

NATIONAL CAPITAL REGION TRANSPORT CORPORATION LIMITED

(A Joint Venture Govt. of India and participating State Govts.)

7/6, Siri Fort Institutional Area , August Kranti Marg, New Delhi-110049

PHONE:+91-11-41066943; FAX:+91-11-41066953

ADDENDUM & CORRIGENDUM NO. -06

RFP No.: DM/FN/COR-OF/122: Engagement of Consultant on Retainership Basis for Direct Taxes and Indirect Taxes (GST & Customs).

S.N .	Bidding Document Section / Clause No.	Existing Clause	Modified Clause
1	Clause 1.5 “Bid Security” of IFB	<p>Bid Security (Bank Guarantee, Demand Draft, Bankers Cheque and FDR) shall be accepted only up to 15:00 hrs on 28/10/2020 of the Authority at the address mentioned herein after;</p> <p>Group General Manager/ Procurement</p> <p>National Capital Region Transport Corporation Ltd.</p> <p>7/6, Siri Fort Institutional Area,</p> <p>August Kranti Marg,</p> <p>New Delhi – 110049</p>	<p>Original Bid Security (Bank Guarantee, Demand Draft, Bankers Cheque and FDR) shall be accepted only up to 15:00 hrs on 10/11/2020. In case of Bid security submitted in the form of Bank Guarantee /FDR the same should be valid up to 09.04.2021. The Original bid Security shall be submitted to the Authority at the address mentioned herein after;</p> <p>Group General Manager/ Procurement</p> <p>National Capital Region Transport Corporation Ltd.</p> <p>7/6, Siri Fort Institutional Area,</p> <p>August Kranti Marg,</p>

			New Delhi – 110049.																		
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ADDENDUM & CORRIGENDUM NO. 04**Bid No. DM/FN/COR-OF/122:** Engagement of Consultant on Retainership Basis for Direct Taxes and Indirect Taxes (GST & Customs).

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NATIONAL CAPITAL REGION TRANSPORT CORPORATION



REGIONAL RAPID TRANSIT SYSTEM

RFP DOCUMENTS

For

**RFP No.: DM/MS/COR-OF/122: Engagement of Consultant on Retainership Basis
for Direct Taxes and Indirect Taxes (GST & Customs)**

National Capital Region Transport Corporation Limited
7/6, Siri Fort Institutional Area, August Kranti Marg,
New Delhi – 110049
Tel: +91-11-41066943, Fax: +91-11-41066953
Website: www.ncrtc.in

REQUEST FOR PROPOSALS

RFP No.: DM/FN/COR-OF/122

**Engagement of Consultant on Retainership Basis for
Direct Taxes and Indirect Taxes (GST & Customs)**

National Capital Region Transport Corporation Limited
7/6, Siri Fort Institutional Area, August Kranti Marg,
New Delhi – 110049, India

Issued on 28.08.2020

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DISCLAIMER

The information contained in this Request for Proposals document (“**RFPs**”) or subsequently provided to Bidders, whether verbally or in documentary or any other form by or on behalf of the Authority or any of its employees or advisers, is provided to Bidders on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is neither an offer nor invitation by the Authority to the prospective Bidder or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their Proposals pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Consultancy. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisers to consider the objectives, technical expertise and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP, may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Bidders is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on the law expressed herein.

The Authority, its employees and advisers make no representation or warranty and shall have no liability to any person including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, reliability or completeness of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way in this Selection Process.

The Authority also accepts no liability of any nature whether resulting from negligence or otherwise, howsoever caused, arising from reliance of any Bidder upon the statements contained in this RFP.

The Authority may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumption contained in this RFP.

The issue of this RFP does not imply that the Authority is bound to select an Bidder or to appoint the Selected Bidder, as the case may be, for the Consultancy and the Authority reserves the right to reject all or any of the Proposals without assigning any reasons whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Proposal including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Authority or any other costs incurred in connection with or relating to its Proposal. All such costs and expenses will remain with the Bidder and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by an Bidder in preparation or submission of the Proposal, regardless of the conduct or outcome of the Selection Process.

GLOSSARY

Agreement	As defined in Schedule-2
Agreement Value	As defined in Clause 5.1.2 of Schedule-2
Applicable Laws	As defined in Clause 4.3 of Schedule-2
Bidder	As defined in Clause 2.1.1
Associate	As defined in Clause 2.3.3
Authorised Representative	As defined in Clause 2.13.2
Authority	As defined in Clause 1.1
Bid Security	As defined in Clause 2.20
Contract Duration	As defined in Clause 3 of TOR
Conflict of Interest	As defined in Clause 2.3
Documents	As defined in Clause 2.9
Effective Date	As defined in Annexure-1 of Clause 1.1.1(g)
Financial Bid	As defined in Clause 2.15
Form of Agreement	Form of Agreement as in Schedule-2
INR, or Rs.	Indian Rupee(s)
LOA	Letter of Acceptance as defined in clause 2.27
Member	As defined in Clause 2.3.3 (a)
Official Website	As defined in Clause 1.11.1
Prohibited Practices	As defined in Clause 4.1
Project	As defined in Clause 1.1
Proposal	As defined in Clause 1.2
Bid Submission Date or PDD	As defined in Clauses 1.10
RFP	As defined in Disclaimer
Selection Process	As defined in Clause 1.9
Services	As defined in Clause 1.1.1(m) of Schedule-2
TOR	As defined in Schedule-1

The Words and Expressions Beginning With Capital Letters And Defined In This Document Shall, Unless Repugnant To The Context, Have The Meaning Ascribed Thereto Herein

I. REQUEST FOR PROPOSAL
Invitation for Bid

RFP No. DM/MS/COR-OF/122

Date: 28.08.2020

1. INTRODUCTION

1.1 Background

National Capital Region Transport Corporation Ltd (NCRTC)., 7/6, Siri Fort Institutional Area, August Kranti Marg, New Delhi-110049 (the “**Authority**”) is engaged in the development of Regional Rapid Transit System (RRTS) project across the NCR of India, ensuring a balanced and sustainable urban development through better connectivity and access and as part of this endeavour, the Authority has decided to “**Engagement of Consultant on Retainership Basis for Direct Taxes and Indirect Taxes (GST & Customs)**” (the “**Project**”) for the smooth and efficient discharge of its financial functions.

1.2 Request for Proposal

The Authority invites “limited” e-bid (Electronic Bid) (Manual bids are not permitted) from the pre-qualified agencies on Local Competitive Bidding (LCB) under Single Stage Single Packet System, Bid No. / Name of Work: **DM/FN/COR-OF/122: Engagement of Consultant on Retainership Basis for Direct Taxes and Indirect Taxes (GST & Customs)**

1.3 Due diligence by Bidders

Bidders are encouraged to inform themselves fully about the assignment before submitting the Bid by paying a visit to the Authority after sending written queries to the Authority.

1.4 Availability of RFP Document

RFP document and addendum/corrigendum (if any) will be available free of cost for downloading on e-bidding portal (<https://etenders.gov.in/eprocure/app>) of NCRTC shall be used for uploading of RFP Documents, seeking pre-Proposal queries, uploading of reply

to pre-Bid queries, uploading of Corrigendum / Addendum, submission of bids, uploading of Post Proposal clarifications, Award of Work etc.

1.5 BID SECURITY

The Amount of Bid Security is Rs. 50,000/- (Rupees Fifty Thousand Only).

Bid Security (Demand Draft, Bankers Cheque and FDR) shall be accepted only up to **15:00 hrs on 28/09/2020** of the Authority at the address mentioned herein after;

**Group General Manager/ Procurement
National Capital Region Transport Corporation Ltd.
7/6, Siri Fort Institutional Area,
August Kranti Marg,
New Delhi – 110049**

The Bidder must submit the Bid Security in physical form and shall upload the scanned copies of bid security in their online bid.

- 1.6. E-Bids must be accompanied with a bid security in original of requisite amount and validity as stipulated in clause-1.5 in any one of the forms as specified in the bidding documents. The bidder must submit the bid security in physical form at the address mentioned in clause-1.10 and shall upload the scanned copies of bid security in their online bid before the last date and time mentioned therein. **Any bids received without original bid security in physical form shall be rejected.**

For MSEs exemption, e-bids must be accompanied with the details as stipulated below in RFP. Such bidders shall also upload the scanned copies of these details in their online bid. The bidder must submit these details in physical form at the address mentioned in clause-1.10 and shall upload the scanned copies of these details in their online bid before the last date and time mentioned therein. **Any bids received without details of MSEs in physical form shall be rejected.**

1.7 Micro and Small Enterprises (MSEs) Registered Firms: -

- (i) Micro and Small Enterprises (MSEs) as admissible under Government existing policy on the date of acceptance of bid shall be applicable to Micro and Small Enterprises (MSEs) registered with any statutory bodies specified by Ministry of

Micro, Small & Medium Enterprises having Udyog Aadhaar Memoranda shall also be given all benefits under Public Procurement Policy Order 2012.

- (ii) The bidders shall submit photocopy of current and valid MSEs registration certificate inclusive of all the pages showing the category of entrepreneur – whether the registered firm is owned by General or SC/ST entrepreneurs, monetary limit of their registration for the items tendered to avail the benefits under the policy. The SMEs shall also submit a copy of “Entrepreneur’s Memorandum (Part – II)” of the concerned District Centre where the unit is established. The SMEs must also indicate the terminal validity date of their registration.
- (iii) Such MSE registered firms shall be exempted from payment of bid document cost and payment of Bid Security, **provided such MSE certificate is related to services concerned in the field.**
- (iv) Definition of MSEs owned by SC/ST is as given below:
 - (a) In case of proprietary MSE, proprietor(s) shall be SC/ST.
 - (b) In case of partnership MSE, the SC/ST partners shall be holding at least 51% shares in the unit.
 - (c) In case of Private Limited Companies, at least 51% share shall be held by SC/ST promoters.
- (v) All bidders registered under Micro and Small Enterprises (MSEs) shall have to satisfy the eligibility criteria at par with other bidders. There shall not be any relaxation in eligibility criteria/bidding process or other bid requirement and L1 price.
- (vi) If lowest valid bidder is non-MSE firm, then in such a case, purchase preference facilities shall not be applicable in the bid as quantity cannot be split. The total quantity shall be offered to the lowest valid bidder irrespective of their registration status and the benefit to MSEs shall be limited to exemption from cost of bid document and bid security only.
- (vii) The above facilities shall not be applicable for the items for which they are not registered.

1.8 Validity of the Bid

Bid shall be valid for a period of **90 days** (both days inclusive i.e. the last date of submission of bids and the last date of period of validity of the bid) from the end date of submission of Bids (PDD) (from the revised date of submission of Bids in case revised in corrigendum/addendum) as prescribed in clause-2.11 of RFP Document and shall be accompanied with a bid security of the requisite amount as per clause 1.5 above.

1.9 Brief description of the Bidding Process

The Authority has adopted a single stage selection process (The “**Selection Process**”) for evaluating the Bids from pre-qualified agencies comprising both technical and financial bids to be submitted online by the Bidders.

The Authority shall use the following electronic-procurement system to manage this Request for Proposal (RFP) process:

[\[https://etenders.gov.in/eprocure/app.\]](https://etenders.gov.in/eprocure/app.)

General Instructions on e-bidding

- i) The intending bidders must be registered on e-bidding portal of NCRTC as mentioned above [\[https://etenders.gov.in/eprocure/app.\]](https://etenders.gov.in/eprocure/app.). Those who are not registered on the e-bidding Portal shall be required to get registered beforehand. After registration, the bidder will get user-id and password. On login, bidder can participate in bidding process and can witness various activities of the bidding process.
- ii) The authorized signatory of intending bidder, as per notarized Power of Attorney (POA), must have valid class-III digital signature. The bid document can only be downloaded from e-bidding portal of NCRTC. However, the bidder shall upload their bid on e-bidding portal of NCRTC as mentioned above at [\[https://etenders.gov.in/eprocure/app.\]](https://etenders.gov.in/eprocure/app.) using class-III digital signature of the authorized signatory only.
- iii) Bid submissions shall be done online on e-bidding portal of NCRTC, after uploading the mandatory scanned documents towards bid Security or other documents like

MSEs exemption certificate as stated in the bid document. Instructions for online bid submission are annexed.

- iv) Submission of bid shall be closed on e-bidding portal of NCRTC at the date & time of submission prescribed in clause 1.10 of RFP document after which no bid can be uploaded. It shall be the responsibility of the bidder to ensure that his bid is uploaded online on e-bidding portal of NCRTC before the deadline of submission. NCRTC will not be responsible for non-receipt of bid documents due to any delay and/or loss etc.
- v) NCRTC reserves the right to accept or reject any or all bids any time without assigning any reasons. No bidder shall have any cause of action or claim against the NCRTC for rejection of bids.
- vi) Bidders are advised to keep in touch with e-bidding portal of NCRTC for any updates.

The Letter of Acceptance (LOA) to the successful bidder shall be uploaded on CPP portal (e-bidding portal) which can be downloaded by the successful bidder.

PRE-BID MEETING

No Pre-Bid Meeting is scheduled in this Bid. The Bidder is requested to upload the Pre-Bid queries on the e-Procurement portal not later than the date and time as mentioned in clause-1.10 as per the standard proforma provided in RFP Appendix-Form-7.

The text of the questions raised, without identifying the source, and the responses given, together with any responses prepared will be uploaded on e-Procurement portal, **<https://etenders.gov.in/eprocure/app>**. Any modification to the RFP Document that may in the sole discretion of the Authority.

1.10 Schedule of Bidding Process

The Authority would endeavour to adhere to the following schedule:

S.No.	Event	Proposed Date
1.	Bid Download Start Date	28/08/2020
2.	Last date of Seeking Clarifications	07/09/2020 (up to 1700 Hrs.)

S.No.	Event	Proposed Date
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1.11 Communications

1.11.1 All communications including the submission of Bid should be addressed to:

Group General Manager/ Procurement
National Capital Region Transport Corporation Ltd.
7/6, Siri Fort Institutional Area,
August Kranti Marg,
New Delhi – 110049
Tel: +91-11-41066943
Fax: +91-11-41066953
Email: - procurementcell@ncrtc.in

“Prospective Bidders are requested to ensure that Bid Identification Number (i.e. Bid Number) of the particular bid should be clearly mentioned in the subject and the content of the email in each email correspondence, failing which there is a probability that this correspondence, may not be considered.”

1.11.2 All communications, including the envelopes, should contain the following information, to be marked at the top in bold letters: **RFP Notice No. DM/FN/COR-OF/122.**

SECTION-2. INSTRUCTIONS TO BIDDERS

A. GENERAL

2.1 Scope of Proposal

2.1.1 The term Bidder (the “**Bidder**”) means the Firm **shortlisted by the Authority and to whom the Notice for Invitation for Proposals has been sent by the Authority through the CPP portal are eligible for participation in this Bid**. The manner in which the Bid is required to be submitted, evaluated and accepted is explained in this RFP document.

2.1.2 Bidders are advised that the selection of Bidder shall be based on evaluation by the Authority through the Selection Process specified in this RFP. Bidders shall be deemed to have understood and agreed that no explanation or justification for any aspect of the Selection Process will be given and that the Authority’s decisions are without any right of appeal whatsoever.

2.1.3 The Bidder shall submit its Bid in the form and manner specified in the RFP. The Financial Bid shall be submitted in the form at **Appendix-II**. Upon selection, the Bidder shall be required to enter into an agreement with the Authority in the form specified at **Schedule-2**.

2.1.4 Scope of Work / Services

The Consultant (Bidder) firm shall deploy different teams under the leadership of senior partner/Bidder having experience in the respective filed i.e. Direct Taxes, Goods & Service Tax and Customs. Based upon NCRTC’s requirements and working following are the broad scope of work for Consultancy Services on Retainership Basis for Direct Taxes and Indirect Taxes (GST & Customs) of NCRTC, but not limited to: –

I. Retainership Consultancy on Direct Taxes

- a) To provide latest amendments/notifications, issued in relation to direct taxes, by email:-
- b) To provide written opinion as and when sought by National Capital Region Transport Corporation (NCRTC) via E-mail, followed by the signed and stamped hard copy of the written opinion.

- c) To provide court judgments / decisions of tribunals, Advance Ruling etc. which may have some bearing on M/s National Capital Region Transport Corporation (NCRTC) along with a brief write up on the same by e-mail.
- d) To visit M/s National Capital Region Transport Corporation (NCRTC) office as and when NCRTC make a request.
- e) Review of all compliances including periodic returns.
- f) Any other services, as requested by M/s National Capital Region Transport Corporation (NCRTC), with respect to matters of the Direct Taxes.

Note- The above list is not an exhaustive list.

II. Retainership Consultancy on Indirect Taxes (GST & Customs)

II.(a) Regarding Matters on GST

- a) To provide latest amendments/notifications, issued under Goods & Service Tax by email.
- b) To provide written opinion as and when sought by National Capital Region Transport Corporation (NCRTC) on Goods & Service Tax via E-mail, followed by the signed and stamped hard copy of the written opinion.
- c) To assist the National Capital Region Transport Corporation (NCRTC) in filing of refund claims of Goods and Service Tax from the GST department
- d) To provide court judgments / decisions of tribunals, Advance Ruling etc. on Goods & Service Tax, which may have some bearing on M/s National Capital Region Transport Corporation (NCRTC) along with a brief write up on the same by e-mail.
- e) To visit M/s National Capital Region Transport Corporation (NCRTC) office as and when NCRTC make a request.
- f) Review of all compliances including periodic returns.

- g) Any other services, as requested by M/s National Capital Region Transport Corporation (NCRTC) with respect to matters of the GST.

Note- The above list is not an exhaustive list.

II.(b) Retainership Regarding Matters on Customs

- a) To provide latest amendments/notifications, issued under Customs by email.
- b) To provide written opinion as and when sought by National Capital Region Transport Corporation (NCRTC) on the matter related with Customs via E-mail, followed by the signed and stamped hard copy of the written opinion.
- c) To advice National Capital Region Transport Corporation (NCRTC) regarding various incentives / schemes / provisions for tariff concessions, duty drawback and other refund available under the Customs Act.
- d) Assist in compilation and preparation of documents for import of goods and services as applicable.
- e) To visit M/s National Capital Region Transport Corporation (NCRTC) office as and when NCRTC make a request.
- f) To assist in getting / availing any exemption / concession as available under the relevant Laws.
- g) Any other services, as requested by Authority with respect to matters of the Customs.

Note- The above list is not an exhaustive list.

Exclusion: -

III. To draft reply in respect of Show Cause Notices (SCNs) issued to NCRTC by Tax departments or authorities during the validity of this agreement and to file the reply in consultation with NCRTC. Lumpsum, maximum 5% of monthly fee.

IV.Obtaining Advance Ruling. The fee for obtaining Advance Ruling will be maximum 30% of the monthly remuneration. In case of adverse advance ruling, the fee shall be capped at 15% of monthly fee.

V.Liasoning / Appear before Tax Authorities. Lumpsum, maximum 50% of monthly fee for the for complete case.

2.1.5 **Other General Terms**

- a. The Bidders shall keep all the information confidential as provided by M/s National Capital Region Transport Corporation (NCRTC) for furnishing to Tax authorities / other offices in connection with this contract. Upon termination / expiry of contract, the Bidder shall return all confidential information to NCRTC and shall not retain the same in any form.
- b. The Bidder shall conduct Quarterly review of books of accounts in respect of the tax matters and advice in respect of improvement of the same and report thereof.

Note-The above list is not an exhaustive list.

2.2 Conditions for Eligibility of Bidders:

- 2.2.1 The Bidder should submit a Power of Attorney as per the format at **Form-5 of Appendix-I**; provided, however, that such Power of Attorney would not be required if the Application is signed by a partner of the Bidder, in case the Bidder is a partnership firm or limited liability partnership.
- 2.2.2 Any entity which has been barred by the Central Government, any State Government, a statutory authority or a public sector undertaking, as the case may be, from participating in any project, and the bar subsists as on the date of Bid, would not be eligible to submit a Bid either by itself or through its Associate.
- 2.2.3 An Bidder or its Associate should have, during the last three years, neither failed to perform on any agreement, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder or its Associate, nor been expelled from any project or agreement nor have had any agreement terminated for breach by such Bidder or its Associate.

- 2.2.4 While submitting a Bid, the Bidder should attach clearly marked and referenced continuation sheets in the event that the space provided in the specified forms in the Appendices is insufficient. Alternatively, Bidders may format the specified forms making due provision for incorporation of the requested information.
- 2.2.5 In terms of Order (Public Procurement No.1) of Ministry of Finance issued vide letter no. F.No. 6/18/ 2019- PPD dated 23.07.2020, any Bidder from a Country which share a land border with India will be eligible to bid in this procurement, only if the Bidder is registered with the Competent Authority. The Competent Authority for this purpose is Registration Committee in Department for Promotion of Industry and Internal Trade (DPIIT) under Ministry of Commerce. However, in terms of Order (Public Procurement No.2) of Ministry of Finance issued vide letter no. F. no. 6/18/ 2019- PPD dated 23.07.2020 the above order will not apply to Bidders from those Countries (even if sharing a land border with India) to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects for which the updated list of Countries are given in the website of the Ministry of External Affairs. Bidder has to submit **Form-o6 -NSLB** Undertaking for Neighbour Sharing Land Border with India.

2.3 Conflict of Interest

- 2.3.1 An Bidder shall not have a conflict of interest that may affect the Selection Process or the Consultancy (the “**Conflict of Interest**”). Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall forfeit and appropriate the Bid Security as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, *inter alia*, the time, cost and effort of the Authority including consideration of such Bidder’s Bid, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise.
- 2.3.2 The Authority requires that the Bidder provides professional, objective, and impartial advice and at all times hold the Authority’s interests paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The Consultant shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other clients, or that may place it in a position of not being able to carry out the assignment in the best interests of the Authority.

2.3.3 Some guiding principles for identifying and addressing Conflicts of Interest have been illustrated in the Guidance Note at **Schedule-3**. Without limiting the generality of the above, an Bidder shall be deemed to have a Conflict of Interest affecting the Selection Process, if:

- (a) the Bidder or Associate (or any constituent thereof) and any other Bidder, its consortium member or Associate (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of an Bidder, its Member or Associate (or any shareholder thereof having a shareholding of more than 5% (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 consortium member or Associate is less than 5 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 2.3.3(a), 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% (twenty six per cent) of the subscribed and paid up equity shareholding of such intermediary; or
- (b) a constituent of such Bidder is also a constituent of another Bidder; or
- (c) such Bidder or its Associate receives or has received any direct or indirect subsidy or grant from any other Bidder or its Associate; or
- (d) such Bidder has the same legal representative for purposes of this Application as any other Bidder; or

- (e) such Bidder has a relationship with another Bidder, directly or through common third parties, that puts them in a position to have access to each other's information about, or to influence the Application of either or each of the other Bidder; or
- (f) there is a conflict among this and other consulting assignments of the Bidder (including its personnel and Sub-consultant) and any subsidiaries or entities controlled by such Bidder or having common controlling shareholders. The duties of the Consultant will depend on the circumstances of each case. While providing consultancy services to the Authority for this particular assignment, the Consultant shall not take up any assignment that by its nature will result in conflict with the present assignment; or
- (g) a firm which has been engaged by the Authority to provide goods or works or services for a project, and its Associates, will be disqualified from providing consulting services for the same project save and except as provided in Clause 2.3.4; conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and its Members or Associates, will be disqualified from subsequently providing goods or works or services related to the same project; or
- (h) the Bidder, its Member or Associate (or any constituent thereof), and the Bidder, if any, for the Project, its contractor(s) or sub-contractor(s) (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of an Bidder, its Member or Associate (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be,) in the Bidder or Concessionaire, if any, or its contractor(s) or sub-contractor(s) is less than 5% (five per cent) of the paid up and subscribed share capital of such contractor(s) or sub-contractor(s); provided further that this disqualification shall not apply to 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 sub-clause (h), indirect shareholding shall be computed in accordance with the provisions of sub-clause (a) above.

For purposes of this RFP, Associate means, in relation to the Bidder, a person who controls, is controlled by, or is under the common control with such Bidder (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 or by contract.

2.4 Number of Bids

A Bidder cannot participate as a single entity in more than one bid for this work in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which the partner is involved.

2.5 Cost of Bid

The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Selection Process including subsequent negotiation, visits to the Authority, Project site etc. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Selection Process.

2.6 Verification of information

Bidders are encouraged to submit their respective Bids after ascertaining themselves the availability of data with the Authority, Applicable Laws and regulations or any other matter considered relevant by them.

2.7 Acknowledgement by Bidder

2.7.1 It shall be deemed that by submitting the Bid, the Bidder has:

- (a) made a complete and careful examination of the RFP;
- (b) received all relevant information requested from the Authority;
- (d) acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of the Authority or relating to any of the matters referred to in Clause 2.6 above;

- (e) satisfied itself about all matters, things and information, including matters referred to in Clause 2.6 herein above, necessary and required for submitting an informed Application and performance of all of its obligations thereunder;
- (c) Acknowledged that it does not have a Conflict of Interest; and
- (f) Agreed to be bound by the undertaking provided by it under and in terms hereof.

2.7.2 The Authority shall not be liable for any omission, mistake or error on the part of the Bidder in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP or the Selection Process, including any error or mistake therein or in any information or data given by the Authority.

2.8 Right to reject any or all Bids

2.8.1 Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Bid and to annul the Selection 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 thereof.

2.8.2 Without prejudice to the generality of Clause 2.8.1, the Authority reserves the right to reject any Bid if:

- (a) at any time, a material misrepresentation is made or discovered, or
- (b) the Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Bid.

Misrepresentation/ improper response by the Bidder may lead to the disqualification of the Bidder. If such disqualification / rejection occurs after the Bids have been opened and the highest ranking Bidder gets disqualified / rejected, then the Authority reserves the right to consider the next best Bidder, or take any other measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Selection Process.

B. DOCUMENTS

2.9 Contents of the RFP Document

2.9.1 This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below and will additionally include any Addendum / Amendment issued in accordance with Clause 2.11:

I. Invitation for Bid

Section-1	Introduction
Section-2	Instructions to Bidders
Section-3	Criteria for Evaluation
Section-4	Fraud and corrupt practices
Section-5	Miscellaneous

II. Schedules

Schedule-1	Terms of Reference
Schedule-2	Form of Contract Agreement
	Annexure-1: Terms of Reference
	Annexure-2: Payment Schedule
	Annexure-3: Bank Guarantee for Performance Security
	Annexure-4: Bank Guarantee for Bid Security
Schedule-3	Guidance Note on Conflict of Interest
Schedule-4	Instructions for Registration on Online CPP Portal

III. Appendices

Appendix-I	Technical Bid
	Form-1: Letter of Proposal
	Form-2: Affidavit
	Form-3: Particulars of the Bidder
	Form-4: Statement of Legal Capacity
	Form-5: Power of Attorney
	Form-6: NSLB
	Form-7: Pre-Bid Query format
	Form-8: Undertaking for Downloading of Bid Document
Appendix-II	Financial Bid
	Form 1: Covering Letter
	Form 2: Financial Bid

2.10 Pre-Bid Queries

- 2.10.1 Bidder may upload their queries on e-bidding portal prior to deadline of seeking clarification as per clause 1.10 in Performa of Form-7.
- 2.10.2 The Authority reserves the right not to respond to any questions or provide any clarifications, in its sole discretion, and nothing in this Clause 2.10 shall be construed as obliging the Authority to respond to any question or to provide any clarification.

2.11 Amendment of RFP

- 2.11.1 At any time prior to the deadline for submission of bids, the Authority may amend the Bidding Document by issuing addenda.
- 2.11.2 Any addendum issued shall be part of the Bidding Documents and shall be uploaded on e-bidding portal <https://etenders.gov.in/eprocure/app>. The onus is on the Bidders to visit the e-bidding portal to see the addenda published by the Authority.
- 2.11.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the authority may, at its discretion, extend the deadline for the submission of bids, pursuant to RFP clause 2.11.4.
- 2.11.4 The Authority may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Document in accordance with RFP clause 2.11.1, in which case all rights and obligations of the Authority and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

C. PREPARATION AND SUBMISSION OF BID

2.12 Language

The Bid with all accompanying documents (the “**Documents**”) and all communications in relation to or concerning the Selection Process shall be in English language and strictly on the forms provided in this RFP. No supporting document or printed literature shall be submitted with the Bid unless specifically asked for and in case any of these Documents is in another language, it must be accompanied by an accurate translation of

the relevant passages in English, in which case, for all purposes of interpretation of the Bid, the translation in English shall prevail.

2.13 Format and signing of Bid

2.13.1 The Bidder shall provide all the information sought under this RFP. The Authority would evaluate only those Bids that are received in the specified forms and complete in all respects.

2.13.2 The bid shall be submitted online and Bidder shall upload its bid on e-bidding portal of NCRTC as mentioned in clause-1.10 of RFP using class-III digital signature of the authorized signatory having notarized Power of Attorney (POA). The Bids must be properly signed by the authorised representative (the “**Authorised Representative**”) as detailed below:

- (a) by a partner, in case of a partnership firm and/or a limited liability partnership;
or
- (b) any director in case of Pvt Ltd Company
- (c) any other person authorised by the partner/ director for this purpose.

A copy of the Power of Attorney certified under the hands of a partner or director of the Bidder and notarised by a notary public in the form specified in Appendix-I (Form-5) shall accompany the Bid.

2.13.3 Bidders should note the Bid Submission Date, as specified in Clause -1.10, for submission of Bids. Except as specifically provided in this RFP, no supplementary material will be entertained by the Authority, and that evaluation will be carried out only on the basis of Documents received by the closing time of Bid Submission Date as specified in Clause 2.17.1. Bidders will ordinarily not be asked to provide additional material information or documents subsequent to the date of submission, and unsolicited material if submitted will be summarily rejected. For the avoidance of doubt, the Authority reserves the right to seek clarifications under and in accordance with the provisions of Clause 2.24.

2.13.4 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation and shall be attached to the bid. The name and position held by each person signing the authorization must be typed or printed below

the signature. If a Bidder submits a deficient authorization, the Bid shall not be rejected in the first instance. The authority shall request the Bidder to submit an acceptable authorization within the number of days as specified in the clause 2.24. Failure to provide an acceptable authorization within the period as stated in the Authority's request shall cause the rejection of the Bid. If either the Letter of Proposal or Letter of Price Bid covering letter is not signed, the Bid shall be rejected.

2.14 Sealing and Marking of Bids

2.14.1 While submitting the Bid, the Bidder shall, in particular, ensure that:

- (a) Letter of Proposal;
- (b) The original Bid Security document in accordance with clause-2.20 shall be submitted by the Bidder at the address indicated in clause 1.11 on date and time specified in the CPP portal as a prerequisite for opening of the Bid.

Bidders shall upload a scanned copy of the Bid Security on line on the e-bidding portal <https://etenders.gov.in/eprocure/app> along with Bid submission.
- (c) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with clause 2.13.4;
- (d) Any other document required in the RFP.
- (e) All forms with Annexures and Appendices are to be submitted in the prescribed formats and signed by the authorized signatories;
- (f) Power of Attorney, if applicable, is executed as per Applicable Laws;

2.15 Financial Bid

2.15.1 Bidders shall submit the financial Bid in the formats at **Appendix-II** (the “**Financial Bid**”) clearly indicating the cost of the Consultancy (Form-2 of Appendix-II) in figures, in Indian Rupees, and signed by the Bidder's Authorised Representative.

The financial bid is provided in the bid documents in the form of MS-EXCEL file. The rates shall be quoted in the MS-EXCEL file provided in the bid documents. The Bidder shall download the MS-EXCEL file and after quoting their rates upload the same accordingly. The rates shall not be offered/quoted elsewhere in the technical submission/ bid submission. These prices should include all costs associated with the

contract. The Bidder shall complete the Financial Bid in accordance with the instructions given in the Financial Bid.

In the event of any difference between figures and words, the amount indicated in words shall prevail. In the event of a difference between the arithmetic total and the total shown in the Financial Bid, the lower of the two shall prevail.

2.15.2 While submitting the Financial Bid, the Bidder shall ensure the following:

- (i) All the costs associated with the assignment shall be included in the Financial Bid. These shall normally cover remuneration for all the Personnel (Expatriate and Resident, in the field, office etc.), accommodation, air fare, equipment, printing of documents, surveys, geo-technical investigations etc. The total amount indicated in the Financial Bid shall be without any condition attached or subject to any assumption, and shall be final and binding. In case any assumption or condition is indicated in the Financial Bid, it shall be considered non-responsive and liable to be rejected.
- (ii) The Financial Bid shall take into account all expenses and tax liabilities. For the avoidance of doubt, it is clarified that all taxes shall be deemed to be included in the costs shown under different items of the Financial Bid. GST, however, shall be payable extra as per applicable rate. Further, all payments shall be subject to deduction of taxes at source as per Applicable Laws.
- (iii) Costs (including break down of costs) shall be expressed in INR.

2.16 Submission of Bid

2.16.1 RFP document and addendum/corrigendum (if any) will be available free of cost for downloading on e-bidding portal (<https://etenders.gov.in/eprocure/app>) of NCRTC. E-bidding portal shall be the platform for uploading of Bid Documents, seeking pre-bid queries, Uploading of reply to pre-bid queries, uploading of Corrigendum/Addendum, submission of bids, uploading of Post bid clarifications, Award of Work etc.

The Bidders shall be responsible for its accuracy and correctness as per the version uploaded by the Authority and shall ensure that there are no changes caused in the content of the downloaded document. In case of any discrepancy between the

downloaded or photocopied version of the RFP and the original RFP issued by the Authority, the latter shall prevail.

2.16.2 The Bidder shall submit a sealed envelope clearly mentioning the name and address of the consultant (Bidder) along with the name of the work (project) and envelope shall contain:

- (i) Exemption Certificate regarding MSME, if applicable.
- (ii) Bid security as specified in Clause 2.20.1

2.16.3. The documents mentioned at clause 2.16.2 in physical form must be delivered on or before the specified time on Bid submission due date. Bids submitted by fax, telex, telegram or e-mail shall not be entertained.

2.16.4 The Bid shall be made in the Forms specified in this RFP. Any attachment to such Forms must be provided on separate sheets of paper and only information that is directly relevant should be provided. This may include photocopies of the relevant pages of printed documents. No separate documents like printed annual statements, company brochures, copy of contracts etc. will be entertained.

2.16.5 The rates quoted shall be firm throughout the period of performance of the assignment and discharge of all obligations of the Consultant under the Agreement.

2.17 Bid Submission Date

2.17.1 Bid should be submitted at or before on the Bid submission due date and time specified in Clause-1.10 in the manner and form as detailed in this RFP.

2.17.2 The Authority may, in its sole discretion, extend the Bid submission due date by issuing an Addendum in accordance with Clause 2.11 uniformly for all Bidders.

2.18 Late Bids

Bids received by the Authority after the specified time on Bid submission due date shall not be eligible for consideration and shall be summarily rejected.

2.19 Modification/ substitution/ withdrawal of Bids

- 2.19.1 The Bidder may modify, substitute, or withdraw its Bid prior to the deadline of bid submission as mentioned in clause 1.10. Bids once requested to be withdrawn shall not be allowed to be resubmitted.

No bid may be withdrawn, substituted or modified in the interval between the deadline for submission of bids {Bid submission due Date} and the expiration of the period of bid validity or any extension thereof.

- 2.19.2 Any alteration / modification in the Bid or additional information or material supplied subsequent to the Bid Due Date, unless the same has been expressly sought for by the Authority, shall be disregarded.

2.20 Bid Security

- 2.20.1 Bid Security (Bank Guarantee, Demand Draft, Banker's Cheque and FDR) in original as per clause 1.5 shall be accepted only up to **1500 hrs on 28/09/2020** in the office of the Authority at the address mentioned hereinafter in clause-1.10. The Bidder must submit the bid security in physical form and shall upload the scanned copies of bid security in their online bid.

The bid security shall be, at the Bidder's option, in any of the following forms:

- (a) A Cashiers or Banker's certified cheque or Bank draft drawn on a Scheduled commercial /Nationalized Bank in India in favour of "National Capital Region Transport Corporation Ltd." payable at New Delhi; or
- (b) An unconditional bank guarantee (BG) using the Form given in Section 4: Bidding Forms. The bank guarantee shall be from a bank having minimum net worth of over INR 5000 million from the specified banks as under:
 - (i) a Scheduled Commercial Bank in India, or
 - (ii) a Foreign Bank which do not have operations in India is required to provide a counter-guarantee by a scheduled commercial Bank in India,
- (c) The Scheduled Commercial Bank issuing the Bank Guarantee preferably on "Structure Financial Messaging System (SFMS)" platform. A separate advice of

the BG shall invariably be sent by the issuing bank to the Authority's Bank through SFMS.

Further, the Bid Security in Original form along with a copy of "MT760COV (in case of Bank Guarantee message) / MT767COV (in case of Bank Guarantee amendment message) Report" sent by the BG issuing Bank Sealed in an envelope shall be submitted as stated in clause 1.11 of IFB.

The Issuing Bank shall send the SFMS to:

Beneficiary: National Capital Region Transport Corporation Limited

Bank Name: HDFC Bank

Account No. 50200029737870

IFSC Code: HDFC00000003

The bid security shall be, wherever applicable, valid up to the date as mentioned in IFB under clause 1.5, or up to the date mentioned in the letter of request for extension, if any.

Fixed Deposit Receipt (FDR) of a Scheduled Commercial bank / Post office based in India duly pledged in favour of "National Capital Region Transport Corporation Ltd."

2.20.1.1. Any bid is not accompanied by an enforceable and compliant bid security, as required in accordance with clause 1.5, the Authority has the right to reject such bid.

2.20.1.2. The bid security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's furnishing of the performance. However, bid security of those Bidders who have not been technically qualified shall be returned after opening of financial bid.

2.20.1.3. The bid security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has furnished the required performance security and signed the Contract.

2.20.1.4. The bid security shall be forfeited:

(a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder

on the Letter of Bids

(b) if a Bidder misrepresents or omits the facts in order to influence the procurement process;

(c) if the successful Bidder fails to:

- (i) sign the Contract;
- (ii) furnish a performance security;
- (iii) accept the correction of error and omissions in financial bid or
- (iv) furnish a domestic preference security if so required.

(d) if the affidavit submitted by the Bidder or its constituents in pursuance to Appendix -I (Form-2) or any of the declarations of Letter of Technical Bid submitted by the Bidder has been found to be false at any stage during the process of bid evaluation.

2.20.1.5 In case the Bidder who has been exempted for submission of Bid Security being Micro & Small Enterprise and;

- (i) withdraws his Bid during the period of Bid validity; or
- (ii) becomes the successful Bidder, but fails to commence the work (for whatsoever reasons) as per terms & conditions of bid; or
- (iii) refuses or neglects to execute the contract; or
- (iv) fails to furnish the required Performance Security within the specified time,

Then such Bidders shall be debarred from participating in future bids for a period of 01 year from the date of discharge of bid / date of cancellation of LOA / annulment of award of contract as the case may be. Thereafter, on expiry of period of debarment, the Bidder may be permitted to participate in the procurement process only on submission of required Bid Cost / Bid Security.

2.20.1.6 Further the Authority may advise the authority responsible for issuing the exemption certificate to take suitable actions against the Bidder such as cancellation of enlistment certificate etc.

2.20.1.7 In case the bid security is submitted in the form of FDR, the same shall be verified

by the Authority from the issuing bank for its genuineness.

- 2.20.2 Any Bid not accompanied by the Bid Security shall be rejected by the Authority as non-responsive.
- 2.20.3 The Authority shall not be liable to pay any interest on the Bid Security and the same shall be interest free.
- 2.20.4 The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged that without prejudice to the Authority's any other right or remedy hereunder or in law or otherwise, the Bid Security shall be forfeited and appropriated by the Authority as the mutually agreed pre-estimated compensation and damage payable to the Authority for, *inter alia*, the time, cost and effort of the Authority in regard to the RFP including the consideration and evaluation of the Bid under the following conditions:
 - (a) If an Bidder submits a non-responsive Bid;
 - (b) If an Bidder engages in any of the Prohibited Practices specified in Section 4 of this RFP;
 - (c) If an Bidder withdraws its Bid during the period of its validity as specified in this RFP and as extended by the Bidder from time to time;
 - (d) In the case of the Selected Bidder, if the Bidder fails to reconfirm its commitments during negotiations as required vide Clause 2.25.1;
 - (e) In the case of a Selected Bidder, if the Bidder fails to sign the Agreement or commence the assignment as specified in Clauses 2.28 and 2.329 respectively; or
 - (f) If the Bidder is found to have a Conflict of Interest as specified in Clause 2.3.

2.21 Performance Security

- 2.21.1 The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged that without prejudice to the Authority's any other right or remedy hereunder or in law or otherwise, its Performance Security shall be forfeited and appropriated by the Authority as the mutually agreed pre-estimated compensation and damages payable to the Authority for, *inter alia*, the time, cost and effort of the Authority

in regard to the RFP, including the consideration and evaluation of the Bid, under the following conditions:

- (a) If an Bidder engages in any of the Prohibited Practices specified in **Clause 4.1** of this RFP;
- (b) if the Bidder is found to have a Conflict of Interest as specified in **Clause 2.3**; and
- (c) if the selected Bidder commits a breach of the Agreement.

2.21.2 An amount equal to 10% (Ten per cent) of the Agreement Value shall be deemed to be the Performance Security for the purposes of this Clause 2.21, which may be forfeited and appropriated in accordance with the provisions hereof. The Contractor shall obtain (at his cost) a performance Security for proper performance of the contract, for the amount equal to 10% of contract value with validity 02 month beyond the completion date of contract. The Contractor shall deliver the Performance Security as specified in the bid documents, to the Authority within 28 days after receiving the Letter of Acceptance. The Performance Security shall be issued by an entity and from within a country (or other jurisdiction) approved by the Authority, and shall be in the form as given in Annexure-3 of Schedules or in another form specifically approved by the Authority.

D. EVALUATION PROCESS

2.22 Evaluation of Bids

2.22.1 The Authority shall conduct the electronic opening of Technical Bids on e-bidding portal of NCRTC as per the schedule date and time mentioned in clause-1.10 of RFP document.

2.22.2 Bids for which a notice of withdrawal has been submitted in accordance with Clause 2.19 shall not be opened.

2.22.3 Prior to evaluation of Bids, the Authority will determine whether each Bid is responsive to the requirements of the RFP. The Authority may, in its sole discretion, reject any Bid that is not responsive hereunder. A Bid shall be considered responsive only if:

- (a) it is received by the Bid Submission due date including any extension thereof pursuant to Clause 2.17;
- (b) it is accompanied by the Bid Security as specified in Clause 2.20.1.
- (c) it is accompanied by the Power of Attorney as specified at Appendix -I (Form -5);
- (d) it contains all the information (complete in all respects) as requested in the RFP;
- (e) it does not contain any condition or qualification; and

(f) it is not non-responsive in terms hereof.

2.22.3 The Authority 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 Authority in respect of such Bids.

2.22.4 The Authority shall subsequently examine and evaluate Bids in accordance with the Selection Process specified at **Clause 1.6** and the criteria set out in this RFP.

2.22.5 Provided that the bid is substantially responsive, the Authority shall correct arithmetical errors and omissions in the financial bid and then arrive at the Evaluated Bid Price. The cost for each schedule shall first be calculated after applying quoted percentage rate to that schedule and the net amount shall be rounded off to two decimal places. Thereafter, sum of evaluated amounts of all schedules shall be the overall Evaluated Bid Price.

2.22.6 If the Bidder, that has submitted the lowest evaluated bid, does not accept the correction of errors and omissions as per above provisions, its bid shall be disqualified and its bid security shall be forfeited.

2.22.7 Bidders are advised that Selection shall be entirely at the discretion of the Authority. Bidders shall be deemed to have understood and agreed that the Authority shall not be required to provide any explanation or justification in respect of any aspect of the Selection Process or Selection.

2.22.8 Any information contained in the Bid shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Bidder if the Consultancy is subsequently awarded to it.

2.23 Confidentiality

Information relating to the examination, clarification, evaluation, and recommendation for the selection of Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional adviser advising the Authority in relation to matters arising out of, or concerning the Selection Process. The Authority shall treat all information, submitted as part of the Bid, in confidence and shall require all those who have access to such material to treat the same in confidence. The Authority 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 Authority or as may be required by law or in connection with any legal process.

2.24 Clarifications of Bids

2.24.1 To assist in the examination, evaluation and comparison of the Bids, the Authority may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder that is not in response to a request by the authority shall not be considered. The Authority's request for clarification and the response shall be in writing and delivered to concerned bidders through CPP- portal (e-bidding portal). The due date and time to response these queries will also be communicated. No change in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of errors discovered by the Authority in the evaluation of the Financial bids, in accordance with RFP Clause 2.22.6.

2.24.2 The bidder shall respond to the queries on e-bidding portal. If a Bidder does not provide clarifications of its bid by the date and time set in the Authority's request for clarification, their bid shall be evaluated as per the available information in the submitted bid..

E. APPOINTMENT OF CONSULTANT

2.25 Negotiations

2.25.1 The Selected Bidder may, if necessary, be invited for negotiations. The negotiations shall generally not be for reducing the price of the Bid, but will be for re-confirming the obligations of the Consultant under this RFP. Issues such as deployment of Key Personnel, understanding of the RFP, methodology and quality of the work plan shall be discussed during negotiations. In case the Selected Bidder fails to reconfirm its commitment, the Authority reserves the right to designate the next ranked Bidder as the Selected Bidder and invite it for negotiations.

2.26 Indemnity

The Consultant shall, subject to the provisions of the Agreement, indemnify the Authority for an amount not exceeding 03 (three) times of the Agreement value for any direct loss or damage that is caused due to any deficiency in services.

2.27 Award of Work/ Consultancy Service

After selection, a Letter of Acceptance (the “**LOA**”) shall be issued, in duplicate, by the Authority to the Selected Bidder and the Selected 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 Selected Bidder is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as mutually agreed genuine pre-estimated loss and damage suffered by the Authority on account of failure of the Selected Bidder to acknowledge the LOA, and the next highest ranking Bidder may be considered.

2.28 Execution of Agreement

After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall execute the Agreement within the period prescribed in Clause 1.10. The Selected Bidder shall not be entitled to seek any deviation in the Agreement.

2.29 Commencement of assignment

The Consultant shall commence the Services at the Project site within 7 (seven) days of the date of the Agreement, or such other date as may be mutually agreed. If the Consultant fails to either sign the Agreement as specified in Clause 2.28 or commence the assignment as specified herein, the Authority may invite the second ranked Bidder for negotiations. In such an event, the Bid Security of the first ranked Bidder shall be forfeited and appropriated in accordance with the provisions of Clause 2.20.4.

2.30 Proprietary data

Subject to the provisions of Clause 2.23, all documents and other information provided by the Authority or submitted by an Bidder to the Authority shall remain or become the property of the Authority. Bidders and the Consultant, as the case may be, are to treat all information as strictly confidential. The Authority will not return any Bid or any information related thereto. All information collected, analysed, processed or in whatever manner provided by the Consultant to the Authority in relation to the Consultancy shall be the property of the Authority.

SECTION-3. EVALUATION OF BID

3.1 Opening and Evaluation of Bids

- 3.1.1 The Authority shall conduct the electronic opening of Bids on e-bidding portal of NCRTC as per the schedule date and time. The opening of the Bids and subsequent details can be viewed by the bidders by logging on the e-bidding portal of NCRTC. Alternatively, any bidder who wish to attend the technical bid opening can be present during the opening. The Bidder's representatives who are present shall be requested to mark their attendance on the format available with the Authority.
- 3.1.2 No Bid shall be rejected at the opening of Technical Bids in accordance with RFP Clause 2.18 except the bid(s) which are not accompanied by "Original Bid Security/Relevant details of MSEs " in physical form
- 3.1.3 The Authority will subsequently examine and evaluate the Bids in accordance with the provisions set out in this Section 3.
- 3.1.4 To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.

3.2 Tests of responsiveness and eligibility

- 3.2.1 Prior to evaluation of Bids, the Authority shall determine whether each Bid is responsive to the requirements of this RFP. A Bid shall be considered responsive only if:
 - (a) it is received as per the format at Appendix-I & II;
 - (b) it is received by the Bid Due Date including any extension thereof pursuant to Clause 1.10;
 - (c) The Bid Security is in the correct form, of the required amount and validity period, issued by a schedule commercial bank of India and properly signed ;
 - (d) The original power of attorney for the Bid signatory shall be in the acceptable form and properly notarized containing specimen signature of the authorized person.
 - (e) The Digital signature (DSC) used for uploading of the tender

submission should be in the name of the person to whom the power of attorney (POA) have been issued.

- (f) The Bidder Sheets are in the correct form.
- (g) All Bid Forms have been signed and stamped
- (h) it contains all the information (complete in all respects) as requested in this RFP and/or Bidding Documents (in formats same as those specified);
- (i) it does not contain any condition or qualification; and
- (j) All pages of Bid are numbered.
- (k) No Bid Forms have been altered and are all signed.
- (l) The undertaking for downloading bid document/ addendum/ corrigendum / clarifications is submitted (Form-o8).
- (m) One Bid per Bidder
- (n) No any Bidder have conflicts of interests as described in clause 2.3.

3.2.2 The Authority 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 Authority in respect of such Bid.

3.3 Selection of Bidder

3.3.1 Subject to the provisions of Clause 2.16.1, the Bidder whose Bid is adjudged as responsive in terms of Clause 3.2.1 and who quotes the lowest price in Bid shall be declared as the selected Bidder (the "**Selected Bidder**").

3.3.2 In case of a tie between the two lowest tenderers, where the rates are reasonable and Contractors are found technically suitable to tender requirements etc., the Competent Authority would invite both the parties for submitting discount letter in terms of % of their offer. The tender will be finalized based on lowest bid after considering the discount. However, if a tie happens again, it would be up to the accepting authority to decide which one to accept in their sole discretion based on technical capability of the two tenderers or shall decide as per tender condition.

3.4 Contacts during Bid Evaluation

Bids shall be deemed to be under consideration immediately after they are opened and until such time the Authority makes official intimation of award/ 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 Bidding Documents, from contacting by any means, the Authority and/ or their employees/ representatives on matters related to the Bids under consideration. Any attempt by a Bidder to influence the Authority in the examination, evaluation and comparison of the Bids or Contract award decisions shall result in the rejection of its Bid.

SECTION-4. FRAUD AND CORRUPT PRACTICES

- 4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this RFP, the Authority shall reject a Bid without being liable in any manner whatsoever to the Bidder, if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the “**Prohibited Practices**”) in the Selection Process. In such an event, the Authority shall, without prejudice to its any other rights or remedies, forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, *inter alia*, time, cost and effort of the Authority, in regard to the RFP, including consideration and evaluation of such Bidder’s Bid.
- 4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Agreement, if an Bidder or Consultant, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the issue of the LOA or the execution of the Agreement, such Bidder or Consultant shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder or Consultant, as the case may be, is found by the Authority to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- 4.3 For the purposes of this Section, 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 action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOA or has dealt with matters concerning the 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 Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) save as provided herein, engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical consultant/ adviser of the Authority in relation to any matter concerning the Project;

- (b) “**fraudulent practice**” means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- (c) “**coercive practice**” means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person’s participation or action in the Selection Process;
- (d) “**undesirable practice**” means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection 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 Selection Process.

SECTION-5. MISCELLANEOUS

- 5.1 The Selection Process shall be governed by, and construed in accordance with, the laws of India and the Courts in the State in which the Authority has its headquarters shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Selection Process.
- 5.2 The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:
- (a) suspend and/or cancel the Selection Process and/or amend and/or supplement the Selection 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 Authority 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.
- 5.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authority, 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 herewith and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or future.
- 5.4 All documents and other information supplied by the Authority or submitted by an Bidder shall remain or become, as the case may be, the property of the Authority. The Authority will not return any submissions made hereunder. Bidders are required to treat all such documents and information as strictly confidential.
- 5.5 The Authority reserves the right to make inquiries with any of the clients listed by the Bidders in their previous experience record.

II. SCHEDULES

SCHEDULE-1

Terms of Reference (TOR)

1. GENERAL

The Authority seeks the services of qualified firms for Engagement of Consultant on Retainership Basis for Direct Taxes and Indirect Taxes (GST & Customs). The Terms of Reference (the “**TOR**”) for this assignment are specified below.

2. SCOPE OF WORK / SERVICES

The consultant (Bidder) firm shall deploy different teams under the leadership of senior partner/ consultant having experience in the respective filed i.e. Direct Taxes, Goods & Service Tax and Customs. Based upon NCRTC’s requirements and working following are the broad scope of work for Consultancy Services on Retainership Basis for Direct Taxes and Indirect Taxes (GST & Customs) of NCRTC, but not limited to: –

I. Retainership Consultancy on Direct Taxes

- a) To provide latest amendments/notifications, issued in relation to direct taxes, by email.
- b) To provide written opinion as and when sought by National Capital Region Transport Corporation (NCRTC) via E-mail, followed by the signed and stamped hard copy of the written opinion.
- c) To provide court judgments / decisions of tribunals, Advance Ruling etc. which may have some bearing on M/s National Capital Region Transport Corporation (NCRTC) along with a brief write up on the same by e-mail.
- d) To visit M/s National Capital Region Transport Corporation (NCRTC) office as and when NCRTC make a request.
- e) Review of all compliances including periodic returns.

- f) Any other services, as requested by Authority, with respect to matters of the Direct Taxes.

Note-The above list is not an exhaustive list.

II. Retainership Consultancy on Indirect Taxes (GST & Customs)

II(a) Regarding Matters on GST

- a) To provide latest amendments/notifications, issued under Goods & Service Tax by email.
- b) To provide written opinion as and when sought by National Capital Region Transport Corporation (NCRTC) on Goods & Service Tax via E-mail, followed by the signed and stamped hard copy of the written opinion.
- c) To assist the National Capital Region Transport Corporation (NCRTC) in filing of refund claims of Goods and Service Tax from the GST department
- d) To provide court judgments / decisions of tribunals, Advance Ruling etc. on Goods & Service Tax, which may have some bearing on M/s National Capital Region Transport Corporation (NCRTC) along with a brief write up on the same by e-mail.
- e) To visit M/s National Capital Region Transport Corporation (NCRTC) office as and when NCRTC make a request.
- f) Review of all compliances including periodic returns.
- g) Any other services, as requested by M/s National Capital Region Transport Corporation (NCRTC) with respect to matters of the GST.

Note-The above list is not an exhaustive list.

II(b) Retainership Regarding Matters on Customs

- a) To provide latest amendments/notifications, issued under Customs by email.

- b) To provide written opinion as and when sought by National Capital Region Transport Corporation (NCRTC) on the matter related with Customs via E-mail, followed by the signed and stamped hard copy of the written opinion.
- c) To advice National Capital Region Transport Corporation (NCRTC) regarding various incentives / schemes / provisions for tariff concessions, duty drawback and other refund available under the Customs Act.
- d) Assist in compilation and preparation of documents for import of goods and services as applicable.
- e) To visit M/s National Capital Region Transport Corporation (NCRTC) office as and when NCRTC make a request.
- f) To assist in getting / availing any exemption / concession as available under the relevant Laws.
- g) Any other services, as requested by Authority with respect to matters of the Customs.

Note-The above list is not an exhaustive list.

Exclusion: -

- III.** To draft reply in respect of Show Cause Notices (SCNs) issued to NCRTC by Tax departments or authorities during the validity of this agreement and to file the reply in consultation with NCRTC. Lumpsum, maximum 5% of monthly fee.
- IV.** Obtaining Advance Ruling. The fee for obtaining Advance Ruling will be maximum 30% of the monthly remuneration. In case of adverse advance ruling, the fee shall be capped at 15% of monthly fee.
- V.** Liasoning / Appear before Tax Authorities. Lumpsum, maximum 50% of monthly fee for the for complete case.

2.1 Other General Terms

- c. The consultants shall keep all the information confidential as provided by M/s National Capital Region Transport Corporation (NCRTC) for furnishing to Tax authorities / other offices in connection with this contract. Upon termination / expiry of contract, the

consultant shall return all confidential information to NCRTC and shall not retain the same in any form.

- d. The consultant shall conduct Quarterly review of books of accounts in respect of the tax matters and advice in respect of improvement of the same and report thereof.

Note-The above list is not an exhaustive list.

3. Contract Duration and Payment

- 3.1 The total duration for the engagement shall be 1 year initially from the date of award of LOA and same may be extended to further 2 years in same terms and conditions on the request of the consultant and as per the sole discretion of NCRTC.
- 3.2 The agency shall submit its monthly invoice as per the agreed rates and terms. NCRTC shall release the payment after verification of the invoice particulars.

4. Data to Be Made Available by The Authority

Available data as may be required by the Consultant will be provided by the Authority on request. The Nodal Officer designated by the Authority shall facilitate handing over of such information to the Consultant.

SCHEDULE-2

FORM OF CONTRACT AGREEMENT

FOR

**ENGAGEMENT OF CONSULTANT ON RETAINERSHIP BASIS FOR DIRECT
TAXES
AND INDIRECT TAXES (GST & CUSTOMS)**

Annexure-1**CONTRACT AGREEMENT**

**Name of Work- DM/FN/COR-OF/122: Engagement of Consultant on Retainership
Basis for Direct Taxes and Indirect Taxes (GST & Customs)**

THIS AGREEMENT made theday of , between [Name of the Authority.
(hereinafter “the Authority”), of the one part, and [name of the Consultant]. .1. .
(hereinafter “the Consultant”), of the other part:

WHEREAS the *Authority* desires that the Works known as [*name of the Contract*]. . . .
.should be executed by the Consultant, and has accepted a Bid by the Consultant for the
execution and completion of these Works and the remedying of any defects therein,

WHEREAS

- (A) The Authority vide its Request for Proposal for Engagement of consultant on Retainership Basis for Direct Taxes and Indirect Taxes (GST & Customs) (hereinafter called the “**Consultancy**”)
- (B) the Consultant submitted its Bids for the aforesaid work, whereby the Consultant represented to the Authority that it had the required professional skills, and in the said Bids the Consultant also agreed to provide the Services to the Authority on the terms and conditions as set forth in the RFP and this Agreement; and
- (C) the Authority, on acceptance of the aforesaid Bids of the Consultant, awarded the Consultancy to the Consultant vide its Letter of Award dated (the “**LOA**”); and
- (D) in pursuance of the LOA, the parties have agreed to enter into this Agreement.

NOW, THEREFORE, the parties hereto hereby agree as follows:

- 1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
- 2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
 - the Letter of Acceptance
 - the Addenda Nos. [*insert addenda numbers if any*].

- Invitation for Bid
 - RFP Document complete
 - the completed Schedules including (priced Bill of Quantities)
 - Any other documents
3. In consideration of the payments to be made by the Authority to the Consultant as indicated in this Agreement, the Consultant hereby covenants with the Authority to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Authority hereby covenants to pay the Consultant in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

The Contract Price shall be INR _____

The above amount includes all taxes, royalties, duties, fees, cess, octroi, other levies etc. and any tax to be deducted at source except Goods and Services Tax (GST) which shall be paid as per the rules and guidelines of Govt. of India.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of [*name of the country*]. . . .on the day, month and year indicated above.

Signed by
for and on behalf of the Authority
in the presence of

Signed by
for and on behalf the Consultant
in the presence of

Witness, Name, Signature, Address, Date

Witness, Name, Signature,
Address, Date

Annexure-1**1. GENERAL****1.1 Definitions and Interpretation**

1.1.1 The words and expressions beginning with capital letters and defined in this Agreement shall, unless the context otherwise requires, have the meaning hereinafter respectively assigned to them:

- (a) **“Agreement”** means this Agreement, together with all the Annexes;
- (b) **“Agreement Value”** shall have the meaning set forth in Clause 5.1.2;
- (c) **“Applicable Laws”** means the laws and any other instruments having the force of law in India as they may be issued and in force from time to time.
- (d) **“Confidential Information”** shall have the meaning set forth in Clause 3.3;
- (e) **“Conflict of Interest”** shall have the meaning set forth in Clause 3.2 read with the provisions of RFP;
- (f) **“Dispute”** shall have the meaning set forth in Clause 8.2.1;
- (g) **“Effective Date”** means date of issue of letter of acceptance by the Authority or the date mentioned in the LOA, whichever is later;
- (h) **“Government”** means the Government of India;
- (i) **“INR or Rs.”** means Indian Rupees;
- (j) **“Member”**, in case the Consultant consists of a joint venture or consortium of more than one entity, means any of these entities, and **“Members”** means all of these entities;
- (k) **“Party”** means the Authority or the Consultant, as the case may be, and Parties means both of them;

- (l) **“RFP”** means the Request for Proposal document in response to which the Consultant’s Bid for providing Services was accepted;
- (m) **“Services”** means the work to be performed by the Consultant pursuant to this Agreement, as described in the Terms of Reference hereto;
- (n) **“Third Party”** means any person or entity other than the Government, the Authority, the Consultant or a Sub-Consultant.
- (o) **“Consultant”** means a legally established professional consulting firm or an entity that may provide or provides the Services to the authority under the Contract

All terms and words not defined herein shall, unless the context otherwise requires, have the meaning assigned to them in the RFP.

1.1.2 The following documents along with all addenda issued thereto shall be deemed to form and be read and construed as integral parts of this Agreement and in case of any contradiction between or among them the priority in which a document would prevail over another would be as laid down below beginning from the highest priority to the lowest priority:

- (a) Agreement;
- (b) Annexes of Agreement;
- (c) RFP; and
- (d) Letter of Award.

1.2 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 Authority and the Consultant. The Consultant shall, subject to this Agreement, have complete charge of Personnel performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 Rights and obligations

The mutual rights and obligations of the Authority and the Consultant shall be as set forth in the Agreement, in particular:

- (a) the Consultant shall carry out the Services in accordance with the provisions of the Agreement; and
- (b) the Authority shall make payments to the Consultant in accordance with the provisions of the Agreement.

1.4 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts in the State in which the Authority has its headquarters shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

1.5 Language

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

1.6 Table of contents and headings

The table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement.

1.7 Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

- (a) in the case of the Consultant, be given by e-mail and by letter delivered by hand to the address given and marked for attention of the Consultant's Representative set out below in Clause 1.9 or to such other person as the Consultant may from time to time designate by notice to the Authority; provided that notices or other communications to be given to an address outside the city specified in Sub-clause (b) below may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by e-mail to the number as the Consultant may from time to time specify by notice to the Authority;

- (b) in the case of the Authority, be given by e-mail and by letter delivered by hand and be addressed to the Authority with a copy delivered to the Authority Representative set out below in Clause 1.9 or to such other person as the Authority may from time to time designate by notice to the Consultant; provided that if the Consultant does not have an office in the same city as the Authority's office, it may send such notice by e-mail and by registered acknowledgement due, air mail or by courier; and
- (c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery; provided that in the case of e-mail, it shall be deemed to have been delivered on the working days following the date of its delivery.

1.8 Location

The Services shall be performed at the site of the Project in accordance with the provisions of RFP and at such locations as are incidental thereto, including the offices of the Consultant.

1.9 Authorised Representatives

1.9.1 Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement by the Authority or the Consultant, as the case may be, may be taken or executed by the officials specified in this Clause 1.9.

1.9.2 The Authority may, from time to time, designate one of its officials as the Authority Representative. Unless otherwise notified, the Authority Representative shall be:

.....

Tel / Mobile:

Email:

1.9.3 The Consultant may designate one of its employees as Consultant's Representative. Unless otherwise notified, the Consultant's Representative shall be:

.....

Tel / Mobile:

Email:

1.10 Taxes and duties

All duties, taxes, royalties, cess and other levies payable by the Bidder under the Contract, or for any other cause (including standard specifications), as on the date 28 days prior to the deadline for submission of bids, shall be included in the rates and prices and the total Bid Price submitted by the Bidder except Goods and Services Tax (GST). GST will be paid extra as applicable on the submission of GST Invoices for first RA bill. The subsequent RA bill shall be raised for payment upon submission of documentary evidence towards payment of GST collected on the previous bill to the GST Authorities. However, if subsequent bills are raised before return submission date of previous bill period, the documentary evidence towards payment of GST shall be provided within 7 days from the due date of such return filing. The Final bill/single bill payment shall be released on the undertaking by the contractor/supplier for providing evidence within 7 days from the due date of such return filing for final bill based on GST provision for due dates.

2. COMMENCEMENT, COMPLETION AND TERMINATION OF AGREEMENT

2.1 Effectiveness of Agreement

This Agreement shall come into force and effect on the date of this Agreement (the “Effective Date”).

2.2 Commencement of Services

The Consultant shall commence the Services within a period of 07 (seven) days from the Effective Date, unless otherwise agreed by the Parties.

2.3 Termination of Agreement for failure to commence Services

If the Consultant does not commence the Services within the period specified in Clause 2.2 above, the Authority may, by not less than 2 (two) weeks’ notice to the Consultant, declare this Agreement to be null and void, and in the event of such a declaration, the Bid Security of the Consultant shall stand forfeited.

2.4 Expiry of Agreement

Unless terminated earlier pursuant to Clauses 2.3 or 2.9 hereof, this Agreement shall, unless extended by the Parties by mutual consent, expire after 01 years from the date of issue of Letter of Award (LoA).

2.5 Entire Agreement

2.5.1 This Agreement and the Annexes together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn; provided, however, that the obligations of the Consultant arising out of the provisions of the RFP shall continue to subsist and shall be deemed to form part of this Agreement.

2.5.2 Without prejudice to the generality of the provisions of Clause 2.5.1, on matters not covered by this Agreement, the provisions of RFP shall apply.

2.6 Modification of Agreement

Modification of the terms and conditions of this Agreement, including any modification of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any Bids for modification made by the other Party.

2.7 Force Majeure

2.7.1 Definition

- (a) For the purposes of this Agreement, “**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.

- (b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Sub-Consultant or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of the conclusion of this Agreement, and (B) avoid or overcome in the carrying out of its obligations hereunder.
- (c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

2.7.2 No breach of Agreement

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 Agreement insofar 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 Agreement.

2.7.3 Measures to be taken

- (a) 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.
- (b) 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 14 (fourteen) 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.
- (c) The Parties shall take all reasonable measures to minimise the consequences of any event of Force Majeure.

2.7.4 Extension of time

Any period within which a Party shall, pursuant to this Agreement, 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.

2.7.5 Payments

During the period of its inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to be reimbursed for additional costs reasonably and necessarily incurred by it during such period for the purposes of the Services.

2.7.6 Consultation

Not later than 30 (thirty) days after the Consultant has, as the result of an event of Force Majeure, become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

2.8 Suspension of Agreement

The Authority may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant shall be in breach of this Agreement or shall fail to perform any of its obligations under this Agreement, including the carrying out of the Services; provided that such notice of suspension (i) shall specify the nature of the breach or failure, and (ii) shall provide an opportunity to the Consultant to remedy such breach or failure within a period not exceeding 30 (thirty) days after receipt by the Consultant of such notice of suspension.

2.9 Termination of Agreement

2.9.1 By the Authority

The Authority may, by not less than 30 (thirty) days' written notice of termination to the Consultant, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.1, terminate this Agreement if:

- (a) the Consultant fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.8 hereinabove, within 30 (thirty) days of receipt of such notice of suspension or within such further period as the Authority may have subsequently granted in writing;
- (b) the Consultant becomes insolvent or bankrupt or enters into any agreement with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;
- (c) the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 8 hereof;
- (d) the Consultant submits to the Authority a statement which has a material effect on the rights, obligations or interests of the Authority and which the Consultant knows to be false;
- (e) any document, information, data or statement submitted by the Consultant in its Bids, based on which the Consultant was considered eligible or successful, is found to be false, incorrect or misleading;
- (f) as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than 60 (sixty) days; or
- (g) the Authority, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.

2.9.2 By the Consultant

The Consultant may, by not less than 30 (thirty) days' written notice to the Authority, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.2, terminate this Agreement if:

- (a) the Authority fails to pay any money due to the Consultant pursuant to this Agreement and not subject to dispute pursuant to Clause 9 hereof within 45 (forty five) days after receiving written notice from the Consultant that such payment is overdue;
- (b) the Authority is in material breach of its obligations pursuant to this Agreement and has not remedied the same within 45 (forty five) days (or such longer period as the Consultant may have subsequently granted in writing) following the receipt by the Authority of the Consultant's notice specifying such breach;

- (c) as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than 60 (sixty) days; or
- (d) the Authority fails to comply with any final decision reached as a result of arbitration pursuant to Clause 9 hereof.

2.9.3 Cessation of rights and obligations

Upon termination of this Agreement pursuant to Clauses 2.3 or 2.9 hereof, or upon expiration of this Agreement pursuant to Clause 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, or which expressly survive such Termination; (ii) the obligation of confidentiality set forth in Clause 3.3 hereof; (iii) the Consultant's obligation to permit inspection, copying and auditing of such of its accounts and records set forth in Clause 3.6, as relate to the Consultant's Services provided under this Agreement; and (iv) any right or remedy which a Party may have under this Agreement or the Applicable Law.

2.9.4 Cessation of Services

Upon termination of this Agreement by notice of either Party to the other pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and materials furnished by the Authority, the Consultant shall proceed as provided respectively by Clauses 3.9 or 3.10 hereof.

2.9.5 Payment upon Termination

Upon termination of this Agreement pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Authority shall make the following payments to the Consultant (after offsetting against these payments any amount that may be due from the Consultant to the Authority):

- (i) remuneration pursuant to Clause 6 hereof for Services satisfactorily performed prior to the date of termination;
- (ii) reimbursable expenditures pursuant to Clause 6 hereof for expenditures actually incurred prior to the date of termination; and

- (iii) except in the case of termination pursuant to sub-clauses (a) through (e) of Clause 2.9.1 hereof, reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Agreement including the cost of the return travel of the Consultant's personnel.

2.9.6 Disputes about Events of Termination

If either Party disputes whether an event specified in Clause 2.9.1 or in Clause 2.9.2 hereof has occurred, such Party may, within 30 (thirty) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause 9 hereof, and this Agreement shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

3. OBLIGATIONS OF THE CONSULTANT

3.1 General

3.1.1 Standards of Performance

The Consultant shall perform the Services and carry out its obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Agreement or to the Services, as a faithful adviser to the Authority, and shall at all times support and safeguard the Authority's legitimate interests in any dealings with Sub-Consultants or Third Parties.

3.1.2 Terms of Reference

The scope of services to be performed by the Consultant is specified in the Terms of Reference (the “**TOR**”) at Annexure-1 of this Agreement.

3.1.3 Applicable Laws

The Consultant shall perform the Services in accordance with the Applicable Laws and shall take all practicable steps to ensure that any Sub-Consultant, as well as the

Personnel and agents of the Consultant and any Sub-Consultant, comply with the Applicable Laws.

3.2 Conflict of Interest

3.2.1 The Consultant shall not have a Conflict of Interest and any breach hereof shall constitute a breach of the Agreement.

3.2.2 Consultant and Affiliates not to be otherwise interested in the Project

The Consultant agrees that, during the term of this Agreement and after its termination, the Consultant or any Associate thereof and any entity affiliated with the Consultant, as well as any Sub-Consultant and any entity affiliated with such Sub-Consultant, shall be disqualified from providing goods, works, services, loans or equity for any project resulting from or closely related to the Services and any breach of this obligation shall amount to a Conflict of Interest; provided that the restriction herein shall not apply after a period of five years from the completion of this assignment or to consulting assignments granted by banks/ lenders at any time; provided further that this restriction shall not apply to consultancy/ advisory services provided to the Authority in continuation of this Consultancy or to any subsequent consultancy/ advisory services provided to the Authority in accordance with the rules of the Authority. For the avoidance of doubt, an entity affiliated with the Consultant shall include a partner in the Consultant's firm or a person who holds more than 5% (five per cent) of the subscribed and paid up share capital of the Consultant, as the case may be, and any Associate thereof.

3.2.3 Prohibition of conflicting activities

Neither the Consultant nor its Sub-Consultant nor the Personnel of either of them shall engage, either directly or indirectly, in any of the following activities:

- (a) during the term of this Agreement, any business or professional activities which would conflict with the activities assigned to them under this Agreement;
- (b) after the termination of this Agreement, such other activities as may be specified in the Agreement; or
- (c) at any time, such other activities as have been specified in the RFP as Conflict of Interest.

3.2.3 Consultant not to benefit from commissions, discounts, etc.

The remuneration of the Consultant pursuant to Clause 6 hereof shall constitute the Consultant's sole remuneration in connection with this Agreement or the Services and the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Agreement or to the Services or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that any Sub-Consultant, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

3.2.4 The Consultant and its Personnel shall observe the highest standards of ethics and shall not have engaged in and shall not hereafter engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the **"Prohibited Practices"**). Notwithstanding anything to the contrary contained in this Agreement, the Authority shall be entitled to terminate this Agreement forthwith by a communication in writing to the Consultant, without being liable in any manner whatsoever to the Consultant, if it determines that the Consultant has, directly or indirectly or through an agent, engaged in any Prohibited Practices in the Selection Process or before or after entering into of this Agreement. In such an event, the Authority shall forfeit and appropriate the performance security, if any, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority towards, *inter alia*, the time, cost and effort of the Authority, without prejudice to the Authority's any other rights or remedy hereunder or in law.

3.2.5 Without prejudice to the rights of the Authority under Clause 3.2.5 above and the other rights and remedies which the Authority may have under this Agreement, if the Consultant is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices, during the Selection Process or before or after the execution of this Agreement, the Consultant shall not be eligible to participate in any tender or RFP issued during a period of 2 (two) years from the date the Consultant is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices.

3.2.6 For the purposes of Clauses 3.2.5 and 3.2.6, the following terms shall have the meaning hereinafter respectively assigned to them:

- (a) **"corrupt practice"** means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Selection Process (for removal of doubt, offering of employment or employing or

engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with Selection Process or LOA or dealing with matters concerning the Agreement 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 Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) engaging in any manner whatsoever, whether during the Selection Process or after the issue of LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical adviser the Authority 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 Selection Process;
- (d) “**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 Selection Process or the exercise of its rights or performance of its obligations by the Authority under this Agreement;
- (e) “**undesirable practice**” means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- (f) “**restrictive practice**” means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Selection Process.

3.3 Confidentiality

The Consultant, its Sub-Consultants and the Personnel of either of them shall not, either during the term or within two years after the expiration or termination of this Agreement disclose any proprietary information, including information relating to reports, data, drawings, design software or other material, whether written or oral, in electronic or magnetic format, and the contents thereof; and any reports, digests or summaries

created or derived from any of the foregoing that is provided by the Authority to the Consultant, its Sub-Consultants and the Personnel; any information provided by or relating to the Authority, its technology, technical processes, business affairs or finances or any information relating to the Authority's employees, officers or other professionals or suppliers, customers, or contractors of the Authority; and any other information which the Consultant is under an obligation to keep confidential in relation to the Project, the Services or this Agreement ("**Confidential Information**"), without the prior written consent of the Authority.

Notwithstanding the aforesaid, the Consultant, its Sub-Consultants and the Personnel of either of them may disclose Confidential Information to the extent that such Confidential Information:

- (i) was in the public domain prior to its delivery to the Consultant, its Sub-Consultants and the Personnel of either of them or becomes a part of the public knowledge from a source other than the Consultant, its Sub-Consultants and the Personnel of either of them;
- (ii) was obtained from a third party with no known duty to maintain its confidentiality;
- (iii) is required to be disclosed by Applicable Laws or judicial or administrative or arbitral process or by any governmental instrumentalities, provided that for any such disclosure, the Consultant, its Sub-Consultants and the Personnel of either of them shall give the Authority, prompt written notice, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment; and
- (iv) is provided to the professional advisers, agents, auditors or representatives of the Consultant or its Sub-Consultants or Personnel of either of them, as is reasonable under the circumstances; provided, however, that the Consultant or its Sub-Consultants or Personnel of either of them, as the case may be, shall require their professional advisers, agents, auditors or its representatives, to undertake in writing to keep such Confidential Information, confidential and shall use its best efforts to ensure compliance with such undertaking.

3.4 Liability of the Consultant-

3.4.1 The Consultant's liability under this Agreement shall be determined by the Applicable Laws and the provisions hereof.

3.4.2 The Consultant shall, subject to the limitation specified in Clause 3.4.3, be liable to the Authority for any direct loss or damage accrued or likely to accrue due to deficiency in Services rendered by it.

3.4.3 The Parties hereto agree that in case of negligence or wilful misconduct on the part of the Consultant or on the part of any person or firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused to the Authority's property, shall not be liable to the Authority:

- (i) for any indirect or consequential loss or damage; and
- (ii) for any direct loss or damage that exceeds (a) the Agreement Value set forth in Clause 6.1.2 of this Agreement, or (b) the proceeds the Consultant may be entitled to receive from any insurance maintained by the Consultant to cover such a liability in accordance with Clause 3.5.2, whichever of (a) or (b) is higher.

3.4.3 This limitation of liability specified in Clause 3.4.3 shall not affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services subject, however, to a limit equal to 3 (three) times the Agreement Value.

3.5 Variation

There is no variation in quantities permitted under this contract agreement.

3.6 Accounting, inspection and auditing - DELETED

3.7 Consultant's actions requiring the Authority's prior approval

The Consultant shall obtain the Authority's prior approval in writing before taking any of the following actions:

- (a) entering into a subcontract for the performance of any part of the Services, it being understood (i) that the selection of the Sub-Consultant and the terms and conditions of the subcontract shall have been approved in writing by the Authority prior to the execution of the subcontract, and (ii) that the Consultant shall remain fully liable for the performance of the Services by the Sub-Consultant and its Personnel pursuant to this Agreement; or
- (b) any other action that is specified in this Agreement.

3.8 Reporting obligations

The Consultant shall submit to the Authority the reports and documents specified in the Agreement, in the form, in the numbers and within the time periods set forth therein.

3.9 Equipment and materials furnished by the Authority- DELETED**3.10 Providing access to Project Office and Personnel**

The Consultant shall ensure that the Authority, and officials of the Authority having authority from the Authority, are provided unrestricted access to the Project Office and to all Personnel during office hours. The Authority's official, who has been authorised by the Authority in this behalf, shall have the right to inspect the Services in progress, interact with Personnel of the Consultant and verify the records relating to the Services for his satisfaction.

4. OBLIGATIONS OF THE AUTHORITY**4.1 Assistance in clearances etc. -DELETED****4.2 Access to land and property -DELETED****4.3 Change in Applicable Law**

If, after the date of this Agreement, there is any change in the Applicable Laws with respect to taxes and duties which increases or decreases the cost. The same will be borne by the Consultant.

4.4 Payment

In consideration of the Services performed by the Consultant under this Agreement, the Authority shall make to the Consultant such payments and in such manner as is provided in Clause 5 of this Agreement.

5. PAYMENT TO THE CONSULTANT**5.1 Cost estimates and Agreement Value**

5.1.1 A schedule for amount payable to the Consultant is set forth in Annexure-2 of the Agreement.

5.1.2 Except as may be otherwise agreed under Clause 2.7 of appendices and subject to Clause 5.1.3, the payments under this Agreement shall not exceed the agreement value specified herein (the “**Agreement Value**”).

5.1.3 Notwithstanding anything to the contrary contained in Clause 5.1.2 of appendices, if pursuant to the provisions of Clauses 2.7 of appendices, the Parties agree that additional payments shall be made to the Consultant in order to cover any additional expenditures not envisaged in the cost estimates referred to in Clause 5.1.1 of appendices above, the Agreement Value set forth in Clause 5.1.2 above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

5.2 Currency of payment

All payments shall be made in Indian Rupees. The Consultant shall be free to convert Rupees into any foreign currency as per Applicable Laws.

5.3 Mode of billing and payment

Billing and payments in respect of the Services shall be made as follows:-

- (a) The Consultant shall be paid for its services on monthly basis. The payment for the preceding month shall be released in the next month on request by the consultant along with GST Invoice.
- (b) The Authority shall cause the payment due to the Consultant to be made within 30 (thirty) days after the receipt by the Authority of duly completed bills with necessary particulars (the “**Due Date**”).
- (c) Any amount which the Authority has paid or caused to be paid in excess of the amounts actually payable in accordance with the provisions of this Agreement shall be reimbursed by the Consultant to the Authority within 30 (thirty) days after receipt by the Consultant of notice thereof. Any delay by the Consultant in reimbursement by the due date shall attract simple interest @ 10% (ten per cent) per annum.
- (d) All payments under this Agreement shall be made to the account of the Consultant as may be notified to the Authority by the Consultant.

6. PERFORMANCE SECURITY AND PENALTIES

6.1 Performance Security

Within twenty-eight (28) days of the receipt of notification of award from the Authority, the successful Bidder shall furnish the performance security in accordance with the conditions of contract, for that purpose the Performance Security Form is included in Annexure-3. The consultant shall obtain (at his cost) a Performance Security for proper performance of the contract, for the amount equal to 10% of contract value with validity of 02 months beyond the completion date of contract. The consultant shall deliver the Performance Security as specified in the bid documents, to the Authority within 28 days after receiving the Letter of Acceptance. The Performance Security shall be issued by an entity and from within a country (or other jurisdiction) approved by the Authority and shall be in the form as given in Annexure-3 of Schedules or in another form specifically approved by the Authority.

The Performance Security shall be, at the consultant option, in any of the following forms:

- An unconditional Bank guarantee in the prescribed format; or
- A Cashier's or Banker's certified cheque drawn on a Scheduled / Commercial Bank in India in favour of "National Capital Region Transport Corporation Ltd." payable at New Delhi.
-

The bank guarantee shall be from a bank having minimum net-worth of over INR 5000 million from the specified banks as under:

- (i) a Schedule Commercial Bank in India, or
- (ii) a Foreign Bank which does not have operations in India is required to provide a counter-guarantee by any scheduled commercial bank in India,

The Schedule Commercial Bank issuing the Bank Guarantee (BG) must be on "Structure Financial Messaging System (SFMS)" platform. A separate advice of the BG shall be invariably be sent by the issuing Bank to Authority's Bank through SFMS and only after this, the BG shall become operative and acceptable to the Authority.

The Contractor shall ensure that the Performance Security is valid and

enforceable until the Contractor has executed and completed the Works and remedied defects, if any. If the contractor does not complete the work for any reasons whatsoever and has not become entitled to receive the Performance Certificate by the date 28 days prior to the expiry date, the Contractor shall be bound to extend the validity of the Performance Security until the Works have been completed and any defects have been remedied.

The Issuing Bank shall send the SFMS to:

Beneficiary: National Capital Region Transport Corporation Limited

Bank Name: HDFC Bank

Account No. 50200029737870

IFSC Code: HDFC00000003

6.2 Penalties

6.2.1 Penalty for Non-Performance

In case the Consultant fails to perform a task assigned within the scope of the work, penalty shall be imposed as quantified by the Authority in a reasonable manner and recovered from the Consultant, subject to a maximum of 15% (fifteen per cent) of the monthly amount payable for the service.

For the above clause, Non- performance shall include deficiency in providing of services as defined in the “Scope of Work /Services” and also when services is not provided for any specific assignment.

6.2.2 Penalty for delay

In case of delay in providing of Services, penalty shall be imposed:-

- a. At the rate of 1% per day of delay on accepted value in case of specific assignment.
- b. At the rate of 03% in case of delay in services as per the “Scope of Work/Services”.

- 6.2.3 In addition to the above, warning may be issued to the Consultant for minor deficiencies on its part. In the case of significant deficiencies in Services causing adverse effect on the Project or on the reputation of the Authority, other penal action including debarring for a specified period may also be initiated as per policy of the Authority.

6.2.4 Encashment and appropriation of Performance Security

The Authority shall have the right to invoke and appropriate the proceeds of the Performance Security, in whole or in part, without notice to the Consultant in the event of breach of this Agreement or for recovery of penalty specified as above.

7. FAIRNESS AND GOOD FAITH

7.1 Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Agreement and to adopt all reasonable measures to ensure the realisation of the objectives of this Agreement.

7.2 Operation of the Agreement

The Parties recognise that it is impractical in this Agreement to provide for every contingency which may arise during the life of the Agreement, and the Parties hereby agree that it is their intention that this Agreement shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Agreement either Party believes that this Agreement is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but failure to agree on any action pursuant to this Clause shall not give rise to a dispute subject to arbitration in accordance with Clause 9 hereof.

8. SETTLEMENT OF DISPUTES

8.1 Amicable settlement

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Agreement or the interpretation thereof.

8.2 Dispute resolution

8.2.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the “**Dispute**”) shall, in the first

instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 8.3.

8.2.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

8.3 Conciliation

8.3.1 Within 60 days of receipt of Notice of Dispute, either party shall refer the matter in dispute to conciliation. Conciliation proceedings shall be initiated within 30 days of one party inviting the other in writing to Conciliation. Conciliation shall commence when the other party accepts in writing this invitation. If the invitation is not accepted, then Conciliation shall not take place. If the party initiating conciliation does not receive a reply within 30 days from the date on which he sends the invitation he may elect to treat this as a rejection of the invitation to conciliate and inform the other party accordingly.

The Conciliation shall be undertaken by one Conciliator selected from a panel of Conciliators maintained by the Authority. The Conciliator shall assist the parties to reach an amicable settlement in an independent and impartial manner. The Authority shall maintain a panel of Conciliators, who shall be from serving or retired engineers of Government Departments, or of Public Sector Undertakings. Out of this panel, a list of three Conciliators shall be sent to the Consultant who shall choose one of them to act as Conciliator and conduct conciliation proceedings in accordance with “The Arbitration and Conciliation Act, 1996” of India & amended by the Arbitration & Conciliation (Amendment) Act, 2015 and any statutory modification or re-enactment thereof.

There will be no objection if conciliator so nominated is a serving employee of NCRTC who would be Deputy HOD level officer and above.

The Authority and the Consultant shall in good faith co-operate with the Conciliator and, in particular, shall endeavour to comply with requests by the Conciliator to submit written materials, provide evidence and attend meetings.

Each party may, on his own initiative or at the invitation of the Conciliator, submit to the Conciliator suggestions for the settlement of the dispute.

When it appears to the Conciliator that there exist elements of a settlement which may be acceptable to the parties, he shall formulate the terms of a possible settlement and

submit them to the parties for their observations. After receiving the observations of the parties, the Conciliator may reformulate the terms of a possible settlement in the light of such observations.

If the parties reach agreement on a settlement of the dispute, they may draw up and sign a written settlement agreement. If requested by the parties, the Conciliator may draw up, or assist the parties in drawing up, the settlement agreement. When the parties sign the settlement agreement, it shall be final and binding on the parties and persons claiming under them respectively.

The Conciliator shall authenticate the settlement agreement and furnish a copy thereof to each of the parties. As far as possible, the conciliation proceedings should be completed within 60 days of the receipt of notice by the Conciliator.

The parties shall not initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject matter of the conciliation proceedings

8.3.2 Termination of Conciliation Proceedings

The conciliation proceedings shall be terminated:

- a) by the signing of the settlement agreement by the parties on the date of agreement; or
- b) by written declaration of the conciliator, after consultation with the parties, to the effect further efforts at conciliation are no longer justified, on the date of declaration; or
- c) by a written declaration of the parties to the conciliator to the effect that the conciliation proceedings are terminated, on the date of declaration; or
- d) by a written declaration of a party to the other party and the conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of declaration.

Upon termination of the conciliation proceedings, the conciliator shall fix the costs of the conciliation and give written notice thereof to the parties. The costs shall be borne equally by the parties unless settlement agreement provides for a different apportionment. All other expenses incurred by a party shall be borne by that party.

8.4 Arbitration

8.4.1 If the efforts to resolve all or any of the disputes through conciliation fails, then such disputes or differences, whatsoever arising between the parties, arising out of touching or relating to construction/ manufacture, measuring operation or effect of the Contract or the breach thereof shall be referred to Arbitration in accordance with the following provisions:

- a. Only such dispute(s) in respect of which notice has been given but could not be settled through DB, together with counter claims or set off, given by the Authority, shall be referred to arbitration. No other matter shall be included in the reference.
- b. The Arbitration proceedings shall be presumed to have commenced from the day, a valid written notice for arbitration is received by Managing Director, National Capital Region Transport Corporation Limited, New Delhi (MD/NCRTC).
- c. Any dispute referred to arbitration shall be settled in accordance with the Arbitration & Conciliation Act, 1996 (26 of 1996) as amended from time to time.

8.4.2 Arbitration Tribunal:

Number of Arbitrators: The Parties to the contract have agreed that the arbitration tribunal shall consist of:

- i) Sole Arbitrator in cases where the total value of all claims in question added together does not exceed Rs. 2.00 crores;
- ii) Three arbitrators in all other cases.

8.4.3 Procedure for Appointment of Arbitrators:

The arbitrators shall be appointed as per following procedure:

- (i) In case of Sole Arbitrator: Within 60 days from the day when a valid written notice for arbitration is received by MD/NCRTC, the Authority will forward a panel of three names to the Consultant. The Consultant shall have to choose one Arbitrator from the panel of three, to be appointed as Sole Arbitrator within 30 days of dispatch of the request by the Authority. In case the Consultant fails to choose one Arbitrator within 30 days of dispatch

of the request of the Authority then the Managing Director/NCRTC shall appoint anyone as Arbitrator from the panel of three Arbitrators as a sole Arbitrator.

(ii) In case of three Arbitrators:

- (a) Within 60 days from the day when a valid written notice for Arbitration is received by MD/NCRTC, the Authority will forward a panel of five names to the Consultant. The Consultant will then give his consent for any one name out of the panel to be appointed as one of the Arbitrators within 30 days of dispatch of the request by the Authority.
- (b) Authority will decide on one name out of the panel as the second Arbitrator. MD/NCRTC shall appoint the two Arbitrators, including the one Arbitrator for whom consent was given by the Consultant, within 30 days from the receipt of the consent for one name of the Arbitrator from the Consultant. In case the Consultant fails to give his consent within 30 days of dispatch of the request of the Authority, then MD/NCRTC shall nominate both the Arbitrators from the panel.
- (c) The third Arbitrator shall be chosen by the two Arbitrators so appointed by the parties out of the panel of five Arbitrators or from the larger panel of Arbitrators to be provided to them by Authority on the request of two appointed Arbitrators (if so required) who shall act as the Presiding Arbitrator. In case of failure of the two appointed Arbitrators to reach upon consensus for the third Arbitrator within a period of 30 days from their appointment, then, upon the request of either the Consultant or Authority or both, the Presiding Arbitrator shall be appointed by the MD / NCRTC, New Delhi.
- (d) If an Arbitrator appointed as above refuses to act as Arbitrator or withdraws from his office as Arbitrator, or is unable or unwilling to perform his functions as Arbitrator for any reason or the office falls vacant due to death or in the opinion of the MD/NCRTC fails to act without undue delay, the MD/NCRTC shall appoint new Arbitrator to act in his place except in case of new Presiding Arbitrator, who shall be chosen following the same procedure as mentioned in para (ii)(c) above. Such re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous Arbitrator(s).

- (iii) The Authority at the time of offering the panel of Arbitrator(s) to be appointed as Arbitrator shall also provide information with regard to the qualifications of the said Arbitrators nominated in the panel along with their professional experience, phone nos. and addresses to the Consultant.

8.4.4 Qualification and Experience of Arbitrators

The Arbitrators appointed under sub-clause 8.4.3 shall have qualifications and experience, as under:

Arbitrator shall be:

- (a) A Serving/ Retired Officer (not below E-8 grade in a Public Sector Undertaking (PSU) with which NCRTC has no business relationship) of any discipline of Engineering or Accounts / Finance department, having experience in Contract Management of Construction Contracts; or
 - (b) A Retired Officer (retired not below the SAG level in Indian Railways) of any Engineering Services of Indian Railways or Indian Railway Accounts Service, having experience in Contract Management of Construction Contracts; or a Retired Officer who should have retired more than 3 years prior to the date of appointment as Arbitrator (retired not below E-8 grade in NCRTC or a PSU with which NCRTC has no business relationship) of any Engineering discipline or Accounts / Finance department, having experience in Contract Management of Construction Contracts or retired judge of any High Court or the Supreme Court of India or reputed Chartered Accountant & should be member of ICAI, New Delhi.
- (ii) No person other than the persons appointed as per above procedure and having above qualification and experience shall act as Arbitrator.

ANNEXURE-2

Payment Schedule

Billing and payments in respect of the Services shall be made as follows:-

- (a) The Consultant shall be paid for its services on monthly basis. The payment for the preceding month shall be released in the next month on request by the consultant along with GST Invoice.
- (b) The Authority shall cause the payment due to the Consultant to be made within 30 (thirty) days after the receipt by the Authority of duly completed bills with necessary particulars (the “**Due Date**”).
- (c) Any amount which the Authority has paid or caused to be paid in excess of the amounts actually payable in accordance with the provisions of this Agreement shall be reimbursed by the Consultant to the Authority within 30 (thirty) days after receipt by the Consultant of notice thereof. Any delay by the Consultant in reimbursement by the due date shall attract simple interest @ 10% (ten per cent) per annum.
- (d) All payments under this Agreement shall be made to the account of the Consultant as may be notified to the Authority by the Consultant.

Notes:

The above payments are inclusive of all taxes and duties, except GST. GST shall be paid extra as per the applicable law, on submission of GST invoice.

ANNEXURE- 3

**FORM OF CONTRACT PERFORMANCE SECURITY
(BANK GUARANTEE)**

(On non-judicial stamp paper of the appropriate value in accordance with stamp Act. The stamp paper to be in the name of Executing Bank).

From:

Name and Address of the Bank.....

.....

To:

Group General Manager (Procurement)
National Capital Region Transport Corporation Ltd
7/6, Siri Fort Institutional Area
August Kranti Marg,
New Delhi-110049

WHEREAS, National Capital Region Transport Corporation Ltd., hereinafter called the **Authority**, has accepted the bid of **[Insert Name and address of the Consultant]**, hereinafter called the **Consultant**, for the work of **[Insert Name of Work]**, vide Notification of Award No. **[Insert Notification of Award No.]**.

AND

WHEREAS, the Consultant is required to furnish Performance Security for the sum of **[Insert Value of Performance Security required]**, in the form of bank guarantee, being a condition precedent to the signing of the contract agreement.

WHEREAS, **[Insert Name of the Bank]**, with its Branch **[Address]** having its Headquarters office at **[Address]**, hereinafter called the **Bank**, acting through **[Designation(s) of the authorised person of the Bank]**, have, at the request of the **[Insert name of the Consultant]**, agreed to give guarantee for performance security and additional performance security as hereinafter contained:

- 1 KNOW ALL MEN by these present that I/We the undersigned ***[Insert name(s) of authorized representatives of the Bank]***, being fully authorized to sign and incur obligations for and on behalf of the Bank, confirm that the Bank, hereby, unconditionally and irrevocably guarantee to pay the Authority the full amount in the sum of ***[Insert Value of Performance Security required]*** as above stated.
- 2 The Bank undertakes to immediately pay on presentation of demand by the Authority any amount up to and including aforementioned full amount without any demur, reservation or recourse. Any such demand made by the Authority on the Bank shall be final, conclusive and binding, absolute and unequivocal notwithstanding any disputes raised/pending before any Court, Tribunal, Arbitration or any Authority or any threatened litigation by the Authority of Bank.
- 3 On payment of any amount less than aforementioned full amount, as per demand of the Authority, the guarantee shall remain valid for the balance amount i.e. the aforementioned full amount less the payment made to the Authority.
- 4 The Bank shall pay the amount as demanded immediately on presentation of the demand by Authority without any reference to the Consultant and without the Authority being required to show grounds or give reasons for its demand or the amount demanded.
5. This Bank Guarantee is unconditional and irrevocable.
- 6 The guarantee hereinbefore shall not be affected by any change in the constitution of the Bank or in the constitution of the Consultant.
- 7 The Bank agrees that no change, addition, modifications to the terms of the Contract Agreement or to any documents, which have been or may be made between the Authority and the Consultant, will in any way release us from the liability under this guarantee; and the Bank, hereby, waives any requirement for notice of any such change, addition or modification to the Bank.
- 8 This guarantee is valid and effective from the date of its issue, which is ***[insert date of issue]***. The guarantee and our obligations under it will expire on ***[Date to be filled as per clause 6.1 of RFP]***. All demands for payment under the guarantee must be received by us on or before that date.

- 9 The Bank agrees that the Authority's right to demand payment of aforementioned full amount in one instance or demand payments in parts totaling up to the aforementioned full amount in several instances will be valid until either the aforementioned full amount is paid to the Authority or the guarantee is released by Authority before the Expiry date.
- 10 The Bank agrees that its obligation to pay any amount demanded by the Authority before the expiry of this guarantee will continue until the amount demanded has been paid in full.
- 11 The expressions Bank and Authority herein before used shall include their respective successors and assigns.
- 12 The Bank hereby undertakes not to revoke the guarantee during its currency, except with the previous consent in writing of the Authority. This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758.
- 13 The Guarantee shall be in addition to and without prejudice to any other security Guarantee (s) of the Consultant in favour of the Authority available with the Authority. The Bank, under this Guarantee, shall be deemed as Principal Debtor of the Authority.

Date

Place..... *[Signature of Authorised person of Bank]*

[Name in Block letters]

.....

[Designation]

.....

[P/Attorney] No.

.....

Bank's Seal

[P/Attorney] No.....

Witness:

1. Signature

Name & Address & Seal

2. Signature

Name & address & Seal

Note:

- 1 All italicized text is for guidance on how to prepare this bank guarantee and shall be deleted from the final document.*
- 2 In case the guarantee is issued by a foreign Bank, which does not have operations in India, the said bank shall have to provide a counter-guarantee by State Bank of India.*
- 3, The Bank Guarantee should be duly attested by Notary public with notarial stamp of appropriate value affixed thereon.*

ANNEXURE-4
Form for Bid Security

(Bank Guarantee)

(On non-judicial stamp paper of the appropriate value in accordance with Stamp Act. The stamp paper should be in the name of the Executing Bank).

From:

.....**[Insert Bank's Name, and Address of Issuing Branch or Office]**.....

To:

National Capital Region Transport Corporation Ltd.,
7/6, Siri Fort Institutional Area, August Kranti Marg,
New Delhi-110049.

Tele: +91-11-41066943, Fax+91-11-41066953

Beneficiary: National Capital Region Transport Corporation Ltd. (hereinafter called "the Authority")

Date:

Bid Security No.:

We have been informed that **[Insert name of the Bidder]**..... (hereinafter called "the Bidder") intends to submit to you its bid (hereinafter called "the Bid") for the execution of
.. **[name of contract]** under Invitation for Bids No. dated..... ("the IFB").

WHEREAS, the Bidder is required to furnish Bid Security for the sum of **[Insert Value of Bid Security required]**, in the form of Bank Guarantee, according to your conditions of Bid.

AND

WHEREAS,**[Insert Name of the Bank]**, with its Branch**[Insert Address]** having its Headquarters office at..... **[Insert Address]**, hereinafter called the **Bank**, acting through**[Insert Name and Designation of the authorised persons of the Bank]**, have, at the request of the Bidder, agreed to give guarantee for Bid security as hereinafter contained, in favour of the Authority:

1. KNOW ALL MEN that by these present that I/We the undersigned ***[Insert name(s) of authorized representatives of the Bank]***, being fully authorized to sign and incur obligations for and on behalf of the Bank, confirm that the Bank, hereby, unconditionally and irrevocably guarantee to pay to the Authority full amount in the sum of ***[Insert Value of Bid Security required]*** as above stated.
2. The Bank undertakes to immediately pay on presentation of demand by the Authority any amount up to and including aforementioned full amount without any demur, reservation or recourse. Any such demand made by the Authority on the Bank shall be final, conclusive and binding, absolute and unequivocal on the Bank notwithstanding any disputes raised/ pending before any Court, Tribunal, Arbitration or any Authority or any threatened litigation by the Bidder or Bank.
3. The Bank shall pay the amount as demanded immediately on presentation of the demand by Authority without any reference to the Bidder and without the Authority being required to show grounds or give reasons for its demand of the amount so demanded.
4. The guarantee hereinbefore shall not be affected by any change in the constitution of the Bank or in the constitution of the Bidder.
5. The Bank agrees that no change, addition, modifications to the terms of the Bid document or to any documents, which have been or may be made between the Authority and the Bidder, will in any way absolve the Bank from the liability under this guarantee; and the Bank, hereby, waives any requirement for notice of any such change, addition or modification made by Authority at any time.
6. That this Guarantee commences from the date hereof and shall remain in force till **(Date to be filled as mentioned in clause 1.5 of Section-1.**
7. The Bank Guarantee is unconditional and irrevocable.
8. The expressions Bank and Authority herein before used shall include their respective successors and assigns.
9. The Bank hereby undertakes not to revoke the guarantee during its currency, except with the previous consent in writing of the Authority. This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No.758.
10. The Guarantee shall be valid in addition to and without prejudice to any other security Guarantee (s) of Bidder in favour of the Authority. The Bank, under this Guarantee, shall be deemed as Principal Debtor of the Authority.

11. Notwithstanding anything contained herein:

a) Our liability under this Bank Guarantee shall not exceed Rs
.....(Rupees.....)

b) This Bank Guarantee shall be valid upto

c) We are liable to pay the guarantee amount or part thereof under this Bank Guarantee only & only if you serve upon us a written claim or demand on or before

Date

Place.....

.....

Bank's Seal and authorized signature(s)

[Name in Block letters].....

[Designation].....

[P/Attorney] No.

Witness:

1 Signature

Name & Address & Seal

2 Signature

Name & address & Seal

Bank's Seal

P/Attorney] No.

Note:

All italicized text is for guidance on how to prepare this bank guarantee and shall be deleted from the final document.

SCHEDULE-3
(See Clause 2.3.3)

Guidance Note on Conflict of Interest

1. This Note further explains and illustrates the provisions of **Clause 2.3** of the RFP and shall be read together therewith in dealing with specific cases.
2. Consultants should be deemed to be in a conflict of interest situation if it can be reasonably concluded that their position in a business or their personal interest could improperly influence their judgment in the exercise of their duties. The process for selection of consultants should avoid both actual and perceived conflict of interest.
3. Conflict of interest may arise between the Authority and a consultant or between consultants. Some of the situations that would involve conflict of interest are identified below:

(a) Authority and consultants:

(b) Potential consultant should not be privy to information from the Authority which is not available to others;

(c) potential consultant should not have defined the project when earlier working for the Authority;

(d) potential consultant should not have recently worked for the Authority overseeing the project.

The participation of companies that may be involved as investors or consumers and officials of the Authority who have current or recent connections to the companies involved, therefore, needs to be avoided.

3. The normal way to identify conflicts of interest is through self-declaration by consultants. Where a conflict exists, which has not been declared, competing companies are likely to bring this to the notice of the Authority. All conflicts must be declared as and when the consultants become aware of them.

4. Another approach towards avoiding a conflict of interest is through the use of “Chinese walls” to avoid the flow of commercially sensitive information from one part of the consultant’s company to another. This could help overcome the problem of availability of limited numbers of experts for the project. However, in reality effective operation of “Chinese walls” may be a difficult proposition. As a general rule, larger companies will be more capable of adopting Chinese walls approach than smaller companies. Although, “Chinese walls” have been relatively common for many years, they are an increasingly discredited means of avoiding conflicts of interest and should be considered with caution. As a rule, “Chinese walls” should be considered as unacceptable and may be accepted only in exceptional cases upon full disclosure by a consultant coupled with provision of safeguards to the satisfaction of the Authority.
5. Another way to avoid conflicts of interest is through the appropriate grouping of tasks. For example, conflicts may arise if consultants drawing up the terms of reference or the proposed documentation are also eligible for the consequent assignment or project.
6. Another form of conflict of interest called “scope–creep” arises when consultants advocate either an unnecessary broadening of the terms of reference or make recommendations which are not in the best interests of the Authority but which will generate further work for the consultants. Some forms of contractual arrangements are more likely to lead to scope-creep. For example, lump-sum contracts provide fewer incentives for this, while time and material contracts provide built in incentives for consultants to extend the length of their assignment.
8. Every project contains potential conflicts of interest. Consultants should not only avoid any conflict of interest, they should report any present/ potential conflict of interest to the Authority at the earliest. Officials of the Authority involved in development of a project shall be responsible for identifying and resolving any conflicts of interest. It should be ensured that safeguards are in place to preserve fair and open competition and measures should be taken to eliminate any conflict of interest arising at any stage in the process.

SCHEDULE-4**Instruction for Registration on Online CPP Portal****Instructions of using e-procurement portal for Bid Searching, Preparation and Submission:**

The Bidders are required to submit soft copies of their Bids electronically on the e-procurement procure portal of NIC <https://etenders.gov.in/eprocure/app>, using valid Digital Signature Certificates. The instructions given below are meant to assist the Bidders in registering on the e-Procurement Portal, prepare their Bids in accordance with the requirements and submitting their Bids online on the e-procurement Portal.

More information useful for submitting online Bids on the Portal may be obtained on the same portal of NIC.

- 1) Bidders are required to enroll on the above-mentioned e-Procurement portal by clicking on the link “Online Bidder Enrollment” on the Portal which is free of charge.
- 2) As part of the enrolment process, the Bidders will be required to choose a unique username and assign a password for their accounts.
- 3) Bidders are advised to register their valid email address and mobile numbers as part of the registration process. These would be used for any communication from the e-procurement Portal.
- 4) Upon enrolment, the Bidders will be required to register their valid Digital Signature Certificate (DSC) (Class III Certificates with signing key usage) issued by any Certifying Authority recognized by CCA India (e.g. Sify /nCode / eMudhra etc.), with their profile.
- 5) Only one valid DSC should be registered by a Bidder. Please note that the Bidders are responsible to ensure that they do not lend their DSC's to others which may lead to misuse.
- 6) Bidder then logs in to the site through the secured log-in by entering their user ID / password and the password of the DSC / e-Token.

SEARCHING FOR BID DOCUMENTS

- 1) There are various search options built in the e-Procurement Portal, to facilitate Bidders to search active Bids by several parameters. These parameters could include Bid ID, Organization Name, Location, Date, Value, etc. There is also an option of advanced search for Bids, wherein the Bidders may combine a number of search parameters such as Organization Name, Form of Contract, Location, Date, Other keywords etc. to search for a Bid published on the e-procurement Portal.
- 2) Once the Bidders have selected the Bids they are interested in, they may download the required documents / Bid schedules. These Bids can be moved to the respective 'My Bids' folder. This would enable the e-procurement Portal to intimate the Bidders through SMS / e-mail in case there is any corrigendum issued to the Bid document.
- 3) The Bidder should make a note of the unique Bid ID assigned to each Bid, in case they want to obtain any clarification / help from the Helpdesk.

PREPARATION OF BIDS

- 1) Bidder should take into account any corrigendum/addendum published on the Bid Document before submitting their Bids.
- 2) Please go through the RFP document carefully to understand the documents required to be submitted as part of the Bid. Please note the number of covers in which the Bid documents have to be submitted, the number of documents - including the names and content of each of the document that need to be submitted. Any deviations from these may lead to rejection of the Bid.
- 3) Bidder, in advance, should get ready the RFP Documents to be uploaded as indicated in the RFP Document / schedule and generally, they can be in PDF / XLS / RAR / DWF/JPG formats. Bid documents may be scanned with 100 dpi with black and white option which helps in reducing size of the scanned document.
- 4) To avoid the time and effort required in uploading the same set of standard documents which are required to be uploaded as a part of every Bid, a provision of uploading such standard documents (e.g. PAN card copy, annual reports, auditor certificates etc.) has been provided to the Bidders. Bidders can use "My Space" or "Other Important Documents" area available to them to upload such documents.

These documents may be directly submitted from the “My Space” area while submitting a Bid and need not be uploaded again and again. This will lead to a reduction in the time required for Bid submission process.

Note: My Documents space is only a repository given to the Bidders to ease the uploading process. If Bidder has uploaded his Documents in My Documents space, this does not automatically ensure these Documents being part of e-Technical Bid.

SUBMISSION OF BIDS

- 1) Bidder should log into the web site well in advance for Bid submission so that they can upload the Bid in time i.e. on or before the Bid submission time. Bidder will be responsible for any delay due to other issues.
- 2) The Digital signature (DSC) used for uploading of the Bid submission should be in the name of the person to whom the power of attorney (POA) have been issued.
- 3) The Bidder has to digitally sign and upload the required Bid documents one by one as indicated in the Bid document.
- 4) Bid processing fee by e-Procurement portal is NIL.
- 5) **Bid Security:** Bidder should submit the Bid Security as per the instructions specified in **clause-2.20** of RFP document.

Bidders are requested to note that they should necessarily submit their financial Bids in the format provided and no other format is acceptable. Bidders are required to download the BOQ file, open it and complete the unprotected cells with their respective financial quotes and other details (such as name of the Bidder). No other cells should be changed. Once the details have been completed, the Bidder should save it and submit it online, without changing the file name. If the BOQ file is found to be modified by the Bidder, the Bid shall be rejected.

- 6) The server time (which is displayed on the Bidders’ dashboard) will be considered as the standard time for referencing the deadlines for submission of the Bids by the Bidders, opening of Bids etc. The Bidders should follow this time during Bid submission.
- 7) All the documents being uploaded by the Bidders would be encrypted using PKI encryption techniques to ensure the secrecy of the data. The data entered cannot be viewed by unauthorized persons until the time of Bid opening. The confidentiality of the Bids is maintained using the secured Socket Layer 128-bit encryption

technology. Data storage encryption of sensitive fields is done. Any Bid document that is uploaded to the server is subjected to symmetric encryption using a system generated symmetric key. Further this key is subjected to asymmetric encryption using buyers/Bid openers public keys. Overall, the uploaded Bid documents become readable only after the Bid opening by the authorized Bid openers.

- 8) The uploaded Bid documents become readable only after the Bid opening by the authorized Bid openers.
- 9) Upon the successful and timely submission of Bids (i.e. after Clicking “Freeze Bid Submission” in the portal), the portal will give a successful Bid submission message & a Bid summary will be displayed with the Bid no. and the date & time of submission of the Bid with all other relevant details.
- 10) The Bid summary has to be printed and kept as an acknowledgement of the submission of the Bid. This acknowledgement may be used as an entry pass for any Bid opening meetings.

ASSISTANCE TO BIDDERS

- 1) Any queries relating to the Bid document and the terms and conditions contained therein should be addressed to the Bid Inviting Authority for a Bid or the relevant contact person indicated in the Bid.

Any queries relating to the process of online Bid submission or queries relating to e-procurement Portal in general may be directed to the 24x7 e-procurement Portal (CPP) Helpdesk.

For any Technical queries related to Operation of the Central Public Procurement Portal Contact at:

Tel: The 24 x 7 Telephonic Help Desk Number 0120-4200462, 0120-4001002, 0120-4001005, 0120-6277787.

E-Mail: cPPP-nic[at]nic[dot]in, support-eproc[at]nic[dot]in.

1.7 Currency conversion

- 1.7.1 The foreign currency component figure shall be converted to Equivalent INR based on exchange rates of State Bank of India TT selling as prevailing on 28 days before the latest date of submission of bids.

- 1.7.2 All payments to the Consultant shall be made in INR in accordance with the provisions of this RFP. The Consultant may convert INR into any foreign currency as per Applicable Laws and the exchange risk, if any, shall be borne by the Consultant.

APPENDICES

APPENDIX-I

FORM-1-Letter of Proposal

(To be forwarded on the letter head of the Bidder)

Date: xx.xx.2020

Invitation for Bid No.: **DM/FN/COR-OF/122**

To:

Group General Manager (Procurement)
National Capital Region Transport Corporation Ltd
7/6, Siri Fort Institutional Area
August Kranti Marg,
New Delhi-110049.

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders Clause-2.11;
- (b) We offer to execute the Works in conformity with the Bidding Documents;
- (c) Our bid shall be valid for a period as defined in clause 1.8 of IFB from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (d) If our bid is accepted, we commit to submit a performance security in accordance with the Bidding Documents;
- (e) We understand that Authority requires that bidders, Consultants, Sub-consultants must observe the highest standard of ethics during the procurement and execution of such contracts. We confirm and undertake that we including our constituents, any sub-consultants for any part of the contract directly or otherwise have not been / shall not be engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract in accordance with RFP clause 4.3; and

We also understand that the Authority has the right to reject our bid at any stage if it determines that we have directly or otherwise, engaged in corrupt, fraudulent,

collusive, or coercive practices in competing for the contract and will sanction a party or its successor, including declaring ineligible, either indefinitely or for a stated period of time, to participate in Authority's activities, if it at any time determines that the firm has, directly or otherwise, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing a contract of the Authority in accordance with RFP clause -4.3;

- (f) We, including any sub-consultants for any part of the contract, do not have any conflict of interest in accordance with ITB clause -2.3;
- (g) We are not participating, as a Bidder or as a sub-consultant, in more than one bid in this bidding process in accordance with ITB clause-2.4;
- (h) We declare that we are not liable to be disqualified in Accordance with RFP section-04 and we are enclosing the affidavit, Form-02 for the same as per the Performa given in the bid document.
- (i) We understand that this bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed; and
- (j) We have not made any deviations from the requirement of the bidding document and we have also not made any tampering or changes in the bidding documents on which the bid is being submitted and if any tampering or changes are detected at any stage, we understand the bid will invite rejection and forfeiture of bid security/the contract will be liable to be terminated along with forfeiture of performance security, even if LOA has been issued.
- (k) We declare and confirm that in the submission of this bid, no agent, middle man or any intermediary has been, or will be engaged to provide any services or any other item of work related to the award and performance of this contract. We further confirm and declare that no agency commission or any payment which may be construed as an agency commission has been, or will be, paid and that the bid price does not include any such amount. We acknowledge the right of the Authority, if he finds to the contrary, to declare our bid to be non-compliant and if the contract has been awarded to declare the contract null and void.

Name
In the capacity of
Signed and Sealed
Duly authorized to sign the Bid for and on behalf of
Date
.....

APPENDIX-I
FORM: -2-Affidavit

**FORMAT FOR AFFIDAVIT TO BE SUBMITTED BY BIDDER ALONGWITH THE
 BID**

*(To be executed in presence of Public Notary on non-judicial stamp paper of the appropriate value in accordance with relevant stamp Act. The stamp paper has to be in the name of the bidder)***

I **(Name and designation)****..... appointed as the attorney/authorized signatory of the bidder (including its constituents), M/s. _____ (hereinafter called the bidder) for the purpose of the Bid for the work of _____ as per the bid No. _____ of NCRTC, do hereby solemnly affirm and state on behalf of the bidder including its constituents as under:

1. We understand that authority requires that bidders, suppliers, and contractors must observe the highest standard of ethics during the procurement and execution of such contracts. We confirm and undertake that we including our constituents, any subcontractors or suppliers for any part of the contract directly or otherwise have not been / shall not be engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract in accordance with RFP Clause- 2.3.

We understand that the Authority has the right to reject our bid at any stage if it determines that we have directly or otherwise, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the contract and will sanction a bidder or its successor, including declaring ineligible, either indefinitely or for a stated period of time, to participate in Authority's activities, if it at any time determines that the bidder has, directly or otherwise, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing a contract of the Authority in accordance with RFP Clause- 4.3;

2. That the bidder or any of its constituents has not been Blacklisted/ banned for business dealings with MoHUA along with any of its attached and subordinate offices through an order issued by Ministry of Housing and Urban Affairs (MoHUA) or any of the attached and subordinate offices of

MoHUA or any Metro Rail Corporation in India or by Ministry of Commerce at any time and/or no such blacklisting is in force as on the deadline for submission of bids.

3. That none of the previous contracts of the bidder or any of its constituents had been terminated/rescinded for Contractor's failure by MoHUA along with any of its attached and subordinate offices or by any metro rail organizations in India during the period of last 02 years before the deadline for submission of bids.

4. That the Bidder or any of its constituents is neither Bankrupt/Insolvent nor is in the process of winding-up nor such a case is pending before any Court on the deadline of submission of the bid.

5. That the name of the Bidder or any of its constituents is not on the list of "Poor Performer" of MoHUA along with any of its attached and subordinate offices or of any metro rail organizations in India as on the deadline for submission of bid.

*(# - Delete whichever is not applicable)**.*

6. We declare and certify that we have not made any misleading or false representation in the forms, statements and attachments in proof of the qualification requirements.

7. We declare that the information and documents submitted along with the bid by us are correct and we are fully responsible for the correctness of the information and documents, submitted by us.

8. We understand that in case we cease to fulfill the requirements of qualifying and eligibility criteria at any time after opening of bids and till finalization of bids, it will be our bounden duty to inform the Authority of our changed status immediately and in case of our failure to do so, the Authority has right to reject our bid and forfeit our bid security. In case such failure comes to the notice of Authority at any time after award of the contract, it will lead to termination of the contract and forfeiture of Bid or Performance Security. We shall also be liable for Banning of Business dealings for a period of five years.

9. We understand that if the contents of the affidavit are found to be false at any stage during bid evaluation, it will lead to rejection of our bid and forfeiture of the bid security. Further, we ***[insert name of the bidder]*****_____ and all our constituents understand that we shall be liable for banning of business dealings for a period of five years.
10. We also understand that if the contents of the affidavit are found to be false at any time after the award of the contract it will lead to termination of the contract, forfeiture of Bid or Performance Security and Banning of Business dealings of the Bidder and all its constituents for a period of five years.

(DEPONENT)

SEAL AND SIGNATURE OF THE BIDDER

Verification:

Verified on _____ day of _____ at _____ that the contents of the above-mentioned affidavit are true and correct and nothing material has been concealed there from.

(DEPONENT)

SEAL AND SIGNATURE OF THE BIDDER

*** The contents in Italics are only for guidance purpose and details as appropriate, are to be filled in suitably by Bidder.*

Attestation before Magistrate/Public Notary

APPENDIX-I**Form-3****Particulars of the Bidder**

To establish its qualifications to perform the contract in accordance with Section 3 (Evaluation and Qualification Criteria) the bidder shall provide the information requested in the corresponding Information Sheets included hereunder

Bidder's Information	
Bidder's legal name	
Bidder's country of constitution	
Bidder's year of constitution	
In case of JV, state the countries and year of constitution of each member)	
Status of the bidder (Please tick against the relevant category)	Sole Proprietorship Firm : <input type="checkbox"/> Partnership Firm: <input type="checkbox"/> Private Limited Company: <input type="checkbox"/> Public Limited Company : <input type="checkbox"/> Limited Liability Partnership : <input type="checkbox"/> Joint Venture : <input type="checkbox"/>
Bidder's legal address in country of constitution and in India	
Bidder's authorized representative (name, address, telephone numbers, fax numbers, e-mail address)	
Bidder's bank account details for the refund of bid security (if submitted in the form of DD/BC) by RTGS/NEFT	
* Bidder's GST No. (Please attach the relevant GST registration Certificate)	

APPENDIX-I

Form-4

Statement of Legal Capacity

(To be forwarded on the letter head of the Bidder)

Ref. Date:

To,

Group General Manager (Procurement)
National Capital Region Transport Corporation Ltd
7/6, Siri Fort Institutional Area
August Kranti Marg,
New Delhi-110049

Dear Sir,

Sub: RFP for Consultant: Project

I/We hereby confirm that we, the Bidder (along with other members in case of consortium, the constitution of which has been described in the Bid^s), satisfy the terms and conditions laid down in the RFP document.

I/We have agreed that (insert Bidder's name) will act as the Lead Member of our consortium.

I/We have agreed that (insert individual's name) will act as our Authorised Representative/ will act as the Authorised Representative of the consortium on our behalf and has been duly authorized to submit our Bid. Further, the authorised signatory is vested with requisite powers to furnish such Bid and all other documents, information or communication and authenticate the same.

Yours faithfully,

(Signature, name and designation of the authorised signatory)

For and on behalf of

Please strike out whichever is not applicable

APPENDIX-I**Form-5****Power of Attorney**

(To be executed in presence of Public Notary on non-judicial stamp paper of the appropriate value in accordance with relevant stamp Act. The stamp paper has to be in the name of the bidder)

Know all men by these presents, we (name and address of the registered office) do hereby constitute, appoint and authorise Mr./Ms.....(name and residential address) who is presently employed with us and holding the position ofas our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our bid for the Project, including signing and submission of all documents and providing information/responses to NCRTC, representing us in all matters before NCRTC, and generally dealing with NCRTC in all matters in connection with our Bid for the Project.

We hereby agree to ratify all acts, deeds and things lawfully done by our said attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid attorney shall always be deemed to have been done by us.

..... (Signature)

(Name, Title and address) of the **Person Accepting the POA.**

..... (Signature)

(Name, Title and address) of the **Person issuing the POA.**

Note:

- (i) The bidder should submit the notarised Power of Attorney. In case of Foreign Partners, Power of Attorney(s) and Board Resolution confirming authority on the persons issuing the Power of Attorney for such actions shall be submitted duly notarized by the notary public of country of origin.
- (ii) 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.

- (iii) The bidder should submit following additional document in support of the POA as case to case basis:
- a) Proprietorship Affidavit in case of Proprietary Bidder.
 - b) Partnership deed in case of partnership bidder.
 - c) Board Resolution in case of a Public/Private limited company
 - d) Memorandum & Article of Association in case of a Public/Private limited company.
 - e) Board Resolution in case of a Limited Liability Partnership.

APPENDIX-I**Form-06-NSLB**

(On Bidder's letter head)

UNDERTAKING FOR NEIGHBOUR SHARING LAND BORDER WITH INDIA

Wehave read the Orders (Public Procurement No.1 & 2) of Ministry of Finance issued vide letter no. F.No. 6/18/ 2019- PPD dated 23.07.2020 regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to contractors from such a country. We hereby certify that we fulfil all the requirements under Orders (Public Procurement No.1 & 2) of Ministry of Finance issued vide letter no. F.No. 6/18/ 2019- PPD dated 23.07.2020 and are eligible to be considered.

- i. We come under the definition of bidder from neighbouring country sharing land boundary with India as per the orders (Public Procurement No.1 & 2) of Ministry of Finance issued vide letter no. F.No. 6/18/ 2019- PPD dated 23.07.2020 and are registered with Competent Authority vide registration no..... valid upto (attached with this form).
- ii. We do not come under the definition of bidder from neighbouring country sharing land boundary with India as per the orders (Public Procurement No.1 & 2) of Ministry of Finance issued vide letter no. F.No. 6/18/ 2019- PPD dated 23.07.2020.

(Strike out (i) or (ii) whichever is not applicable)

We undertake that we shall not sub-contract any work to a contractor from such countries unless such contractor is registered with Competent Authority.

We further undertake that in case the work is awarded to us, and at any point of time before completion of the work, if we cease to comply the orders mentioned herein above, we are bound to notify the same to the Authority as soon as possible but not later than 28 days of such change in status.

**STAMP & SIGNATURE OF AUTHORISED
SIGNATORY**

To be submitted along with the Technical Bid separately by sole entity/ each JV partner/ any specialist subcontractor being the part of the Bidder.

APPENDIX-I
Form-07
STANDARD FORMAT FOR PRE-BID QUERIES

Contract No. and Name of the Work:

Name of Bidder :

S.No.	Relevant Section/Clause No. and complete description of clause	Relevant Page No. of bid document	Queries	Replies (To be filled by NCRTC)

APPENDIX-I

Form-o8

(On Bidder's letter head)

UNDERTAKING FOR DOWNLOADED BID DOCUMENT

We here by confirm that, we have downloaded / read the complete set of bid documents /addendum/corrigendum/clarifications along with the set of enclosures hosted on CPP Portal (e-bidding) website as mentioned in IFB clause 1.9. We confirm that we have gone through the bid documents, addendums/corrigendums and clarifications for this work placed up to the date of opening of bids on e-bidding portal as mentioned in clause 1.10. We confirm our unconditional acceptance for the same and have considered for these in the submission of our technical and financial bid.

STAMP & SIGNATURE OF AUTHORISED SIGNATORY

APPENDIX-II
FINANCIAL BID

FORM-1

Covering Letter

(On Bidder's letter head)

(Date and Reference)

To,

Group General Manager (Procurement)
National Capital Region Transport Corporation Ltd
7/6, Siri Fort Institutional Area
August Kranti Marg,
New Delhi-110049.

Dear Sir,

Subject: Engagement of Consultant on Retainership Basis for Direct Taxes and Indirect Taxes
(GST & Customs).

I/We, (Bidder's name) herewith enclose the Financial Bid for selection of my/our firm as Consultant for above.

I/We agree that this offer shall remain valid for a period of 90 (ninety) days from the Bid submission due Date or such further period as may be mutually agreed upon.

Yours faithfully,

(Signature, name and designation of the authorised signatory)

Note: The Financial Bid is to be submitted strictly as per forms (Excel format) attached with this RFP document.

Bill of Quantities (BOQ)

(Please refer attached Financial Bid -Appendix-II)

Signature Not Verified

Digitally signed by DILIP KUMAR MEHTO
Date: 2020.08.28 18:29:30 IST
Location: eProcurement System for
Central PSUs