



**Request for Proposal (RFP)**

**for**

**Selection of Agency for Restart and  
Comprehensive Maintenance and Operations  
Support for ITMS for Jabalpur Smart City**

**RFP Number: JSCL/2025/305/ADM/10 02.05.2025**

**Chief Executive Officer,  
Jabalpur Smart City Limited  
Manas Bhawan, Hotel Satya Ashoka Road,  
Wright Town, Jabalpur,  
Madhya Pradesh 482002.**

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## Disclaimer

The information contained in this Request for Proposal document ("RFP") whether subsequently provided to the bidders, ("Bidder/s") verbally or in documentary form by Jabalpur Smart City Development Corporation Limited (henceforth referred to as "JSCL" in this document) or any of its employees or advisors, is provided to Bidders on the terms and conditions set out in this RFP document and any other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is not an offer or invitation to any party. The purpose of this RFP is to provide the Bidders or any other person with information to assist the formulation of their financial offers ("Bid"). This RFP includes statements, which reflect various assumptions and assessments arrived at by JSCL in relation to this scope. This RFP document does not purport to contain all the information each Bidder may require. This RFP document may not be appropriate for all persons, and it is not possible for the Chief Executive Officer, JSCL and their employees or advisors to consider the objectives, technical expertise and particular needs of each Bidder. The assumptions, assessments, statements and information contained in the RFP documents, may not be complete, accurate, adequate or correct. Each Bidder must therefore conduct its own analysis of the information contained in this RFP and to seek its own professional advice from appropriate sources.

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

JSCL and their employees and advisors make no representation or warranty and shall incur no liability to any person, including the Bidder under law, statute, rules or regulations or tort, the principles of restitution or unjust enrichment or otherwise for any loss, cost, expense or damage which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, 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.

JSCL 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. JSCL may in its absolute discretion, but without being under any obligation to do so, can amend or supplement the information in this RFP.

The issue of this RFP document does not imply that JSCL is bound to select a Bidder or to appoint the Selected Bidder (as defined hereinafter), for implementation and reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any Proof of Concept (PoC), demonstrations or presentations which may be required by JSCL or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and JSCL shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation for submission of the Bid, regardless of the conduct or outcome of the selection process.

## Definitions and Abbreviations

#	Term	Definition
1.	Agreement	The contract agreement to be signed between the successful bidder and JSCL including all attachments, appendices, all documents incorporated by reference thereto together with any subsequent modifications/changes/corrigendum's, the RFP, the bid offer, the acceptance and all related correspondences, clarifications, presentations.
2.	Applicable Law	Applicable Law means the laws and any other instruments having the force of law in the State of Madhya Pradesh and/or by The Central Government of India as they may be issued and enforced from time to time.
3.	Applicable Permits	All clearances, permits, authorizations, consents and approvals required to be obtained or maintained by the respective Parties under the Applicable Laws
4.	Authority	Jabalpur Smart City Limited
5.	Authorized Representative/ Agency	Any person/ agency authorized by either of the parties
6.	Bidder	The use of the term "Bidder" in the RFP means the Single Agency / firm or the consortium of firms not exceeding Three members, who participate in the bidding process.
7.	Contract	The Agreement to be executed between the Authority and the Selected Bidder, a format of which is annexed herewith as Annexure [__].
8.	Corrupt Practice	The offering, giving, receiving or soliciting of anything of value or influence the action of a public official in the process of contract execution
9.	Consortium	Not Allowed
10.	Default Notice	The written notice of Default of the Contract issued by one Party to the other in terms hereof
11.	EMD	Earnest Money Deposit (EMD) is a specific form of deposit made by the Bidder to participate in the tendering process. The deposited amount will be refunded to the bidders, without any interest.

#	Term	Definition
12.	Fraudulent Practice	A misrepresentation of facts in order to influence a procurement process or the execution of a contract and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non- competitive levels and to deprive JSCL of the benefits of free and open competition
13.	Gol	Government of India
14.	ITMS ICCC	Intelligent Traffic Management System Integrated command and control centre
15.	Implementation Period	The period from the date of signing of the Contract and up to the inauguration or Go-Live of the System.
16.	Lol	Letter of Intent, which constitutes the intention of the JSCL to place the Work Order with the Successful Bidder.
17.	Nodal Officer	Official appointed by Authority for monitoring of this project
18.	Agency	The entity/company providing the services / executing the project under the Contract and is used synonymous with bidder/successful bidder/Agency/consessionaire
19.	Period of Contract	1 year and extendible to 1 year (maximum) subject to Satisfactory Performance. Detailed condition listed in RFP clauses
20.	Performance Guarantee/Security	Performance Guarantee/ security shall mean the deposit made by the successful bidder, in the form of Demand Draft/Bank Guarantee. Performance Guarantee in the form of a bank guarantee shall be irrevocable and valid for the entire Contract period and an additional period of 90 days thereafter.
21.	Request for Proposal	The detailed notification seeking a set of solution(s), services(s), materials and/or any combination of them
22.	Site	The ICCC(Integrated Command & Control Centre) & ITMS(Intelligent Traffic Management System) location for which the Contract will be signed and where the service shall be provided as per Contract
23.	Service	Provision of Contracted service

#	Term	Definition
24.	Subcontractor	Any natural person, private or government entity or a combination of the above to whom any part of the goods to be supplied or execution of any part of the related services is sub contracted by the Agency.
25.	Third Party Agency	Any agency, if/as appointed by JSCL for monitoring the project during commissioning and operation.
26.	Termination Notice	The written notice of termination of the Contract issued by one party to the other
27.	Transfer Date	The completion date of project, transfer of assets to Authority shall be done on that date.
28.	Work order	A formal order issued by JSCL to the successful bidder covering delivery timelines, Service Level Agreement and other terms and conditions

## RFP Format

The objective of this RFP is to select an agency for Comprehensive Operations and Maintenance Support for Integrated Command and Control Center & ITMS for Jabalpur Smart City. The following sections attached are part of Bid Documents.

Sections	Description
Section-1	Project Profile
Section-2	Scope of Work
Section-3	Service Level Agreement
Section-4	Evaluation Process
Section-5	Stakeholder Responsibilities
Section-6	Instruction to Bidders
Annexure-1	Formats of Pre-Qualification Bid
Annexure-2	Formats of Technical Bid
Annexure-3	Format of Price Bid
Annexure-4	Technical Specifications/ List of Equipments
Annexure-5	Non-Disclosure Agreement
Annexure-6	Contract Agreement



## Fact Sheet

S. No.	Item	Description
1.	Name of the Assignment	Selection of Agency for Restart and Comprehensive Maintenance and Operations Support for ITMS for Jabalpur Smart City
2.	Method of Selection	Technical qualification followed by Lowest Financial Bid (L1) of the financial bid proposed to the JSCL  Note : The bidder whose financial proposal has the lowest total will be considered as L-1.
3.	Availability of RFP Documents	<a href="https://mptenders.gov.in">https://mptenders.gov.in</a>
4.	Pre bid meeting	16.05.2025, 15.00
5.	Last date and time for submission of Proposal (Proposal Due Date)	02.06.2025  On-line on e-procurement Portal: <a href="https://mptenders.gov.in">https://mptenders.gov.in</a>
6.	Last date for receiving clarifications	16.05.2025, 15.00  Bidders shall have to post queries by email to Email: ceojscl@mpurban.gov.in, <a href="mailto:balendra.shukla@mpurba.gov.in">balendra.shukla@mpurba.gov.in</a> , <a href="mailto:ankurkhare@mpurban.gov.in">ankurkhare@mpurban.gov.in</a>
7.	Mode of Bid Submission along with EMD & Bid fee	Online through eProcurement system <a href="https://mptenders.gov.in">https://mptenders.gov.in</a> .
8.	Date, time and venue of opening of Pre-qualification and technical proposals on e-procurement platform	03.06.2025  Online through eProcurement system <a href="https://mptenders.gov.in">https://mptenders.gov.in</a> .
9.	Date, time and Venue of opening of financial proposal	To be intimated to the technically qualified bidders at a later date

S. No.	Item	Description
10.	Bid Processing Fee (Non-refundable)	Rs.12,500 /- To be submitted online on e-portal
11.	Bid Security / EMD (Refundable)	Rs 75000/- To be submitted online on e-portal
12.	Performance Bank Guarantee	5% of the contract value
13.	For any enquiries and clarifications, please contact:	Mr. Balendra Shukla, 9039294264 , Mr. Ankur Khare, 9827573388 Jabalpur Smart City Limited Email: ceojscl@mpurban.gov.in, balendra.shukla@jscljabalpur.org, ankurkhare@mpurban.gov.in
14.	Validity of the Proposal	Bidder proposals shall remain valid for a period of 90 days from last date of submission of Bid.
15.	Currency	Currency in which the Bidders may quote the price and will receive payment is Indian Rupees only.
16.	Project Duration	The Total Project duration is 12 months, further extendible (multiple) to 12 months at the discretion of Authority, based on the satisfactory performance of the Agency.
17.	Project Cost	1.50 Cr. (Including GST) for 12 Months
18	Provisions Regarding Project Duration and Extension:	<ol style="list-style-type: none"> <li>1. Initial Period: The initial duration of the project shall be 12 (twelve) months, commencing from the date of the agreement/contract.</li> <li>2. Extension: Upon completion of the initial 12-month period, the project duration may be extended for an additional 12 months.</li> <li>3. Condition: The above-mentioned extension shall only be granted if it is clearly ensured at the government level that the required financial resources (funds) for the smooth operation and maintenance of the project have been made available or their availability is duly assured.</li> </ol>

## **1. Project Profile**

### **1.1. Project Background**

ITMS (Intelligent Traffic Management System), Jabalpur was developed to run city operations. ITMS(Intelligent Traffic Management System) was used for making cities smarter in terms of managing traffic operations of the smart components deployed across the cities. This finally benefited citizens of smart cities using ICT as backbone and seamless integration with all the required & existing ICT systems / Smart components.

### **1.2. About the Jabalpur Smart City Development Corporation Limited**

As per the Government of India (GoI) guidelines, a separate Special Purpose Vehicle (SPV) has been created for the execution of projects under the smart city mission for the city of Jabalpur. Jabalpur Smart City Development Corporation Limited (JSCL), being the Smart City SPV for Jabalpur is responsible for end-to-end for vendor selection, implementation, and operationalization of various smart city projects under the smart city mission of GoI.

### **1.3. Project Objectives**

The objective of the project is to provide comprehensive Operations & Maintenance for IT equipments for 1 year which may further be extended for an year on the sole discretion of JSCL.

Note: The Agency shall have the right to inspect ITMS(Intelligent Traffic Management System) site to assess infrastructure before Bidding and make themselves aware of the site details.

## **2. Scope of Work**

### **2.1. Detailed Scope of Services**

The broad scope of work to be covered under this project will include the following, but is not limited to:

1. The Agency would assign asset number to each of the system/asset being maintained by them. These should correspond to the number/s of equipments to be maintained as per List of equipments provided along with details of rooms/place where they are placed/located. If there is shifting of the equipment/s under this AMC, the Agency will have to make changes in records accordingly. Preventive maintenance will be carried out on quarterly basis and special cleaning of the Monitor, printer, key board, mouse etc, from outside with liquid cleaner should be done once in a month. The service engineers would take up any reported fault within 24 hours. As far as possible, the repairs would be carried out on-site itself. However, in case the equipment is taken to the workshop, the firm would provide a stand by for the same.
2. The Agency will also provide maintenance and repair services on holidays. In case of non-availability of drivers of the machine they will be required to arrange themselves from their sources. The equipment to be taken out to the workshop for repair with proper permission of the competent officer would be at the Agency's own risk and expenses.
3. Where the items/parts/components need replacement, the same shall be replaced with the same make, specification and brand of item/component/part. In case the requisite parts are not available, the same should be replaced with the parts of higher level compatible with the system.
4. In case of failure of servers/computer due to any reason, the server/computer shall be made up and running

immediately as per the SLAs

5. Agency shall be responsible for taking back up data and program available in PC before attending the fault and shall also be responsible for reloading the same. The backup copies are to be returned to the users, under acknowledgement from the user. In case data is lost, the Agency shall be responsible for recovering the same at their cost.

6. The systems that are not serviceable by the agency due to obsolescence of technology or non-availability of parts/assemblies/components will be withdrawn from the maintenance contract. The decision of competent authority regarding non-availability and obsolescence of technology and withdrawal of these items from the main contract will be final. Withdrawal of such systems shall be communicated to the agency and equivalent maintenance charges may be deducted accordingly.

7. At the end of the AMC – contract period, both the user and AMC holder shall certify separately that the computer systems/electronic device/server room/furniture condition/video wall and related equipment listed under this maintenance contract are in satisfactory working condition and that no fault or complaints are pending.

8. It may also be noted that in case of contractor backing out in midstream without any explicit consent of the Authority, Agency will be liable to recovery at higher rates, vis-à-vis those contracted with, which may have to be

incurred by JSCL on maintenance of Equipments for the balance period of contract by alternative means. The above act of backing out would automatically debar the firm from any further dealing with JSCL.

9. In this connection, any equipment which is noted as in nonworking condition till the last hour of the contract period should be rectified by the outgoing Agency without any extra cost to the department.

10. All the hardware, software, non-IT infrastructure viz electrical connection, furniture in ITMS(Intelligent Traffic Management System) etc, manpower, network connectivity etc. are property of Jabalpur Smart City.

11. Selected Bidder shall operate and maintain the existing infrastructure (IT, Non IT & ancillary items) & all the running applications annually. If any hardware/software or licenses whose AMC or life of the product has ended/expired, the renewal cost of licenses/AMC of hardware to be borne by the selected Bidder. The selected Bidder for operation and maintenance of ITMS project shall be solely responsible for keeping all the cameras and other equipment installed at every junction of all the 21 locations of the existing installed & commissioned ITMS system fully functional & operational 24\*7.

12. At present, e-challans are generated in coordination with the traffic police department. Selected Bidder to solely responsible to generate as many challans as possible in sync with the traffic violations with Traffic Police Department.

13. Selected Bidder shall do the gantry shifting as per actual requirements and approved by JSCL and regular painting works for all the gantries/traffic poles. Replacement of devices viz. cameras, batteries, UPS etc on need basis shall be done by the selected Bidder.

Existing Equipments/ Applications and Manpower requirements for Operation & Maintenance of ITMS(INTELLIGENT TRAFFIC MANAGEMENT SYSTEM):

Category A - IT & Non IT Components of Intelligent Traffic Management System (ITMS) Command and Control Center			
S.No.	Perticular	Make & Model	Qty
1	Switch	Cisco Catalyst 2960 L-series	1
2	Switch	Cisco Catalyst 3850 24X UPOE	2
3	Switch	Cisco Catalyst 9300 NM 8X	1
4	Firewall	Cisco ASA 5516-X	2
5	Server	Cisco UCS C240 M5	2
6	Storage	Huawei OceanStor 2200 V3	6
7	Router	Digisol DG-HR-3400	1
8	Router	AirtelXstream ZXHMF670L	1
9	Network Video Recorder	CP-UNR-4K4162-V2	1
10	Network Camera - Bullet	CP-UNC-TA20L3S-V2-0360	4
11	Network Camera - Dome	CP-UNC-DA20L3S-V2-0360	4
2	Workstation with 3 monitors	HP Z240 Tower Workstation	15
13	Printer	Xerox 7535	1
14	Printer	HP SNPRH-1504-01	1
15	Bio Metric	Realtime eco5	1
16	Bio Metric	ESSL Biometric	1
17	Video Wall	Delta VM-8350 DN CE	12
19	LED TV	LG 55SM5KD-B	1
20	Video Wall Switch	TP-Link (10 Port ) Switch	2
21	UPS 10 KVA	Consul Neowatt	2
22	UPS 20 KVA	Consul Neowatt	1
23	Battery	Exide Powersafe Plus - EP 65-12	36
24	DVS Net video wall Control System	Delta VK- W001 CA	1

25	ITCS Server	Dell LED E2221HN	1
26	ITCS Server	Dell Precision E-3640	1
27	EPABX	Panasonic KX-TES824BX	1
28	Rodent Controller (Transducer (Rodent))	VHFOV2	1
29	Fire safety System with Alarm	EN54-2,EN54-4	1
<b>Category B - Field Infrastructure of Intelligent Traffic Management System (ITMS)</b>			
S.No.	Perticular	Make & Model	Qty
1	Overview Camera	Infinova VT211-A5-A	54
2	ANPR Camera with IR	Infinova VT210-A2-B0	132
3	PA with Amplifier and Speakers	Ahuja	46
4	Traffic Signals with its all hardware, infrastructure and pedestrian feature in a junction	NA	7
5	CP PLUS VEHICAL DETECTOR	CP-UNC-TA21ZPL5-M-2812	25
6	Local Processing Unit	Vehant	35
7	Switch	CISCO1000	7
8	Switch		59
9	UPS 1 KVA	Consul Neowatt Power Solution	53
10	Batteries	Amaron/ Exide	159
11	VaMS	Novastar sensecure	38
12	Entire Integration of existing system including video feeds, e challan system with Police Department	Na	1
<b>Category C - Connectivity</b>			
S.No.	Perticular	Unit	Qty
1	ITMS: Internet Leased line connectivity for Data Center & TCC & Network Upgradation . leaseline of 100 MBPS each for ITMS	Unit Rate per connection	1
2	Junctions: 100 MBPS or more as per actual requirement for data transmission to CCR (Video feeds, etc)	Unit Rate per Location	12
3	SVD and Entry & Exit Junctions: 100 MBPS or more as per actual requirement for data transmission to CCR (Video feeds, etc)	Unit Rate per Location	9
4	Annual Charges-Telephone Line	Unit Rate per Telephone Line	1
<b>Category D - Challan Printing &amp; Dellivery</b>			
S.No.	Perticular	Unit	Qty
1	E-Challan Printing, Processing, Sorting, making Entry and insertion in the Envelope for Dispatch	On actuals	1500
2	E-Challan Delivery Charges by Hand/Post/ Courier (Per E-Challan)	On actuals	1500
<b>Category E - Manpower</b>			
S.No.	Designation	Qty	
1	Technicians (Field work of ITMS)	2	
3	Technician (Electrician)	1	
4	Operator	08	
5	Floor Incharge	1	
7	Housekeeping	1	

Note: The Selected agency shall get the CVs of Manpower approved from JSCL prior to their deployment.

The selected Bidder has to strictly adhere to Operations & Maintenance of:

1. At present, the generator installed under ICCC does not have a power backup connection for ITMS. The bidder will need to arrange a power backup for ITMS from the installed generator, including providing the necessary items. In the event of a power cut, the bidder will be responsible for supplying diesel for the generator to maintain the power backup continuously.
2. Network Cabling including upgradations: Selected Bidder shall take care of all the network cables to make the system fully functional 24\*7. Any cost for network upgradations shall be borne by the selected Bidder
3. Application & Storage Server: Selected Bidder shall do overall operations & maintenance of servers. Cost for any upgrades/patches or purchasing licenses pertaining to Operating systems etc. to be borne by the selected Bidder.
4. Firewalls: The selected Bidder to provide adequate protection from cyberattacks and other threats shall be a part of the proposed system. Using Firewalls and Intrusion detection systems such attacks shall be controlled as per the Security policy. The virus and worm's attacks shall be well defended with Gateway level Anti-virus system, along with workstation level Anti-virus mechanism. Using Firewalls and Intrusion detection systems such attacks and theft shall be controlled and well supported (and implemented) with the security policy. The virus and worm's attacks shall be well defended with Gateway level Anti-virus system, along with workstation level Anti-virus mechanism. There shall also be an endeavour to make use of the SSL/VPN/latest technologies to have secured communication between Applications and its end users. Furthermore, all the system logs shall be properly stored & archived for future analysis and forensics whenever desired. All the attacks well defended with gateway level firewall and other protection software such as antivirus, Spyware, Malware etc.
5. Data Security : Advanced Encryption Standard (AES) shall be followed for data encryption on site and TCC, and its access shall have protected by a password. An end-to-end security model that protects data and the infrastructure from malicious attacks, theft etc to be provided. Provisions for security of field equipment as well as protection of the software system from hackers and other threats shall be a part of the proposed system. Using Firewalls and Intrusion detection systems such attacks and theft shall be controlled and well supported (and implemented) with the security policy. The virus and worm's attacks shall be well defended with Gateway level Anti-virus system, along with workstation level Anti-virus mechanism. There shall also be an endeavour to make use of the SSL/VPN technologies to have secured communication between Applications and its end users. Furthermore, all the system logs shall be properly stored & archived for future analysis and forensics whenever desired.

6. Data Archival Policy for 30 days( As per original scope of existing system): Data Storage on site: The system should be equipped with appropriate storage capacity for 7 days 24X7 recording, with overwriting capability. The images should be stored in tamper proof format only. All event captured by the ITMS system should be stored min. of 90 Days (along with videos and photographs) and all videos and photographs of generated E-Challans must store permanently.

7. Bidder should integrate ICCV and ITMS and keep daily backup on that.

8. The Bidder will also have to maintain the A.C., light fittings, furniture, doors, etc. installed in the control room. Which should be evaluated by the bidder before bid submission.

9. The CCTV system installed in the control room will have to be maintained and data stored.

Note: The selected Bidder is required to provide annual operations & maintenance services for the items mentioned in the above table. The bidder will have to pay for the network connectivity and other upgrades and patches. If operation and maintenance is not done properly, deduction will be made as per the SLA defined in the tender. Smart City will not be liable for any kind of breakage or theft in the field, the selected Bidder is solely responsible for the same. Monthly payment will be made to the bidder only from the amount of the above deposited e-challan.

10. Entire Integration of existing system including video feeds, e challan system with Police Department. (if required)

I. Capacity Building for JSCL, Traffic Police and other end user department which includes preparation of operational manuals, training documents and capacity building support, including:

- a. Training of the city authorities, police personnel and operators on operationalization of the system
- b. Support during execution of acceptance testing
- c. Preparation and implementation of the information security policy, including policies on backup and redundancy plan
- d. Preparation of KPIs for performance monitoring of various urban utilities monitored through the system envisaged to be implemented
- e. Developing Standard Operating Procedures (SOPs) for operations management and other services to be rendered by Operation Control Room

II. Realization of challans and Identification of revenue generation opportunities by various smart solutions, planning and roll out of strategy

Entire Integration of existing system including video feeds, e challan system with Police Department.

Note: Agency to conduct Survey and validate above information. In case of any discrepancy whatsoever JSCL shall not be responsible. Agency to take care entire Operations and Maintenance of ITMS field level infrastructure along with ITMS command center infrastructure. Agency to access On expenses based on below information.

## **2.2. Site Visit before Bidding**

The bidder must conduct site survey of the Identified Sites for understanding the existing conditions and make independent evaluation of the scope of work. JSCL will not be responsible for any misunderstanding/



Misinterpretation of the scope of work. Bidders are free to visit the said sites to understand the location/technicalities for implementation of above project.

The bidder shall be deemed to have satisfied himself of all conditions and circumstances affecting the bid price, as to the general circumstances at the site of the work, as to the general manpower availability at the site, water, electricity, bandwidth availability and to have fixed his prices according to his own view of these.

### 2.3. Timelines & Payment Schedule

The project is planned in the following manner:

Phase	Implementation Plan/Activities	Timeline	Payment
Letter of Intent/Project Award (LOI)		T0	No Payment
Submission of Plan of Action report for entire contract period		T0+10 Days	No Payment
Agreement Signing		T1=To+15 Days	No Payment
Comprehensive Maintenance			Quarterly Payment based on performance and SLA report.

Where T0 = date of issue of LOI

Note:

1. Quarterly Payment shall be made after deduction basis the SLA (System Generated)
2. Change Order (if Any) shall be paid separately only after UAT and Audit by the Authority and will not be a part of regular quarterly payment

#### 2.3.1. Data Ownership

JSCL shall be the sole owner of all data generated and developed by/for this project. The Agency shall not utilize any data information other than functions/utility to maintain the ICCC(INTEGRATED COMMAND & CONTROL CENTRE) & ITMS(INTELLIGENT TRAFFIC MANAGEMENT SYSTEM) & ITMS system as per scope of work. The Bidder shall ensure periodic reporting of data, including raw data to JSCL for monitoring and assessment of system performance. The bidder shall also be responsible for ensuring real time transfer of data, wherever required by the authority.

#### 2.3.2. Data Sharing and Data Privacy

Agency shall ensure that all the user data, operations data, commute data etc. shall be secured within the system with highest order of security. No breach of any kind with respect to data sharing and security shall be tolerated. Agency shall require prior permission of the authority before using the data for any third party. Data breach if found in any case whatsoever shall be the responsibility of the Agency and their impact thereafter. No or only limited access to the data center shall be provided to Agency. No third-party data sharing devices shall be used. Only encrypted and secured gateway devices for any kind of data sharing shall be used. The application access should be user based and password protected.

### 2.3.3. Minimum Hours of Operation

The ICCC(Integrated Command & Control Centre) & ITMS(Intelligent Traffic Management System) & ITMS system shall be operational 24 X 7 through the contract period as defined in the SLA. Manpower availability as per profile requirements has been defined in respective section.

## 3. Service Level Agreements

### 3.1. SLA during Operations and Maintenance phase

The performance measurement parameters for assessing performance under SLA during the O&M phase are laid down in this section. During the O&M phase, a maximum level of performance penalties is established and described in the section;

SLAs for IT Infrastructure including software applications, hardware, video screens, workstations and other equipment of Command & Control Center.

*Note: SLA against the mentioned components shall be calculated on daily basis. Cumulative applicable penalty on daily basis for the quarter shall be calculated and deducted from the Quarterly Operations & Maintenance Payments*

*The SLA will be evaluated through reports received through real time hardware monitoring software like motadata.*

### 3.2. SLA (Service Level Agreement) and Milestones for ITMS:

The Total Project duration is 12 months, further extendible (multiple) to 12 months at the discretion of Authority, based on the satisfactory performance of the Agency.

### 3.3. SLA (Service Level Agreement)

Note : The Service Level Agreement will be evaluated through reports received through real time hardware monitoring software like motadata.

#### Availability Measurement Calculation for a Month

Availability of Project components for a month shall be measured using following formula.

$$\{[(\text{Actual Uptime} + \text{Scheduled Downtime}) / \text{Total No. of Working Hours in a Month}] \times 100\}$$

Wherein,

“Actual Uptime” shall mean, of the Total Hours, the aggregate number of hours in any month during which each equipment/Hardware/application is actually available for use.

“Scheduled Downtime” shall mean the aggregate number of hours in any month during which each equipment, is down during total Hours, due to preventive maintenance, scheduled maintenance, infrastructure problems or any other situation which is not attributable to ITMS System Integrator failure to exercise due care in performing ITMS System Integrator responsibilities. The JSCL would provide a maximum of 04 hours of planned downtime for the preventive maintenance (as part of scheduled downtime) per month per equipment/service.

“Total Working Hours” shall mean the total hours over the measurement period i.e. one month (24 \* number of days in the month). Downtime Calculation

The recording of downtime shall commence at the time of registering the call with Helpdesk/ITMS System Integrator for any downtime situation for the equipment.

Downtime shall end when the problem is rectified and the Hardware/equipment is available to the user.

Down time shall not be considered for following:

- 1) Pre-scheduled preventive maintenance and health checks (Scheduled Downtime).
- 2) Downtime arising out of the incidents not attributable to ITMS System Integrator.

#### General Terms

- 1) In case, the Default Charges hit the cap during three consecutive months, the same shall be considered an ITMS System Integrator's Event of Default.
- 2) Default Charges for a month shall be capped at ten percent (10%) of the total Service Charge for the given month.
- 3) The number and format of reports shall be as per requirements provided by JSCL.

<b>Service Level Requirement</b>	The average availability of the Field equipment should be at least 99% in a month. Field equipment shall include Traffic Signal, field components of ITCS, PA system, enforcement cameras and other ITMS devices used in the field.
<b>Measurement of Service Level Parameter</b>	$\{[(\text{Actual Uptime} + \text{Scheduled Downtime}) / \text{Total No. of Working Hours in a Month}] \times 100\}$ Each category of Device must separately meet the minimum Availability Standard of Performance on monthly basis
<b>SLA Exclusions</b>	Excludes: <ul style="list-style-type: none"> <li>• Scheduled downtime, subject to agreed schedule</li> <li>• Vandalism damage</li> </ul>

Availability (Monthly Average)	>= 98 % to <99%	>= 97% to <98%	<97%
Default Charge per month	Rs. 50 per percentage Point drop below Service Level for traffic signals (per traffic signal installed)	Rs. 75 per percentage Point drop below Service Level for traffic signals (per traffic signal)	Rs. 100 per percentage Point drop below Service Level for traffic signals (per traffic signal installed)
	Rs. 25 per percentage Point drop below Service Level for enforcement system as below:  For ANPR / Other system – per camera For	Rs. 50 per percentage Point drop below Service Level for enforcement system as below:  For ANPR / Other system – per camera For	Rs. 75 per percentage Point drop below Service Level for enforcement system as below:  For ANPR / Other system – per camera For RLVD/SVD/ system – per lane
	RLVD/SVD/ system – per lane	RLVD/SVD/ system – per lane	

## Availability of ITMS Applications

Definition	Application availability refers to the total time when the ITMS Applications is available to the users for performing all activities and tasks. ITMS Applications shall include all applications being proposed by the ITMS System Integrator such as Applications for ANPR, RLVD, SVD, E-Challan Application etc.			
Service Level Requirement	The average availability of the ITMS Applications should be at least 99.5 % in a month			
Measurement of Service Level Parameter	{[(Actual Uptime + Scheduled Downtime) / Total No. of Working Hours in a Month] x 100}			
SLA Exclusion	Any scheduled and approved preventive maintenance activity by the ITMS System Integrator should be carried out with prior approval JSCL/Jabalpur Police. Such scheduled and approved preventive maintenance activities shall preferably be carried out during night time (11 PM to 5 AM) and shall not exceed two instances in a quarter and each instance shall not exceed 4 hours.			
Default Charge for non-achievement of Service Level Requirement	If the ITMS System Integrator is not able to meet the above defined service level requirement, then any deviation from the same would attract a default charge as per the following:			
	Application Availability (Monthly average)	>= 99.25 % to <99.5%	>= 99.0% to <99.25%	< 99.00%
	Default Charge per month	Rs. 25,000	Rs. 50,000	Rs. 1,00,000 (per 0.20 % drop or part thereof subject to minimum of Rs. 1 lakh)

## Availability of Network Connectivity

Definition	Network Availability refers to the total time when the connectivity is available to the users.											
Service Level Requirement	The average availability of the Network connectivity at various project locations except DC should be at least 99% in a month.											
Measurement of Service Level Parameter	Total Uptime of the Network Connectivity in a month in minutes)/ (Total Time in a Month in minutes)] *100  The above time would be calculated on 24 X 7 basis.											
SLA Exclusion	Any scheduled and approved preventive maintenance activity by the ITMS System Integrator should be carried out with prior approval JSCL/Jabalpur Police. Such scheduled and approved preventive maintenance activities shall preferably be carried out during night time (11 PM to 5 AM) and shall not exceed two instances in a quarter and each instance shall not exceed 4 hours.											
Default Charge for non-achievement of SLA	<table><tr><td>Connectivity per location (Monthly average)</td><td>&gt;= 98 % to &lt;99%</td><td>&gt;= 97% to &lt;98%</td><td>&lt;97%</td></tr><tr><td>Default Charge per incident (per month)</td><td>Rs. 15,000</td><td>Rs. 20,000</td><td>Rs. 25,000 (per percentage drop or part thereof)</td></tr></table>				Connectivity per location (Monthly average)	>= 98 % to <99%	>= 97% to <98%	<97%	Default Charge per incident (per month)	Rs. 15,000	Rs. 20,000	Rs. 25,000 (per percentage drop or part thereof)
Connectivity per location (Monthly average)	>= 98 % to <99%	>= 97% to <98%	<97%									
Default Charge per incident (per month)	Rs. 15,000	Rs. 20,000	Rs. 25,000 (per percentage drop or part thereof)									



## Availability of ITMS Applications

<b>Definition</b>	<p>Application availability refers to the total time when the ITMS Applications is available to the users for performing all activities and tasks.</p> <p>ITMS Applications shall include all applications being proposed by the ITMS System Integrator such as Applications for ANPR, RLVD, SVD, E-Challan Application etc.</p>		
<b>Service Level Requirement</b>	The average availability of the ITMS Applications should be at least 99.5 % in a month		
<b>Measurement of Service Level Parameter</b>	{[(Actual Uptime + Scheduled Downtime) / Total No. of Working Hours in a Month] x 100}		
<b>SLA Exclusion</b>	Any scheduled and approved preventive maintenance activity by the ITMS System Integrator should be carried out with prior approval JSCL/Jabalpur Police. Such scheduled and approved preventive maintenance activities shall preferably be carried out during night time (11 PM to 5 AM) and shall not exceed two instances in a quarter and each instance shall not exceed 4 hours.		
<b>Default Charge for non-achievement of Service Level Requirement</b>	If the ITMS System Integrator is not able to meet the above defined service level requirement, then any deviation from the same would attract a default charge as per the following:		
	Application Availability (Monthly average)	>= 99.25 % to <99.5% >= 99.0% to <99.25% < 99.00%	
	Default Charge per month	Rs. 25,000 Rs. 50,000	Rs. 1,00,000 (per 0.20 % drop or part thereof subject to minimum of Rs. 1 lakh)

Security & Incident Management	
<b>Definition</b>	<p>Security incidents could consist of any of the following but not limited to:</p> <ul style="list-style-type: none"> <li>• Virus Attack – This shall include malicious code infection of any of the desktops/servers in the network.</li> <li>• Denial of Service Attack – This shall include non-availability of service</li> <li>• Data Theft – Compromise of any kind of data through network.</li> <li>• Intrusion – Unauthorized access to ITMS Application / network resulting in loss of confidentiality/Integrity/ availability of data.</li> </ul>
<b>Service Level Requirement</b>	Zero incident
<b>Measurement of Service Level Parameter</b>	Count of incidents of security breach including Virus Attack, Denial of Service Attack (DoS), Intrusion in a month
<b>Default Charge for nonachievement of SLA</b>	If the ITMS System Integrator is not able to meet the above defined service level requirement, then any deviation from the

	same would attract a default charge of Rs. 5,000 per incident.
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**Note:**

- The Payment Schedule mentioned above in Clause 3.5 (a) and Clause 3.5 (b) shall be applicable post SLA deductions (if any) in monthly bills.
- Bidder should provide all prices as per the prescribed format under this Section.
- All the prices are to be entered in Indian Rupees (INR) only.
- It is mandatory to provide breakup of all Taxes, Duties and Levies wherever asked for.
- JSCL reserves the right to ask the Bidder to submit proof of payment against any of the taxes, duties, levies indicated.
- The Bidder needs to account for all Out of Pocket expenses due to Boarding, Lodging and other related items.
- No claim shall be entertained or become payable for price variation of additional quantities
- For the purpose of evaluation of Financial Bids, JSCL shall make appropriate assumptions to arrive at a common Bid price for all the bidders. This however shall have no co-relation with the Contract value or actual payment to be made to the Bidder.
- Bidders must carefully read the Scope mentioned in this RFP and accordingly propose the software, hardware, accessories and services and their respective quantities required to completely meet the requirements of this RFP.

**3.4. Miscellaneous**

1. Agency must bear all applicable National, State and local taxes on the purchase of equipment (if required in case of Change Order).
2. If Agency is not able to provision the change order within 15 days of the request, then authority have all rights to procure the same from third party as and when required outside the contract
3. In case of procurement outside the contract by the authority which is essentially deployed as a part of ITMS(Intelligent Traffic Management System) project, then agency shall be responsible for the AMC cover of the line item as well.
4. Any line item under the Comprehensive AMC cover of this contract, if requires replacement, then agency is liable to do that without any extra cost to the authority.
5. Agency must bear all the risk incurred on vandalism of the system
6. Agency must bear all applicable insurance
7. It shall be the responsibility of the Agency to take all insurances required as per extent law. JSCL does not undertake any responsibility in the event of any deficiency of the insurance policy like coverage, extent or any claim made against the Agency.



## 4. Evaluation Process

Authority shall constitute a Tender Evaluation Committee to evaluate the responses of the bidders. The Tender Evaluation Committee shall evaluate the responses to the RFP and all supporting documents/documentary evidence. Inability to submit requisite supporting documents/documentary evidence by bidders may lead to rejection of their bids.

The decision of the Tender Evaluation Committee in the evaluation of bids shall be final. No correspondence will be entertained outside the process of evaluation with the Committee. The Tender Evaluation Committee may ask for meetings or presentation with the Bidders to seek clarifications or confirmations on their bids.

The Tender Evaluation Committee reserves the right to reject any or all bids. Each of the responses shall be evaluated as per the criteria and requirements specified in this RFP.

The steps for evaluation are as follows:

### Stage 1: Pre-Qualification:

1. Authority shall validate the Set 1 “Bid Processing Fees & Earnest Money Deposit (EMD)”.
2. If the contents of the Set 1 are as per requirements, Authority shall evaluate the “Pre-Qualification Bid”. Each of the **Pre-Qualification condition mentioned in the document is MANDATORY**. In case, **the Bidder does not meet any one of the conditions, the bidder shall be disqualified**.
3. Bidders will be informed of their qualification/disqualification based on the Pre-Qualification criteria through Email and Phone and subsequently, the EMD amount shall be returned to the respective disqualified Bidders after the submission of Performance Bank Guarantee by the successful Bidder.
4. Technical and Price bids for those bidders who don’t pre-qualify will not be evaluated and opened respectively. Price bid will not be opened for those bidders, who don’t qualify the technical evaluation. EMD amount shall be returned for those who don’t qualify the financial evaluation stage after Performance Bank Guarantee is submitted by successful bidder.

### Stage 2: Technical Evaluation

1. Set 1 “Technical bid” will be evaluated only for the bidders who succeed in Stage 1.
2. Authority will review the technical bids of the short-listed bidders to determine whether the technical bids are substantially responsive. Bids that are not substantially responsive are liable to be disqualified at Authority’s discretion.
3. The bidders' technical solutions proposed in the bid document shall be evaluated as per the requirements specified in the RFP and technical evaluation framework as mentioned in the RFP.
4. Bidders shall be asked to give technical presentation of the envisaged solution to Authority who qualify the Pre-Qualification Stage.
5. Authority will review the “Approach & Methodology & Solutions proposed “
6. Each Technical Bid will be assigned a technical score out of a maximum of 100 marks. **Only those bidders who get minimum Technical score of 70% will qualify for financial evaluation stage**. Failing to secure minimum marks shall lead to rejection of the Bid.

### Stage 3: Financial/Price Bid Evaluation

1. All the technically qualified bidders will be notified to participate in Price Bid opening process.
2. The price bids for the technically qualified bidders shall then be opened on the notified date and time and reviewed to determine whether the price bids are substantially responsive. Bids that are not substantially responsive are liable to be disqualified at Authority's discretion.
3. Price Bids that are not as per the format provided in the RFP shall be liable for rejection.
4. The bid price shall include all taxes and levies and shall be in Indian Rupees and mentioned separately. The Authority or any other government agency shall not have any liability of paying any taxes (including GST)/charges/levies as part of this project. The bidder has to quote their Price duly factoring all these costs over the project duration.

If there is any discrepancy in the Price Bid, it will be dealt as per the following:

1. If there is a discrepancy between words and figures, the amount in words shall prevail.

#### Successful bidder evaluation:

The Bidder with the **LOWEST VALUE OF FINANCIAL PROPOSAL (L1)** will be declared as a successful bidder.

If there is more than one bidder having the same value of the financial proposal, the Bidder having the higher technical score will be awarded the bid.

#### 4.1. Pre-Qualification Criteria

S. No.	Description	Documents/Format
1.	Pre-Qualification Checklist	As per format mentioned in <b>section 7.1</b> of Annexure 1
2.	Bid Cover Letter	As per format mentioned in <b>Section 7.2</b> of Annexure 1
3.	Particulars of the bidders	As per format mentioned in <b>Section 7.3</b> of Annexure 1
4.	Power of attorney / board resolution to the authorized Signatory of the Bid	As per format mentioned in <b>Section 7.4</b> of Annexure 1

S. No.	Description	Documents/Format
5.	<p>The Bidder should be a Company registered under the Companies Act 1956 or Partnership firm registered under the Partnership Act of 1932 or Companies Act 2013 or registered (converted to) under the Indian Limited Liability Partnership Act, 2008 in India and must be operational for at least 3 years as on publication of bid.</p> <p><b>Consortiums &amp; JVs are not allowed</b></p>	<p>a. Company Registration Certificate b. GST Certificate c. Pan Card d. MoA and AoA e. Documentary proof (PnL Statement/Project Work Orders) for operation in India for a period of at least 3 years as on publication of bid.</p>
6.	<p>The Bidder should have an average annual turnover of at least INR 10 Crore in last three financial years same line of Business as mentioned in Scope of Work (FY2020-21, FY 21-22, FY 22-23).</p> <p><i>Turnover criteria as per Meity Guidelines:</i> <a href="http://www.meity.gov.in">www.meity.gov.in</a></p>	<p>a. Audited financial statement for last 3 audited years. b. Certificate from the Statutory auditor / CA clearly specifying the average annual turnover for the specified years</p>
7.	<p>The Bidder must have positive net worth as per last audited financial year (2022-23).</p>	<p>Certificate from the Statutory auditor / CA clearly specifying mentioning net worth of the bidders should be enclosed.</p> <p>As per format mentioned in <b>Section 7.6</b> of Annexure 1</p> <p><i>*To be provided by Sole Bidder/All members of consortium including Lead Bidder</i></p>
8.	<p>The Bidder must not be blacklisted by any Central / State Government Department or Central/State Public Sector Units (PSUs), Government (Central / State / PSU/ World Bank/Asian Development Bank), Other Smart Cities, Urban Local Bodies, Multi-Lateral agency organizations in India as on the bid submission date.</p>	<p>Undertaking by the authorized signatory of bidder as per format given in Annexure 1, <b>section 7.7</b></p>
9.	<p>Bidder must have similar project experience in Commissioning/ Operations &amp; Maintenance.</p>	<p>Completion Certificate from concerned authority.</p>

S. No.	Description	Documents/Format
	<p>Control room must be having scope for Videowalls &amp; Server Management, Network management.</p> <p>Experience of Traffic Management in ULBs/Smart Cities/Traffic dept having these components:</p> <ul style="list-style-type: none"> <li>Automated Signaling inclusive of IOT/ICT components for traffic management of city</li> <li>RLVD(Red Light Violation Detection &amp; ANPR(Automatic Number Plate Recognition) / SVD( Speed Violation Detection system, PA syste, VaMS, integration e-challan software with Gov. portal, Online e-challan Payment system etc.</li> </ul> <p>IN</p> <p>central government/state government/ULBs/Smart Cities/PSU.</p> <p># At least One completed project of having similar experience of value INR 0.75 Cr or more in last 3 years</p>	<p>Only Work Order Copy shall not be considered, Contract agreement/ Completion certificate is mandatory</p>
10.	No Deviation Certificate	As per format mentioned in <b>Section 7.8</b> of Annexure 1
11.	Total Responsibility Certificate	<p>As per format mentioned in <b>Section 7.9</b> of Annexure 1</p> <p>*To be provided by Sole Bidder/All members of consortium including Lead Bidder</p>
12.	Self-declaration for Rule 144 GFR reg.	As per format mentioned in <b>Section 7.12</b>
13.	Bidder Should be ISO 270001:2013 and 9001:2015 Certified	Attach valid certificate

Note: Only the bids of those Bidders, who submitted the prescribed Bid processing fee and EMD shall be considered for evaluation. The bids not accompanied with a valid Bid processing fee and EMD towards the security deposit shall summarily be rejected.

The bidder (individual firm or a consortium) must meet all the following pre-qualification requirements to be eligible for the Technical Evaluation.

#### 4.2. Technical Qualification Criteria

Technical bids of only those bidders who are found responsive and eligible as per the Pre-Qualification Criteria will be evaluated. Eligible bidders will be evaluated on the following criteria:

Following table describes technical evaluation parameter and its maximum marks for Technical Evaluation Criteria:

#	Technical Evaluation Criteria	Evaluation Parameter	Maximum Marks												
1. Bidder Project Experience (max 40 marks)															
1.1	Bidder Experience-projects	<p>Bidder must have similar project experience in Commissioning/ Operations &amp; Maintenance of a Command-and-Control Centre/ Control Room/ Integrated Command and Control Center having capacity of more than 10 operators. Command and Control Centre/ Control Room/ Integrated Command and Control Center must be having scope for Videowalls &amp; Server Management</p> <p>AND</p> <p>Experience of Traffic Management in ULBs/Smart Cities having these components:</p> <ul style="list-style-type: none"><li>Automated Signalling inclusive of IOT/ICT components for traffic management of city, RLVD(Red Light Violation Detection &amp; ANPR( Automatic Number Plate Recognition)/SVD (Speed Violation Detection system</li></ul> <p>IN</p> <p>Central government/ state government /ULBs/Smart Cities/PSU.</p> <p># Min project value INR 1.75 Cr or more</p>	<p>40 Marks</p> <p>1. One project – 20 Marks</p> <p>2. Two Projects – 30 Marks</p> <p>3. Three Projects or more – 40 marks</p>												
2. Existence & Financial Turnover Criteria															
2.1	The Bidder should have an average annual turnover of at least INR 10 Crore in last three financial years same line of Business as mentioned in Scope of Work (FY2021-22, FY 22-23, FY 23-24).	<table><tr><th colspan="3">Average Annual Turnover Criteria (max 20 marks)</th></tr><tr><td>1</td><td>Greater than equal to INR 10 Cr</td><td>10 marks</td></tr><tr><td></td><td>Greater than equal to INR 10 Cr and Less than INR 20 Cr</td><td>15 marks</td></tr><tr><td>2</td><td>Greater than or equal INR 20 Cr</td><td>20 marks</td></tr></table> <p>Documents Required:</p> <p>a. Audited financial statement for last 3 financial years.</p>	Average Annual Turnover Criteria (max 20 marks)			1	Greater than equal to INR 10 Cr	10 marks		Greater than equal to INR 10 Cr and Less than INR 20 Cr	15 marks	2	Greater than or equal INR 20 Cr	20 marks	20 marks
Average Annual Turnover Criteria (max 20 marks)															
1	Greater than equal to INR 10 Cr	10 marks													
	Greater than equal to INR 10 Cr and Less than INR 20 Cr	15 marks													
2	Greater than or equal INR 20 Cr	20 marks													

#	Technical Evaluation Criteria	Evaluation Parameter	Maximum Marks
		b. Certificate from the Statutory auditor / CA clearly specifying the average annual turnover for the specified years	
2.2	Existence	Certificate of Incorporation:  At least 3 years: 5 Marks  >3 years < 5 : 10 > 5 : 15 Marks	15 marks
3.	Presentation		15 marks
4.	Bidder Should be ISO 270001:2013 and 9001:2015 Certified Attach valid certificate		10 marks
Total Marks			100

#### Important Notes:

- For all the project experience, following documentary evidences are required:
  - Work order/ Contract clearly highlighting the scope of work, Bill of Material and value of the contract/order.
  - Completion Certificate issued & signed by the authorized signatory of the client entity on the entity's Letterhead.
  - Citations
  - The Mandatory Document if not provided as a part of Technical Bid Submission shall be leading to disqualification subject to non-adherence to the clarifications required/requested by the Authority
- Authority (or a nominated party) reserves the right to check/validate the authenticity of the information provided in the Pre-qualification and Technical Evaluation criteria and the requisite support must be provided by the Bidder.
- Minimum absolute technical score to qualify for financial evaluation is 70 marks out of total 100 marks.**

In case, none of the bidder achieves the minimum qualifying marks, the Technical Evaluation Committee may revise the minimum qualification marks in the interest of this RFP finalization. The Technical Evaluation Committee's decision in this regard shall be final and binding on the Bidder.

## 5. Stakeholder Responsibilities

The following list is a tentative, but not exhaustive summary of the respective responsibilities of JSCL and the Agency.

### 5.1. Jabalpur Smart City Limited (JSCL)

- Issuance of LOI to the Selected Bidder.
- Facilitating Site Visit to bidders before bidding

3. Coordinating with Agency at the time of initial audit of equipments and running condition, counting the equipments at the time of signing of contract as per timelines defined in this RFP.
4. Constitute a Project Monitoring Unit to provide strategic guidance and to actively monitor the project.
5. Conduct periodic inspections for assessing maintenance of system
6. Review Agency's plans of operation and maintenance
7. Review and Approve Monthly and Quarterly Progress Reports.
8. Monitor performance of the Agency during the contract period as per the SLA.
9. Quarterly settlement penalty/incentives as per SLA/RFP.
10. Approval of Technical manpower to be deployed and replacements within the contract period.

## **6. Instruction to Bidders**

### **6.1. Instructions for Online Bid submission**

1. Instructions to the Bidders to submit the bids online through the Central Public Procurement Portal for e Procurement at <https://mptenders.gov.in>.
2. Possession of valid Digital Signature Certificate (DSC) and enrollment/registration of the contractors/bidders on the e-Procurement/e-tender portal are prerequisite for e- tendering.
3. Bidder should register for the enrollment in the e-Procurement site using the "Online Bidder Enrollment" option available on the home page. Portal enrollment is generally free of charge. During enrollment/registration, the bidders should provide only valid and true information including valid email id. All the correspondence shall be made directly with the contractors/bidders through email id as registered.
4. Bidder need to login to the site through their user ID/ password chosen during enrollment/registration.
5. Then the Digital Signature Certificate (Class II or Class III Certificates with signing key usage) issued by SIFY/TCS/node/e-Mudra or any other Certifying Authority recognized by Controller of Certifying Authorities (CCA) India on e-Token/Smartcard, should be registered.
6. The registered DSC only should be used by the bidder in the transactions and should ensure safety of the same.
7. Contractor/Bidder may go through the tenders published on the site and download the tender documents/schedules for the tenders.
8. After downloading / getting the tender document/schedules, the Bidder should go through them carefully and then submit the documents as required, otherwise bid will be rejected.
9. Any clarifications may be sought online through the tender site, through the contact details or during pre-bid meeting if any. Bidder should take into account the corrigendum if any published before submitting the bids online.
10. Bidder may log in to the site through the secured login by the user id/ password chosen during enrolment/registration and then by submitting the password of the e-Token/Smartcard to access DSC.

11. Bidder may select the tender in which he/she is interested in by using the search option and then move it to the 'my tenders' folder.
12. From my tender folder, he may select the tender to view all the details uploaded there.
13. It shall be deemed that the bidder has read and understood all the terms and conditions before submitting the offer. Bidder should go through the tender schedules carefully and upload the documents as asked; otherwise, the incomplete bid shall stand rejected.
14. Bidder, in advance, should get ready the bid documents to be submitted as indicated in the tender document/schedule and ordinarily it shall be in PDF/xls/rar/jpg/dwf formats. If there is more than one document, all may be clubbed together and provided in the requested format. Bidders Bid documents may be scanned with 100 dpi with black and white option. It is advisable that each document to be uploaded through online for the tenders should be less than 2 MB. If any document is more than 2MB, it can be reduced through zip/rar and the same if permitted may be uploaded. The file size being less than 1 MB the transaction uploading time will be very fast.
15. The Bidders can update well in advance, the documents such as certificates, annual report details etc., under "My Space option" and these can be selected as per tender requirements and then send along with bid documents during bid submission. This will facilitate the bid submission process faster by reducing upload time of bids.
16. Bidder should submit the Tender Fee/ EMD as specified in the tender.
17. An undertaking for the confirmation of online submission of EMD and Bid Processing Fees shall be submitted by the Bidder as part of Pre-Qualification Bid.
18. While submitting the bids online, the bidder shall read the terms and conditions and may accept the same to proceed further to submit the bid packets.
19. The bidder has to select the payment option as online to pay the Tender FEE/ EMD as applicable and enter details of the instruments.
20. The bidder has to digitally sign and upload the required bid documents one by one as indicated. Very act of using DSC for downloading the bids and uploading their offers shall be deemed to be a confirmation that they have read, understood and agreed with all clauses of the bid document including General conditions of contract without any exception.
21. The bidder has to upload the relevant files required as indicated in the cover content. In case of any irrelevant files, the bid may be rejected.
22. The Priced bid/BOQ template shall not be modified / replaced by the bidder; else the bid submitted is liable to be rejected for the tender.
23. The bidders are advised to submit the bids through online e-tendering system to the Tender Inviting Authority (TIA) well before the bid submission due date and time (as per Server System Clock). The TIA shall not be held responsible for any delay or the difficulties faced during the submission of bids online by the bidders.
24. After the bid submission (i.e. after Clicking "Freeze Bid Submission" in the portal), the acknowledgement number indicated by the system should be printed by the bidder and kept as a record of evidence for online submission of bid for the particular tender and also be used as entry pass to participate in the bid opening.



25. The time settings fixed in the server side and displayed at the top of the tender site, shall remain valid for all actions of requesting, bid submission, bid opening etc., in the e-Tender system. The bidders should follow such time during bid submission.
26. All the data being entered by the bidders would be encrypted using Public Key Infrastructure (PKI) encryption techniques to ensure the secrecy of the data. The data entered is not retrievable by unauthorized persons during the bid submission and until the time of bid opening by any person.
27. 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 tender documents become readable only after the tender opening by the authorized bid openers.
28. The confidentiality of the bids is maintained with the use of Secured Socket Layer (SSL) 128-bit encryption technology. Data storage encryption of sensitive fields is done.
29. The bidder should logout of the tendering system using the normal logout option available at the top right-hand corner and not by selecting the (X) exit option in the browser.
30. For any queries regarding e-Tendering process, the bidders may contact at address as provided in the tender document. For any further queries, the bidders are advised to send a mail to [cejscl@mpurban.gov.in](mailto:cejscl@mpurban.gov.in).

## **6.2. General Guidelines**

1. While every effort has been made to provide comprehensive and accurate background information, requirements and envisaged solution(s) specifications, Bidders must form their own conclusions about the solution(s) needed to meet the Authority's requirements. Bidders and recipients of this RFP may wish to consult their own legal advisers in relation to this RFP.
2. All information supplied by Bidders as part of their bids in response to this RFP, may be treated as contractually binding on the Bidders, on successful award of the project by the Authority on the basis of this RFP.
3. No commitment of any kind, contractual or otherwise shall exist unless and until a formal written contract has been executed by or on behalf of Authority. Any notification of preferred bidder status by Authority shall not give rise to any enforceable rights by the Bidder. Authority may cancel this public procurement at any time prior to a formal written contract being executed by or on behalf of Authority.
4. Bids shall be received by the Authority on the e-Procurement portal <https://mptenders.gov.in> before the time and date specified in the schedule of the tender notice. In the event of the specified date for the submission of tender being declared a public holiday by the Government of Madhya Pradesh, the offers will be received up to the appointed time on the next working day. The Authority may, at its discretion, extend this deadline for submission of offers by issuing corrigendum and uploading the same on e-Procurement portal.
5. Telex, cable or facsimile offers will be rejected.

## **6.3. Compliant Bids/Completeness of Response**

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

2. Failure to comply with the requirements of this RFP may render the bid non-compliant and the Bid may be rejected. Bidders must:
- Include all documentation specified in this RFP, in the bid
  - Follow the format of this RFP while developing the bid and respond to each element in the order as set out in this RFP
  - Comply with all requirements as set out within this RFP

#### **6.4. Bidder to Inform**

The Bidder shall be deemed to have carefully examined the Terms & Conditions, Scope, Service Levels, Specifications, and Schedules of this RFP. If bidder has any doubts/clarifications as to the meaning of any portion of the Conditions or the specifications, he shall, before the last date and time for Submission of Pre-Bid Queries and submit them to Authority in writing in order that such doubt may be removed, or clarifications are provided.

#### **6.5. Bid Preparation costs**

The Bidder shall bear all costs associated with the preparation and submission of its bid.

#### **6.6. Pre-Bid Queries & Clarifications**

All queries/clarifications relating to this RFP must be submitted to the JSCL. These queries should be e-mailed in both editable (MS-Excel) and non-editable Format document (Pdf) before the last date as mentioned in the Fact Sheet. The queries should necessarily be submitted in the following Format:

#	RFP Part No.	Section No.	Page no.	Content of the RFP requiring clarification	Clarification Sought
1					
2					

Authority shall endeavor to provide timely response to all queries. However, Authority makes no representation or warranty as to the completeness or accuracy of any response made in good faith. Authority does not undertake to answer all the queries that have been posed by the bidders.

Any modifications of the RFP Documents, which may become necessary as a result of the Pre-Bid queries, shall be made by Authority exclusively through a corrigendum. Any such corrigendum shall be deemed to be incorporated into this RFP. However, in case of any such amendment, the bid submission date may be extended at the discretion of Authority.

Any corrigendum/notification issued by Authority, subsequent to issue of RFP, shall only be available/hosted on the website URL mentioned in the fact sheet. Any such corrigendum shall be deemed to be incorporated into this RFP.

#### **6.7. Language of the Bid**

The bids prepared by the Bidder and all subsequent correspondence and documents relating to the bids exchanged by the Bidder and client shall be written in English language. Any printed literature furnished by the

Bidder, written in another language, shall be accompanied by an accurate English translation, in which case, for purposes of interpretation of the Bid, the English translation shall govern.

#### **6.8. Handwritten documents, Erasures or Alterations**

The offers containing erasures or alterations will not be considered. There should be no hand-written material, corrections or alterations in the offer. Filling up of the information using terms such as “OK”, “noted”, “as given in brochure/manual” is not acceptable and may lead to the disqualification of the Bid.

#### **6.9. Firm Prices**

Prices quoted in the Bid must be firm and shall not be subject to any modifications, on any account whatsoever. The Bid Prices shall be indicated in Indian Rupees (INR) only.

The Price Bid should clearly indicate the price quoted without any ambiguity whatsoever and should include all applicable taxes, duties, fees, levies, and other charges as may be applicable in relation to the activities proposed to be carried out. Should there be a change in applicable taxes, the actual taxes on the date of billing would prevail.

Prices in any form or by any reason before opening the Price Bid should not be revealed, failing which the offer shall be liable for rejection. If price change is inevitable due to any factor external to the bidders, the bidders may be given chance to submit revised Bids in a separate sealed cover. Decisions of the Authority shall be final in this regard.

#### **6.10. Amendment of the RFP Document**

At any time prior to the submission of bids, Authority for any reason whatsoever, may, modify any element of the RFP Document by issuing a corrigendum. For the sake of interpretation, the content of any corrigendum issued by the Authority shall be read as a part of the original RFP Document. In each instance in which provisions of the Corrigendum contradict or are inconsistent/ inapplicable with the provisions of the RFP, the provisions of the Corrigenda shall prevail and govern, and the contradicted or inconsistent/inapplicable provisions of the RFP shall be deemed amended accordingly.

The Authority may in its sole discretion consider extension of deadlines for submission of the bids, in order to allow prospective bidders reasonable time to take the amendment into account while preparing their bids. All the communications with regards to the clarifications / corrigendum shall be uploaded on e-procurement website <https://mptenders.gov.in>.

It shall be the responsibility of the prospective bidder(s) to check the Authority's website and e-procurement portal from time to time for any amendment in the RFP document. In case of failure to get the amendments, if any, Authority shall not be responsible.

#### **6.11. Inspection of Site and sufficiency of RFP**

Bidder is expected to work out their own rates based on the detailed description of scope of work, the specifications, SLA conditions, etc. and should judiciously arrive at the bidding price. The Bidder shall be deemed to have satisfied itself before Bid submission as to correctness and sufficiency of its bid. The rates quoted by bidder shall cover all its obligations under the RFP necessary for proper execution of the project including O&M.

If necessary, before submitting its Bid the Bidder should inspect and examine various stations and its surroundings and shall satisfy itself about form and nature of the sites/ means of access to the Sites, and in general, obtain all necessary information which may influence or affect Project implementation and operationalization. No extra charges consequent on any misunderstanding or otherwise shall be allowed.

#### **6.12. Deviations and Exclusions**

Bids shall be submitted strictly in accordance with the requirements and terms & conditions of the RFP. The bids with deviation(s) are liable for rejection.

#### **6.13. Total Responsibility**

Bidder should issue a statement undertaking total responsibility for the defect free operation of the proposed solution as per the format mentioned in **Section 7.9**.

#### **6.14. Right to vary quantity**

1. At the time of award of contract, the quantity of goods, works or services originally specified in the bidding documents may be increased or decreased. It shall be without any change in the unit prices or other terms and conditions of the Bid and the bidding documents.
2. Repeat orders for extra items or additional quantities may be placed, if it is provided in the bidding document, on the rates and conditions given in the contract if the original order was given after inviting open competitive bids. Delivery or completion period may also be proportionally increased.

#### **6.15. Withdrawal, Substitution and Modification of Bids**

1. A Bidder may withdraw its Bid or re-submit its Bid (technical and/ or financial) as per the instructions/ procedure mentioned at e-Procurement website.
2. Bids withdrawn shall not be opened and processed further.

#### **6.16. Opening of Bids**

The Bids shall be opened by Authority in presence of those Bidders or their representatives who may be present at the time of opening. The representatives of the bidders are advised to carry the identity card or a letter of authority from the bidder firms to identify that they are bona fide representatives of the bidder firm, for attending the opening of bid.

There will be two bid opening events.

1. Set 1 (Bid Processing Fess & EMD, Pre-Qualification bid & Technical bid)
2. Set2 (Price bid)

The venue, date and time for opening the Pre-qualification bid and technical bid are mentioned in the Fact sheet. The date and time for opening of price bid would be communicated to the qualified bidders. Bids received within the prescribed closing date and time will be opened on the e procurement platform, on the date, time and at the address mentioned in the RFP Document.

1. Pre-Qualification & Technical bids of only those Bidders shall be evaluated who have submitted the prescribed Bid Processing fees and EMD.
2. Price Bid of only those Bidders shall be opened who obtain minimum 70 marks in the technical evaluation in this RFP.

#### **6.17. Preliminary Examination of Bids**

Authority shall examine the bids to determine whether they are complete, whether the documents have been properly signed and whether the bids are generally in order. Any bids found to be non-responsive for any reason or not meeting any criteria specified in the RFP, shall be rejected by Authority and shall not be included for further consideration.

Initial Bid scrutiny shall be held, and bids will be treated as non-responsive, if bids are:

1. Not submitted in format as specified in the RFP document
2. Received without the Letter of Authorization (Power of Attorney)
3. Found with suppression of details
4. With incomplete information, subjective, conditional offers and partial offers submitted
5. Submitted without the documents requested
6. Non-compliant to any of the clauses mentioned in the RFP
7. With lesser validity period

#### **6.18. Financial/Price Bid Criteria**

**The Bidder shall indicate in the proforma prescribed at the time of Bidding in portal.**

The Bidder shall prepare the Bid based on details provided in the RFP document. It must be clearly understood that the Scope of Work is intended to give the Bidder an idea about the order and magnitude of the work and is not in any way exhaustive and guaranteed by the Authority. It shall be the responsibility of the Bidder to fully meet all the requirements and objectives of the RFP. If during the course of execution of the project any minor revisions to the work requirements like technical specifications, equipment sizing, etc. are to be made to meet the goals of the Project; such changes shall be carried out with prior approval and at no cost to JSCL. If any deviation has a major impact on the Project Cost, the Authority shall take appropriate decision and such decisions would be binding on the Bidder.

#### **6.19. Changes in the Quantities**

The bidder is bound to execute all the supplemental works that are found essential, incidental and inevitable during execution of project works.

#### **6.20. Payment Certificates**

The Bidder shall submit to the Authority monthly/quarterly statements of the work completed and success of the project along with all the required report and details of the payments made to JSCL.

#### **6.21. Conditional bids/Offer by the Bidders**

The Bidder should abide by all terms and conditions specified in the RFP Document. Conditional bids/offers shall be liable for disqualification.

#### **6.22. Late Tender bids**

Any bid received by client after the deadline for submission of bid prescribed by the Authority, will be summarily rejected.

#### **6.23. Bid Validity Period**

Bids shall be valid for a period of 90 days (Ninety days) from the last date of submission of the bids. A Bid valid for shorter period may be considered as non-responsive. In exceptional circumstances, at its discretion, Authority

may solicit the bidder's consent for an extension of the validity period. The request and the responses thereto shall be made in writing or by fax or email.

#### **6.24. Address for Communication**

Bids should be addressed to the Authority at below given address:

**Chief Executive Officer,  
Jabalpur Smart City Limited  
Manas Bhawan, Hotel Satya Ashoka Road,  
Wright Town, Jabalpur,  
Madhya Pradesh 482002.**

#### **6.25. Opening of Bids**

Bids received within the prescribed closing date and time will be opened on the e-procurement platform, on the date, time and at the address mentioned in the RFP Documents.

1. Pre-Qualification & Technical bids of only those Bidders shall be evaluated who have submitted the prescribed Bid Processing fees and EMD.
2. Price Bid of only those Bidders shall be opened who obtain minimum 70 marks in the overall technical evaluation or other criteria set out by Technical Evaluation Committee.

#### **6.26. Clarification of Bids**

To assist in the scrutiny, evaluation and comparison of bids, Authority may, at its discretion, ask some or all bidders for clarifications with regards to their Bid. The request for such clarifications and the response will necessarily be in writing (by letter / fax / email). Failure of a Bidder to submit additional information or clarification as sought by Authority within the prescribed period will be considered as non-compliance and the Proposal may get evaluated based on the limited information furnished along with the bids.

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

Authority reserves the right to accept or reject any Bid, and to annul the RFP process and reject all bids at any time prior to award of contract, without thereby incurring any liability to the affected Bidder(s) or any obligation to inform the affected Bidder(s) of the grounds for such action.

Bid should be free of over writing. All erasures, correction or addition must be clearly written both in words and figures (if applicable) and attested.

In the event of any assumptions, presumptions, key points of discussion, recommendation or any points of similar nature are submitted along with the Bid, Authority reserves the right to reject the Bid and forfeit the EMD.

If there is any discrepancy in the price bid, it will be dealt as per the following:

1. If, in the price structure quoted for the required Product and services, there is discrepancy between the unit price and total price (which is obtained by multiplying the unit price by the quantity), only the total price/cost as quoted.
2. If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail, and the total shall be corrected.

3. If there is a discrepancy between words and figures, the in words shall prevail.
4. If there is such discrepancy in an offer, the same shall be conveyed to the bidder with target date up to which the bidder has to send his acceptance and if the bidder does not agree to the decision of Authority, the bid is liable to be disqualified.

#### **6.28. Non-Conforming bids**

A bid may be construed as a non-conforming bids and ineligible for consideration:

1. If it does not comply with the requirements of this RFP.
2. If a bid does not follow the format requested in this RFP or does not appear to address the particular requirements of the solution.

#### **6.29. Confidentiality**

All the material/information shared with the Bidder during the course of this procurement process as well as the subsequent resulting engagement following this process with the successful bidder, shall be treated as confidential and should not be disclosed in any manner to any unauthorized person under any circumstances. The employees of the successful bidder who are proposed to be deployed on the project need to furnish a Non-Disclosure Agreement (NDA).

#### **6.30. Notification of Award**

Authority will notify the Successful Bidder via letter / fax /email of its intent of accepting the bid. Within 7 days of receipt of the Letter of Intent (LOI) issued by the Authority, the Successful Bidder shall be required to sign the LOI and return the same to the address specified above as a token of acceptance of the LOI.

#### **6.31. Performance Bank Guarantee**

As a condition precedent to execution of the Agreement, the Successful Bidder shall ensure submission of the requisite unconditional irrevocable Bank Guarantee, in the prescribed Format within 7 days of receipt of the LOI as a Performance Bank Guarantee (PBG) for the services to be performed under the resultant Agreement. **The Bank Guarantee of 5% of Contract value shall be paid against the Project scope must be issued by a Nationalized/Scheduled Commercial Bank.** The Performance Bank Guarantee shall be valid up to 60 days beyond the term of the resultant Agreement and shall be renewed and maintained as necessary by the Implementation Agency for the term of the resultant Agreement, and extensions if any.]

The Performance Bank Guarantee may be liquidated by the Authority as penalty/liquidated damages resulting from the Implementation Agency failure to complete its obligations under the resultant Agreement. The Performance Bank Guarantee shall be returned by Authority to the Bidder within 120 days of the term/expiration of the resultant Agreement after applicable deductions as per the Agreement, if any.

#### **6.32. Signing of Contract**

Subsequent to Authority notification to the Successful Bidder by way of an LOI, acceptance of the LOI and submission of the Performance Guarantee, the Successful Bidder shall execute the Agreement with the client. Failure of the Successful Bidder to furnish the Performance Guarantee or execute the Agreement within the prescribed time shall cause the EMD of the Successful Bidder to be liquidated. In such event, client shall negotiate with the next eligible bidder. The Successful Bidder will be liable to indemnify client for any additional cost or expense, incurred on account of failure of the Successful Bidder to execute the Agreement.

Notwithstanding anything to the contrary mentioned above, the Authority at its sole discretion shall have the right to extend the timelines for execution of Agreement on the request of the Successful Bidder, provided the same is bonafide.

### **6.33. Rejection criteria**

Besides other conditions and terms highlighted in the RFP Document, bids may be rejected under following circumstances:

#### **A. General rejection criteria**

1. Conditional Bids;
2. If the information provided by the Bidder is found to be incorrect / misleading / fraudulent at any stage / time during the RFP Evaluation Process;
3. Any effort on the part of a Bidder to influence the bid evaluation, bid comparison or contract award decisions;
4. Bids received after the prescribed time & date for receipt of bids;
5. Bids without signature of person (s) duly authorized on required pages of the bid;
6. Bids without power of attorney/ board resolution or its certified true copy.
7. Bids received without submission of the prescribed Bid processing fee and EMD.
8. Bidder tries to influence the bid evaluation process by unlawful/corrupt/fraudulent means at any point of time during the bid process.
9. In case any bidder submits multiple bids or if common interests are found in two or more bidders, the bidders are likely to be disqualified, unless additional bids/bidders are withdrawn upon notice immediately.

#### **B. Pre-Qualification rejection criteria**

1. Bidders not complying with the Eligibility Criteria given in this RFP;
2. Revelation of prices in any form or by any reason before opening the Price Bid;
3. Failure to furnish all information required by the RFP Document or submission of a Bid not substantially responsive to the RFP Document in any aspect;

#### **C. Technical rejection criteria**

1. Technical Bid containing Price details;
2. Revelation of Prices in any form or by any reason before opening the Price Bid;
3. Failure to furnish all information required by the RFP Document or submission of a Bid not substantially responsive to the RFP Document in any aspect;
4. Bidders not quoting for the complete scope of work as indicated in the RFP Documents, addendum /corrigendum (if any) and any subsequent information given to the Bidder;
5. Bidders not complying with the Technical/Functional and General Terms and conditions as stated in the RFP Documents;
6. The Bidder not confirming unconditional acceptance of full responsibility of providing services in accordance with the scope of work and Service Level Agreements of this RFP.

#### **D. Price Bid Rejection Criteria**



1. Incomplete Price Bid;
2. Price Bids that do not conform to the RFP 's Price Bid Format;
3. If there is an arithmetic discrepancy in the Price Bid calculations the RFP Evaluation Committee shall rectify the same. If the Bidder does not accept the correction of the errors, its Bid may be rejected.

#### **6.34. Concessions permissible under statutes**

Bidder, while quoting against this RFP, must take cognizance of all concessions permissible, if any, under the statutes and ensure the same is passed on to the Authority, failing which it will have to bear extra cost. In case Bidder does not avail concessional rates of levies like customs duty, excise duty, sales tax, etc. client will not take responsibility towards this. However, the Authority may provide necessary assistance, wherever possible, in this regard.

#### **6.35. Taxes**

The Bidders shall fully familiarize themselves about the applicable domestic taxes (such as GST, value added or sales tax, service tax, income taxes, duties, fees, levies etc.) on amounts payable to client under the Agreement. Quoted revenue share percentage shall be inclusive of all the applicable taxes.

#### **6.36. Records and Information**

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

#### **6.37. Terms of Payment**

1. The request for payment shall be made by the Authority in writing, accompanied by invoices describing, as appropriate, the services performed, and by the required documents submitted pursuant to conditions of the contract and upon fulfilment of all the obligations stipulated in the Contract.
2. Due payments shall be made promptly by the Agency, within Fifteen (15) days after submission and acceptance of an invoice or request for payment by JSCL.
3. The currency or currencies in which payments shall be made to the Implementation Agency under this Contract shall be Indian Rupees (INR) only.
4. All remittance charges shall be borne by the Implementation Agency.
5. In case of disputed items, the disputed amount shall be withheld and shall be paid only after settlement of the dispute.
6. Any penalties/ liquidated damages, as applicable, for delay and non-performance, as mentioned in this RFP document, shall be added in the due payments of the respective quarter.
7. Taxes, as applicable, shall be deducted / paid, as per the prevalent rules and regulations.

#### **6.38. Right to vary the scope of Work**

The Authority reserves its right to make changes to the scope of the work at the time of execution of the resultant Agreement. If any such change causes an increase or decrease in the cost of, or the time required for the Implementation Agency's performance of any part of the work under the Agreement, whether changed or not changed by the order, an equitable adjustment (if required) shall be made in the Contract Value or time schedule, or both, and the Agreement shall accordingly be amended. Any claims by the Implementation Agency for

adjustment under this Clause must be asserted within thirty (30) days from the date of the Implementation Agency's receipt of the client changed order.

#### **6.39. Fraud and corruption**

Authority requires that Bidder must observe the highest standards of ethics during the entire process of RFP evaluation and during execution of the contract. In pursuance of this policy, client defines, for the purpose of this provision, the terms set forth as follows:

**"Corrupt practice"** means the offering, giving, receiving or soliciting of anything of value to influence the action of the Authority in contract executions.

**"Fraudulent practice"** means a misrepresentation of facts, in order to influence a procurement process or the execution of a contract, to the Authority, and includes collusive practice among bidders (prior to or after Proposal submission) designed to establish Proposal prices at artificially high or non-competitive levels and to deprive the Authority of the benefits of free and open competition.

**"Unfair trade practices"** means supply of services different from what is ordered on or change in the Scope of Work which is given by the Authority in this RFP.

**"Coercive Practices"** means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the execution of contract.

Authority shall reject the Bid proposal for award of contract, if it determines that the Bidder recommended for award, has been found to have been engaged in corrupt, fraudulent or unfair trade practices. Once the contract is signed and if it is noticed that the Implementation Agency has indulged into the Corrupt / Fraudulent / Unfair / Coercive practices, it will be a sufficient ground for client for termination of the contract and initiate blacklisting of the Implementation Agency.

#### **6.40. Conflict of Interest**

1. A bidder shall not have a conflict of interest that may affect the Selection Process or the Solution delivery (the "Conflict of Interest"). Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, Authority shall forfeit and appropriate the EMD, if available, as mutually agreed genuine pre-estimated compensation and damages payable to Authority for, inter alia, the time, cost and effort of Authority including consideration of such Bidder's Bid, without prejudice to any other right or remedy that may be available to Authority hereunder or otherwise.
2. Authority requires that the bidder provides solutions which at all times hold Authority's interests paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The bidder 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 Authority.
3. The bidder privy to the proposal shall not be allowed to bid.
4. Conflict of interest to be a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations.
5. A Bidder participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which the party is involved.
6. Any Bidder found to have a Conflict of Interest shall be disqualified.

#### **6.41. Consortium and Sub-Contracting**

##### **Consortium/JV is not allowed.**

Sub-contracting shall be allowed only with prior written approval of the Authority. However, even if the work is sub-contracted, the sole responsibility of the work shall lie with the Bidder. The Bidder shall be held responsible for any delay/error/non-compliance, etc. of its sub-contracted vendor. The details of the sub-contracting agreements (if any) between both the parties would be required to be submitted to the Authority.

## 7. Annexure 1- Formats of Pre-Qualification Bid

### 7.1. Indicative Checklist for the Documents to be included in the Pre-Qualification Bid.

S. No.	Description	Compliance (Yes/No)	Documentary Proof
1.	Pre-Qualification Checklist		Section 7.1 of Annexure 1
2.	Bid Cover Letter		Section 7.2 of Annexure 1
3.	Particulars of the bidders		Section 7.3 of Annexure 1
4.	Power of attorney / board resolution to the authorized Signatory of the Bid		Section 7.4 of Annexure 1
5.	The Bidder should be a Company registered under the Companies Act 1956 or Partnership firm registered under the Partnership Act of 1932 or Companies Act 2013 or registered (converted to) under the Indian Limited Liability Partnership Act, 2008 in India and must be operational for at least 3 years as on publication of bid.		
6.	The Bidder should have an average annual turnover of at least INR 5 crores in last three financial years same line of Business as mentioned in Scope of Work (FY 20-21, FY 21-22, FY 22-23).		Section 7.5 of Annexure 1
7.	The Bidder must have positive net worth as per last audited financial year.		Section 7.6 of Annexure 1
8.	The Bidder must not be blacklisted by any Central / State Government Department or Central/State Public Sector Units (PSUs), Government (Central / State / PSU/ World Bank/Asian Development Bank), Other Smart Cities, Urban Local Bodies, Multi-Lateral agency organizations in India as on the bid submission date.		Section 7.7 of Annexure 1
9.	No Deviation Certificate		Section 7.8 of Annexure 1

S. No.	Description	Compliance (Yes/No)	Documentary Proof
10.	Total Responsibility Certificate		Section 7.9 of Annexure 1
11.	E.M.D.- to be submitted online		Section 7.10 of Annexure 1
12.	Self-declaration for Rule 144 GFR reg.		Section 7.11 of Annexure 1
13.	Self-declaration/ Sub-Contracting Reg.		Section 7.12 of Annexure 1
14.	Valid Class III Electrical License		
15.	Bidder Should be ISO 270001:2013 and 9001:2015 Certified		

## 7.2. Pre-Qualification Bid Cover Letter

*(To be submitted on the letterhead of the Bidder)*

To  
Chief Executive Officer,  
Jabalpur Smart City Limited  
Manas Bhawan, Hotel Satya Ashoka Road,  
Jabalpur, Madhya Pradesh-462023.

**Subject:** RFP for Selection of Agency for Comprehensive Maintenance and Operations Support for Integrated Command and Control Centers Project for Jabalpur Smart City

**Ref:** Tender No :<No> Dated<DD/MM/YYYY>

Sir/ Madam,

Having examined the RFP, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to provide the professional services as required and outlined in the RFP for Selection of Agency for Comprehensive Maintenance and Operations Support for Integrated Command and Control Centers Project for Jabalpur Smart City.

We attach here to our responses to pre-qualification requirements, Technical and Price Bids as required by the RFP. We confirm that the information contained in these responses or any part thereof, including the exhibits, and other documents and instruments delivered or to be delivered client is true, accurate, verifiable and complete. This response includes all information necessary to ensure that the statements therein do not in whole or in part mislead the department in its short-listing process.

We fully understand and agree to comply that on verification, if any of the information provided here is found to be misleading the selection process, we are liable to be disqualified from the selection process or termination of the contract during the project, if selected to do so.

We agree for unconditional acceptance of all the terms and conditions set out in the RFP Document and also agree to abide by this RFP response for a period of 90 days from the date fixed for bid submission. We hereby declare that in case the contract is awarded to us, we shall submit the performance bank guarantee bond in the form prescribed in the RFP.

We agree that you are not bound to accept any RFP response you may receive. We also agree that you reserve the right in absolute sense to reject all or any of the bids and also all or any of the products/ services specified in the RFP response.

It is hereby confirmed that I/We are entitled to act on behalf of our company/ corporation/ firm/ organization and empowered to sign this document as well as such other documents, which may be required in this connection.

Dated this     Day of     2024

(Signature)

(In the capacity of)

(Name)

Duly authorized to sign the RFP response for and on behalf of:

(Name and Address of Company) seal/stamp of Bidder

### 7.3. Bidder Details

#	Details of Bidder	Details
1.	Organization Name	
2.	Legal Status (Company/Pvt. Ltd/LLP etc.)	
3.	Registered Office Address	
4.	Incorporation/Registration Date and No.	
5.	GSTN Number	
6.	PAN Details	
7.	Primary Contact Person (Name, Designation, Address, Mobile No. Email, Fax)	
8.	Secondary Contact Person (Name, Designation, Address, Mobile No., Email, Fax)	

Note: To be Provided by all the Bidder Including the Consortium Partners

#### **7.4. Format for Power of Attorney for signing the Bid.**

***(On INR 100.00 Non judicial Stamp Paper and duly notarized)***

KNOW ALL MEN BY THESE PRESENTS,

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

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

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

For \_\_\_\_\_

(Signature, name, designation and address)

Witnesses:

1. (Notarized)

2.

Accepted

(Signature, Name, Title and Address of the Attorney)

Notes:

The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.

Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favor of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.



In case the bid is signed by an authorized Director / Partner or Proprietor of the Bidder, a certified copy of the appropriate board resolution / document conveying such authorization to client may be enclosed in lieu of the Power of Attorney.

**7.5.    Format for Annual Turnover**

***Requirements: The Average Annual Turnover to be provided in the following format for the last 3 Audited Financial Years***

Financial Information			
Financial Year	2021-22	2022-23	2023-24
Annual Turnover (in INR)			
AVERAGE ANNUAL TURNOVER			
Note: Annual turnover should be supported by Audited Balance Sheet and certified by Statutory Auditors.			

## 7.6. Certificate for Net Worth

Date:

To

Chief Executive Officer,

Jabalpur Smart City Limited

Manas Bhawan, Hotel Satya Ashoka Road,

Jabalpur, Madhya Pradesh-482003.

Sir/Madam,

We hereby certify that Net Worth of M/S\_\_\_\_\_ (name of the bidder) as on 31<sup>st</sup> March 2024 is positive and is as given below:

Net worth as on 31 <sup>st</sup> March 2024 in India Rupees (In Crore)		
Particular		As on 31 <sup>st</sup> March, 2023
Total		

(Signature of Statutory Auditor)

Name of Statutory Auditor:

Name of Statutory Auditor Firm:

Seal

### **7.7. Declaration of Non-Blacklisting**

(To be executed on Rs.100/- Stamp paper & attested by Public Notary/Executive Magistrate by the bidder)

To,  
Chief Executive Officer,  
Jabalpur Smart City Limited  
Manas Bhawan, Hotel Satya Ashoka Road,  
Jabalpur, Madhya Pradesh-462023.

**Subject:** Self-Declaration of not been blacklisted in response to the RFP for Selection of Agency for Comprehensive Maintenance and Operations Support for ITMS Project for Jabalpur Smart City

**Ref:** RFP No. <<.....>> dated << .....>>

Dear Sir,

We confirm that our company or firm, \_\_\_\_\_, is currently not blacklisted in any manner whatsoever by any Central / State Government Department or Central/State Public Sector Units (PSUs), Government (Central / State / PSU/ World Bank/Asian Development Bank), Other Smart Cities, Local Bodies, Multi-Lateral agency organizations in India on any ground including but not limited to indulgence in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.

(Signature of the Bidder)

Printed Name

Designation

Seal

Date:

Place:

Business Address:

## **7.8. No Deviation Certificate**

***(To be provided on the Company letter head)***

To,  
Chief Executive Officer,  
Jabalpur Smart City Limited  
MANAS BHAWAN, HOTEL SATYA ASHOKA ROAD,  
Jabalpur, Madhya Pradesh-482003.

Subject: Self-Declaration for No Deviation in response to the RFP for Selection of Agency for Comprehensive Maintenance and Operations Support for ITMS Project for Jabalpur Smart City

Ref: RFP No. <<.....>> dated << .....>>

Dear Sir,

This is to certify that our offer is exactly in line with your tender enquiry/RFP (including amendments) no. \_\_\_\_\_dated \_\_\_\_\_. This is to expressly certify that our offer contains no deviation either Technical (including but not limited to Scope of Work, Business Requirements Specification, Functional Requirements Specification, Hardware Specification and Technical Requirements Specification) or Commercial in either direct or indirect form.

(Authorized Signatory)

Printed Name

Designation

**Seal**

Date:

Place:

Business Address:

### **7.9. Total Responsibility Certificate**

***(To be provided on the Company letter head)***

To,  
Chief Executive Officer,  
Jabalpur Smart City Limited  
Manas Bhawan, Hotel Satya Ashoka Road,  
Jabalpur, Madhya Pradesh-482003.

**Subject:** Self Declaration for Total Responsibility in response to the RFP for Selection of Agency for Comprehensive Maintenance and Operations Support for ITMS Project for Jabalpur Smart City

**Ref:** RFP No. <<.....>> **dated** << .....>>

Dear Sir,

This is to certify that we undertake the total responsibility for the defect free operation of the proposed solutions as per the requirement of the RFP for the duration mentioned in the RFP.

(Authorized Signatory)

Printed Name

Designation

**Seal**

Date:

Place:

## 7.10. Format for PBG

**[On Appropriate Stamp Paper]**

Ref:

Date

Bank Guarantee No.

< Name>

<Designation>

<Address><Phone Nos.><Fax Nos.><Email id>

Whereas <<name of the supplier and address>> (hereinafter called “the Agency”) has undertaken, in pursuance of contract no. <Insert Contract No.> dated. <Date> to provide Implementation services for << RFP for Selection of Agency for Comprehensive Maintenance and Operations Support for ITMS Project for Jabalpur Smart City>>.

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

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

Now, therefore, we hereby affirm that we are guarantors and responsible to you, on behalf of the supplier, up to a total of Rs.<Insert Value> (Rupees <Insert Value in Words> only) and we undertake to pay you, upon your first written demand declaring the supplier to be in default under the contract and without cavil or argument, any sum or sums within the limits of Rs. <Insert Value> (Rupees <Insert Value in Words> only) as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the bidder before presenting us with the demand.

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

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

Notwithstanding anything contained herein:

- i. Our liability under this bank guarantee shall not exceed Rs. <Insert Value> (Rupees <Insert Value in Words> only).
- ii. This bank guarantee shall be valid up to <Insert Expiry Date>)
- iii. It is condition of our liability for payment of the guaranteed amount or any part thereof arising under this bank guarantee that we receive a valid written claim or demand for payment under this bank guarantee on or before <Insert Expiry Date>) failing which our liability under the guarantee will automatically cease.

Date:

Place:

Signature:

Witness:                      Printed name:

(Bank's common seal)

**7.11.    Format for Self-declaration for Rule 144 GFR reg.**

***(To be submitted on the letterhead of the Bidder)***

To,  
Chief Executive Officer,  
Jabalpur Smart City Limited  
Manas Bhawan, Hotel Satya Ashoka Road,  
Jabalpur, Madhya Pradesh-482003.

**Subject:** RFP for Selection of Agency for Comprehensive Maintenance and Operations Support for ITMS Project for Jabalpur Smart City

**Ref:** Tender No :< No> Dated<DD/MM/YYYY>

Sir/ Madam,

I/We also represent that company is not a subsidiary/ affiliate/ attached office of any border Companies as may be banned by Government of India for doing business in India as per revision of GFR Rules, 2020 or, if from such a country, has been statutorily registered with the competent authority as per the procedure laid down in reference to Government Orders in this regard.

I/We hereby agree to provide copy of and/or produce original of all such documents as may be necessarily required to be submitted for evidence in this regard.

I/We hereby certify that this bidder fulfils all requirements in this regard and is eligible to be considered.

Sincerely,

(Signature of Authorised Signatory)

(Name, Designation and Company Seal)

## **7.12. Format for Self-declaration/ Sub-Contracting Reg.**

***(To be submitted on the letterhead of the Bidder)***

To,  
Chief Executive Officer,  
Jabalpur Smart City Limited  
Manas Bhawan, Hotel Satya Ashoka Road,  
Jabalpur, Madhya Pradesh-482002.

**Subject:** RFP for Selection of Agency for Comprehensive Maintenance and Operations Support for ITMS Project for Jabalpur Smart City

**Ref:** Tender No :< No> Dated<DD/MM/YYYY>

Sir/ Madam,

I/we have read and understood the clause \_\_\_\_ regarding restrictions on procurement from the bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries.

I/We certify that this bidder is not from such a country or, if from such a country, has been registered with the competent authority as per the procedure laid down in reference to Government Orders in this regard.

I/We hereby agree to provide copy of and/or produce original of all such documents as may be necessarily required to be submitted for evidence in this regard.

I /We further undertake to not subcontract any work to a contractor from any prohibited countries. I/We hereby certify that this bidder fulfils all requirements in this regard and is eligible to be considered"

Sincerely,

(Signature of Authorised Signatory)

(Name, Designation and Company Seal)



### **7.13. Format for Self-certification for Class II/Class III Valid Electrical License**

***(To be submitted on the letterhead of the Bidder)***

To,  
Chief Executive Officer,  
Jabalpur Smart City Limited  
Manas Bhawan, Hotel Satya Ashoka Road,  
Jabalpur, Madhya Pradesh-482002.

**Subject:** RFP for Selection of Agency for Comprehensive Maintenance and Operations Support for ITMS Project for Jabalpur Smart City

**Ref:** Tender No :< No> Dated<DD/MM/YYYY>

Sir/ Madam,

As per No. P-45021/2/2017-PP (BE-II) dated 4th June 2020 and subsequent orders, the class II/class III valid electrical license has to provide the certificate giving the confirmation that the items offered meet the local content requirement and also mention the details like detail of items, location of local value addition, percentage of local content.

We hereby certify / provide the following details:

1. Details of items
2. Location of local value addition
3. Percentage of local content.

Sincerely,

(Signature of Authorised Signatory)

(Name, Designation and Company Seal)

## 8. Annexure 2 – Formats of Technical Bid

### 8.1. Technical Bid Checklist

#	Documents to Submit	Compliance (Yes/No)	Documentary Proof (Pg. No.)
1.	Technical Bid Covering Letter		Format given in Section 8.2
2.	Project Experience/Project Citation		Format given in Section 8.3
3.	Details of Technical Manpower Proposed		
4.	Format for Authorization Letters from OEMs		

## 8.2. Technical Bid Covering Letter

*(To be submitted on the letterhead of the Bidder)*

To,  
Chief Executive Officer,  
Jabalpur Smart City Limited  
Manas Bhawan, Hotel Satya Ashoka Road,  
Jabalpur, Madhya Pradesh-482002.

**Subject:** RFP for Selection of Agency for Comprehensive Maintenance and Operations Support ITMS Project for Jabalpur Smart City

**Ref:** Tender No :<No> Dated<DD/MM/YYYY>

Sir/ Madam,

I, <<name of the Bidder>>, having read and examined in detail all the bidding documents in respect of “RFP for Selection of Agency for Comprehensive Maintenance and Operations Support for Integrated Command and Control Centers Project for Jabalpur Smart City” do hereby propose to provide our services as specified in the bid submitted by us.

It is hereby confirmed that I am entitled to act on behalf of our company / corporation / firm / organization and empowered to sign this document as well as such other documents, which may be required in this connection. We declare that all the services shall be performed strictly in accordance with the RFP documents.

We confirm that the information contained in this response or any part thereof, including its exhibits, and other documents and instruments delivered or to be delivered to Authority, is true, accurate, verifiable and complete. This response includes all information necessary to ensure that the statements therein do not in whole or in part mislead the department in its evaluation process. We also confirm that we shall not attract conflict of interest in principle.

We hereby declare that in case the contract is awarded to us, we shall submit the contract Performance bank guarantee in the form prescribed at Section 7.11 of the RFP.

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

We understand that our bid is binding on us and that you are not bound to accept a Bid you receive. This bid is valid for 90 days after opening of technical bid. We shall extend the validity of the bid if required by Authority.

Thanking you,  
Yours sincerely,  
(Signature of the Bidder)  
Printed Name  
Designation  
Seal  
Date:  
Place:

### 8.3. Project Experience/Citation

Date:

To,  
Chief Executive Officer,  
Jabalpur Smart City Limited  
Manas Bhawan, Hotel Satya Ashoka Road,  
Jabalpur, Madhya Pradesh-482002.

Sir/Madam,

I have carefully gone through the Terms & Conditions contained in the RFP for Selection of Agency for Comprehensive Maintenance and Operations Support for ITMS Project for Jabalpur Smart City. I hereby declare that below are the details regarding relevant work that has been taken up by our company.

Note: To be filled for separately for each project undertaken

<b>Name of the client</b>	
<b>Project Name</b>	
<b>Brief Description</b>	
<b>Activities performed by the bidder for the project</b>	
<b>Year (start date; end date)</b>	
<b>Duration</b>	
<b>Order value (INR)</b>	
<b>Supporting documents</b>	



## **9. Annexure 3 – Formats of Price Bid (Online Only)**

### **9.1. Price Bid – Cover Letter**

*(To be Submitted as Price Bid)*

To,  
Chief Executive Officer,  
Jabalpur Smart City Limited  
Manas Bhawan, Hotel Satya Ashoka Road,  
Jabalpur, Madhya Pradesh-482002.

**Subject:** RFP for Selection of Agency for Comprehensive Maintenance and Operations Support for ITMS Project for Jabalpur Smart City

**Ref:** Tender No :<No> Dated<DD/MM/YYYY>

Dear Sir,

We, the undersigned Bidder, having read and examined in detail all the RFP for Selection of Agency for Comprehensive Maintenance and Operations Support for Integrated Command and Control Centers Project for Jabalpur Smart City do hereby propose to provide services as specified in the RFP Documents number Tender No :<No> Dated<DD/MM/YYYY> as per below terms and conditions:

#### **1. PRICE AND VALIDITY**

- All the prices mentioned by us in this Price Bid are in accordance with the terms as specified in the RFP Documents. All the prices and other terms and conditions of this RFP are valid for a period of 90 calendar days from the date of submission of the Bid.
- We hereby confirm that our prices include all taxes, charges, levies etc. to be payable to various govt./non-govt./local authorities.
- We understand and agree that the finalization/selection of the Implementation Agency is solely based on the L1, subject to fulfilment of eligibility criteria.

#### **2. UNIT RATES**

We also understand and agree that the unit rates of various components in the Price Bid also should be quoted, without which the bid is liable to be rejected by the technical/ evaluation committee. The decision of the committee shall be final and binding on all in this regard.

We have indicated in the Price Bid, the unit rates for the purpose of payment as well as for price adjustment in case of any increase to / decrease from the scope of work or quantities under the contract. We understand and agree that the unit rates will not be considered for evaluation, finalization/selection of the Implementation Agency under this RFP.

#### **3. QUALIFYING DATA**

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

#### **4. BID PRICE**

We declare that our Bid Price is for the entire scope of the work as specified in the RFP Document.

**CONTRACT PERFORMANCE BANK GUARANTEE**

We hereby declare that in case the contract is awarded to us, we shall submit the contract Performance Bank Guarantee in the form prescribed in the RFP.

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

We understand that our response to the RFP is binding on us and that you are not bound to accept an RFP you receive.

Thanking you,

Yours faithfully,

(Signature of the Bidder)

Name

Designation

Seal.

Date:

Place:

Business Address:

**9.2. General instructions for price bid**

1. Quoted Rates shall be inclusive of all the Applicable Taxes Excluding GST.
2. Nil Value Quote against any of the line items shall lead to disqualification of the bidder.
3. Proposed salary structure for category F should not be less than minimum wages of skilled employees.

## 10. Annexure 5- Non-Disclosure Agreement

WHEREAS, we the undersigned Bidder, \_\_\_\_\_, having our principal place of business or registered office at \_\_\_\_\_, are desirous of bidding for RFP No. <<>> dated <<DD-MM-YYYY>> “RFP for Selection of Agency for Comprehensive Maintenance and Operations Support for Integrated Command and Control Centers Project for Jabalpur Smart City” (hereinafter called the said 'RFP') to the “JSCL”, hereinafter referred to as 'Authority'

And,

WHEREAS the Bidder is aware and confirms that the Authority's business or operations, information, application or software, hardware, business data, architecture schematics, designs, storage media and other information or documents made available by the Authority in the RFP documents during the bidding process and thereafter, or otherwise (confidential information for short) is privileged and strictly confidential and or proprietary to the Authority,

NOW THEREFORE, in consideration of disclosure of confidential information, and in order to ensure the Authority's grant to the Bidder of specific access to Authority's confidential information, property, information systems, network, databases and other data, the Bidder agrees to all of the following conditions.

It is hereby agreed as under:

1. The confidential information to be disclosed by the Authority under this Agreement (“Confidential Information”) shall include without limitation, any and all information in written, representational, electronic, verbal or other form relating directly or indirectly to processes, methodologies, algorithms, risk matrices, thresholds, parameters, reports, deliverables, work products, specifications, architecture, project information, security or zoning strategies & policies, related computer programs, systems, trend analysis, risk plans, strategies and information communicated or obtained through meetings, documents, correspondence or inspection of tangible items, facilities or inspection at any site to which access is permitted by the Authority.
2. Confidential Information does not include information which:
  - a. the Bidder knew or had in its possession, prior to disclosure, without limitation on its confidentiality.
  - b. information in the public domain as a matter of law.
  - c. is obtained by the Bidder from a third party without any obligation of confidentiality.
  - d. the Bidder is required to disclose by order of a competent court or regulatory authority.
  - e. Is released from confidentiality with the written consent of the Authority.
3. The Bidder agrees to hold in trust any Confidential Information received by the Bidder, as part of the Tendering process or otherwise, and the Bidder shall maintain strict confidentiality in respect of such Confidential Information, and in no event a degree of confidentiality less than the Bidder uses to protect its own confidential and proprietary information. The Bidder also agrees:
  - a. to maintain and use the Confidential Information only for the purposes of bidding for this RFP and thereafter only as expressly permitted herein.
  - b. to only make copies as specifically authorized by the prior written consent of the Authority and with the same confidential or proprietary notices as may be printed or displayed on the original.



- c. to restrict access and disclosure of Confidential Information to their employees, agents, and representatives strictly on a "need to know" basis, to maintain confidentiality of the Confidential Information disclosed to them in accordance with this clause; and
  - d. To treat Confidential Information as confidential unless and until Authority expressly notifies the Bidder of release of its obligations in relation to the said Confidential Information.
  - e. Notwithstanding the foregoing, the Bidder acknowledges that the nature of activities to be performed as part of the Tendering process or thereafter may require the Bidder's personnel to be present on premises of the Authority or may require the Bidder's personnel to have access to software, hardware, computer networks, databases, documents and storage media of the Authority while on or off premises of the Authority. It is understood that it would be impractical for the Authority to monitor all information made available to the Bidder's personnel under such circumstances and to provide notice to the Bidder of the confidentiality of all such information.
4. Therefore, the Bidder shall disclose or allow access to the Confidential Information only to those personnel of the Bidder who need to know it for the proper performance of their duties in relation to this project, and then only to the extent reasonably necessary. The Bidder will take appropriate steps to ensure that all personnel to whom access to the Confidential Information is given are aware of the Bidder's confidentiality obligation. Further, the Bidder shall procure that all personnel of the Bidder are bound by confidentiality obligation in relation to all proprietary and Confidential Information received by them which is no less onerous than the confidentiality obligation under this agreement.
5. The Bidder shall establish and maintain appropriate security measures to provide for the safe custody of the Confidential Information and to prevent unauthorized access to it.
6. The Bidder agrees that upon termination or expiry of this Agreement or at any time during its currency, at the request of the Authority, the Bidder shall promptly deliver to the Authority the Confidential Information and copies thereof in its possession or under its direct or indirect control, and shall destroy all memoranda, notes and other writings prepared by the Bidder or its Affiliates or directors, officers, employees or advisors based on the Confidential Information and promptly certify such destruction.
7. Confidential Information shall at all times remain the sole and exclusive property of the Authority. Upon completion of the Tendering process and or termination of the contract or at any time during its currency, at the request of the Authority, the Bidder shall promptly deliver to the Authority the Confidential Information and copies thereof in its possession or under its direct or indirect control, and shall destroy all memoranda, notes and other writings prepared by the Bidder or its Affiliates or directors, officers, employees or advisors based on the Confidential Information within a period of sixty days from the date of receipt of notice, or destroyed, if incapable of return. The destruction shall be witnessed and so recorded, in writing, by an authorized representative of the Authority. Without prejudice to the above the Bidder shall promptly certify to the Authority, due and complete destruction and return. Nothing contained herein shall in any manner impair rights of the Authority in respect of the Confidential Information.
8. In the event that the Bidder hereto becomes legally compelled to disclose any Confidential Information, the Bidder shall give sufficient notice and render best effort assistance to the Authority to enable the Authority to prevent or minimize to the extent possible, such disclosure. Bidder shall not disclose to a third party any Confidential Information or the contents of this RFP without the prior written consent of the Authority. The obligations of this Clause shall be satisfied by handling Confidential Information with the same degree of care, which the Bidder applies to its own similar Confidential Information but in no event less than reasonable care.

For and on behalf of:

(BIDDER)

Authorized Signatory

Office Seal:

Name:

Place:

Designation:

Date:

## 11. Annexure 6 – Contract Agreement

### DRAFT CONCESSION AGREEMENT

THIS AGREEMENT IS ENTERED INTO ON THE xx DAY OF xxx, xxxx AT Jabalpur

### BETWEEN

Jabalpur Smart City Limited, Manas Bhawan, Hotel Satya Ashoka Road, Jabalpur, Madhya Pradesh-462023, (hereinafter referred to as “**JSCL**” or “**the Authority**”) which expression shall unless repugnant to the context or meaning thereof include its administrators, successors and assigns) of **One Part**.

### AND

**M/s XXX**, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at XXX (hereinafter referred to as the “**Concessionaire**” which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns and substitutes) of the **Other Part**.

Hereinafter called as “Parties”

### WHEREAS:

- (A) JSCL has decided to select an Agency for Comprehensive Maintenance and Operations Support for Integrated Command and Control Centers Project for Jabalpur Smart City
- (B) The following documents attached hereto shall be deemed to form an integral part of this Agreement:

S/N	Documents
1	RFP No. Dated for " RFP for Selection of Agency for Comprehensive Maintenance and Operations Support for Integrated Command and Control Centers Project for Jabalpur Smart City" published on <a href="https://mptenders.gov.in">https://mptenders.gov.in</a> by JSCL.
2	Pre-bid Response xxx
3	Corrigendum xxx
4	Technical bid and financial bid of M/s xxx
5	Letter of Award Issued by JSCL via Letter No. xxx dated xxx
6	Letter of Acceptance No. xxx dated xxx submitted by M/s xxx

NOW THEREFORE in consideration of the foregoing and the respective covenants and agreements set forth in this Concession Agreement, the sufficiency and adequacy of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

## ARTICLE 1: Definitions And Interpretation

### 1.1. Definitions

The words and expressions beginning with capital letters and defined in this Agreement shall, unless the context otherwise requires, have the meaning ascribed thereto herein.

### 1.2. Interpretation

**1.2.1.** In this Agreement, unless the context otherwise requires,

- (a) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or can apply to any transaction entered into hereunder.
- (b) references to laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted.
- (c) references to a “person” and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include their respective successors and assigns.
- (d) 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.
- (e) the words “include” and “including” are to be construed without limitation and shall be deemed to be followed by “without limitation” or “but not limited to” whether or not they are followed by such phrases.
- (f) references to “construction” or “building” include, unless the context otherwise requires, investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction, and “construct” or “build” shall be construed accordingly.
- (g) references to “development” include, unless the context otherwise requires, construction, renovation, refurbishing, augmentation, upgradation and other activities incidental thereto, and “develop” shall be construed accordingly.
- (h) any reference to any period of time shall mean a reference to that according to Indian Standard Time.
- (i) any reference today shall mean a reference to a calendar day.
- (j) references to a “**business day**” shall be construed as a reference to a day (other than a Sunday) on which banks in Jabalpur, Madhya Pradesh are generally open for business.
- (k) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar.
- (l) references to any date, period or Project Milestone shall mean and include such date, period or Project Milestone as may be extended pursuant to this Agreement.
- (m) any reference to any period commencing “from” a specified day or date and “till” or “until” a specified day or date shall include both such days and dates; provided that if the last day of any period computed under this Agreement is not a Business Day, then the period shall run until the end of the next Business Day.
- (n) the words importing singular shall include plural and vice versa.
- (o) references to any gender shall include the other and the neutral gender.
- (p) “lakh” means a hundred thousand (100,000) and “crore” means ten million (10,000,000).
- (q) references to the “winding-up”, “dissolution”, “insolvency”, or “reorganisation” of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or

corporation carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, arrangement, protection or relief of debtors.

- (r) save and except as otherwise provided in this Agreement, any reference, at any time, to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this Sub-clause shall not operate so as to increase liabilities or obligations of the Authority hereunder or pursuant hereto in any manner whatsoever;
- (s) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or the Inspector shall be valid and effective only if it is in writing under the hand of a duly authorised representative of such Party or the Inspector, as the case may be, in this behalf and not otherwise.
- (t) the Schedules and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement.
- (u) references to Recitals, Articles, Clauses, Sub-clauses or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses and Schedules of or to this Agreement, and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Agreement or of the Schedule in which such reference appears.
- (v) the damages payable by Agency, as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the “Damages”); and
- (w) time shall be of the essence in the performance of the Parties’ respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence.

**1.2.2.** Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the Concessionaire to the Authority shall be provided free of cost and in three copies, and if the Authority is required to return any such Documentation with their comments and/or approval, they shall be entitled to retain two copies thereof.

**1.2.3.** The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply.

### **1.3. Priority of agreements, clauses and schedules**

**1.3.1.** This Agreement, and all other agreements and documents forming part of or referred to in this Agreement are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Agreement, the priority of this Agreement and other documents and agreements forming part hereof or referred to herein shall, in the event of any conflict between them, be in the following order:

- (a) this Agreement; and
- (b) all other agreements and documents forming part hereof or referred to herein.

i.e., the Agreement at (a) above shall prevail over the agreements and documents at (b) above.

**1.3.2.** Subject to the provisions of Clause 1.4.1, in case of ambiguities or discrepancies within this Agreement, the following shall apply:

- (a) between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses.
- (b) between the Clauses of this Agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail.
- (c) between any two Schedules, the Schedule relevant to the issue shall prevail.
- (d) between the written description on the Drawings and the Specifications and Standards, the latter shall prevail.
- (e) between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail; and
- (f) between any value written in numerals and that in words, the latter shall prevail.

## **ARTICLE 2: Conditions Precedent**

### **1.4. Conditions Precedent**

- 1.4.1.** Save and except as expressly provided in Article 4 or unless the context otherwise requires, the respective rights and obligations of the Parties under this Agreement shall be subject to the satisfaction in full of the condition's precedent specified in this Clause 4.1 (the "Conditions Precedent").
- 1.4.2.** The Conditions Precedent required to be satisfied by the Concessionaire prior to the Appointed Date shall be deemed to have been fulfilled when the Concessionaire shall have:
  - (a) provided Performance Bank Guarantee to the Authority.
  - (b) conduct site inspection along with Authority at the time of Audit of assets

Provided that upon request in writing by the Concessionaire, the Authority may, in its discretion, waive any of the Conditions Precedent set forth in this Clause 4.1.3. For the avoidance of doubt, the Authority may, in its sole discretion, grant any waiver hereunder with such conditions as it may deem fit.

- 1.4.3.** Each party shall ensure to satisfy the Conditions Precedent within the time stipulated and shall provide the other Party with such reasonable cooperation as may be required to assist that Party in satisfying the Conditions Precedent for which that Party is responsible.
- 1.4.4.** The Parties shall notify each other in writing at least once in every 15 (fifteen) days on the progress made in satisfying the Conditions Precedent. Each Party shall promptly inform the other Party when any Condition Precedent for which it is responsible has been satisfied.

### **1.5. Damages for delay by the Authority**

In the event that (i) the Authority does not procure fulfilment of any or all of the Conditions Precedent set forth in Clause 4.1.5 within the period specified in respect thereof, and (ii) the delay has not occurred as a result of breach of this Agreement by the Concessionaire or due to Force Majeure, the Authority shall extend the

Concession Period by the number of days of delay on the same terms and conditions as specified in this Agreement. All the Project milestones will get accordingly calculated.

#### **1.6. Damages for delay by the Concessionaire**

In the event that (i) the Concessionaire does not procure fulfilment of any or all of the Conditions Precedent set forth in Clause 4.1.3 within a period of 60 days (sixty) days from the date of this Agreement, and (ii) the delay has not occurred as a result of failure to fulfil the obligations under Clause 4.1.2, or due to Force Majeure, the Concessionaire shall pay to the Authority, Damages in an amount calculated at the rate of 0.5% (zero point five percent) of the Performance Security for each week or part thereof delay until the fulfilment of such Conditions Precedent, subject to a maximum of 100% (hundred percent) of the Performance Security. In such an event the Authority shall have the absolute right to forthwith terminate this Agreement, without providing an opportunity to the Concessionaire to fulfill the conditions precedent.

#### **1.7. Deemed Termination upon delay.**

Without prejudice to the provisions of Clauses 4.2 and 4.3, and subject to the provisions of Clause 9.2 (*Performance Security*), the Parties expressly agree that in the event the Appointed Date does not occur, for any reason whatsoever, before the 1st (first) anniversary of the date of this Agreement or the extended period provided in accordance with this Agreement, all rights, privileges, claims and entitlements of the Concessionaire under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Concessionaire, and the Concession Agreement shall be deemed to have been terminated by mutual agreement of the Parties. Provided, however, that in the event the non-occurrence of the Appointed Date is for reasons attributable to the Concessionaire, the Performance Security and the Additional Performance Security, if any, of the Concessionaire shall be encashed and appropriated by the Authority as Damages thereof.

### **ARTICLE 3: Representations And Warranties**

#### **1.8. Representations and warranties of the Concessionaire**

The Concessionaire represents and warrants to the Authority that:

- (a) it is duly organised and validly existing under the laws of India and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby.
- (b) it has taken all necessary corporate and other actions under Applicable Laws to authorize the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement.
- (c) it has the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement.
- (d) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof.

- (e) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunder including any obligation, liability or responsibility hereunder.
- (f) the information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement.
- (g) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its Memorandum and Articles of Association or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- (h) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in impairment of its ability to perform any of its obligations under this Agreement.
- (i) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may adversely affect its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement.
- (j) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Agreement.
- (k) it shall at no time undertake or permit any Change in Ownership except in accordance with the provisions of Clause 5.2 and that the Concessionaire, together with its Associates, hold not less than 51% (fifty-one percent) of its issued and paid-up Equity as on the date of this Agreement.
- (l) The Concessionaire and its Associates have the financial standing and resources to fund the required Equity and to raise the debt necessary for undertaking and implementing the Project in accordance with this Agreement.
- (m) The Concessionaire is duly organised and validly existing under the laws of the jurisdiction of its incorporation and has requested the Authority to enter into this Agreement with the Concessionaire pursuant to the Letter of Award and has agreed to and unconditionally accepted the terms and conditions set forth in this Agreement.
- (n) all its rights and interests in the Project shall pass to and vest in the Authority on the Transfer Date free and clear of all liens, claims and Encumbrances, without any further act or deed on its part or that of the Authority, and that none of the Project Assets shall be acquired by it, subject to any agreement under which a security



interest or other lien or Encumbrance is retained by any person, save and except as expressly provided in this Agreement;

- (o) no representation or warranty by it contained herein or in any other document furnished by it to the Authority or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading.
- (p) the goods supplied under the Contract are new, unused and shall have no defect arising from design, materials or workmanship.
- (q) no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the Concession or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Authority in connection therewith; and
- (r) all information provided by the Concessionaire in response to the RFP or otherwise, is to the best of its knowledge and belief, true and accurate in all material respects.

#### **1.9. Representations and warranties of the Authority**

The Authority represents and warrants to the Concessionaire that:

- (a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement.
- (b) it has taken all necessary actions under the Applicable Laws to authorize the execution, delivery and performance of this Agreement.
- (c) this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof.
- (d) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on the Authority's ability to perform its obligations under this Agreement.

#### **1.10. Disclosure**

In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any right, remedy or obligation of either Party under this Agreement.

## **ARTICLE 4: Disclaimer**

### **1.11. Disclaimer**

- 1.11.1.** The Concessionaire acknowledges that prior to the execution of this Agreement, the Concessionaire has, after a complete and careful examination, made an independent evaluation of Request for Proposals, Scope of the Project, Specifications and Standards, Site, existing structures, local conditions, physical qualities of ground, subsoil and geology and all information provided by the Authority or obtained, procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks, obstacles and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. The Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumptions, statement or information provided by it and the Concessionaire confirms that it shall have no claim whatsoever against the Authority in this regard.
- 1.11.2.** The Concessionaire acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above and hereby acknowledges and agrees that the Authority shall not be liable for the same in any manner whatsoever to the Concessionaire, its Associates or any person claiming through or under any of them.
- 1.11.3.** The Parties agree that any mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above shall not vitiate this Agreement or render it voidable.
- 1.11.4.** In the event that either Party becomes aware of any mistake or error relating to any of the matters set forth in Clause 8.1.1 above, that Party shall immediately notify the other Party, specifying the mistake or error; provided, however, that a failure on part of the Authority to give any notice pursuant to this Clause 8.1.4 shall not prejudice the disclaimer of the Authority contained in Clause 8.1.1 and shall not in any manner shift to the Authority any risks assumed by the Concessionaire pursuant to this Agreement.
- 1.11.5.** Except as otherwise provided in this Agreement, all risks relating to the Project shall be borne by the Concessionaire and the Authority shall not be liable in any manner for such risks or the consequences thereof.

## **ARTICLE 5: Performance Bank Guarantee**

### **1.12. Performance Security**

- 1.12.1.** The Concessionaire shall, for the performance of its obligations hereunder during the term of this Agreement, provide to the Authority no later than 15 (fifteen) days from the date of this Agreement, an irrevocable and unconditional guarantee from a Nationalized/Scheduled Commercial Bank for a sum equivalent to 3% (three percent) of the Project Cost (Including the Capex and Opex for the project period) estimated by the Bidder and as subsequently approved by the Authority in the format set forth in the RFP or as per the amendments approved by the Authority on written request of the Concessionaire. Until such time the Performance Security is provided by the Concessionaire pursuant hereto and the same comes into effect, the Bid Security shall remain in force and effect, and upon such provision of the Performance Security pursuant hereto, the Authority shall release the Bid Security to the Concessionaire.
- 1.12.2.** Notwithstanding anything to the contrary contained in this Agreement, in the event Performance Security is not provided by the Concessionaire within a period not exceeding 15 (fifteen) days from the date of this Agreement, the Authority may encash the Bid Security and appropriate the proceeds thereof as Damages, and thereupon all rights, privileges, claims and entitlements of the Concessionaire under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Concessionaire, and this Agreement shall be deemed to have been terminated by mutual agreement of the Parties.

### **1.13. Appropriation of Performance Security**

Upon occurrence of a Concessionaire Default or breach as provided under this Agreement or failure to meet any Condition Precedent as provided under clause 4.1.3, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the Performance Security as Damages for such Concessionaire Default or failure to meet any Condition Precedent or breach in performance of this Agreement. Upon such encashment and appropriation from the Performance Security, the Concessionaire shall, within 15 (fifteen) days thereof, replenish, in case of partial appropriation, to its original level the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, and the Concessionaire shall, within the time so granted, replenish or furnish fresh Performance Security as aforesaid, failing which the Authority shall be entitled to terminate this Agreement in accordance with Article 20 Upon replenishment or furnishing of a fresh Performance Security, as the case may be, as aforesaid, the Concessionaire shall be entitled to an additional Cure Period of 60 (sixty) days for remedying the Concessionaire Default or to meet any Condition Precedent, and in the event of the Concessionaire not curing its default or meeting such Condition Precedent within such Cure Period, the Authority shall be entitled to encash and appropriate such Performance Security as Damages, and to terminate this Agreement in accordance with Article 22.

### **1.14. Release of Performance Security**

- 1.14.1.** The Performance Security shall remain in force and effect till the completion of the period of Agreement and six months thereafter, however, the Performance Security shall not be released if the Concessionaire is in default or breach of this Agreement. Upon request made by the Concessionaire for release of the Performance Security along with the particulars which establish satisfaction of the requirements specified under the scope of work Clause 2, the Authority shall release the Performance Security forthwith subject to the deduction of Damages applicable as under provisions of this Agreement.

- 1.14.2.** During the Concession Period, at any time if 100% (hundred percent) of the Performance Security gets liquidated/encashed, the Concessionaire shall top up the Performance Security with the same amount as has been encashed within 15 days of such encashment without demur.

## **ARTICLE 6: Change Of Scope**

### **1.15. Change of Scope**

- 1.15.1.** The Authority may, notwithstanding anything to the contrary contained in this Agreement, require the provision of additional works and services which are not included in the Scope of the Project as contemplated by this Agreement (the “Change of Scope”). The costs thereof shall be expended by the Concessionaire and reimbursed to it by the Authority in accordance with Clause 6.3.
- 1.15.2.** If the Concessionaire determines at any time that a Change of Scope is necessary for providing safer and improved services to the Users, it shall by notice in writing require the Authority to consider such Change of Scope. The Authority shall, within 30 (thirty) days of receipt of such notice, either accept such Change of Scope with modifications, if any, and initiate proceedings therefor in accordance with this Article 6 or inform the Concessionaire in writing of its reasons for not accepting such Change of Scope.
- 1.15.3.** Any works or services which are provided under and in accordance with this Article 16 shall form part of the Project and the provisions of this Agreement shall apply mutatis mutandis to such works or services.

### **1.16. Procedure for Change of Scope**

- 1.16.1.** In the event of the Authority determining that a Change of Scope is necessary, it shall issue to the Concessionaire a notice specifying in the works and services contemplated thereunder (the “Change of Scope Notice”). Any change of scope of work will also comply with requisite Specifications and Standards and the provisions of this Agreement wherever applicable.
- 1.16.2.** Upon receipt of a Change of Scope Notice, the Concessionaire shall, with due diligence, provide to the Authority such information as is necessary, together with preliminary Documentation in support of:
- (a) the impact, if any, which the Change of Scope is likely to have on the Project Implementation Schedule if the works or services are required to be carried out during the Site Installation Period; and
  - (b) the options for implementing the proposed Change of Scope and the effect, if any, each such option would have on the costs and time thereof, including a detailed breakdown by work and costs calculated in accordance with the schedule of rates applicable to the works assigned by the Authority to its contractors, along with the proposed premium/discount on such rates.
  - (c) Notify to Authority with appropriate reason and justification for not accepting the Change of Scope. The Notification however shall be accepted by the Authority unless stated otherwise.
- 1.16.3.** Upon receipt of information set forth in Clause 6.2.2, if the Authority decides to proceed with the Change of Scope, it shall convey its preferred option to the Concessionaire, and the Parties shall, with the assistance of the Inspector if required thereupon make good faith efforts to agree upon the time and costs for implementation thereof. Upon reaching an agreement, the Authority shall issue an order (the “Change of Scope Order”) requiring the Concessionaire to proceed with the performance thereof. In the event that the Parties are unable to agree, the Authority may, by issuing a Change of Scope Order, require the Concessionaire to proceed with the performance thereof pending resolution of the Dispute, or carry out the works in accordance with Clause 6.5.
- 1.16.4.** The provisions of this Agreement, insofar as they relate to Installation works, Tests and Operation, shall apply mutatis mutandis to the works undertaken by the Concessionaire under this Article 6.

### **1.17. Payment for Change of Scope**

**1.17.1.** The Concessionaire shall, after commencement of work, present to the Authority bills for payment in respect of the works in progress or completed works, as the case may be, supported by such Documentation as is reasonably sufficient for the Authority to determine the accuracy thereof. Within 30 (thirty) days of receipt of such bills and verification by the Authority, the Authority shall disburse to the Concessionaire such amounts after making a proportionate deduction for Damages made hereunder, and in the event of any Dispute, final adjustments thereto shall be made under and in accordance with the Dispute Resolution Procedure.

**1.17.2.** Notwithstanding anything to the contrary contained in Clause 6.3.1, all costs arising out of any Change of Scope Order issued during the Installation Period shall be borne by the Concessionaire, subject to an aggregate ceiling of 2% (two per cent) of the Total Project Cost. Any costs in excess of the ceiling shall be reimbursed by the Authority in accordance with Clause 6.3.1.

#### **1.18. Restrictions on certain works**

**1.18.1.** Notwithstanding anything to the contrary contained in this Article, the Authority shall not require the Concessionaire to undertake any works or services if such works or services are likely to delay completion of the Project; provided that in the event that the Authority considers such works or services to be essential, it may issue a Change of Scope Order, subject to the condition that the works forming part of or affected by such Order shall not be reckoned for purposes of determining completion of Project and issuing the Completion Certificate.

#### **1.19. Power of the Authority to undertake works.**

**1.19.1.** Notwithstanding anything to the contrary contained in Clauses 16.1.1, 16.2 and 16.3, the Authority may, after giving notice to the Concessionaire and considering its reply thereto, award any works or services, contemplated under Clause 16.1.1, to any person on the basis of open competitive bidding including RFP mentioned under this Agreement; provided that the Concessionaire shall have the option of matching the first ranked bid in terms of the selection criteria, subject to the written acceptance of undertaking any such works and services by the Concessionaire to the Authority. For the avoidance of doubt, it is agreed that the Concessionaire shall be entitled to exercise such option only if it has participated in the bidding process and its bid does not exceed the first ranked bid for that work or service by more than 10% (ten percent) thereof. It is also agreed that the Concessionaire shall provide access, assistance and cooperation to the person who undertakes the works or services hereunder.

**1.19.2.** The works undertaken in accordance with this Clause 6.5 shall conform to the Specifications and Standards and shall be carried out in a manner that minimizes the disruption in operation of the Project. The provisions of this Agreement, insofar as they relate to Installation works, Tests and Operation, shall apply mutatis mutandis to the works carried out under this Clause 6.5.

## **ARTICLE 7: Insurance**

#### **1.20. Insurance during Concession Period**

**1.20.1.** The Concessionaire shall affect and maintain at its own cost, during the Installation Period and the Operation Period, such insurances for such maximum sums as may be required under the Financing Agreements, and the Applicable Laws, and such insurances as may be necessary or prudent in accordance with Good Industry Practice. The Concessionaire shall also affect and maintain such insurances as may be necessary for mitigating the risks that may devolve on the Authority as a consequence of any act or omission of the Concessionaire during the Installation Period and or the Operations and Maintenance Period. The Concessionaire shall procure that in each insurance policy, the Authority shall be a co-insured and that the insurer shall pay the proceeds of insurance into the Escrow Account. For the avoidance of doubt, the level of insurance to be maintained by the Concessionaire after repayment of Senior Lenders' dues in full shall be determined on the same principles as applicable for determining the level of insurance prior to such repayment of Senior Lenders' dues.

**1.20.2.** The Concessionaire shall, procure and maintain insurance cover including but not limited to the following:

- (a) Standard fire and special perils policy with earthquake cover to insure loss, damage or destruction of the Project Assets.
- (b) Machinery break-down insurance policy for insuring critical plant & equipment against any damage.
- (c) comprehensive third-party liability insurance including injury to or death of personnel of the Authority or others who may enter the Project.
- (d) the Concessionaire's general liability arising out of the Concession.
- (e) Third Party motor vehicle liability insurance as required under Motor Vehicles Act, 1988 in respect of motor vehicles operated in India
- (f) Professional liability insurance, with a minimum coverage equal to estimated remuneration and reimbursable.
- (g) Employer's liability and workers' compensation insurance in accordance with the relevant provisions of the Applicable Law and with respect to such Personnel life, health, accident, travel or other insurance as may be appropriate.
- (h) Insurance against loss of or damage to the Concessionaire's property used in the performance of services.
- (i) any other insurance that may be necessary to protect the Concessionaire and its employees, including all Force Majeure Events that are insurable at commercially reasonable premiums and not otherwise covered in items (a) to (h) above.

**1.20.3.** The Authority may reasonably assist the Concessionaire by providing additional supporting documents, if any, for claiming insurance provided that any claim, reimbursement, payment, compensation, amount, in part or whole, received during or after insurance process shall be remitted to the account of the Concessionaire, subject to all losses suffered by the Authority are adequately compensated.

### **1.21. Notice to the Authority**

No later than 30 (thirty) days prior to commencement of the Installation Period or the Operation Period, as the case may be, the Concessionaire shall by notice furnish to the Authority, in reasonable detail, information in respect of the insurances that it is required to effect and maintain in accordance with this Article 7. Within 15 (thirty) days of receipt of such notice, the Authority may require the Concessionaire to effect and maintain such other insurances as may be necessary pursuant hereto, and in the event of any difference or disagreement relating to any such insurance, the Dispute Resolution Procedure shall apply.

### **1.22. Evidence of Insurance Cover**

All insurances obtained by the Concessionaire in accordance with this Article 19 shall be maintained with insurers on terms consistent with Good Industry Practice. Within 15 (fifteen) days of obtaining any insurance cover, the Concessionaire shall furnish to the Authority, notarised true copies of the certificate(s) of insurance, copies of

insurance policies and premia payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of at least 45 (forty five) days after notice of such proposed cancellation, modification or non-renewal has been delivered by the Concessionaire to the Authority.

#### **1.23. Remedy for failure to insure.**

If the Concessionaire shall fail to effect and keep in force all insurances for which it is responsible pursuant hereto, the Authority shall have the option to either keep in force any such insurances and pay such premia and recover the costs thereof from the Concessionaire, or in the event of computation of a Termination Payment, treat an amount equal to the Insurance Cover as deemed to have been received by the Concessionaire.

#### **1.24. Waiver of subrogation**

All insurance policies in respect of the insurance obtained by the Concessionaire pursuant to this Article 7 shall include a waiver of any and all rights of subrogation or recovery of the insurers thereunder against, inter alia, the Authority, and its assigns, successors, undertakings and their subsidiaries, affiliates, employees, insurers and underwriters, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.

#### **1.25. Concessionaire's waiver**

The Concessionaire hereby further releases, assigns and waives any and all rights of subrogation or recovery against, inter alia, the Authority and its assigns, undertakings and their subsidiaries, affiliates, employees, successors, insurers and underwriters, which the Concessionaire may otherwise have or acquire in or from or in any way connected with any loss, liability or obligation covered by policies of insurance maintained or required to be maintained by the Concessionaire pursuant to this Agreement (other than third party liability insurance policies) or because of deductible clauses in or inadequacy of limits of any such policies of insurance.

#### **1.26. Application of insurance proceeds**

The proceeds from all insurance claims, except life and injury, shall be paid by the insurer to the Concessionaire and it shall, notwithstanding anything to the contrary contained in Clause 23.3 apply such proceeds for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Project, and the balance remaining, if any, shall be applied in accordance with the provisions contained in this behalf in the Agreement of the Concessionaire.

## **ARTICLE 8: Force Majeure**

### **1.27. Force Majeure**

As used in this Agreement, the expression “Force Majeure” or “Force Majeure Event” shall mean occurrence of any or all of Non-Political Event, Indirect Political Event and Political Event, as defined in Clauses 18.2, 18.3, 18.4 respectively, if it affects the performance by the Party claiming the benefit of Force Majeure (the “Affected Party”) of its obligations under this Agreement and which act or event (i) is beyond the reasonable control of the Affected Party, and (ii) the Affected Party could not have foreseen or prevented or overcome by exercise of due diligence and following Good Industry Practice, and (iii) has Material Adverse Effect on the Affected Party.

### **1.28. Non-Political Event**

A Non-Political Event shall mean one or more of the following acts or events:

- (a) act of God, occurrence of epidemic or pandemic and consequent lockdowns imposed in Jabalpur, Madhya Pradesh for a period exceeding 7 (seven) consecutive days lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionising radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site).
- (b) strikes or boycotts (other than those involving the Concessionaire, Contractors or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the Project for a continuous period of 24 (twenty-four) hours and an aggregate period exceeding 7 (seven) days in an Accounting Year, and not being an Indirect Political Event set forth in Clause 18.3
- (c) any judgement or order of any court of competent jurisdiction or statutory authority made against the Concessionaire in any proceedings for reasons other than (i) failure of the Concessionaire to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Authority.
- (d) the discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection; or

### **1.29. Indirect Political Event**

An Indirect Political Event shall mean one or more of the following acts or events:

- (a) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage.
- (b) industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty-four) hours and exceeding an aggregate period of 7 (seven) days in an Accounting Year.
- (c) any civil commotion, boycott or political agitation which prevents collection of Fee by the Concessionaire for an aggregate period exceeding 7 (seven) days in an Accounting Year.
- (d) any failure or delay of a Contractor to the extent caused by any Indirect Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor.
- (a) any Indirect Political Event that causes a Non-Political Event; or

### **1.30. Duty to report Force Majeure Event**



**1.30.1.** Upon occurrence of a Force Majeure Event, the Affected Party shall by notice within 7 (seven) days from the occurrence of the Force Majeure Event report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:

- a) the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article 18 with evidence in support thereof.
- b) the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Agreement.
- c) the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and
- d) any other information relevant to the Affected Party's claim.

**1.30.2.** The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event no later than 15 (Fifteen) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement.

**1.30.3.** For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 18.5.1 and such other information as the other Party may reasonably request the Affected Party to provide.

### **1.31. Effect of Force Majeure Event on the Concession**

**1.31.1.** Upon the occurrence of any Force Majeure Event prior to the commencement of Site Installation, the period set forth under Article 4 for fulfilment of Conditions Precedent shall be extended by a period equal in length to the duration of the Force Majeure Event.

**1.31.2.** At any time after the commencement of Site Installation, if any Force Majeure Event occurs:

- (a) before Go-live, the Concession Period and the dates set forth in the Project Implementation Schedule shall be extended by a period equal in length to the duration for which such Force Majeure Event subsists; or
- (b) after Go-live, whereupon the Concessionaire is unable to receive Transaction Charges despite making best efforts or it is directed by GoI and/or Government of Madhya Pradesh (GoMP) and/or the Authority to suspend the collection thereof during the subsistence of such Force Majeure Event, the Concession Period shall be extended by a period, equal in length to the period during which the Concessionaire was prevented from receiving Transaction Charges on account thereof.

### **1.32. Allocation of costs arising out of Force Majeure**

**1.32.1.** Upon occurrence of any Force Majeure Event prior to the commencement of Site Installation, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof.

**1.32.2.** Upon occurrence of a Force Majeure Event after the commencement of Site Installation, the costs incurred and attributable to such event and directly relating to the Project (the "Force Majeure Costs") shall be allocated and paid as follows:

- (a) upon occurrence of a Non-Political Event, the Parties shall bear their respective Force Majeure Costs and neither Party shall be required to pay to the other Party any costs thereof.
- (b) upon occurrence of an Indirect Political Event, all Force Majeure Costs attributable to such Indirect Political Event, and not exceeding the Insurance Cover for such Indirect Political Event, shall be borne

by the Concessionaire, and to the extent Force Majeure Costs exceed such Insurance Cover, one half of such excess amount shall be reimbursed by the Authority to the Concessionaire; and

For the avoidance of doubt, Force Majeure Costs may include O&M Expenses, any increase in the cost of Installation works on account of inflation and all other costs directly attributable to the Force Majeure Event but shall not include loss of revenues or debt repayment obligations and for determining such costs information contained in the Financial Package may be relied upon to the extent that such information is relevant.

**1.32.3.** Save and except as expressly provided in this Article 18, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereto.

### **1.33. Termination Notice for Force Majeure Event**

If a Force Majeure Event subsists for a period of 180 (one hundred and eighty) days or more within a continuous period of 365 (three hundred and sixty five) days, either Party may in its discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save as provided in this Article 20, and upon issue of such Termination Notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith; provided that before issuing such Termination Notice, the Party intending to issue the Termination Notice shall inform the other Party of such intention and grant 15 (fifteen) days' time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

### **1.34. Dispute resolution**

In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force Majeure Event, such Dispute shall be finally settled in accordance with the Dispute Resolution Procedure; provided that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Party claiming relief and/or excuse on account of such Force Majeure Event.

### **1.35. Excuse from performance of obligations**

If the Affected Party is rendered wholly or partially unable to perform its obligations under this Agreement because of a Force Majeure Event, it shall be excused from performance of such of its obligations to the extent it is unable to perform on account of such Force Majeure Event; provided that:

- (a) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event.
- (b) the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and
- (c) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

## **ARTICLE 9: Suspension Of Concessionaire's Rights**

### **1.36. Suspension upon Concessionaire Default**

Upon occurrence of a Concessionaire Default the Authority shall be entitled, without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to (i) suspend all rights of the Concessionaire under this Agreement including the Concessionaire's right to receive Transaction Charges, and other revenues pursuant hereto, and (ii) exercise such rights itself and perform the obligations hereunder or authorise any other person to exercise or perform the same on its behalf during such suspension (the "Suspension"). Suspension hereunder shall be effective forthwith upon issue of notice by the Authority to the Concessionaire 15 (fifteen) days prior to the start date of the Suspension and may extend up to a period not exceeding 180 (one hundred and eighty) days from the date of issue of such notice; provided that upon written request from the Concessionaire and the Lenders' Representative, the Authority shall extend the aforesaid period of 180 (one hundred and eighty) days by a further period not exceeding 90 (ninety) days.

### **1.37. Authority to act on behalf of Concessionaire.**

**1.37.1.** During the period of Suspension hereunder, all rights and liabilities vested in the Concessionaire in accordance with the provisions of this Agreement shall continue to vest therein and all things done or actions taken, including expenditure incurred by the Authority for discharging the obligations of the Concessionaire under and in accordance with this Agreement and the Project Agreements, shall be deemed to have been done or taken for and on behalf of the Concessionaire and the Concessionaire undertakes to indemnify the Authority for all costs incurred during such period. The Concessionaire hereby licences and sub-licences respectively, the Authority or any other person authorised by the Authority to use during Suspension as mentioned in Article 20, all Intellectual Property belonging to or licenced to the Concessionaire with respect to the Project and its design, engineering, construction, operation and maintenance, and which is used or created by the Concessionaire in performing its obligations under the Agreement.

### **1.38. Revocation of Suspension**

**1.38.1.** In the event that the Authority shall have rectified or removed the cause of Suspension within a period not exceeding 90 (ninety) days from the date of Suspension, it shall revoke the Suspension forthwith and restore all rights of the Concessionaire under this Agreement. For the avoidance of doubt, the Parties expressly agree that the Authority may, in its discretion, revoke the Suspension at any time, whether or not the cause of Suspension has been rectified or removed hereunder.

**1.38.2.** Upon the Concessionaire having cured the Concessionaire Default within a period not exceeding 90 (ninety) days from the date of Suspension, the Authority shall revoke the Suspension forthwith and restore all rights of the Concessionaire under this Agreement.

### **1.39. Termination**

**1.39.1.** At any time during the period of Suspension under this Article 20, the Concessionaire may by notice require the Authority to revoke the Suspension and issue a Termination Notice. Subject to the rights of the Lenders' Representative to undertake substitution in accordance with the provisions of this Agreement and within the period specified in Clause 20.4, the Authority shall, within 15 (fifteen) days of receipt of such notice, terminate this Agreement under and in accordance with Article 20.

**1.39.2.** Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 180 (one hundred and eighty) days from the date of Suspension hereunder or within

the extended period, if any, set forth in Clause 19.1, the Concession Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, mutatis mutandis, to such Termination as if a Termination Notice had been issued by the Authority upon occurrence of a Concessionaire Default.

- 1.39.3.** The contract can be terminated by this Department at any time without giving any notice or without assigning any reason, if the work of the Agency is found unsatisfactory during the currency of this contract. In this connection decision of the competent authority shall be final and binding on the Agency & no explanation will be given in this regard to the Agency.

## ARTICLE 10: Termination

### 1.40. Termination for Concessionaire Default

**1.40.1.** Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the Concessionaire fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 60 (sixty) days, the Concessionaire shall be deemed to be in default of this Agreement (the "Concessionaire Default"), unless the default has occurred solely as a result of any breach of this Agreement by the Authority or due to Force Majeure. The defaults referred to herein shall include:

- (a) the Performance Security has been encashed and appropriated in accordance with Clause 9.38 and the Concessionaire fails to replenish or provide fresh Performance Security within a Cure Period of 15(fifteen) days.
- (b) subsequent to the replenishment or furnishing of fresh Performance Security in accordance with Clause 9.38, the Concessionaire fails to cure, within a Cure Period of 60 (sixty) days, the Concessionaire Default for which whole or part of the Performance Security was appropriated.
- (c) the Concessionaire does not achieve the latest outstanding Project Milestone due in accordance with the provisions of clause 7.2 and continues to be in default for 90 (ninety) days.
- (d) the Concessionaire abandons or manifests intention to abandon the Site Installation or operation of the Project without the prior written consent of the Authority.
- (e) Project Completion Date does not occur within the period specified in Clause 7.2.
- (f) the Concessionaire is in breach of the Maintenance Requirements or the Safety Requirements, as the case may be.
- (g) the Concessionaire has failed to make payment to the Authority within the period specified in this Agreement.
- (h) upon occurrence of a Financial Default, the Lenders' Representative has by notice required the Authority to undertake Suspension or Termination, as the case may be, in accordance with the Substitution Agreement and the Concessionaire fails to cure the default within the Cure Period specified hereinabove.
- (i) the Concessionaire creates any Encumbrance in breach of this Agreement.
- (j) the Concessionaire repudiates this Agreement or otherwise takes any action or evidences or conveys an intention not to be bound by the Agreement.
- (k) a Change in Ownership has occurred.
- (l) there is a transfer, pursuant to law either of (i) the rights and/or obligations of the Concessionaire under any of the Project Agreements, or of (ii) all or part of the assets or undertaking of the Concessionaire, and such transfer causes a Material Adverse Effect.
- (m) an execution levied on any of the assets of the Concessionaire has caused a Material Adverse Effect.
- (n) the Concessionaire is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Concessionaire or for the whole or material part of its assets that has a material bearing on the Project.
- (o) the Concessionaire has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a Material Adverse Effect.

- (p) a resolution for winding up of the Concessionaire is passed, or any petition for winding up of the Concessionaire is admitted by a court of competent jurisdiction and a provisional liquidator or receiver is appointed and such order has not been set aside within 90 (ninety) days of the date thereof or the Concessionaire is ordered to be wound up by Court except for the purpose of amalgamation or reconstruction; provided that, as part of such amalgamation or reconstruction, the entire property, assets and undertaking of the Concessionaire are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Concessionaire under this Agreement and the Project Agreements; and provided that:
- i. the amalgamated or reconstructed entity has the capability and operating experience necessary for the performance of its obligations under this Agreement and the Project Agreements.
  - ii. the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and the Project Agreements and has a credit worthiness at least as good as that of the Concessionaire as at the Appointed Date; and
  - iii. each of the Project Agreements remains in full force and effect.
- (q) any representation or warranty of the Concessionaire herein contained which is, as of the date hereof, found to be materially false, incorrect or misleading or the Concessionaire is at any time hereafter found to be in breach thereof.
- (r) the Concessionaire submits to the Authority any statement, notice or other document, in written or electronic form, which has a material effect on the Authority's rights, obligations or interests and which is false in material particulars.
- (s) the Concessionaire has failed to fulfil any obligation, for which failure Termination has been specified in this Agreement; or
- (t) the Concessionaire commits a default in complying with any other provision of this Agreement if such a default causes a Material Adverse Effect on the Authority.

**1.40.2.** Without prejudice to any other rights or remedies which the Authority may have under this Agreement, upon occurrence of a Concessionaire Default, the Authority shall be entitled to terminate this Agreement by issuing a Termination Notice to the Concessionaire; provided that before issuing the Termination Notice, the Authority shall by a notice inform the Concessionaire of its intention to issue such Termination Notice and grant 15 (fifteen) days to the Concessionaire to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

#### **1.41. Termination for Authority Default**

**1.41.1.** In the event that any of the defaults specified below shall have occurred, and the Authority fails to cure such default within a Cure Period of 90 (ninety) days or such longer period as has been expressly provided in this Agreement, the Authority shall be deemed to be in default of this Agreement (the "Authority Default") unless the default has occurred as a result of any breach of this Agreement by the Concessionaire or due to Force Majeure. The defaults referred to herein shall include:

(a) The Authority commits a material default in complying with any of the provisions of this Agreement and such default has a Material Adverse Effect on the Concessionaire.

**1.41.2.** Without prejudice to any other right or remedy which the Concessionaire may have under this Agreement, upon occurrence of an Authority Default, the Concessionaire shall, subject to the provisions of the Substitution Agreement, be entitled to terminate this Agreement by issuing a Termination Notice to the Authority; provided that before issuing the Termination Notice, the Concessionaire shall by a notice inform the Authority of its intention to issue the Termination Notice and grant 30 (thirty) days to the Authority to make a representation, and may after the expiry of such 30 (thirty) days, whether or not it is in receipt of such representation, issue the Termination Notice.

#### **1.42. Termination Payment**

Upon termination of this Agreement hereof, the Authority shall make the following payments to the Consultant:

- a. Remuneration pursuant to the payments as defined in the ToR application till the date of final termination and the issuance of Completion certificate by the Authority

#### **1.43. Survival**

##### **1.43.1. Termination shall:**

- (a) not relieve the Concessionaire or the Authority, as the case may be, of any obligations hereunder which expressly or by implication survive Termination hereof; and
- (b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

**1.43.2.** All obligations surviving Termination shall only survive for a period of 1 year following the date of such Termination.

1. Any matter during the period of this agreement which has not been specifically covered by this agreement shall be decided by the Authority whose decision shall be final and conclusive.
2. In case of any dispute of any kind and in any respect whatsoever, the decision of the Authority shall be final and binding on the firm.
3. The Authority has the right to amend, rectify, alter and relax any conditions referred above for this tender without assigning any reasons. This contract is not transferable.
4. At the time of expiry of contract all the equipments under maintenance shall be handed over in working condition so that handing over of Maintenance Contract to next contractor takes place in a smoother manner. The vendor shall provide services for at least 30 working days from the date of expiry of the contract for smooth transfer of the Maintenance Contract to the new contractor without any extra cost.

## **ARTICLE 11: Miscellaneous**

#### **1.44. Indemnity**

**11.1.1.** The Concessionaire (the "Indemnifying Party") undertakes to indemnify, defend, save and hold harmless the Authority and its officers, servants, agents, Government Instrumentalities and Government owned

and/or controlled entities/enterprises, (the "Indemnified Party") against any and all suits, proceedings, actions, demands and claims from third parties for any bodily injury, death, loss, damage, cost and expense of whatever kind and nature, whether arising out of any breach by the Concessionaire of any of its obligations under this Agreement or any related agreement or on account of any defect or deficiency in the provision of services by the Concessionaire to any User or from any negligence of the Concessionaire under contract or tort or on any other ground whatsoever.

**11.1.2.** The Concessionaire further agrees to indemnify and hold harmless the "Indemnified Party" promptly upon demand at any time and from time to time, from and against any and all losses, claims, damages, liabilities, costs (including reasonable attorney's fees and disbursements) and expenses (collectively, "Losses") to which the Indemnified Party may become subject, in so far as such losses directly arise out of, in any way relate to, or result from

- i. Failure of the Concessionaire to comply with Applicable Laws and Applicable Permits;
- ii. Payment of taxes required to be made by the Concessionaire in respect of the income or other taxes of the Concessionaire's contractors, suppliers and representatives;
- iii. Any misstatement or any breach of any representation or warranty made by the Concessionaire;
- iv. The failure by the Concessionaire to fulfil any covenant or condition contained in this Agreement, including without limitation the breach of any terms and conditions of this Agreement by any employee or agent of the Concessionaire;
- v. All losses or damages arising from claims by third parties that any deliverable (or the access, use or other rights thereto), created by the Concessionaire pursuant to this Agreement, or any equipment, software, information, methods of operation or other intellectual property created by the Bidder, its agents or sub-contractors pursuant to this Agreement, or if any of the services, goods, products, output, (a) infringes a copyright, trade mark, trade design enforceable in India, (b) infringes a patent issued in India, or (c) constitutes misappropriation or unlawful disclosure or use of another Party's trade secrets under the laws of India (collectively, "Infringement Claims"); provided, however, that this will not apply to any deliverable (or the access, use or other rights thereto) created by (a) implementation of project by the Authority itself or through other persons other than the Concessionaire or its sub-contractors; (b) third parties (i.e., other than the Bidder or sub-contractors) at the direction of the Authority;
- vi. Any compensation / claim, including all legal, administrative, arbitration fees, to be paid to any third party arising out of proceedings against the Authority due to any act, deed or omission by the Concessionaire;
- vii. Non-payment of amounts due as a result of materials or services furnished to the Concessionaire or any of its contractors which are payable by the Concessionaire or any of its contractors;
- viii. Any claim, suit, petition, notice filed/issued by a workman, employee, sub-contractor, partners, vendors, service providers, engaged by the Concessionaire for carrying out work related under this Agreement.

For the avoidance of doubt, indemnification of losses pursuant to this clause shall be made in an amount or amounts sufficient to restore each of the Indemnified Party to the financial position it would have been in had the losses not occurred. Any payment made to the indemnified party or any claim for breach of any of the terms and conditions shall also include payment of applicable taxes.



- 11.1.3.** In the event that the Authority (the “Indemnified Party”) receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this clause, it shall notify the Concessionaire (the “Indemnifying Party”) within 15 days of receipt of the claim or demand and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim or demand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction.
- 11.1.4.** Notwithstanding anything to the contrary contained in this clause, the indemnities herein provided shall not include any claim or recovery in respect of any cost, expense, loss or damage of an indirect, incidental or consequential nature, including loss of profit, except as expressly provided in this Agreement.
- 11.1.5.** This Article 11 shall survive the termination of the Agreement.

#### **1.45. Dispute Resolution**

- 11.2.1.** 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 through good faith negotiation within 30 days from the issue of the notice of dispute.
- 11.2.2** Any Dispute which is not resolved amicably by negotiation, as provided in clause 11.2.1 above, shall be finally decided by reference to arbitration before a bench of 3 (three) arbitrators, where each Party shall appoint one arbitrator each, and the third arbitrator shall be appointed by the two arbitrators so appointed.
- 11.2.3** Such arbitration shall be held in accordance with the Arbitration and Conciliations Act, 1996 or any amendments thereafter. The venue of arbitration shall be Jabalpur, Madhya Pradesh, and the language of arbitration proceedings shall be English.
- 11.2.4** The arbitrators shall make a reasoned award (the “Award”). Any Award made in any arbitration held pursuant to this clause shall be final and binding on the Parties as from the date it is made, and the Concessionaire and the Authority agree and undertake to carry out such Award without delay.
- 11.2.5** This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.
- 11.2.6** The fees of the arbitrator, costs and other expenses incidental to the arbitration proceedings shall be borne equally by the parties.

#### **1.46. Limitation of Liability**

- 11.3.1** In no event shall either party be liable for consequential, incidental, indirect, or punitive loss, damage or expenses (including loss of profits).

#### **1.47. Miscellaneous**

- 11.4.1. Governing law and jurisdiction**

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at Jabalpur, Madhya Pradesh shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

**11.4.2. Entire Agreement**

This Agreement and the Schedules 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. For the avoidance of doubt, the Parties hereto agree that any obligations of the Concessionaire arising from the Request for Qualification or Request for Proposals, as the case may be, shall be deemed to form part of this Agreement and treated as such.

**11.4.3. Severability**

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

**11.4.4. No partnership**

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

**11.4.5. Third parties**

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

**11.4.6. Successors and assigns**

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

**11.4.7. 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.