

Ref Number: CSML/E&E/MAR/RFP/001

Date: 28/01/2020

Cochin Smart Mission Limited



Smart City
MISSION TRANSFORM-NATION

PART-1

Request for Qualification Cum Proposal

For

**Detailed Design, Construction, Testing &
Commissioning of Redevelopment of
Ernakulam Market, Ernakulam, Kerala on
EPC Basis**

**CHIEF EXECUTIVE OFFICER
COCHIN SMART MISSION LIMITED (CSML)
9th Floor, Revenue Tower, Park Avenue, Kochi -
682 011, India. PHONE: 0484-2350355
E-MAIL: csmltenders@gmail.com**

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PART-1

REQUEST FOR

QUALIFICATION CUM

PROPOSAL

PART-1 : Request for Qualification Cum Proposal

Instructions to Bidder for e-Tendering

1. Enrollment process on the Tender web-site

- Bidders are required to enroll on the e-Procurement module of the Kerala Govt Public Procurement Portal(KGPPP) (URL: <https://etenders.kerala.gov.in/nicgep/app>) by clicking on the link "Online Bidder Enrollment". Enrolment on the KGPPP Portal is free of charge.
- As part of the enrolment process, the bidders will be required to choose a unique username and assign a password for their accounts.
- Bidders are advised to register their valid email address and mobile numbers as part of the registration process. These would be used for any communication from the KGPPP Portal.
- Upon enrolment, the bidders will be required to register their valid Digital Signature Certificate(DSC)- (Class II or Class III Certificates with signing key usage) issued by any Certifying Authority recognized by CCA India, with their profile.
- Only one valid DSC should be registered by a bidder. Please note that the bidders are responsible to ensure that they do not lend their DSCs to others which may lead to misuse.
- Bidder then logs in to the site through the secured log-in by entering their user ID /password and the password of the DSC / eToken.

2. Tender search

- There are various search options built in the KGPPP Portal, to facilitate bidders to search active tenders by several parameters. These parameters could include Tender ID, organisation name, location, date, value, etc. There is also an option of advanced search for tenders, wherein the bidders may combine a number of search parameters such as organisation name, form of contract, location, date, other keywords etc. to search for a tender published on the KGPPP Portal. **Bidders are advised to search for this tender under organization name – "Kochi Metro Rail Ltd."**
- Once the bidders have selected the tenders they are interested in, they may download the required documents / tender schedules. These tenders can be moved to the respective 'My Favorites' folder. This would enable the KGPPP Portal to intimate the bidders through SMS / e- mail in case there is any corrigendum issued to the tender document.
- The bidder should make a note of the unique Tender ID assigned to each tender, in case they want to obtain any clarification / help from the Helpdesk.

3. Preparation of bids

- Make folders with the name of the tender number so as to identify the folders easily during the bid document uploading.

- File and Folder name should not contain any special characters (&, #, etc.) or space in between.
- Download the tender document, ITB (Instruction to Bidders) of the required tender in that folder.
- Scan the Bid Security fee instruments/ Tender fee instruments for offline payments if any.
- In the case of offline payment, the details of the DD/any other accepted instrument, physically sent, should tally with the details available in the scanned copy and the data entered during bid submission time. Otherwise the bid submitted will not be acceptable.
- Scan and keep ready Pre-qualification documents like life certificates, PAN etc. if any
- Prepare the technical bid document and then convert into PDF
- Prepare the Price Bid i.e. fill up required figures in the downloaded excel document. The Price Bid file with the same name has to be uploaded while uploading the financial bids. If there is any change in Name it may not get uploaded or give an error.
- Keep all the documents in the same folder for the easy bid document upload
- The bid summary has to be printed and kept as an acknowledgement as a token of the submission of the bid. It will act as a proof of bid submission for a tender floated and will also act as an entry point to participate in the bid opening date. For any clarifications from the TIA (Tender inviting authority), the bid number can be used as a reference.

4. Submission of bids

1. Bidder should log into the site well in advance for bid submission so that he/she upload the bid in time i.e. on or before the bid submission time. Bidder will be responsible for any delay due to other issues.
2. The bidder has to digitally sign and upload the required bid documents one by one as indicated in the tender document. Offers which are not digitally signed will not be accepted. Applicant shall submit their offer in electronic format on KGPPP Portal only.
3. Bidder should prepare the Bid Security (EMD) as per the instructions specified in the tender document. The original should be posted/couriered/given in person to the Tender Processing Section, latest by the last date of bid submission. The details of the BG, physically sent, should tally with the details available in the scanned copy and the data entered during bid submission time. Otherwise the uploaded bid will be rejected.
4. The Price Bid format has been provided with the tender document to be filled by all the bidders. Bidders are requested to note that they should necessarily submit their financial bids in the format provided and no other format is acceptable. Bidders are required to download the Price bid file, open it and complete the white colored (unprotected) cells with their respective financial quotes and other details (such as name of the bidder). No other cells should be changed. Once the details have been completed, the bidder should save it and submit it online, without changing the

filename. If the Price bid file is found to be modified by the bidder, the bid will be rejected.

5. The serve time (which is displayed on the bidders' dashboard) will be considered as the standard time for referencing the deadlines for submission of the bids by the bidders, opening of bids etc. The bidders should follow this time during bid submission.
 6. All the documents being submitted by the bidders would be encrypted using PKI (Public Key Infrastructure) encryption techniques to ensure the secrecy of the data. The data entered cannot be viewed by unauthorized persons until the time of bid opening. The confidentiality of the bids is maintained using the secured Socket Layer 128 bit encryption technology. Data storage encryption of sensitive fields is done.
 7. Any 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.
- Upon the successful and timely submission of bids, the portal will give a successful bid submission message & a bid summary will be displayed with the bid no. and the date & time of submission of the bid with all other relevant details.
 - The bid summary has to be printed and kept as an acknowledgement of the submission of the bid. This acknowledgement may be used as an entry pass for any bid opening meetings.

5. Password maintenance

- The length of the password should be of 8 to 32 characters
- The password should be of any English lowercase and uppercase (a-z and A-Z) characters.
- The password must contain at least one number between 0-9.
- The password must contain at least one special character from these [! @ # \$ ^ * _ ~]
- Sample password is just like Admin123\$, India2000#, etc.

6. About DSC

- Digital Signature Certificates (DSC) is the digital equivalent (that is electronic format) of physical paper certificates.
- Like physical documents are signed manually, electronic documents, for example e-forms are required to be signed digitally using a Digital Signature Certificate. Transactions that are done using Internet if signed using a Digital Signature certificate becomes legally valid.
- Bidders have to procure Class 2 or 3 signing certificates only. Only Class 2 or 3 is valid for e- tendering purpose.
- The Certifying Authorities are authorized to issue a Digital Signature Certificate with a validity of one or two years. The maximum period for which the DSC is issued is only

two years. On the expiry of the term, the Digital Signature Certificate can be revalidated by paying the fees again.

- Digital Signatures are legally admissible in a Court of Law, as provided under the provisions of IT.
- Digital Signature Certificate (DSC) is not required by Companies but by individuals. For example the Director or the Authorized signatory signing on behalf of the Company requires a DSC.
- Each user logs in to the tender site thro' the secured log in by giving the user id/ password allotted during registration & then by giving the password of the DSC. The DSC password will get locked if successively wrong password is given many times.

7. **DSC providers for Private firms**

A licensed Certifying Authority (CA) issues the digital signature. Certifying Authority (CA) means the authority that has been granted a license to issue a digital signature certificate under Section 24 of the Indian IT-Act 2000.

- The vendors like TCS (www.tcs-ca.tcs.co.in), Sify, MTNL, nCode (dsc@ncodesolutions.com), e-Mudhra (www.e-mudhra.com) are issuing DSC's for bidders.
- The time taken by Certifying Authorities to issue a DSC may vary from three to seven days.

8. **Advantage of "My Space" on KGPPP Portal**

- The bidder can upload Non Sensitive frequently asked documents prior at any point of time once he logs in to the Bid. These are not encrypted.
- These can be anything like GST, PAN Certificate, VAT Certificate, Equipment Details, Manpower Details, Copies of Balance Sheet of last few years, Details of quantity of work executed etc.
- In some cases the TIA might have uploaded a format while in many cases it may just be a scanned copy of the original which needs to be uploaded.
- This will avoid repeated upload of common documents and also save space and time.

9. **System requirements**

- Windows XP with latest service pack
- Loaded IE 7.0 or above
- Loaded JRE 1.6 or above
- Antivirus Software with latest definition.
- Internet connectivity
- Scanner to scan the documents if required
- Printer and PDF Creator.

10. **Assistance to Bidders**

- Any queries relating to the tender document and the terms and conditions contained therein should be addressed to the Tender Inviting Authority for a tender or the

relevant contact person indicated in the tender.

- Any queries relating to the process of online bid submission or queries relating to KGPPP Portal in general may be directed to the 24x7 KGPPP Portal Helpdesk.
- For any technical queries for online-submission please call the 24x7 Helpdesk numbers of Eprocure. The Helpdesk numbers +91120-4200462/4001002/4001005 +918826246593, email: support-eproc@gov.in, etendershelp@kerala.gov.in

**e-tender helpdesk of Kerala IT
Mission:**

Phone number : 0484-2332262

11. Preparation & Submission of BIDs:

- Detailed tender documents for RFQ cum RFP may be downloaded from e-tender portal of the Employer from the dates as per "Important Information" and tender may be submitted online following the instruction appearing on the screen. A manual containing the detailed guidelines for e-tendering is also available on e- tender portal of the Employer.
- The following documents shall be prepared and scanned in different files (in PDF or ZIP or JPEG format) and uploaded during the online submission of BID. The scanning of the pages to be uploaded shall be done in not more than 100 dpi. The documents as per [Clause 2.13.2](#) of RFQ cum RFP shall also be submitted in "ORIGINAL" to Cochin Smart Mission Limited (CSML) before the prescribed date & time for submission of BIDs.

Technical Bid

- (Letter comprising the Technical BID) [Appendix-I](#);
- Power of Attorney for signing the BID as per the format at [Appendix-II](#);
- if applicable, Power of Attorney for Lead Member of Joint Venture as per the format at [Appendix-III](#) of RFQ cum RFP;
- Certificates in accordance with [Appendix-I](#) (all annexure)
- Copy of BID Security of Rs. 62 Lakh (Rs Sixty Two Lakh) in the form of Bank Guarantee in the format at [Appendix-VI](#) from the Scheduled Bank
- Copy of online submission of Cost of tender document fee of Rs. 50,000/- (Rupees Fifty Thousand only) + Applicable GST
- Registration copies of GST (applicable only for Indian bidder and Indian Partners in case of JV)
- Non-Disclosure Agreement as per [Appendix-VIII](#)
- Details required as per [Clause 3.5.2](#) & [Clause 3.5.3](#).

Financial Bid

- Letter comprising the Financial Bid- [Appendix-I B](#)
- Price Bid- [Appendix-I B Annex- I](#)

An undertaking from the person having Power of Attorney referred to in Sub [Clause 11-\(ii\)\(b\)](#) above that they agree and abide by the Bid documents uploaded by the Employer and amendments uploaded, if any.

GLOSSARY

Aggregate Score	As defined in Clause 3.5.1
Bids	As defined in Clause 1.2.3
Bid Price	As defined in Clause 1.2.6
Bid Due Date	As defined in Clause 1.2.2
Bid Security	As defined in Clause 1.2.4
Bidding Documents	As defined in Clause 1.2.3
Bidding Process	As defined in Clause 1.2.1
Bid Stage	As defined in Clause 1.2.1
Construction Period	As defined in Clause 1.1
Contractor	As defined in Clause 1.1.2
Conflict of Interest	As defined in Clause 2.2.1(c)
Defects Liability Period	As defined in Clause 1.1.3
Eligible Experience	As defined in Clause 3.2.1
Eligible Projects	As defined in Clause 3.2.1
EPC	Engineering, Procurement and Construction
EPC Contract	As defined in Clause 1.1.2
Estimated Project Cost	As defined in Clause 1.1.4
Financial Capacity	As defined in Clause 2.2.2 (B)
Government	Government of India
Integrity Pact	As defined in Clause 2.24
Jt. Bidding Agreement	As defined in Clause 2.2.6 (g)
Joint Venture	As defined in Clause 2.2.1(a)
Lead Member	As defined in Clause 2.2.6 (c)
LOA	Letter of Award
Lowest Bidder	As defined in Clause 1.2.8
Member	Member of a Joint Venture
Net Worth	As defined in Clause 2.2.4 (ii)
Project	As defined in Clause 1.1.1
Qualification	As defined in Clause 1.2.1
Qualification Stage	As defined in Clause 1.2.1
Re. or Rs. or INR	Indian Rupee
RFQ cum RFP	As defined in the Disclaimer
Technical Capacity	As defined in Clause 2.2.2 (A)
Threshold Technical Capacity	As defined in Clause 2.2.2 (A)

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto herein.

Disclaimer

1. This RFQ cum RFP document is neither an agreement nor an offer by the Cochin Smart Mission Limited (CSML) which is the knowledge partner for the project to the prospective Bidder or any other person. The purpose of this RFQ cum RFP is to provide information to the interested parties that may be useful to them in the formulation of their proposal pursuant to this RFQ cum RFP.
2. CSML does not make any representation or warranty as to the accuracy, reliability or completeness of the information in this RFQ cum RFP document and it is not possible for CSML to consider particular needs of each party who reads or uses this RFQ cum RFP document. This RFQ cum RFP includes statements which reflect various assumptions and assessments arrived at by Employer in relation to this tender. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. Each prospective Bidder should conduct its own investigations and analyse and check the accuracy, reliability and completeness of the information provided in this RFQ cum RFP document and obtains independent advice from appropriate sources.
3. CSML will not have any liability to any prospective Construction Company/ Firm/ Consortium or any other person under any laws (including without limitation the law of contract, tort), the principles of equity, restitution or unjust enrichment or otherwise for any loss, expense or damage which may arise from or be incurred or suffered in connection with anything contained in this RFQ cum RFP document, any matter deemed to form part of this RFQ cum RFP document, the award of the Assignment, the information and any other information supplied by or on behalf of CSML or their employees, any consultants or otherwise arising in any way from the selection process for the Assignment. CSML will also not be liable in any manner whether resulting from negligence or otherwise however caused arising from reliance of any Bidder upon any statements contained in this RFQ cum RFP.
4. CSML will not be responsible for any delay in receiving the proposals. The issue of this RFQ cum RFP does not imply that CSML is bound to select the Bidder or to appoint the Selected Bidder, as the case may be, for this tender and CSML reserves the right to accept/reject any or all of proposals submitted in response to this RFQ cum RFP document at any stage without assigning any reasons whatsoever. CSML also reserves the right to withhold or withdraw the process at any stage with intimation to all who submitted the RFQ cum RFP Bid.
5. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. CSML accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on the law expressed herein.
6. CSML reserves the right to change/ modify/ amend any or all provisions of this RFQ cum RFP document. Such revisions to the RFQ cum RFP/ amended RFQ cum RFP will be made available on the website of CSML.

1. INTRODUCTION

1.1 Background

1.1.1

Project Vision

The name of the work, its estimated cost with schedule time of completion is given below,

Name of the Work	Estimated Project Cost (In Rs. cr.)	Completion Work (Months)
Detailed Design , Construction , Testing & Commissioning of Redevelopment of Ernakulam Market, Ernakulam, Kerala on EPC Basis including Defects Liability Period of 5 (Five) years for civil work & 3 (Three) Years for Mechanical, Electrical & Electronic work and O&M for 3 years.	Rs 62 Crore	24 months

- 1.1.2 The selected Bidder (the "**Contractor**") shall be responsible for designing, engineering, procurement and construction of the Project under and in accordance with the provisions of an engineering, procurement and construction contract (the "**EPC Agreement**") to be entered into between the Contractor and the Employer in the form provided by the Employer as part of the Bidding Documents pursuant hereto
- 1.1.3 The scope of work will broadly include Detailed Design, Construction, Testing & Commissioning of Redevelopment of Ernakulam Market, Ernakulam, Kerala on EPC Basis including Defects Liability Period of 5 (Five) years for civil work & 3 (Three) Years for Mechanical, Electrical & Electronic work and O&M for 3 years
- 1.1.4 The estimated cost of the Project (the "Estimated Project Cost") has been specified in the [clause 1.1.1](#) above. The assessment of actual costs will have to be made by the Bidders.
- 1.1.5 The Agreement sets forth the detailed terms and conditions for award of the project to the Contractor, including the scope of the Contractor's work and obligations.
- 1.1.6 The statements and explanations contained in this RFQ cum RFP are intended to provide a better understanding to the Bidders about the subject matter of this RFQ cum RFP and should not be construed or interpreted as limiting in any way or manner the scope of work and obligations of the Contractor set forth in the Agreement or The Employer's rights to amend, alter, change, supplement or clarify the scope of work, the work to be awarded pursuant to this RFQ cum RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFQ cum RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by The Employer.
- 1.2 The Employer shall receive Bids pursuant to this RFQ cum RFP in accordance with the

terms set forth herein as modified, altered, amended and clarified from time to time by the Employer, and all Bid shall be prepared and submitted in accordance with such terms on or before the date specified in [Clause 1.3](#) for submission of Bids (the "Bid Due Date"). Brief description of Bidding Process

- 1.2.1 The Employer has adopted a Two Bid System (collectively referred to as the "Bidding Process") for selection of the bidder for award of the Project. Under this process, the bid shall be invited under two parts. Eligibility and qualification of the Bidder will be first examined based on the details submitted under first part (Technical Bid) with respect to eligibility and qualifications criteria prescribed in this RFQ cum RFP. (The "Bidder", which expression shall, unless repugnant to the context, include the members of the Joint Venture). Prior to making the Bid, **the Bidder shall pay to the Employer a sum of Rs 50,000/- (Rupees Fifty Thousand + Applicable GST)** as the cost of Tender document fee. The Financial Bid under the second part shall be opened only for those Bidders whose Technical Bids are responsive to eligibility and qualifications requirements as per this RFQ cum RFP.

The Bidding Document as uploaded can be viewed and downloaded free of cost by anyone including intending bidder. But the tender can only be submitted after uploading the mandatory scanned documents such as a) Proof of online submission towards cost of tender document fee, b) Irrevocable and unconditional Bank Guarantee of any Nationalized or all Commercial Scheduled Bank against Bid Security & All other documents shall be as per Notice Inviting e-tender / RFQ cum RFP.

Government of India has issued guidelines (see Appendix-V) for qualification of bidders seeking to acquire stakes in any public sector enterprise through the process of disinvestment. These guidelines shall apply *mutatis mutandis* to this Bidding Process. The Employer shall be entitled to disqualify the Bidder in accordance with the aforesaid guidelines at any stage of the Bidding Process. Bidders must satisfy themselves that they are qualified to bid, and should give an undertaking to this effect in the form at Appendix-I.

- 1.2.2 Interested bidders are being called upon to submit their Bid in accordance with the terms specified in this Bidding Document. The Bid shall be valid for a period of not less than 180 days from the date specified in [Clause 1.3](#) for submission of BIDs (the "Bid Due Date").
- 1.2.3 The Preliminary Design prepared by the Employer/ consultants of the Employer (the "Preliminary Design Details") with the technical specifications, drawings etc will also be provided to the Bidders, the aforesaid documents and any addenda issued subsequent to this RFQ cum RFP Document, will be deemed to form part of the Bidding Documents.

BID Security

- 1.2.4 The Bidder shall furnish as part of its BID, a BID Security of **Rs. 62 Lakh. (Rs Sixty Two Lakh Only)** hereinabove in the form of an irrevocable and unconditional bank guarantee issued by nationalized bank, or a commercial Scheduled Bank in India, in favour of the Employer in the format at [Appendix-VI](#) (the "Bank Guarantee") and having a validity period of not less than 180 (One hundred Eighty) days from the BID Due Date, and a claim period of 180 (One Hundred & Eighty) days over & above the validity period,

and may be extended as may be mutually agreed between the Employer and the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalized bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.

1.2.5 Bidders are invited to examine the Project in detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the Contract including implementation of the Project.

1.2.6 Bids will be evaluated for the Project on the basis of the lowest cost required by a Bidder for implementing the Project (the "Bid Price"). The total time allowed for completion of construction under the Contract (the "Construction Period") and the period during which the Contractor shall be liable for rectification of any defect or deficiency noticed as occurred in the Project after completion of the Construction Period (the "Defects Liability Period") shall be 5 (Five) years for civil work & 3 (Three) Years for Mechanical, Electrical & Electronic work and is indicated in the draft EPC Agreement forming part of the Bidding Documents. The Project shall be awarded to the Bidder quoting the lowest Bid Price who has qualified under both technical & financial parameters.

In this RFQ cum RFP, the term "Lowest Bidder" shall mean the Bidder who is offering the lowest Bid Price.

1.2.7 Generally, the Lowest Bidder shall be the selected Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in the RFQ cum RFP, be invited to match the Bid submitted by the Lowest Bidder in case such Lowest Bidder withdraws or is not selected for any reason. In the event that none of the other Bidders match the Bid of the Lowest Bidder, the Authority may, in its discretion, invite fresh Bids from the remaining Bidders or annul the Bidding Process, as the case may be.

1.2.8 Further and other details of the process to be followed at the Bid Stage and the terms thereof will be spelt out in the Bidding Documents.

1.2.9 Any queries or request for additional information concerning this RFQ cum RFP shall be submitted in writing or by fax and e-mail to the officer designated in [Clause 2.13.3](#) below. The envelopes/ communications shall clearly bear the following identification/ title:

"Queries/ Request for Additional Information:

"Detailed Design, Construction, Testing & Commissioning of Redevelopment of Ernakulam Market, Ernakulam, Kerala on EPC Basis

1.3 Schedule of Bidding Process

The Employer shall endeavor to adhere to the following schedule:

Event Description

Date

1.	Date of uploading RFQ cum RFP	D (As 28 th January 2020)
2.	Last Date of receiving queries	12 th February 2020
3.	Pre- Bid Conference	17 th February 2020, 15:00 Hrs
4.	Response to queries Latest by	27 th February 2020
5.	Bid Due Date	13 th March 2020, 17:30 Hrs
6.	Physical Submission of Tender Documents/ Power of Attorney etc.	16 th March 2020, 14:00 Hrs
7.	Opening of technical Bids	16 th March 2020, 15:00 Hrs
8.	Declaration of Eligible / Qualified bidders for Financial Bids	To be notified later
9.	Opening of Financial Bids	To be notified later to successful bidders
10.	Letter of Award (LOA)	To be notified later
11.	Validity of bids	180 days of Bid due date
12.	Submission of Performance Bank Guarantee	Within 30 days of LOA
13.	Signing of Contract	Within 40 days of LOA
14.	Commencement of Work	Within 15 days of date of LOA

Where "D" is the date of uploading of tender documents. If the date of the event falls on a Sunday/holiday, the date of event shall be considered as the next working day.

2. INSTRUCTIONS TO BIDDERS (ITB)

A. GENERAL

2.1 Scope of Bid

2.1.1 The Employer wishes to receive Bids for Selection of experienced and capable Contractor for the "Detailed Design, Construction, Testing & Commissioning of Redevelopment of Ernakulam Market, Ernakulam, Kerala on EPC Basis including Defects Liability Period of 5 (Five) years for civil work & 3 (Three) Years for Mechanical, Electrical & Electronic work and operation & maintenance for 3 year".

2.2 Eligibility of bidder

2.2.1 For determining the eligibility of Bidder for their qualification hereunder, the following shall apply:

- (a) The Bidder may be a single entity or a group of entities (the "Joint Venture"), coming together to implement the Project. However, the Bidder, applying individually or as a member of a Joint Venture, as the case may be, cannot be member of another group of entity. The term Bidder used herein would apply to both a single entity and a Joint Venture.
- (b) A Bidder may be a person, group of persons, firm, LLP, public or private company or a combination of companies with a formal intent to enter into a Joint Venture agreement or under an existing agreement to form a Joint Venture. A Joint Venture shall be eligible for consideration subject to the conditions set out in [Clause 2.2.6](#) below.
- (c) A Bidder shall not have a conflict of interest (the "Conflict of Interest") that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. A Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:-
 - (i) the Bidder, its Member or any constituent thereof and any other Bidder, its Member or any constituent thereof have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of the Bidder, its Member thereof (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Bidder, Member, as the case may be), in the other Bidder, its Member is less than 5 per cent of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 4A of the Companies Act 1956/2013. For the purposes of this [Clause 2.2.1\(c\)](#), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the

- "Subject Person") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub- clause (aa) above, where a person does not exercise control over anintermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub- clause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or
- (ii) a constituent of such Bidder is also a constituent of another Bidder; or
 - (iii) such Bidder, or any Associate thereof, receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member thereof; or
 - (iv) such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
 - (v) such Bidder, or any Associate thereof has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other's' information about, or to influence the Bid of either or each other; or
 - (vi) such Bidder, or any Associate thereof, has participated as a consultant to the Employer in the preparation of any documents, design or technical specifications of the Project.
- (d) A Bidder shall be liable for disqualification and forfeiture of BID Security, if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to such Project during the Bidding Process or subsequent to the (i) issue of the LOA or (ii) execution of the Agreement. In the event any such adviser is engaged by the selected Bidder or Contractor, as the case may be, after issue of the LOA or execution of the Agreement for matters related or incidental to the project, then notwithstanding anything to the contrary contained herein or in the LOA or the Agreement and without Prejudice to any other right or remedy or the Authority, including the forfeiture and appropriation of the BID Security or Performance Security, as the case may be, which the Authority may have there under or otherwise, the LOA or the Agreement, as the case may be, shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Selected Bidder or Contractor for the same. For the avoidance or doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of this RFQ cum RFP. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

2.2.2 To be eligible for bidding, the Bidder, shall fulfil the following conditions of eligibility:

(A) Technical Capacity:

- i) For demonstrating technical capacity and experience (the "Technical Capacity"), the Bidder, over the past 5 (five) financial year preceding the Bid Due Date, have received payments for construction of Similar Project(s), or has undertaken construction works by itself in a EPC/ PPP / Item rate project, such that the sum total thereof is more than **Rs. 124 Cr. (Rupees One Hundred Twenty Four Crores Only)** (the "Threshold Technical Capacity").
- (ii) Provided that similar projects on Turnkey / Design & Build / EPC / Item Rate building which includes all types of Civil works , Structural works, piling, raft foundation, structural steel work and MEP works, required for the project as per the respective requirement and Scope of the Similar Project/works as defined below

"Similar Works" shall mean - Large Commercial Buildings, Large Institutional buildings, Large Infrastructure Projects excluding road, sewage, canal works" with any reputed organization/department including external & internal services in last 7 (Seven) years.

- a) **At least three similar completed project – Rs. 25 Crores each or**
b) **At least two similar completed project –Rs. 37 Crores each or**
c) **At least one similar completed project – Rs. 50 Crores**

(B) Financial Capacity:

- (a) Average annual financial turnover during last three years ending 31st March of the previous financial year, should be at least **Rs. 18.6 Cr. (Rupees Eighteen Crore Sixty Lakh only)**
- (b) Bid Capacity
Bidder shall also fulfill the eligibility criteria such that their available bid capacity is more than the **Rs. 62 Crores (Rupees Sixty Two Crores only)**. The available bid capacity will be calculated as under:

$$\text{Assessed Available Bid capacity} = (A * N * 2.5 - B)$$

Where

A = Maximum value of civil engineering works in respect to Projects (EPC/PPP Contract/ Item Rate contracts/ Construction works) executed in any one year during the last five years (\$updated to the price level of the year indicated in Table below) taking into account the completed as well as works in progress.

N = Number of years prescribed for completion of the works for which bids are invited.

B =Value (\$updated to the price level of the year indicated in Table below) of existing

commitments and on-going works to be completed during the (Two year) years. i.e. period of completion of the work for which bid is invited.

Note: The statement showing the value of existing commitments and on-going works as well as the stipulated period completion remaining for each of the works listed should be countersigned by the Engineer in the charge, Authorized Signatory for the project(s) or Statutory Auditor of the Bidder. Also such list of ongoing works including agreement values and balance works shall be declared on non-judicial stamp paper of worth INR 200/- and notarized.

§: The following enhancement factor shall be applied for updating the values of work to bring them to the base year. The current financial year in which the bid is invited shall be considered as base year.

Year	Financial year	Enhancement factor
Base (Year of Inviting Tender)	2019-2020	1.00
-1	2018-2019	1.06
-2	2017-2018	1.12
-3	2016-2017	1.18
-4	2015-2016	1.24
-5	2014-2015	1.30

- (c) Profitability: The Bidder should not have suffered any financial loss for more than one year during the last three years, ending at the close of the preceding financial year. The Bidder should submit attested copies of auditor's report.
- (d) Net Worth: The Bidder shall have a minimum Net Worth (the "Financial Capacity") of **Rs. 15.50 Crores (Rupees Fifteen crore Fifty Lakh only)** at the close of the preceding financial year.

All the above items should be certified by the Statutory Auditor of the company

2.2.3 In case of a Joint Venture (not exceeding 3 entities)

- i) Requirement of [2.2.2 \(A\) \(i\)](#), the threshold technical capacity should be satisfied collectively by all JV members in accordance to their share holding in the consortium / JV. The requirement of [Clause 2.2.2 \(A\) \(ii\)](#) shall be met by any of the JV members.
- ii) The Technical and Financial Capacity of all the Members of Joint Venture would be taken into account for satisfying the above conditions of eligibility. Further, Lead Member shall meet the requirements of Financial Capacity required as per [Clause 2.2.2 \(B\)](#) according to its share holding in the consortium / JV and each of other JV members shall meet at least **26%** requirement of financial capacity as per [Clause 2.2.2 \(B\)](#). For avoidance of doubt it is further clarified that the Joint Venture must collectively and individually satisfy the above qualification criteria. JV as a whole shall cumulatively/ collectively fulfill the 100% requirement.

2.2.4 The Bidder shall enclose with its Bid, to be submitted as per the format at [Appendix-I](#), complete with its Annexes, the following:

- (i) Certificate(s) from its statutory auditors¹ or the concerned client(s) stating the payments received or in case of an EPC/ PPP/item rate/construction project, the construction carried out by itself, during the past 5 years, in respect of the Similar Projects. In case a particular job/ contract has been jointly executed by the Bidder (as part of a Joint Venture), it should further support its claim for the payments received or construction carried out by itself in EPC/ PPP / Item rate Projects as applicable the share in work done for that particular job/ contract by producing a certificate from its statutory auditor or the client; and
- (ii) Certificate(s) from its statutory auditors specifying the financial capacity parameters of the Bidder, as at the close of the preceding financial year, and also specifying that the methodology adopted for calculating such net worth conforms to the provisions of this [Clause 2.2.4 \(ii\)](#).

For the purposes of this RFQ cum RFP, net worth (the "Net Worth") shall mean the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.

2.2.5 The Bidder should submit a Power of Attorney as per the format at [Appendix-II](#), authorising the signatory of the Bid to commit the Bidder. In the case of a Joint Venture, the Members should submit a Power of Attorney in favour of the Lead Member as per format at [Appendix-III](#).

¹ ¹ In case duly certified audited annual financial statements containing explicitly the requisite details are provided, a separate certification by statutory auditors would not be necessary in respect of Clause 2.2.4 (i). In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Bidder may provide the certificates required under this RFQ cum RFP

2.2.6 In case the Bidder is a Joint Venture, it shall comply with the following additional requirements:

- (a) Number of members in a Joint Venture shall not exceed 3 (three) including lead partner;
- (b) subject to the provisions of clause (a) above, the Bid should contain the information required for each Member of the Joint Venture;
- (c) Members of the Joint Venture shall nominate one member as the lead member (the "Lead Member"). **The shareholding of the lead bidder must be highest amount among the Consortium / JV member. The Credentials of those members will be evaluated who have more than 26% equity in Consortium / JV.** Lead Member shall meet the requirements of Financial Capacity required as per [Clause 2.2.2 \(B\)](#) according to its share holding in the consortium / JV and each of other JV

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members shall meet at least **26%** requirement of financial capacity as per [Clause 2.2.2 \(B\)](#). JV as a whole shall cumulatively/collectively fulfill the 100% requirement. The nomination(s) shall be supported by a Power of Attorney, as per the format at [Appendix-III](#), signed by all the other Members of the Joint Venture.

- (d) the Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and defects liability obligations;
- (e) an individual Bidder cannot at the same time be member of a Joint Venture submitting the bid . Further, a member of a particular Bidder , Joint Venture cannot be member of any other Bidder Joint Venture applying for pre-qualification;
- (f) members of the Joint Venture shall have entered into a binding Joint Bidding Agreement, substantially in the form specified at [Appendix-IV](#) (the "Jt. Bidding Agreement"), for the purpose of making the Bid and submitting a Bid in the event of being qualified. The share of lead partners should always be more than the other partners. The Jt. Bidding Agreement, to be submitted along with the Bid, shall, *inter alia*:
 - (i) convey the commitment(s) of the Lead Member in accordance with this RFQ cum RFP, in case the contract to undertake the Project is awarded to the Joint Venture;
 - (ii) Clearly outline the proposed roles and responsibilities, if any, of each member;
 - (iii) Commit the approximate share of work to be undertaken by each member;
 - (iv) include a statement to the effect that all members of the Joint Venture shall be liable jointly and severally for all obligations of the Contractor in relation to the Project in accordance with the EPC Agreement; and
- (g) except as provided under this RFQ cum RFP and the Bidding Documents, there shall not be any amendment to the Jt. Bidding Agreement without the prior written consent of the Employer.
- (h) Certificates of Subsidiary/Group Companies:- The companies/firms, who intend to get qualified on the basis of experience of the subsidiary/ parental company/group company, shall not be considered unless they form a joint venture. In case of a Company/firm, formed after merger and/or acquisition of other companies/firms, past experience and other antecedents of the merged/ acquired companies/firms will be considered for qualification of such Company/firm provided such Company/firm continues to own the requisite assets and resources of the merged/ acquired companies/firms relevant to the claimed experience.
- (i) Foreign Certificate

In case the work experience is for the work executed outside India, the bidders have to submit certificate issued by the owner/ Client and affidavit to the correctness of the documents. However, the Contractor will get the documents attested by the

Indian Embassy/consulate / High Commission in the respective country.

For conversion of US Dollars to Rupees, the rate of conversion shall be as per exchange rate prevailing on the last day of the respective financial year (in which the amounts for that year is to be converted). In case of any other currency, the same shall first be converted to US Dollars, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be used as published by Reserve Bank of India. (www.rbi.org.in)

- (j) Bidder can be a private entity, government-owned entity, single or a group/ combination of such entities coming together to implement the Project ("Consortium"). However, no bidder applying individually or as a member of a Consortium, as the case may be, can be a member of another bidder. The term bidder used herein would apply to both a single entity and a Consortium.

2.2.7 Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project, and the bar subsists as on the date of bid, would not be eligible to submit the bid, either individually or as member of a Joint Venture.

2.2.8 The Bidder including individual or any of its joint venture Member should, in the last (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial Employer or a judicial pronouncement or arbitration award against the Bidder or Member, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Bidder or Member.

2.2.8.1 The Bidder including any Member may provide details of all their on-going projects along with stage of litigation, if so, against the Employer / Governments.

2.2.8.2 The Bidder including any member may also provide details of on-going process of blacklisting if so, under any contract with Employer / Government.

2.2.8.3 The Employer reserves the right to reject an otherwise eligible bidder on the basis of the information provided under [clause 2.2.8](#). The decision of the Employer in this case shall be final.

2.2.9 The Technical Capacity and Net Worth of the Bidder/ Members in case of Joint Venture shall be computed under [Clauses 2.2.2, 2.2.4 & Clause 3](#) (Criteria for Evaluation).

2.2.10 The following conditions shall be adhered to while submitting the bid :

- (a) Bidder should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexes is insufficient. Alternatively, Bidder may format the prescribed forms making due provision for incorporation of the requested information;
- (b) Information supplied by the Bidder (or other constituent Member if the Bidder is a Joint Venture) must apply to the Bidder, Member named in the Bid. Invitation to submit Bids will be issued only to Bidder whose identity and/ or constitution is identical to that at qualification;

- (c) in responding to the bid submissions, Bidder should demonstrate their capabilities in accordance with [Clause 3.1](#) below; and
- (d) in case the Bidder is a Joint Venture, each Member should substantially satisfy the bid requirements to the extent specified herein.
- (e) in case the Bidder does not have the relevant experience for any specific element of the project, it shall be deemed to have given an undertaking to engage specialized personnel/ sub-contractors in accordance with the Agreement.
- (f) An International Bidder bidding individually or as a member of a Joint Venture shall ensure that Power of Attorney is apostille by appropriate authority and requirement of Indian Stamp Act is duly fulfilled.

2.2.11 While Qualification is open to persons from any country, the following provisions shall apply:

- (a) Where, on the date of the Bid, not less than 50% (fifty percent) of the aggregate issued, subscribed and paid up equity share capital in a Bidder or its Member is held by persons resident outside India or where a Bidder or its Member is controlled by persons resident outside India; or
- (b) if at any subsequent stage after the date of the Bid, there is an acquisition of not less than 50% (fifty percent) of the aggregate issued, subscribed and paid up equity share capital or control, by persons resident outside India, in or of the Bidder or its Member/ Partner;

then the Eligibility of such Bidder shall be subject to approval of the Employer from national security and public interest perspective. The decision of the Employer in this behalf shall be final and conclusive and binding on the Bidder.

The holding or acquisition of equity or control, as above, shall include direct or indirect holding/ acquisition, including by transfer, of the direct or indirect legal or beneficial ownership or control, by persons acting for themselves or in concert and in determining such holding or acquisition, the Employer shall be guided by the principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, or any substitute thereof, as in force on the date of such acquisition.

The Bidder shall promptly inform the Employer of any change in the shareholding, as above, and failure to do so shall render the Bidder liable for disqualification from the Bidding Process.

2.2.12 Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within three months of the closing of the latest financial year of a Bidder, it shall ignore such financial year for the purposes of its Bid and furnish all its information and certification with reference to the 5 (five) years or 1 (one) year, as the case may be, preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of the Bid hereunder, mean the accounting year followed by the Bidder in the course of its normal business.

2.3 Change in composition of the Joint Venture

- 2.3.1 Change in the composition of a Joint Venture will not be permitted by the Employer during the Bid Stage and after the award of work till the scope is completed in all respects.

2.4 Number of Bids and costs thereof

- 2.4.1 No Bidder shall submit more than one Bid for the Project. The Bidder applying individually or as a member of a Joint Venture shall not be entitled to submit another Bid either individually or as a member of any Joint Venture, as the case may be.
- 2.4.2 The Bidder shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bid Process. The Employer will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.5 Site visit and verification of information

Bidders are encouraged to submit their respective Bid after visiting the Project site and ascertaining for themselves the site conditions, traffic, location, surroundings, climate, availability of power, water and other utilities for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations (including National Green Tribunal), and any other matter considered relevant by them.

The Geotechnical and other related data provided by the Employer are based on the investigation conducted by Employer and are for reference purposes only. The Bidder should satisfy himself with the data furnished and make his own investigations if required for submitting his offer.

2.6 Acknowledgement by Bidder

- 2.6.1 It shall be deemed that by submitting the Bid, the Bidder has:
- (a) made a complete and careful examination of the RFQ cum RFP;
 - (b) received all relevant information requested from the Employer;
 - (c) accepted the risk of inadequacy, error or mistake in the information provided in the RFQ cum RFP or furnished by or on behalf of the Employer relating to any of the matters referred to in [Clause 2.5](#) above; and
 - (d) Agreed to be bound by the undertakings provided by it under and in terms hereof.
- 2.6.2 The Employer shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the RFQ cum RFP or the Bidding Process, including any error or mistake therein or in any information or data given by the Employer.

2.7 Right to accept or reject any or all Applications/ Bids

2.7.1 Notwithstanding anything contained in this RFQ cum RFP, the Employer reserves the right to accept or reject any Bid and to annul the Bidding Process and reject all Applications/ Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefore. In the event that the Employer rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

2.7.2 The Employer reserves the right to reject any Application and/ or Bid if:

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

If the Bidder is a Joint Venture, then the entire Joint Venture may be disqualified/ rejected. If such disqualification/ rejection occur after the Bids have been opened and the Lowest Bidder gets disqualified/ rejected, then the Employer reserves the right to:

- (i) invite the next lowest Bidder to match the price bid of the first lowest bidder
- (ii) Take any such measure as may be deemed fit in the sole discretion of the Employer, including annulment of the Bidding Processes.

2.7.3 In case it is found during the evaluation or at any time before signing of the EPC Agreement or after its execution and during the period of subsistence thereof, including the Defects Liability Period, that one or more of the bid conditions have not been met by the Bidder , or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Contractor either by issue of the LOA or entering into the EPC Agreement , and if the Bidder has already been issued the LOA or has entered into the EPC Agreement , as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFQ cum RFP, be liable to be terminated, by a communication in writing by the Employer to the Bidder , without the Employer being liable in any manner whatsoever to the Bidder and without prejudice to any other right or remedy which the Employer may have under this RFQ cum RFP, the Bidding Documents, the EPC Agreement or under applicable law.

2.7.4 The Employer reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFQ cum RFP. Any such verification or lack of such verification by the Employer shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Employer thereunder.

B. DOCUMENTS

2.8 Contents of the Bid

This RFQ cum RFP comprises the disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with [Clause 2.10](#).

PART 1 Request for Qualification cum Request for Proposal

- [Section 1.](#) Introduction
[Section 2.](#) Instructions to Bidders
[Section 3.](#) Criteria for Evaluation
[Section 4.](#) Fraud & Corrupt Practices
[Section 5.](#) Pre Bid Conference
[Section 6.](#) Miscellaneous

Appendices

- I. Letter comprising the Technical Bid
II. Power of Attorney for signing of Bid
III. Power of Attorney for Lead Member of Joint Venture
IV. Joint Bidding Agreement for Joint Venture
V. Deleted
VI. Bank Guarantee for BID Security
VII. Deleted
VIII. Appendix-VIII- Non-Disclosure Agreement

PART 2 - Volume 1.1 - EPC Agreement

PART 2 - Volume 1.2 - Schedules

PART 2 - Volume 1.3 - Drawings

2.9 Clarifications

- 2.9.1 Bidders requiring any clarification on the RFQ cum RFP may notify the Employer in writing or by fax and e-mail in accordance with [Clause 1.2.9](#). They should send in their queries before the date specified in the schedule of Bidding Process contained in [Clause 1.3](#). The Employer shall endeavor to respond to the queries within the period specified therein.
- 2.9.2 The Employer shall endeavor to respond to the questions raised or clarifications sought by the Bidder. However, the Employer reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Employer to respond to any question or to provide any clarification.
- 2.9.3 The Employer may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Employer shall be deemed to be part of the RFQ cum RFP. Verbal clarifications and information given by Employer or its employees or representatives shall not in any way or manner be binding on the Employer.

2.10 Amendment of RFQ cum RFP

- 2.10.1 At any time prior to the deadline for submission of Bid, the Employer may, for any reason, whether at its own initiative or in response to clarifications requested by the Bidder, modify the RFQ cum RFP by the issuance of Addenda.
- 2.10.2 Any Addendum thus issued will be published on the website_ www.etenders.kerala.gov.in only
- 2.10.3 In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Employer may, in its sole discretion, extend the Bid Due Date.

C. PREPARATION AND SUBMISSION OF BID

2.11 Language

The Bid and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Bidder with the Bid may be in any other language provided that they are accompanied by translations of all the pertinent passages in the English language, duly authenticated and certified by the Bidder. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Bid, the English language translation shall prevail.

2.12 Format and signing of Bid Application

- 2.12.1 The Bidder shall provide all the information sought under this RFQ cum RFP. The Employer will evaluate only those Bids that are received online in the required formats and complete in all respects and Bid Security, Tender Document Fee, POA and Joint Bidding Agreement are received in Hard copies. Incomplete and /or conditional Bids shall be liable to rejection.

2.13 Sealing and Marking and submission of Bids Documents comprising Technical and Financial Bid

- 2.13.1 The Bidder shall submit the BID online along with other supporting scanned documents as mentioned below.

Technical Bid

- (a) (Letter comprising the Technical BID) [Appendix-I](#);
- (b) Power of Attorney for signing the BID as per the format at [Appendix-II](#);
- (c) if applicable, Power of Attorney for Lead Member of Joint Venture as per the format at [Appendix-III](#) of RFQ cum RFP;
- (d) Certificates in accordance with [Appendix-I](#) (all annexure)
- (e) Copy of BID Security of Rs Sixty Two (62) Lakh in the form of Bank Guarantee in the format at [Appendix-VI](#) from the Scheduled Bank

- (f) Copy of Cost of tender document fee of Rs. 50,000/- (Rupees Fifty Thousand only) + Applicable GST
- (g) Registration copies of GST (applicable only for Indian bidder and Indian Partners in case of JV)
- ~~(h) Deleted~~
- (i) Non-Disclosure Agreement as per [Appendix-VIII](#)
- (j) Details required as per [Clause 3.5.2](#) & [Clause 3.5.3](#).

Financial Bid

- (a) Letter comprising the Financial Bid- [Appendix-I B](#)
- (b) Price Bid- [Appendix-I B Annex- I](#)

2.13.2 The documents supporting the BID shall be submitted in a separate envelope marked as "Enclosures of the BID". The documents shall include:

- (i) Power of Attorney for signing the Bid as per the format at [Appendix-II](#);
- (ii) if applicable, Power of Attorney for Lead Member of Joint Venture as per the format at [Appendix-III](#) of RFQ cum RFP;
- (iii) BID Security in the form of Bank Guarantee in the format at [Appendix-VI](#) from the Scheduled Bank.
- (iv) Copy of proof of paying cost of tender document fee of Rs. 50,000/- (Rupees Fifty Thousand only) + applicable GST online through eprocurement gateway

The envelope specified in [Clauses 2.13.2](#) shall be placed in an outer envelope, which shall be sealed. The envelopes shall clearly bear the identification "BID for the "Detailed Design, Construction, Testing & Commissioning of Redevelopment of Ernakulam Market, Ernakulam, Kerala on EPC Basis " and shall clearly indicate the name and address of the Bidder. In addition, the BID Due Date should be indicated on the right hand top corner of each of the envelopes.

2.13.3 Each of the envelopes shall be addressed to: the Employer's address details

ATTN. OF: Chief Executive Officer,
Cochin Smart Mission Limited (CSML)

ADDRESS: Revenue Tower, Park Avenue,
9th Floor, Kochi
682 011, India

TEL. NO: +91-0484-2350355

FAX NO: +91-0484-2380980

E-MAIL: csmltenders@gmail.com

- 2.13.4 If the envelopes are not sealed and marked as instructed above, the Employer assumes no responsibility for the misplacement or premature opening of the contents of the Bid and consequent losses, if any, suffered by the Bidder.
- 2.13.5 Bids submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

2.14 Bid Due Date

- 2.14.1 Bids should be submitted before 1400 hours 1ST on the Bid Due Date, at the address provided in [Clause 2.13.3](#) in the manner and form as detailed in this RFQ cum RFP. A receipt thereof should be obtained from the person specified in [Clause 2.13.3](#).
- 2.14.2 The Employer may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with [Clause 2.10](#) uniformly for all Bidders.

2.15 Late Bids

Bids received by the Employer after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected.

2.16 Modifications/ substitution/ withdrawal of Bids

- (i) The Bidder may modify, substitute or withdraw its e- BID after submission prior to the BID Due Date. No BID shall be modified, substituted or withdrawn by the Bidder on or after the BID Due Date & Time.
- (ii) Any alteration / modification in the BID or additional information supplied subsequent to the BID Due Date, unless the same has been expressly sought for by the Employer shall be disregarded.
- (iii) For modification of e-BID, bidder has to detach its old BID from e-tendering portal and upload / resubmit digitally signed modified BID.
- (iv) For withdrawal of BID, bidder has to click on withdrawal icon at e-tendering portal and can withdraw its e-BID.
- (v) Before withdrawal of a BID, it may specifically be noted that after withdrawal of a BID for any reason, bidder cannot re-submit the e-BID.

D. EVALUATION PROCESS

2.17 Opening and Evaluation of Technical Bids

- 2.17.1 The Employer shall open the Technical Bids online at 15.00 hours IST on the Technical Bid Opening Date, at the place specified in [Clause 2.13.3](#) and in the presence of the Bidders who choose to attend.

- 2.17.2 Bids for which a notice of withdrawal has been submitted in accordance with [Clause 2.16](#) shall not be opened.
- 2.17.3 The Employer will subsequently examine and evaluate Bids in accordance with the provisions set out in [Section 3](#).
- 2.17.4 Bidders are advised that qualification of Bidders will be entirely at the discretion of the Employer. Bidders will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.
- 2.17.5 Any information contained in the Bid shall not in any way be construed as binding on the Employer, its agents, successors or assigns, but shall be binding against the Bidder if the Project is subsequently awarded to it on the basis of such information.
- 2.17.6 The Employer reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all bid (s) without assigning any reasons.
- 2.17.7 If any information furnished by the Bidder is found to be incomplete, or contained in formats other than those specified herein, the Employer may, in its sole discretion, exclude the relevant project from computation of the Eligible Score of the Bidder.
- 2.17.8 In the event that a Bidder claims credit for an Eligible Project and such claim is determined by the Employer as incorrect or erroneous, the Employer shall reject such claim and exclude the same from computation, make a further deduction equivalent to the claim rejected hereunder. Where any information is found to be patently false or amounting to a material misrepresentation, the Employer reserves the right to reject the Application and/ or Bid in accordance with the provisions of [Clauses 2.7.2](#) and [2.7.3](#).
- 2.17.9 The Employer will get the BID security verified from the issuing authority and after due verification, the Authority will evaluate the Technical BIDs for their compliance to the eligibility and qualification requirements pursuant to clause [2.2.1](#) & [2.2.2](#) of this RFQ cum RFP.

With respect to guarantees issued in favour of CSML, Applicant/contactors/Bidder has to submit the copy of SFMS advice /Swift advice along with the original paper guarantees.

SFMS/Swift advice to be issued to our below account with Axis Bank and the paper guarantee will be operative only after receiving the SFMS/Swift advice at our Bank.

Bank : Axis Bank Limited
Account name : COCHIN SMART MISSION LIMITED
Account Number : 918020079716734
IFSC Code : UTIB0000081
Branch : Kochi Branch
Swift Code : AXISINBB081

- 2.17.10 After evaluation of Technical Bids as per the Evaluation Criteria, the Employer will publish

a list of technically responsive Bidders whose financial bids shall be opened. The Employer shall notify other bidders that they have not been technically responsive. The Employer will not entertain any query or clarification from Bidders who fail to qualify.

2.18 Confidentiality

Information relating to the examination, clarification, evaluation, and recommendation for the qualified Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Employer in relation to or matters arising out of, or concerning the Bidding Process. The Employer will treat all information, submitted as part of Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The Employer may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Employer or as may be required by law or in connection with any legal process.

2.19 Tests of responsiveness

2.19.1 Prior to evaluation of Bids, the Employer shall determine whether each Bid is responsive to the requirements of the RFQ cum RFP as per [Clause 2.13](#). Bid shall be considered responsive only if:

it does not contain any condition or qualification; and it is not non-responsive in terms hereof.

2.19.2 The Employer reserves the right to reject any Bids which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Employer in respect of such Bid.

2.20 Clarifications of Bids/ Shortfall Documents

2.20.1 To facilitate evaluation of BIDs, the Employer may, at its sole discretion, seek clarifications from any Bidder regarding its Bid. Such clarification(s) shall be provided within the time specified by the Employer for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

2.20.2 If the Bidder does not provide clarifications sought under [Clause 2.20.1](#) above within the prescribed time, its Bid shall be liable to be rejected. In case the Bid is not rejected, the Employer may proceed to evaluate the Bid by construing the particulars requiring clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of the Employer.

2.21 Proprietary data

All documents and other information supplied by the Employer or submitted by the Bidder to the Employer shall remain or become the property of the Employer. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The Employer will not return any Bid or any information provided along therewith.

2.22 Correspondence with the Bidder

Save and except as provided in this RFQ cum RFP, the Employer shall not entertain any correspondence with any Bidder in relation to the acceptance or rejection of any Bid. However, the Employer would display the result of the technical evaluation on its web portal including reasons for non-responsiveness, if any and the financial bid will be opened thereafter.

2.23 BID Security

- 2.23.1 The Bidder shall furnish as part of its BID, a BID Security of Rs. 62 Lakh (Rs Sixty Two Lakh Only) hereinabove in the form of an irrevocable and unconditional bank guarantee issued by nationalized bank, or commercial Scheduled Bank in India having a net worth of at least Rs. 1,000 crore (Rs. One Thousand Crores), in favour of the Employer in the format at Appendix-VI (the "Bank Guarantee") and having a validity period of not less than 180 (One hundred Eighty) days from the BID Due Date, with a claim period of 180 (One Hundred & Eighty) days over & above validity date, and may be extended as may be mutually agreed between the Employer and the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalized bank in India is required. For the avoidance of doubt, nationalized, commercial Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.
- a) Any BID not accompanied by the BID Security shall be summarily rejected by the Employer as non-responsive.
 - b) Bid Security of the unsuccessful Bidder(s) will be returned as soon as possible, without any interest, upon the selected bidder signing the Contract Agreement and furnishing the Performance Security in accordance with the provisions thereof.
 - c) The Selected Bidder's BID Security will be returned within 30 days, without any interest, upon the selected bidder signing the Contract Agreement and furnishing the Performance Security in accordance with the provisions thereof. The Employer may, at the Selected Bidder's option, adjust the amount of BID Security in the amount of Performance Security to be provided by him in accordance with the provisions of the Agreement.
 - d) The Employer shall be entitled to forfeit and appropriate the BID Security as Damages *inter alia* in any of the events specified in Clause below herein below. The Bidder, by submitting its BID pursuant to this RFQ cum RFP, shall be deemed to have acknowledged and confirmed that the Employer will suffer loss and damage on account of withdrawal of its BID or for any other default by the Bidder during the period of BID validity as specified in this RFQ cum RFP. No relaxation of any kind on BID Security shall be given to any Bidder except for the MSEs as per [clause 2.23.1 \(g\)](#).
 - e) The BID Security shall be forfeited and appropriated by the Employer as damages payable to the Employer for, inter-alia, time cost and effort of the Employer without prejudice to any other right or remedy that may be available to the Employer under the bidding documents and / or under the Agreement, or otherwise, under the following conditions:
 - i) If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in [Section 4](#) of this RFQ cum

RFP;

- ii) If a Bidder withdraws its BID during the period of Bid validity as specified in this RFQ cum RFP and as extended by mutual consent of the respective Bidder(s) and the Employer;
- iii) In the case of Selected Bidder, if it fails within the specified time limit –
 - 1. to sign and return the duplicate copy of LOA. ;
 - 2. to sign the Agreement within the time frame as mentioned in the EPC Agreement; or
 - 3. to furnish the Performance Security within the period prescribed therefore in the Agreement or in this RFQ cum RFP.
 - 4. fail to commence the work within the stipulated time period prescribed in the contract.
- f) In case the Selected Bidder, having signed the Agreement, commits any breach thereof prior to furnishing the Performance Security.
- g) Micro & Small Enterprises (MSEs) registered with National Small Industries Corporation (NSIC) and having single point registration are exempt from payment of Bid Security (EMD) to the extent of Monetary Limit stated in their Registration Certificate. In case the bid value exceeds the monetary limit, the bidder shall furnish EMD for the difference. Such MSEs should also produce documentary evidence showing that the firm is registered with NSIC for the items/work tendered for.

The bidder must submit certified copy of valid NSIC Registration Certificate/ Renewal Certificate. Photocopy of application for registration or for Renewal of NSIC will not be acceptable.

- 2.23.2 Within 30 (days) from the date of Letter of Award, the successful bidder shall furnish a performance security of 5 % of Contract Value in accordance with the provisions and format given in the agreement.

2.24 Deleted

2.25 Non-Disclosure Agreement – the bidder shall sign a non-disclosure agreement.

2.26 Information To Be Furnished By Foreign Bidders

It is mandatory for the Foreign Contractor to furnish the following information in case his receipts are subject to tax deduction at source in India:

- (a) PAN No. as per the Indian Income Tax requirements failing which the Contractor shall be responsible for any additional tax deduction at source as per the provisions of the Indian Income Tax Act/Rules and the same shall be deducted from the payment made to Contractor.
- (b) Tax Residency Certificate (TRC) as per Indian Income Tax rules from the

Government of foreign country in order to claim the benefits of DTAA as per the Indian Income Tax requirements failing which the relief under DTAA will not be available and consequently the higher prevailing applicable rate of withholding tax will be deducted from the payment made to Contractor (i.e., non-resident taxpayer). The TRC shall be duly verified by the Government of the country of which the assess claims to be a resident for the purposes of tax.

- (c) In addition to TRC, bidder in order to claim the benefits of DTAA shall also submit additional information in Form no. 10F (Income Tax, Govt. of India). Form 10F has to be signed & verified by the assesses himself. If some information is already contained in TRC, the bidder shall not be required to provide that information in Form no. 10F but even then Form no. 10F is required to be provided by the bidder. However, the bidder may write Not Applicable in the relevant column in case that information is already contained in TRC. The above shall be furnished before release of any payment or within one month of the release of Order, whichever is earlier failing submission of the above information, any additional tax liability on SPV, will be deducted.
- (d) In case of Foreign Bidders, if the Annual Turnover is in currency other than USD, the same shall be converted into equivalent USD considering the conversion factor indicated in Bidder's Audited Financial Report. In case the same is not indicated, the conversion rate of USD as on last date of Bidder's financial year shall be considered based on RBI bill selling rate.
- (e) In case the work experience is for the work executed outside India, the bidders have to submit certificate issued by the owner and affidavit to the correctness of the documents. However, the Bidder will get the documents attested by the Indian Embassy/consulate / High Commission in the respective country.
- (f) In case a bidder submits any documents in any language other than English, then it will be the responsibility of such foreign Bidder to also provide the English translation copy of the same duly certified, stamped and signed by their Local Chamber of Commerce. Translation by Indian Embassy/ Indian High Commission or authorized/ approved translation agencies (by Indian embassy/ high commission or any other authority) shall also be acceptable.
- (g) Involvement of Agent

In case the Bidders (Single or JV) desire to utilize the services of an Agent, the Provisions of Clause 3.6 of "MANUAL FOR PROCUREMENT OF GOODS, 2017"- (Ministry of Finance) and Rule 152 of GFR 2017 shall be adhered to.

2.27 Prices to Be In Figures and Words

The BID shall be furnished in the format exactly as per [Appendix-I B Annex-I](#), clearly indicating the BID amount in both figures and words, in Indian Rupees, and signed by the Bidder's authorized signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.

In case, there is an error in a total corresponding to the addition or subtraction of sub-totals, the sub-totals shall prevail and the total shall be corrected. When there is a difference between the prices in figures and words, the price in words shall prevail.

Such discrepancy in an offer shall be conveyed to the Bidder by asking him to respond by a target date and if the bidder does not agree or rectifies the discrepancy, the same is liable to be rejected.

3. CRITERIA FOR EVALUATION

3.1 Evaluation parameters

- 3.1.1 Only those Bidders who meet the eligibility criteria specified in [Clause 2.2.1](#) above shall qualify for evaluation under this Section 3. Bids of firms/ Joint Venture who do not meet these criteria shall be rejected.
- 3.1.2 The Bidder's competence and capability is proposed to be established by the following parameters:
- (a) Technical Capacity; and
 - (b) Financial Capacity

3.2 Technical Capacity for purposes of evaluation

- 3.2.1 Eligible Experience in respect of each category shall be measured only for Similar Projects.
- 3.2.2 For a project to qualify as an Eligible Project for the similar projects ([Clause 2.2.2](#)) category the Bidder should have received payments from its client(s) for construction works executed, fully or partially, during the 7 (Seven) financial years immediately preceding the Bid Due Date, and only the amounts (gross) actually received, during such 7 (Seven) financial years shall qualify for purposes of computing the Score. However, receipts of less than Rs. 6.20 crores (Rupees Six Crores Twenty Lakh only) (10% of the Estimated Project cost) shall not be reckoned as receipts for Eligible Projects. For the avoidance of doubt, construction works shall not include supply of goods or equipment alone except when such goods or equipment form part of a turn-key construction contract / EPC contract / Item rate contract for the project. Further, the cost of land shall not be included hereunder.
- 3.2.3 The Bidder shall quote experience in respect of a particular Eligible Project under any one category only, even though the Bidder (either individually or along with a member of the Joint Venture) may have played multiple roles in the cited project. Double counting for a particular Eligible Project shall not be permitted in any form.
- 3.2.4 Experience for any activity relating to an Eligible Project shall not be claimed by two or more Members of the Joint Venture. In other words, no double counting by a Joint Venture in respect of the same experience shall be permitted in any manner whatsoever.

3.3 Details of Experience

- 3.3.1 The Bidder should furnish the details of Eligible Experience parameters given in the [Clause 3.5.2](#) for the last 5 (five) financial years immediately preceding the Bid Due Date.
- 3.3.2 The Bidders must provide the documentary information relating to Technical Capacity as per format at [Annex-II \(A-D\) of Appendix-I](#).
- 3.3.3 The Bidder should furnish the required Project -specific information and evidence in

support of its claim of Technical Capacity, as per format at [Annex-II of Appendix-I](#).

3.4 Financial information for purposes of evaluation

- 3.4.1 The Bid must be accompanied by the Audited Annual Reports of the Bidder (of each Member in case of a Joint Venture) for the last 5 (five) financial years, preceding the year in which the Bid is made.
- 3.4.2 In case the annual accounts for the latest financial year are not audited and therefore the Bidder cannot make it available, the Bidder shall give an undertaking to this effect and the statutory auditor shall certify the same. In such a case, the Bidder shall provide the Audited Annual Reports for 5 (five) years preceding the year for which the Audited Annual Report is not being provided.
- 3.4.3 The Bidder must establish the minimum Financial Criteria specified in [Clause 2.2.2 \(B\)](#), and provide details as per format at [Annex-III \(A-C\) of Appendix-I](#).

3.5 Qualification of Bidders

- 3.5.1 The credentials of eligible Bidders shall be measured in terms of their Score. The sum total of the Scores for all Eligible Projects and other criteria as mentioned in [Clause 3.5.2](#) shall be the 'Aggregate Score' of a particular Bidder. In case of a Joint Venture, the Aggregate Score of the Lead Member including other members shall be the Aggregate Score of the Joint Venture. All Bidders who fulfill the minimum score of 70% as per [Clause 3.5.2](#) both in Financial and Experience parameters and together also shall qualify for financial opening and meet the other conditions specified in this RFQ cum RFP shall be qualified.
- 3.5.2 The Bidders meeting the qualification requirements as per this RFQ cum RFP shall be notified officially after due verification of their credential information in support of qualification.

A- FINANCIAL PARAMETERS				
Sl. No	Criteria	Sub-criteria	Marks	Max. Marks
1	Average annual turnover	Average annual turnover >18.6 to 30 Crores (8 marks) >30 Crores (8+2=10 marks)	10	
2	Bidding Capacity	Bidding Capacity >62 Crores (6 marks) >100 Crores (6+2=8 marks) >150 Crores (8+2=10 marks)	10	
3	Profitability	The bidder having net profit positive for 2 audited financial years (each) out of last 3 financial years respectively – 6	10	

		marks		
		The bidder having net profit positive for the last 3 audited financial years respectively - (6+4 =10 marks)		
4	Net worth	>15.5 Crores (8 marks) >25 Crores (8+2 =10 marks)	10	
		TOTAL	40	

B- EXPERIENCE PARAMETERS				
Sl. No	Criteria	Sub-criteria	Marks	Max. Marks
1	a) Atleast three similar project- Rs. 25 Crores each or b) Atleast two similar completed project -Rs. 31 Crores each or c) Atleast one similar completed project - Rs. 50 Crores		15	
2	At least one Commercial Complex with total floor area of 16,000 sq.m. in similar projects.	>16,000 sq.m. - 10 marks > 32,000 sq.m. - 15 marks	15	
3	Successfully executed & completed any project on EPC basis with project value of minimum Rs 62 Crore	➤ Rs 62 Cr - 8 marks ➤ Rs 100 Cr - 10 marks	10	
4	Successfully executed & completed pile foundation minimum upto 40 meters	➤ 40 m pile depth - 8 marks ➤ 50 m pile depth - 10 marks	10	
4	Successfully completed and executed more than two rated IGBC / GRIHA / LEED (equivalent rating) similar projects		5	

5	Designed and constructed using BIM Model in similar works.		3	
6	Successfully executed and completed minimum of 1 level basements in similar works		2	
		TOTAL MARKS	60	
			100	

3.5.3 The EPC bidder shall also upload the following documents along with the bid to enable the Employer to have an insight into the understanding of the tender and preparedness of the bidder toward the tender:

- a) Proposed Overall Project Schedule in network form showing all the details unit wise in Primavera P6 (Latest Version) in pdf. Write up on Project Planning, Scheduling, Monitoring & Control system (proposed). Progress Measurement Methodology with details such as weightages, milestones etc.
- b) Organizational set up for Planning, Scheduling, Monitoring & Control at EPC Contractor's Design Office and Site Office. Function wise Resource Deployment Schedule (HO & Site manpower and construction equipment).
- c) Project Approach & execution methodology. Softwares to be used for planning and material control.

A proposal will be considered unsuitable and will be rejected at this stage if it does not respond to important aspects of Bidding Document or if it fails to achieve the minimum score as per [Clause 3.5.1](#). The Employer will notify Bidders who fail to score the minimum score about the same and their Financial Proposals will remain unopened in the eproc portal.

3.6 Opening of Financial Bid

The Client will notify the Bidders who secure the minimum qualifying score, indicating the date and time set for opening the Financial Proposals. The notification may be sent by registered letter, facsimile, or electronic mail.

The Financial Proposals will be opened publicly in the presence of Bidders' representatives who choose to attend. The name of the Bidder, their technical scores and the proposed prices will be read aloud and recorded when the Financial Proposals are opened. Evaluation Committee will determine whether the Financial Proposals are complete in all respects, unqualified and unconditional, and submitted in accordance with the terms hereof.

3.7 Selection of Bidder

3.7.1 Subject to the provisions of [Clause 2.7](#), the Bidder whose BID is adjudged as responsive in terms of [Clause 2.19](#) and who quotes lowest price shall be declared as the selected Bidder (the "Selected Bidder").

If the Bid of the successful Bidder is seriously unbalanced in relation to the Employer's

- estimate of the cost of work to be performed under the contract, the Employer may require the Bidder to produce detailed price analysis for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analyses, the Employer may require that the amount of the performance security set forth in EPC Agreement Article 7 be increased and an additional performance security may be obtained at the expense of the successful Bidder to a level sufficient to protect the Employer against financial loss, at his discretion, in the event of default of the successful Bidder under the Contract. In the event that the Employer rejects or annuls all the BIDs, it may, in its discretion, invite all eligible Bidders to submit fresh BIDs hereunder.
- 3.7.2 In the event that two or more Bidders quote the same BID price (the "Tie BIDs"), the Employer shall identify the Selected Bidder by the following criteria –
- i) The bidder who has executed both market rehabilitation & commercial center in last 5(five) years will be considered as selected bidder.
 - ii) In case of tie bidder qualify or does not qualify under [clause 3.7.2 i](#)), then the bidder who has executed larger area of commercial complex will be considered as selected bidder.
- 3.7.3 After selection, a Letter of Award (the "LOA") shall be issued, in duplicate, by the Employer to the Selected Bidder and the Selected Bidder shall, within 3(three) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Employer may, unless it consents to extension of time for submission thereof, appropriate the BID Security of such Bidder as Damages on account of failure of the Selected Bidder to acknowledge the LOA.
- 3.7.4 After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall cause the bidder to execute the Agreement within the period prescribed in [Clause 1.3](#). The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the Agreement.

4. FRAUD AND CORRUPT PRACTICES -

- 4.1 The Bidder and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process. Notwithstanding anything to the contrary contained herein, the Employer may reject the Bid without being liable in any manner whatsoever to the Bidder if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process.
- 4.2 Without prejudice to the rights of the Employer under [Clause 4.1](#) hereinabove, if the Bidder is found by the Employer to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, such Bidder shall not be eligible to participate in any tender or RFQ cum RFP issued by the Employer during a period of 2 (two) years from the date such Bidder is found by the Employer to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case maybe.
- 4.3 For the purposes of this [Clause 4](#), the following terms shall have the meaning hereinafter respectively assigned to them:
- a) **"corrupt practice"** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to, or employing, or engaging in any manner whatsoever, directly or indirectly, any official of the Employer who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the Contract or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Employer, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under sub clause (d) of [Clause 2.2.1](#), engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Contract, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Contract, who at any time has been or is a legal, financial or technical adviser of the Employer in relation to any matter concerning the Project;
 - b) **"fraudulent practice"** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process ;
 - c) **"coercive practice"** means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bidding Process;
 - d) **"undesirable practice"** means (i) establishing contact with any person connected with or employed or engaged by the Employer with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
 - e) **"restrictive practice"** means forming a cartel or arriving at any understanding or

arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

5. PRE-BID CONFERENCE

- 5.1 Pre Bid conference of the Bidders shall be convened at the designated date, time and place as given below. A maximum of two representatives of prospective Bidders shall be allowed to participate on production of authority letter from the Bidder.

Address for pre bid meeting:
Cochin Smart Mission Limited (CSML),
Revenue Tower,
9th Floor, Park Avenue Road,
Ernakulam,
Kerala, 682 011,
India.

A maximum of two representatives of prospective Bidders shall be allowed to participate on production of authority letter from the Bidder. During the course of Pre- Bid Meeting, the Bidders will be free to seek clarifications and make suggestions for consideration. CSML shall endeavor to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

- 5.2 During the course of Pre-Bid conference, the Bidder will be free to seek clarifications and make suggestions for consideration of the Employer. The Employer shall endeavor to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

In case any bidder does not attend the pre-bid meeting, it shall be deemed considered that the bidder has a clear understanding of the scope & terms & conditions of the bidding document and does not have any comments/ deviations to the requirements of the bidding document.

Nonattendance of the pre-bid meeting will neither be a cause for dis-qualification of the bidder nor a cause for bidder's ignorance to submit the bid as per provisions of the bidding document.

6. MISCELLANEOUS

- 6.1 The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts at Ernakulam, Kerala, India shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- 6.2 The Employer, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- (a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
 - (b) consult with any Bidder in order to receive clarification or further information;
 - (c) qualify or not to qualify any Bidder and/ or to consult with any Bidder in order to receive clarification or further information;
 - (d) retain any information and/ or evidence submitted to the Employer by, on behalf of, and/ or in relation to any Bidder; and/ or
 - (e) Independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.
 - (f) Transfer of "Assignment" of bid process or Contract as the case may be to SPV after its formation.
- 6.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Employer, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder and the Bidding Documents, pursuant hereto, and/ or in connection with the Bidding Process, to the fullest extent permitted by applicable law, and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.
- 6.4 The RFQ cum RFP documents are to be taken as mutually explanatory unless otherwise expressly provided elsewhere in this RFQ cum RFP.

Appendix-I- Letter Comprising the Technical Bid

(Refer [Clause 2.13.1](#))

To,

Dated: [*****]

*****]

Sub: Bid for Technical Bid for Detailed Design, Construction, Testing & Commissioning of
Redevelopment of Ernakulam Market, Ernakulam, Kerala on EPC Basis.

Dear Sir,

With reference to your RFQ cum RFP document dated , we, having examined the
2. RFQ cum RFP, EPC Agreement, Schedules, Drawings, price Bid, Technical specifications document and understood its contents, hereby submit our Bid for the aforesaid project. The Bid is unconditional and unqualified. We acknowledge that the Employer reserves the right of "Assignment" of ownership during bid process or after award of contract, to SPV in its post formation. We undertake to fully co-operate with The Employer/SPV for any documentation legally enforceable for recognition and effectuation of such transfer of We acknowledge that the Employer will be relying on the information provided in the Bid and the documents accompanying such Bid for selection of the Bidders for the aforesaid project, and we certify that all information provided in the Bid and in all is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Bid are true copies of their respective originals.

3. This statement is made for the express purpose of qualifying as a Bidder for the design and construction of the aforesaid Project (incl. Defects Liability Period.)
4. We shall make available to the Employer any additional information it may find necessary or require to supplement or authenticate the Qualification statement.
5. We acknowledge the right of the Employer to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.

We certify that in the last three years, we/any of the Joint Venture Members have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial Employer or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public Employer nor have had any contract terminated ownership.

6. by any public Employer for breach on our part.

7. We declare that:

- (a) We have examined and have no reservations to the RFQ cum RFP, EPC Agreement, Schedules, and Drawings, Technical specifications, including any Addendum issued by the Employer; and
 - (b) We do not have any conflict of interest in accordance with [Clauses 2.2.1\(c\)](#) and [2.2.1\(d\)](#) of the RFQ cum RFP document; and
 - (c) We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in [Clause 4.3](#) of the RFQ cum RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Employer or any other public sector enterprise or any government, Central or State; and
 - (d) We hereby certify that we have taken steps to ensure that in conformity with the provisions of [Section 4](#) of the RFQ cum RFP document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with [Clause 2.17.7](#) of the RFP document.
 9. We believe that we/ our Joint Venture/ proposed Joint Venture satisfy (ies) the Technical and Financial Capacity and other financial criteria and meet(s) all the requirements as specified in the RFQ cum RFP document and are qualified to submit a Bid.
 10. We declare that we/ any Member of the Joint Venture are not a Member of a/ any other Joint Venture applying for bid.
 11. We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Joint Venture have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory Employer which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
 12. We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Joint Venture have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
 13. We further certify that no investigation by a regulatory Employer is pending either against us/ any Member of the Joint Venture or against our CEO or any of our directors/ managers/ employees.
 14. We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of this RFQ cum RFP, we shall intimate the Employer of the same immediately.

15. The Statement of Legal Capacity as per format provided at [Annex-IV](#) in [Appendix-I](#), Integrity Pact as per [Appendix-VII](#) of the RFQ cum RFP document, and duly signed, is enclosed. The power of attorney for signing of bid and the power of attorney for Lead Member of Joint Venture, as per format provided at [Appendix-II](#) and [III](#) respectively of the RFQ cum RFP, are also enclosed.
16. We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Employer in connection with the selection of Bidders, selection of the Bidder, or in connection with the selection/ Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
17. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a Agreement in accordance with the draft that has been provided to me/us prior to the BID Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
18. We have studied all the Bidding Documents carefully and also surveyed the project. We understand that except to the extent as expressly setforth in the Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or relating to the Bidding Process including the award of Agreement.
19. We offer a BID Security of Rs. 62 Lakh (Rs Sixty Two Lakh only) to the Employer in accordance with the RFQ cum RFP Document.
20. The BID Security in the form of a Bank Guarantee is attached.
21. We agree and undertake to abide by all the terms and conditions of the RFP document.
22. We certify that in terms of the RFQ cum RFP, our Net Worth is minimum Rs. 25 crores (Rupees Twenty Five Crores only)
23. We undertake to engage personnel specialized/ sub-contractors for design and construction of those elements of the Project for which we do not have adequate experience.
24. {We agree and undertake to be jointly and severally liable for all the obligations of the Contractor under the EPC Agreement.}\$²
25. We hereby submit our BID and offer a BID Price as indicated in Financial Bid for undertaking the aforesaid Project in accordance with the Bidding Documents and the Agreement.
26. We shall keep this offer valid for 180 (One hundred and Eighty) days from the BID Due Date specified in the RFQ cum RFP.

In witness thereof, we submit this bid under and in accordance with the terms of the RFQ

cum RFP document.

Yours faithfully,

Date: (Signature, name and designation of the Authorised Signatory)

Place: Name and seal of the Bidder/ Lead Member

Note: Paragraphs in square parenthesis may be omitted, if not applicable, or modified as necessary.

² \$ Omit if the Bidder is not a Joint Venture.

Appendix-I – Annex-I

Details of Bidder

1.
 - (a) Name:
 - (b) Country of incorporation:
 - (c) Address of the corporate headquarters and its branch office(s), if any, in India:
 - (d) Date of incorporation and/ or commencement of business:

2. Brief description of the Company including details of its main lines of business and proposed role and responsibilities in this Project:

3. Details of individual(s) who will serve as the point of contact/ communication for the Employer:
 - a) Name:
 - b) Designation:
 - c) Company:
 - d) Address:
 - e) Telephone Number:
 - f) E-Mail Address:
 - g) Fax Number:

4. Particulars of the Authorised Signatory of the Bidder:
 - a) Name:
 - b) Designation:
 - c) Address:
 - d) Phone Number:
 - e) Fax Number:

5. In case of a Joint Venture:
 - (a) The information above (1-4) should be provided for all the Members of the Joint Venture.
 - (b) A copy of the Jt. Bidding Agreement, as envisaged in [Clause 2.2.6\(g\)](#) should be attached to the Bid.
 - (c) Information regarding the role of each Member should be provided as per table below:

SI. No.	Name of Member	Role* {Refer Clause 2.2.6(d) } ^{\$}	Share of work in the Project{Refer Clauses 2.2.6(a) , & (f) }
1.			

2.			
3.			

The role of each Member, as may be determined by the Bidder, should be indicated in accordance with [clause 2.2.6 \(f\)](#).

- (d) The following information shall also be provided for each Member of the Joint Venture:

Name of Bidder/ member of Joint Venture:

No.	Criteria	Yes	No
1.	Has the Bidder/ constituent of the Joint Venture been barred by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT, EPC or otherwise).		
2.	If the answer to 1 is yes, does the bar subsist as on Bid Due Date.		

A statement by the Bidder and each of the Members of its Joint Venture (where applicable) disclosing material non-performance or contractual noncompliance in past projects, contractual disputes and litigation/ arbitration in the last three years is given below (Attach extra sheets, if necessary) w.r.t [Clause 2.2.8](#)

Name of Bidder/ member of Joint Venture:

No.	Criteria	1 st last year	2 nd last year	3 rd last year
1.	The Bidder including individual or any of its joint venture any Member should, in the last (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial Employer or a judicial pronouncement or arbitration award against the Bidder or Member, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Bidder or Joint Venture Member, along-with the updated details of ongoing process of litigation / Blacklisting.			

Appendix-I – Annex-II A- Technical Capacity of the Bidder

Details of Similar Works (Details to be filled online)

S. No	Name of work and its location	Name of Client & its contact details	Date and No. of Completion Certificate	Date of Start	Date of Completion	Cost of Work on completion	Value of TDS	Project Type and Details	Reference and Page No. of Documentary Proof of the detail
1.									
2.									
3.									

If any detail is not mentioned in the Work Completion Certificate, documentary proof of detail is to be submitted and uploaded on Tender Website along with the Completion Certificate.

Signature of Bidder with Seal

Appendix-I – Annex-II B- Technical Capacity of the Bidder

: -

Details of Work Experience Certificates for Projects other than Similar Works

(Details to be filled online)

S. No	Name of work and its location	Name of Client & its contact details	Date and No. of Completion Certificate	Date of Start	Date of Completion	Cost of Work on completion	Value of TDS	Project Type and Details	Reference and Page No. of Documentary Proof of the detail missing in completion certificate
1.									
2.									
3.									

Certified that the Completion Certificates of above works are enclosed with the Bid Documents.

- 1 Details mentioned in the above Form are as per Completion Certificates and have not been presumed.
- 2 If any detail is not mentioned in the Work Completion Certificate, documentary proof of detail is to be submitted and uploaded on Tender Website along with the Completion Certificate.

Signature of Bidder with Seal

Appendix-I – Annex-II C - Technical Capacity of the Bidder

TDS DETAILS OF PROJECTS (Details to be filled online)

S. No.	Name of Work	Name of Clients	Project Cost in Crores	No. And Date of Completion Certificate	Cost of the work on completion in Crores	Payments Received as per TDS In Crores	TDS Corresponding to the Payments
1.							
2.							
3.							

Note: Value of Work done will be considered commensurate with value of TDS Certificates

Signature of Bidder with Seal

1. Experience for any activity relating to an Eligible Project shall not be claimed twice. In other words, no double counting in respect of the same experience shall be permitted in any manner whatsoever.
2. Certificate from the Bidder's statutory auditor or its respective clients must be furnished as per formats below for each Eligible Project. In jurisdictions that do not have statutory auditors, the auditors who audit the annual accounts of the Bidder may provide the requisite certification.
3. If the Bidder is claiming experience it should provide a certificate from its statutory auditors or the client in the format Appendix - I - Annex-II D:
4. It may be noted that in the absence of any detail in the above certificates, the information would be considered inadequate and could lead to exclusion of the relevant project in computation of Score.
5. In case of work done Outside India, the Contractor will get their certificate in English Language from the Indian Embassy /Consulate / High Commission in the respective country as an Affidavit for the correctness of their work experience outside India in case of Joint Venture Bidding.

Certificate from the Statutory Auditor/ Client regarding construction works[@]

Based on its books of accounts and other published information authenticated by it, {this is to certify that *(Name of the Bidder)* was engaged by..... *(Title of the project company)* to execute *(Name of project)* for *(Nature of project)*}. The construction of the project commenced on *(Date)* and the project was/ is likely to be commissioned on..... *(Date, if any)*. It is certified that Bidder received payments from its Clients for Construction Works executed by them, in the aforesaid construction works.

We further certify that the total estimated capital cost of the project is Rs. cr. (Rupeescrore), of which the Bidder received Rs..... cr. (Rupees..... crore), in terms of [Clauses 3.2.1](#) and [3.2.2](#) of the RFQ cum RFP, during the past five financial years as per year-wise details noted below:

It is further certified that the receipts indicated above are restricted to the share of the Bidder who undertook these works as a partner or a member of joint venture/consortium.

We further certify that Bidder has a share of % in the Joint Venture / Consortium

Name of the audit firm:

Date:

authorized Signatory

Appendix-I – Annex-II D - Technical Capacity of the Bidder

Draft Proforma for Work Experience Certificate from Clients / Statuary Auditor of the Bidder. *

Name of Contractor:

1	Name of work / project & Location				
2	Name and Address of the Clients				
3	Agreement Amount				
4	Estimated Cost				
4	Tender Amount				
5	Cost of work on completion				
6	Date of start				
7	Stipulated date of completion.				
8	Actual date of completion/ likely date of completion				
9	Amount of compensation levied for delayed completion, if any				
10	Type of Work: Residential/ Non-Residential Building				
11	Total Built up Area of the Project				
12	RCC Framed Structure or other type of Structure				
13	No. of Basements in any Building of this work				
14	Maximum Height of any Building of this work				
15	Maximum No. of storeys of any Building of this work				
16.	Performance report	Very Good	Good	Fair	Poor
(a)	Quality of work.	Very Good	Good	Fair	Poor
(b)	Resourcefulness	Very Good	Good	Fair	Poor
(c)	Financial soundness	Very Good	Good	Fair	Poor
(d)	Technical proficiency	Very Good	Good	Fair	Poor
(e)	General behavior	Very Good.	Good	Fair	Poor

The Experience Certificate is to be submitted separately for each work duly signed by Engineer in charge / Authorized Signatory for the project(s) and Statutory Auditor of the Bidder.

*All copy of certificates should be certified by the person authorized to sign the bid.

Date

Name & Designation

Signature with Seal

Appendix-I – Annex-III A - Financial Capacity of the Bidder

COMPLETE FINANCIAL DETAILS

(Details to be filled online)

Tender For:

MANDATORY INFORMATION DOCUMENTS:

		Year 5	Year 4	Year 3	Year 2	Year 1 (last Financial Year)
i)	Profit/Loss					
ii.)	Average Annual Financial turnover as on 31 st March of last FY					
iii.)	Net Worth (paid up capital + reserves) as on 31 st March of last FY					
iv)	Working Bid Capacity= [AxNx2.5]-B					

1. Summarized page of Audited Profit & Loss Account of previous five Financial Years duly certified by the Statutory Auditor is to be submitted.
2. Summarized page of Audited Balance Sheet of last Financial Year (ending 31st March of preceding FY) duly certified by the chartered account, is to be submitted.
3. In case the Bidder does not have a statutory auditor, it may provide the certificate from its Chartered Accountant

**Signature of Statutory
Auditor with Seal**

**Seal and Signature
of bidder**

Appendix-I – Annex-III B - Financial Capacity of the Bidder

(Refer to [Clauses 2.2.2\(B\)](#), [2.2.4 \(ii\)](#) and [3.4](#) of the RFQ cum RFP)

(In Rs. crore)

Bidder type (1)	Net Cash Accruals					Net Worth [£]
	Year 1 (2)	Year 2 (3)	Year 3 (4)	Year 4 (5)	Year 5 (6)	Year 1 (7)
Single entity Bidder or Lead Member including other members of the Joint Venture						
TOTAL						

Name & address of Bidder's Bankers:

For conversion of other currencies into rupees refer [clause 2.2.6 \(i\)](#). The Bidder should provide details of its own Financial Capacity.

Instructions:

- The Bidders shall attach copies of the balance sheets, financial statements and Annual Reports for 5 (five) years preceding the Bid Due Date.

The financial statements shall:

- reflect the financial situation of the Bidders;
 - be audited by a statutory auditor;
 - be complete, including all notes to the financial statements; and
 - Correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).
- Net Cash Accruals shall mean Profit after Tax + Depreciation.
 - Net Worth shall mean shall mean the aggregate value of the paid-up share capital

and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.

4. Year 1 will be the latest completed financial year, preceding the bidding. Year 2 shall be the year immediately preceding Year 1 and so on. In case the Bid Due Date falls within 3 (three) months of the close of the latest financial year, refer to [Clause 2.2.12.](#)
5. In the case of a Joint Venture, a copy of the Jt. Bidding Agreement shall be submitted in accordance with [Clause 2.2.6 \(g\)](#) of the RFQ cum RFP document.
6. The Bidder shall also provide the name and address of the Bankers to the Bidder.
7. The Bidders shall provide an Auditor's Certificate specifying the net worth of the Bidder and also specifying the methodology adopted for calculating such net worth in accordance with [Clause 2.2.4 \(ii\)](#) of the RFQ cum RFP document.

Appendix-I - Annex-III C - Financial Capacity of the Bidder

Information required to evaluate the BID Capacity under [clause 2.2.2\(B\) \(b\)](#)

To calculate the value of "A"

1. A table containing value of Civil Engineering Works in respect to Projects (EPC Contract/ Item Rate Contract/ Construction works) undertaken by the Bidder during the last 5 years is as follows:

Sl. No	Year	Value of Civil Engineering Works Undertaken w.r.t. Projects (Rs. In Crores)
1	2019-20 / 2019	
2	2018-19 / 2018	
3	2017-18 / 2017	
4	2016-17/ 2016	
5	2015-16/ 2015	
6	2014-15/2014	

2. Maximum value of projects that have been undertaken during the F.Y. _____ out of the last 5 years and value thereof is Rs. Crores (Rupees _____). Further, value updated to the price level of the year indicated in Appendix is as follows:

Rs. Crores x _____ (Updation Factor as per Appendix) = Rs. ___ Crores (Rupees)

.....
.....
Signature, name and
designation of Authorised
Signatory

.....
.....
Name of the Statutory Auditor's firm:
Seal of the audit firm: (Signature, name
and designation and Membership No.

To calculate the value of "B"

A table containing value of all the existing commitments and on-going workings to be completed during the next years is as follows:

Sl. No.	Name of Project/Work	Percentage Of participation of Bidder in the project	Stipulated period of completion as per Agreement /LOA	Value of contract as per Agreement /LOA	Value of work completed	Balance value of work to be completed	Anticipated date of completion	Balance value of work at 2019-20 price level
				Rs. in Crore	Rs. In Crore	Rs. In Crore		Rs. in Crore
1	2	3	4	5	6	7	8	9 (3x 7 x #)

Updation Factor as given below:

For Year	F.Y. / Calendar Year	Updation Factor
Base	2019-20 / 2019	1.00
-1	2018-19 / 2018	1.06
-2	2017-18 / 2017	1.12
-3	2016-17/ 2016	1.18
-4	2015-16/ 2015	1.24
-5	2014-15/2014	1.30

The statement showing the value of existing commitments and on-going works as well as the stipulated period completion remaining for each of the works listed should be countersigned by the Engineer in charge or Authorized Signatory for the project(s) or Statutory Auditor of the Bidder. Also such list of ongoing works including agreement values and balance works shall be declared on non-judicial stamp paper of worth INR 200/- and notarized..

.....
.....
Signature, name and designation of
Authorised Signatory

.....
.....
Name of the Statutory Auditor's firm:
Seal of the audit firm: (Signature, name and
designation and Membership No. of
authorised signatory)

Appendix-I – Annex-IV Statement of Legal Capacity

(To be forwarded on the letterhead of the Bidder / Lead Member of Joint Venture)

Ref Date:

To,

Dear Sir,

We hereby confirm that we/ our members in the Joint Venture (constitution of which has been described in the bid) satisfy the terms and conditions laid out in the RFQ cum RFP document.

We have agreed that (insert member's name) will act as the Lead Member of our Joint Venture.*

We have agreed that (insert individual's name) will act as our representative/ will act as the representative of the Joint Venture on its behalf* and has been duly authorized to submit the RFQ cum RFP. Further, the authorised signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

(Signature, name and designation of the authorised

signatory)

For and on behalf of.....

**Please strike out whichever is not applicable.*

Appendix-I B- Letter comprising the Financial BID

(Refer Clauses [2.13.1](#) and [2.19](#))

Sub: BID for *** ** Project Dated:
Dear Sir,

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

2. I/ We acknowledge that the Employer will be relying on the information provided in the BID and the documents accompanying the BID for selection of the Contractor for the aforesaid Project, and we certify that all information provided in the Bid are true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the BID are true copies of their respective originals.
3. The Bid price has been quoted by me/us after taking into consideration of all the terms and conditions stated in the RFQ cum RFP, EPC Agreement, Schedules, Drawings, all the documents provided in the tender document package, our own estimates of Costs and after careful assessment of the site and all the conditions that may affect the project cost and implementation of the Project and we understand that no additional payments shall be allowed on the basis of change in site parameters at a later date.
4. I/We acknowledge the right of the Employer to reject our BID without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
5. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a Agreement in accordance with the draft that has been provided to me/us prior to the BID Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
6. I/ We shall keep this offer valid for 180 (one hundred and Twenty) days from the BID Opening Date specified in the RFQ cum RFP.
7. I/ We understand that SPV/CSML is not bound to accept the lowest or any tender it may receive.
8. I/ We hereby submit our BID for undertaking the aforesaid Project in accordance with the Bidding Documents and the Agreement.

Yours faithfully,

Date:
Place:

(Signature, name and designation of
Authorised Signatory)

Name & seal of Bidder/Lead Member:.....

Appendix- I B – Annex- I PRICE BID

Based on the scope of work, drawings, specifications, tender conditions, corrigendum (if any), bidder shall quote lump sum price against each of the subheads (if any) as listed in Financial bid. All these documents shall be read in conjunction with each other for the most stringent requirements to follow & any discrepancy among these referenced documents must be brought to the notice prior to submission of bid:

Contractor shall submit a separate sheet with percentage breakup of sub-heads under each structure / building of this Price-bid. These subheads or works / items should be such which are required to complete that particular structure / building and shall be considered in the Stage-payment schedule in conjunction with resource planning and quarterly milestones of the project at the time of bid- submission. These %(percentage) breakup of the sub heads of various stages or works under each structure / building shall be required to be substantiated with calculations to justify each % (percentage) break-up at the time of bid submission.

The %(percent) break-ups of each structure / building of the price bid with their substantiations shall be further discussed and edited with additions, justifications/ Clarifications after the award, if required, and shall be made part of the Contract Agreement after approval by Client, for the successful bidder

NOTE :

1. The cost of the tender shall be the total of all parts and for all the items to include all items as mentioned in the Scope of works, Specifications and works as indicated in the drawings.
2. The costs mentioned to also include the cost of all temporary works and activities required to complete the works, taxes, royalties, departmental fees for various sanctions and approvals, etc., unless specifically mentioned otherwise.
3. The total price quoted for the EPC tender should include the items, components & equipments as per the scope of work, technical specifications, design basis report, drawings given in the tender documents and should also include all costs towards taxes, insurances, packaging, freight, customs duties, clearances, forwarding and all government applicable taxes.

The list in the price-bid of the tender document is indicative and not to be limited to these heads in the price-bid. The client will not reimburse any other amount over and above the total quoted price. Payment shall be made as per the approved stages of payment schedules submitted by the bidder on the basis of the approved project schedule.

Appendix-II Format for Power of Attorney for signing of Bid

(Refer Clause 2.2.5)

(To be printed on Non-Judicial Stamp paper of appropriate value and duly notarized)

To know all men by these presents that, I, _____, holding the post of _____ and competent authority of _____ (the Bidder/Lead Member of the Joint Venture/Consortium) do hereby constitute, appoint, authorise and nominate ----- (Name & Designation) to do all such acts, deeds and things necessary to the application in connection or incidental with the RFQ/ RFP/Tender No: _____, floated by M/s Cochin Smart Mission Limited for -----) including signing and submission of all the documents and providing necessary information/response to Cochin Smart Mission Limited and also to bid, negotiate and also to execute the contract, in case is the tender is awarded.

This Power of Attorney shall remain valid, binding and irrevocable until the completion of the tender or till the completion of the tenure of contract to be executed between ----- (the Bidder/Joint Venture/Consortium) and Cochin Smart Mission Limited, if tender is awarded in favour of ----- (the Bidder / JV/Consortium), whichever is applicable.

We hereby agrees to ratify all the acts, deeds and things lawfully done by the Attorney pursuant to this Power of Attorney and that all acts, deeds and things done by above mentioned Attorney shall always be deemed to have been done by us on behalf of ----- (the Bidder/ Joint Venture/Consortium).

IN WITNESS THEREOF, WE ----- (the Bidder/ Lead Member of the Joint Venture/Consortium as previously mentioned) have executed these presents on this ___ day of _____ at _____.

For ----- (Bidder/ Lead Member)

Competent Authority

(Signature, name, designation and address)

DAY OF 2.....

Witnesses:

- 1.
- 2.

(Notarised Signature)

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 favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*

- + *For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalized by the Indian Embassy if it carries a conforming Appostille certificate.*

Appendix-III Format for Power of Attorney for Lead Member of Joint Venture

(Refer Clause 2.2.5)

(To be printed on Non-Judicial Stamp paper of appropriate value and duly notarized)

To know all men by these presents that we parties whose details are as follows;

1. M/s _____, a Company/LLP/Partnership/Proprietorship incorporated under the provisions of the Companies Act, 1956/Limited Liability Partnership Act, 2008/The Partnership Act, 1936, and having its registered office/principal place of business at _____ (hereinafter referred as "_____"; which the term shall unless otherwise repugnant to the context shall mean and include all its successors and permitted assigns) and represented by its _____.
2. M/s _____, a Company/LLP/Partnership/Proprietorship incorporated under the provisions of the Companies Act, 1956/Limited Liability Partnership Act, 2008/The Partnership Act, 1936, and having its registered office/principal place of business at _____ (hereinafter referred as "_____"; which the term shall unless otherwise repugnant to the context shall mean and include all its successors and permitted assigns) and represented by its _____.

Have entered into a Joint Venture/Consortium agreement for the purpose of request for qualification/proposal/securing the work of _____ vide tender No: _____ and with our principal place of business at _____ (hereinafter referred as "_____"; which the term shall unless otherwise repugnant to the context shall mean and include all its successors and permitted assigns)

We, the above said parties, through this power of attorney mutually agrees to hereby constitute, nominate and appoint "_____", who is the lead member of the JV/Consortium as our duly constituted Lawful Attorney (hereinafter referred as "Attorney/Lead Member") to exercise all or any of the powers for and on behalf of the Joint Venture Company/Consortium Members in regards to the Specification No: _____ the bids for which have been invited by the Cochin Smart Mission Limited (herein after referred to as "CSML")

- a. To submit proposal and participate in the above-mentioned bid specification of CSML on behalf the "Consortium/ Joint venture Members".
- b. To negotiate with the Purchaser the terms and conditions for award of the contract pursuant to the above-mentioned bid and to sign the Contract with CSML for and on behalf of the "Consortium / Joint venture Members".
- c. To do any other act or submit any document related to the above.
- d. To receive, accept and execute the contract for and on behalf of the "Consortium / Joint venture Members".
- e. To authorise any person, employee or otherwise to represent the Lead Member and Consortium/JV for doing the aforesaid
- f. In the event of an order placed on the Joint Venture/Consortium the work shall be executed as per the terms and conditions of the Purchase Order issued and the Agreement executed between CSML and the Joint Venture.

It is expressly understood that this Power of Attorney shall remain valid, binding and irrevocable until the completion of the tender or till the completion of the tenure of contract to be executed between the Joint Venture/Consortium and Cochin Smart Mission Limited, if tender is awarded in favour of the JV/Consortium.

We hereby agrees to ratify all the acts, deeds and things lawfully done by the Attorney/Lead Member and its authorised person/s pursuant to this Power of Attorney and that all acts, deeds

and things done by above mentioned Attorney/Lead Member shall always be deemed to have been done by us.

IN WITNESS THEREOF, the Members constituting the Joint Venture/Consortium as previously mentioned have executed these presents on this ___ day of _____ under the Common Seal(s) of their companies.

For _____

For _____

Authorized Signatory

Authorized Signatory

Witnesses: 1.

2.

..... (Executants)

(To be executed by all the Members of the Joint Venture)

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.*

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

+ *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.*

Appendix-IV Format for Joint Bidding Agreement for Joint Venture

(Refer [Clause 2.2.6-f](#)) (To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the _____ day of
..... 20...

AMONGST

1. { a company _____ } and having its registered office at _____ (hereinafter referred to as the "**First Part**" which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. { a company _____ } and having its registered office at _____ (hereinafter referred to as the "**Second Part**" which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

3. { a company _____ and having its registered office at _____ (hereinafter referred to as the

"**Third Part**" which expression shall, unless repugnant to the context include its successors and permitted assigns)}

The above mentioned parties of the FIRST, {SECOND and THIRD} PART are collectively referred to as the "**Parties**" and each is individually referred to as a "**Party**"

WHEREAS,

(A) [....., incorporated under the
... .. Act ... , represented by its and having its principal offices at] (hereinafter referred to as the "**Employer**" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited Bids (the Bids") by its Request for Qualification No. dated(the "RFQ cum RFP") for of bidders _____ Project _____ (the "Project") through an EPC Agreement.

(B) The Parties are interested in jointly bidding for the Project as members of a Joint Venture and in accordance with the terms and conditions of the RFQ cum RFP document and other bid documents in respect of the Project, and

(C) It is a necessary condition under the RFQ cum RFP document that the members of the Joint Venture shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Bid.NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

In this Agreement, the capitalized terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFQ cum RFP.

2. Joint Venture

- 2.1 The Parties do hereby irrevocably constitute a Joint Venture (the “**Joint Venture**”) for the purposes of jointly participating in the Bidding Process for the Project.
- 2.2 The Parties hereby undertake to participate in the Bidding Process only through this Joint Venture and not individually and/ or through any other Joint Venture constituted for this Project, either directly or indirectly.

3. Covenants

The Parties hereby undertake that in the event the Joint Venture is declared the selected Bidder and awarded the Project, it shall enter into an EPC Agreement with the Employer for performing all its obligations as the Contractor in terms of the EPC Agreement for the Project.

4. Role of the Parties

The Parties hereby undertake to perform the roles and responsibilities as described below:

- (a) Party of the First Part shall be the Lead member of the Joint Venture and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Joint Venture during the Bidding Process and until the Appointed Date under the EPC Agreement;
Shareholding
- (b) Party of the Second Part shall be {the Member of the Joint Venture; and}
- {(c) Party of the Third Part shall be the Member of the Joint Venture.}

5. Joint and Several Liability

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the Tender Documents, till such time as the completion of the defects Liability period in accordance with the Contract.

The Parties do hereby undertake and declare that the Lead Member shall represent all the members of the Joint Venture and shall at all times be liable and responsible for discharging the functions and obligations of the Joint Venture; and that each member of the joint Venture shall be bound by any decision, communication, notice, action or inaction of the Lead Member on any matter related to this Agreement and the Employer shall be entitled to rely upon any such action, decision or communication of the Lead Member. The Employer shall have the right to release payments solely to the Lead Member and shall not in any manner be responsible or liable for the inter se allocation of payments among members of the Joint Venture.

6. **Share of work in the Project** – the Bid should include a brief description of the roles and responsibilities of individual members with their share of percentages, particularly with reference to financial, technical and defects liability obligations;

7. Representation of the Parties

Each Party represents to the other Parties as of the date of this Agreement that:

- (a) Such Party is duly organized, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;
- (b) The execution, delivery and performance by such Party of this Agreement has been authorized by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Joint Venture Member is annexed to this Agreement, and will not, to the best of its knowledge:
 - (i) require any consent or approval not already obtained;
 - (ii) violate any Applicable Law presently in effect and having applicability to it;
 - (iii) violate the memorandum and articles of association, by-laws or other applicable organizational documents thereof;
 - (iv) violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgment, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
 - (v) create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
- (c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- (d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfillment of its obligations under this Agreement.

8. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until Project completion (the "Defects Liability Period") is achieved under and in accordance with the EPC Agreement, in case the Project is awarded to the Joint Venture. However, in case the Joint Venture does not get selected for award of the Project, the Agreement will stand terminated in case the Bidder is not selected or upon return of the Bid Security by the Employer to the Bidder, as the case may be.

9. Miscellaneous

9.1 This Joint Bidding Agreement shall be governed by laws of {India}.

9.2 The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Employer.

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

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of

LEAD MEMBER by:

SECOND PART

(Signature)

(Signature)

(Name)

(Name)

(Designation)

(Designation)

(Address)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of THIRD PART

(Signature)

(Name) (Designation) (Address)

In the presence of:

1.

2.

Notes:

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

documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Joint Venture Member.

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

Appendix- V
Deleted

Appendix-VI- Bank Guarantee for BID Security

(Refer [Clauses 1.2.4](#))

(To be printed on Non-judicial stamp paper of appropriate value)

This Deed of Guarantee made this the --- day of 20XX by ----- (Name of the Bank), having its registered office at -----, and one of its branches at ----- (Address of the Branch) (hereinafter called the Guarantor) in favour of Cochin Smart Mission Limited, ----- (hereinafter called the beneficiary).

WHEREAS M/s. _____ (Name and Address of the Entity participating in the tender) having their address/ registered Office at _____ (Address of the Firm's registered Office) (hereinafter called the "Tenderer") wish to participate in the Tender No. _____ for _____ of (supply / Erection / Supply & Erection / Work/others- specify the purpose) of _____ (Name of the material / equipment / work/others- specify) floated by Cochin Smart Mission Limited (hereinafter called the "Beneficiary") and

WHEREAS an EMD of Rs. -----/- has to be submitted by the Tenderer for participating in the aforesaid Tender and

WHEREAS the tenderer has requested the Guarantor for issuing a Bank Guarantee for Rs. _____ (Amount of EMD) valid till _____ (mention here date of validity of this Guarantee which will be ----- days beyond initial validity of Tender) towards EMD payable to the Beneficiary, and

WHEREAS the Guarantor has agreed to issue such Bank Guarantee to the Beneficiary as hereunder mentioned:

We, _____ (Name of the Bank and address of the Branch giving the Bank Guarantee) having our registered Office at _____ (Address of Bank's registered Office) hereby give this Bank Guarantee No. _____ dated _____ and do hereby irrevocably undertake to pay immediately on demand, without requiring any previous notice and without any demur, reservation, recourse, contest or protest and without referring to any other sources including the Tenderer and without the beneficiary having to substantiate its demand, to the beneficiary a sum not exceeding Rs. _____ (amount of EMD) (Rupees _____) (in words) on behalf of the Tenderer.

Guarantor agrees that any demand in writing made by the authorised officials of the Beneficiary shall be conclusive as regards the amount due and payable by the Guarantor under this Guarantee.

We, _____ (Name of the Bank) further undertake

to pay without demur the aforesaid amount in lump sum on demand or such part there of as the beneficiary may demand from time to time irrespective of the fact whether the said tenderer admits or denies such claim or questions correctness in any court, Tribunal or Arbitration proceedings or before any authority. The aforesaid guarantee will remain in force and we shall be liable under the same irrespective of any concession or time being granted by the beneficiary to the tenderer and this guarantee will remain in full force irrespective of any change of terms, conditions or stipulation or any variation in the terms of the said tender.

This Bank Guarantee shall be valid and binding on this Bank upto and inclusive of _____ (mention here the date of validity of Bank Guarantee) and shall not be terminated or affected by liquidation or winding up or insolvency or change in constitution of the tenderer or for any other reason. This guarantee shall not be terminated by the guarantor under any circumstances including change in the constitution of the Bank and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alterations made, given, conceded with or without our knowledge or with or without consent by or between the Tenderer and the beneficiary.

NOT WITHSTANDING anything contained hereinbefore, our liability under this Guarantee is restricted to Rs. _____ (amount of EMD) (Rupees _____ (in words). Our Guarantee shall remain inforce till _____ (---- days after the date of validity of the Bid/tender). Unless demands or claims under this Bank Guarantee are made to us in writing on or before _____ (date should be ----- days over and above the validity period of BG), all rights of Beneficiary under this Bank Guarantee shall be forfeited and we shall be released and discharged from all liabilities there under.

Place:

Date:

**Signature of the Bank's Authorized
Signatory with Official Seal**

**Appendix-VII-
Deleted**

Appendix-VIII- NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT (this "Agreement") is entered into on by SPV and (name of the Bidder) between the undersigned parties on the date specified below.

WHEREAS, either Party possesses certain confidential proprietary information; and WHEREAS, in connection with the pursuit, evaluation and/or feasibility of a business relationship, and/or the consummation of a transaction (collectively, the "Business Purposes") between the two parties hereto, including their affiliates, subsidiaries, stockholders, partners, co-venture, trading partners, employees and other organizations (hereinafter referred to as Affiliates), confidential proprietary information of one Party may become available to the other Party.

WHEREAS, either Party desires to prevent the unauthorized use and disclosure of its confidential proprietary information.

NOW THEREFORE, in consideration of these premises and for other good and valuable consideration, Receipt of which is hereby acknowledged, the parties agree as follows:

- I. **"Confidential Information"**. For purposes of this Agreement, Confidential Information shall mean all strategic and development plans, financial condition, business plans, co-developer identities, data, business records, customer lists, project records, market reports, employee lists and business manuals, policies and procedures, information relating to processes, technologies or theory and all other information which may be disclosed by one Party or to which the other Party may be provided access by the disclosing Party or others in accordance with this Agreement, or which is generated as a result of , incidental to or in connection with the Business Purposes, which is not generally available to the public.
- II. **Non-disclosure Obligations**. The Receiving Party promises and agrees to receive and hold the Confidential Information in confidence. Without limiting the generality of the foregoing, the Receiving Party further promises and agrees:
 - A. to protect and safeguard the Confidential Information against unauthorized use, publication or disclosure;
 - B. not to use any of the Confidential Information except for the Business Purposes. C. not to, directly or indirectly, in any way, reveal, report, publish, disclose, transfer or otherwise use any of the Confidential Information except as specifically authorized by the Disclosing Party in accordance with this Non-Disclosure Agreement.
 - C. not to use any Confidential Information to unfairly compete or obtain unfair advantage vis-a-vis Disclosing Party in any commercial activity which may be Comparable to the commercial activity contemplated by the parties in connection with the Business Purposes.
 - D. to restrict access to the Confidential Information to those of its officers, directors, and employees who clearly need such access to carry out the Business Purposes.
 - E. to advise each of the persons to whom it provides access to any of the Confidential Information, that such persons are strictly prohibited from making any use, publishing or otherwise disclosing to others, or permitting others to use for their benefit or to the detriment of the Disclosing Party, any of the Confidential Information, and, upon Request of the Disclosing Party, to provide the Disclosing Party with a copy of a written agreement to that effect signed by such persons.
 - F. to comply with any other reasonable security measures requested in writing by the Disclosing Party.

- G. To refrain from directly contacting or communicating by whatsoever means to the Source(s) of Information without written consent of the Disclosing Party.
 - H. To undertake not to disclose any names and their particulars to third parties without the written consent by the Disclosing party.
- III. **Exceptions.** The confidentiality obligations hereunder shall not apply to Confidential Information which:
- A. is, or later becomes, public knowledge other than by breach of the provisions of this Agreement; or
 - B. is in the possession of the Party with the full right to disclose prior to its receipt from the Disclosing Party, as evidenced by written records; or
 - C. is independently received by the Receiving Party from a third party, with no restrictions on disclosure.
- IV. **Return of Confidential Information.** The Receiving Party agrees, upon termination of the Business Purposes or upon the written request of the other Party, whichever is earlier, to promptly deliver to the other Party all records, notes, and other written, printed, or tangible materials in the possession of the Receiving Party, embodying or pertaining to the Confidential Information.
- V. **No Right to Confidential Information.**
- A. The Receiving Party hereby agrees and acknowledges that no license, either express or implied, is hereby granted to the Receiving Party by the other Party to use any of the Confidential Information.
 - B. The Receiving Party further agrees that all inventions, improvements, copyrightable works and designs relating to machines, methods, compositions, or products of the other Party directly resulting from or relating to the Confidential Information and the right to market, use, license and franchise the Confidential Information or the ideas, concepts, methods or practices embodied therein shall be the exclusive property of the other Party, and the Receiving Party has no right or title thereto.
- VI. **No Warranty.** The Disclosing Party has not made and will not make any representation or warranty as to the accuracy or completeness of its Confidential Information or of any other information provided to the Receiving Party, and the Receiving Party agrees that the Disclosing Party shall have no liability resulting from the use of the Confidential Information or such other information.
- VII. **No Commitment.** The disclosure of Confidential Information does not, and is not intended to, represent a commitment by the Disclosing Party to enter into any business relationship with the Receiving Party or with any other entity. If the Parties desire to pursue business opportunities, they will execute a separate written agreement to govern such business relationship.

- VIII. **Compelled Disclosure.** If the Party faces legal action to disclose Confidential Information received under this Agreement, then the Party shall promptly notify the other Party in order that it may have the opportunity to intercede and contest such disclosure and, upon request, shall cooperate with the other Party in contesting such a disclosure. Except in connection with failure to discharge the responsibilities set forth in the preceding sentence, neither Party shall be liable in damages for any disclosures pursuant to such legal action.
- IX. **Losses.** The Receiving Party agrees to indemnify the other Party against any and all losses, damages, claims, or expenses incurred or suffered by the other Party as a result of the Receiving Party's breach of this Agreement.
- X. **Communication:** The two parties agree that the communication between the parties is considered delivered and reached other party if transmitted by fax or electronic means with proof of sending machine. The date of receiving the messages, notices or letters is the date of sending authenticated by the sending machine. All notices under this Agreement shall be deemed to have been duly given upon the mailing of the notice, postpaid to the addresses listed above, or upon the facsimile transmission, to the party entitled to such notice at the facsimile number set forth below.
- XI. **Counterparts.** Either the original or copies, including facsimile transmissions, of this Agreement, may be executed in counterparts, each of which shall be an original as against any party whose signature appears on such counterpart and all of which together shall constitute one and the same instrument.
- XII. **No Solicitation of Employees.** The Receiving Party agrees that it will not, for a period of five (5) years from the date of this Agreement, initiate contact with the other Party's employees in order to solicit, entice or induce any employee of the other Party to terminate an employment relationship with the other Party to accept employment with the Receiving Party.
- XIII. **Term and Termination.** This Agreement shall commence on the date first written above. The Receiving Party's right to use the Confidential Information in connection with the Business Purposes shall continue in effect until the period of one year from the date above or the other Party provides the Receiving Party with written notice of termination of such right, whichever is earlier. Notwithstanding the foregoing, the Receiving Party's obligations with respect to the Confidential Information hereunder shall continue in full force for at least five years from the termination date and/or effect until further notice from the other Party.
- XIV. **Remedies.** The Receiving Party understands and acknowledges that any disclosure or misappropriation of any of the Confidential Information in violation of this Agreement may cause the Disclosing Party irreparable harm, the amount of which may be difficult to ascertain and, therefore, agrees that the Disclosing Party shall have the right to apply to a court of competent jurisdiction for an order restraining any such further disclosure or misappropriation and for such other relief as the Disclosing Party shall deem appropriate. Such right of the Disclosing Party shall be in addition to Remedies otherwise available to the Disclosing Party at law or in equity.
- XV. **Entire Agreement.** This Agreement embodies the entire understanding between the parties respecting the subject matter of this Agreement and supersedes any and all prior negotiations, correspondence, understandings and agreements between the

parties respecting the subject matter of this Agreement. This Agreement shall not be modified except by a writing duly executed on behalf of the party against whom such modification is sought to be enforced. Should any provisions of this Agreement be found unenforceable, the remainder shall still be in effect.

- XVI. **No Waiver.** The failure of either Party to require performance by the other Party of any provision of this Agreement shall in no way effect the full right to require such performance at any time thereafter.
- XVII. **Successors and Assigns.** Neither shall any Party have any right to assign its rights under this Agreement, whether expressly or by operation of law, without the written consent of the other Party. This Agreement and the Party's obligations hereunder shall be binding on their Representatives, permitted assigns, and successors of the Parties and shall ensure to the benefit of Representatives, assigns and successors of the Parties.
- XVIII. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of India and the Party's country laws on equal force. If there is any conflict of laws, the law of India shall prevail.
- XIX. **Attorneys' Fees.** If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to attorneys' fees.
- XX. **Modification.** This Agreement constitutes the sole understanding of the parties about this subject matter and may not be amended or modified except in writing signed by each of the parties to the Agreement.
- XXI. **Legal Address of the Parties:**

Party A:

Party B: