDMA, as the case may be, without the NDMC being liable in any manner whatsoever to the Preferred Bidder. In such an event, the NDMC shall be entitled to forfeit and appropriate the Earnest Money Deposit or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the NDMC under the RFP document and/ or the Agreement, or otherwise.

2.6 Contents of the RFP Document

- a. This RFP document comprises the Disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 4.9.

Invitation for Bids

- Section 1. Notice for inviting Request for Proposal
- Section 2. Instruction to the Bidders
- Section 3. Project Scope of work
- Section 4. Evaluation of Bids
- Section 5. General Condition of Contract
- Section 6. Appointment of PDMA
- Section 7. Arbitration
- Section 8. Fraud and Corrupt Practices
- Section 9. Miscellaneous
- Section 10. Penalties
- Section 11. Force Majeure
- Section 12. Event of Default and Termination
- Section 13. Dispute Resolution
- Section 14. Liquidated Damages

Section 15. Exit Management Schedule

Annexures:

1. Letter comprising the application for Bid submission.
2. Integrity Pact
3. Power of Attorney for Lead Member of Consortium
4. Joint Bidding Agreement
5. Format for Bank Guarantee
6. Format for financial bid covering letter
7. Power of Attorney for signing bid
8. Format for undertaking
9. Format for Application regarding Blacklisting of the bidder
10. Format for CV.

2.7 Clarifications

- a. Bidders requiring any clarification on the RFP document may notify the NDMC in writing by speed post/ courier/ special messenger and by e-mail and should send in their queries so as to reach the officer designated in Clause 1.3 by the date specified in Clause 1.1 (Key Events and Dates). NDMC shall endeavour to respond to the queries within the period specified therein, but no later than 7 (seven) days prior to the Bid Due Date. The responses will be sent by e-mail. The NDMC will upload clarifications, if any, on its website (www.ndmc.gov.in). The envelopes/ communication shall clearly bear the following identification/ title: **“Queries/Request for Additional Information: RFP for PDMA for IPDS”**
- b. The NDMC shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the NDMC reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the NDMC to respond to any question or to provide any clarification.
- c. The NDMC may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders through its website. All clarifications and interpretations issued by the NDMC shall be deemed to be part of the RFP document. Verbal clarifications and information given by NDMC or its employees or representatives shall not in any way or manner be binding on the NDMC.

2.8 Modification in the RFP Document

- a. At any time prior to the Bid Due Date, the NDMC may, for any reason, whether at its own initiative or in response to clarifications requested by Bidder, modify the RFP document by the issuance of Addendum.
- b. Any Addendum / clarification issued hereunder will be in writing and will be published on the NDMC's website (www.ndmc.gov.in) to make it accessible to all Bidders, and shall be deemed to be a part of this RFP document.
- c. In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the NDMC may, in its sole discretion, extend the Bid Due Date.

2.9 Preparation and Submission of Bids

a. Format and Signing of Bid

- i. The Bidder shall provide all the information sought under this RFP document. The NDMC will evaluate only those Bids that are received in the required formats and complete in all respects.
- ii. The Bid shall be typed or written in indelible ink and signed by the authorised signatory of the Bidder who shall also initial each page, in blue ink. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialled by the person(s) signing the Bid.
- iii. It is expected that Bidders have read and understood the RFP document along with clarification / addenda (if any) before the proposal submission. As a matter of confirmation of the same, a copy of the RFP document including other documents like clarification & addendum, if any, duly signed by the authorized signatory shall be submitted along with the bid. The bid documents shall have an index page with page numbers specified for all the key information/headers.

b. Sealing and Marking of Bids

- i. A three envelope/cover system shall be followed for the bid. The Bidder shall submit the Bid and seal it in the following three envelopes:

Envelope A:

- (i) Technical Bid Submission Letter
- (ii) Earnest Money Deposit;
- (iii) Cost of RFP document (in case of downloaded RFP document), if any; and
- (iv) Consortium Agreement (in Original) (applicable in case of consortium only)
- (v) Eligibility Criteria including the following:
 - 1. Power of Attorney for signing of Bid, Authority Letter after the Resolution passed by the board of directors.
 - 2. If applicable, the Power of Attorney for Lead Member of Consortium in the format of Annexure-3 ; and

Envelope B:

- i. Technical Bid.
 - 1. Executive Summary
 - 2. Compliance to Qualification Requirements
 - 3. Support Documents for Technical Evaluation Matrix
 - 4. Approach and Methodology
 - a. Understanding about the Project scope and objective
 - b. Project Implementation approach
 - c. Project Management Practices
 - 5. Proposed Team CV of Key Personnel's
 - 6. Project Plan
 - 7. Project Experience References
 - 8. Proposed Support Practices for Maintenance Phase

Envelope C:

- 1. Financial Bid Submission Letter
- 2. Financial Bid.

- ii. The three envelopes specified in Clauses 2.9 (b) shall be placed in an outer envelope, which shall be sealed. Each of the four envelopes shall clearly bear the following identification: Bid for the "Project Management work for implementation of smart grid infrastructure in NDMC" and shall clearly indicate the name and address of the Bidder. In addition, the Bid Due Date should be indicated on the right hand top corner of each of the envelopes.
- iii. Each of the envelopes shall be addressed to the officer designated in Clause 1.3
- iv. If the envelopes are not sealed and marked as instructed above, the NDMC assumes no responsibility for the misplacement or premature opening of the contents of the Bid submitted and consequent losses, if any, suffered by the Bidder.
- v. Bids submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

c. Bid Due Date

- i. Bids should be submitted before the Bid Due Date (Last date and time for submission of bids) at the address provided in Clause 1.3 in the manner and form as detailed in this RFP document.
- ii. The NDMC may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 3.8 uniformly accessible for all Bidders.

d. Late Bids

Bids received by the NDMC after the specified time on the Bid Due Date (including the extended period if any) shall not be eligible for consideration and shall be summarily rejected.

e. Modifications/ Substitution/ Withdrawal of Bids

- i. The Bidder may modify, substitute or withdraw its Bid after submission, provided that written notice of the modification, substitution or withdrawal is received by the NDMC prior to the Bid Due Date. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date.

- ii. The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.9 (b), with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.
- iii. Any alteration/ modification in the Bid or additional information supplied subsequent to the Bid Due Date, unless the same has been expressly sought for by the NDMC, shall be disregarded.

2.10 Opening of Bids

- a. The NDMC shall open the Bids (Envelope A and B) received within the specified time, on the Bid Due Date as specified in Clause 1.1 at the place specified in Clause 1.3 and in the presence of the Bidders who choose to attend.
- b. The representatives of the Bidders should carry the identity card or a letter of authority from the Bidder to identify their bonafides for attending the Technical Bid opening.
- c. The NDMC will subsequently examine and evaluate the Bids in accordance with the provisions set out in this RFP document.
- d. To facilitate evaluation of Bids, the NDMC may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.
- e. The technical evaluation of only those Bidder will be done who will found eligible in terms of Clause 4.3.
- f. Envelope C containing the Financial Proposal will remain unopened and will be held in custody of NDMC until the time of opening of the Financial Proposals.
- g. NDMC shall invite the Technically Qualified Bidders as declared in terms of clause 4.10 (C) for the opening of the Financial Proposals. The date, time, and location of the opening of Financial Proposals will be informed by NDMC separately and individually to such Technically Qualified Bidders.

2.11 Rejection of Bids

- (a) Notwithstanding anything contained in this RFP document, the NDMC reserves the right to reject any Bid and to annul the Bidding Process and reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefore. In the event that the NDMC rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.
- (b) The NDMC reserves the right not to proceed with the Bidding Process at any time, without notice or liability, and to reject any Bid without assigning any reasons.

2.12 Validity of Bids

The Bids shall be valid for a period of not less than 90 (Ninety Days) days from the Bid Due Date. The validity of Bids may be extended by mutual consent of the respective Bidders and the NDMC.

2.13 Confidentiality

- (a) Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the NDMC in relation to, or matters arising out of, or concerning the Bidding Process. The NDMC will treat all information, submitted as part of the Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The NDMC may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the NDMC or as may be required by law or in connection with any legal process.
- (b) The NDMC may allow the Successful Bidder to review and utilize highly confidential public records and the Successful Bidder shall maintain the highest level of secrecy, confidentiality and privacy with regard thereto.
- (c) The Successful Bidder shall keep confidential all the details and information with regard to the Project, including systems, facilities, operations, management and maintenance of the systems/facilities.

- (d) The NDMC or its nominated agencies shall retain all rights to prevent, stop and if required take the necessary punitive action against the Successful Bidder regarding any forbidden disclosure.
- (e) For the avoidance of doubt, it is expressly clarified that the aforesaid provisions shall not apply to the following information:
- (i) information already available in the public domain;
 - (ii) information which has been developed independently by the Bidder / PDMA not affecting any interest of the NDMC;
 - (iii) information which has been received from a third party who had the right to disclose the aforesaid information;
 - (iv) information which has been disclosed to the public pursuant to a court order.
- (f) To the extent the Successful Bidder shares its confidential or proprietary information with NDMC for effective performance of the Services, the provisions of the Clause 2.13 (b) to 2.13 (d) shall apply *mutatis-mutandis* on the NDMC.

2.14 Correspondence with the Bidder

Save and except as provided in this RFP document, the NDMC shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

2.15 Contacts during Bid Evaluation

Bids shall be deemed to be under consideration immediately after they are opened on the Bid Due Date and until such time the NDMC makes official intimation of award through issuance of Letter to Acceptance to the Preferred Bidder/ rejection to the Bidders. While the Bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain, save and except as required under the RFP document, from contacting by any means, the NDMC and/ or their employees/ representatives on matters related to the Bids under consideration.

2.16 Deviation Statement

Bidders may note that NDMC will not entertain any deviations to the RFP document at the time of submission of the Proposal or thereafter. The Proposal to be submitted by the Bidders would have to be unconditional and unqualified and the Bidders would be deemed to have accepted the terms and conditions of the RFP document with all its contents.

2.17 Bid Submission Format

The Bidder should ensure that all the required documents, as mentioned in this RFP document, are submitted along with the bid and in the prescribed format only. NDMC will not accept delivery of Proposal in any manner other than that specified in this RFP document. Proposal delivered in any other manner shall be treated as defective, invalid and rejected. Non-submission of the required documents or submission of the documents in a different format/ contents may lead to the rejections of the bid proposal submitted by the Bidder.

2.18 Earnest Money Deposit (EMD)

- a. The Bidder shall furnish as part of its Bid, an Earnest Money Deposit (EMD) of Rs. 55 Lacs in the form of Demand Draft/ Pay Order/ Bankers Cheque/ FDR/ TDR in favour of "Secretary, NDMC" payable at Delhi/ New Delhi or in the form of a Bank Guarantee issued by a nationalised bank, or a Scheduled Bank in India, in favour of the "Secretary NDMC" in the format at Annexure-11 (the "Bank Guarantee") and having a validity period of not less than 180 (one hundred eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the NDMC and the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalized bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.
- b. The NDMC shall not be liable to pay any interest on the Earnest Money Deposit so made and the same shall be interest free.
- c. Any Bid not accompanied by the Earnest Money Deposit shall be summarily rejected by the NDMC as non-responsive.
- d. The Earnest Money Deposit of unsuccessful Bidders will be returned by the NDMC, without any interest, as promptly as possible on issuance of the Letter of Acceptance to the Preferred Bidder or when the Bidding process is cancelled by the NDMC.
- e. The Preferred Bidder's EMD will be returned, without any interest, upon the PDMA signing the Contract Agreement after furnishing the Performance Security in accordance with the provisions thereof.

- f. The NDMC shall be entitled to forfeit and appropriate the EMD as Damages *inter alia* in any of the events specified in Clause 2.18 (g) herein below. The Bidder, by submitting its Bid pursuant to this RFP document, shall be deemed to have acknowledged and confirmed that the NDMC will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid validity as specified in this RFP document. No relaxation of any kind on EMD shall be given to any Bidder.
- g. The EMD shall be forfeited as Damages without prejudice to any other right or remedy that may be available to the NDMC under the RFP document and/ or under the Contract Agreement, or otherwise, if-
- (a) Bidder submits a non-responsive Bid;
 - (b) Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 8.1 of this RFP document;
 - (c) Bidder withdraws its Bid during the period of Bid validity as specified in this RFP document and as extended by mutual consent of the respective Bidder(s) and the NDMC;
 - (d) The Preferred Bidder fails within the specified time limit -
 - (i) To sign and return the duplicate copy of Letter of Agreement; or
 - (ii) To sign the Agreement; or
 - (iii) To furnish the Performance Security within the period prescribed therefore in the Contract Agreement.

In such an event, the decision of the NDMC regarding forfeiture of the EMD shall be final and binding upon Bidders.

- h. Bidders should mention the beneficiary account details for EMD refund in the Earnest Money Deposit Form as required for Refund. The beneficiary account provided for EMD refund should remain active for successful EMD refund. The earnest money deposit of unsuccessful Bidders will be refunded through RTGS / NEFT mode. Bidders should submit scanned copy of cancelled cheque of the beneficiary account for EMD refund.
- i. In case of forfeiture of EMD as prescribed in as above, the Bidder shall not be allowed to participate in the rebidding process of the same project.

2.19 Pre-Bid Meeting

- a. Pre-Bid Meeting will be convened at the designated date as mentioned in Clause 1.1 at a time and place specified by the NDMC.

- b. A maximum of three representatives of each person who has purchased this RFP document shall be allowed to participate on production of duly issued authority letter from such person and identity documents.
- c. During the course of Pre-Bid Conference(s), the Bidders may seek clarifications and make suggestions for consideration of the NDMC.
- d. The NDMC shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.
- e. All enquiries from the Bidders relating to this RFP document must be submitted to NDMC before the deadline mentioned in RFP document (Key Events and Dates – Clause 1.1). **These queries should also be emailed at ndmc.ipds@gmail.com.**

2.20 **Solvency** :- The bidder should have solvency of Rs. 18 Crores. The bidder will submit solvency certificate from bank as per Annexure-11.

Section-3 (Project Scope of Work)

3.1 The Smart Grid infrastructure proposed in NDMC includes the following:

- a. Strengthening of sub-transmission and distribution network.
- b. Smart Metering/AMI
- c. IT enablement of distribution system including technology infusion & others.
- d. The estimated cost of these schemes is expected to the Rs. 453 Crore.

3.2 NDMC envisage the following works in Network Strengthening and Augmentation Field:-

- a. Replacement of old 11KV Panels and sick cable.
- b. Replacement of Old LT Panels and Boards and sick LT cable.
- c. Installation of Distribution transformers (DTs)
- d. Augmentation of Oil filled DTs
- e. Replacement of selected oil filled DTs to Dry type DTs to enhance safety and reliability of selected indoor sub-stations as per site requirement.
- f. Installation of capacitor banks to improve Voltage regulation.
- g. Strengthening of earthing of Network equipment
- h. Commissioning of Automation enablers

3.3 NDMC envisage the following work in Technology Systems Field:-

- a. Establishment of Data Centre, DR Centre and Centralized Call Centre.
- b. IT Infrastructure of NDMC Electric Utility Offices.
- c. GIS Field Survey and Land Base Creation
- d. Network Backhaul System (LAN / WAN / Internet)
- e. Advanced Metering Infrastructure (AMI)
- f. Geographical Information System (GIS)
- g. Advanced Distribution Management System (ADMS)
- h. Power Portfolio Management
- i. Customer Relationship Management (CRM), Metering, Billing, Collection
- j. Enterprise Resource Planning (ERP)
- k. Network Analysis
- l. Operationalization of existing SCADA Infrastructure

3.4 Business Process Re-Engineering, Change Management and Capacity Building as per project requirement.

3.5 Selected bidder to establish a Project Management Office with 30 days from the date of award of work, and that will remain operational till the implementation phase is completed for all the SMART Grid Infrastructure Components including enhancing Existing Network. Office arrangement for the Project Management Unit (PMU) will be arranged by NDMC.

3.6 To establish a Project Management Unit (PMU) and deploy minimum of the following resources at Project site. Additional resources required as per the project requirements shall be assessed by the selected bidder and to be deployed as and when required. A detailed resource deployment plan is to be submitted by the bidder in their technical bid.

Sr. No	Position	No. of Dedicated Resources	Minimum Qualification	Minimum Relevant Experience in years
1	Chief Project Manager – SMART Grid Expert	1	Degree in Electrical engineering with MBA	20
2	Project Manager - Power Distribution Network	1	Degree in Electrical engineering	15
3	Project Manager – SMART GRID Technology	1	Degree in Electrical engineering / MCA	15
4	Project Manager - IT Systems	1	MCA preferably with degree in Electrical Engineering	15
5	Project Manager – Contracts	1	Degree in Electrical engineering	15
6	Project Manager – BPR and Capacity Building	1	Degree in Electrical engineering	15
7	Subject Matter Experts – Power Distribution Network	1	Degree in Electrical engineering	7
8	Subject Matter Experts – Power Distribution Technology	3(AMI – 1, ADMS -1, Power Portfolio -1)	Degree in Electrical engineering / MCA	7
9	Subject Matter Experts – IT Systems	2 (S/w-1, H/w – 1)	Degree in Electrical Engineering	7
10	Subject Matter Experts – Contracts	2	Degree in Electrical engineering	7
11	Support Team	2	Degree/Diploma in Electrical engineering	3

3.7 Post Rollout Maintenance Support (for two years):

- a. Hand-holding utility on Overall system operations
- b. Providing assistance post go-live for proper change management on implemented modules.
- c. Supervising the performance of implemented module w.r.t the defined Service Level Agreement.
- d. Selected Bidder will act as single point of contact for NDMC for all coordination with suppliers / sub- contractors regarding any maintenance work.

3.8 Engagement Period

- a. **Project Design, Procurement & Establishment Phase (24 months) #** Establishment of all SMART Grid Infrastructure Components including enhancing Existing Network mentioned above is required to be completed within 24 months from the date of agreement. However this phase will be considered completed after operational acceptance by NDMC for all SMART Grid Infrastructure, hence PDMA to remain engaged till that milestone.
- b. **Post Implementation – Hand-holding Phase (24 Months) #** Appointed Program Management and Consultancy Firm to provide hand-holding, Capacity Building, SLA Monitoring and Vendor Management Support to the NDMC for two years post rollout of the system. If NDMC requires, this period can be further extended for another one years at mutually agreed Terms and Conditions at that time but not more than the cost of one year post rollout charges.

3.9 Project Management Work shall include

- a. **Project Designing** The agency shall prepare and submit to NDMC the concept, Preliminary and working drawing, tender documents, estimate & BOQ etc.
- b. **Concept Design:**
 - (i) Ascertain requirements, examine site constraints & potential; and prepare a design brief for approval.
 - (ii) Prepare conceptual designs with reference to requirements given and prepare rough estimate of cost.
- c. **Preliminary Design and Drawings:**
 - (i) Modify the conceptual designs incorporating required changes and prepare the preliminary drawings, sketches, etc. for NDMC approval along with preliminary estimate of cost.
- d. **Drawings for approval:**
 - (i) Prepare drawings necessary for approval and ensure compliance with codes, standards and legislation, as applicable and assist NDMC in obtaining all the statutory approvals thereof, if required.
- e. **Working drawing and tender documents:**
 - (i) Prepare working drawings/specifications and schedule of quantities sufficient to prepare estimate of cost and tender document including code of practice covering aspects like

mode of measurement, method of payments, quality control procedures on materials & works and other conditions of contract, as per IPDS guidelines amended up to date.

f. **Appointment of contractors:**

- i. Evaluate & analyse the tender, and advice NDMC on appointment of contractors.

d) **Construction:**

- a. Prepare and issue working drawing and details for proper execution of works during construction.
- b. Approve samples of various elements and components.
- c. Check and approve shop drawings submitted by the contractor/vendors.
- d. Visit the site of work at intervals mutually agreed upon, to inspect and evaluate the construction works and where necessary clarify any decision, offer interpretation of the drawings/specifications attend conferences and meetings to ensure that the project proceeds generally in accordance with the conditions of contract and keep NDMC informed and render advice on actions, if required.
- e. To ensure that the work at site proceeds in accordance with the contract documents/drawings and to exercise time and quality controls.
- f. Issue certificate of provisional completion of works.

e) **Project Management**

- a. Assist NDMC in preparation of detailed work implementation schedule (PERT) in association with turnkey/partial turnkey contractor/Agencies for supply, installation, testing, and commissioning of the work as per IPDS guidelines amended from time-to-time.
- b. Assists in checking the Bar-Chart for execution of the work on verifying the survey report submitted by the turnkey/partial turnkey contractor /Agencies.
- c. Day-to-day supervision, coordination & monitoring of project implementation activities.
- d. Assist in planning, monitoring and controlling the project in most cost effective manner, ensure quality workmanship, safety & security and follow up with the turnkey/partial turnkey contractor/Agencies for implementation of the Project within the target cost estimate time schedule.
- e. Coordination with NDMC to assist in obtaining statutory clearance and resolving ROW issue during implementation of the project.
- f. Assists NDMC in procurement of materials, issue of material to turnkey /partial turnkey contractor/Agencies and material reconciliation.
- g. To monitor receipt and issue of material by the turnkey/partial turnkey contractor/agencies.
- h. To verify material as per invoices raised by the turnkey/partial turnkey contractor/Agencies.
- i. To assist NDMC to verify creation of assets from asset register of NDMC as well as prepare asset register with due capturing of item wise cost to help in project accounting.
- j. Create and maintain robust framework for day-to-day project accounting to meet guidelines laid out by Nodal Agencies and related authorities. Accounting framework should be able to reflect detailed project expenditure in a real-time manner.

- k. Identification of anticipated bottlenecks in project implementation & preparation of remedial action plan in consultation with NDMC & turnkey/partial turnkey contractor/Agencies.
- l. To Monitor DPR wise weekly/monthly/quarterly physical & financial progress of the scheme, prepare a consolidated report and submit to NDMC for onward submission to the Nodal Agencies.
- m. Submit a report to Nodal Agencies, regarding project completion and expenditure incurred along with recommendation in accordance with the guidelines.
- n. Recommend the claim of NDMC for release of fund from Nodal Agencies. The recommendation is to be supported by a report on expenditure, progress and constraints, if any, for timely completion of project.
- o. To assist NDMC in receiving matching grant component of the schemes from Ministry of Power (MoP), Government of India from time to time.
- p. To assist NDMC in supervision of flow of funds in dedicated bank account of project.

f) Quality Monitoring

- a. To prepare a Quality Assurance (QA) Plan with the approval of the NDMC.
- b. Field quality inspection of ongoing/completed works.
- c. Identification of the defects, if any, and get the same corrected by the turnkey/partial turnkey contractor/Agencies.
- d. Joint inspection (along with representative of NDMC) of material at site on sample basis i.e. 10% of major material.

g) MIS & Web Portal Updating

- a. Preparation of monthly & quarterly progress report for execution of work.
- b. Compilation and analysis of utility level AT & C data on quarterly basis.
- c. Weekly/monthly/quarterly reporting to NDMC and the Project Management Authority & controlling officers of NDMC.
- d. Assist NDMC in timely updation of information on Web portal of NDMC Nodal Agencies etc.
- e. Coordination with Nodal Agencies/MoP and any other works as may be required to achieve the objectives of the scheme.

h) Project closure & other related activities

- a. Recording and submission of as-built vendor data.
- b. Providing an operation & maintenance manual in consultation with the turnkey/partial turnkey contractor/agencies to be followed after completion of work.
- c. Assisting NDMC in keeping record for unforeseen circumstances during execution.
- d. Provide necessary assistance to NDMC for supporting in contract closure with respective turnkey/partial turnkey contractor/agencies.
- e. Preparation of reconciliation statement and closure report.
- f. Assisting NDMC in taking over the executed works.
- g. All other associated works which are not listed above but are essential for successful completion of the assignment are deemed to be included in the scope of work without any cost implication to NDMC.

i) **Discussions & Presentations:**

- a. The Agency shall participate, interact/discuss as required, including making/attending presentations to the officials of NDMC, PFC, Ministry of Power of GOI, Monitoring Committee of GOI or any other agency. The consultant shall provide periodic reports to NDMC and Project Management Authority & controlling officers of NDMC & for Web Portal updation.

Q

Ramona

27/10/18

Section-4 (Evaluation of Bids)

4.1 BID EVALUATION COMMITTEE

- A) NDMC will constitute a Bid Evaluation Committee to evaluate the bids.
- B) The Bid Evaluation Committee, NDMC may seek clarifications in writing from the Bidders on their proposals and may visit Bidder's client site to validate the credentials/ citations claimed by the Bidder.
- C) Each of the responses shall be evaluated as per the criteria and requirements specified in this RFP document. NDMC reserves the right to reject any or all proposals on the basis of any deviations from this RFP document.
- D) This is a Quality-cum-Cost Based Selection (QCBS).
- E) Technical Score shall be given 70% weightage in total score and Financial Score shall be given 30% weightage in total score.

4.2 TESTS OF RESPONSIVENESS

- a. Prior to evaluation of Bids, the NDMC shall determine whether each Bid is responsive to the requirements of this RFP document. A Bid shall be considered responsive if:
 - (a) It is received as per the format defined in RFP document.
 - (b) It is received by the Bid Due Date including any extension thereof pursuant to Clause 2.9(c);
 - (c) it is signed, sealed, bound together in hard cover and marked as stipulated in Clauses 2.9 (a) and 2.9 (b);
 - (d) it is accompanied by the Earnest Money Deposit;
 - (e) it is accompanied by the Power(s) of Attorney, if applicable;
 - (f) it contains all the information (complete in all respects) as requested in this RFP document (in formats same as those specified);
 - (g) it quotes complete scope of Work as indicated in the RFP documents, addendum (if any) and any subsequent information given to the Bidder;
 - (h) it does comply with all the Technical specifications and General Terms and conditions;
 - (i) it does not contain any condition or qualification;
 - (j) the Bidder has submitted all additional information or clarification as sought by NDMC within the prescribed period;
 - (k) Bids with duly signed integrity pact; and
 - (l) it is not non-responsive in terms hereof.

- (b) The NDMC reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the NDMC in respect of such Bid. Provided, however, that the NDMC may, in its discretion, allow the Bidder to rectify any infirmities or omissions if the same do not constitute a material modification of the Bid.

4.3 EARNEST MONEY DEPOSIT, RFP DOCUMENT COST (IF APPLICABLE) AND ELIGIBILITY CRITERIA (ENVELOPE A)

- a. The bids without Earnest Money Deposit will be summarily rejected.
- b. In case, the Bidder has downloaded the RFP document from the NDMC's website, then the Bidder is required to pay the cost of RFP document alongwith the EMD, failing which its bid will be rejected.
- c. The bid of the Bidder shall be evaluated on the basis of the following Eligibility Criteria:

S. No.	Basic Requirement	Specific Requirements	Documents Required
1	Bidder Entity	Legal entities duly registered under the Companies Act 1956/ 2013 is allowed. At the time of submission of proposal for this RFP all the members of consortium shall be Legal entities duly registered under the Companies Act 1956/ 2013. Companies participating as Sole Bidder or as part of consortium should be registered entity for at-least five years before the bid submission date.	a) Certificates of incorporation; b) Registration Certificates; c) Copy of the consortium agreement in case of consortium, clearly specifying the role and area of specialization of the individual parties of consortium duly signed by Consortium parties on Rs.100 non-judicial stamp paper.
2	Turnover	Bidder should have Minimum Average Annual Turnover of Rs. 50 Crores amount for last three financial years. In case of consortium this is to be met on jointly basis, however Lead bidder should meet at-least 40% of the requirement.	(i) Certificate(s) from statutory auditors of the Bidder or its Associates or the concerned client(s) stating the payments made/ received or works commissioned, as the case may be, during the past 3 (three) years; and
3	Net worth	Bidder should have positive net worth in last three financial years. In case of consortium, this condition should be met by all the members.	(ii) certificate(s) from statutory auditors of the Bidder or its Associates specifying the Net Worth of the Bidder, as at the close of the preceding financial year, and also specifying that the methodology adopted for calculating such Net Worth conforms to the following:

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			<p>"Net Worth shall mean the sum of subscribed and paid up equity and reserves from which shall be deducted the sum of revaluation reserves, miscellaneous expenditure not written off and reserves not available for distribution to equity share holders."</p>
4	Network Strengthening Consultancy Experience	<p>Bidder should have experience of successful completed works during the last 7 years experience ending previous day of last date of submission of RFP.</p> <p>Similar work experience:</p> <p>Bidder should have experience of successfully completed Project Management consultancy work of at least three similar work of project costing Rs. 180 Crores each or two works of project costing Rs 270 Crores each or one work of project costing Rs 360 Crores. Similar work means Project Management consultancy for IPDS/R-APDRP works.</p> <p>NOTE:-Lead bidder should have experience of at least completion of one work as mentioned above.</p>	Copy of Work Orders / Agreement
5	Registration under Tax , etc.	<p>The Bidder or the Lead Bidder should have a registered number of:</p> <p>(a) Service Tax;</p> <p>(b) Income Tax PAN;</p> <p>(c) undertaking by the Bidder that they will get ESI & EPF registration, if applicable before release of first payment;</p>	Copies of relevant(s) Certificates of Registration.
6	No Barring Certificate	Any entity which has been barred, by the Central Government/ any State Government/ NDMC, or any entity controlled by these, from participating in any project or otherwise, and the bar subsists as on the date of Application, would not be eligible to submit an Application, either individually or as member of a Consortium.	Undertaking by the authorized signatory as well as all member of consortium as per the form mentioned in Annexure- 9.
7	Presence in India	Bidder can be individual firm or a consortium of maximum of three firms. Sole Bidder / Lead Bidder should have a registered office in India and must be operational on the bid submission date.	Self-Certificate from the Bidder with registered office address details.

8	Integrity Pact	Duly signed Integrity Pact as per Annexure - 2	The Bidder has to submit has to submit duly signed Integrity Pact as per Annexure – 2 alongwith its proposal.
9	Technology Projects Experience	<p>Bidder should have prior experience of successfully completed Project in each of the following SMART grid Technology fields as Project Management Consultant or Project Implementing Agency in last five years in Power Distribution Sector.</p> <ul style="list-style-type: none"> i. Development of SCADA Control Centre and IT DATA Centre ii. SCADA/DMS established on at-least 10 Grid Sub-stations iii. Sub-station Automation iv. Utility Billing, CRM and ERP Solution for at-least 25,000 consumers and should have successfully maintained for period 5 years. v. Centralized Call Centre (Minimum seat capacity – Nos. 10) vi. Advanced Metering Infrastructure (AMI/AMR) at-least 25 Sq. Km area and at-least 30,000 connections vii. Geographical Information System (GIS) Establishment for at-least 30,000 consumers and maintenance for one year. viii. Renewable Integration and Net Metering experience for at-least 1 MW solar plant as Consultant / Implementation agency. <p>NOTE:- In case of consortium requirements to be met jointly by consortium partners.</p>	<p>Proof :</p> <p>Performance/Completion Certificate along with Letter of Award / Agreement, Self-certificate in case of Power Distribution Utility]</p>
	Team Strength	<p>Bidder should have at-least 30 Technical Subject Matter Experts on-roll (Minimum 5 year's SMART Grid Technology Experience with electrical engineering degree) in Operational / Commercial / Technology field in the Power Distribution Sector as on the date of Bid Submission. Qualification Certificates along with TDS certificates of all such employee. In case of consortium, this can be meet jointly by all the consortium members.</p>	<p>Self-certificate by the bidder duly attested by the Head of the HR department and with a list of resources detailing followings</p> <ol style="list-style-type: none"> 1. Name 2. Joining Date 3. Qualification, 4. Total Experience 5. Relevant Field 6. Working with the current company (in Years)

10	Solvency	Bidder should have solvency of Rs. 18 Crores	Documents requirement Bank Certificate as per Annexure-11
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The Bidder shall submit all the documents in the prescribed formats mentioned in the RFP document.

4.4 CONSORTIUM

- A. The Application should contain the information required for each member of the Consortium;
- B. Members of the Consortium shall nominate one member as the lead member (the "Lead Member"). The nomination(s) shall be supported by a Power of Attorney, as per the format at Annexure-7, signed by all the other members of the Consortium;
- the Application should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and O&M obligations;
 - an individual Bidder cannot at the same time be member of a Consortium applying for this project. Further, a member of a particular Bidder Consortium cannot be member of any other Bidder Consortium applying for this project;
 - members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at Annexure-4 (the "Jt. Bidding Agreement"), for the purpose of making the Application and submitting a Bid in the event of being short-listed. The Jt. Bidding Agreement, to be submitted along with the Application, shall, inter alia:
 - convey the intent to form a consortium in accordance with this RFP document, which would become part of the contract Agreement and subsequently perform all the obligations of the PDMA in terms of this consortium Agreement, in case the the Project is awarded to the Consortium;
 - clearly outline the proposed roles and responsibilities, if any, of each member;
 - include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations of the PDMA in relation to

the Project until the Financial Close of the Project is achieved in accordance with the Contract Agreement; and

- (ii) except as provided under this RFP document, there shall not be any amendment to the Jt. Bidding Agreement without the prior written consent of the NDMC;
- (iii) in case Bidder is a Consortium, then the term Bidder as used in this RFP document, shall include each Member of such Consortium.

4.5 CHANGE IN COMPOSITION OF THE CONSORTIUM

- a. Where the Bidder is a Consortium, change in composition of the Consortium may be permitted by the NDMC during the Bid Stage, only where:
 - (a) the Lead Member continues to be the Lead Member of the Consortium;
 - (b) the substitute is at least equal, in terms of Technical Capacity or Financial Capacity, to the Consortium Member who is sought to be substituted and the modified Consortium shall continue to meet the pre-qualification and short-listing criteria for Bidders; and
 - (c) the new Member(s) expressly adopt(s) the Application already made on behalf of the Consortium as if it were a party to it originally, and is not Bidder/Member/ Associate of any other Consortium bidding for this Project.
- b. Approval for change in the composition of a Consortium shall be at the sole discretion of the NDMC and must be approved by the NDMC in writing. The Bidder must submit its application for change in composition of the Consortium no later than 15 (fifteen) days prior to the Bid Due Date.
- c. The modified/ reconstituted Consortium shall submit a revised Joint Bidding Agreement and a Power of Attorney, substantially prior to the Bid Due Date.
- d. The option of change in composition of the Consortium which is available under Clause 4.5 (9) may be exercised by any Bidder who is either a Consortium or a single entity. In the case of a single entity Bidder adding a Consortium Member at the Bid Stage, the single entity Bidder shall be the Lead Member of the Consortium. Provided, however, that no member of such Consortium shall be Bidder or the member of a Consortium participating in this project.

- e. Bidder shall not have a conflict of interest (the “**Conflict of Interest**”) as provided in Clause 9.12 that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the NDMC shall be entitled to forfeit and appropriate the Earnest Money Deposit or Performance Security, as the case may be, as mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the NDMC and not by way of penalty for, inter alia, the time, cost and effort of the NDMC, including consideration of such Bidder’s proposal, without prejudice to any other right or remedy that may be available to the NDMC under the RFP Document and/ or the Contract Agreement or otherwise.
- f. The Bidder shall promptly inform the NDMC of any change in the status of the Bidder with reference to any of the eligibility criterion specified in clause 4.3 (c), and failure to do so shall render the Bidder liable for disqualification from the Bidding Process.
- g. Only those Bidders who meet the eligibility criteria specified in Clauses 4.3 (c) shall qualify for technical evaluation under Clause 4.6. Applications of firms/ consortia who do not meet these criteria shall be rejected.

4.6 TECHNICAL EVALUATION (ENVELOPE “B”)

Bidders, who are found eligible in terms of Clause 4.3 above, would be considered for technical evaluation. **Criteria for Technical Evaluation**

Sr. No	Criteria	Unit	Value	Marks
1	Minimum Annual average turnover of the bidder in last three financial years Marks will be assigned on pro-rata basis for bidders where Minimum Average Annual Turnover (MAAT) is between Rs. 50 Crs to Rs. 100 Crs.	In Rs. Crores	Rs. 50 Crs.	7.5
			Rs. 100 Crs.	15
2	Project Management and Consultancy services on Network Strengthening Work in Power Distribution Sector as follows: (a) Bidder should have experience of successfully completed Project Management consultancy work of at least three similar work of project costing Rs. 180 Crores each or two works of project costing Rs 270 Crores each or one work of project costing Rs 360 Crores	No. of Project	As mentioned in criteria	15
	(b) Each project worth outlay of at-least Rs.180 Crores in last 5 years greater than or equal to 4 and less than or equal to 6.	No. of Project	4 to 6	20
	(c) Each project worth outlay of at-least Rs. 180 Crores in last 5 years greater than or equal to seven	No. of Project	7 or more	30
3	Project Design, Management and Consultancy	No. of	30000	5

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Parman

[Signature]

	Experience of AMI/AMR Establishment / Engagement in last five years (in a single project)	Connections	45000	8
			60000	10
4	No. of Projects in which, Bidder has provided Project Design, Management and Consultancy services, in IT or SCADA/DMS field from concept to commissioning.	No. of Projects	2	5
			5	8
			8	10
5	Bidder has prior experience in successfully completing the GIS DGPS Survey and GIS Application establishment work in Power Distribution Sector in last 5 years	No. of connections	30,000	3
			45,000	4
			60,000	5
6	Experience of Project management and Consultancy work in Power Distribution projects in India under R-APDRP / IPDS in last 7 years.	No. of Projects	2	5
			3 to 5	8
			More than 5	10

Note: Work Orders or Client Certificates for successful completion of such work confirming period and area of activities for the purpose of clause 4.6 should be enclosed. Self-certification shall be submitted by the Bidder for works executed for internal purposes. NDMC can verify such submissions / work orders / client certificates submitted by the Bidder through any means, including site visits.

Team Profile (Maximum Marks – 20)

a. Chief Project Manager (Marks – 8)

- i. Experience in Network Automation projects (SCADA/DMS/OMS/Sub-station Automation / DA). At-least one project from concept to commissioning (marks – 3)
- ii. Power Distribution Utility Work Experience (At-least 10 years) (Marks – 3)
- iii. Post-Graduation Degree (marks – 2)

b. Project Managers for Network Strengthening, Smart Grid Technology, IT System, Capacity Building (Marks -3 for each CV) for all four positions

- i. Experience in relevant field. At-least one project from concept to commissioning (marks -1)
- ii. Power Distribution Utility Work Experience (At-least 5 years) (Marks – 1)
- iii. Post-Graduation Degree (marks – 1)

4.7 TECHNICAL PRESENTATION

The Bidders, who are found eligible in terms of Clause 4.6 above, will be asked to give a presentation on its proposal on date, time and place as communicated to the Bidder by the NDMC in writing before the Bid Evaluation Committee.

4.8 NDMC MAY VISIT VARIOUS CLIENT SITES NATIONAL OR GLOBAL TO VALIDATE THE PROJECT CITATIONS AND IMPLEMENTATION EXPERIENCE QUOTED BY THE BIDDER. THE NDMC WILL BEAR THE EXPENSES ON THE NDMC OFFICERS/OFFICIALS TOUR AND THE BIDDER SHALL FACILITATE THE SAME.

4.9 All the expenses incurred by the Bidder for the purposes mentioned in this clauses 7 and 8 will be borne by the Bidder.

4.10 Technical Scoring and Evaluation

- a. For the purpose of arriving at Technical Score, the bid shall be evaluated against the Technical Parameters, with respective weightage, as given in RFP document.
- b. The Total Technical Score will be calculated out of 100 Marks. The Bidder has to score the following minimum Qualifying Marks to qualify in the Technical Evaluation Criteria:
 - 50% marks in individual Technical Evaluation Criteria; and
 - 65% marks out of total 100 Marks of Technical Evaluation criteria.
- c. The Bidders scoring marks less than the minimum qualifying marks as mentioned above shall be disqualified for Financial Bid Opening (Envelope C). The Bidders scoring marks equal to or more than the minimum qualifying marks as mentioned above shall be declared as Technically Qualified Bidders.

4.11 FINANCIAL BID

- a. The Financial Bids of Technically Qualified Bidders will be opened on date, time and place as communicated to the Bidder by the NDMC in writing in the presence of Bidders who choose to attend.
- b. Composite Score of the Bidders shall be worked out as under:

	Bidder's Scores (A)	Weightage (B)	Weighted Score [(C) = (A) x (B)]
Technical Score	X	70%	(0.7)(X)
Financial Score	Y (in proportion to L1 on a base of 100)	30%	(0.3)(Y)
Composite Score of the Bidder			(0.7)(X) + (0.3)(Y)

c. Evaluation for Preferred Bidder

- i. The Bidder who has secured the **highest Composite Score** as calculated under clause 4.11 (b) shall be declared the Preferred Bidder for the Project.
- ii. In the event that two or more Bidders secure exactly the same Composite Score in respect of the Project, then the Preferred Bidder will be selected in the following manner:
 - (i) The Bidder whose Financial Score is highest for the Project among such Bidders having same Composite Score will be declared as Preferred Bidder;
 - (ii) In case, Bidders having same Composite Score also have same Technical Score, then the Bidder having more financial net worth at the end of financial year 2015-16 will be declared as Preferred Bidder;
 - (iii) If none of the above resolves the tie, a simple draw method will be used for tie-breaking. The Preferred Bidder will be selected by draw on date, time and place as communicated to all such Bidders by the NDMC in writing in presence of such Bidders who choose to attend.

NOTE:- "Y" will be calculated as follows, for example L1 bids 3 Crores, L2 bid 4 Crores, L3 bid 5 Crores then marks of L1 =100, marks of L2 = $100 \times 3/4 = 75$, marks of L3 = $100 \times 3/5 = 60$.

Section-5 (General Conditions of the Contract)

5.1 Location: The Services shall be performed at the area under the jurisdiction of NDMC.

5.2 **Effectiveness of contract:** This Contract shall come into force and effect on the date (the "Effective Date") of the NDMC's notice to the appointed PDMA confirming that the following conditions have been met:

- a) This Contract has been approved by NDMC
- b) Requisite Advance Payment Bank Guarantee has been submitted by the PDMA.

5.3 **Relation between the Parties:** Nothing contained herein shall be construed as establishing a relation of master and servant or of agent and principal as between the utility and the PDMA. The Consultant, subject to this Contract, has complete charge of Personnel performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

5.4 **Terms of Payment:** The Contract Price shall be paid in the manner specified in the SCC. No invoice for extra work/change order on account of change order will be submitted by the Supplier unless the said extra work/change order has been authorized/approved by the Purchaser in writing., as appropriate, Services provided, accompanied by the documents submitted pursuant to GCC Clause "Delivery". The PDMA shall submit the bills in triplicate to the concerned utility.

- i. Payments shall be made promptly by the Purchaser, not later than sixty (60) days after submission of an invoice along with supporting documents or request for payment by the Supplier, and the Purchaser has accepted it. But if the progress is not satisfactory and according to agreed work program/schedule the payment may be withheld.
- ii. The final payment under this Clause shall be made only after satisfactory completion of the activities mentioned in the Scope of Work.
- iii. If any excess payment has been made by the Purchaser due to difference in quoted price in proposal and Supplier's invoice, the purchaser may without prejudice to its rights recover such amounts by other means. After notifying the Supplier or deduct such excess payment from any payment subsequently falling due to the PDMA.

5.5 Taxes and Duties: The PDMA and the personnel shall pay the taxes, duties, fees, levies and other impositions levied under the existing, amended or enacted laws during life of this contract and the NDMC shall perform such duties in regard to the deduction of such tax as may be lawfully imposed.

- i. Payment of taxes/duties shall be made separately in any case on actual at prevailing rate at the time of invoice submission by PDMA to NDMC.
- ii. For goods/services supplied from outside the Purchaser's country, the Supplier shall be entirely responsible for all taxes, duties, stamp duties, license fees, and other such levies imposed outside the Purchaser's country. However, this shall be reimbursed on actual by NDMC.
- iii. Service tax will be reimbursed after reproducing service tax receipt explicitly for IPDS work.

5.6 Performance Security: The Supplier shall, within fifteen (15) days of the notification of Contract award, provide a Performance Security for the due performance of the Contract in the amounts and currencies specified in the SCC.

- i. The Purchaser shall at its sole discretion invoke the Performance Security and appropriate the amount secured there-under, in the event that the Supplier commits any delay or default in Services rendered or commits any breach of the terms and conditions of the Contract.
- ii. The Performance Security shall be denominated in the currencies of the Contract, and shall be in one of the forms stipulated by the Purchaser in the SCC.
- iii. The Performance Security shall be discharged by the Purchaser and returned to the PDMA not later than twenty-eight (28) days following the date of completion of the Supplier's performance obligations under the Contract, unless specified otherwise in the SCC.

5.7 Sub-contracting: The PDMA shall not be permitted to sub-contract any part of its obligations under the Contract with the utilities.

5.8 Service Quality: The Purchaser may reject any Service rendered or any part thereof that fail to conform to the specifications. The Supplier shall take measures necessary to meet the specifications at no cost to the Purchaser.

5.9 Liquidated Damages and Penalty: Except as provided under GCC Clause "Force Majeure", if the Supplier fails to perform any or all of the Services within the period specified in the Contract, the Purchaser may without prejudice to all its other remedies under the Contract,

deduct from the Contract Price, as liquidated damages, a sum equivalent to 0.5% of the value of the Service, supplied beyond stipulated delivery schedule for each week or part thereof of delay until actual performance, subject to a maximum of 10% of value of such services.

5.10 **Payment Schedule** : As per the financials forms, bidder to quote financials under two heads i.e.

a. **PDMA Fees for Establishment Phase- SMART Grid Infrastructure Establishment.**

- (i) Fixed Monthly payment (40% of the PDMA Fees Establishment Phase) in 24 equal monthly instalments.
- (ii) **Milestone Linked payment Submission 50% of the PDMA Fees (Establishment Phase)**
 - 1. AS-IS Study report, System Design Report and Final BoQ for all modules – 10%
 - 2. Floating of Tenders for selection of selection Solution providers (at-least 90% of the total Project Estimated Cost) – 10%
 - 3. Award of implementation work(at-least 90% of the total Project Estimated Cost) – 20%
 - 4. Provisional Acceptance of DATA Centre and Call centre with Hardware and System Software – 20%
 - 5. Provisional Operational Acceptance of AMI System – 15%
 - 6. Provisional Operational Acceptance of Network Strengthening Work – 15%
 - 7. Provisional Operational Acceptance of the Application (GIS, ERP, CRM, Power Portfolio and Network Analysis System – 10%
- (iii) Final Operational Acceptance of complete SMART Grid System – 10% PDMA Fees (Establishment Phase)

b. Payment for the support period will be released on quarterly basis after completion of each quarter.

c. In case of consortium, payment will be made only to lead member of consortium.

- 5.11 **Liability / Indemnity:** The Supplier hereby agrees to indemnify the Purchaser, for all conditions and situations mentioned in this clause, in a form and manner acceptable to the Purchaser. The supplier agrees to indemnify the Purchaser and its officers, servants, agents ("Purchaser Indemnified Persons") from and against any costs, loss, damages, expense, claims including those from third parties or liabilities of any kind howsoever suffered, arising or incurred inter alia during and after the Contract period out of:
- i. Any negligence or wrongful act or omission by the Supplier or its agents or employees or any third party associated with Supplier in connection with or incidental to this Contract; or
 - ii. Any infringement of patent, trademark/copyright or industrial design rights arising from the use of the supplied Goods and Services or any part thereof.
 - iii. The Supplier shall also indemnify the Purchaser against any privilege claim or assertion made by third party with respect to right or interest in, ownership, mortgage or disposal of any asset, property, movable or immovable as mentioned in any Intellectual Property Rights, licenses and permits.
 - iv. Without limiting the generality of the provisions of this articles, the Supplier shall fully indemnify, hold harmless and defend the Purchaser Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the Purchaser Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any Goods, Services, information, design or process supplied or used by the Supplier in performing the Supplier's obligations or in any way incorporated in or related to the Project. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Supplier shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the suspension of the injunction or restraint order. If, in any such suit, action, claim or proceedings, the Goods or Services, or any part thereof or comprised therein, is held to constitute an infringement and its use is permanently enjoined, the Supplier shall promptly make every reasonable effort to secure for the Purchaser a license, at no cost to the Purchaser, authorizing continued use of the infringing work. If the Supplier is unable to secure such license within a reasonable time, the Supplier shall, at its own expense, and without impairing the specifications and standards, either replace the specifications and standards, either replace the

affected work, or part, or process, or modify the same so that it becomes non-infringing.

- v. **Survival on Termination:** The provisions of this Clause "Liability / Indemnity" shall survive Termination.

5.12 Defense of Claims: If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Sub-Clause mentioned right below the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

- i. If the Supplier fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.
- ii. The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.

5.13 Limitation of Liability: Except in cases of gross negligence or wilful misconduct:

- i. Neither party shall be liable to the other party for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser; and
- ii. The aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort, or otherwise, shall not exceed the amount specified in the Contract Price. Provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Supplier to indemnify the Purchaser with respect to patent infringement.

5.14 Change in Laws and Regulations: Unless otherwise specified in the Contract, if after the date of the Invitation for Bids, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the Purchaser's country where the Site / area of work is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date, then such Delivery Date shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract.

5.15 Force Majeure:

- i. For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations

hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies. Force Majeure shall not include:

- a. Any event which is caused by the negligence or intentional action of a Party or such Party's Sub-consultants or agents or employees.
 - b. Any event which a diligent Party could reasonably have been expected to both
 - c. Take into account at the time of the conclusion of this Contract, and
 - d. Avoid or overcome in the carrying out of its obligations hereunder.
- ii. The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract in so far as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.
 - iii. A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfil its obligations hereunder with a minimum of delay.
 - iv. A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.
 - v. The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
 - vi. The decision of the Purchaser with regard to the occurrence, continuation, period or extent of Force Majeure shall be final and binding on the Supplier.
 - vii. Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
 - viii. Note later than thirty (30) days after PDMA, as the result of an event of Force Majeure, have become unable to perform a material portion of the Services, the Parties shall consult with each other with a view of agreeing on appropriate measures to be taken in the Circumstances.

- 5.16 Change Orders and Contract Amendments: The Purchaser may at any time order the PDMA through Notice in accordance GCC, to make changes within the terms and conditions of this Contract, including any modification of the scope of the Services.
- i. If any such Change Order causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery and Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the PDMA for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier's receipt of the Purchaser's Change Order.
 - ii. No variation or modification of the terms of the contract shall be made except by written amendment signed by the parties.
- 5.17 Extensions of Time: If at any time during performance of the Contract, the Supplier should encounter conditions impeding timely completion of Services pursuant to "Scope of Work" section, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.
- 5.18 Except in case of Force Majeure, as provided under GCC Clause "Force Majeure" or where the delay in delivery of the Goods or completion of Services is caused due to any delay or default of the Purchaser, any extension granted under relevant clause shall not absolve the Supplier from its liability to the pay of liquidated damages pursuant to GCC.
- 5.19 Assignment: The PDMA shall not assign to any other party, in whole or in part, their obligations under this Contract.
- 5.20 Disclaimer: Purchaser reserves the right to share, with any consultant of its choosing, any resultant Proposals in order to secure expert opinion.
- 5.21 Purchaser reserves the right to accept or reject any proposal deemed to be in the best interest of the NDMC.
- 5.22 Public Disclosure: All materials provided to the Purchaser by bidder are subject to Country and Delhi public disclosure laws such as RTI etc.

5.23 The Vendor /PDMA's Team shall not make or permit to be made a public announcement or media release about any aspect of this Contract unless the Purchaser first gives the Vender its written consent.

5.24 Standard of Performance: The PDMA shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted techniques and practices used with professional engineering and consulting standards recognized by professional bodies, and shall observe sound management, and technical and engineering practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods. The PDMA shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Owner.

Section-6 (Appointment of PDMA)

6.1 Selection of Bidder

- a. After selection of Preferred Bidder in terms of Clause 4.11 (c), a Letter of Award (the "LOA") shall be issued, in duplicate, by the NDMC to the Preferred Bidder and the Preferred Bidder shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Preferred Bidder is not received by the stipulated date, the NDMC may, unless it consents to extension of time for submission thereof, appropriate the Earnest Money Deposit of such Bidder as Damages on account of failure of the Preferred Bidder to acknowledge the LOA.
- b. Issue of Letter of Acceptance (LOA) shall not be construed as any right given in favour of the Preferred Bidder, and NDMC reserves the right to annul the process of award, including signing of Contract agreement, of this project without any liability or any obligation for such annulment, and without assigning any reasons therefor.
- c. Upon issue of LOA to the Preferred Bidder, NDMC will release the EMD of all Bidders, except the Preferred Bidder.
- d. After acknowledgement of the LOA as aforesaid by the Preferred Bidder, it shall cause the Preferred Bidder to execute the Agreement within ten days after award of work. The Preferred Bidder shall not be entitled to seek any deviation, modification or amendment in the Agreement.

6.2 Term of the Agreement : The term of this Agreement shall be a period of three years from the date of signing of this Agreement or till one year after completion of the PDS project.

6.3 Performance Bank Guarantee

- a. The Preferred Bidder will be required to submit a Performance Bank Guarantee (PBG) of 5% of the PDMA Contract Value to the NDMC within 10 days from the date of receipt of Letter of Acceptance.
- b. In case of a Consortium, the Lead Bidder of Consortium shall be liable to pay Performance Bank Guarantee. Performance Bank Guarantee shall be valid for 180

days beyond the term of the Contract Agreement. The Performance Guarantee shall contain a claim period of three months from the last date of validity.

- c. In case, the Preferred Bidder fails to submit performance bank guarantee within the time stipulated, the NDMC at its discretion may cancel the Letter of Acceptance issued to the Preferred Bidder without giving any notice and may invoke the EMD of such Preferred Bidder.
- d. NDMC shall invoke the Performance Bank Guarantee in case the selected PDMA fails to discharge their contractual obligations during the Contract Agreement period or NDMC incurs any loss due to PDMA's negligence in carrying out the project implementation as per the agreed terms and conditions.

6.4 Release of Performance Bank Guarantee

The Performance Bank Guarantee will be released only after meeting all of the following conditions:

- After successful completion of this project;
- Successful operation and maintenance of all the services under this agreement;
- Payment of all the penalties, if any;
- Performance Bank Guarantee of PDMA will be released after successful completion of the project.
- On production of clearance for all applicable dues, if any.

6.5 Signing of Agreement

- a. Subsequent to NDMC's issuing Letter of Acceptance to the Preferred Bidder, the Preferred Bidder shall execute the Agreement with the NDMC within a period of ten days from the date of issue of the Letter of Acceptance subject to the condition that the Performance Bank Guarantee has been deposited by the Preferred Bidder within the prescribed period.
- b. Failure of the Preferred Bidder to furnish the Performance Bank Guarantee or execute the Agreement within the prescribed time shall cause the EMD of the Preferred Bidder to be liquidated. The Preferred Bidder will be liable to indemnify NDMC for any additional cost or expense, incurred on account of failure of the Preferred Bidder to execute the Agreement.
- c. Notwithstanding anything to the contrary mentioned above, NDMC at its sole discretion shall have the right to extend the timelines for execution of Agreement on the request of the Preferred Bidder, provided the same is bona-fide.

6.6 TAX LIABILITY

- a. The PDMA shall be responsible for all the statutory taxes, statutory dues, local levies, Service tax, etc. to be paid to Government / Statutory bodies / Authorities etc. for the services rendered by it. There will be no tax liability upon the NDMC whatsoever on any account.
- b. The PDMA indemnifies NDMC from any claims that may arise from the statutory authorities in connection with this License.
- c. The PDMA should ensure enforcement of Applicable Laws including Labour Laws, Minimum Wages Laws etc. and at no point of time should the NDMC be drawn into litigation on these counts.

6.7 Failure to Agree with the Terms and Conditions of the RFP document

- a. The performance of Bidder will be continuously reviewed by NDMC to maintain the terms & conditions as specified in this RFP document. Based on the review, if the PDMA fails to satisfy / maintain their commitment with respect to SLAs, Performance, Timely Implementation of the Project etc. the Agreement may be terminated by giving 30 days notice as cure period and if it is not cured within 30 days then NDMC will terminate the Agreement by giving further notice of 30 days for termination of Agreement. NDMC's decision in this regard will be final. In case of termination of this Agreement, NDMC shall have the right to avail services of any other Bidder / agency to continue the project without any let or hindrance from Bidder and the Bidder has to provide all necessary assistance for smooth switch over. NDMC will not pay any charges to the Bidder. Failure of the Preferred Bidder / PDMA to agree with the RFP document shall constitute sufficient grounds for the annulment of the award, in which event NDMC may take a decision to re-issue the RFP document. In such a case, NDMC shall invoke the PBG of the most responsive Bidder / Preferred Bidder.
- b. In addition, NDMC reserves the right to appropriate the EMD / Performance Bank Guarantee given by the Bidder / PDMA and black-list the Bidder / PDMA.

Section-7 (ARBITRATION)

That if any dispute, shall at any time arise between the parties in respect of the meaning or interpretation of this agreement or covering anything herein contained or the validity of enforcement thereof which cannot be settled mutually shall within 30 days (or such longer period may be mutually agreed upon) from the date one party inform the other in writing that such dispute shall be referred to sole arbitrator appointed by the Chairman NDMC New Delhi. The jurisdiction of arbitration will be Delhi only.

In case, the arbitrator to whom the matter is originally referred being transferred or vacating his office or inability of act the Chairman, NDMC, New Delhi, shall appoint another person to act as arbitrator in accordance of the terms of the contract. Such person shall be entitled to proceeding will be conducting in accordance with and be subject to the Indian Arbitration and conciliation Act, 1996, as amended from time to time and the decision of the arbitration shall be final and binding on the parties.

It is also the term of the agreement that if the Consultant does not make demand for arbitration in respect of any item in writing within 90 days of receiving intimation from the employer that the final bill is ready for payment, the claim of the Consultant will be deemed to have waived and absolutely barred and the employer shall be discharged and released of all liabilities under the agreement in respect of all such claims.

The Consultant shall continue to perform their duties with diligence notwithstanding the fact that a dispute has been referred to arbitration or any dispute or difference has arisen.

In case of consortium only lead member can invoke the arbitration Clause.

Section-8 (Fraud and Corrupt Practices)

8. FRAUD AND CORRUPT PRACTICES

- 8.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the Letter of Acceptance (LOA) and during the subsistence of the Contract Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Contract Agreement, the NDMC may reject a Bid, withdraw the LOA, or terminate the Contract Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or PDMA, as the case may be, if it determines that the Bidder or PDMA, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, the NDMC shall be entitled to forfeit and appropriate the EMD or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the NDMC under the RFP document and/ or the Contract Agreement, or otherwise.
- 8.2 Without prejudice to the rights of the NDMC under Clause 6.1 hereinabove and the rights and remedies which the NDMC may have under the LOA or the Contract Agreement, or otherwise if Bidder or PDMA, as the case may be, is found by the NDMC to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the Contract Agreement, such Bidder or PDMA shall not be eligible to participate in any tender or RFP document issued by the NDMC during a period of 2 (two) years from the date such Bidder or PDMA, as the case may be, is found by the NDMC to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.
- 8.3 For the purposes of this Clause 6, the following terms shall have the meaning hereinafter respectively assigned to them:

- (a) "**corrupt practice**" means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the NDMC who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the Contract Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the NDMC, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under this RFP document, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Contract Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Contract Agreement, who at any time has been or is a legal, financial or technical adviser of the NDMC in relation to any matter concerning the Project;
- (b) "**fraudulent practice**" means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;
- (c) "**coercive practice**" means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bidding Process;
- (d) "**undesirable practice**" means (i) establishing contact with any person connected with or employed or engaged by the NDMC with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
- (e) "**restrictive practice**" means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

Section -9 (MISCELLANEOUS)

9.1 Jurisdiction of Court

The Bidding Process shall be governed by, and construed in accordance with, the laws of India. The courts at Delhi/New Delhi shall have the exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.

9.2 The NDMC, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;

- (a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
- (b) consult with any Bidder in order to receive clarification or further information;
- (c) retain any information and/ or evidence submitted to the NDMC by, on behalf of, and/ or in relation to any Bidder; and/ or
- (d) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.

9.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the NDMC, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection with the Bidding Process and waives, to the fullest extent permitted by applicable laws, any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

9.4 The Bidder shall take all necessary precautions to prevent any nuisance or inconvenience to the owners, tenants or occupiers of adjacent properties during execution of work.

9.5 In the event of any restrictions being imposed by the NDMC, security agencies, traffic agencies, or any other authority in the working area, PDMA shall strictly follow such restrictions and nothing shall be excused from doing the stipulated work on this account. The loss of time on this account, if any, shall have to be made by deploying additional resources to complete the work in time. Other restrictions are given as under:-

- a) The movement of trucks and vehicles shall be regulated in accordance with rules and regulations as approved by competent authority;
- b) The PDMA shall inform in advance, the truck registration numbers, ownerships of the trucks, names and address of the drivers;
- c) Labour huts/ stay of workmen will not be allowed at project area and in NDMC area;
- d) The PDMA shall be responsible for behaviour and conduct of his staff. The PDMA shall engage no staff with doubtful integrity or having a bad record;
- e) The workers of the PDMA should strictly observe code of conduct and manner befitting security. If any employee of the PDMA fails to absolve proper conduct, the PDMA shall be liable to remove him from deployment, immediately in receipt of the instructions of the NDMC;
- f) The PDMA shall be responsible for the conduct and behavior of its workers employed for the work;
- g) The NDMC shall have the right, to have any person removed who is considered unacceptable due to the reasons of security, efficiency, etc. Similarly, PDMA reserves the right to change the staff as per its requirement;
- h) The NDMC shall not be responsible for any compensation, which may be required to be paid to the worker(s) of the PDMA consequent upon any injury/ mishap.

9.6 The Bidder has to give the month-wise and quarterly scheduled completion plan alongwith the technical bid. However total implementation will have to be completed in 24 (twenty four) months.

9.7 Indemnity Clause

The PDMA shall defend, indemnify, release and hold harmless the NDMC from and against any and all loss, damage, injury, liability, demands and claims for injury to or death of any person (including an employee of the PDMA or NDMC) or for loss of or damage to property (including PDMA or NDMC property), in each case whether directly or indirectly resulting from or arising out of PDMA performance under this RFP document

/ Contract agreement. This indemnity shall apply whether or not NDMC was or is claimed to be passively, concurrently, or actively negligent, and regardless of whether liability without fault is imposed or sought to be imposed on one or more of the NDMC. Such indemnity shall not apply to the extent that it is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this RFP document / Contract agreement and, shall not apply where such loss, damage, injury, liability, death or claim is the result of the sole negligence or willful misconduct of the NDMC.

9.8 Applicable Law(s)

The PDMA has to follow all the applicable statutes, laws, bye-laws, rules, regulations, orders, ordinances, protocols, codes, guidelines, policies, notices, directions, judgments, decrees or other requirements or official directive of any government authority or court or other law, rule or regulation approval from the relevant governmental authority, government resolution, directive, or other government restriction or any similar form of decision of, or determination by, or any interpretation or adjudication having the force of law in India as amended from time to time while providing these services.

9.9 Integrity Pact

The Bidder shall submit a duly signed integrity pact **as per Annexure- 2** along with its proposal as per the RFP document.

9.10 Documents and Information

The documents including this RFP document and all attached documents, provided by the NDMC are and shall remain or become the property of the NDMC and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause shall also apply mutatis mutandis to Bids and all other documents submitted by the Bidders, and the NDMC will not return to the Bidders any Bid, document or any information provided along therewith.

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9.11 Language

The Bid and all communications in relation to or concerning the RFP Document and the Bid shall be in English language. If any supporting document is in any language other than English, translation of the same in English language duly attested by the Bidder, shall be provided. In case of discrepancy, English translation shall govern.

9.12 Conflict of Interest

Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

- (i) the Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate, is less than 5% (five per cent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in sub-section (72) of section 2 of the Companies Act, 2013. For the purposes of this Clause, indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "Subject Person") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or
- (ii) a constituent of such Bidder is also a constituent of another Bidder; or

- (iii) such Bidder, its Member or any Associate thereof receives or has received any direct or indirect subsidy, grant, Contractual loan or subordinated debt from any other Bidder, its Member or Associate, or has provided any such subsidy, grant, Contractual loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or
- (iv) such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
- (v) such Bidder, or any Associate thereof, has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other's information about, or to influence the Bid of either or each other; or
- (vi) such Bidder or any Associate thereof has participated as a consultant to the NDMC in the preparation of any documents, design or technical specifications of the Project.

For purposes of this Clause, Associate means, in relation to the Bidder/ Consortium Member, a person who controls, is controlled by, or is under the common control with such Bidder/ Consortium Member (the "Associate"). As used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

9.13 Non Transferability of RFP document

This RFP document is non-transferable.

9.14 Severability

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

9.15 Notices

Unless otherwise stated, notices to be given under this Agreement including but not limited to a notice of waiver of any term, breach of any term of this Agreement and termination of this Agreement, shall be in writing and shall be given by hand delivery, recognized international courier, mail, telex or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

If to NDMC:

_____ (designation of authorised officer)

Fax No. _____

If to the PDMA:

The _____ (Designation)

Fax No. _____

Or such address, telex number, or facsimile number as may be duly notified by the respective Parties from time to time, and shall be deemed to have been made or delivered:

- (i) in the case of any communication made by letter, when delivered by hand, by recognised international courier or by mail (registered, return receipt requested) at that address, and
- (ii) in the case of any communication made by telex or facsimile, when transmitted properly addressed to such telex number or facsimile number.



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9.16 Interest

Any sum which becomes payable under any of the provisions of this Agreement by the PDMA to the NDMC shall, if the same be not paid within the time allowed for payment thereof, shall be deemed to be a debt owed by the PDMA to the NDMC. Such sum shall until payment thereof carry interest at 18% per annum from the due date for payment thereof until the same is paid to or otherwise realised by the NDMC.

Provided the stipulation regarding interest for delayed payments contained in this Clause 8.19 shall neither be deemed or construed to authorize any delay in payment of any amount due by the PDMA nor be deemed or construed to be a waiver of the underlying breach of payment obligations.

9.17 Waiver

- (a) Waiver by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:
 - i. shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligations under this Agreement;
 - ii. shall not be effective unless it is in writing and executed by a duly authorised representative of such Party; and
 - iii. shall not affect the validity or enforceability of this Agreement in any manner.
- (b) Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation hereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver/breach of any terms, conditions or provisions of this Agreement.

Section-10 (PENALTIES)

Penalties

10 Punitive Clause

10.1 NDMC will impose a fine on the PDMA for not meeting the **timelines defined for the project.**

10.1.2. In the event of non-compliance to this condition, NDMC reserves the right to invoke the termination clause. All the activities and obligations pursuant to the termination, shall be as per Termination Clause as provided in this RFP

10.2 Other Penalties

10.2.1 Manpower Availability

10.2.1.1 The PDMA needs to provide the on-site manpower as per the defined scope of work. The supplied manpower needs to report on day to day basis to NDMC.

10.2.1.2 The PDMA needs to submit duly authorized attendance report on monthly basis.

10.2.1.3 Penalty on non-deployment of required manpower as per PDMA's Proposal: Rs.2500 per engineer per day and for other staff. Rs 1000 per staff member per day on non-reporting or non-deployment of minimum required manpower for first year. This penalty will increase by 10% on compounding basis for subsequent years.

10.3 Penalties shall not be levied on the PDMA in the following cases

10.3.1.1 In case of a force majeure event effecting the SLA which is beyond the control of the PDMA. Force Majeure events shall be considered in line with the Force Majeure clause mentioned in this RFP document.

Section-11 (FORCE MAJEURE)

11 FORCE MAJEURE

11.1 Definition of Force Majeure

The PDMA or the NDMC, as the case may be, shall be entitled to suspend or excuse performance of its respective obligations under this RFP document to the extent that such performance is impeded by an event of force majeure ('Force Majeure').

11.2 Force Majeure events

A Force Majeure event means any event or circumstance or a combination of events and circumstances referred to in this Clause, which may be classified as all or any of the following events:

- (i) act of God, including earthquake, flood, inundation, landslide, exceptionally adverse weather conditions, storm, tempest, hurricane, cyclone, lightning, thunder, volcanic eruption, fire or other extreme atmospheric conditions;
- (ii) radioactive contamination or ionizing radiation or biological contamination;
- (iii) a strike or strikes or other industrial action or blockade or embargo or any other form of civil disturbance (whether lawful or not), in each case affecting on a general basis the industry related to the affected Services and which is not attributable to any unreasonable action or inaction on the part of the PDMA or any of its Subcontractors or suppliers and the settlement of which is beyond the reasonable control of all such persons;
- (iv) general strikes, lockouts, boycotts, labor disruptions or any other industrial disturbances as the case may be not arising on account of the acts or omissions of the PDMA and which affect the timely implementation and continued operation of the Project;
- (v) An act of war (whether declared or undeclared), hostilities, invasion, armed conflict or act of foreign enemy, blockade, embargo, prolonged riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage, for a continuous period exceeding seven (7) days.

For the avoidance of doubt, it is clarified that any negligence in performance of Services which directly causes any breach of security like hacking aren't the forces of nature and hence wouldn't be qualified under the definition of "Force Majeure". In so far as applicable to the performance of Services, Service Provider will be solely responsible to complete the risk assessment and ensure implementation of adequate security hygiene, best practices, processes and technology to prevent any breach of security and any resulting liability there from (wherever applicable).

11.3 Notification procedure for Force Majeure

11.3.1 The affected Party shall notify the other Party of a Force Majeure event within seven (7) days of occurrence of such event. If the other Party disputes the claim for relief under Force Majeure it shall give the claiming Party written notice of such dispute within thirty (30) days of such notice. Such dispute shall be dealt with in accordance with the dispute resolution mechanism in accordance with Clause.

11.3.2 Upon cessation of the situation which led the Party claiming Force Majeure, the claiming Party shall within seven (7) days hereof notify the other Party in writing of the cessation and the Parties shall as soon as practicable thereafter continue performance of all obligations under this RFP document.

11.4 Allocation of costs arising out of Force Majeure

11.4.1 Upon the occurrence of any Force Majeure Event, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof.

11.4.2 For the avoidance of doubt, Force Majeure Costs may include interest payments on debt, operation and maintenance expenses, any increase in the cost of the Services on account of inflation and all other costs directly attributable to the Force Majeure Event.

11.5 Save and except as expressly provided in this Clause, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, costs, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereof.

11.6 Consultation and duty to mitigate

Except as otherwise provided in this Clause, the affected Party shall, at its own cost, take all steps reasonably required to remedy and mitigate the effects of the Force Majeure event and restore its ability to perform its obligations under this RFP document as soon as reasonably practicable. The Parties shall consult with each other to determine the reasonable measures to be implemented to minimize the losses of each Party resulting from the Force Majeure event. The affected Party shall keep the other Parties informed of its efforts to remedy the effect of the Force Majeure event and shall make reasonable efforts to mitigate such event on a continuous basis and shall provide written notice of the resumption of performance hereunder.

Section-12 (EVENTS OF DEFAULT AND TERMINATION)

12 EVENTS OF DEFAULT AND TERMINATION

12.1 Events of Default

Any of the following events shall constitute an event of default unless such event has occurred as a result of one or more reasons set out in clause 11.2;

- (i) The PDMA has failed to adhere to the project execution requirements and the Implementation Schedule and such failure, in the reasonable estimation of the Engineer-in-Charge, is likely to delay the project, which is 24 months from the date of signing of agreement;
- (ii) The PDMA is in Material Breach of non performance of scope of work defined in RFP;
- (iii) The PDMA has failed to ensure minimum shareholding requirements specified in clause 4.3;
- (iv) A resolution has been passed by the shareholders of the PDMA for the voluntary winding up of the PDMA;
- (v) Any petition for winding up of the PDMA has been admitted and liquidator or provisional liquidator has been appointed or the PDMA has been ordered to be wound up by Court of competent jurisdiction except for the purpose of amalgamation or reconstruction with the prior consent of NDMC, provided that, as part of such amalgamation or reconstruction, the property, assets and undertaking of the PDMA are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the PDMA under this RFP document, and provided further that:
 - a) the amalgamated or reconstructed entity has the technical capability and operating experience necessary for the performance of its obligations under this RFP document;

- b) the amalgamated or reconstructed entity has the financial standing to perform its obligations under this RFP document and has a credit worthiness at least as good as that of the PDMA as at Commencement Date; and
- c) RFP document remains in full force and effect.
- (ix) The PDMA has abandoned the Project Facilities.
- (x) The PDMA has repudiated this RFP document or has otherwise expressed an intention not to be bound by this RFP document.
- (xi) The PDMA has suffered an attachment levied on any of the assets located or comprised in the Project Site/Project Facilities, causing a Material Adverse Affect on the Project and such attachment has continued for a period exceeding 90 days.
- (xii) The PDMA has otherwise been in Material Breach of any of its other obligations and terms and conditions under this RFP document.
- (xiii) The PDMA is not able to meet the SLAs minimum requirement or otherwise.
- (xiv) The PDMA reporting bankruptcy to the NDMC, or any appropriate statutory forum.

12.2 No Breach of Obligations

The PDMA shall not be considered to be in breach of its obligations under this RFP document nor shall it incur or suffer any liability if and to the extent performance of any of its obligations under this RFP document is affected by or on account of any of the following:

- (i) Force Majeure Event as provided under clause 11.2;
- (ii) Compliance with written instructions of the NDMC or the directions of any Government Agency in writing, other than instructions issued as a consequence of a breach by the PDMA of any of its obligations hereunder or any applicable law;

12.3 Termination due to Events of Default

12.3.1 Without prejudice to any other right or remedy which the NDMC may have in respect thereof under this RFP document, upon the occurrence of a Event of Default, the NDMC shall be entitled to terminate this Agreement as hereinafter provided.

12.3.2 If NDMC decides to terminate this Agreement pursuant to preceding clause 11.3.1, it shall in the first instance issue Preliminary Notice to the PDMA. Within 30 days of receipt of the Preliminary Notice, the PDMA shall submit to NDMC in sufficient detail, the manner in which it proposes to cure the underlying Event of Default (the "PDMA's

Proposal to Rectify”). In case of non-submission of the PDMA Proposal to Rectify within the said period of 30 days, NDMC shall be entitled to terminate this Agreement by issuing Termination Notice, and to appropriate the Performance Security.

12.3.3 If the PDMA Proposal to Rectify is submitted within the period stipulated therefore, the PDMA shall have further period of 30 days to remedy / cure the underlying Event of Default (Cure Period). If, however the PDMA fails to remedy/cure the underlying Event of Default within such further period allowed, NDMC shall be entitled to terminate this Agreement by issue of Termination Notice and to appropriate the Performance Security if subsisting.

12.4 Termination Notice

If NDMC, having become entitled to do so decides to terminate this Agreement pursuant to the preceding clause 11.3, it shall issue Termination Notice setting out:

- (i) in sufficient detail the underlying Event of Default;
- (ii) the Termination Date which shall be a date occurring not earlier than 30 days from the date of Termination Notice;
- (iii) the estimated Termination Payment including the details of computation thereof and;
- (iv) any other relevant information.

12.5 Obligation of Parties

Following issue of Termination Notice by NDMC in accordance with clause 12.4, the Parties (i.e. the PDMA and the NDMC) shall promptly take all such steps as may be necessary or required to ensure that:

- (i) until Termination the Parties shall, to the fullest extent possible, discharge their respective obligations so as to maintain the continuity of service to the users of the Project Facilities,
- (ii) the Termination Payment, if any, payable by the PDMA is paid to the NDMC before the Termination Date; and
- (iii) the Project Facilities are handed over to NDMC by the PDMA on the Termination Date, free from any Encumbrance, under this Agreement.

12.6 Withdrawal of Termination Notice

Notwithstanding anything inconsistent contained in this RFP document, if the PDMA cures the underlying Event of Default to the satisfaction of the NDMC at any time before the Termination occurs, the Termination Notice may be withdrawn by the NDMC.

Provided that the PDMA shall compensate the NDMC for any direct costs/ consequences occasioned by the Event of Default which caused the issue of Termination Notice.

12.7 Termination Payments

Upon Termination of this Agreement, the NDMC shall be entitled to receive Termination Payment as under:

If the Agreement is terminated due to Event of Default of PDMA, NDMC shall forfeit the Performance Bank Guarantee furnished by the PDMA.

12.8 Rights of NDMC on Termination

Upon Termination of this Agreement for any reason whatsoever, NDMC shall have the power and authority to:

- (i) take over the Project Facilities without any hindrance.
- (ii) prohibit the PDMA or any Person claiming through or under the PDMA from entering upon/dealing with the Project Site / Project Facilities;
- (iii) step in or nominate any person to step in without the necessity of any further action by the PDMA, to the interests of the PDMA under such of the Project Agreements, as NDMC may in its discretion deem appropriate with effect from such date as NDMC may specify:

Provided any sums claimed by counter party to any such Project Agreements as being due and owing for work or services performed or accruing on account of any act, omission or event prior to such date specified by NDMC for step in shall and shall always constitute debt between the PDMA and such counter party and NDMC shall in no way or manner be liable or responsible for such sums. The PDMA shall ensure that the Project Agreements contain provisions necessary to give effect to the provisions of this clause 11;

- (iv) Notwithstanding anything contained in this Agreement, NDMC shall not, as a consequence of Termination or otherwise, have any obligation whatsoever including but not limited to obligations as to compensation for loss of

employment, continuance or regularisation of employment, absorption or re-employment on any ground, in relation to any person in the employment of or engaged by the PDMA in connection with the Project, and the handback of the Project Site/facilities by the PDMA to NDMC shall be free from any such obligation.

- (v) Notwithstanding anything contained in this Agreement, the right of NDMC to vacant and peaceful possession of the Project Facilities, upon Termination is absolute. If the PDMA fails to deliver vacant and peaceful possession of the Project Facilities as contemplated in this provision, the PDMA shall be liable to pay to NDMC and NDMC shall be entitled to recover from the PDMA, an amount that represents a genuine estimate of the losses, damages and costs suffered by NDMC by way of liquidated damages. The parties agree that the said liquidated damages shall be calculated at the rate of 200% of the applicable Contract Fee for the year when the Contract is Terminated plus the costs incurred by NDMC for recovery of the Project Facilities. Such liquidated damages shall be recoverable from the Termination Date to the date when NDMC receives vacant and peaceful possession of the Project Facilities. Provided, the recovery of liquidated damages shall be without prejudice to the rights and remedies available to NDMC against the PDMA who shall be deemed to be a trespasser in illegal and unauthorized possession and occupation of the Project Site and Project Facilities, upon Termination.

12.9 Rights of Parties

Notwithstanding anything to the contrary contained in this Agreement, Termination pursuant to any of the provisions of this Agreement shall be without prejudice to accrued rights of either Party including its right to claim and recover money damages and other rights and remedies which it may have in law or this Agreement. The rights and obligations of either Party under this Agreement, including without limitation those relating to Termination Payment, shall survive the Termination but only to the extent such survival is necessary for giving effect to such rights and obligations.

12.10 Early Determination

Notwithstanding anything inconsistent contained anywhere in this agreement, in the event of early determination of this Agreement by NDMC without the consent of the PDMA or in the absence of any default by the PDMA, the procedure for Termination will be as prescribed under Clause 13 (Dispute Resolution).

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Ramona

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Section-13 (DISPUTE RESOLUTION)

13 DISPUTE RESOLUTION

- 13.1 Any disputes and or difference relating to this agreement or claims arising out of or relating to this agreement or breach, termination or the invalidity thereof or on any issue whether arising during the progress of the services or after the completion or abandonment thereof or any matter directly or indirectly connected with this agreement will be resolved through joint discussion of the authorized representatives of both the parties (NDMC and PDMA). If the dispute is not resolved by joint discussion, then the matter will be referred for adjudication to a sole Arbitrator appointed by the Chairman, NDMC on receipt of written notice / demand of appointment of Arbitrator from either party.
- 13.2 The award of the sole Arbitrator shall be final and binding on all the parties. The cost of Arbitration shall be borne by the respective parties equally. Arbitration proceedings will be held at premises of NDMC, New Delhi only.
- 13.3 Rules governing Arbitration Proceedings: The Arbitration Proceedings shall be governed by Indian Arbitration and Conciliation Act 1996, as amended from time to time including provisions in force at the time the references made. During the pendency of arbitration proceedings and currency of the Contract Agreement, the PDMA shall continue to perform and make due payments to NDMC as per the Contract Agreement.

Section-14 (LIQUIDATED DAMAGES)

14 LIQUIDATED DAMAGES

Time is the essence of the Agreement and the delivery dates are binding on the PDMA. In the event of delay or any gross negligence, for causes attributable to the PDMA, in meeting the deliverables, the NDMC shall be entitled at its option to recover from the PDMA as agreed, liquidated damages, as per the rates mentioned in Service Level Agreement as mentioned in this RFP document. The Liquidated Damages shall be capped @ 10% OF THE TOTAL AGREEMENT AMOUNT and in the event of Liquidated Damages exceeding this capping, the NDMC has a right to invoke "Termination Clause". The activities pursuant to the termination of the Contract Agreement shall be in-line with the conditions of the RFP document.

Section-15 (EXIT MANAGEMENT SCHEDULE)

15 EXIT MANAGEMENT SCHEDULE

15.1 **Purpose:** This Clause sets out the provisions, which will apply on expiry or termination of the Agreement.

15.2.3 Performance Bank Guarantee of the PDMA will be released only after successful handing over of the all the services, in working conditions to NDMC, and after adjustments of any amount due and recoverable from the PDMA under this Agreement by NDMC, if any.

15.3 Cooperation and Provision of Information

During the Exit Management Period:

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

Letter comprising the Bid

Dated:

To,

.....

.....

Sub: Bid for the Project

Dear Sir,

With reference to your RFP document dated, I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our Bid for the aforesaid Project. The Bid is unconditional and unqualified.

1. I/ We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Concessionaire for the aforesaid Project, and we certify that all information provided therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
2. This statement is made for the express purpose of our selection as Concessionaire for the [development, construction, operation and maintenance] of the aforesaid Project.
3. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
4. I/ We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
5. I/ We certify that in the last three years, we/ any of the Consortium Members^E or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
6. I/ We declare that:
 - (a) I/ We have examined and have no reservations to the Bidding Documents, including any Addendum issued by the Authority; and
 - (b) I/ We do not have any conflict of interest in accordance with Clauses 9.12; and
 - (c) I/ We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 8 of the RFP document, in respect of any tender or request for proposals issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State; and
 - (d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 8 of the RFP, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice; and





- (e) the undertakings given by us along with the Application in response to the RFQ for the Project were true and correct as on the date of making the Application and are also true and correct as on the Bid Due Date and I/we shall continue to abide by them.
7. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with Clause 2.11 of the RFP document.
 8. I/ We believe that we/ our Consortium satisfy(s) the Net Worth criteria and meet(s) the requirements as specified in the RFQ document.
 9. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a Member of a/ any other Consortium submitting a Bid for the Project.
 10. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
 11. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
 12. I/ We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our directors/ managers/ employees.[£]
 13. I/ We further certify that we are not disqualified in terms of the additional criteria specified by the Department of Disinvestment in their OM No. 6/4/2001-DD-II dated July 13, 2001, a copy of which forms part of the RFP at Appendix-V thereof.
 14. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate the Authority of the same immediately.
 15. I/ We acknowledge and undertake that our Consortium was pre-qualified and short-listed on the basis of Technical Capacity and Financial Capacity of those of its Members who shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid-up equity of the Concessionaire; and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession Agreement. We further agree and acknowledge that the aforesaid obligation shall be in addition to the obligations contained in the Concession Agreement in respect of Change in Ownership.
 16. I/ We acknowledge and agree that in the event of a change in control of an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of short-listing and pre-qualification under and in accordance with the RFQ, I/We shall inform the Authority forthwith along with all relevant particulars and the Authority may, in its sole discretion, disqualify our Consortium or withdraw the Letter of Award, as the case may be. I/We further

acknowledge and agree that in the event such change in control occurs after signing of the Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Concession Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.
 17. I/ We understand that the Selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956/ 2013, or shall incorporate as such prior to execution of

the Concession Agreement.

18. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
19. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a Concession Agreement in accordance with the draft that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
20. I/ We have studied all the Bidding Documents carefully and also surveyed the [project highway and the traffic]. We understand that except to the extent as expressly set forth in the Concession Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or relating to the Bidding Process including the award of Concession.
21. I/ We offer a Bid Security of Rs..... (Rupees only) to the Authority in accordance with the RFP Document.
22. The Bid Security in the form of a Demand Draft/ Bank Guarantee (strike out whichever is not applicable) is attached.
23. The documents accompanying the Bid, as specified in Clause 2.9 (b) of the RFP, have been submitted in a separate envelope and marked as "Enclosures of the Bid".
24. I/ We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/we shall have any claim or right of whatsoever nature if the Project / Concession is not awarded to me/us or our Bid is not opened or rejected.
25. The [Premium / Grant] has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft Concession Agreement, our own estimates of costs [and traffic] and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the Project.
26. I/ We agree and undertake to abide by all the terms and conditions of the RFP document.
27. {We, the Consortium Members agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement till occurrence of Financial Close in accordance with the Concession Agreement.}
28. I/ We shall keep this offer valid for 90 (Ninety) days from the Bid Due Date specified in the RFP.

In witness thereof, I/we submit this Bid under and in accordance with the terms of the RFP document.

Yours faithfully,

(Signature, name and designation of the Authorised signatory)

Name and seal of Bidder/Lead Member

Date:-

Place:-

PRE-CONTRACT INTEGRITY PACT

General

This pre-bid pre-contact Agreement (hereinafter called the Integrity Pact) is made on _____ day of the month of _____ 20...., between on one hand the _____ New Delhi Municipal Council acting through Shri _____, The Executive Engineer (hereinafter called the "Principal/Owner", which expression shall mean and include, unless the context otherwise requires, his successors in office and assigns) of the First Part and M/s _____ represented by Shri _____ (hereinafter called the "Bidder(s)/Contractor(s)" which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns) of the Second Part.

Whereas the Principal/Owner proposes to procure (Name of work the Store/Equipment/Item) through the Bidder(s)/Contractor(s) and the Bidder(s)/Contractor(s) is willing to offer / has offered the same.

Whereas the Bidder(s)/Contractor(s) is a private company/public company/ Government undertaking/ partnership/ registered export agency, constituted in accordance with the relevant law in the matter and the Principal/Owner is the municipal government of New Delhi established as per NDMC act 1994 performing its functions on behalf of the Council.

Now, therefore,

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:

Enabling the Principal/Owner to procure the desired said work/ Services/ Stores / Equipments at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption during tendering, execution & public procurement,
and

Enabling Bidder(s)/Contractor(s) to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the Principal/Owner will commit to prevent corruption, in any form, by its officials by following transparent procedures.

The parties here to hereby agree to enter into this Integrity Pact and agree as follows:

Commitments of the Principal/Owner

1.1 The Principal/Owner undertakes that no official of the Principal/Owner, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder(s)/Contractor(s), either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the contract.

1.2 The Principal/Owner will, during the pre-contract stage, treat all Bidder(s)/Contractor(s) alike, and will provide to all Bidder(s)/Contractor(s) the same information and will not provide such information to any particular Bidder(s)/Contractor(s) which could afford an advantage to that particular Bidder(s)/Contractor(s) in comparison to other Bidder(s)/Contractor(s).

1.3 All the officials of the Principal/Owner will report to the CVO, NDMC any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.

2. In case any such preceding misconduct on the part of such official(s) is reported by the Bidder(s) / Contractor (s) to the CVO, NDMC with full and verifiable facts and the same is prima facie found to be correct by the NDMC, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the NDMC and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the NDMC the proceedings under the contract would not be stalled.

Commitments of Bidder(s)/Contractor(s)

3. The Bidder(s)/Contractor(s) commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commit itself to the following:

3.1 The Bidder(s)/Contractor(s) will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Principal/Owner, connected directly or indirectly with the bidding process, or to any person, organization or third part related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.

3.2 The Bidder(s)/Contractor(s) further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees brokerage or inducement to any official of the Principal/Owner or otherwise in executing the contract or forbearing to do or having done any act in relation to the obtaining or execution of the contract or any other contract with the New Delhi Municipal Council for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the New Delhi Municipal Council.

3.3 Bidder(s)/Contractor(s) shall disclose the name and address of agents/Brokers/representatives/ Intermediaries and Indian Bidder(s)/Contractor(s) shall disclose their foreign Principals or associates at the time of bidding.

3.4 Bidder(s)/Contractor(s) shall disclose the payments to be made by them to such agents /brokers / representatives / intermediaries, in connection with this bid/contract at the time of bidding.

3.5 Deleted.

3.6 The Bidder(s)/Contractor(s), either while presenting the bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in Connection with the contract and the details of services agreed upon for such payments. A copy of contract so made with agents /brokers/intermediaries shall be submitted.

3.7 The Bidder(s)/Contractor(s) will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract. Bidder shall remain responsible to maintain safety & confidentiality of his bid documents during bid process.

3.8 The Bidder(s)/Contractor(s) will not accept any advantage in exchange for any corrupt practice, unfair means, and illegal activities.

3.9 The Bidder(s)/Contractor(s) shall not use improperly, for purposed of competition or personal gain, or pass on to others, any information provided by the Principal/Owner as part business relationship regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The Bidder(s)/Contractor(s) also undertakes to exercise due and adequate care lest any such information is divulged.

3.10 The Bidder(s)/Contractor(s) commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts, either to principal/owner or to IEMs so appointed by NDMC.

3.11 The Bidder(s)/Contractor(s) shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.

3.12 If the Bidder(s)/Contractor(s) or any employee of the Bidder(s)/Contractor(s) or any person acting on behalf of the Bidder(s)/Contractor(s), either directly or indirectly, is a relative of any of the officers of the Principal/Owner, or alternatively, if any relative of an officer of the Principal/Owner has financial interest/ stake in the Bidder(s)/Contractor(s) firm, the same shall be disclosed by the Bidder(s)/Contractor(s) at the time of filing of tender. The term 'relative' for this purpose would be as defined in Section 6 of the Companies Act 1956.

3.13 The Bidder(s)/Contractor(s) shall not lend to or borrow any money form or enter into any monetary dealings or transaction, directly or indirectly, with any employee of the Principal/Owner.

4. Previous Transgression

4.1 The Bidder(s)/Contractor(s) declares that no previous transgression occurred in the last Five years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged here under or with any Public Sector Enterprise in India or New Delhi Municipal Council that could justify Bidder(s)/Contractor(s) exclusion from the tender process.

4.2 The Bidder(s)/Contractor(s) agrees that if it makes incorrect statement on this subject, Bidder(s)/ Contractor (s) can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

5. Deleted.

6. Sanctions for Violations

6.1 Any breach of the aforesaid provisions by the Bidder(s)/Contractor(s) or any one employed by it or acting on its behalf (whether with or without the knowledge of the Bidder(s)/Contractor(s) shall entitle the Principal/Owner to take all or any one of the following actions, wherever required:-

(i) To immediately call off the pre contract negotiations without assigning any reason or giving any compensation to the Bidder(s)/Contractor(s). However, the proceedings with the other Bidder(s)/Contractor(s) would continue.

(ii) The Earnest Money Deposit (in pre-contract stage) and/or Security Deposit/Performance Bond / Guarantee (after the contract is signed) shall stand forfeited and the Principal/Owner shall not be required to assign any reason therefore.

(iii) To immediately cancel the contract, if already signed, without giving any compensation to the Bidder(s)/Contractor(s).

(iv) To recover all sums already paid by the Principal/Owner, and in case of an Indian Bidder(s)/Contractor(s) with interest thereon at 2% higher than the prevailing Prime Lending Rate of State Bank of India, while in case of a Bidder(s)/Contractor(s) from a country other than India with interest thereon at 2% higher than the LIBOR. If any outstanding payment is due to the Bidder(s)/Contractor(s) from the Principal/Owner in connection with any other contract for any other stores, such outstanding payment could also be utilized to recover the aforesaid sum and interest.

(v) To encash the advance bank guarantee and performance bond/warranty bond, if furnished by the Bidder(s)/Contractor(s), in order to recover the payments, already made by the Principal/Owner, along with interest.

(vi) To cancel all or any other contracts with the Bidder(s)/Contractor(s). The Bidder(s)/Contractor(s) shall be liable to pay compensation for any loss or damage to the Principal/Owner resulting from such cancellation/ rescission and the Principal/Owner shall be entitled to deduct the amount so payable from the money(s) due to the Bidder(s)/Contractor(s).

(vii) To debar the Bidder(s)/Contractor(s) from participation in future bidding processes of the New Delhi Municipal Council for a period ranging from six months to maximum five years. However if the bidder takes corrective measures against transgressions, subject to satisfaction of Principal/Owner & IEMs, the period of debar can be reviewed.

(viii) To recover all sums paid in violation of this Pact by Bidder(s)/Contractor(s) to any middleman or agent or broker with a view to securing the contract.

(ix) In case where irrevocable Letter of Credit have been received in respect of any contract signed by the Principal/Owner with the Bidder(s)/Contractor(s), the same shall not be opened.

(x) Forfeiture of Performance Bond/Guarantee in case of a decision by the Principal/Owner to forfeit the same without assigning any reason for imposing sanction for violation of this Pact.

6.2 The Principal/Owner will be entitled to take all or any of the actions mentioned at para 6.1 (i) to (x) of this Pact also on the Commission by the Bidder(s)/Contractor(s) or any one employed by it or acting on its behalf (whether with or without the knowledge of the Bidder(s)/Contractor(s), of an offence as defined in Chapter IX of the Indian Penal code, 1860 or Prevention of Corruption Act, 1988 or any other statute enacted for prevention of corruption.

6.3 The decision of the Principal/Owner to the effect that a breach of the provisions of this Pact has been committed by the Bidder(s)/Contractor(s) shall be final and conclusive on the Bidder(s)/Contractor(s). However, the Bidder(s)/Contractor(s) can approach the Independent Monitor(s) appointed for the purposes of this Pact. IEMs shall examine the transgression and its severity and submit the report to Chairman, NDMC for further action after providing an opportunity and hearing to the affected parties.

7. Fall Clause : Deleted

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8. Independent External Monitors

8.1 The Principal/Owner has appointed Independent External Monitors (hereinafter referred to as IEMs) for this Pact in consultation with the Central Vigilance Commission whose names and email IDs have been given in the NIT.

8.2 The task of the IEMs shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this pact.

8.3 The IEMs shall not be subject to instructions by the representatives of the parties and perform their functions neutrally and independently.

8.4 Both the parties accept that the IEMs have the right to access all the documents relating to the project/procurement, including minutes of meetings

8.5 As soon as the IEMs notices, or have reasons to believe a violation of this Pact, they shall so inform to Chairman, NDMC.

8.6 The Bidder(s)/Contractor(s) accepts that the IEMs have the right to access without restriction to all Project documentation of the Principal/Owner including that provided by the Bidder(s)/Contractor(s). The Bidder(s)/Contractor(s) will also grant the IEMs, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to subcontractors. The IEMs shall be under contractual obligation to treat the information and documents of the Bidder(s)/Contractor(s)/Subcontractor(s) confidentiality.

8.7 The Principal/Owner will provide to the IEMs sufficient information about all meetings among the parties related to the Project provided such meeting could have an impact on the contractual relations between the parties. The parties will offer to the IEMs the option to participate in such meetings.

8.8 The IEMs will submit a written report to the Chairman, NDMC within 8 to 10 weeks from the date of reference or intimation to him by the Principal/Owner/Bidder(s)/Contractor(s) and, should the occasion arise, submit proposals for correcting problematic situation. However an opportunity of hearing shall be provided by the IEMs to the buyers /bidders before submitting their written report.

9. Facilitation of Investigation

In case of any allegation of violation of any provisions of this pact or payment of commission, the Principal/Owner or its agencies shall be entitled to examine all the documents including the Books of Accounts of the Bidder(s)/Contractor(s) and the Bidder(s)/Contractor(s) shall provide necessary information and documents in English and shall extend all possible help for the purpose of such examination

10. Law and Place of Jurisdiction

This pact is subject to Indian Law. The place of performance and jurisdiction is the seat of the Principal/Owner.

11. Other Legal Actions

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

12. Validity

12. 1 The validity of this Integrity Pact shall be from date of its signing and extend upto 12 months beyond the defects liability period of the contracts. In case Bidder(s)/Contractor(s) is unsuccessful, this Integrity Pact shall expire after six months from the date of the signing of the contract by the successful bidder.

12.2 Should one or several provision of this Pact turn out to be invalid, the remainder of this Pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intention.

13 The parties hereby sign this Integrity Pact at _____ on _____

Principal/Owner

Name of the Officer,
Designation

Bidder(s)/Contractor(s)
Chief Executive Officer

New Delhi Municipal Council

Witness Witness

1. _____ 1. _____

2. _____ 2. _____

* Provisions of these clauses would need to be amended / deleted in line with the policy of the Principal/Owner in regard to involvement of Indian agents of foreign suppliers.

Power of Attorney for Lead Member of Consortium

Whereas the (the "Authority") has invited bids from pre-qualified and short-listed parties for the Project (the "Project").

Whereas,, and (collectively the "Consortium") being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposals and other connected documents in respect of the Project, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium's bid for the Project and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, having our registered office at, M/s., having our registered office at, and M/s., having our registered office at, (hereinafter collectively referred to as the "Principals") do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s., having its registered office at, being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the "Attorney") and hereby irrevocably authorise the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the Concession/ Contract, during the execution of the Project, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, accept the Letter of Award, participate in bidders' and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium's bid for the Project and/ or upon award thereof till the Concession Agreement is entered into with the Authority.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to

have been done by us/ Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF, 20....

For

(Signature, Name & Title)

For

(Signature, Name & Title)

For

(Signature, Name & Title)

(Executants)

(To be executed by all the Members of the Consortium)

Witnesses:

1.

2.

Notes:

- The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
- Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.
- For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.

Joint Bidding Agreement

<< To be printed on a stamp paper and signed by Authorized signatories of the Lead Bidder and Consortium members>>

MEMORANDUM OF UNDERSTANDING.

This Memorandum of Understanding is made in _____ on the ____th Day of _____, 20__.

BY AND BETWEEN

_____, having its registered office at _____ (hereinafter referred to as The Lead Bidder/ The Lead Consortium Partner)

And

M/s _____ having its registered office at _____ (hereinafter referred to as 'Consortium Member1') And

M/s _____ having its registered office at _____ (hereinafter referred to as 'Consortium Member2')

M/s _____ having its registered office at _____ (hereinafter referred to as 'Consortium Member2')

[Name of The Lead Bidder], [Name of Consortium Member1], [Name of Consortium Member2] and [Name of Consortium Member3] (which expression shall unless repugnant to the context or meaning thereof mean and indicate its successors in interest and assignees) shall collectively be referred to as 'Members' and individually as "the Member".

WHEREAS:

a) _____ ('Client') has invited Tender no. _____ ('Tender' or 'RFP') dated _____ for the Selection of Master System Integrator for Design, Development, Implementation, Operation and Maintenance of Smart NDMC 1.0 Initiatives in Bandra-Kurla Complex, Mumbai ("Project").

b) The Members wish to enter into this memorandum of understanding in order to establish a framework for their joint efforts in their participation of this Tender and the terms as per which the services would be rendered by the Members in connection with the Project.

NOW, THEREFORE, THE MEMBERS AGREE AS FOLLOWS:

1. The Members agree and acknowledge that they have understood the terms and requirements of the RFP and this MOU and agree to abide by the terms therein. The 'Members' have agreed to work together as a Consortium of Consultants (hereinafter called the "Consortium") and submit a proposal jointly with each Member having specific role(s) as defined hereinafter.
2. [Name of Member] shall be The Lead Bidder/ The Lead Consortium Member ('LCM') of the Consortium and shall represent the Consortium in its dealing with the Client.
3. For the purpose of submission of bid proposal, the Consortium agrees to authorize the LCM to sign, submit and negotiate the entire technical and commercial offer on behalf of the Consortium based on the various cost proposals worked out by the Consortium. The other Member(s) shall provide all the required inputs and co-operation to the Lead Member for submitting the offer and providing all technical, financial and contractual clarifications to the Client in a timely manner. However LCM shall not submit any such application, proposals, documents, clarifications or other commitments before securing the written consent of the other Member(s) of the Consortium.

4. The Members agree that the sole purpose of the Consortium shall be the overall performance of the consultancy services for the Project pursuant to the contract with the Client (in case of being successful bidder) as agreed by the Consortium hereto on one part and Client on the other part ('Client Contract'). The scope of work to be performed by each Member shall be as provided in Section - II of the RFP.
5. LCM will provide Tender Fees, Performance Bank Guaranties (including cost of any extensions of such Performance Guarantee) and insurance policies (as called for by the Client). The cost of obtaining such Tender Fees/ Performance Guaranties/ Insurance policies would be shared by all the Members in proportion of their financial share of fee under the Client Contract.
6. The Members will be responsible for their own cost of men, material, equipment, services, taxes, duties, reimbursable etc indicated in their proposals.
7. All common expenses mutually agreed and worked out by Members would be added to above individual Member's cost and will be quoted to the Client in tender document formats along with suitable technical and financial terms and conditions (if any).
8. The Members undertake to fully abide by all the technical, commercial and legal provisions of the Tender document or any other instruction provided by the Client with respect to the Project unless it is duly commented by the Members in the proposal to Client and agreed to by the Client. Each Member of the Consortium shall be responsible for performance on his part and for which the Member shall be separately and directly compensated as agreed between the Members.
9. Joint and Several Liability: The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP and the Master Service Agreement, till such time as the Financial Close for the Project is achieved under and in accordance with the Master Service Agreement.
10. The Members will maintain a close coordination between themselves, discuss and agree in writing all alterations, modifications, additions, deletion to their scope of work (as defined above) duly signed confirming their agreement. Members would cooperate for providing all technical, financial and contractual clarifications to the Client in a timely manner to ensure the success of the Project.
11. Each Member shall assign staff with suitable expertise and experience to undertake his own obligations, responsibilities and scope of services as per Client Contract with the Client.
12. Each Member shall provide necessary support to the Consortium as the need be for due performance of responsibilities of the Consortium.
13. The role assigned to each Member with respect to performance of work under the Client Contract with the Client, or any variation order thereto or extensions shall be mutually determined reflecting the skills of each Member's personnel.
14. Each Member shall individually prepare the invoice for the services rendered in accordance with the terms of the MOU. All invoicing to Client shall be done by the LCM. The payment from Client will be made by the LCM to each Member separately promptly upon receipt of the payment from the Client.
15. This MOU shall not create any form of incorporated joint venture, partnership or other legal entity between the Members nor give rise to any agency one for the other.
16. Shareholding in the Consortium: The Parties agree that the proportion of shareholding among the Parties in the Consortium shall be as follows:
First Party: Second Party:
{Third Party:}
{Fourth Party:}

17. Assignment And Third Members

17.1 [Consortium Member1], [Consortium Member2] and [Consortium Member3] shall co-operate throughout the entire period of this MOU on the basis of exclusivity and shall not make arrangement or enter into agreement either directly or indirectly with any other firm or group of firms on matters relating to the Project except with prior written consent of the other Members.

17.2 This MOU shall not be assigned by any Member, in whole or in part, without obtaining the prior written consent of the other Members.

18. Submission of Offer: Each Member shall bear its own cost and expenses for preparation of their offer and subsequent business development expenses till award of the Project. Neither Member shall have power to commit on behalf of the other Member or the Consortium, financial or otherwise, without written consent of the other Member.

19. Payments and Tax Liability

19.1 Each Member shall be responsible for salaries, fees, social benefits, insurances, and any other payment due to his personnel or payable on behalf of or for the account of his personnel.

19.2 Each Member shall be responsible for payment of personal income tax, corporate tax and any other taxes of whatever nature that may be levied and incurred on each Member in connection with, or as a result of the performance of services required under the RFP or this MOU.

20. Indemnity and Limitation of Liability

20.1 Notwithstanding anything contained in the MOU or the RFP or the Client Contract, it is mutually agreed to between the Members that a Member shall be liable only for its respective (i) scope of work carried out in accordance with this MOU; (ii) terms and condition in the RFP and MOU. Hence, the Members shall have several and not joint liability against the Client.

20.2 Each Member shall indemnify the other Member for any liability, damage, costs, injury, harm or losses which arises to or suffered by the other Member as a result of (i) any work performed/not performed by such a Member for the Client and the Project; (ii) breach or non-compliance by the Member with the terms of the RFP under which the work has been awarded to the Consortium (iii) breach or non-compliance with the terms of this MOU.

20.3 Each Member's liability to the other in contract or tort or under statute or otherwise for any consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses or losses (including without limitation, lost profits and opportunity costs) suffered by a Member (or by any such other Member) arising from or in connection with the MOU or Project, however the indirect or consequential economic loss or damage is caused, shall be excluded.

21. Documents & Confidentiality

21.1 Each Member retains copyright and all other intellectual property rights in the documents, drawings, data, concepts, information and other materials provided by such Member to the other Member in connection with this MOU (MOU Material) and the Project. The LCM shall have right to use the MOU material for the purpose of the MOU and procuring award of the Client Contract to the Consortium. Neither the LCM nor the other Member may use or make copies of MOU material for any other purpose other than the Project.

21.2 Each Member agrees to maintain confidentiality of all matters/information received in connection with this MOU and/or the RFP/Project.

21.3 This restriction for disclosure shall continue to apply even after the expiration or termination of this MOU, but shall cease to apply to information or knowledge, which (i) may properly come into the public domain through no fault of the Member so restricted or (ii) any Member may be forced to disclose under any applicable rule, regulation or law or pursuant to an order of a competent authority whom the disclosing Member is bound to comply or (iii) was or becomes known through independent means or from a third Member which was under no obligation to the unrestricted Member to keep the said information confidential or (iv) which was developed

independently by a Member without referring to or relying upon the information disclosed by the other Member.

21.4 No Member will make any public announcement about this MOU or the Project unless the other Member given written consent to that announcement.

21.5 KPMG shall be entitled to share Confidential Information with its professional indemnity insurers/advisors in confidence only.

22. Exclusivity

22.1 It is hereby agreed that [Consortium Member1], [Consortium Member2] and [Consortium Member3] shall ensure that no subsidiary affiliate or associate over which it has actual control will:-

- i) While this MOU subsists or at any time after its termination, offer to perform or perform any of the services or give any assistance or support to any proposal made in connection with the Project, except as part of the Consortium; and
- ii) While this MOU subsists, perform any services in connection with the Project, except as part of the Consortium.
- iii) While this MOU subsists, will not enter into any negotiations or arrangement with any other company or group of companies or person or association of persons for the said Project without the prior written consent of the other Members of the Consortium.

22.2 This MOU shall not preclude any Member from contracting independently of the other on any other project that may be similar in nature to the said Project.

22.3 The Members agree that once the bid has been submitted, it shall not withdraw or deviate, under any circumstances, from the Project or from the allocation of the work as agreed. In the event any Member breaches this obligation, it shall be liable to indemnify the Consortium for all expenses, costs, damages, loss or any liability whatsoever arisen or which may arise by reason of such breach.

23. Conflict of Interest

The Members confirm that they are exclusively associated with the Consortium and have no conflicts of interest in relation to the Client (or if there is any, the conflicts have been managed by such Member), the services to be provided, the Project work and other Members of the Consortium.

24. Governing Law and Arbitration

24.1 The construction, validity and performance of this MOU shall be governed in all respects by the laws of India.

24.2 Any dispute, controversy or claim arising out of or relating to this MOU shall be settled in the first instance amicably among the Members. If an amicable settlement cannot be reached as above, it will be resolved by Steering Committee consisting of four members, one from each Member to be nominated by the Managing Directors (or equivalent) of the respective companies/firms to resolve the matter within 60 days. In case, a settlement is still not reached the matter shall be referred to Arbitration by a sole arbitrator in accordance with the Indian Arbitration and Conciliation Act 1996 or any amendments thereof. The venue of the arbitration shall be Mumbai. The arbitrator shall be appointed mutually by the Members. The venue for the arbitration shall be Mumbai, India and shall be conducted in the English language. Award of the arbitrator shall be final and binding on all Members to the MOU.

25. Representations and Warranties

Each Member represents, warrants and undertakes to the other Members that;

- ☐ It is a corporation duly incorporated entity, validly existing and in good standing in the jurisdiction of its incorporation.
- It has full corporate power and authority to enter into this MOU and to perform its obligations hereunder.

- ☐ The execution of this MOU has been duly authorized by all necessary and appropriate corporate actions, which will constitute valid and legally enforceable and binding terms and conditions hereof.

26. Validity, Severability and Entire Understanding

- 26.1 This MOU shall come into force from the date of signing and is valid and binding until completion by the Members of their respective obligation under the RFP.

Notwithstanding the above, the MOU shall automatically expire upon completion of the Project or except as mutually agreed between the Members.

- 26.2 If any term, clause or provision of this MOU for any reason whatsoever is found to be invalid, illegal or unenforceable by a court of competent jurisdiction such invalidity, illegality or unenforceability shall be deemed severable from the remaining terms, clauses or provisions, and shall in no way affect or impair the validity or legality or enforceability of the remaining terms, clauses or provisions and shall deemed to have been deleted from this MOU.
- 26.3 This MOU supersedes all the previous MOU/ Letter/Correspondence for the subject matter between the Members before signing of this MOU.

27. Amendments

Any amendments to the MOU shall be in writing with mutual consent of the Members.

28. Force Majeure

- 28.1 Any delay in or failure by any Member in his performance hereunder shall be excused if and to the extent caused by occurrences beyond the Member's reasonable control and without fault or negligence by such Member and which condition was not foreseeable by such Member at the time this MOU was entered into and could not have been prevented by such Member's taking reasonable steps however not beyond to the extent excused under the Client Contract.
- 28.2 Such conditions shall be limited to the conditions qualifying as Force Majeure in the contract but shall exclude delays or failures caused by failure to provide staff or inadequacy of their performance in accordance with the contract or as otherwise mutually agreed.
- 28.3 The Member claiming to be affected by any such events shall, as soon as reasonably practicable, give prompt notice to the other Members, specifying the full particulars thereof and the Members shall agree what action, if any, shall be taken.

29. Notices

Notices shall be given in writing by fax confirmed by registered mail or commercial courier to the following fax numbers and addresses.

Member		Other Member	

IN WITNESS WHEREOF THE MEMBERS, have executed this MOU the day, month and year first before written.

Name:

Designation:



Duly authorized on behalf of [Name of Entity]:
Date
Stamp

Name: Designation:
Duly authorized on behalf of [Name of Entity]:
Date
Stamp

Name: Designation:
Duly authorized on behalf of
[Name of Entity]:
Date
Stamp

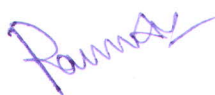
Name: Designation:
Duly authorized on behalf of
[Name of Entity]:
Date
Stamp

Notes:

The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.

Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member.

For a Joint Bidding Agreement executed and issued overseas, the document shall be legalised by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed



Bank Guarantee for Bid Security

B.G. No. Dated:

1. In consideration of you,, having its office at, (hereinafter referred to as the "Authority", which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of (a company registered under the Companies Act, 1956/ 2013) and having its registered office at (and acting on behalf of its Consortium) (hereinafter referred to as the "Bidder" which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), for the Project on [DBFOT] basis (hereinafter referred to as "the Project") pursuant to the RFP Document dated issued in respect of the Project and other related documents including without limitation the draft concession agreement (hereinafter collectively referred to as "Bidding Documents"), we (Name of the Bank) having our registered office at and one of its branches at (hereinafter referred to as the "Bank"), at the request of the Bidder, do hereby in terms of Clause 2.1.7 read with Clause 2.1.8 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Bidding Documents (including the RFP Document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of Rs. (Rupees only) (hereinafter referred to as the "Guarantee") as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfil or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by the Authority stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Authority is disputed by the Bidder or not, merely on the first demand from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bidding Documents including

failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. (Rupees only).
4. This Guarantee shall be irrevocable and remain in full force for a period of 180 (one hundred and eighty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the Authority and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.
5. We, the Bank, further agree that the Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfilment and compliance with the terms and

conditions contained in the Bidding Documents including, *inter alia*, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other authority.

6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Authority, and the Bank shall not be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. **We undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch which shall be deemed to have been duly authorised to receive the said notice of claim.**
10. It shall not be necessary for the Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.
13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. crore (Rupees crore only). The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in

accordance with paragraph 9 hereof, on or before [..... (indicate date falling 180 days after the Bid Due Date)].

Signed and Delivered by Bank

By the hand of Mr./Ms, its and authorised official.

(Signature of the Authorised Signatory)

(Official Seal)

1

Ramsey

10/1

Price Proposal

To,

The Executive Engineer,
New Delhi Municipal Council
Palika Kendra, New Delhi-110001

Project: Appointment of Project Design and Management Agency (PDMA) under RFP No. **NDMC / SMART Grid / 2015-2016 / 01 for SMART Grid Infrastructure Establishment including enhancing Existing Network in NDMC.**

Sir,

We, the undersigned, offer to provide the Project Design and Management Services for SAMRT GRID Project of NDMC in accordance with your Request for Proposal dated [Date] and our Proposal – Technical and Financial Proposal. Our attached Financial Proposal is for the sum of << Amount in words and figures>>. This amount is inclusive of Out of Pocket Expenses, Miscellaneous expenses and Taxes. Service and other statutory Tax and other statutory levies shall be paid by NDMC on actual as per the prevailing rates at the time of invoicing.

Sr. No	Cost Element	Total Fees	Taxes and Duties	Total price with Taxes & Duties
1	Project Consultancy fees for following a. Project Management for Strengthening of Sub transmission and distribution network. b. Project Design & Management for (i) AMI/Smart Meters. (ii) IT enablement of distribution system including Technology infusion & others.			
2	Post Implementation – Hand hold fees (1 st year)			
3	Post Implementation – Hand hold fees (2 nd year)			
Grand Total				

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal, i.e. <<Date>>
We understand you are not bond to accept any Proposal you receive.

Yours faithfully,

<Full Name of Authorized Signatory>

<Office Address>

Power of Attorney for signing of Bid

Know all men by these presents, We, (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr. / Ms (Name), son/daughter/wife of and presently residing at, who is presently employed with us/ the Lead Member of our Consortium and holding the position of, as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for the Project proposed or being developed by the (the "Authority") including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders' and other conferences and providing information / responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our bid for the said Project and/or upon award thereof to us and/or till the entering into of the Concession Agreement with the Authority.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE,, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF, 20.....

For.....

(Signature, name, designation and address)

Witnesses:

- 1.
- 2.

Accepted

Notarised

(Signature, name, designation and address of the Attorney)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.*

Format for undertaking

It is certified that the information furnished in this Technical Bid, Qualification Bid and as per the document(s) submitted therewith is true and correct and nothing has been concealed or tampered with. We have gone through all the conditions of RFP and agree to be liable to any punitive action for furnishing false information / documents.

Dated this _____ day of _____ 2016

[Signature]

[Company stamp]

[Name] in the capacity of _____, duly authorized to sign bids for and on behalf of _____.



To,

The Executive Engineer,
New Delhi Municipal Council
Palika Kendra, New Delhi-110001

Project: Appointment of Project Design and Management Agency (PDMA) for SMART Grid Infrastructure Establishment including enhancing Existing Network in NDMC.

We confirm that our Company < > as on date of submission of the proposal for Appointment of Project Design and Management Agency (PDMA) for SMART Grid Infrastructure Establishment including enhancing Existing Network in NDMC has not been blacklisted by the Central Government / any State Government/ any Government agency/ any PSU entity in India, in last three (3) years.

Sincerely,

(Signature of the Authorized signatory of the Bidder)

Name:

Designation:

Seal:

Date:

Place:

Business Address:

↓

Ramona

Handwritten signature

Team CV Format

FORMAT OF CURRICULUM VITAE (CV)

1. Name of Staff [Insert full name]: _____
2. Proposed Position

3. Employer: _____
4. Date of Birth: _____ Nationality: _____
5. Education _____

<u>School, college and/or University Attended</u>	<u>Degree/certificate or other specialized education obtained</u>	<u>Date Obtained</u>

6. Professional Certification or Membership in Professional Associations:

7. Other Relevant Training:

8. Countries of Work Experience: [List countries where staff has worked in the last ten years]:

9. Languages [For each language indicate proficiency: good, fair, or poor in speaking, reading, _____ and _____ writing]:

10. Employment Record [Starting with present position, list in reverse order every employment held]:





From [Year]: _____ To [Year]: _____

Employer: _____

Positions held: _____

11. **Detailed Tasks Assigned** [List all tasks to be performed under this assignment]

12. **Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned**

[Among the assignments in which the staff has been involved, indicate the following information for those assignments that best illustrate staff capability to handle the tasks listed under point 11.]

Name of assignment or project: _____

Year: _____

Location: _____

Client: _____

Main Project features: _____

Positions held: _____

Activities performed: _____

Certification

I certify that to the best of my knowledge and belief, this CV correctly described me, my qualifications, and my experience;

I understand that any wilful misstatement or misrepresentation herein may lead to my disqualification or removal from the selected team undertaking the assignment.

_____ Date: _____

[Candidate / Authorised Signature]

Day/Month/Year

FORM OF BANKERS' CERTIFICATE FROM A SCHEDULED BANK

This is to certify that to the best of our knowledge and information that M/s./
Sh.....having marginally noted address, a customer of our
bank are/is respectable and can be treated as good for any engagement upto a limit of

Rs..... (Rupees.....)

This certificate is issued without any guarantee or responsibility on the bank or any of the officers.

(Signature)

For the Bank

NOTE:- Bankers certificates should be on letter head of the Bank, sealed in cover addressed to
tendering authority.

1

Punjab

Handwritten signature