

REQUEST FOR PROPOSAL

RFP No.: BSCL/17/17/3055

Date: 10th November, 2017

Project Name: Implementation of Smart City Projects under Smart City Mission in Bhubaneswar City

Name of Assignment: Selection of Agency to Design, Procure, Install, Operate and Maintain Public Bicycle Sharing System in Bhubaneswar



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Odisha

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1 DISCLAIMER

The information contained in this Request for Proposal ("RFP") document or any other information subsequently provided to Bidders, whether verbally or in documentary or any other form by or on behalf of the Bhubaneswar Smart City Limited ("Client") or any of its employees or advisers, is provided to the Bidders on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

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

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

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

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

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

The issue of this RFP does not imply that the Client is bound to select a Bidder to provide the Goods and Services and the Client reserves the right to reject all or any of the Proposals without assigning any reasons whatsoever.

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

2 Section 1. Instructions to Bidders and Bid Data Sheet

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Section 1. Instructions to Bidders and Bid Data Sheet

A. General Provisions

Definitions

- (a) “Affiliate” means, in relation to a Bidder, a person who controls or is controlled by such Bidder, or a person who is under the common control of the same person who controls such Bidder.
- (b) “Applicable Law” means any and all laws, enacted or brought into force and effect by the GoI, the GoO or any local government having jurisdiction over the Master System Integrator or the Smart Solutions Project, including rules, regulations and notifications made thereunder, and judgments, decrees, injunctions, writs and orders of any court of record, as may be applicable to the execution of the Contract, as may be in force and effect during the subsistence of the Contract.
- (c) “Arbitration tribunal” means a panel composed of an odd number of persons known as arbitrators, who decide on the solution of a conflict in which the parties have expressly waived recourse to the ordinary civil courts.
- (d) “Authorized Fleet” is the number of Cycles in operation as defined by Bhubaneswar Smart City Limited.
- (e) “Bid” means the proposals submitted by the Bidder(s) in response to this RFP in accordance with the provisions hereof, including technical proposal and financial proposal, along with all other documents forming part and in support thereof.
- (f) “Bidder” means any person that submits a Proposal pursuant to this RFP.
- (g) “Bid Data Sheet” or “BDS” means the data sheet set out in Part F of Section 1 with specific details and information to supplement (and not override) the general provisions set out in Part A of the ITB.
- (h) “Bid Process” means the process of selection of the Service Provider through competitive bidding and includes submission of Bids, scrutiny and evaluation of such Bids as set forth in the RFP.
- (i) “CEO” means the Chief Executive Officer of the Client.
- (j) “Consortium” or “Joint Venture” or “JV” means a combination of companies, firms or limited liability partnerships, not exceeding 2, which have formed a consortium or unincorporated joint venture for the purposes of submitting a Proposal

Section 1. Instructions to Bidders

- (k) “Children Bicycle” means a bicycle for usage by children below 12 years.
- (l) “Clause” means a clause of the ITB.
- (m) “Client” means Bhubaneswar Smart City Limited (BSCL), the implementing agency that will sign the Contract for the Services with the selected Bidder.
- (n) “Collection” is a set of processes designed for the reception, consolidation, transportation and deposit of the monies derived from the initialization, charge and other payments at the points of sale of the Public Bicycle Sharing System.
- (o) “Companies Act” means the (Indian) Companies Act, 1956 or the (Indian) Companies Act, 2013, to the extent applicable.
- (p) “Commencement Date” means the date stipulated by BSCL for commencement of the Public Bicycle Sharing Project by the Contractor under the Contractor Agreement. The Commencement Date will be the first day of the **first Payment Period**.
- (q) “Commercial Operations Date” is the actual date on which the Public Bicycle Sharing System will begin to serve users under the Service Contract.
- (r) “Consortium” shall mean an association of entities / firms formed especially for the purpose of bidding for this RFP.
- (s) “Contract” means the legally binding written agreement to be executed between the Client and the successful Bidder. A draft of the Contract is set out in Section 6 and includes all the documents listed in Clause 1 of the draft Contract (i.e., the General Conditions of Contract (GCC), the Special Conditions of Contract (SCC), and the Appendices).
- (t) “Contract Period” is the time from the **date of signing the Contract** to the last date of validity of the Contract.
- (u) “Contractor” shall mean the Bidder who is awarded this Contract through the Bidding process of this RFP and to whom a Letter of Acceptance is issued by BSCL and Contractor Agreement is entered with to implement and operate the Public Bicycle Sharing System.
- (v) “Contractor Facilities” means the facilities and equipment produced or developed by the Contractor that are required for the due implementation of this Contract, including control center, stations and depots, as applicable.

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- (w) “Control” in relation to a Person, means: (i) the ownership, directly or indirectly, of more than 50% of the voting shares of such Person; or (ii) the power, directly or indirectly, to direct or influence the management and policies of such Person by operation of law, contract or otherwise. The term “Controls” and “Controlled” shall be construed accordingly.
- (x) “Control Centre” means the central facility of the Public Bicycle Sharing System used mainly for service monitoring, operations control, and customer service. It is the location for collecting, storing, consolidating, processing the information obtained from various elements of the Public Bicycle Sharing System as well as from users, agents, employees, and service providers.
- (y) “Day” means a calendar day.
- (z) “Depot” is the area equipped with facilities and equipment for general management, repair, maintenance, cleaning, and parking of cycles and stations for the Public Bicycle Sharing System.
- (aa) “Dock means a physical unit along with all its electrical, electronic and mechanical parts for locking a single cycle at a station when the cycle is not in use.
- (bb) “Electric Bicycle” means a bicycle with an integrated electric motor which can be used for propulsion. The terms electric bicycle, electric cycle, e-cycle and e - bicycle are used interchangeably in the RFP and mean the same.
- (cc) “Eligibility Criteria” means, collectively, the financial eligibility criteria and the technical eligibility criteria specified in the Bid Data Sheet and the other eligibility criteria, which a Bidder is required to satisfy to be qualified as an eligible Bidder for award of the Contract.
- (dd) “EMD” shall have the meaning ascribed to it in **Clause 19**.
- (ee) “Financial Proposal” means the financial proposal of the Bidder comprising the documents set out in **Clause 18**.
- (ff) “Fleet” means the number of cycles that are available for use in the Public Bicycle Sharing System.
- (gg) “GoI” means the Government of India.
- (hh) “GoO” means the Government of Odisha.
- (ii) “ITB” mean the Instructions to Bidders set out in Section 1 of the RFP that provides the Bidders with all the information needed to prepare their Proposals.

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- (jj) “Key Expert” means an individual proposed to be engaged by a Bidder, if selected as the successful Bidder to perform and manage the services as per the requirements mentioned under Section 5: Technical Requirements.
- (kk) “Member” means a customer who has entered a Membership agreement with the Contractor.
- (ll) “Membership” means an agreement between the Contractor and a customer for a specified period of time in which the customer gains access to the Public Bicycle Sharing System.
- (mm) “MD” means Managing Director of the Client.
- (nn) “MoUD” means the Ministry of Urban Development, Gol.
- (oo) “Public Bicycle Sharing System” or “System” means a personal public transport system consisting of a network of cycles and stations in which a user can check out a cycle at any station using an RFID-based smart card or key and return the cycle to any other station and in which information is tracked in real-time using an information technology system. It refers to the hardware, software, and premises associated with this RFP in various phases, unless otherwise specified.
- (pp) “Person” means any individual, company, corporation, firm, and partnership, trust, sole proprietor, limited liability partnership, co-operative society, Government Company or any other legal entity.
- (qq) “Personnel” means, collectively, **Key Experts and** any **other** personnel proposed to be engaged by a Bidder, if selected as the successful Bidder, to provide the Solutions and Services.
- (rr) “Performance Security” shall have the meaning ascribed to it in Clause 25.
- (ss) “Proposal” means the submissions made by a Bidder pursuant to the RFP, which will include the Qualification Documents, Technical Proposal and the Financial Proposal.
- (tt) “Proposal Due Date” means the last date for submission of the Proposals, as specified in the Bid Data Sheet.
- (uu) “Qualification Documents” means the documents submitted by the Bidder to demonstrate its eligibility in accordance with Clause 17.
- (vv) “Redistribution” is the activity of a cycle being moved by the Contractor (normally from station to station or station to depot) using a redistribution vehicle. This is done to

balance and service the supply and demand of cycles at various locations in the network.

- (ww) “RFP” means this, request for proposal along with its schedules, annexures and appendices and includes any subsequent amendment issued by the Client pursuant hereto.
- (xx) “Ride” is a trip taken by a registered customer of the Public Bicycle Sharing System in which a cycle is checked out from one Station and returned to another Station.
- (yy) “Services” means the work to be performed by the Bidder pursuant to the Contract, as described in greater detail in the RFP document.
- (zz) “Standard Bicycle” means a bicycle which shall be procured, maintained, and operated as part of the Public Bicycle Sharing System by the Contractor in accordance with the terms of this RFP. The terms cycle and Bicycle are used interchangeably in the RFP and mean the same.
- (aaa) “Standby Cycles” means the number of additional cycles that the Contractor shall procure and maintain to ensure that the size of the operational fleet is equal to or greater than that of authorized fleet at all times.
- (bbb) “Station” means a unit with a user terminal and docking positions where users can rent and return (check-out and check-in) cycles.
- (ccc) “Technical Proposal” means the technical proposal of the Bidder comprising the documents set out in Clause 17.
- (ddd) “Pilot Deployment and Testing” is the timeframe preceding the Commercial Operations Date during which Contractor shall demonstrate the functionality of the Public Bicycle Sharing System.
- (eee) “Vandalism” means destruction of or damage to any project asset deliberately.

1. Introduction

- 1.1 The city of Bhubaneswar has been selected to be developed into a smart city under the first phase of the Smart Cities Mission launched by the MoUD. The Client is the special purpose vehicle incorporated to implement the Smart Cities Mission in Bhubaneswar in accordance with the Smart City Proposals. The Smart City Plan envisaged to make Bhubaneswar a sustainable eco-city where citizen may also use bicycles as one of the prime mode of transport. In order to facilitate bicycle as a mode of transport in the city, it is intended to implement a Public Bicycle Sharing project through selection of a

partner (in the form of a “Contractor”) for Bhubaneswar. Therefore, the Client intends to invite bids for Selection of Contractor for implementation of Public Bicycle sharing system in Bhubaneswar, as described in general in this Request for proposal document and in accordance with the method of selection specified in the Bid Data Sheet. The Bidder is required to comply with the provisions of the RFP for the bidding process and implementation of overall project.

- 1.2 The Contract (appended to the RFP at Section 6), which will be signed between the Client and the successful Bidder is for a term as specified in Bid Data Sheet (including implementation, defect liability and maintenance period), which may be extended on mutually acceptable terms and conditions.
- 1.3 The Client has adopted a single stage bid process for selection of the successful Bidder. Bidders who are eligible in accordance with Clauses 2, 3, 4 and 5 of the RFP are invited to submit their Proposals for providing the required Services, which will consist of three parts: (a) Qualification Documents; (b) Technical Proposal; and (c) Financial Proposal, each in the formats specified in Section 2 and 3.
- 1.4 The evaluation of the Proposals will be carried out in three sub-stages:
 - (a) The first sub-stage will involve qualification of the Bidders based on evaluation of their Qualification Documents to determine compliance with the Eligibility Criteria. Only those Bidders who are found to meet the Eligibility Criteria will be qualified for the next sub-stage.
 - (b) In the second sub-stage, the Technical Proposals of the eligible and qualified Bidders will be evaluated to determine compliance with the Technical Evaluation requirements as per this RFP. Only those Bidders who score at least the minimum qualifying technical score, as specified in the Bid Data Sheet (BDS), on their Technical Proposals will be eligible for evaluation of their Financial Proposals in the third and final sub-stage.
 - (c) In the third and final sub-stage, the Financial Proposals of the eligible and qualified Bidders whose Technical Proposals have received at least the minimum qualifying technical score will be opened and evaluated and will be scored in accordance with the formula specified in the Bid Data Sheet. The Proposals of the qualified

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Bidders will be finally ranked on the basis of Quality and Cost Based Selection (QCBS);

- (d) The first ranking Bidder will be invited to participate in negotiations with the Client in accordance with Clause 32. Thereafter, upon completion of the negotiations, the Client will issue a letter of award to the first ranking Bidder, declaring the first ranking Bidder to be the successful Bidder. Following receipt of the letter of award, the Bidder will furnish the Performance Security in accordance with Clause 25, fulfil any other conditions specified in the letter of award and execute the Contract with the Client.
- 1.5 The Bidders should familiarize themselves with the local conditions and take them into account in preparing their Proposals. Bidders may attend the pre-bid meeting, which will be held on the date specified in the Bid Data Sheet, during which the Bidders will be free to seek clarifications and make suggestions to the Client on the scope of the Services or otherwise in connection with the RFP. Attending any such pre-bid meeting is optional and is at the Bidders' expense.
- 1.6 The statements and explanations contained in the RFP are intended to provide the Bidders with an understanding of the scope of the Services required. Such statements and explanations should not be construed or interpreted as limiting in any way or manner: (i) the scope of the rights and obligations of the Bidder, as set out in the Contract; or (ii) the Client's right to alter, amend, change, supplement or clarify the rights and obligations of the Bidder or the scope of the Services or the terms of the Contract. Consequently, any omissions, conflicts or contradictions in the RFP are to be noted, interpreted and applied appropriately to give effect to this intent. The Client will not entertain any claims on account of such omissions, conflicts or contradictions.
- 1.7 The Client will endeavour to provide to the Bidders, in a timely manner and at no additional cost, the inputs, relevant project data, responses to queries and reports required for the preparation of the Proposals as specified in the Bid Data Sheet. However, for avoidance of doubt, it is hereby clarified that the aforesaid data/ information provided under RFP or to be provided later, is only indicative and solely for the purposes of rendering assistance to the Bidders towards preparation of their Proposals. The Bidders are hereby advised to undertake their own due diligence (to their complete satisfaction) before placing reliance on any such data/information

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furnished or to be provided later by the Client and/ or any of his consultants.

- 1.8 The Client will endeavor to adhere to the timelines set out in the Bid Data Sheet for carrying out the bid process and award of the Contract.
- 1.9 It will be assumed that Bidders will have accounted for all relevant factors, including technical data, and applicable laws and regulations while submitting the Proposals.
- 1.10 Bidders shall bear all costs associated with the preparation and submission of their proposals, and their participation in the Selection process, and presentation including but not limited to postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by Client or any other costs incurred in connection with or relating to its Proposal. The Client is not bound to accept any Proposal, and reserves the right to annul the selection process at any time prior to Contract award, without thereby incurring any liability to the Bidders.
- 1.11 Client requires that the Contractor provides professional, objective, and impartial advice and at all times hold Client's interests' paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The Contractor shall not accept or engage in any assignment that may place it in a position of not being able to carry out the assignment in the best interests of Client and the Project.

2. Conflict of Interest

- 2.1 The Bidder has an obligation to disclose to the Client any situation of actual or potential conflict that impacts its capacity to serve the best interest of its Client. Failure to disclose such situations may lead to the disqualification of the Bidder or the termination of its Contract.
- 2.2 Without limiting the generality of the foregoing, a Bidder shall be deemed to have a conflict of interest and shall not be eligible under the circumstances set forth below:

a. Conflicting activities

Conflict between consulting activities and procurement of goods, works or non-consulting services: a Bidder that has been engaged by the Client to provide goods, works, or non-consulting services for a project, or any of its Affiliates, shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or non-consulting services. Conversely, a Bidder hired to provide consulting services for the preparation or implementation of a project, or any of its Affiliates, shall be disqualified from subsequently providing goods or works or non-consulting services resulting from or directly related to the consulting services for such preparation or implementation.

- b. Conflicting relationships** Relationship with the Client's staff: a Bidder (including its Directors, Stakeholders or Management) that has a close business or family relationship with a professional staff of the Client who are directly or indirectly involved in any part of (i) the preparation of the RFP for the assignment, or (ii) the Technical Specifications of the goods, works or services may not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Client throughout the selection process and the execution of the Contract.
- 3. Corrupt and Fraudulent Practices**
- 3.1 The Bidder (including its officers, employees, agents and advisors), its Personnel and Affiliates shall observe the highest standards of ethics during the bid process. Notwithstanding anything to the contrary in this RFP, the Client shall reject a proposal without being liable in any manner whatsoever to the Bidder if it determines that the Bidder has directly or indirectly through an agent engaged in any corrupt practice, fraudulent practice, coercive practice, collusive practice, undesirable practice or restrictive practice, as defined in Section 4. The Client will declare a Bidder ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the Bidder has engaged in corrupt or fraudulent practices in competing for and in executing the contract.
- 3.2 To this end, the Bidder shall permit and shall cause its service providers, system integrators, contractors and sub-contractors to permit the Client to inspect their accounts, records, and other documents relating to the submission of the Proposal and Contract performance and to have them audited by auditors appointed by the Client.
- 4. Eligibility**
- 4.1 A company incorporated under the Companies Act 1956 or the (Indian) Companies Act, 2013 or an equivalent law outside India or a firm or limited liability partnership registered in India or in any other jurisdiction, which meets the Eligibility Criteria shall be eligible to submit a Proposal.
- 4.2 None of the member of a given JV/Consortium can be a member of another JV/Consortium for submitting this same bid otherwise all the bids comprising the same member shall stand disqualified.
- 4.3 A parent company/firm shall be allowed to use the credentials of its subsidiaries/associates provided, the stake of the parent company is more than 50% and satisfactory documentary proofs establishing the relationship and stake are submitted.
- 4.4 A wholly owned subsidiary may use the technical credentials of its parent company if an undertaking

confirming the relationship is provided by the parent company/firm.

- 4.5 Furthermore, it is the Bidder's responsibility to ensure that its Personnel, agents (declared or not), service providers, system integrators, contractors, sub-contractors and/or their employees meet the eligibility requirements specified in the RFP.
- 4.6 The Bidder, its contractors or sub-contractors, Original Equipment Manufacturers (OEMs) should not be blacklisted/debarred in last 5 years by any State / Central Government Department or Central /State PSUs as on bid submission date in India. The Bidder shall submit an affidavit declaring and confirming the same.
- 4.7 The Bidder, its contractors or sub-contractors, during the last 3 (three) years, neither failed to perform on any agreement, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder or its Contractors or sub-contractors, nor been expelled from any project or agreement nor have had any agreement terminated for breach by such Bidder or its contractors or sub-contractors.

5. Qualifications of the Bidder

- 5.1 By submission of documentary evidence in its bid, the Bidder must establish to the Client's satisfaction:
 - (a) that it has the financial, technical, and production capability necessary to perform the Contract, meets the qualification criteria as specified in the Bid Data Sheet, and has a successful performance history.
 - (b) For the purposes of establishing a Bidder's qualifications, the experience and / or resources of the Sub-contractor will only be allowed for the systems/sub-systems as stated in Bid Data Sheet.
 - (c) that, in the case of a Bidder offering to supply key goods components of the System, as identified in the Bid Data Sheet, that the Bidder does not itself produce, the Bidder is duly authorized by the producer/OEM to supply and support those components in the Client's country under the Contract that may result from this bidding; (This will be accomplished by including Manufacturer's Authorizations in the bid, based on the sample found in Appendix 12, Section 2); and
 - (d) that, if a Bidder proposes Subcontractors for services if and as identified in the BDS, these Subcontractors have agreed in writing to serve for the Bidder under the Contract(s) that may result from this bidding; and

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- (e) that, in the case of a Bidder not doing business within the Client's country, the Bidder is or will be (if awarded the Contract) represented by an Agent in that country who is equipped and able to carry out the Bidder's maintenance, technical support, training, and repair obligations prescribed in the General and Special Conditions of Contract, and/or Technical Requirements.
- 5.2 The bids submitted by a Joint Venture/Consortium as partners shall also comply with the following requirements and as indicated in Bid Data Sheet:
- 5.2.1 the bid shall be signed so as to be legally binding on all partners;
 - 5.2.2 one of the partners shall be nominated as being in charge, and this nomination shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners;
 - 5.2.3 the partner in charge shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the Joint Venture/Consortium, and the entire execution of the Contract, including payment, shall be done exclusively with the partner in charge;
 - 5.2.4 It is the responsibility of the partner in charge to ensure that all the other Joint Venture/ Consortium members in the bid are compliant to all the clauses as mentioned in the bid, failing which bid can be disqualified;
 - 5.2.5 the partner or combination of partners that is responsible for a specific component of the System supplied under this bid must meet the relevant minimum qualification criteria for that component;
 - 5.2.6 a firm may submit bids either as a single Bidder on its own, or as partner in one, and only one, Joint Venture/Consortium. If, as a result of the bid opening, this requirement is not met, all bids involving the firm as a single Bidder or Joint Venture partner will be disqualified;
 - 5.2.7 all partners of the Joint Venture/Consortium shall be liable jointly and severally for the execution of the Contract in accordance with the Contract terms, and a statement to this effect shall be included in the authorization mentioned under ITB Clause 5.2.2 above, in the bid as well as in the Contract (in case of a successful bid).
 - 5.2.8 the proposal shall include a brief description of the roles and responsibilities of all the partners of the Joint Venture / Consortium.

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- 5.3 deleted
- 5.4 deleted
- 5.5 The Bidder shall comply to the below requirements:
- (i) The Bidder shall quote only one specific make and model from only one specific OEM, for each of the goods. Providing more than one option shall not be allowed. All goods quoted by the Bidder must be associated with item code and names and with printed literature describing configuration and functionality. Any deviation from the printed specifications should be clearly mentioned in the offer document by the Bidder.
 - (ii) The OEM for each product or technology quoted should be in the business of that product or solution or technology for at least 3 years as on the date of release of the RFP.
 - (iii) All the OEMs should have authorized presence in India either directly or through channel partner(s) as on the date of release of RFP.
 - (iv) The OEM for all active components should give a declaration that products or technology quoted are neither end of- sale nor end-of-life as on the date of installation and commissioning and are not end-of-support till the successful completion of O&M period of the project.
 - (v) OEM proposed by the Bidder, if applicable, shall be in compliance to National Cyber Security Policy of Government of India.
- 6. Site Visit**
- 6.1 The Bidder may wish to visit and examine the project site or sites and obtain for itself, at its own responsibility and risk, all information that may be necessary for preparing the bid and entering into the Contract. The costs of visiting the site or sites shall be at the Bidder's own expense.
- 6.2 The Client will arrange for the Bidder and any of its personnel or agents to gain access to the relevant site or sites, provided that the Bidder gives the Client adequate notice of a proposed visit of at least seven (7) days. Alternatively, the Client may organize a site visit or visits concurrently with the pre-bid meeting, as specified in the ITB Clause 10.2. Failure of a Bidder to make a site visit will not be a cause for its disqualification.
- 6.3 No site visits shall be arranged or scheduled after the deadline for the submission of the Bids and prior to the award of Contract.
- 7. Acknowledgement by Bidder**
- 7.1 It shall be deemed that by submitting the Proposal, the Bidder has:
- (i) made a complete and careful examination of the

RFP and any other information provided by the Client under this RFP;

- (ii) accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of the Client;
- (iii) satisfied itself about all things, matters and information, necessary and required for submitting an informed Proposal, and performing the Services in accordance with the Contract and this RFP.
- (iv) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in this RFP or ignorance of any matter shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations or loss of profits or revenue from the Client, or a ground for termination of the Contract; and
- (v) agreed to be bound by the undertakings provided by it under and in terms of this RFP and the Contract.
- (vi) acknowledged that The Client and/ or its advisors/ Consultants shall not be liable for any omission, mistake or error on the part of the Bidder in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to this RFP or the Selection Process, including any error or mistake therein or in any information or data given by the Client and/ or its Consultant.

8. Rights of the Client

- 8.1 The Client, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:
- (i) suspend the bid process and/or amend and/or supplement the bid process or modify the dates or other terms and conditions relating thereto prior to the issuance of the letter of award to the successful Bidder;
 - (ii) consult with any Bidder in order to receive clarification or further information;
 - (iii) retain any information, documents and/or evidence submitted to the Client by and/or on behalf of any Bidder;
 - (iv) independently verify, disqualify, reject and/or accept any and all documents, information and/or evidence submitted by or on behalf of any Bidder, provided that any such verification or lack of such verification by the Client shall not relieve the Bidder of its obligations or liabilities, or affect any of the rights of the Client;

Section 1. Instructions to Bidders

- (v) reject a Proposal, if: (A) at any time, a material misrepresentation is made or uncovered; or (B) the Bidder in question does not provide, within the time specified by the Client, the supplemental information sought by the Client for evaluation of the Proposal.
 - (vi) accept or reject a Proposal, annul the bid process and reject all Proposals, at any time prior to the issuance of the letter of award to the successful Bidder, without any liability or any obligation for such acceptance, rejection or annulment and without assigning any reasons whatsoever to any Bidder.
- 8.2 If the Client exercises its right under this RFP to reject a Proposal and consequently, the first/highest ranked Bidder gets disqualified or rejected, then the Client reserves the right to:
- (i) invite the next ranked Bidder to negotiate the Contract, except in the case where the rejection is for the reason mentioned in the clause 32; or
 - (ii) take any such measure as may be deemed fit in the sole discretion of the Client, including inviting fresh Proposals from the qualified Bidders or annulling the entire bid process.

B. The Bidding Documents

9. **Bidding Documents**
- 9.1 The contents of the Bidding Documents are listed below and should be read in conjunction with any addenda issued in accordance with ITB Clause 10:
- Section 1: Instructions to Bidders (ITB) and Bid Data Sheet
 - Section 2: Qualification documents and Technical Proposal – Standard Forms
 - Section 3: Financial Proposal (Price Schedule) – Standard Forms
 - Section 4: Corrupt and Fraudulent Practices
 - Section 5: Technical Requirements
 - Section 6: Standard Form of Contract
10. **Clarification and Amendment of the RFP**
- 10.1 The Bidder may request a clarification of any part of the Bid documents prior to the last date for submission of queries, as indicated in the Bid Data Sheet for ITB 1.8. Any queries or requests for additional information in relation to the bid documents should be submitted in writing or by fax and email. The queries submitted sent via email should be in excel sheet format only, along with name and details of the organisation submitting the queries. The template for bid queries is provided in Annexure I. The envelope or communication must clearly bear the following subject line – **"Selection of Agency to Design, Procure, Install, Operate and Maintain the Public Bicycle Sharing System in Bhubaneswar"** and sent to the address/number/e-mail address as indicated in the Bid Data Sheet for ITB 1.5.
- The Client shall make reasonable efforts to respond to the queries or request for clarifications on or before the date specified in the Bid Data Sheet for ITB 1.8. The Client's responses to Bidder queries (including an explanation of the query but without identifying its source) will be made available to all Bidders and shall be uploaded on the Client's website. It shall be the Bidder's responsibility to check the Client's website for the responses to the queries or requests for clarification. The Client may, but shall not be obliged to communicate with the Bidders by e-mail, notice or other means it may deem fit about the issuance of clarifications. The Client reserves the right not to respond to any query or provide any clarification, in its sole discretion, and nothing in this bid document shall be taken to be or read as compelling or requiring the Client to respond to any query or to provide any clarification. Should the Client deem it necessary to amend the bid document as a result of a clarification, it shall do so following the procedure described below:

- (a) At any time prior to deadline of bid submission, the Client may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, amend the bid documents by issuing an amendment. The amendments shall be uploaded on the Client's website and will be binding on the Client and the Bidders. The Bidders shall update themselves by visiting the Client's website regularly and the Client bears no responsibility for any Bidder's failure to do.
- (b) If the amendment is substantial, the Client may extend the Proposal Due Date to give the Bidders reasonable time to take an amendment into account in their Proposals.
- (c) Verbal clarifications and information given by the Client or any other Person for or on its behalf shall not in any way or manner be binding on the Client.

10.2 As per dates **specified in the Bid Data Sheet**, the Client will organize and Bidders are welcome to attend a pre-bid meeting at the time and place **indicated in the BDS** for ITB 1.5. The purpose of the meeting will be to clarify issues and answer questions on any matter that may be raised at this stage, with particular attention to issues related to the Technical Requirements. Bidders are requested to submit any questions in writing to reach the Client not later than one week before the meeting. Questions and answers will be transmitted in accordance with ITB Clause 10.1. Minutes of the meeting, including the questions raised and responses given, together with any responses prepared after the meeting, will be transmitted without delay to all those that received the Bidding Documents from the Client.

10.3 The Bidder may substitute, modify or withdraw its Proposal at any time prior to the Proposal Due Date. No Proposal shall be substituted, withdrawn or modified after the time specified in the Bid Data Sheet for ITB 1.8 on the bid submission date.

C. Preparation of Proposals

11. General Considerations

In preparing the Proposal, the Bidder is expected to examine the RFP in detail. The RFP must be read as a whole. If any Bidder finds any ambiguity or lack of clarity in the RFP, the Bidder must inform the Client at the earliest to seek clarity on the interpretation of the RFP. Material deficiencies in providing the information requested in the RFP may result in rejection of the Proposal.

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- 12. Cost of Preparation of Proposal** The Bidder shall bear all costs associated with the preparation and submission of its Proposal, and the Client shall not be responsible or liable for those costs, regardless of the conduct or outcome of the selection process. The Client is not bound to accept any Proposal, and reserves the right to annul the selection process at any time prior to award of the Contract, without assigning any reason and without incurring any liability to the Bidder.
- 13. Language** The Proposal, as well as all correspondence and documents relating to the Proposal exchanged between the Bidder and the Client shall be written in the language(s) specified in the Bid Data Sheet.
- 14. Documents Comprising the Proposal** The Proposal shall consist of 3 parts: (a) Qualification Documents; (b) the Technical Proposal; and (c) the Financial Proposal. Each part will comprise the documents and forms listed in Clauses 17 and 18.
- 15. Only One Proposal** The Bidder shall submit only one Proposal. If a Bidder submits or participates in more than one Proposal, all such Proposals shall be disqualified and rejected.
- 16. Proposal Validity**
- (a) Each Proposal must remain valid for the period specified in the Bid Data Sheet.
 - (b) During the Proposal validity period (as specified in the Bid Data Sheet), the Bidder shall maintain its original Proposal without any change.
- Extension of Validity Period**
- (c) The Client will make its best effort to complete the bid process and select the Bidder within the Proposal's validity period specified in the Bid Data Sheet. However, should the need arise, the Client may request, in writing, all Bidders who submitted Proposals prior to the Proposal Due Date to extend the Proposals' validity.
 - (d) If the Bidder agrees to extend the validity of its Proposal, it shall be done without any change in the original Proposal.
 - (e) The Bidder has the right to refuse to extend the validity of its Proposal in which case such Proposal will not be further evaluated, and the EMD of such Bidder will be returned in the manner set out in this RFP.
 - (f) In the event a Bidder agrees to extend the validity of its Proposal, the validity of the EMD submitted by such Bidder along with the Proposal (where the EMD is submitted in the form of a bank guarantee) will also be extended for an equivalent period.
- 17. Qualification Documents and Technical** (a) The Qualification Documents and Technical Proposal are un-priced proposals and shall not include any financial information. Qualification Documents and Technical

Section 1. Instructions to Bidders

Proposal Format

Proposal containing material related to financial information shall be declared non-responsive.

- (b) The Qualification Documents submitted by a Bidder shall comprise the following:
- (i) The Qualification Documents Proposal Submission Form in the form attached at Appendix 1;
 - (ii) Details of the Bidder in form set out at Appendix 2;
 - (iii) The bid document processing fee in the form of a demand draft drawn in favour of the Client;
 - (iv) The EMD/Bid Security: If the Bidder is submitting the EMD in the form of a bank guarantee, it must be in the format set out at Appendix 3;
 - (v) A power of attorney for signing the Proposal in the format set out in Appendix 4;
 - (vi) Financial qualification of the Bidder in the format set out in Appendix 5 along with copies of duly audited financial statements for the financial years being considered for the purposes of evaluation of the Bidder's financial capacity;
 - (vii) Joint Bidding Agreement and Joint Venture/Consortium summary of the Bidder in the format set out in Appendix 6;
 - (viii) Technical qualification of the Bidder in the format set out in Appendix 7 along with supporting certificates from clients;
 - (ix) Current Contract commitments of the Bidder in the format set out in Appendix 8;
 - (x) Affidavit certifying that the Bidder is not blacklisted in the format set out in Appendix 11;
 - (xi) Copy of service tax and sales tax registration in India; and
 - (xii) Duly certified copy of the Bidder's certificate of incorporation/certificate of registration issued under its applicable laws.
 - (xiii) A Power of Attorney for Partner in Charge of Joint Venture / Consortium as per format set out in Appendix 17.
- (c) The Technical Proposal submitted by a Bidder shall comprise the following:
- (i) Conformity in the form of Bid Compliance Undertaking as per the format as set out in

Section 1. Instructions to Bidders

Appendix 9 to all business, functional and technical requirements as mentioned in Section 5 of the RFP and shall be supported by documentary evidence establishing to the Client's satisfaction, that the Goods and Services to be supplied, installed and/or performed by the Bidder conform to the RFP requirements.

- (ii) Detailed Technical Description of the proposed system along with System design, size, component details including system architecture, design, frontend and backend applications, database, reporting tools, monitoring functions of the proposed system.
- (iii) Data Sheets of all hardware which will form part of the system.
- (iv) Statement of Deviation of the Bidder in the format set out in Appendix 10;
- (v) Manufacturer Authorization of the Bidder in the format set out in Appendix 12;
- (vi) Software List used by the Bidder in the format set out in Appendix 13;
- (vii) List of Custom material used by the Bidder in the format set out in Appendix 14;
- (viii) Description of approach, methodology, and work plan;
- (ix) Work schedule for Deliverables as per format in Appendix 20;
- (x) Details of Key Expert to be deployed for the implementation, operation and management of the project in accordance with Section 1: ITB. Format for CV is presented in Appendix 15;

Note: Each CV needs to have been recently signed by the key personnel and/or countersigned by the authorized official of the Firm. At the time of submission of bid proposal, the scanned copies of the signature of key personnel will be allowed but at the time of signing of contract, the original signature will be required. However, in both the cases, original counter signature of Authorized signatory shall be required in original. A CV shall be summarily rejected if the educational qualification of the key personnel proposed does not match with the requirement as given in the RFP. The personnel proposed should possess good working knowledge of English language. No key personnel involved should have attained the age of 70 years at the time of

submitting the proposal. The Client reserves the right to ask for proof of age, qualification and experience at any stage of the Project.

- (xi) If applicable, undertaking from the Key Experts in the format set out in Appendix 16. In case a Bidder is proposing Key Expert from educational/ research institutions, a 'No Objection Certificate/ Consent Letter' from the concerned institution shall be enclosed with his CV clearly mentioning his/ her availability for the assignment. In the absence of such certificate, his/ her CV will not be evaluated.
- (xii) The Bidder shall make the assessment of support personnel; both technical and administrative to undertake the Project. If required, additional support and administrative staff shall be provided as needed for the timely completion of the Project without any additional cost to the Client. It is stressed that the time period for the Assignment indicated in the Technical Requirements should be strictly adhered to.
- (xiii) Technical Proposal Submission Form in the format presented in Appendix 18;
- (xiv) Team Composition and Task Assignments as per format in Appendix 19;

Failure to comply with the above requirements and documents will make the Proposal non-responsive.

18. Financial Proposal

- 18.1 All Goods and Services identified in the Supply and Installation Cost Table and the Recurrent Cost Table in Section 3, and all other Goods and Services proposed by the Bidder to fulfil the requirements of the System, must be priced separately in the format of the same tables and summarized in the corresponding Cost Summary Tables in the same Section. Prices must be quoted in accordance with the instructions provided in Section 3 for the various cost tables, in the manner specified below. The Bidder shall quote for the entire scope of contract on an "overall responsibility" basis such that the total bid price covers Bidder's all obligations mentioned in or to be reasonably inferred from the bidding documents in respect of providing the product/services.
- 18.2 The price of items that the Bidder has left blank or the items omitted altogether from the cost tables provided in Section 3 shall be assumed to be included in the price of other items.
- 18.3 Unit prices must be quoted at a level of detail appropriate for calculation of any partial deliveries or partial

Section 1. Instructions to Bidders

payments under the contract, in accordance with the Implementation Schedule in Section 5, and with GCC and SCC Clause 40. Bidders may be required to provide a breakdown of any composite or lump-sum items included in the Cost Tables.

- 18.4 The prices for Goods offered shall be quoted, including all customs duties, levies, fees, sales and Goods and Service Tax (GST) incurred until delivery of the Goods if the Contract is awarded.
- 18.5 Transportation and Insurance: Inland transportation, insurance and related local costs incidental to the delivery of the Goods to the designated Project Sites must be quoted separately as a Service item in accordance with ITB Clause 18.6, whether the Goods are to be supplied locally or from outside the Client's country.
- 18.6 The price of Services shall be quoted in total for each service (where appropriate, broken down into unit prices). Prices must include all taxes, duties, levies and fees whatsoever. The prices must include all costs incidental to the performance of the Services.
- 18.7 Prices for Recurrent Costs beyond the scope of warranty services to be incurred during the Warranty Period, defined in SCC Clause 57.4 and prices for Recurrent Costs to be incurred during the Post-Warranty Period, defined in SCC Clause 1 (rr), shall be quoted as Service prices in accordance with ITB Clause 18.6 on the Recurrent Cost Table in detail, and on the Recurrent Cost Summary Table in currency totals. Recurrent costs are all-inclusive of the costs of necessary Goods such as spare parts, software license renewals, labour, etc., needed for the continued and proper operation of the System.
- 18.8 Unless otherwise specified in the Bid Data Sheet, prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to increases on any account. Bids submitted that are subject to price adjustment will be rejected.
- 18.9 In case any assumption or condition is indicated in the Financial Proposal, it shall be considered as non-responsive and shall be liable for rejection.
- 18.10 The cost indicated in the Financial Proposal shall be deemed as final and reflecting total cost of proposal and should be stated in INR only. Omissions, if any, in costing of any item shall not entitle the Bidder to be compensated and the liability to fulfil the obligations as per the RFP within the total quoted price shall be that of the Bidder.

Section 1. Instructions to Bidders

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| Currency of Proposal | (a) | The Bidder shall submit its Financial Proposal in Indian Rupees only. |
| Currency of Payment | (b) | Payments under the Contract shall be made in Indian Rupees only. |
| 19. Earnest Money Deposit/Bid Security | (a) | An Earnest Money Deposit (EMD) amount as indicated in the Bid Data Sheet in the form of an irrevocable and unconditional bank guarantee drawn in favour of the Client (as indicated in Bid Data Sheet) and payable at Bhubaneswar must be submitted along with the Proposal. |
| | (b) | Proposals not accompanied by EMD shall be rejected as non-responsive. |
| | (c) | The EMD submitted along with the Proposal will remain valid for a period of 28 days beyond validity period of the Proposal, including any extensions thereof. |
| | (d) | No interest shall be payable by the Client for the sum deposited as EMD. |
| | (e) | Unless forfeited in accordance with Clause 20 below, the EMD of the unsuccessful Bidders will be returned within 1 month of signing of the Contract with the successful Bidder. The EMD of the successful Bidder will be returned upon the selected Bidder furnishing the Performance Security in accordance with Clause 25. |
| | (f) | The EMD of a Joint Venture/Consortium (if allowed) shall be issued in the name of the Joint Venture submitting the bid provided the Joint Venture has legally been constituted, or else it shall be issued on the name of Partner in charge of the JV/Consortium proposed for the bid. |
| | (g) | The EMD in original shall be placed in a separate envelope and marked as “EMD/Bid Security” and shall be attached with the envelope containing the Qualification Documents marked as “RFP – Selection of Agency to Design, Procure, Install, Operate and Maintain the Public Bicycle Sharing System in Bhubaneswar” and “Not to be opened except in the presence of evaluation committee”. |
| 20. Forfeiture of EMD | | The EMD shall be forfeited and appropriated by the Client as mutually agreed genuine pre-estimated compensation and damages payable to the Client for the time, cost and effort of the Client, without prejudice to any other right or remedy that may be available to the Client under the RFP or in law under the following conditions: |
| | (a) | If a Bidder withdraws or modifies its Proposal during the Proposal validity period or any extension agreed by the Bidder thereof. |
| | (b) | If a Bidder is disqualified in accordance with Clause 2; |

Section 1. Instructions to Bidders

- (c) If the Bidder tries to influence the evaluation process or engages in corrupt, fraudulent, coercive or undesirable practice or restrictive practice as set out in Section 4.
 - (d) If a Bidder is declared the first ranking Bidder and it:
 - (i) Withdraws its Proposal during negotiations. However, failure to arrive at a consensus between the Client and the first ranked Bidder shall not be construed as withdrawal of proposal by the first ranked Bidder;
 - (ii) fails to furnish the Performance Security in accordance with Clause 25 of the RFP;
 - (iii) fails to sign and return, as acknowledgement, the duplicate copy of the letter of award;
 - (iv) fails to fulfil any other condition precedent to the execution of the Contract, as specified in the letter of award; or
 - (v) fails to execute the Contract.
- 21. Period of Validity of Bids**
- 21.1 Bids shall remain valid, at a minimum, for the period specified in the Bid Data Sheet after the deadline date for bid submission prescribed by the Client, pursuant to ITB Clause 23. A bid valid for a shorter period shall be rejected by the Client as non-responsive. However, Bidders are responsible for adjusting the dates in the Bid Data Sheet in accordance with any extensions to the deadline date of bid submission pursuant to ITB Clause 21.2.
- 21.2 In exceptional circumstances, prior to expiry of the bid validity period, the Client may request that the Bidders to extend the period of validity for a specified additional period. The request and the responses to the request shall be made in writing. A Bidder may refuse the request without risking forfeiting the EMD, but in this case the bid will be out of the competition for the award. Bidder agreeing to the request will not be required or permitted to modify its bid, but will be required to ensure that the bid remains secured for a correspondingly longer period, pursuant to ITB Clause 19 (c).
- 22. Bid documents Processing Fees**
- 22.1 All Bidders are required to pay the amount as indicated in the Bid Data Sheet towards the cost of bid documents processing fees as follows:
- a. Bid document processing fee shall be paid through demand draft drawn in favour of the Client.
 - b. The bid document processing fee is non-refundable.

Please note that the Proposal, which does not include the Bid document processing fees, would be declared as non-responsive and accordingly, rejected.

D. Submission, Opening and Evaluation

23. Submission, Sealing, and Marking of Proposals

23.1 The Bidder shall submit a signed, stamped and complete Proposal comprising the documents specified in Clause 17 and Clause 18, as per the procedure specified in Clause 35 of ITB, no later than time and date as specified in the Bid Data Sheet.

23.2 The Proposal shall be submitted in physical form (hard copy) along with the Demand Drafts / Bank Guarantee for Bid Security and Bid Document Processing Fee and will be hand delivered or sent by registered post, speed post or courier in the manner and to the address specified in the Bid Data Sheet:

The Client will not be responsible for any delays, loss or non-receipt of Proposals. Proposals submitted by fax, telegram or e-mail shall be rejected.

Each Proposal must be typed or written in indelible ink and an authorized representative of the Bidder shall sign the Proposal and physically initial all pages of the Proposal. All the pages of the proposal must be numbered in sequence. The authorization shall be by way of a written power of attorney executed in the format attached as Appendix 4. The name and position held by the person signing the Proposal must be typed or printed below the signature.

23.3 The Proposal shall contain no interlineations or overwriting, except as necessary to correct errors made by the Bidder. Any modifications, revisions, interlineations, erasures, or overwriting shall be valid only if they are signed or initialled by the authorized signatory/person signing the Proposal.

23.4 The proposal shall comprise 3 separate sealed envelopes which will be placed in a sealed outer envelope as follows:

- a. The first envelope (Envelope A) will contain the Qualification Documents in original and such number of copies as specified in the Data Sheet and be marked as follows:

“SELECTION OF AGENCY TO DESIGN,
PROCURE, INSTALL, OPERATE AND
MAINTAIN THE PUBLIC BICYCLE SHARING
SYSTEM IN BHUBANESWAR”

Qualification Documents

Do Not Open Before [Insert time indicated in the
Data Sheet] on [Proposal Due Date]

Section 1. Instructions to Bidders

- b. The Second envelope (Envelope B) will contain the Technical Proposal and such number of copies as specified in the Data Sheet and be marked as follows:

“SELECTION OF AGENCY TO DESIGN,
PROCURE, INSTALL, OPERATE AND
MAINTAIN THE PUBLIC BICYCLE SHARING
SYSTEM IN BHUBANESWAR”

Technical Proposal

Do Not Open Before [Insert time indicated in the
Data Sheet] on [Proposal Due Date]

- c. The Third envelope (Envelope C) will contain the Financial Proposal and be marked as follows:

“SELECTION OF AGENCY TO DESIGN,
PROCURE, INSTALL, OPERATE AND
MAINTAIN THE PUBLIC BICYCLE SHARING
SYSTEM IN BHUBANESWAR”

Financial Proposal

Do Not Open Before [Insert time indicated in the
Data Sheet] on [Proposal Due Date]

- 23.5 The sealed envelopes containing the Qualification Documents, Technical Proposals and Financial Proposal shall be placed into one outer envelope and sealed. This outer envelope shall bear the name and address of the Bidder and the RFP reference number and be marked as follows:

“SELECTION OF AGENCY TO DESIGN,
PROCURE, INSTALL, OPERATE AND
MAINTAIN THE PUBLIC BICYCLE SHARING
SYSTEM IN BHUBANESWAR”

Proposal

Do Not Open Before [Insert time indicated in the
Data Sheet] on [Proposal Due Date]

- 23.6 If the envelopes are not sealed and marked as required, the client will assume no responsibility for the misplacement, loss, or premature opening of the Proposal.

- 23.7 The Client may, at its discretion, extend this deadline for submission of bids by amending the RFP, in which case all rights and obligations of the Client and Bidders will thereafter be subject to the deadline as extended.

- 23.8 Any bid received by the Client after the bid submission deadline prescribed by the Client in the Bid Data Sheet for ITB Clause 23.1, will be rejected and returned unopened to the Bidder.

Section 1. Instructions to Bidders

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| 24. Withdrawal, Substitution and Modification of Bids | 24.1 | The Bidder may withdraw, substitute, or modify its bid after submission, but prior to Proposal due date. |
| | 24.2 | deleted |
| | 24.3 | deleted |
| | 24.4 | Bids requested to be withdrawn in accordance with ITB 24.1 shall not be opened. |
| | 24.5 | No bid may be withdrawn, substituted, or modified in the interval between the bid submission deadline and the expiration of the bid validity period specified by the Bidder in the Bid Submission Form, or any extension thereof agreed to by the Bidder. Withdrawal of a bid during this interval may result in the forfeiture of the EMD/Bid Security, if any, pursuant to ITB Clause 20. |
| 25. Performance Security | 25.1 | Upon selection, the Bidder shall furnish to the Client, a performance security of the amount specified in Clause 25.2 below, on or before execution of the Contract to secure the due performance of the obligations of the Bidder under the Contract (the Performance Security). The Performance Security will be in the form of an unconditional, irrevocable and on-demand bank guarantee issued in favour of the Client in the format appended to the Contract. |
| | 25.2 | The Performance Security shall be for an amount equal to 10% (Ten per cent) of the total value of the Contract. |
| 26. Opening of Proposals | (a) | The Client shall open, in accordance with clause 36 of ITB, only those Proposals that are submitted on or before the specified time on the Bid Submission Due Date. |
| | (b) | The Client shall open all bids, including withdrawals, substitutions, and modifications, in public, in the presence of Bidder's representatives who choose to attend bid opening. |
| | (c) | The modification, substitution or withdrawal of bids shall be dealt in accordance with the procedure specified in clause 35.3 of ITB. |
| | (d) | Bids and modifications that are not opened and read out at bid opening shall not be considered for further evaluation, irrespective of the circumstances. These bids, including any bids validly withdrawn in accordance with ITB Clause 24, will promptly be returned, unopened, to their Bidders. |
| 27. Confidentiality | (a) | From the time of Proposals to be opened to the time of Contract is awarded, the Bidder should not contact the Client on any matter related to its Qualification Documents, Technical Proposal and/or Financial Proposal. Information relating to the evaluation of |

Proposals and award recommendations shall not be disclosed to the Bidders who submitted the Proposals or to any other party not officially involved with the bid process, until the publication of the Contract award.

- (b) Any attempt by a Bidder or anyone on behalf of the Bidder to influence improperly the Client in the evaluation of the Proposals or award of the Contract may result in the rejection of its Proposal.
- (c) Notwithstanding the above provisions, from the time of Proposals' opening to the time of Contract award publication, if a Bidder wishes to contact the Client on any matter related to the selection process, it should do so only in writing.

28. Responsiveness and Eligibility Tests

- (a) First, the Client's evaluation committee shall open and evaluate the Qualification Documents for responsiveness and to determine whether the Bidders are eligible to be awarded the Contract. At the opening of the Qualification Documents, the following shall be read out:

- the name and the country of the Bidder;
- the presence or absence of duly sealed envelopes with the Technical Proposal and the Financial Proposal; and
- any modifications, substitutions or withdrawal to the Proposal submitted prior to the Proposal Due Date.
- any other information deemed appropriate.

The Qualification Documents shall be considered responsive only if:

- (a) all documents specified in Clause 17 are received in the prescribed format;
 - (b) the Proposal is received by the Proposal Due Date;
 - (c) it is signed, sealed and marked as specified in Clause 23;
 - (d) it contains all the information and documents (complete in all respects) as requested in this RFP; and
 - (e) it does not contain any condition or qualification.
- (b) The Client's evaluation committee shall evaluate and determine whether the Bidders who have submitted responsive Qualification Documents satisfy the Eligibility Criteria.

Section 1. Instructions to Bidders

- (c) If any Bidder is found to be disqualified in accordance with the terms of the RFP or the Qualification Documents are found to be non-responsive or the Bidder does not meet the Eligibility Criteria, then the Proposal submitted by such Bidder will be rejected.
- (d) Upon completion of evaluation of the Qualification Documents, the Client will notify the Bidders whether they are qualified and eligible for evaluation of their Technical Proposals.
- (e) An indicative bid submission checklist is provided in Annexure II. Bidders should expand and (if appropriate) modify and complete this checklist. The purpose of the table is to provide the Bidder with a detailed summary checklist of items that must be included in the bid as described in ITB Clauses 17 and 18, in order for the bid to be considered responsive.
- (f) If envelopes are not sealed and marked as per the instructions, the Client assumes no responsibility for the misplacement or premature opening of the contents of the proposal submitted and consequent losses if any suffered by the Bidder.

29. Evaluation of Technical Proposals

The Client's evaluation committee shall evaluate the Technical Proposals of eligible Bidders for responsiveness. If the Technical Proposal is found:

- (a) not to be complete in all respects; or
- (b) not duly signed by the authorized signatory of the Bidder;
- (c) not to be in the prescribed format; or
- (d) to contain alterations, conditions, deviations or omissions,

then such Technical Proposal shall be deemed to be substantially non-responsive and be liable to be rejected.

Each responsive Technical Proposal submitted by an eligible Bidder will be given a technical score on the basis of the evaluation criteria, sub-criteria, and point system as specified in the Bid Data Sheet. The Financial Proposals of only those Bidders who score at least the minimum qualifying technical score, as specified in the Bid Data Sheet, on their Technical Proposals will be opened by the Client.

30. Opening of Financial Proposals

- (a) After the evaluation of Technical Proposals of eligible Bidders is completed, the Client shall notify those Bidders whose Technical Proposals were considered non-responsive to the RFP or who do not score the minimum qualifying technical score that their Financial Proposals will not be opened, along with information relating to the Bidder's overall technical score, as well as scores

obtained for each criterion and sub-criterion. The Financial Proposals of technically unqualified Bidders will be returned unopened. The Client shall simultaneously notify in writing those Bidders that have achieved the minimum qualifying technical score and inform them of the date, time and location for the opening of their Financial Proposals. The opening date should allow the Bidders sufficient time to make arrangements for attending the opening. The Bidder's attendance at the opening of the Financial Proposals is optional and is at the Bidder's choice.

- (b) The Financial Proposals of eligible Bidders whose Technical Proposals have scored at least the minimum qualifying technical score shall be opened by the Client's Authorized Officials on the date and at the time notified by the Client in the presence of the Bidders whose designated representatives choose to be present. At the opening of the Financial Proposals, the names of the Bidders, and the overall technical scores, including the break-down by criterion, shall be read aloud. The Financial Proposals will then be evaluated to confirm that they are responsive in terms of the RFP. If any Financial Proposal is found:
- (i) not to be complete in all respects;
 - (ii) not duly signed by the authorized signatory of the Bidder, wherever required;
 - (iii) not to be in the prescribed format; or
 - (iv) to contain alterations, conditions, deviations or omissions,

then such Financial Proposal shall be deemed to be substantially non-responsive and liable to be rejected.

The Financial Proposals that are found to be responsive will be evaluated, and the total cost quoted by the eligible and technically qualified Bidders will be read aloud and recorded.

31. Correction of Errors

- (a) Activities and items described in the Technical Proposal but not priced in the Financial Proposal shall be assumed to be included in the prices of other activities or items, and no corrections will be made to the Financial Proposal.

Prior to evaluation of the Financial Proposals, the Evaluation Committee will determine whether the Financial Proposals are complete in all respects, qualified and unconditional, and submitted in accordance with the terms hereof.

The Client's evaluation committee will correct any computational or arithmetical errors in the Proposals. In case of discrepancy between (a) a partial amount (sub-

total) and the total amount; or (b) between the amount derived by multiplication of unit price with quantity and the total price; or (c) between words and figures, the former will prevail in each case. In case of any discrepancy between the Technical Proposal and the Financial Proposal of a Bidder, the Technical Proposal shall prevail and the Client's evaluation committee shall correct the quantities specified in the Financial Proposal so as to make it consistent with the corresponding quantities specified in the Technical Proposal, apply the relevant rate included in the Financial Proposal to the corrected quantity, and correct the total cost stated in the Financial Proposal.

**Cost
Evaluation**

- (b) The Client's evaluation of the bid will be made on the basis of prices quoted in accordance with ITB Clause 18
- (c) The Evaluated Bid Price (C) for each responsive bid will be determined as the sum of the Adjusted Supply and Installation Costs (P) plus the Recurrent Costs (R);

where the Adjusted Supply and Installation Costs (P) are determined as:

- i. The price of the hardware, Software, related equipment, products, Materials and other Goods offered from within or from outside the Client's Country, in accordance with ITB Clause 18; plus
- ii. The total price for all software development, transportation, insurance, installation, customization, integration, commissioning, testing, training, technical support, repair, and other Services, in accordance with ITB Clause 18;
- iii. with adjustments for:
 - 1) Deviations proposed to the Implementation Schedule in the Technical Requirements resulting in delayed completion of the entire Information System, if permitted in the BDS and provided they do not exceed the maximum permissible delay period specified in the BDS. For evaluation purposes, a pro rata increase of the total Supply and Installation Costs will be added using the percentage(s) specified in the BDS for each week of delay. Bids offering deliveries beyond the maximum permissible delay specified may be rejected.
 - 2) Deviations taken to the Contract payment schedule specified in the SCC. If deviations are permitted in the BDS, for evaluation purposes the total Supply and

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Installation Costs will be increased pro rata by the amount of interest that could otherwise be earned on the amount of any payments that would fall due under the proposed schedule earlier than the schedule stipulated in the SCC, at the interest rate specified in the BDS.

- 3) Goods and Services that are required for the Information System but have been left out or are necessary to correct minor deviations of the bid will be added to the total Supply and Installation Costs using costs taken from the highest prices from other responsive bids for the same Goods and Services, or in the absence of such information, the cost will be estimated at prevailing list prices. If the missing Goods and Services are a scored technical feature, the relevant score will be set at zero.
 - 4) Corrections to errors in arithmetic, in accordance with ITB Clause 31 (a).
- iv. The Recurrent Costs (R) are reduced to Net Present Value and determined using the following formula:

$$R \equiv \sum_{x=1}^{N+M} \frac{R_x}{(1+I)^x}$$

where

N = number of years of the Warranty Period, defined in SCC Clause 57.4

M = number of years of the Post Warranty Services Period as defined in SCC 1 (rr)

x = an index number 1, 2, 3, ... N + M representing each year of the combined Warranty Service and Post-Warranty Service Periods.

R_x = total Recurrent Costs for year "x," as recorded in the Recurrent Cost Sub-Table.

I = discount rate to be used for the Net Present Value calculation, as specified in the BDS.

- (d) The lowest evaluated bid price (F_m) will be given a financial score (S_f) of 100 points. The financial scores (S_f) of the other financial proposals will be determined using the following formula:

$$S_f = 100 \times F_m/F;$$

In which Sf is the financial score, Fm is the lowest evaluated bid price (lowest financial proposal), and F is the Financial Proposal under consideration.

Proposal shall be ranked in accordance with their combined technical (St) and financial (Sf) scores:

$$S = St \times Tw + Sf \times Fw;$$

Where S is the combined score, and Tw and Fw are weights assigned to Technical Proposal and Financial Proposal as specified in Bid Data Sheet.

The bidder achieving the highest combined technical and financial score will be considered the successful Bidder and will be invited for contract signing. Subject to Clause 32, the first/highest ranked Bidder will ordinarily be the selected Bidder.

E. Negotiations and Award

- 32. Negotiations**
- (a) The first/highest ranking Bidder may, if necessary, be invited for negotiations with the Client. The negotiations will be held at the date and address as informed by the Client.
 - (b) The Client shall prepare minutes of negotiations which will be signed by the Client and the Bidder's authorized representative.
 - (c) If the negotiations fail, the Client shall inform the first/highest ranking Bidder in writing of all pending issues and disagreements and provide a final opportunity to the first/highest ranking Bidder to respond. If disagreement persists, the Client shall terminate the negotiations informing the first/highest ranking Bidder of the reasons for doing so. Upon termination of the negotiations with the first/highest ranking Bidder, the Client may invite the next-ranked Bidder to negotiate the Contract with the Client or annul the bid process, reject all Proposals and invite fresh Proposals. If the Client commences negotiations with the next-ranked Bidder, the Client shall not reopen the earlier negotiations.
- 33. Client's Right to Vary Quantities at Time of Award**
- 33.1 The Client reserves the right at the time of Contract award to increase or decrease, by the percentage (s) indicated in the BDS any of the following:
 - a. de-scope or add the systems/sub-systems equivalent to specified percentage (%) of Contract value; or
 - b. the quantity of substantially identical Sub-systems; or

- c. the quantity of individual hardware, Software, related equipment, Materials, products, and other Goods components of the Information System; or
- d. the quantity of Installation or other Services to be performed,

from that originally specified in the Technical Requirements (as amended by any Addenda issued pursuant to ITB Clause 10), without any change in unit prices or other terms and conditions.

34. Award of Contract

- (a) After completing the negotiations, the Client shall issue a letter of award to the selected Bidder:
 - (i) accepting the Proposal of the selected Bidder with such modifications as may be negotiated with the Client;
 - (ii) requesting it to submit the Performance Security in accordance with Clause 25;
 - (iii) Subject to submission of the Performance Security and satisfaction of all other conditions specified in the letter of award, requesting it to execute the Contract.

Within [15] days of receipt of the letter of award, the selected Bidder shall sign and return a copy of the letter of award.

- (b) Upon execution of the Contract, the Client will publish the award information; and promptly notify the other technically qualified Bidders of the conclusion of the selection process or upload the details of the selected Bidder on its website.
- (c) If the selected Bidder fails to satisfy the conditions specified in Clause 34 (a) (i) above or fails to execute the Contract on or before the date specified in the letter of award, the Client may, unless it consents to an extension, without prejudice to its other rights under the RFP or in law, disqualify the selected Bidder, revoke the letter of award and forfeit the EMD of the selected Bidder. If the Client elects to disqualify the selected Bidder and revoke the letter of award, it may invite the next ranked Bidder to negotiate the Contract with the Client or take any such measure as it may deem fit, including inviting fresh Proposals from the eligible Bidders or annulling the entire bid process.
- (d) The client shall reserve the right to award the contract in full or a part. Any increase in the scope of contract shall be awarded within the limits as specified in Bid Data sheet.

F. Bid Data Sheet

A. General

ITC Clause Reference	Description
1.1	<p>Name of the Client: Bhubaneswar Smart City Limited (BSCL)</p> <p>Description of the Solution for which bids are invited: Selection of Agency to Design, Procure, Install, Operate and Maintain the Public Bi-cycle Sharing System in Bhubaneswar.</p> <p>Method of selection: Single Stage selection, three envelope system, Quality and Cost Based Selection (QCBS) with the following weights given to technical and financial proposals:</p> <p>Technical = 70%</p> <p>Financial = 30%</p>
1.2	<p>The Contract term is : Ninety four (94) months including Implementation period of Ten (10) months</p>
1.4 (b)	<p>Minimum qualifying technical score: 70</p>
1.4 (c)	<p>Evaluation of Proposal: Please refer Clause 29 of Bid Data Sheet.</p>
1.5	<p>A pre-bid meeting will be held: Yes</p> <p>Date of pre-bid meeting: As per 1.8 : Schedule of Bidding Process</p> <p>Address:</p> <p>Conference Hall Bhubaneswar Smart City Limited, 2nd Floor, Block – 1, BMC Bhawani Office Complex, Saheed Nagar, Bhubaneswar – 751 007, Odisha Telephone: 0674-2392778 Fax: 0674-2396889 E-mail: pancitysolutionbbsr@gmail.com Contact person: Mr. Simanchal Maharana, General Manager (E&T)</p> <p>All Pre-bid queries shall be addressed to the following in the format prescribed in RFP:</p> <p>Address: Mr. Simanchal Maharana, General Manager (E&T) Bhubaneswar Smart City Limited, 2nd Floor, Block – 1, BMC Bhawani Office Complex,</p>

Section 1. Instructions to Bidders

Saheed Nagar, Bhubaneswar – 751 007

E-mail:

pancitysolutionbbsr@gmail.com

- 1.7 The Bidder may download the RFP for preparing of the bid proposal from the website:**

www.tendersodisha.gov.in

1.8 Schedule of Bidding Process

The Client shall endeavour to adhere to the following schedule:

Sr. No.	Event Description	Date
1	Issue of Advertisement & Uploading of RFP	10 / 11 / 2017
2	Last date of receiving Queries	18 / 11 / 2017 by 5:00 PM
3	Pre-bid Meeting	21 / 11 / 2017 at 11:00 AM
4	Reply to Pre-bid Queries	Within 5 days of pre bid meeting
5	Last date of Proposal submission	07 / 12 / 2017 up to 5.00 PM
6	Opening of Proposals (Qualification & Technical Proposals)	07 / 12 / 2017 at 05:30 PM
7	Opening of financial proposals	Date of financial opening will be informed to the technically qualified bidders.
8	Validity of Proposal	180 calendar days from the last date of submission of proposal

- 5.1 (a) The Bidder must meet the following qualification criteria as on the last date of submission of this bid:**

S. No	Type	Qualification Criterion	Documentary Evidence
1	Company Profile	The Bidder (Partner In charge as well as the member, in case of Consortium) shall be in operations for a period of at least three (3) years as on published date of RFP.	<ul style="list-style-type: none"> • Copy of certificate of Incorporation/Registration under Companies Act 1956 (for Indian companies) • Global companies to provide equivalent proof of incorporation/registration • A written undertaking from each of the consortium

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S. No	Type	Qualification Criterion	Documentary Evidence
			<p>members, in case of a consortium, duly signed by the authorized signatory, holding a written power of attorney for this bid on a stamp paper, authorizing the lead bidder to incur liabilities and receive instructions for and on behalf of any and all consortium members, and the entire execution of the Contract, including but not limited to the payments.</p>
2	Company Financials & Profile	<p>The Bidder/Consortium shall have an average annual turnover of INR 15 Crores over the last three (3) Financial Years. In case of Consortium, at least 50% of the turnover criteria shall be met by the Partner In charge and the remaining can be satisfied by the other Consortium partners.</p> <p>Partner in Charge or Consortium members shall be into one of the following specific business areas.</p> <ul style="list-style-type: none"> • Public Bicycle sharing/ rental. • IT / Technology based Taxi or car rental/sharing. • IT / Technology based Two-wheeler rental/ sharing. • IT / Technology based Parking management. 	<ul style="list-style-type: none"> • Audited financial statements for last three Financial Years. • Auditor's certificate clearly specifying the annual turnover for the specified years. • MoA/AoA shall be submitted showing the area of business.
3	Company Financials	<p>The Bidder (Partner In charge in case of consortium) shall have minimum net-worth of INR 10 Crores as per the last audited Financial Year.</p>	<p>The Sole Bidder or the Partner In charge</p> <ol style="list-style-type: none"> 1. Certificate from Auditor on net worth
4	Local Presence	<p>The Bidder (Partner In charge in case of consortium) shall have an office in Bhubaneswar or shall furnish an undertaking at the time of bid submission that the Bidder shall establish an office in Bhubaneswar within sixty days of signing the Contract. The office shall be</p>	<ul style="list-style-type: none"> • List and address of office in Bhubaneswar <p>OR</p> <ul style="list-style-type: none"> • Undertaking from authorized signatory to open office with GST registration (if applicable) in Bhubaneswar

Section 1. Instructions to Bidders

S. No	Type	Qualification Criterion	Documentary Evidence
		maintained during the entire duration of the Contract.	within 30 days from Contract signing.
5	Company Standing	As on date of submission of the proposal, the Bidder (all members of the consortium as applicable) shall not be blacklisted by any State / Central Government Department or Central /State PSUs.	The Sole Bidder or the Partner In charge and all other Members of Consortium: 1. Undertaking to this effect on the letter head, signed by bidders' authorized signatory. 2. In case of consortium, this needs to be provided by each of the consortium member.
6	Prior Experience	The Bidder (any member in case of consortium) should have operated and managed at least two (2) nos. of cycle sharing system using IT/ Technology based system with a minimum fleet size of 100 bicycles for a period of 6 months in past seven (7) years from the last date of bid submission. Or Should have operated and managed at least two (2) nos. of taxi or car rental/sharing using IT/ Technology based system with a minimum fleet size of 100 cars for a period of 6 months in past seven (7) years from the last date of bid submission. Or Should have operated and managed at least two (2) nos. of two-wheeler rental/ sharing using IT/ Technology based system with a minimum fleet size of 200 two-wheelers each, for a period of 6 months in past seven (7) years from the last date of bid submission. Or Should have successfully executed, commissioned and managed at least two (2) nos. of on-street Parking system using IT/ Technology based system	Sole Bidder/any Member of Consortium: 1. Work order/ Contract clearly highlighting the scope of work, Bill of Material and value of the contract/order. 2. Completion Certificate issued & signed by the competent authority of the client entity on the entity's Letterhead In case of large orders/orders with operations & maintenance phase, the completion may specify successful execution and in-operation status of a part of the order meeting the requirement.

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S. No	Type	Qualification Criterion	Documentary Evidence
		with a minimum of 100 ECS slots each, for at least for a period of 6 months in past seven (7) years from the last date of bid submission.	

5.1 (c) Manufacturer's Authorizations in the form of certificates for PBS System are required for the following types/categories:

- a) Bicycle (all types)
- b) Docks (if applicable)
- c) Card Reader / Acceptance System
- d) Cycle mounted On-Board Units (if applicable)
- e) App / Card based cycle mounted locking system (if applicable)

5.4 Sub-Contractors: Not Allowed

JV/Consortium: Bids from JV/Consortium of up to two (2) members are accepted provided the JV/Consortium as a whole meets all the eligibility/qualification criteria. Partner in Charge of the consortium shall hold 51% stake in the consortium till the completion of contract Period, including extensions, if any.

B. Preparation of Proposals

13 This RFP has been issued in the English language.

Proposals shall be submitted in English Language.

All correspondence exchange shall be in English Language.

In case any supporting document or printed literature is in another language, it must be accompanied by an accurate translation of all the relevant passages in English by an approved/authorized/licensed translator¹, in which case, for all purposes of interpretation of the Proposal, the translation in English shall prevail.

16 (a) Proposals must remain valid for 180 (one hundred eighty) calendar days from the last date of submission of proposal.

18.8 Prices quoted by the Bidder shall be **fixed**.

¹Approved/authorized/licensed translator means one who is certified by Government for document translation. The registration/certification number of the translator is mandatory to mention on the translated document along with full address, phone number and mail-id.

- 19 (a)** An EMD of INR 10,00,000 (Indian Rupees Ten Lakhs Only) in the form of a unconditional and irrevocable bank guarantee from any Scheduled Commercial Bank in India and drawn in favour of the “Bhubaneswar Smart City Limited” and payable at Bhubaneswar, must be submitted along with the Proposal.

The EMD must be in the format set out in Appendix 3 and the minimum validity date of the bank guarantee should be for a period of 28 days beyond validity period of the Proposal, including any extensions thereof. In the event of any extension in the Proposal's validity, the EMD will also remain valid for such extended period.

- 22.1** Bid documents processing fee of INR 11,200 (Indian Rupees Eleven Thousand and Two Hundred Only) inclusive of GST @ 12% shall be paid through a demand draft in favour of “The Chief Executive Officer, Bhubaneswar Smart City Limited” and payable at Bhubaneswar.

C. Submission, Opening and Evaluation

- 23.1 & 23.2** **The hard copy submissions must be delivered in physical form to the following address:**

Bhubaneswar Smart City Limited,
2nd Floor, Block – 1, BMC Bhawani Office Complex,
Saheed Nagar, Bhubaneswar – 751 007,
Odisha

Bid Submission deadline: As per 1.8 Schedule of Bidding Process

The Bidder have to submit following number of physical copies of the Proposal:

- (a) **Qualification Documents** – 1 original.
- (b) **Technical Proposal** – 1 original.
- (c) **Financial Proposal** – 1 original.
- (d) Soft copy of (a) and (b) above in .pdf and .ppt format, as applicable, (without any password protection in searchable format) in a CD/DVD for each section in each envelope.

- 24.2** **The notice for withdrawal, substitution and modification must be delivered in physical form to the following address:**

Bhubaneswar Smart City Limited,
2nd Floor, Block – 1, BMC Bhawani Office Complex,
Saheed Nagar, Bhubaneswar – 751 007,
Odisha

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The notice must be submitted no later than bid submission date and time as specified in Bid Data Sheet.

29 The Technical Proposals of eligible and qualified Bidders shall be evaluated as follows:

Technical Proposal (Envelope B)

Criteria, sub-criteria, and point system for the evaluation of the Technical Proposals:

S.N.	Evaluation Criteria	Max. Score	Documents Required
1	Company Profile	10	
	<p>The Bidder/Consortium shall have an average annual turnover of INR 15 Crores over the last three (3) Financial Years. In case of Consortium, at least 50% of the turnover criteria shall be met by the Partner In charge and the remaining can be satisfied by the other Consortium partners.</p> <p>Partner in Charge or Consortium members shall be into one of the following specific business areas:</p> <ul style="list-style-type: none"> • Public Bicycle sharing/ rental. • IT/ Technology based Taxi or car rental/sharing. • IT/ Technology based Two-wheeler rental/ sharing. • IT/ Technology based Parking management. <p>Annual Turnover:</p> <p>1) > 15 and ≤ 30 Crores : 6 Marks 2) > 30 and ≤ 50 Crores : 8 Marks 3) > 50 Crores : 10 Marks</p>	10	<ul style="list-style-type: none"> • Audited financial statements for last three Financial Years. • Auditor's certificate clearly specifying the annual turnover for the specified years. • MoA/AoA shall be submitted showing the area of business.
2	Project Experience	35	
	<p>The Bidder (any member in case of consortium) should have operated and managed at least two (2) nos. of cycle sharing system using IT/ Technology based system with a minimum fleet size of 100 bicycles for a period of 6 months in past seven (7) years from the last date of bid submission.</p> <p>Or</p>	35	<p>Sole Bidder/any Member of Consortium:</p> <ol style="list-style-type: none"> 1. Work order/ Contract clearly highlighting the scope of work, Bill of Material and value of the contract/order. 2. Completion Certificate issued &

Section 1. Instructions to Bidders

S.N.	Evaluation Criteria	Max. Score	Documents Required
	<p>Should have operated and managed at least two (2) nos. of taxi or car rental/sharing using IT/ Technology based system with a minimum fleet size of 100 cars for a period of 6 months in past seven (7) years from the last date of bid submission.</p> <p>Or</p> <p>Should have operated and managed at least two (2) nos. of two-wheeler rental/ sharing using IT/ Technology based system with a minimum fleet size of 200 two-wheelers each, for a period of 6 months in past seven (7) years from the last date of bid submission.</p> <p>Or</p> <p>Should have successfully executed, commissioned and managed at least two (2) nos. of on-street Parking system using IT/ Technology based system with a minimum of 100 ECS slots each, for at least for a period of 6 months in past seven (7) years from the last date of bid submission.</p> <p>Number of Projects:</p> <p>1) 2 Projects : 21 Marks 2) > 2 and ≤ 5 Projects : 28 Marks 3) > 5 Projects: 35 Marks</p>		<p>signed by the competent authority of the client entity on the entity's Letterhead</p> <p>In case of large orders/orders with operations & maintenance phase, the completion may specify successful execution and in-operation status of a part of the order meeting the requirement.</p>
3	Key Experts	20	
3.1	<p>Project Manager – MBA /M. Tech /MS or equivalent Post Graduate having more than 10 years of experience in implementation and management of similar Public Bicycle Sharing/rental, IT / Technology based Taxi or Car rental/sharing, IT / Technology based Two-wheeler rental/ sharing, IT / Technology based Parking Management system.</p>	10 (3 marks reserved if Project Manager has international experience of similar projects)	CV signed by Key Expert and Authorized Representative
3.2	<p>IT Manager - Bachelor in Electronics or equivalent Engineering (CS, IT, Electrical etc.) having more than 8 years of experience in designing, implementing and integrating various IT/ Technology based sub-systems which may be required for PBS</p>	5	CV signed by Key Expert and Authorized Representative

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S.N.	Evaluation Criteria	Max. Score	Documents Required
	project.		
3.3	System Engineer - Bachelor in Electronics or equivalent Engineering (CS, IT, Electrical etc.) having more than 5 years of experience in integrating multiple sensors at the command and control centre at city-wide/campus-wide deployment. Must have at least two relevant projects (Command and Control Centre).	5	CV signed by Key Expert and Authorized Representative
4	Approach and Methodology (Technical Presentation)	35	
4.1	Overall Approach, Methodology, Implementation and Deployment Plan.	8	
4.2	Cycle Design - Cycle Design (Standard, Electric and Children) over and above the minimum specified requirements that result in improvements for the user. Examples of such aspects include, but are not limited to: <ul style="list-style-type: none"> • Lightweight Cycles. • Embedded GPS Devices. 	9	
4.4	Station Design - over and above the minimum specified requirements that result in improvements for the user	5	
4.5	Operationalization Plan & Strategy	5	
4.3	Safety - safety mechanism that result in improvements for the user. Particularly for Electric and Children Bicycle	4	
4.6	Awareness - methodology for awareness creation and user generation including: <ul style="list-style-type: none"> - Innovative methods used for generation of user interest and the target groups for each campaign - The rationale for choosing the methods - User Interface- Mobile app/ website – info graphic representation. The detailed plan along with time lines for the Campaign	4	

Section 1. Instructions to Bidders

The key experts shall be evaluated based on the below criteria:		
A.	GENERAL QUALIFICATIONS (General Education, Training, and Experience)	20%
B.	ADEQUACY FOR THE ASSIGNMENT (Relevant Education, Training, Experience In The Sector/Similar Assignments)	80%

31 (c) (iii) (1) Each Technical Proposal will be assigned a technical score out of a maximum of 100 marks. Only the bidders who get an Overall Technical score of minimum 70% or more will qualify for commercial evaluation stage. Failing to secure minimum marks shall lead to technical rejection of the Bid.

The Client will not accept deviations in the schedule of installation and commissioning specified in the Implementation Schedule.

The technical presentation to the evaluation committee shall cover all the sub-components of sub-section 4: Approach and Methodology in the table above of section 29 of BDS.

31 (c) (iii) (2) The Client **will not** accept deviations in the payment schedule in the SCC.

31 (c) (iv) Discount Rate (I) for Net Present Value (NPV) calculations of recurrent costs = **10** percent per annum

33.1 Percentage for increase/decrease: **As specified in Section 5: Technical Requirements (Project Deployment Plan)**

ANNEXURE I: TEMPLATE FOR PRE-BID QUERIES

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

S. No.	RFP Volume, Section	RFP page no	Content in the RFP	Clarification sought

ANNEXURE II: BID SUBMISSION CHECKLIST

Bidders should expand and (if appropriate) modify and complete the below checklist. The purpose of this table is to provide the Bidder with a detailed summary checklist of items that must be included in the bid as described in ITB Clauses 17 and 18, in order for the bid to be considered responsive.

S. No.	Item	RFP Reference Clause/Page	Provided (Yes/No/NA)	Page No.
1.	Joint Venture / Consortium Summary			
2.	Financial Qualification of the Bidder			
3.	JV/Consortium Agreement			
4.	MoU for JV/Consortium			
5.	PoA by Partner in charge to Signing Authority (as applicable)			
6.	PoA by Partner 1 to Partner in charge (as applicable)			
7.	Certificate of Incorporation - Partner in Charge			
8.	Financials - Partner in Charge			
9.	Certificate of Incorporation - Partner 1			
10.	Financials - Partner 1			
11.	Bid Submission Form			
12.	Details of the Bidder (Partner in charge)			
13.	Details of the Bidder (Partner 1)			
14.	Bid Documents Processing fee			
15.	Technical Qualification – Qualifying Projects			
16.	Client Certificates for qualifying projects			
17.	Current Contract Commitments / Work in Progress			
18.	Bid Compliance Undertaking			
19.	Statement of Deviation			
20.	Affidavit certifying Bidder is not blacklisted			
21.	Manufacturer Authorizations			
22.	List of Custom Materials			
23.	Software List			

S. No.	Item	RFP Reference Clause/Page	Provided (Yes/No/NA)	Page No.
24.	Bid Security - EMD			
25.	Performance Bank Guarantee Form			
26.	Key Expert CVs			
27.	Undertaking regarding availability of Key Expert			
28.	Team Composition & Task Assignments			
29.	Work Schedule			
30.	Signed & stamped RFP document (by Authorized Signatory)			
31.	One Original + Three copies of bid (Technical proposal & Qualifications)			
32.	Original Price Bid (only original copy)			
33.	Soft copy of technical bid in CD/DVD			
34.	CD of technical presentation showcasing bidders qualifications, components of the proposed systems and innovation			
35.	Grand Summary Cost Table			
36.	Price Schedule			
37.	Supply and Installation Cost Summary Table			
38.	Recurrent Cost Summary Table			
39.	Supply and Installation Cost Sub-Table(s)			
40.	Recurrent Cost Sub-Tables(s)			
41.	Deviation Cost Table			

3 Section 2. Qualification Documents and Technical Proposal – Standard Forms

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Section 2. Qualification Documents and Technical Proposal – Standard Forms

Qualification Documents

APPENDIX 1: QUALIFICATION DOCUMENTS AND PROPOSAL SUBMISSION FORM

[On the Letter head of the Bidder]

{Location, Date}

To:

**Chief Executive Officer
Bhubaneswar Smart City Limited,
2nd Floor, Block – 1, BMC Bhawani Office Complex,
Saheed Nagar, Bhubaneswar – 751 007,
Odisha**

**Ref: Selection of Agency to Design, Procure, Install, Operate and Maintain
the Public Bicycle Sharing System in Bhubaneswar**

Dear Sir:

We, the undersigned, offer to Design, Procure, Install, Operate and Maintain the Public Bicycle Sharing System, on behalf of Bhubaneswar Smart City Limited in Bhubaneswar City of Odisha in accordance with your Request for Proposals dated [Insert Date]. We are hereby submitting our Proposal, which includes the Qualification Documents and our Technical Proposal and Financial Proposal, each in a separate sealed envelope.

If negotiations are held during the period of validity of the Proposal, we undertake to negotiate in accordance with the RFP. Our proposal is binding upon us, subject only to the modifications resulting from negotiations in accordance with the RFP.

We hereby declare that:

- (a) All the information and statements made in this Proposal are true, nothing has been omitted which renders such information misleading and we accept that any misinterpretation or misrepresentation contained in this Proposal may lead to our disqualification by the Client.
- (b) All documents accompanying our Proposal are true copies of their respective originals. We will make available to the Client any additional information it may find necessary or require to authenticate or evaluate the Proposal.
- (c) Our Proposal shall be valid and remain binding upon us for the period of time specified in the Bid Data Sheet, Clause 16 (a).
- (d) We have no conflict of interest in accordance with Clause 2.

- (e) We and our Affiliates are not submitting more than one or separate Proposals.
- (f) We or any of our Affiliates have not been charge-sheeted by any agency of the government or convicted by a court of law, indicted or have had adverse orders passed by a regulatory authority which could cast a doubt on our ability to execute the Contract.
- (g) No investigation by a regulatory authority is pending either against us or any of our Affiliates or against our chief executive officer or any of our directors/managers/employees.
- (h) If due to any change in facts or circumstances during the bid process, we attract the provisions of disqualification in terms of the provisions of this RFP, we shall inform the Client of the same immediately.
- (i) We meet the Eligibility Criteria and all other requirements of the RFP and are qualified to submit a Proposal, We have not directly or indirectly through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, collusive practice, undesirable practice or restrictive practice as defined in Section 5 of the ITB. We undertake to continue to abide by and ensure that our Personnel comply with the Client's policy with regard to corrupt and fraudulent practices as per Clause 5 and Section 5.
- (j) We or our Affiliates, Suppliers, or Contractors for any part of the Contract, are not subject to any temporary suspension and have not been barred by any government or government instrumentality in India or in any other jurisdiction to which we or our Affiliates belong or in which we or our Affiliates conduct business or by any multilateral funding agency, from participating in any project or being awarded any contract or being given any funding and no such suspension or bar subsists on the Proposal Due Date.
- (k) In the last 5 (five) years, we or our Affiliates have neither been expelled from any project or contract by any government or government instrumentality nor have had any contract terminated by any government or government instrumentality for breach on our part.
- (l) if we are selected as the Contractor we undertake the Contract and provide the Goods and Services on the basis of the requirements as defined in the RFP and our proposed system.
- (m) Our Proposal is binding upon us and is subject to any modifications resulting from the Contract negotiations.
- (n) We have carefully analysed the RFP and all related information. We understand that except to the extent as expressly set forth in the Contract, we shall have no claim, right or title arising out of any documents or information provided to us by the Client or in respect of any matter arising out of or concerning or relating to the bid process including the award of the Contract.
- (o) Our Financial Proposal has been quoted by us after taking into consideration all the terms and conditions stated in the RFP, the Technical Requirements,

the draft Contract, our own estimates of costs and after a careful assessment of all the conditions that may affect the Work.

- (p) We irrevocably waive any right or remedy which we may have at any stage at law or howsoever arising to challenge the criteria for evaluation or question any decision taken by the Client in connection with the evaluation of the Proposals, selection of the Bidder, or in respect of this Project and the terms and implementation thereof.
- (q) We acknowledge the right of the Client to reject our Proposal without assigning any reason and we hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
- (r) We acknowledge the right of the Client to cancel the bid process and not award the Contract, without assigning any reason and without incurring any liability to the Bidders and we hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
- (s) We undertake, if our Proposal is accepted and the Contract is signed, to initiate the Services no later than the date indicated in Clause 34 (c) of the Bid Data Sheet.

We remain,

Yours sincerely,

Authorized Signature {In full and initials}: _____

Name and Title of Signatory: _____

Address: _____

Contact information (phone and e-mail): _____

APPENDIX 2: DETAILS OF THE BIDDER

(To be submitted on the letterhead of the Bidder)

[All individual firms and each partner of a Joint Venture that are bidding must complete the information in this form. Nationality information should be provided for all owners or Bidders that are partnerships or individually owned firms.]

1. (a) Name:
(b) Country of incorporation:
(c) 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 assignment [*Note: Such description shall not exceed 5 type-written pages.*]:
3. Shareholding of the Bidder, if applicable
4. List of directors
5. Details of individual who will serve as the point of contact/ communication for the Client²:
 - (a) Name:
 - (b) Designation:
 - (c) Company:
 - (d) Address:
 - (e) Telephone Number:
 - (f) E-Mail Address:
 - (g) Fax Number:
6. Particulars of the Authorised Signatory of the Bidder:
 - (a) Name:

²In the event that the authorized signatory and the point of contact are different individuals, the information for both the individuals (i.e., the authorized signatory and the point of contact) are to be furnished. The Client will send communication to both the entities.

- (b) Designation:
- (c) Address:
- (d) Telephone Number:
- (e) E-Mail Address:
- (f) Fax Number:

APPENDIX 3: FORMAT OF THE EMD/BID SECURITY

(To be executed on stamp paper of appropriate value)

B.G. No. []

Dated:

1. In consideration of you, Bhubaneswar Smart City Limited (referred to as **BSCL**, which expression will, unless it is repugnant to the subject or context thereof include, its successors and assigns) having agreed to receive the Bid of [*insert name of Bidder*] with its registered office at [*Insert Address*] (referred to as the **Bidder** which expression will unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), to Design, Procure, Install, Operate and Maintain Public Bicycle Sharing System in Bhubaneswar (the **Project**), as a part of implementation of Smart Cities Mission in Bhubaneswar, pursuant to the Request for Proposal dated [] (referred to as the **RFP**) and other related documents including without limitation the draft Contract (collectively referred to as **Bid Documents**), we (Name of the Bank) having our registered office at [] and one of its branches at [] (referred to as the **Bank**), at the request of the Bidder, do hereby in terms of the RFP, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Bid Documents (including the RFP) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to BSCL an amount of INR. [] (referred to as the **Guarantee**) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder, if the Bidder will fail to fulfil or comply with all or any of the terms and conditions contained in the said Bid Documents.
2. Any such written demand made by the CEO of BSCL stating that the Bidder is in default of due and faithful compliance with the terms and conditions contained in the Bid Documents will be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of BSCL is disputed by the Bidder or not, merely on the first demand from BSCL stating that the amount claimed is due to BSCL by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bid Documents, including but not limited to the following events:
 - (a) If a Bidder withdraws its Proposal during the Proposal validity period or any extension agreed by the Bidder thereof.
 - (b) If a Bidder is disqualified in accordance with Clause 3;
 - (c) If the Bidder tries to influence the evaluation process or engages in corrupt, fraudulent, coercive or undesirable practice or restrictive practice as set out in Section 4 of the RFP.
 - (d) If a Bidder is declared the first ranking Bidder and it:

- (i) withdraws its Proposal during negotiations. However, failure to arrive at a consensus between the Client and the first ranked Bidder shall not be construed as withdrawal of proposal by the first ranked Bidder;
- (ii) fails to furnish the Performance Security in accordance with Clause 25 of the RFP;
- (iii) fails to sign and return, as acknowledgement, the duplicate copy of the letter of award;
- (iv) fails to fulfil any other condition precedent to the execution of the Contract, as specified in the letter of award; or
- (v) fails to execute the Contract.

Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee.

4. This Guarantee shall be irrevocable and remain in full force till the validity of the Proposal, including any extensions thereof, and will continue to be enforceable till all amounts under this Guarantee have been paid.
If the Bidder is declared as the Contractor, then the validity of the EMD of such Bidder shall be extended until the date on which the Contractor submits the Performance Security. The EMD of the Contractor will be returned upon the Contractor furnishing the Performance Security.
5. We, the Bank, further agree that BSCL will be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the Bid Documents including, those events listed at clause 3 above. The decision of BSCL that the Bidder is in default as aforesaid will be final and binding on us, notwithstanding any differences between BSCL and the Bidder or any dispute pending before any court, tribunal, arbitrator or any other authority.
6. The Guarantee will not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, BSCL will be entitled to treat the Bank as the principal debtor.
8. The obligations of the Bank under this Guarantee are absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of the Bid Documents or the Bid submitted by the Bidder.
9. The obligations of the Bank under this Guarantee shall not be affected by any act, omission, matter or thing which, but for this provision, would reduce, release or prejudice the Bank from or prejudice or diminish its liability under this Guarantee, including (whether or not known to it, or BSCL):

- (a) any time or waiver granted to, or composition with, the Bidder or any other person;
 - (b) any incapacity or lack of powers, authority or legal personality of or dissolutions; or change in the Bidder, as the case may be;
 - (c) any variation of the Bid Documents, so that references to the Bid Documents in this Guarantee shall include each such variation;
 - (d) any unenforceability, illegality or invalidity of any obligation of the Bidder or BSCL under the Bid Documents or any unenforceability, illegality or invalidity of the obligations of the Bank under this Guarantee or the unenforceability, illegality or invalidity of the obligations of any Person under any other document or guarantee or security, to the extent that each obligation under this Guarantee shall remain in full force as a separate, continuing and primary obligation, and its obligations be construed accordingly, as if there were no unenforceability, illegality or invalidity; and
 - (e) any extension, waiver, or amendment whatsoever which may release a guarantor or surety (other than performance of any of the obligations of the Bidder under the Bid Documents).
10. Any notice by way of request, demand or otherwise will be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
11. We undertake to make the payment on receipt of your notice of claim on us addressed to [***name of Bank along with branch address***] and delivered at our above branch which will be deemed to have been duly authorized to receive the notice of claim.
12. It shall not be necessary for BSCL to proceed against the Bidder before proceeding against the Bank and the Guarantee will be enforceable against the Bank, notwithstanding any other security which BSCL may have obtained from the Bidder or any other person and which will, at the time when proceedings are taken against the Bank, be outstanding or unrealized.
13. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of BSCL in writing.
14. The Bank represents and warrants that it has power to issue this Guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorized and has full power to execute this Guarantee for and on behalf of the Bank.
15. For the avoidance of doubt, the Bank's liability under this Guarantee will be restricted to INR. [___]. The Bank will be liable to pay the amount or any part of the Guarantee only if BSCL serves a written claim on the Bank in accordance with clause 11 of this Guarantee, on or before (indicate date corresponding to the Proposal validity period and requirement for the period of Bank Guarantee towards EMD).

16. Capitalized terms used but not defined herein shall have the meanings given to them in the RFP.

Signed and Delivered by.....Bank

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

(Signature of the Authorised Signatory)

(Official Seal)

APPENDIX 4: FORMAT FOR POWER OF ATTORNEY FOR SIGNING OF PROPOSAL

(On Non – judicial stamp paper of INR 100/- or such equivalent amount and document duly attested by notary public)

Power of Attorney

Know all men by these presents, we (name of the Bidder and address of the registered office) do hereby constitute, appoint and authorize Mr. / Ms..... (name and residential address) who is presently employed with us and holding the position of as our true and lawful attorney (hereinafter referred to as the “attorney”), to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to submission of our Proposal to Design, Procure, Install, Operate and Maintain the Public Bicycle Sharing System for Bhubaneswar Smart City Limited (BSCL) in Bhubaneswar City of Odisha”, including signing and submission of the Proposal and all accompanying documents, attending the pre-bid meeting, providing information/responses to BSCL, representing us in all matters before BSCL, if selected, undertaking negotiations with BSCL prior to the execution of the Contract and generally dealing with BSCL in all matters in connection with our Proposal.

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

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

For _____
(Signature)

(Name, Title and Address)

Witness:

- 1.
- 2.

Accepted

..... (Signature)

(Name, Title and Address of the Attorney)

- *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 executants(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.*
- *In case the Proposal is signed by an authorized director of the Bidder, a certified copy of the appropriate resolution/ document conveying such authority may be enclosed in lieu of the power of attorney.*
- *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 apostille certificate.*

APPENDIX 5: FINANCIAL QUALIFICATION OF THE BIDDER

(Bidders, including each partner of a Joint Venture/Consortium, shall provide financial information to demonstrate that they meet the requirements stated in the BDS for ITB Clause 5.1 (a). Each Bidder or partner of a Joint Venture/Consortium shall complete this form. If necessary, separate sheets shall be used to provide complete banker information. A copy of the audited balance sheets shall be attached. Autonomous subdivisions of parent conglomerate businesses shall submit financial information related only to the particular activities of the subdivision.)

Name of Bidder or partner of a Joint Venture (if allowed):

S. No.	Financial Year (FY)	Annual Turnover (Rs. crore)	Net Profit (Rs. Crore)
1	Financial Year 2013-14 (or FY 2014-15)		
2	Financial Year 2014-15 (or FY 2015-16)		
3	Financial Year 2015-16 (or FY 2016-17)		

Note:

- *The Bidder shall attach copies of the balance sheets, financial statements and audited annual reports for each of the Financial Years mentioned above. The financial statements shall:*
 - (a) *reflect the turnover of the Bidder;*
 - (b) *be audited by an Auditor;*
 - (c) *be complete, including all notes to the financial statements.*
- *The Bidder shall provide an Auditor's certificate specifying the annual Turnover of the Bidder in the form set out at Appendix-5.*
- *In case the financial year in the Bidder's country is the calendar year, the Bidder shall submit above financial information for years 2013, 2014 and 2015 or 2014, 2015 and 2016; as applicable.*
- *In case Bidder is claiming International Turnover, the amount shall be converted to USD and then to INR based on the RBI rates as per 31st January, 2017.*

Date:

**APPENDIX 6: FORMAT OF JOINT BIDDING AGREEMENT AND JOINT VENTURE /
CONSORTIUM SUMMARY**

(To be executed on stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the [date in words] day of [month in words] [year in 'yyyy' format].

AMONGST

1. [Name of company], a company incorporated under the Companies Act, 1956 and having its registered office at [registered address] (hereinafter referred to as the “First Part” which expression shall, unless repugnant to the context include its successors and permitted assigns);

AND,

2. [Name of company], a company incorporated under the Companies Act, 1956 and having its registered office at [registered address] (hereinafter referred to as the “Second Part” which expression shall, unless repugnant to the context include its successors and permitted assigns);

The above mentioned parties of the [FIRST AND SECOND] PART are collectively referred to as the “Parties” and each is individually referred to as a “Party”.

WHEREAS,

- a) Bhubaneswar Smart City Limited (BSCL), a SPV Company incorporated under the Companies Act, 1956 and having its principal place of business at 2nd Floor, Block 1, BMC Bhawani Office Complex, Saheed Nagar, Bhubaneswar - (hereinafter referred to as the “Client” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited proposals (“the Proposal”) by its Request for Proposal dated [date] (the “RFP”) for appointment of Contractor for [name of assignment] (the “Project”).
- b) The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the RFP document and other bid documents in respect of the Project, and
- c) It is a necessary condition under the Project that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Proposal.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and interpretations: In this Agreement, the capitalised terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP.
2. Consortium:
 - a) The Parties do hereby irrevocably constitute a consortium (the “Consortium”) for the purposes of jointly participating in the selection process for the Project;
 - b) The Parties hereby undertake to participate in the Bidding process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, either directly or indirectly or through any of their Affiliates.
3. Covenants: The Parties hereby undertake that in the event the Consortium is declared

the selected Contractor and awarded the Project, the Parties shall enter into a contract for proposed services (“Contract”) with the Client and for performing all obligations as the Contractor in terms of the Contract 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 Partner in Charge of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the selection process for the Project and until the Effective Date under the Contract;
 - b) Party of the Second Part (Partner 1) shall be [role];
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 RFP and the Contract, for the performance of the Contract.
6. Partner in-charge: Without prejudice to the joint and severe liability of all the Parties, each Party agrees that it shall exercise all rights and remedies under the Contract through the Partner in Charge and the Client shall be entitled to deal with such Partner in Charge as the representative of all Members. Each Party agrees and acknowledges that:
 - a) any decision (including without limitation, any waiver or consent), action, omission, communication or notice of the Partner in Charge on any matters related to the Contract shall be deemed to have been on its behalf and shall be binding on it. The Client shall be entitled to rely upon any such action, decision or communication from the Partner in Charge;
 - b) consolidated invoices for the services in relation to the Project performed by all the Partners shall be prepared and submitted by the Partner in Charge and the Client shall have the right to release payments solely to the Partner in Charge and the Client shall not in any manner be responsible or liable for the inter se allocation of payments, works etc. among the Parties;
 - c) any notice, communication, information or documents to be provided to the Contractor shall be delivered to the authorized representative of the Project (as designated pursuant to the Contract) and any such notice, communication, information or documents shall be deemed to have been delivered to all the Parties.
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 organised, 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 authorised 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 Party 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

organisational documents thereof;

- (iv) violate any clearance, permit, concession, grant, license or other governmental authorisation, approval, judgement, 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 fulfilment 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 the Effective Date under the Contract, in case the Project is awarded to the Consortium. However, in case the Consortium is not selected for award of the Project, the Agreement will stand terminated upon intimation by the Client that it has not been selected and upon return of the EMD by the Client.
9. Miscellaneous:
- a) This Joint Bidding Agreement shall be governed by laws of India;
 - b) The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Client.

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

SIGNED, SEALED & DELIVERED

For and on behalf of PARTNER IN-CHARGE by:

[Signature]

[Name]

[Designation]

[Address]

SIGNED, SEALED & DELIVERED

For and on behalf of

SECOND PART (PARTNER 1) by:

[Signature]

[Name]

[Designation]

[Address]

In presence of:

3. [Signature, name and address of witness]
4. [Signature, name and address of witness]

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 or official seal of all partners.*
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 Consortium 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.*

Joint Venture/Consortium Summary:

Names of all partners of a Joint Venture	
1. Partner in charge	
2. Partner 1	

APPENDIX 7: TECHNICAL QUALIFICATION – QUALIFYING PROJECTS*[Use a separate sheet for each contract]***Name of Bidder or partner of a Joint Venture/Consortium:**

1.	Number of contract	
	Name of contract	
	Country	
2.	Name of Client	
3.	Client address	
4.	Nature of Information Systems and special features relevant to the contract for which the Bidding Documents are issued:	
5.	Contract role (check one) <input type="checkbox"/> Prime Bidder <input type="checkbox"/> Management Contractor <input type="checkbox"/> Subcontractor <input type="checkbox"/> Partner in a Joint Venture	
6.	Amount of the total contract/subcontract/partner share (in specified currencies at completion, or at date of award for current contracts) Total contract: INR_____; Subcontractor INR:_____;Partner share: INR_____;	
8.	Date of award: Date of Commissioning:	
9.	Contract was completed _____ months ahead/behind original schedule (if behind, provide explanation).	
10.	Contract was completed INR _____ equivalent under/over original contract amount (if over, provide explanation).	
11.	Special contractual/technical requirements:	

(Name and Signature of Authorized Signatory)

- *For each Eligible Assignment, the Bidder should indicate the duration of the assignment, the contract amount, the amount paid to the Bidder) and the Bidder's role/involvement.*
- *Bidders are expected to provide information in respect of each Eligible Assignment in this Appendix. Each Eligible Assignment must comply with the requirements set out in the Bid Data Sheet.*
- *For each completed Eligible Assignment, work order and the completion certificate issued by the client certifying that the assignment has been completed by the Bidder should be furnished.*

- *For each ongoing Eligible Assignment, the work order and certificate issued by the client certifying the percentage of completion of the assignment by the Bidder should be furnished. The client reserves the right to ask for documentary proofs for the claims made with regard to technical eligibility and work experience at any stage of bid process or for the selected Bidder, any time thereafter.*
- *The client reserves all rights to verify the authenticity of experience related certificates or any other certificates submitted by the Bidder, at any stage of bid process or even thereafter. In case of finding any fraudulent practice during verification, the client shall reject the bid or terminate the contract.*
- *In case Bidder is claiming International Experience, the amount shall be converted to USD and then to INR based on the RBI rates as per 31st January, 2017.*

APPENDIX 8: CURRENT CONTRACT COMMITMENTS / WORK IN PROGRESS

(Bidders and each partner to an Joint Venture / Consortium bid should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

Name of Bidder or partner of a Joint Venture (if allowed):

Sr. No.	Name of contract	Client, contact address/tel./fax	Value of outstanding (INR)	Estimated completion date	Average monthly invoicing over last six months (INR)
1.					
2.					
3.					
4.					
5.					

APPENDIX 9: BID COMPLIANCE UNDERTAKING

[The Bidder-in-charge shall submit an undertaking (on company letterhead and should be signed and stamped by all members of JV/Consortium) confirming compliance to all business, functional and technical requirements as specified in this RFP.] .

The Bidder shall submit undertaking with following points:

1. We hereby confirm that all implicit and explicit deviations, comments and remarks mentioned elsewhere in our proposal shall be treated as NULL and VOID and stand withdraw with no financial and time implications.
2. We further confirm that unless we include such clauses in the “Statement of Deviation” [as stated in Appendix 10] attached herewith and prices against such clauses in the Price Form 1.7 of Financial Proposal, the comment shall be considered as unconditionally withdrawn with no financial and time implications.
3. We hereby confirm that except for deviations noted in the form of the Statement of Deviation attached herewith, our proposal is fully and truly compliant.

The Bidder shall also note that:

1. Unless Bidder includes such clauses in the Statement of Deviation [as per Appendix 10] and prices against such clauses in the Price Form 1.7 of Financial Proposal, such deviation/non-compliance shall be considered as unconditionally withdrawn with no financial and time implications.
2. Any comment by the Bidder elsewhere in the proposal which indicates non-compliance/deviation and which has not been included in the form of Statement of Deviations shall be treated as “Fully Compliant” with no financial and time implications.
3. The “Statement of Deviation” shall be completed by the Bidder in case of any non-compliance or any observation or alternate solution/design to the tender specifications.
4. This Statement of Deviation is not applicable for any of the conditions mentioned in ITB, BDS, GCC and SCC and in case the Bidder indicates any non-compliance/deviation, the bid will be liable for rejection.
5. The Client reserves the right to accept or reject any deviation proposed by the Bidder at the price quoted by the Bidder. Then the Contract price will be adjusted accordingly.
6. In case of any discrepancy found in compliance of submitted proposal to the standards and specifications as per RFP, the bidder shall be liable to replace such goods and equipment with those in compliance, at their own cost, without any liability to the client.

Proposals received without Bid Compliance Undertaking shall be rejected as non-responsive. Proposals with missing, incomplete, or ambiguous responses regarding compliance may be deemed non-responsive. Bidders must submit fully compliant proposal with all the requirements as defined in the document. Client reserves the right to request more information for any or all responses listed after the bid submission deadline during the technical evaluation stage.

APPENDIX 10: STATEMENT OF DEVIATION

Item No.	Clause Number	Details of Deviations (Original/ Proposal)	Remarks explaining reasons for deviations and why it may be considered by the Client	Check whether priced in the Price Schedule
1.				
2.				
3.				
4.				
5.				
6.				

Note:

1. We hereby confirm that the pricing of unconditional withdrawal of the above deviations has been given in the Price Form 1.7 of Financial Proposal.
2. We hereby confirm that any comment by us which is not mentioned in the Statement of Deviation above shall be treated as NULL and VOID and stand withdraw with no financial and time implications.
3. We hereby confirm that the deviation noted in the form of the Statement of Deviation above but are not priced in the Price Form 1.7 of Financial Proposal; such deviations shall be considered as unconditionally withdrawn with no financial and time implications.

Date: _____

(Signature of Bidder)

APPENDIX 11: FORMAT FOR AFFIDAVIT CERTIFYING THAT BIDDER (OR IT'S JV / CONSORTIUM PARTNER) IS NOT BLACKLISTED

(On a Stamp Paper of INR. 100/- value and duly notarized)

Affidavit

I M/s., (the name of the Bidder/Contractor/ JV Partner and addresses of the registered office) hereby certify and confirm that we are not barred or blacklisted by any Central / State Government Department or Central / State PSUs globally from participating in any project or being awarded any contract, either individually or as member of a consortium and no such bar or blacklisting subsists as on the Proposal Due Date.

We further confirm that we are aware our Proposal to Design, Procure, Install, Operate and Maintain the Public Bicycle Sharing System in Bhubaneswar (herein the "Project") would be liable for rejection in case any material misrepresentation is made or discovered with regard to the requirements of this RFP at any stage of selection and/or thereafter during the term of the Contract.

Dated thisDay of, 201....

NAME OF THE BIDDER/ JV / CONSORTIUM PARTNER

.....
SIGNATURE OF THE AUTHORISED PERSON

.....
NAME OF THE AUTHORISED PERSON

- *For an affidavit executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the affidavit is being issued. However, the affidavit 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 apostille certificate.*

APPENDIX 12: MANUFACTURER’S AUTHORIZATIONS

Invitation for Bids: Selection of Agency to Design, Procure, Install, Operate and Maintain the Public Bicycle Sharing System in Bhubaneswar.

To: _____

WHEREAS _____ who are official producers of _____ and having production facilities at _____ do hereby _____ authorize

_____ located at _____ (hereinafter, the “Bidder”) to submit a bid and subsequently negotiate and sign a Contract with you for resale of the following Products produced by us:

We hereby confirm that, in case the bidding results in a Contract between you and the Bidder, the above-listed products will come with our full standard warranty.

Name _____ In the capacity of _____

Signed _____

Duly authorized to sign the authorization for and on behalf of:

Dated on _____ day of _____, _____.

Note: This authorization should be written on the letterhead of the Manufacturer and be signed by a person with the proper authority to sign documents that are binding on the Manufacturer.

APPENDIX 13: SOFTWARE LIST

The following table assigns each item of software supplied and installed under the Contract to one of the three categories: (i) System Software, (ii) General Purpose Software, or (iii) Application Software; and to one of the two categories: (i) Standard Software or (ii) Custom Software.

Software Item	(select one per item)			(select one per item)	
	System Software	General-Purpose Software	Application Software	Standard Software	Custom Software

APPENDIX 14: LIST OF CUSTOM MATERIAL

Sr. No.	List of Custom Materials
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	

APPENDIX 15: CURRICULUM VITAE (CV)

1.	Proposed position				
2.	Name of firm				
3.	Name of expert		[First] [Middle] [Surname]		
4.	Date of birth				
5.	Nationality				
6.	(a) Educational Qualification (b) Technical / Industry Certifications		[Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and year of obtainment starting from the latest degree]		
7.	Membership of Professional Organizations				
8.	Training & Publications		[Indicate significant training since education degrees (under 5) were obtained]		
9.	Countries of Work Experience		[List countries where staff has worked in the last ten years]		
10.	Languages	Language	Proficiency (good/ fair/ poor)		
			Speaking	Reading	Writing
		English			
11.	Employment record [Starting with present position, list in reverse order every employment held by staff member since graduation]	Name of Organization	Position held		Duration
			Designation	Permanent / On Contract / Temporary	Years of Associations
12.	Details of tasks assigned				
13.	Work Undertaken that Best Illustrates Capability to Assigned Handle the Tasks Assigned	[Among the assignments in which the Staff has been involved, indicate the following information for those assignments that best illustrate staff capability to handle the tasks assigned. Highlight experience relevant to the project and of similar capacity role as proposed for this project. Also highlight past experience of working in Odisha] Name of assignment or project:			

		Year: Location: Client: Project Cost: Main project features: Positions held: Activities performed:
		Name of assignment or project: Year: Location: Client: Project Cost: Main project features: Positions held: Activities performed:
14.	Certification	I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes me, my qualifications, and my experience. I understand that any wilful misstatement described herein may lead to my disqualification or dismissal, if engaged.

Signature	Signature
Date: [dd/mm/yyyy]	Date: [dd/mm/yyyy]
Name of expert:	Name of Authorized Signatory:

Note:

1. CVs must be signed in indelible ink by the authorized signatory of the Bidders. In case of Unsigned CVs shall be rejected.
2. The CVs shall also contain an undertaking from the authorized signatory of the Bidder specifying the employees of the company and the proposed key experts who are not employees, in the format set out in Appendix 17. In case the proposed Key Expert is not an employee of the Bidder as on the proposal due date, the undertaking must also contain the details about his/her availability for the duration of the Contract, in the format set out in form Appendix 17.

APPENDIX 16: UNDERTAKING REGARDING AVAILABILITY OF KEY EXPERT

To,

Dated:

Chief Executive Officer

*Bhubaneswar Smart City Limited,
2nd Floor, Block – 1, BMC Bhawani Office Complex,
Saheed Nagar, Bhubaneswar – 751 007,
Odisha*

Dear Sir,

Sub: Selection of Agency to Design, Procure, Install, Operate and Maintain the Public Bicycle Sharing System in Bhubaneswar.

We refer to the RFP dated [●] issued by you for Selection of Contractor to Design, Procure, Install, Operate and Maintain the Public Bicycle Sharing System in Bhubaneswar.

We, M/s [**Insert name of the Bidder**] confirm that Key Expert named below are the employees of the company on the proposal due date:

1.
2.
3.

Further we, M/s [**Insert name of the Bidder**] confirm that Key Expert named below:

1.
2.
3.
4.

have authorized us to use their technical experience and submit their name as a Key Expert for this Proposal and Project.

If selected as the successful Bidder, we undertake that Key Experts mentioned above would be available and will provide their best services for the duration of the Contract, in accordance with the terms of the RFP and the Contract.

Name of the Bidder

.....
Signature of the Authorised Person

.....
Name of the Authorised Person

Date:
Place:

APPENDIX 17: FORMAT FOR POWER OF ATTORNEY FOR PARTNER IN CHARGE OF JOINT VENTURE / CONSORTIUM

(To be executed by all members of the Consortium)

Whereas Bhubaneswar Smart City Limited (the “Client”) has invited proposals from Bidders for selection of Contractor for [name of assignment] being developed under Bhubaneswar Smart City Limited (BSCL) Project, (the “Project”).

Whereas, [name of Party], [name of Party] and [name of Party] (collectively the “Consortium”) being Partners of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal and other connected documents in respect of the Project, and

Whereas, it is necessary for the Partners of the Consortium to designate one of them as the Partner in-charge with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium’s bid for the Project and its execution.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS,

We, [name of Party] having our registered office at [registered address], M/s. [name of Party], having our registered office at [registered address], and M/s. [name of Party], having our registered office at [registered address], (hereinafter collectively referred to as the “Principals”) do hereby irrevocably designate, nominate, constitute, appoint and authorize M/s [name of Partner In-charge], having its registered office at [registered address], being one of the Partners of the Consortium, as the Partners In-charge and true and lawful attorney of the Consortium (hereinafter referred to as the “Attorney”) and hereby irrevocably authorize the Attorney (with power to sub- delegate to any person) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the Contract, during the performance of the services related to the Project, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, accept the Letter of Acceptance, participate in bidders’ and other conferences, respond to queries, submit information/documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with the Client, and/ or any other government agency or any person, in all matters in connection with or relating to or arising out of the Consortium’s bid for the Assignment and/ or upon award thereof until the Contract is entered into with the Client.

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

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS [date in words] DAY OF [month] [year in ‘yyyy’ format].

SIGNED, SEALED & DELIVERED

For and on behalf of

PARTNER IN-CHARGE by:

[Signature]

[Name]

[Designation]

[Address]

SIGNED, SEALED & DELIVERED

For and on behalf of

SECOND PART (PARTNER 1) by:

[Signature]

[Name]

[Designation]

[Address]

In presence of:

1. [Signature, name and address of witness]
2. [Signature, name and address of witness]

Notes:

1. *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 or official seal of all members.*
2. *Wherever required, the Bidder should submit for verification the extract of the charter documents and other documents such as a 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.*
3. *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 Bidder 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 18: TECHNICAL PROPOSAL SUBMISSION FORM

To,

Dated:

Chief Executive Officer

*Bhubaneswar Smart City Limited,
2nd Floor, Block – 1, BMC Bhawani Office Complex,
Saheed Nagar, Bhubaneswar – 751 007,
Odisha*

RFP dated [date] for appointment of Contractor for [name of assignment].

Dear Sir,

With reference to your RFP Document dated [date], we, having examined all relevant documents and understood their contents, hereby submit our Technical Proposal for selection as [name of assignment]. The Proposal is unconditional and unqualified.

We are submitting our Proposal as [Sole Bidder/ JV/Consortium] [with] [insert a list with full name and address of each Joint Venture Bidder].

If negotiations are held during the period of validity of the Proposal, we undertake to negotiate in accordance with the RFP. Our Proposal is binding upon us, subject only to the modifications resulting from negotiations in accordance with the RFP.

We understand you are not bound to accept any Proposal you receive. Further:

1. We acknowledge that Client will be relying on the information provided in the Proposal and the documents accompanying the Proposal for appointment of the Contractor, and we certify that all information provided in the Proposal and in the supporting documents is true and correct, nothing has been omitted which renders such information misleading; and all documents accompanying such Proposal are true copies of their respective originals.
2. This statement is made for the express purpose of appointment as the Contractor for the aforesaid Project.
3. We shall make available to Client any additional information it may deem necessary or require for supplementing or authenticating the Proposal.
4. We acknowledge the right of Client to reject our application without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
5. We certify that in the last 3 (three) years, we have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
6. We declare that:
 - a) We have examined and have no reservations to the RFP, including any Addendum issued by the Client;

- b) We do not have any conflict of interest in accordance with the terms of the RFP;
 - 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 the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with Client 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 no person acting for us or on our behalf will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
7. We understand that you may cancel the selection process at any time and that you are neither bound to accept any Proposal that you may receive nor to appoint the Contractor, without incurring any liability to the Bidders.
 8. We declare that we are not a member of any other Consortium/Joint Venture applying for appointment as a Contractor.
 9. We certify that in regard to matters other than security and integrity of the country, we or any of our affiliates have not been convicted by a court of law or indicted or adverse orders passed by a regulatory authority which would cast a doubt on our ability to undertake the services of Contractor for the Project or which relates to a grave offence that outrages the moral sense of the community.
 10. We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a court of law for any offence committed by us or by any of our affiliates. We further certify that neither we nor any of our consortium members have been barred by the central government, any state government, a statutory body or any public sector undertaking, as the case may be, from participating in any project or bid, and that any such bar, if any, does not subsist as on the date of this RFP.
 11. We further certify that no investigation by a regulatory authority is pending either against us or against our affiliates or against our CEO or any of our Directors/Managers/ employees.
 12. 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 Client in connection with the appointment of Contractor or in connection with the selection process itself in respect of the above mentioned Project.
 13. We agree and understand that the proposal is subject to the provisions of the RFP document. In no case, shall we have any claim or right of whatsoever nature if the services of the Contractor for the Project is not awarded to us or our proposal is not opened or rejected.
 14. In the event of our being selected as the Contractor, we agree to enter into a Contract in accordance with the contract prescribed in the RFP. We agree not to seek any changes in the aforesaid form and agree to abide by the same.
 15. We have studied RFP and all other documents carefully. We understand that except to the extent as expressly set forth in the Contract, we shall have no claim, right or title arising out of any documents or information provided to us by Client or in respect of any matter arising out of or concerning or relating to the selection process including the award of assignment.

16. The Financial Proposal is being submitted in a separate cover. This Technical Proposal read with the Financial Proposal shall be binding on us.

17. We agree and undertake to abide by all the terms and conditions of the RFP Document.

We remain,

Yours sincerely,

Authorized Signature [In full and initials]:

Name and Title of Signatory:

Name of Firm:

Address:

(Name and seal of the Bidder/Partner in Charge)

APPENDIX 19: TEAM COMPOSITION AND TASK ASSIGNMENTS

1. Key Experts³				
Name of staff	Firm	Area of expertise	Position assigned	Tasks assigned

2. Support staff				
Name of staff	Firm	Area of expertise	Position assigned	Tasks assigned

³ Bidders, who are executing ongoing mandates with the Client, must propose a separate team of Key Experts while bidding for this project. The Key Experts proposed above should be available for presentations/discussions /meetings with the Client, State Government etc.

APPENDIX 20: WORK SCHEDULE

A. Designing, Procurement, Installation, Integration, Testing, Commissioning and Operational Acceptance

S. No.	Activity	Months (in the form of a bar chart)							Total (months)
		M1	M2	M3	M4	M5	M6	n ⁴	
	Total								

B. Operations and Maintenance

S. No.	Activity	Months (in the form of a bar chart)							Total (months)
		M1	M2	M3	M4	M5	M6	n ⁴	
	Total								

C. Completion and submission of Reports

S. No.	Reports	Dates

⁴ Insert more number of months as per the proposed work plan

4 Section 3. Financial Proposal (Price Schedule) - Standard Forms

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Preamble

General

1. The Price Schedules are divided into separate Schedules as follows:
 - 1.1 Financial Proposal Submission Form
 - 1.2 Grand Summary Cost Table
 - 1.3 Supply and Installation Cost Summary Table
 - 1.4 Recurrent Cost Summary Table
 - 1.5 Supply and Installation Cost Sub-Table(s)
 - 1.6 Recurrent Cost Sub-Tables(s)
 - 1.7 Deviation Cost Table
2. The Schedules do not generally give a full description of the information technologies to be supplied, installed, and operationally accepted, or the Services to be performed under each item. However, it is assumed that Bidders shall have read the Technical Requirements and other sections of these RFP Documents to ascertain the full scope of the requirements associated with each item prior to filling in the rates and prices. The quoted rates and prices shall be deemed to cover the full scope of these Technical Requirements, as well as overhead and profit.
3. If Bidders are unclear or uncertain as to the scope of any item, they shall seek clarification in accordance with the Instructions to Bidders in the RFP Documents prior to submitting their bid.

Pricing

4. Prices shall be filled in indelible ink, and any alterations necessary due to errors, etc., shall be initialled by the Bidder. As specified in the Bid Data Sheet, prices shall be fixed and firm for the duration of the Contract.
5. Bid prices shall be quoted in the manner indicated and in the currencies specified in ITB Clause 18. Prices must correspond to items of the scope and quality defined in the Technical Requirements or elsewhere in these RFP Documents.
6. The Bidder must exercise great care in preparing its calculations, since there is no opportunity to correct errors once the deadline for submission of bids has passed. A single error in specifying a unit price can therefore change a Bidder's overall total bid price substantially, make the bid non-competitive, or subject the Bidder to possible loss. The Client will correct any arithmetic error in accordance with the provisions of ITB Clause 31.
7. Payments will be made to the Bidder in the currency or currencies indicated under each respective item. The price of an item should be unique regardless of installation site.

1.1 Financial Proposal Submission Form

[Location]

[Date]

To

Chief Executive Officer

*Bhubaneswar Smart City Limited,
2nd Floor, Block – 1, BMC Bhawani Office Complex,
Saheed Nagar, Bhubaneswar – 751 007,
Odisha*

Dear Sir,

Subject: Services for [name of assignment].

We, the undersigned, offer to provide the services for [name of assignment] in accordance with your Request for Proposal dated [date] and our Proposal. Our attached Financial Proposal is for the sum of [amount(s) in words and figures].

Our Financial Proposal shall be binding upon us subject to the modifications resulting from arithmetic correction, if any, up to expiration of the validity period of the Proposal, i.e. [date].

We undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will strictly observe the laws against fraud and corruption in force in India namely “Prevention of Corruption Act 1988”.

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

We remain,

Yours sincerely,

Authorized Signature [In full and initials]:

Name and Title of Signatory:

Name of Firm:

Address:

1.2 Grand Summary Cost Table

S. No	Description	Price (INR)
1.	Supply and Installation Costs (from Supply and Installation Cost Summary Table)	
2.	Recurrent Costs (from Recurrent Cost Summary Table)	
3.	Grand Totals (to Bid Submission Form)	

Name of Bidder:	
Authorized Signature of Bidder:	

1.3 Supply and Installation Cost Summary Table

System or Subsystem number **“Entire System Procurement”** [as necessary for Supply, installation, and achieving Operational Acceptance of the System, specify items in the Table below, modifying, deleting, or expanding the sample line items and sample table entries as needed.]

S. No	Subsystems / Items / Components	Description	Design, Procurement & Installation Prices	
			Locally supplied items	Items supplied from outside the Client's Country
			Price (INR)	Price (INR)
1.	Bicycles	From Supply and Installation Cost Sub-Table 1		
2.	Docking Stations	From Supply and Installation Cost Sub-Table 1		
3.	Operation Control Centre	From Supply and Installation Cost Sub-Table 1		
4.	System Access Facilities	From Supply and Installation Cost Sub-Table 1		
5.	Redistribution Vehicles	From Supply and Installation Cost Sub-Table 1		
6.	Other Items / Miscellaneous	From Supply and Installation Cost Sub-Table 1		
7.	Deviation Cost	From Deviation Cost Table		
Grand Total				

Name of Bidder:	
Authorized Signature of Bidder:	

1.4 Recurrent Cost Summary Table

System or Subsystem number: **“Entire System procurement”** [as necessary for the operation of the System, specify items in the Table below, modifying the sample line items and sample table entries as needed.]

S. No.	Subsystems / Items / Components	Recurrent Cost Sub-Table No.	Price (INR)
1	Bicycles		
2	Docking Stations		
3	Operation Control Centre		
4	System Access Facilities		
5	Redistribution Vehicles		
6	Manpower Requirement		
7	Other Items		
Sub-Total (A)			
Revenue from PBS System (B)			
Revenue from Advertisement (C) ⁵			
Grand Total (A – (B + C))			

Note: Refer to the relevant Recurrent Cost Sub-Tables for the specific components that constitute the Subsystem or line item in this summary table.

Name of Bidder:	
Authorized Signature of Bidder:	

⁵ Kindly refer 7.1 (c) of section 5 for details on revenue from advertisement

1.5 Supply and Installation Cost Sub-Table 1

System or Subsystem number: **“Entire System procurement”**

Line item number: **[specify: relevant line item number from the Supply and Installation Cost Summary Table (e.g., 1.1)]**

[As necessary for Supply installation, and achieving Operational Acceptance of the System, specify: the detailed components and quantities in the Sub-Table below for the line item specified above, modifying the sample components and sample table entries as needed. Repeat the Sub-Table as needed to cover each and every line item in the Design, Procure and Installation Cost Summary Table that requires elaboration.]

Unit prices for the same item appearing several times in the table must be identical in amount and currency.

S. No.	Subsystems / Items	Unit of Measurement	Make & Model	Quantity exclusive of spares/ consumables	Unit Price		Total Price		Taxes and Duties		Total Supply + Installation Prices (including all taxes & duties)
					Supply	Installation / services	Supply	Installation / Services	GST	Any other taxes/ duties	
					INR Price	INR Price	INR Price	INR Price	INR Price	INR Price	
A	Bicycles										
1	Standard Bicycle	Nos.									
2	Electric Bicycle	Nos.									
3	Children Bicycle	Nos.									
B	Docking Stations										
1	Docks	Nos.									
C	Operation Control Centre										
1	LED Display Panel	Nos.									
2	Computers	Nos.									
3	...										
4											
D	System Access Facilities										
1	...										

S. No.	Subsystems / Items	Unit of Measurement	Make & Model	Quantity exclusive of spares/ consumables	Unit Price		Total Price		Taxes and Duties		Total Supply + Installation Prices (including all taxes & duties)
					Supply	Installation / services	Supply	Installation / Services	GST	Any other taxes/ duties	
					INR	INR	INR	INR	INR	INR	
					Price	Price	Price	Price	Price	Price	
2											
E	Redistribution Vehicles										
1										
F	Other Items										
1	...										
2											
TOTAL CAPEX											

*** Bidder has to fill the form with all the necessary details as per the conditions mentioned in this RFP.**

Notes:

1. No variation shall be provided for items which are identified as Lump sum or with quantities in number.
2. Any item/ material either hardware or software required to meet the functionality specified in the tender document whose related component is missing in the above table has to be accounted by the Bidder and the cost of the same is assumed to be reflected and taken care in the cost specified to the Client by the Bidder in the financial bid. The Client is liable only to pay the Contract costs as per the payment terms mentioned to the Bidder to meet all the requirements as specified in the bidding documents.
3. The Bidder has to modify the above indicative table and make a comprehensive list of System inventory table by including the components which the Bidder might think are relevant based on the Bidders design to meet all the bid requirements indicating the costs of the same in the financial bid.
4. The Bidder shall assess the quantity of spares/ consumables to meet the SLA clause mentioned in the bidding documents and shall quote the cost and quantity of spares/consumables. The evaluation will take the total cost incurred for the Client inclusive of spares/ consumables while evaluating

the bids. Any item not quoted by the Bidder, shall be provided free of cost if it is found necessary to fulfil the bidding requirements during the currency of the contract.

- 5. The evaluation will take the total cost incurred for the Client inclusive of spares/ consumables while evaluating the bids which is to be included by the Bidder in the Contract cost itself.*
- 6. The Contract Cost shall be inclusive of all the installation, commissioning, testing and any other costs that might be incurred by the Bidder during the duration of the contract.*
- 7. The Client has the right to increase decrease the quantities and the Supply & Installation costs will be adjusted as per the unit costs indicated above. Same unit costs shall be taken up at the time of augmentation of any sub-system/s within stipulated project period.*

Name of Bidder:	
Authorized Signature of Bidder:	

1.6 Recurrent Cost Sub-Table 2

Lot number: **“Single lot procurement”**

Line item number: **[specify: relevant line item number from the Recurrent Cost Summary Table (e.g., z.1)]**

Currency: **[specify: the currency of the Recurrent Costs in which the costs expressed in this Sub-Table are expressed]**

[as necessary for operation of the System, specify: the detailed components and quantities in the Sub-Table below for the line item specified above, modifying the sample components and sample table entries as needed. Repeat the Sub-Table as needed to cover each and every line item in the Recurrent Cost Summary Table that requires elaboration.]

Unit prices for the same item appearing several times in the table must be identical in amount and currency.

S. No.	Subsystems / Items	Year 1 (INR)	Year 2 (INR)	Year 3 (INR)	Year 4 (INR)	Year 5 (INR)	Year 6 (INR)	Year 7 (INR)	Sub-Total (INR)
1	Bicycles								
2	Docking Stations								
3	Operation Control Room								
4	System Access Facilities								
5	Redistribution Vehicles								
6	Manpower Requirement								
7	Any Other Items								
8	Sub-total (A) in INR								
9	Taxes and Duties (B) in INR								
Grand Total (A+B) (INR)									

Notes:

1. Bidders to refer Indicative System Inventory Table (Recurrent Cost Items) for accessing the quantities in the Recurrent Cost Sub-table 2 above.

2. The financial evaluation would however be done basing on the Net Present Value (NPV) concept for the entire contract period at a discount rate mentioned in bid data sheet.

Only as an Example,

Bidders	CAPEX	OPEX Cost							Total Bid Price
		Yr. 1	Yr. 2	Yr. 3	Yr. 4	Yr. 5	Yr. 6	Yr. 7	
Bidder 'X'	355	30	31	32	32	32	33	45	590
Bidder 'Y'	325	30	34	35	37	39	40	50	590

Bid Evaluation (NPV Method): - (Discounting Rate = 10%)

$$\text{Bidder 'X'} = 355 + \frac{30}{(1+0.1)^1} + \frac{31}{(1+0.1)^2} + \frac{32}{(1+0.1)^3} + \frac{32}{(1+0.1)^4} + \frac{32}{(1+0.1)^5} + \frac{33}{(1+0.1)^6} + \frac{45}{(1+0.1)^7}$$

= Rs. 515.4 Cr.

$$\text{Bidder 'Y'} = 325 + \frac{30}{(1+0.1)^1} + \frac{34}{(1+0.1)^2} + \frac{35}{(1+0.1)^3} + \frac{37}{(1+0.1)^4} + \frac{39}{(1+0.1)^5} + \frac{40}{(1+0.1)^6} + \frac{50}{(1+0.1)^7}$$

= Rs. 504.4 Cr.

- The above costs should be inclusive of all expenses, over-heads, GPRS communication, etc. and covering the entire scope as per the tender document during the Maintenance Period.
- The recurrent costs shall also be calculated to meet the SLA's specified in the Section 5 – Technical Requirements for the Contract Period.
- The Bidder is not allowed to quote a Unit Rate for an Operations Item for a subsequent year to be lower than the Unit Rate of the current year; it can utmost be equal if not higher than the current year.
- The Bidder should indicate supply and installation/ services cost separately wherever applicable for each line item of the "1.6 Recurrent Cost Sub-Table 2" in the same table.
- The Client has the right to increase decrease the quantities and the recurrent cost will be adjusted as per the unit costs indicated above.

Name of Bidder:	
Authorized Signature of Bidder:	

1.7 Deviation Cost Table

Item Nos	RFP Clause No.	Details of Deviation	Cost for Increase or Decrease for Unconditional Withdrawal of each Deviation	
			Locally supplied items	Items supplied from outside the Client's Country
			INR	INR
Total for Prices Quoted for Unconditional Withdrawal of the deviation Given in Appendix 10				

Notes:

1. The Bidder shall quote the price for unconditional withdrawal of each deviation given in Appendix 10.
2. The deviation mentioned in the form of the Statement of Deviation (Appendix 10), but not quoted the price in Price Schedule No. 1.7 above for unconditional withdrawal of such deviation, shall be considered as unconditionally withdraw with no financial and time implications.
3. The Client reserves the right to accept or reject any deviation proposed by the Bidder at the price quoted by the Bidder above. Then the Contract price will be adjusted accordingly.

Name of Bidder:	
Authorized Signature of Bidder:	

5 Section 4. Corrupt and Fraudulent Practices

- 4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the selection process. Notwithstanding anything to the contrary contained in this RFP, the Client shall reject a Proposal without being liable in any manner whatsoever to the Bidder, if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the “Prohibited Practices”) in the selection process. In such an event, the Client shall, without prejudice to its any other rights or remedies, forfeit and appropriate the Performance Security, if available, as mutually agreed genuine pre-estimated compensation and damages payable to the Client for, *inter alia*, time, cost and effort of the Client, in regard to the RFP, including consideration and evaluation of such Bidder’s Proposal.
- 4.2 Without prejudice to the rights of the Client under Clause 4.1 hereinabove and the rights and remedies which the Client may have under the LOA or the Contract, if a Bidder is found by the Client to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the selection process, or after the issue of the LOA or the execution of the Contract, such Bidder shall not be eligible to participate in any tender or RFP issued by the Client during a period of 2 (two) years from the date such Bidder is found by the Client to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- 4.3 For the purposes of this Clause 4.3, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) “corrupt practice” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the selection process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Client who is or has been associated in any manner, directly or indirectly with the selection process or the LOA or has dealt with matters concerning the Contract or arising therefrom, before or after the execution thereof, at any time prior to the expiry of 1 year from the date such official resigns or retires from or otherwise ceases to be in the service of the Client, shall be deemed to constitute influencing the actions of a person connected with the selection process; or (ii) save as provided herein, engaging in any manner whatsoever, whether during the selection process or after the issuance 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 consultant/adviser of the Client in relation to any matter concerning the Contract;
 - (b) “fraudulent practice” means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the selection process;
 - (c) “coercive practice” means impairing or harming or threatening to impair or

harm, directly or indirectly, any persons or property to influence any person's participation or action in the selection process;

- (d) "collusive practices" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party⁶;
- (e) "undesirable practice" means (i) establishing contact with any person connected with or employed or engaged by the Client with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the selection process; or (ii) having a conflict of interest; and
- (f) "restrictive practice" means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the selection process.

⁶ For the purpose of this sub-paragraph, "parties" refers to participants in the procurement or selection process (including public officials) attempting either themselves, or through another person or entity not participating in the procurement or selection process, to simulate competition or to establish prices at artificial, non-competitive levels, or are privy to each other's bid prices or other conditions.

6 Section 5. Technical Requirements

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1. Introduction

1.1 Overview

- 1.1.1 The city of Bhubaneswar has envisaged to become a Smart City where the citizen will have various options of sustainable modes of transport for their daily commute. To support this goal of urban mobility, Bhubaneswar Smart City Limited (BSCL) intends to implement Public Bicycle Sharing (PBS) system for the residents of Bhubaneswar which will provide a low cost and environment friendly mobility option. Bhubaneswar's PBS system has been planned as a flexible system of personalised public transport, useful for the short distance commute, where bicycles will be available in vicinity and proximity to all major residential, commercial, institutional and transport nodes in the city. The system is aimed to deliver the services to users of PBS system in a seamless manner through introduction of smart cards, mobile applications, web based account management etc.
- 1.1.2 BSCL (hereinafter also referred to as "client") solicits proposals from eligible and experienced entities to be engaged as a Contractor for designing, procurement, installation, commissioning, operation and maintenance of Public Bicycle Sharing System in Bhubaneswar (henceforth referred to as "Bhubaneswar PBS" or "PBS" project).
- 1.1.3 The Contractor shall provide a total package solution for successful implementation, operation and management of the system, which includes system software, hardware, required field and central equipment/hardware, installation, integration, communication technology, operations and comprehensive maintenance as described hereinafter for a complete, turnkey deployment of Bhubaneswar PBS project. The system including PBS Operations Control Room shall be integrated with the city level central command centre (the Intelligent City Operations and Management Centre, hereinafter referred to as "ICOMC") and provide real-time decision support for achieving the smart city vision.

1.2 City Background

- 1.2.1 Bhubaneswar is the capital city of Odisha and also known as "Temple City". It has a unique proposition by virtue of the ability to seamlessly integrate its rich cultural heritage with a strong regional economic base. Bhubaneswar is a well-planned city designed by a German architect named Otto Königsberger. As a capital city, Bhubaneswar has a population of approximately 1 million and also plays an important role of being the regional gateway to the Golden Tourist Triangle of Puri, Konark, and Chilika Lake. The city is a hub for technical education & healthcare facilities with the presence of national level institutes like KIIT, KISS, AIIMS, Apollo, AMRI etc. Steel Hub (Kalinga Nagar), Petro Chemical Hub (Paradeep) and the Golden Tourism Triangle (Puri, Konark, Chilika) form the chief regional economic drivers for the city of Bhubaneswar. The city being one of the IT investment region also shows the potential of growth for the employment in this region.
- 1.2.2 The below exhibit shows the demographics and boundaries of BMC (Bhubaneswar Municipal Corporation) and BDA (Bhubaneswar Development Authority) of the Bhubaneswar City. The core city of Bhubaneswar is in BMC area and is well connected with the other parts of the country through National Highways NH-5, NH-9 and NH-42, Railway Line and through air.

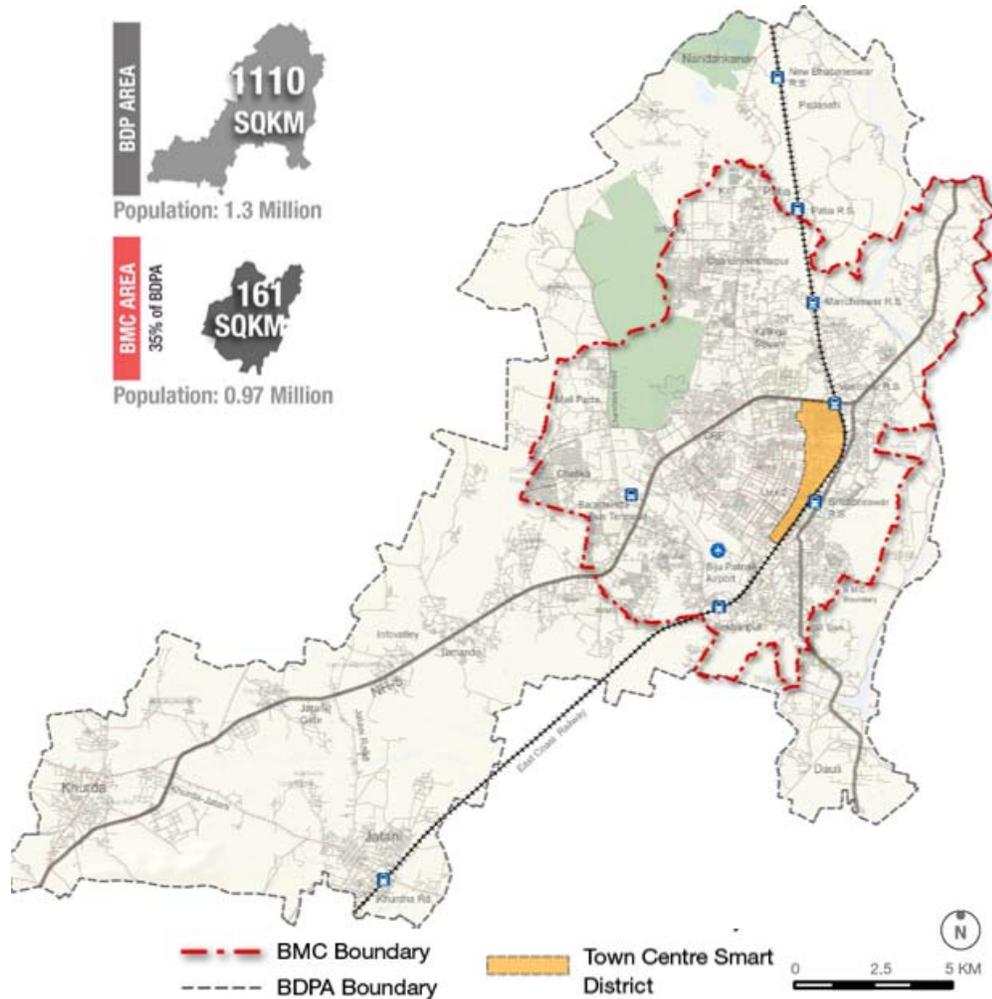


Exhibit 1 Map showing the boundary of BDA and BMC

- 1.2.3 The population of Bhubaneswar city has grown from 6.47 lakh in 2001 to 8.4 lakh population in 2011, with a decadal growth rate of 29.4% according to the census.

1.3 Client

- 1.3.1 Odisha state government constituted a Special Purpose Vehicle (SPV), Bhubaneswar Smart City Limited (BSCL), to undertake the implementation of projects under the Smart City Mission in the city. The SPV is a registered Company under the Companies Act 2013 as a limited enterprise.
- 1.3.2 SPV is governed by a Board of Directors and headed by a Chief Executive Officer (CEO). The Board constitutes of 10 government directors and 5 independent directors who are known experts in their respective fields.

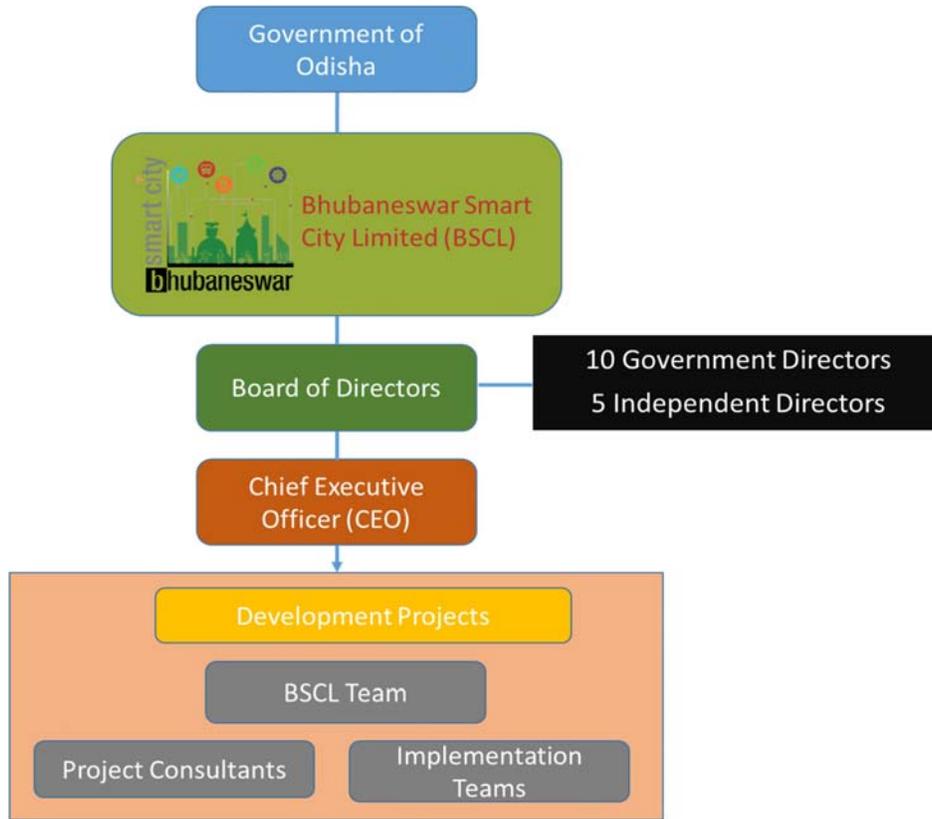


Exhibit 2 Organizational Structure of BSCL

1.4 Project Context

- 1.4.1 Bhubaneswar stood first in round 1 of the smart cities challenge of Ministry of Urban Development, Government of India. In a first of its kind competition among cities where people and their opinion was the centre of the planning process, the city elicited extensive public participation, detailed area-centric plans and robust pan-city proposal. The vision identified through citizen participatory process for Bhubaneswar is as follows:

VISION	<p>Bhubaneswar, through participatory decision-making, responsible governance and open access to information and technology, to be a:</p> <ol style="list-style-type: none"> 1. Transit oriented city with a compact urban form that promotes active, connected and sustainable mobility choices 2. Liveable city providing diverse range of housing, educational and recreational opportunities; while enhancing its heritage, arts and traditional communities 3. Child-friendly city providing accessible, safe, inclusive and vibrant public places 4. Eco-city co-existing in harmony with nature for nurturing a resilient, clean, green, and healthy environment 5. Regional economic centre attracting knowledge based enterprises and sustainable tourism activities by leveraging and empowering its institutions, local businesses and informal workforce
--------	--

- 1.4.2 The Bhubaneswar Smart city proposal has identified various mobility interventions which will help the city to achieve the sustainable mobility goals as defined in the vision statement. Public Bicycle Sharing (PBS) system is considered as the key element of the city's strategy to expand the use of more active-green modes of transport. It is also expected that Bhubaneswar PBS project will boost and operate as a complementary services to the city bus system by providing last mile connectivity and simultaneously expanding the service area of the existing bus system.

1.5 Project Objectives

The Bhubaneswar PBS System has been conceived to achieve following objectives:

- (a) To encourage citizens to reduce dependence on automobiles by providing alternative sustainable modes of transportation.
- (b) To increase the efficiency of the existing bus system by providing last mile connectivity.
- (c) To promote health benefits and social well-being through bicycling as a physical activity among citizens.

1.6 Bid Purpose

- 1.6.1 BSCL intends to engage a contractor:

- (a) having expertise for designing the PBS System and other associated components.
- (b) having experience in operating and managing the PBS System.
- (c) having expertise to provide end-to-end support for the Bhubaneswar PBS System including capacity building of the government staff and citizens.

- 1.6.2 This tender is designed to provide interested Bidders with sufficient basic information to submit proposals meeting minimum requirements, but is not intended to limit a proposal's content or exclude any relevant or essential data. Bidders are at liberty and are encouraged to expand upon the specifications to evidence superior bid understanding and service capability.

1.7 Project Deployment

- 1.7.1 The PBS project for the city of Bhubaneswar has been planned to be deployed with fleet size of 1000 bicycles. The scope of services for the contractor has been elaborated for the deployment. The total capital subsidy from the Client in the form of Purchaser's Contribution to Supply & Installation Cost (PSIC) shall be maximum of INR 6 Crores.

- 1.7.2 Additional capital subsidy support from the Client for any further enhancement and augmentation of services shall be based on mutual agreement between BSCL and the agency. However, the contractor may, at its sole discretion, augment the PBS infrastructure in the City beyond the scope of services specified in this RfP, by procuring more bicycles and improving allied infrastructure. In such case, the Client shall support through provision of land space free of cost for developing allied infrastructure related to stations etc.

2. Scope of Services

2.1 Overview

2.1.1 The contractor shall on a turnkey basis broadly deliver following scope of goods and services related to PBS system:

- (a) System Planning and Design
- (b) Procure
- (c) Install
- (d) Test
- (e) Integrate with City level Platform
- (f) Public Outreach/ Campaign/ System branding
- (g) Commission
- (h) Operations and Maintenance
 - (i) One (1) year Defect Liability Period (DLP)/warranty of the system and subsequent comprehensive maintenance for additional six (6) years. The warranty period shall start from the date of Operational Acceptance.
 - (ii) Ensure performance, functional and technical requirements of the system are maintained during this phase.
 - (iii) Supporting monitoring & evaluation for the performance of the Bhubaneswar PBS system on a continuous basis to maintain the efficiency of the system.
 - (iv) Supporting facility management to successfully operate the PBS System.

2.1.2 The following Exhibit presents the broad scope of services that have to be carried out as a part of the contract.

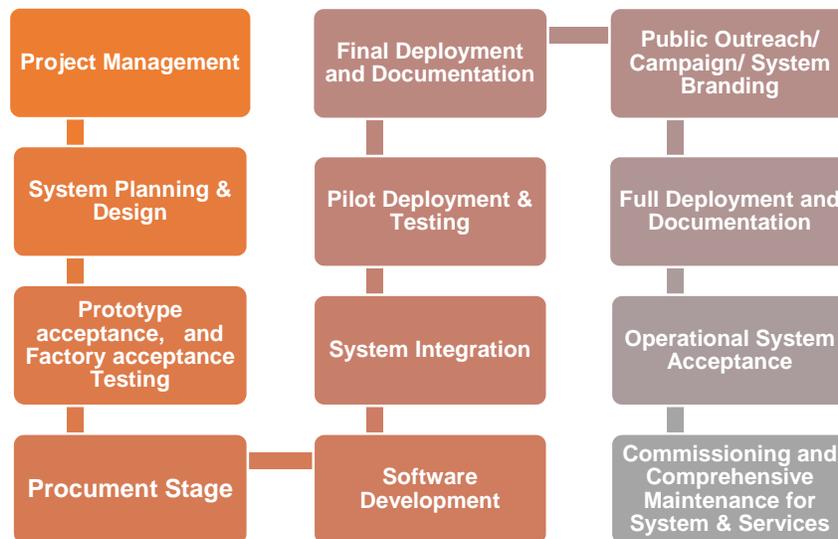


Exhibit 3 Scope of Work

2.2 Project Management

- 2.2.1 The Contractor shall be responsible for end to end project management for the implementation and maintenance of the PBS system in Bhubaneswar. Contractor shall deploy a competent team for project management which shall include a Project Manager along with a deputy. The Project Manager shall be the single point of contact who shall assume overall responsibility of the project and ensure end to end working of the project.
- 2.2.2 Contractor shall be responsible for preparing and finalising with the approval of client, a master schedule of work which shall highlight implementation plan for all the project milestones. The schedule shall identify the design period, product testing, procurement, installation, integration of equipment (Software and Hardware), pilot test procedures, public outreach/ campaign, final deployment period and the date of commissioning of the Bhubaneswar PBS System. The schedule shall also show Client and any third party responsibilities along with the activities in the timeline. Contractor shall conduct bi-weekly meetings between the Client (and / or its representative) and the bidder's 'key personnel' to discuss project progress and implementation in Bhubaneswar. All key personnel associated with the project shall also be available for meetings whenever asked by the Client or its representative.
- 2.2.3 Contractor shall also be responsible for effective risk & issue management and shall prepare and obtain client's approval on issue escalation procedures along with matrix as part of project management. Contractor shall identify, analyse, and evaluate the project risks and shall develop cost effective strategies and action plan for mitigation of risks. As part of the Project, Contractor shall monitor, report and update risk management plans and which shall also be discussed during project meetings.
- 2.2.4 Contractor shall prepare minutes of every meeting which takes place and submit to Client or its representative for tracking of the Project. Contractor shall propose a suitable progress reporting mechanism for the project duration. Based on progress reports, Contractor shall also accordingly update the master schedule of work on a continuous basis during the period of the contract.

2.3 System Planning and Design

Contractor has to prepare following plans and obtain approval from client before proceeding into the procurement stage:

2.3.1 System Design and the Solution

The Bidders may propose the solution for PBS system with docking stations/ parking spaces. The cycles being proposed shall be a mix of standard (75%) and electric assisted - Pedelec (25%) bicycles. Any such system proposed by the bidder should be implementable, having proven concept and acceptable to client. The proposed system shall be required to comply with the requirements mentioned in this section in particular and RFP in general.

2.3.2 System Coverage Plan:

The contractor has to prepare a complete system coverage plan, which includes, but not limited to:

- (a) Identify two project areas of 5-10 sq. km. each, one in proximity to Saheed Nagar area and another in Info-city area. The contractor shall finalize the boundary of these two project areas after consultation and approval of the Authority.

- (b) Conducting user preference survey and Origin Destination (OD) survey at proposed areas to determine the demand for the system and strategize accordingly.
- (c) Identify the location and size of each proposed site, where docking points and / or charging points along with advertisement panels shall be provided, based upon the aforementioned OD survey details.
- (d) Preparation and submission of final location plan along with number of the docking points and / or charging points, as applicable, for approval.

2.3.3 Docking Station / Parking Area Design:

Once location plan is approved by the BSCL, the Contractor needs to prepare and submit site area development plan, which includes but not limited to:

- (a) Conducting site surveys of approved location.
- (b) Prepare and submit draft detail design of each site which includes:
 - (i) Layout details.
 - (ii) Number of docks, if applicable.
 - (iii) Number of charging points for electric assisted bicycles, wherever applicable
 - (iv) Positioning of the site and associated elements relative to existing street elements, including advertisement panels, information kiosks, and other supporting components.
 - (v) The Contractor has to identify certain locations with high quality advertisement panel with backlit facilities.
- (c) Modify the location or redesign as per the comments/ suggestions given by the authority.
- (d) Prepare and submit the final drawings.
- (e) Take approval of proposed design drawing from the authority.

2.3.4 Operation Control Room Development Plan:

Contractor has to prepare and submit control room development plan, which includes but not limited to:

- (a) Details of system architecture of the operation control room (finalization after consultation with Master System Integrator (MSI).
- (b) Integration plan with the city level command control centre.
- (c) Floor area requirements and the layout plan. (Space for setting up operation control centre will be provided by BSCL in the proposed ICOMC building or the temporary command control centre, as applicable.)
- (d) Detailed specifications of hardware and software components which is necessary to run the system. All the specifications need to be compatible with the system which is going to be used in city level command control centre.

2.3.5 System Implementation & Management Plan:

Contractor has to prepare and submit system management plan, which includes but not limited to:

- (a) System roll-out, management and operation plan of various system components, like bicycle, docking stations, components of operation control room and other PBS components.
- (b) Asset Inventory, Upkeep and Maintenance Plan
- (c) Review and Reporting Plan
- (d) Public outreach/ campaign plan, system branding strategy, including:
 - (i) Logo Design
 - (ii) Communication strategy

- (iii) Website and mobile app development
- (iv) Facebook and tweeter posting
- (v) Advertisement on different media
- (vi) Promotional events with Brand Ambassador/ Celebrities
- (vii) Preparation of short video/brochures

2.4 Prototype Acceptance and Factory Acceptance Testing

Materials to be procured, as part of the Project, shall undergo Prototype Acceptance Test (PAT) and Factory Acceptance Test (FAT) (if required or desired by the client). Contractor shall also present to the Client and its representatives the test results for PAT and FAT for review and approval. Note that it shall be Contractor's responsibility to get the prototypes approved in due course of time without affecting the overall schedule of completion of works.

2.5 Procurement Stage

- 2.5.1 Contractor shall be responsible for the procurement of all components as part of the Bhubaneswar Public Bicycle Sharing Project to meet the technical, functional and performance requirements of this RFP. No deviations from these requirements shall be acceptable by the client. Any additional hardware or software component required to meet the technical and performance requirement of the project and not specified as part of this document but required to meet the overall requirements of the project shall be factored in as part of the Bid, and provided by the Contractor. Contractor shall deliver, install and handle the equipment in accordance with manufacturer's requirements. Installation process of the Contractor shall be flexible and shall accommodate Client's requirements without affecting the schedule as specified in the RFP.
- 2.5.2 In case of removal/change during installation process of any existing material which belongs to the Client, then such material shall be handed-over to the Client upon removal. The contractor shall also be responsible for reinstating any site in the project limits at no additional cost to the client. It shall be the Contractor's responsibility to supply and install all hardware in compliance with the requirements of the RFP.
- 2.5.3 The contractor shall be responsible for implementation of all works including any civil, structural, electrical, etc. forming part of the project and to comply with the requirements of RFP. All power conversions necessary to operate the equipment shall be under the scope of Contractor. The Client shall only provide raw power for all the equipment.

2.6 Software Development

- 2.6.1 Contractor shall be responsible for development and deployment of all software required to meet the requirements of the project. It is preferred that majority of the software shall be time-tested and pre-configured. However, some of the components may require bespoke development. Contractor shall be fully responsible for developing and implementing all software required for the project.
- 2.6.2 Migration of data shall also be the responsibility of the Contractor. Contractor is required to take the source data in the format which is available. Subsequently, Contractor is required to take complete ownership of data migration and also develop a detailed plan for data migration.

- 2.6.3 All licenses for the software shall be perpetual and the client may purchase any additional licenses at the stated cost (as per financial proposal of the Bidder) during this course of the contract. The Contractor shall ensure that full support from the OEM's is provided during the course of contract. Contractor shall be responsible to provide any upgrades, patches, fixes to the software during the course of the contract at no additional cost to the client.

2.7 System Integration

- 2.7.1 Contractor shall be responsible for the integration of all project components including hardware and software supplied as part of this Project as per the technical and performance requirements of this bid document. The system integration scope also includes integration of the Project components with ICOMC, which is being developed by BSCL.
- 2.7.2 In case the integration of any of the systems or sub-systems is not as per the requirements specified in the bid document, Contractor shall be responsible to provide any upgrades required to meet such integration requirements at no additional cost to the Client unless otherwise agreed by the Client.
- 2.7.3 It shall be the responsibility of Contractor to take approval of the Client for the integration of the overall system as per the bid document. Post systems integration, the Client shall review and approve the overall performance of the integrated system as per the requirements of the bid document. Contractor shall be responsible for fixing any requirements that are not found in compliance with the original bid requirements and approved detailed design at no additional cost to the client.

2.8 Pilot Deployment and Testing

- 2.8.1 The Contractor shall conduct Pilot deployment and testing for meeting Client's requirements before rolling out the complete system. Pilot deployment shall be done in two phases; in first phase pilot will be run for week to study any issues arising out of the implementation. Contractor shall also review the condition, usage and performance of the system till it is stabilized during pilot deployment.
- 2.8.2 The Pilot shall be demonstrated to the Client's representatives. The contractor shall incorporate all changes, as may be required and appropriate based on Client's feedback.
- 2.8.3 If for any reason the pilot is found to be incomplete, these will be communicated to the Contractor in writing on the lapses that need to be corrected. A one-time extension will be provided to the Contractor for making corrections on the lapses pointed out before offering the system to Client for review. Failure to successfully demonstrate the Pilot may lead to termination of the contract with no liability to Client. During this stage, the system may not be opened to general public.
- 2.8.4 In second phase, once the client has approved the first phase, pilot area shall be opened to general public for free access to the system till the commissioning of the whole system.
- 2.8.5 Pilot deployment shall include 10% of the project scope, i.e. 10 site locations with sufficient number of advertisement panels and/ or docks or charging points with 100 bicycles (including 25 electric assisted bicycles) as per the proposed final plan and other required facilities to get approval from authority.

2.9 Public Outreach/ Campaign/ System Branding

- 2.9.1 Contractor needs to carry out an extensive public outreach/ campaign, as per the approved public outreach/ campaign plan, before the final roll out of the system. The public outreach shall focus on creating citizen awareness about the system and its benefits. As a part of outreach plan, the Contractor shall freely open the pilot testing area to general public, till the commissioning of the system, once the authority approves for final deployment. The contractor shall also undertake branding of the system during various public events, such as Patha-utsav, Ekamra walks etc. during those period and encourage people to use the system.
- 2.9.2 The contractor shall be responsible for engaging title sponsor for the system, which includes but not limited to:
- i. Prepare proposal document for selecting title sponsor.
 - ii. Coordinate and create a brand logo and finalise the areas/ places shall be used for system branding (i.e. in bicycles, in docking or parking areas etc.)
 - iii. Assist in placing system logo/ brand in approved areas/ places.
- 2.9.3 Contractor shall launch beta version of the project website and mobile app to the general public, which shall be upgraded into full version at the time commissioning of the system.

2.10 Final Deployment and Documentation

- 2.10.1 After addressing the Client feedback and any deficiency observed during the Pilot deployment, final deployment of the Bhubaneswar Public Bicycle Sharing System shall be considered by the Contractor. For achievement of final deployment, Contractor shall also be responsible for development of a cutover strategy which shall include initial data take on, sequence of data take on, set up of support mechanisms to minimize business impact due to any cutover activities. Final deployment of the system shall be carried out within 45 days from the approval of the authority.
- 2.10.2 Post the final deployment, contractor shall handover detailed project documentation within 15 days of commissioning of the system. The document shall describe the final site conditions, system design, configuration, as-built conditions, operation and maintenance etc. All documentation in English as well as Oriya (as agreed with the client), shall utilize metric measurements, and shall be submitted directly to Client in paper hardcopy and electronically in Word / AutoCAD / GIS / Excel / Project and Adobe Acrobat.

2.11 Operational System Acceptance

- 2.11.1 At the completion of operational acceptance test, the system shall be considered for operational system acceptance. At the close of the work and before issue of final certificate of completion by the Client, the Contractor shall furnish a written guarantee indemnifying Client against defective materials and workmanship for a period of one (1) year after completion which is referred to as Defect Liability Period.

The Contractor shall hold himself fully responsible for reinstallation or replacement free of cost of any defect observed in the system, during the Defect Liability period. Contractor shall provide approved temporary replacement equipment and material such that the system remains fully functional as designed and commissioned during repair or replacement activities at no cost to the Client.

2.12 Commissioning

The Contractor has to operationalise the system within a maximum of 15 days from the date of final deployment of the whole system. During this period, the contractor shall complete system acceptance tests and all other tests, as required, for smooth functioning of the system.

2.13 Comprehensive Maintenance for System and Services

- 2.13.1 Contractor shall be responsible for comprehensive maintenance of all the components i.e. bicycles, docking stations/ parking spaces, hardware (including batteries, docks, mounted IT equipment etc.), software, up-gradations in the system, expansion of the system, technical manpower, spares management and replenishment, performance monitoring and enhancements of the Bhubaneswar PBS system, deployed as part of this project and shall maintain service levels as defined in the RFP. All equipment and material supplied by the Contractor shall be provided with standard warranty against defects of design, manufacturing and faults & failures associated with workmanship of Contractor commencing from operational acceptance of the system till completion of O & M period. All equipment found to be defective during comprehensive maintenance shall be repaired or replaced by the Contractor at no extra cost to the Client.
- 2.13.2 Contractor shall provide all the technical, managerial, and other staffing required to manage day-to-day maintenance of the Bhubaneswar PBS system during the Contract period. All spares required for the smooth operation of the project shall be maintained by the Contractor for the entire duration of the contract to meet SLA requirements. The cost of the spares, repairs, and replacement shall all be deemed to be included in the price quoted by the Contractor. Contractor shall also institutionalize structures, processes and reports for management of SLA. Root cause analysis and long-term problem solutions shall also be part of Contractor's scope.
- 2.13.3 Contractor shall maintain all data regarding entitlement for any upgrade, enhancement, refreshes, replacement, bug fixing and maintenance for all project components during Warranty. Contractor shall be responsible for updates/upgrades and implementation of new versions for software and operating systems when released by the respective OEM at no extra cost to the Client during entire duration of contract. Requisite adjustments / changes in the configuration for implementing different versions of system solution and/or its components shall also be done by Contractor. Contractor shall also be responsible for operating project related City website, city portal, and city application including all support, content updates and upgrades throughout the duration of contract.

3. Project Components

3.1 Bicycles:

- 3.1.1 The Contractor has to procure newly manufactured bicycles as per minimum specification mentioned in the clause no 4 of this section. These bicycles shall not have been put to commercial use anywhere previous to the commercial operations date, except those used in pilot testing within this project.
- 3.1.2 The Contractor has to procure a total of 1000 bicycles (authorised fleet size). 25% of the bicycles should be electric assisted (Pedelec), based on contractor's solution.
- 3.1.3 The Contractor shall also procure additional bicycles (at least 10% extra) as standby, to maintain the bicycle availability as per the minimum requirement specified in the Service Level Agreement of this section.
- 3.1.4 The client may decide to increase the fleet size of cycles based on demand requirement. Such decision will be based on assessment as per methodology provided below: -

if " $r/f > 6$ " where,

"r" is the average number of rides during the previous 30 days; and

"f" is the authorised fleet during the previous 30 days.

Generally, the incremental changes will be made for at least 100 bicycles at a time. However, the client shall reserve the right to decide exact quantity and which shall be final and binding on all.

3.2 Docking Stations/ Parking Spaces:

- 3.2.1 The Contractor has to build a minimum of 100 docking stations or parking spaces as per the specifications mentioned in the clause no 4 of this section. However, the contractor after obtaining approval of the client, may modify the location or increase the number of docking stations for better service, visibility and management of the system. The cost of all additional docking station shall be made by the Contractor on their own.
- 3.2.2 All the docking station or parking spaces shall have the facility operate automatically without human intervention/ support. So that, bicycle users can lock or unlock the cycle without the help of any third person and at the same time the system can be managed from remote location.
- 3.2.3 All the docking station or parking spaces should have at least one terminal or information kiosk. Although the Contractor may decide to put more terminals or information kiosk depending upon the demand. Additional terminal cost shall be borne by the contractor.
- 3.2.4 The Contractor shall operate all stations daily for a period of 14 hrs i.e. from 6:00 AM to 8:00 PM per day. Although, the operation timings may be modified with suitable reasoning of user demand or operational requirement, after obtaining approval of client.
- 3.2.5 Capacity of each docking station shall be decided through following formula:

$$D \geq 1.5 * f$$
 where "D" means no of docking points at each docking station and "f" means no of authorised fleet size of that particular station.

3.3 System Access Facilities:

The contractor shall propose the technology through which the citizens / commuters / users may access and utilise the PBS system in the city. The technology may be based on smart cards or mobile application or both. In all cases, the contractor shall ensure compliance to the requirements mentioned under in this section as provided below.

3.3.1 Smart/ RFID based Card:

The Client (Bhubaneswar Smart City Limited) is implementing a Smart Card based Common Payment Card System (CPCS) in the city. The system shall also be equipped with Mobile Wallet to facilitate digital payments. The CPCS system is being implemented in the city with an aim to integrate all city services payment through one platform. Therefore, the Public Bicycle Sharing (PBS) system shall also rely upon the Bhubaneswar CPCS for its payment related activities, whatsoever in nature. The contractor shall ensure integration requirements and compliance to the conditions of Financial Institution implementing the CPCS project in Bhubaneswar. Also, the vendor shall be liable to incur and bear the transaction charges (as approved by client for CPCS project) towards the use of CPCS in PBS project which is 1.45% of the transacted value.

3.3.2 Card Reader:

All the stations should have card reader facilities to manage it properly. The card reader should have the capability to read Common Payment Card (CPC) of the city, being implemented by BSCL through ICICI Bank. The contractor shall ensure seamless integration of the card reader / acceptance system of PBS with the CPCS Smart Card.

3.3.3 Mobile Application

In case of Mobile Application based access control and management system, the integration of CPCS shall have to be proposed through Smart Card as well as Mobile Wallet. The mobile application for access control should be based on robust and established system like QR code, OTP, etc.

3.4 Operations Control Centre

3.4.1 The Contractor shall develop and establish an Operations Control Centre with all the necessary hardware, software and interior works for real time monitoring and management of the system.

3.4.2 The Contractor shall also ensure integration of system with Intelligent City Operations and Management Centre (ICOMC). The Operations Control Centre of PBS system shall be developed by the Contractor in the premises of ICOMC, as decided and approved by the Client. The Client shall provide the built-up space for setting up the operations control centre.

3.4.3 The Operations Control Centre shall be equipped and be well versed to perform following functionalities:

- (a) Track availability of PBS bicycles
- (b) Communicate with the registration centres and bicycles.
- (c) Compile, analyze and generate station level and system level information.
- (d) Storage of historic data and making available as and when required for use by the Client.

- (e) Provide data security and data backup.
 - (f) Transmit the system information to the users through website, mobile app etc.
 - (g) Provide call centre facilities during daily operation period of PBS system in the City.
 - (h) IVRS system.
- 3.4.4 The contractor shall share the Application Program Interfaces (APIs), as required by the Client for integration with the any other system including but limited to CPCS and ICOMC.
- 3.4.5 The Client shall be the owner and shall hold Intellectual Property Rights of the data generated and / or collected through the PBS system. The contractor shall at all times maintain confidentiality and restrict the transfer of data or access of any third party, unless a written permission from the Client has been obtained for the said purpose.

3.5 Depots

- 3.5.1 The contractor shall also develop a depot for the system providing storage space for extra/ back up bicycles and maintenance of bicycles including storage of necessary equipment and required tools for repairing and maintaining the bicycles.
- 3.5.2 The land area and other development requirements of the Depot including all operational and maintenance requirements shall be responsibility of the contractor. All expenses pertaining to above shall also be borne by the contractor at its own cost.

3.6 Maintenance Requirements

- 3.6.1 The contractor shall ensure upkeep and maintenance of the PBS system in the city. The contractor shall adhere to the Service Level Agreements (SLAs) provided in this document to ensure sustained durability and usability of the system.
- 3.6.2 In principally, the contractor shall perform following maintenance schedules:
- (a) At interval of every three days:
 - (i) Check tyre pressure and inflate air in tyres / repair any punctures for maintenance of standard pressure.
 - (ii) Cleaning of cycles and removal of dust, dent etc.
 - (b) At interval of every two weeks:
 - (i) drive chain lubrication,
 - (ii) handlebar cantering and tightening,
 - (iii) check for proper functioning of brakes,
 - (iv) inspection for saddle wear and tear,
 - (v) verification that lights and reflectors are intact and function properly, and
 - (vi) general observation of all other cycle components
 - (c) Once per year:
 - (i) remove and clean entire drive train,
 - (ii) adjust tension and true wheels,
 - (iii) inspect and replace tyres that are worn, and
 - (iv) inspect and service hubs & bottom bracket.

3.7 Redistribution Vehicles

- 3.7.1 The System shall have facilities to redistribute the bicycle at every location so as to ensure availability of bicycles at every designated station in the city. The redistribution in the city shall be undertaken through electric / non-emitting redistribution vehicles to be deployed by the contractor for this purpose.
- 3.7.2 At a minimum, the contractor shall deploy and maintain 10 redistribution vehicles (one for 10 stations), out of which at least 4 vehicles shall be operated through non-polluting modes. The redistribution vehicles should have the capacity to carry at least 10 bicycles at a time.

3.8 Registration Centre

- 3.8.1 For the purpose of new user creation / registration / renewal / grievance redressal etc., the contractor shall set up and operate physical Registration Centre(s) in the city. The built up space for setting up registration centres shall be provided by the client. All interior works and other hardware and software requirements shall be provided by the contractor.
- 3.8.2 The registration centre shall perform following tasks:
- (a) Registration of system user.
 - (b) Keep the records of all the users, i.e. Name, Age, Address, pattern of usage etc.
 - (c) Collect and return security deposits, if applicable.
 - (d) Handling cash and card transactions for subscriptions fee.

3.9 User Information System

The system shall provide information to its users through website and mobile app. The development, maintenance and updation of website and mobile application for PBS system shall be responsibility of the contractor.

- 3.9.1 Website:
- (a) The website to be developed for PBS system shall be the interface of the system information which shall be based on the static information for the users and real time data being collected at Operations Control Room (OCR) of the project. Design of the website shall be finalised with consultation and approval from Client.
 - (b) It shall be the responsibility of the contractor to develop the website, which shall: -
 - (i) communicate constantly with the Operations Control Room and display real time information to the user, i.e. status overlay on a map: name of station, number of cycles, number of available docks (if applicable), fare/subscription model and payment methods etc.;
 - (ii) provide information in Odiya and English;
 - (iii) ensure that critical functionality does not use any extensions that are not pre-installed in the vast majority of browsers and any mark up or scripting should function correctly in all widely used browsers;
 - (iv) provide facility for online registration of new users;

- (v) provide linkage to the CPCS website / application for the users to recharge their smart card. If required, also provide link for online recharging on PBS website through various means like Debit card, Credit Card, Net Banking etc.
- (vi) allow users to get information on location of stations / cycles through a variety of inputs (e.g. User entered address, intersection or names of major/landmark places, selecting from an interactive map etc.)
- (vii) allow users to track their usage, account balance, bonus points etc. (other innovative applications are encouraged).
- (viii) have specially designed versions for multiple computing devices (desktop computers, smartphones, and tablets).
- (ix) provide linkages to Bhubaneswar One Portal and any other portals/applications that the client may approve or demand.
- (x) have ability to handle at least 200 concurrent users per day.
- (xi) support seamless functioning for at least 100 simultaneous queries on the website.

3.9.2 Mobile App:

- (a) In addition to the website, a Mobile Application for the PBS system shall also be developed with all / maximum features forming part of the website, so as to ensure full functionality and accessibility of the PBS system through the Mobile Application.
- (b) It shall be the responsibility of the contractor to develop the Mobile Application, which shall:
 - (i) be compatible with Android, Windows and iOS operating system.
 - (ii) communicate constantly with the Operations Control Room and display real time information to the user, i.e. status overlay on a map: name of station, number of cycles, number of available docks (if applicable), fare/subscription model and payment methods etc.;
 - (iii) provide facility for online registration of new users;
 - (iv) allow users to make online recharge through various means like Debit card, Credit Card and Net Banking;
 - (v) allow users to get information on location of stations / cycles through a variety of inputs including GPS of user's mobile phone (e.g. User entered address, intersection or names of major/landmark places, selecting from an interactive map etc.)
 - (vi) allow users to track their usage, account balance, bonus points etc. (other innovative applications are encouraged).
 - (vii) provide linkages to Bhubaneswar One Portal and any other portals/applications that the client may approve or demand.

4. Technical Requirements

4.1 Bicycles:

The proposed Bicycles shall have following minimum specifications for Bhubaneswar Public Bicycle Sharing System:

4.1.1 Standard Bicycle:

The Standard Bicycles shall have unique design and be easy to differentiate from general cycles available in the market. All the bicycle should have following minimum, but not limited to, specifications as necessary component:

Sr. No.	Bicycle Parts	Minimum Specifications
1	Frame of the Cycle	Standard unisex, sturdy and light weight (made of steel & aluminum) frame that suits everyone.
2	Seat	Easily adjustable seat without need for any tools
3	Handle	High-rise handlebar with provision to attached front
4	Bell	Most common bell which is actuated by a thumb operated level that is geared to rapidly rotate two loosely-slung metal discs inside the bell housing.
5	Wheels and Tyres	24-26 inch Rim with a diameter of 22" to 26.2" (outside tyre) along with tubeless tyres – guaranteed for 15,000 km.
6	Chain Box	Covered to prevent rust and protect rider's clothing.
7	Breaks	Hub breaks for both front and rear break.
8	Stand	Single side kick stand.
9	Lights	Front Light: Hub dynamo supported front light. LED lights are the preferred ones. Back Light: Reflectors integrated into mudguard.
10	Rim size	24-26 inch rim with aerodynamic design.
11	Rim tape	Appropriate rim tape securely covering all the spoke
12	Mudguard	Front and Rear mud guards with fenders
13	Lock	Inbuilt lock with four keys. Each lock and key should have frame number printed on it.
14	Front Basket	Front mounted Basket with a capacity up to 10kg.
15	Gear	Simple gear system with a minimum of 3 speed gear
16	Paddle	Central paddle.
17	GPS Device	All the bicycles should have well equipped GPS based tracking system.

4.1.2 Electric Assisted Bicycle:

The contractor shall provide at least 25 % of the bicycles as electric assisted bicycles i.e. at least 275 in number which includes 10% additional as per requirement. All the electric assisted bicycles shall comply with the specifications mentioned above in clause no 4.1.1. In addition, all electric assisted bicycles should conform to following additional minimum, but not limited to, technical specifications:

Sr. No.	Bicycle Parts	Minimum Specifications
1	Hydraulics	Attached with front wheel.
2	Helmet	Good quality standard helmet.
3	Speed Limit	Top speed < 25 kmph.
4	Battery	Chargeable battery with long battery life. Batteries can be charged at any time irrespective of their existing charge levels. Batteries should have capability of running >30 km in a single charge.
5	Battery Indicator	Indicator to display the charge level of the battery in the front of the cycle.
6	Certification	ARAI Certified

4.2 Docking Stations/ Parking Spaces:

All the docking station or Parking Spaces should have following minimum, but not limited to, specifications:

Sr. No.	Components	Minimum Specifications
1	Docking Style (Optional)	Bollard or Beam style modular dock- easy to construct and de-construct and easy to change station location (if needed). All the docks should be installed in a manner that ensures safety of the stations infrastructure and cycles.
2	Station Cover	Cycle station space should be covered to ensure protection from the heat and heavy rain of Bhubaneswar.
3	Information Kiosk	Space/ kiosk for display of system information, station attendants to register users and undertake cash or card transactions and store devices, fresh smart cards, keys to cycle locks and money.
4	Advertisement Panel	One panel of 6ft*6ft for Advertisements at each station.
5	Docks (Optional)	Separate docks for each cycle. All the cycles should be locked with docking points/ lock points. All the docks shall be made up with the materials which is dust and graffiti resistant and should be in operable conditions for minimum 7 years from installation.
6	Charging facilities	All the docking station or parking spaces should have sufficient no of charging ports.

4.3 System Access Facilities:

Bhubaneswar Public Bicycle Sharing System should have following, but not limited to, specifications:

Sr. No.	Components	Minimum specifications
1	Smart / RFID based card	This shall be integrated with the Smart Card being developed under CPCS project of Bhubaneswar.

2	Card Reader facilities	i. Shall be installed in the stations or on Cycles, depending on the solution proposed by the contractor. ii. Should have the ability to communicate with Operations Control Room about check in - check out of cycle at the station, transmit user information, availability of number of cycles at any given point at the station, availability of minimum balance, etc.
3	Other	System shall have the facilities to access through advanced systems; i.e. NFC, Mobile App etc.

5. Functional Requirements

5.1 Design & Documentation	
5.1.1	The Contractor shall conduct a detailed study of the ground situation and understand all aspects; space availability for Advertisement panels and or docking points or charging points, operations and management requirements for the various components. One or more site survey reports shall be developed for the project as per requirement.
5.1.2	The Contractor shall develop hardware and software design documents as per the project requirements.
5.1.3	The Contractor shall develop a detailed System Requirement Specification (SRS).
5.1.4	The Contractor shall develop Test Plans consisting of test procedures for each requirement and share it with the Client prior to the testing of the systems. These test plans shall be required to be approved by the client as the “Accepted Test Procedures”, before the actual testing on site. The testing on site shall be strictly in accordance with the Accepted Test Procedure. The Accepted Test Procedure shall have to be obtained by the contractor for Pilot Testing, System Acceptance and Operational Acceptance.
5.1.5	The Contractor shall develop design and content for Mobile application, SMS, IVRS & website and get approval of the Client before proceeding with the launch of respective components.
5.1.6	The Contractor shall submit monthly progress reports consisting of overall progress, progress in the last month, challenges faced, risk mitigation measures undertaken and activities for the next month.
5.1.7	All related networking requirements including network switches, LAN cabling within the terminals, sites etc. to make the PBS System operationally functional shall be in the scope of the Bidder.
5.2 Tracking	
5.2.1	The Contractor shall provide all software and hardware that comprise the overall central system, including the servers, database, etc., along with the required number of licenses for all users. The tracking software shall be provided outright with perpetual, royalty free license.
5.2.2	The tracking application software shall be well established and currently deployed in a minimum of two similar projects.
5.2.3	All data shall be the property of the Client and shall be immediately available to the Client.
5.2.4	All workstation application software shall have the latest available operating system platform.
5.2.5	The tracking software shall be installed on Operation Control Centre workstations and shall have the provision to connect with ICOMC (city level command control centre at later stage).
5.2.6	All communications and tracking data shall be stored in a manner that allows direct access by the software for at least 180 days.
5.2.7	GPS location data shall be updated through 3G/GPRS connection to the central system software within 1 hr for all the vehicles.
5.2.8	All the two way communication cost shall be borne by the contractor for the period of the project including Maintenance period.
5.2.9	Tracking system shall have System Audit trail feature.

5.2.10	Tracking system shall interface with other smart solution interventions being developed by BSCL.
5.3 Maps	
5.3.1	The operation control centre shall have the ability to incorporate maps to support the functionality, comprised of a selection of individually selectable theme layers (e.g., stations, streets, names, water features, parks, major buildings). The base map shall be Google maps or similar quality.
5.3.2	Operation control centre shall have smart search feature to filter the data on the software.
5.3.3	The Contractor shall use the same base map for the tracking system as the one developed as per the Bhubaneswar One GIS map service requirements.
5.3.4	The system shall include mechanisms to allow for periodic independent updates by the Client to the system maps.
5.3.5	The Client shall be able to develop additional overlay map layers to the external source map that shall include polygons (e.g., municipal boundaries, fare zones), lines (e.g., networks) and points (e.g., landmarks, docking stations), with the colour, shape and thickness being selectable.
5.3.6	Map shall have a tool to measure the distance through mouse clicks.
5.3.7	Application shall allow authorized staff of Client to create, modify and delete the POI and Geo Fencing on the Map.
5.3.8	Application shall have features to Geo-fence particular areas and provide SMS and Email alerts to authorized staff if vehicles cross the geo-fenced boundary.
5.3.9	The application shall allow users to view the map, including a selectable combination of the source map layers and new layers, at various user-defined zoom levels.
5.3.10	Application shall allow dispatcher to get a Printout of the Map what he/she can see on the screen. The print option shall support A4, A3 and A2 size printouts.
5.3.11	Application shall have reasonable filters to track the vehicle movement in real time
5.3.12	Application shall integrate with ICOMC platform to quickly pinpoint incident location on the map.
5.4 Data Logging and Retrieval	
5.4.1	All incoming and outgoing data shall be stored for retrieval, analysis, display and printing.
5.4.2	The system shall allow all such data to be retrieved, even if it has been archived.
5.4.3	Historical data shall be read-only with modification only permitted to individual pre-defined fields, with prior approval from the Client
5.5 Tracking GUI Requirements	
5.5.1	The central system shall be delivered with a fully functioning Graphical User Interface (GUI).
5.5.2	The GUI shall be based on standard windows controls or equivalent.
5.5.3	Scheduling and Rescheduling shall be very convenient for day to day operations for the dispatcher.

5.5.4	Tracking GUI shall have line diagram to show dynamic status of the fleet by selecting the route.
5.6 Operations Monitoring Dashboard/ Console Requirements	
5.6.1	The tracking system shall include an operations monitoring dashboard located at the Operation Control Centre & monitored by the Operation Control Centre dispatcher.
5.6.2	If any particular node becomes disconnected from the control room, the same shall raise an alarm to the Operation Control Centre dispatcher GUI & appropriate action shall be taken for rectification of the same.
5.7 System Security Requirements	
5.7.1	The central system & tracking Work-stations shall only be accessible by authorized persons, controlled using login and password protection.
5.7.2	It shall be possible to create multiple user classes with different privileges.
5.7.3	The system shall maintain a transaction log that records all users that access reports, the reports accessed, edits and changes to the database and the system logon and log-off times.
5.7.4	The transaction log shall maintain this information for a minimum of one year. Editing data in the log shall be possible only to the highest class of system user and shall be flagged in the reports generated.
5.8 Maintenance Mode – Operational Requirements	
5.8.1	The Central system and all the equipment (on-board GPS devices, card reader) shall support a maintenance mode during repair, replacement and testing of equipment.
5.8.2	The maintenance mode shall be able to be activated for a particular node/ equipment item individually.
5.8.3	The maintenance mode shall have feature to be activated by only one person having the highest user privilege in terms of system operations.
5.8.4	Logins and log outs shall be transmitted to the central system, along with associated Date/Time, employee ID, equipment ID etc.
5.8.5	Client shall be the owner of all system data and able to use the central system to export transactions data for processing/ analysis using other software.
5.8.6	Data shall be retained in the database for at least the prior financial year.
5.8.7	The Bidder shall support Client's data release policy.
5.8.8	Data received from system devices shall be maintained at the original level of transactions and not be aggregated, consolidated, or combined within the database.
5.8.9	Sufficient data storage capacity shall be provided in the central system to store online a minimum of two years activity data.
5.8.10	All data shall be automatically backed-up daily without human intervention, using the backup devices and media. Bidder shall arrange data cartridges, clean cartridges, as required during O & M period.
5.9 Scalability/ Future Operational Requirements	
5.9.1	The central software shall be scalable to accommodate 1500 bicycles, 2000 docking points or charging points, 150 docking stations, without any

	modifications to the central software except minor configuration changes, with the details of how scalable the system is provided in the proposal by the Bidder.
5.9.2	The Bidder under the present scope of work shall be able to generate all reports separately for different routes under operation.
5.9.3	Bidder shall provide support to integrate with other tracking system in the future during the contract period.
5.10 Service level Performance Reports Requirements	
5.10.1	The software shall provide standard reports based on the tracking data. Automated graphs/plots for commonly used data shall be provided in discussion with Client. Following are tentative list, this may be updated/added during design and implementation period: <ul style="list-style-type: none"> (a) Active fleet (weekday and weekend) (b) Service hours and mileage (c) Alerts reports (d) Distance Travelled / trip/ chartered trip (e) Maintenance report (f) Monthly summary reports broken down by system users, maintenance of fleet, registrations etc. (g) Vehicle detail
5.10.2	Reports shall have summary and detail information based on the Client needs.

6. Roles and Responsibilities

6.1 Contractor

- 6.1.1 Contractor shall be responsible for providing a complete PBS system that incorporates all specification requirements, including but not limited to:
- (a) Provide all components as per the Project requirements;
 - (b) Deployment of a competent team of experts with relevant prior experience and depth of knowledge.
 - (c) Scheduling the activities and accordingly deploying the resources in a pragmatic manner in order to complete the implementation of the PBS components within the required scope, quality and time constraints;
 - (d) Project Team and Management: Since the continuity of the key members of the project team is essential, Contractor to follow diligent process for ensuring continuity of key personnel assigned for implementation of the project. For project team, Contractor shall carry out following responsibilities:
 - (i) At the project initiation, the Contractor will share the profiles of the “Key Personnel” with Client and these key profiles shall meet the minimum eligibility criteria highlighted in the RFP as well as the proposal submitted by the Contractor;
 - (ii) Regular meetings between key personnel and the Client or its representative to discuss project implementation and progress;
 - (iii) Deployment of a project structure for effective governance, monitoring, review and risk mitigation;
 - (e) Provision of all testing services, up to and including the System Acceptance Test;

- (f) Provision of all Installation and Configuration services defined as part of RFP;
 - (g) Provision of branding strategy, communication outreach plan assisting in System Branding;
 - (h) Provision of detailed documentation (Before system roll-out with all the details of the system infrastructure); and
 - (i) Provision of required training and associated documentation for Client's personnel;
- 6.1.2 Contractor shall provide Project Quality services as following:
- (a) Adoption of standard methodology encompassing project documentation at various phases, following robust review mechanisms and ensuring quality at all the stages of the project;
 - (b) The Contractor is expected to deploy all the quality assurance mechanisms as per international quality standards for this project;
 - (c) PBS systems shall be deployed in such a manner that they are scalable and upgradations of project components including hardware and software are possible with minimal efforts. Contractor shall include product upgrade as part of scope during installation;
- 6.1.3 Contractor shall be responsible for the following feedback, monitoring and adoption mechanism:
- (a) Stakeholder Mapping: The Contractor will put together a structure and mechanism for ensuring that all the relevant stakeholders are consulted, feedback adopted and key differences identified, so as to facilitate standardization as well as user adoption;
 - (b) Contractor shall be responsible for demonstrating the progress to the client periodically in Bhubaneswar as per the project requirements;
 - (c) Contractor shall indicate the deliverables which shall go for internal review and accordingly the level of expertise that will be deployed for the reviews and the deliverables which will follow quality assurance plans;
 - (d) If any of the deliverables are not accepted by the Client, it shall have the right to seek deployment of experts from Contractor to review the deliverables. Client shall also hire third party experts to review the deliverables, if required;
 - (e) Mechanism to adopt feedback/audit findings: There are three types of feedback for the deliverables – from the users/stake holders, from the internal experts of the Contractor and the third party experts hired by BSCL. The following is expected from the Contractor on these feedbacks/audit findings:
 - (i) Client may at any anytime during the contract period choose to undertake an independent third party audit of the implemented system including both application and infrastructure audit. The Contractor shall support this audit.
 - (ii) All the feedback shall be discussed with Client and based on the guidance of Client, the feedback shall be incorporated into the project;
 - (iii) Since the feedbacks/audit findings for any rework is by nature correcting the inadequacy of quality of the work produced in the first place, Client will not accept any change notice requests for these reworks;

- (iv) Contractor shall build in adequate mechanisms to control the risks of time over runs possibly due to effort required to rework bad quality deliverables;
- (v) Contractor shall report to Client how the feedbacks have been incorporated into the project deliverables and take a sign off from the designated authority of Client.

6.1.4 The Contractor shall also be responsible for: -

- (a) Warranty for all equipment and software, up to and following System Acceptance, and provision of a System Warranty following System Acceptance;
- (b) All components to meet the SLA requirements;
- (c) Technical Support services following System Acceptance;
- (d) Secure storage of all equipment on-site;
- (e) Maintenance support for system and field equipment;
- (f) Opening and maintaining the project office in Bhubaneswar throughout the course of the Contract.

6.1.5 The Contractor shall coordinate with: -

- (a) Client to complete the civil and electrical work as required;
- (b) Contractor to coordinate with all necessary stakeholders involved in the project for successful and smooth implementation;

6.1.6 The Contractor shall maintain adequate storage and replenish the consumables in discussion with the Client to ensure smooth functioning of the impacted systems. Cost of consumables required for this project shall be borne by the Contractor for the period of the contract.

6.1.7 The Contractor shall depute Maintenance Support staff, Helpdesk Support staff and Facility Maintenance Staff during Comprehensive Maintenance phase (DLP + Operation phase) as per the requirements in the RFP.

6.2 Client

6.2.1 Through its authorized personnel and/or representatives, BSCL shall:

- (a) Provide basic infrastructure (power, space/land, access) required for installation of system equipment;
- (b) Assign a nodal officer with the authority to make decisions (and/or designate representatives with such authority) on behalf of Client;
- (c) Participate in all scheduled project activities, attend scheduled meetings and promptly respond to new meeting requests, requests for information, technical support or other necessary communication activities;
- (d) Provide staff, and facilities for all training held in accordance with the Training Plan (if any);
- (e) Participate (if required) and approve the results of all tests, in accordance with the Test Plan/ certificates;
- (f) Any coordination or permits required for performing works in the project area;

6.2.2 Client shall assist the Contractor in:

- (a) Obtaining necessary permits or permissions for any activities requiring outside authorization;
- (b) Coordinating logistical arrangements to receive project related equipment at project facilities;
- (c) Providing access to field implementation locations as required;
- (d) Timely acquisition of required technical data from other parties;
- (e) Obtaining any new, changed, or updated operational information necessary for the Contractor to configure and initialize the system; and
- (f) Scheduling and coordination for staff participating in training sessions as per the agreed training schedule (if any).

7. Revenue Rights:

7.1 Contractor:

The Contractor shall have rights to generate revenue from following sources during the contract period:

- (a) Memberships: Sale of memberships and subscriptions to use the PBS system.
- (b) Fare box revenue: Charges earned from the use of the PBS system by users having no membership.
- (c) Revenue from Advertisement: The contractor shall be given the rights to lease advertisement space as mentioned in 4.2 (4) on the docking stations. As per the RFP, the bidder will be allotted to develop an advertisement space of 36 square feet (6ft X 6ft) at each docking station. The contractor may lease these panels for advertisement purposes and realise the revenue earned by such advertisements. Apart from the advertisement panels as provided above, no other revenue earning rights from advertisement or leasing / renting of space for advertisements shall be allowed to the contractor. No advertisement on bicycles or attachment to bicycles for placing any advertisement shall be allowed to the contractor. The contractor shall bear all charges towards applicable taxes and fees etc. as per the acts, rules, regulations, guidelines and byelaws of Government, as applicable from time to time. Due care shall be taken by the contractor to ensure that any advertisement which is acceptance for display on the advertisement panels of the project shall : -
 - (i) Be compliant to the policies, acts, rules, regulations, byelaws and guidelines in force and as applicable from time to time.
 - (ii) Not be a content unacceptable to client or any other Government body.
- (d) Cycling Event(s): The contractor shall be given the permission to conduct cycling event(s) in the city along with the Authority, and generate revenue adhering to applicable government norms, if any, from such events. Any cost related to conceptualisation, organisation and marketing of such event shall be borne by the contractor.

7.2 Client:

The Client will retain the System sponsorship rights. The Client will sell sponsorship contract of the system and generate revenue from it. The sponsorship contract will include naming rights to the system and advertising space on the cycles. The system sponsorship will not include rights on advertisement panels which fall under contractor's rights for earning advertisement revenue.

8. PBS System Charges:

The proposed charges of the Bhubaneswar PBS system, as determined by the Authority, is given below:

8.1 Security Deposit:

- 8.1.1 The contractor shall permitted to receive a refundable security deposit as security fee which can be charged from users to ensure safe usage of the infrastructure provided to them.
- 8.1.2 The amount of security deposit should be linked to the insurance amount of each bicycles and should not exceed an average insurance amount per bicycle.
- 8.1.3 The amount of security deposit shall be same, irrespective of users and their membership pattern.
- 8.1.4 The contractor shall be responsible for refunding all the deposit, in case no damage is created by the user to the bicycles of other components of PBS system, at the end of membership term unless the user renews his/her membership for another year.

8.2 Subscription Fee/ Membership Fee:

- 8.2.1 The Contractor shall collect a subscription fee or Membership fee from all the users who wants to become a member for using the system.
- 8.2.2 Not all users who are registered with the system are required to become members.
- 8.2.3 Only members shall be given the rights to use the system unlimited times.
- 8.2.4 The Contractor shall offer different membership options to the system users, such as yearly membership pass (valid for a year), quarterly membership (valid for three months), monthly membership pass (valid for months).
- 8.2.5 Although the final structure of membership fee shall be decided after mutual agreement between Client and Contractor, an indicative fee structure for reference purpose is provided below:

Subscription Type	Fee (In INR.)
One Year Membership Pass	999
Three Months Membership Pass	299
One Month Membership Pass	149

8.3 User Fee:

- 8.3.1 The Contractor shall levy and collect fee from all the users based on the amount of time for which the bicycles is borrowed.
- 8.3.2 The final fee structure shall be as decided after mutual agreement between Client and the Contractor. An indicative fee structure is provided below for reference purpose:

Time (Per day)	Non Member - User Fees (In INR.)	Member-User Fees (In INR.)
0 - 30 mins	5	No Charges for the first 30 min, after that users have to pay as per the time slab by deducting the charges of the first slab
30 mins - 1 hours	10	
1 hour - 2 hours	25	
2 hours - 3 hours	50	
3 hours - 4 hours	100	
4 hours - 6 hours	175	
6 hours - 8 hours	250	
> 8 hours	350	

8.4 Processing Fee

- 8.4.1 The Contractor will be permitted to charge an amount, to be decided & approved by authority, as processing fee for registration of a non-member in the system.
- 8.4.2 All the members will be exempted from this charge.

8.5 Revision of Charges:

- 8.5.1 The Service Charges (the fee components mentioned under section 8.1, 8.2, 8.3 and 8.4 above) shall be reviewed annually and revised in the year, when applicable as per section 8.5.2 below.
- 8.5.2 The Service Charge for any given payment period shall be called the Applicable Service Charge and shall be revised as follows:

$$K_{\text{applicable}} = K_{\text{base}} * (W_{\text{present}} / W_{\text{base}})$$

Where

$K_{\text{applicable}}$ is the Applicable Service Charge for the current payment period,
 K_{base} is the Service Charge for the first payment period,
 W_{present} is the Present Year Wholesale Price Index, and
 W_{base} is Base Wholesale Price Index⁷.

- 8.5.3 The revision of service charge shall be applicable as per following;

- (a) if $K_{\text{applicable}} - K_{\text{present}} \geq \text{Rs. } 2.0$, in cases where $K_{\text{present}} \leq \text{Rs. } 25$; and
- (b) if $K_{\text{applicable}} - K_{\text{present}} \geq \text{Rs. } 5.0$, in cases where $K_{\text{present}} > \text{Rs. } 25$

where, K_{present} is the existing service charge being charged to the users.

- 8.5.4 In cases where revision in service charge is applicable as per 8.5.3, then such revision shall be in accordance with following: -

- (a) If $K_{\text{present}} \leq \text{Rs. } 25$, then $K_{\text{applicable}}$ shall be rounded to next higher number which is a multiple of 2; and
- (b) If $K_{\text{present}} > \text{Rs. } 25$, then $K_{\text{applicable}}$ shall be rounded to next higher number which is a multiple of 5.

⁷ The Wholesale Price Index as on Commencement Date will be the Base Wholesale Price Index.

9. Implementation Schedule (Activities, Milestones and Deliverables)

- 9.1.1 Contractor shall deliver all project activities/milestones/deliverables to the Client as per the timelines stated in this section. Contractor shall submit at least two (2) versions of each deliverable as per following:
- (a) Draft Version; and
 - (b) Final Version.
- 9.1.2 Client or its authorized representative shall, within fifteen (15) days of submission of deliverables, review and provide comments on all respective deliverables. Contractor shall ensure that all comments provided by the Client or its authorized representative shall be incorporated in the final version of all deliverables.
- 9.1.3 All deliverables indicated in the tables below are indicative only and shall be read in conjunction with the Scope of Work section and Standard Form of Contract of the RFP for detailed requirements. Client or its authorized representative reserves the right to ask for additional information, documents and deliverables throughout the Project.

Activities/Milestones/Deliverables for Phase I⁸	Timeline (T)
Detailed Project Implementation Plan including:- (i) System and Solutions Design (ii) System Coverage Plan (iii) Docking Station and Parking Area Design (iv) Operations Control Room Development Plan (v) System Implementation and Management Plan	T + 30 days
Prototype Acceptance and factory Acceptance test Certificate	T + 60 days
Pilot deployment of the system	T + 90 days
Procurement of at least 75% of components (bicycles and allied infrastructure) forming part of PBS system Components	T + 150 days
Development of operation control room and associated software	T + 150 days
Procurement and Installation Complete for the system	T + 270 days
Operational Acceptance and Go-Live of the System	T + 300 days

Exhibit 4 Implementation Schedule

⁸ The implementation for Phase II shall be on similar basis as per approval of the client.

10. Service Level Agreement (SLA)

10.1 Purpose

10.1.1 The purpose of Service Levels is to define the levels of service provided by the Contractor to the Client for the duration of the contract. The benefits of SLAs are to:

- (a) help the Client to control the levels and performance of Contractor; and
- (b) create parameters for the measuring the performance of the system and help in monitoring the same during the Contract duration.

10.1.2 The Service Levels are agreed between the Client and Contractor.

10.2 Service Level Agreements & Targets

10.2.1 This section is agreed to by the Client and the Contractor as key performance indicators for the project;

10.2.2 The following section reflects the measurements to be used to track and report system's performance on a regular basis. The targets shown in the following tables are for the period of Contract.

10.2.3 Implementation Phase related SLAs

During Implementation phase any delay in deliverables and milestones shall attract liquidated damages as per GCC Clause 55.

10.2.4 Operation & Maintenance Phase related SLAs (During DLP & Operation Period)

These SLAs shall be used to evaluate the performance of the services post the Implementation Phase and commencement of the O&M Phase. These SLAs and associated performance shall be monitored on quarterly basis. Penalty levied for non-performance as per SLA shall be deducted through subsequent payments due from the Client or through the Performance Bank Guarantee.

(a) The Scheduled Maintenance Time shall be agreed upon with the Client as per the definition given as part of this section of the Contract.

(b) The Exhibit below provides the Service Levels to be adhered by the bidder during the operational hours of the project/system/sub-system/components. The scheduled maintenance and the scheduled down time shall be carried out by the Bidder during the non-operational hours of the project. In case of not meeting the SLA's, the corresponding penalties as defined in the Exhibit below shall apply:

S. No.	Performance Indicator	Explanation	Time	Acceptable Service Level	Penalty
A Redistribution Indicator					
1	High priority stations*-empty, peak hours	Percent of the time that high-priority stations are empty during peak hours	7am - 10 am & 4pm-7pm everyday	Should be less than 5% of the total time of operation	10% of the Recurrent Cost/ month

S. No.	Performance Indicator	Explanation	Time	Acceptable Service Level	Penalty
2	High priority stations-empty, non-peak hours	Percent of the time that high-priority stations are empty during peak hours	Operating hours excluding peak hours	Should be less than 10% of the total time of operation	5% of the Recurrent Cost/ month
3	Low priority stations-empty, peak hours	Percent of the time that high-priority stations are empty during peak hours	7am - 10 am & 4pm-7pm everyday	Should be less than 15% of the total time of operation	10% of the Recurrent Cost/ month
4	Low priority stations-empty, non-peak hours	Percent of the time that high-priority stations are empty during peak hours	Operating hours excluding peak hours	Should be less than 20% of the total time of operation	5% of the Recurrent Cost/ month
B Service Availability Indicator					
5	Bicycle Availability	Average cycle fleet available per day	At 6 am or when the operations start in the day whichever is later	Should always be 95% or more of the total authorized fleet size	10% of the Recurrent Cost/ month
6	Service Availability	Number of hours when the system is operational	Operating hours of the system	Should always be 100% of the agreed hours of operations (unless permission has been granted by client for otherwise)	10% of the Recurrent Cost/ month
7	Registration of Members	% of valid applications and registrations that are processed and membership issued within a day	All through the month	90% of all valid applications will have to be processed within 1 day of receipt of application	5% of the Recurrent Cost/ month
8	Registration of Non Members or Renewal of Membership or Top up of smart cards	% of valid applications for non- members, renewals and top of smart cards within half an hour	All through the month	90% of all applications will have to be processed within half an hour	5% of the Recurrent Cost/ month

S. No.	Performance Indicator	Explanation	Time	Acceptable Service Level	Penalty
C Maintenance Indicator					
9	Availability of the Website and smart phone app	% of total time in a month when website and smart phone app is not available	All through the month	The website and smart phone app are available for at least 90% of the time during the entire month	5% of the Recurrent Cost/ month
10	Maintenance Schedule	Following the pre-determined maintenance schedule	All through the month	The maintenance schedule is followed more than 90% of times as pre- determined	10% of the Recurrent Cost/ month
D Usage Indicator					
11	Ridership Level	Average ridership of the system per cycle/ day	All through the month	If the average ridership in the system is more than 4/ cycle/day	10% of the Recurrent Cost/month
12	Memberships	Total Memberships/ month	All through the month	If the total no: of memberships for the system is 750 members or more	10% of the Recurrent Cost/ month
E Awareness Indicator					
13	Trial Users	No. of people who were riding during the trial riding sessions/ no: of unique trial sessions	All through the month	If the total no. of trial users is more than 500 unique users/ month & more than 10 trial sessions/ month with different groups	5% of the Recurrent Cost/ month

Exhibit 5 Service Level Indicators

10.3 Reporting Procedures

Contractor representative shall prepare and distribute Service level performance reports in a mutually agreed format by the **5th working day of subsequent month**. The reports shall include “**actual versus target**” Service Level Performance, a variance analysis and discussion of appropriate issues or significant events. Performance reports shall be distributed to Client management personnel as directed by Client. Also, Contractor may be required to get the Service Level performance report audited by a third-party Auditor appointed by the Client (if required).

10.4 Service Level Change Control

10.4.1 General

- (a) It is acknowledged that this **Service Levels may change as Client's business needs evolve over the course of the contract period**. As such, this document also defines the following management procedures:
- (i) A process for negotiating changes to the Service Levels;
 - (ii) An issue management process for documenting and resolving particularly difficult issues;
 - (iii) Client and Contractor management escalation process to be used in the event that an issue is not being resolved in a timely manner by the lowest possible level of management.
- (b) Any changes to the levels of service provided during the term of this Agreement shall be requested, documented and negotiated in good faith by both Parties. Either Party can request a change.

10.4.2 Service Level Change Process:

The Parties may amend Service Level by mutual agreement in accordance. Changes can be proposed by either Party. Unresolved issues shall also be addressed. Contractor's representative shall maintain and distribute current copies of the Service Level document as directed by Client. Additional copies of the current Service Levels shall be available at all times to authorized Parties.

10.4.3 Version Control / Release Management:

All negotiated changes shall require changing the version control number. As appropriate, minor changes may be accumulated for periodic release or for release when a critical threshold of change has occurred.

7 Section 6. Standard Form of Contract

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Section - 6

STANDARD FORM OF CONTRACT

Project Name:

**Implementation of Smart Solution Projects under Smart City Project in
Bhubaneswar City**

Name of Assignment:

**Selection of Agency to Design, Procure, Install, Operate and Maintain Public
Bicycle Sharing System in Bhubaneswar**

Project Name:

**Selection of Agency to Design, Procure, Install, Operate and
Maintain Public Bicycle Sharing System in Bhubaneswar**

Contract No. _____

between

Bhubaneswar Smart City Limited

and

[Name of the Contractor]

Dated:

I. Contract Agreement

THIS CONTRACT AGREEMENT is made

the *[insert: ordinal]* day of *[insert: month]*, *[insert: year]*.

BETWEEN

1. **Bhubaneswar Smart City Limited**, a SPV Company incorporated under the Companies Act, 2013 and having its principal place of business at 2nd Floor, Block 1, BMC Bhawani Office Complex, Saheed Nagar, Bhubaneswar - 751007, represented by its CEO (hereinafter called “the Client”),

And

2. **[Insert: name of Contractor]**, a corporation incorporated under the laws of [insert: country of Contractor] and having its principal place of business at [insert: address of Contractor] (hereinafter called the “contractor”), which expression unless repugnant to the context or meaning thereof, be deemed to mean and include its beneficiaries, successors, administrators and permitted assigns).

WHEREAS the Client desires to engage the Contractor to Design, Procure, Install, Operate and Maintain the public bicycle system in Bhubaneswar (the “Project”), and the Contractor has agreed to such engagement upon and subject to the terms and conditions appearing below in this Contract Agreement.

NOW IT IS HEREBY AGREED as follows:

Article 1. Contract Documents

- 1.1 Contract Documents (Reference GCC Clause 1 (n))
The following documents shall constitute the Contract between the Client and the Contractor, and each shall be read and construed as an integral part of the Contract:
 - (a) This Contract Agreement and the Appendices attached to the Contract Agreement;
 - (b) Special Conditions of Contract (SCC);
 - (c) General Conditions of Contract (GCC);
 - (d) Section 5: Technical Requirements (including Implementation Schedule) ;
 - (e) The Bidder’s bid and original Financial Proposal;
 - (f) ***[Add here: any other documents].***
- 1.2 Order of Precedence
In the event of any ambiguity or conflict between the Contract Documents listed above, the order of precedence shall be the order in which the Contract Documents are listed in Article 1.1 (Contract Documents) above, provided that Appendix 5 shall prevail over all provisions of the Contract Agreement and the other Appendices attached to the Contract

Agreement and all the other Contract Documents listed in Article 1.1 above.

1.3 Definitions (Reference GCC Clause 1)

Capitalized words and phrases used in this Contract Agreement shall have the same meanings as are ascribed to them in the General Conditions of Contract.

**Article 2.
Contract Price and
Terms of Payment**

2.1 Contract Price (Reference GCC Clause 36)

The Client hereby agrees to pay to the Contractor the Contract Price in consideration of the performance by the Contractor of its obligations under the Contract. The Contract Price shall be the aggregate of: ***[insert: amount in figures]***, as specified in the Grand Summary Price Schedule.

The Contract Price shall be understood to reflect the terms and conditions used in the specification of prices in the detailed price schedules, including the terms and conditions of the associated Incoterms, and the taxes, duties and related levies if and as identified.

**Article 3.
Effective Date for
Determining Time
for Operational
Acceptance**

3.1 Effective Date (Reference GCC Clause 10)

The time allowed for supply, installation, and achieving Operational Acceptance of the System shall be determined from the date when all of the following conditions have been fulfilled:

- (a) This Contract Agreement has been duly executed for and on behalf of the Client and the Contractor;
- (b) The Contractor has submitted to the Client the performance security in accordance with GCC Clause 39 (c);
- (c) ***[specify here: any other conditions, for example, opening/confirmation of letter of credit]***.

Each party shall use its best efforts to fulfil the above conditions for which it is responsible as soon as practicable.

- 3.2 If the conditions listed under 3.1 are not fulfilled within two (2) months from the date as per GCC Clause 10, because of reasons not attributable to the Contractor, the Parties shall discuss and agree on an equitable adjustment to the Contract Price and the Time for Achieving Operational Acceptance and/or other relevant conditions of the Contract.

- Article 4. Appendices**
- 4.1 The Appendices listed below shall be deemed to form an integral part of this Contract Agreement.
- 4.2 Reference in the Contract to any Appendix shall mean the Appendices listed below and attached to this Contract Agreement, and the Contract shall be read and construed accordingly.

APPENDIXES

Appendix 1: Categories of Software

Appendix 2: Custom Materials

Appendix 3: Revised Price Schedules (if any)

Appendix 4: Minutes of Contract Finalization Discussions and Agreed-to Contract Amendments

IN WITNESS WHEREOF the Client and the Contractor have caused this Contract Agreement to be duly executed by their duly authorized representatives on the day and year first above written.

For and on behalf of the Client:

Signed:

in the capacity of ***[insert: Name with title or other appropriate designation]***

For and on behalf of the Contractor:

Signed:

in the capacity of ***[insert: Name with title or other appropriate designation]***

II. General Conditions of Contract

A. GENERAL PROVISIONS

1. Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) “Activity” means an activity or action specified in the Section 5 – Technical Requirements, which is to be performed by the Contractor as a part of the scope of Work.
- (b) “Applicable Law” means all laws in force and effect in India, as on the date of the Contract, or which may be promulgated or brought into force and effect after the date of the Contract, including all regulations, rules and notifications made thereunder and all judgments, decrees, injunctions, writs, orders, directives and notifications issued by any court or Authority, as may be in force and effect during the subsistence of the Contract and applicable to either Party, their obligations or this Contract, from time to time.
- (c) “Affiliates” means, in relation to the Contractor, a Person who Controls or is Controlled by such Contractor, or a Person who is under the common Control of the same Person who Controls such Contractor.
- (d) “Authority” means the GoI, GoO or any local authority or any department, instrumentality or agency thereof or any statutory body or corporation (to the extent acting in a legislative, judicial or administrative capacity and not as a contracting party with the Client or the Contractor) or commission under the direct or indirect control of the central, state or local government or any political sub-division thereof or any court, tribunal or judicial body within India.
- (e) “Breakage Costs” means the amount payable by the Client to the Contractor that is attributable to the losses, costs, claims and expenses that have been or will reasonably and properly be incurred by the Contractor in respect of: (i) any contracts placed that cannot be terminated, without such losses, costs, claims and expenses being incurred; and (ii) any expenditure incurred in anticipation of the performance of the Services, provided however that the Contractor has used its reasonable endeavours to mitigate the losses, costs, claims and expenses incurred, as a result of the termination of the Contract due to a Client default (as set out in GCC Clause 18 b), to the extent that such losses, costs, claims and expenses are or may be incurred in connection with the performance of the

Services.

- (f) “CEO” means Chief Executive Officer of the Client.
- (g) “Clause” means a clause of the GCC, as may be supplemented by the SCC.
- (h) “Client” shall have the meaning ascribed to it in the preamble of the Contract.
- (i) “Client Event of Default” has the meaning ascribed to it in GCC Clause 18 b.
- (j) “Client Indemnified Party” has the meaning ascribed to it in Clause 19.1.
- (k) “Communication” has the meaning ascribed to it in Clause 6.1.
- (l) “Conflict of Interest” shall have the meaning ascribed to it in GCC Clause 22 read with ITB Clause 2 of Section 1 of the RFP.
- (m) “Contract” means the Contract Agreement entered into between the Client and the Contractor, together with the Contract Documents referred to therein. The Contract Agreement and the Contract Documents shall constitute the Contract, and the term “the Contract” shall in all such documents be construed accordingly.
- (n) “Contractor” shall have the meaning ascribed to it in the preamble of the Contract.
- (o) “Contractor’s Event of Default” has the meaning ascribed to it in GCC Clause 18 a.
- (p) “Contractor Indemnified Party” has the meaning ascribed to it in Clause 19.2.
- (q) “Contract Documents” means the documents specified in Article 1.1 (Contract Documents) of the Contract Agreement (including any amendments to these Documents).
- (r) “Contract Agreement” means the agreement entered into between the Client and the Contractor using the form of Contract Agreement contained in the Sample Forms Section of the Bidding Documents and any modifications to this form agreed to by the Client and the Contractor. The date of the Contract Agreement shall be recorded in the signed form.
- (s) “Control” in relation to a Person, means: (i) the ownership, directly or indirectly, of more than 50% of the voting shares of such Person; or (ii) the power, directly or indirectly, to direct or influence the management and policies of such Person by operation

of law, contract or otherwise. The term “Controls” and “Controlled” shall be construed accordingly.

- (t) “Day” means a working day unless indicated otherwise.
- (u) “Defect Liability Period” (also referred to as the “Warranty Period”) means the period of validity of the warranties given by the Contractor commencing at date of the Operational Acceptance Certificate of the System or Subsystem(s), during which the Contractor is responsible for defects with respect to the System (or the relevant Subsystem[s]) as provided in GCC Clause 57 (Defect Liability).
- (v) “Deliverable” means a work product (including materials, equipment, installations, reports, software, know-how, design, drawings, diagrams, maps, models, specifications, analysis, solutions, data base, programmes, technical information, data and other documents) to be prepared and submitted by the Contractor as a part of the Services, in accordance with the terms of this Contract and the term “Deliverables” shall be construed accordingly. The list of Deliverables to be provided by the Contractor is set out in the Technical Requirements.
- (w) “Deliverable Due Date” means, with respect to a particular Deliverable, the date by which such Deliverable (in a final and approved form) is required to be submitted by the Contractor to the Client for all the Modules, as specified in the Work Schedule.
- (x) “Effective Date” means the date on which this Contract comes into force and effect pursuant to GCC Clause 10.
- (y) *deleted*
- (z) “Force Majeure” shall have the meaning ascribed to it in GCC Clause 65.
- (aa) “GCC” means these General Conditions of Contract.
- (bb) “GoO” means the Government of Odisha.
- (cc) “GoI” means the Government of India.
- (dd) “Good Industry Practices” means the exercise of that degree of skill, diligence and prudence, and those practices, methods, specifications and standards of safety and performance, as may change from time to time and which would reasonably and ordinarily be expected to be used and exercised by a skilled and experienced Contractor engaged in the performance of services of the type, size and nature similar to the Services required by Contractor under this Contract.

- (ee) “Indemnified Party” has the meaning ascribed to it in GCC Clause 19.
- (ff) “Intellectual Property Rights” means, in respect of the Services, any copyright, trademarks, technology, know-how, industrial processes, proprietary information, licenses, patents, permissions from or agreements with licensors of any processes, methods and systems incorporated or to be incorporated in the performance of the Services, registered designs, franchises, trade secrets, data bases, source codes, brand names, service marks, trade names, and any other intellectual and industrial property rights, whether registrable or not, subsisting or recognized under the Applicable Law or laws of any other jurisdiction, including all applications, renewals, extensions and revivals thereof.
- (gg) “Key Expert” means an individual engaged by the Contractor to provide the Services or any part thereof (required of Contractor under this Contract), who has the minimum qualification and experience as specified in Section 5 – Technical Requirements.
- (hh) “LOA” means Letter of Award.
- (ii) “Local Currency” means the official currency of India (i.e., Indian Rupees).
- (jj) “Operational Acceptance Certificate” means a certificate issued by the Client to the Contractor upon the Client’s approval of the relevant Deliverable/milestone, which may be endorsed by the Client in accordance with GCC Clause 54.3.
- (kk) “Party” means the Client or the Contractor, as the case may be, and “Parties” means both of them.
- (ll) “Payment Schedule” means the schedule for payment of the Price to the Contractor, as set out in the SCC.
- (mm) “Performance Security” means a duly executed, irrevocable and unconditional bank guarantee to be procured and maintained by the Contractor in accordance with GCC Clause 39 read with the SCC, to secure the due and proper performance of the Contract.
- (nn) “Person” means any individual, company, corporation, firm, partnership, trust, sole proprietor, limited liability partnership, co-operative society, Government Company or any other legal entity.
- (oo) “Personnel” means, collectively, the managers, engineers, support team, and any other personnel of the Contractor engaged by the Contractor to perform the Work or Services or any part thereof under the

Contract.

- (pp) “The Post-Warranty Service Period (Operation Phase)” means the number of years **defined in the SCC** (if any), following the expiration of the Warranty Period during which the Contractor may be obligated to provide Software licenses, maintenance, and/or technical support services for the System, either under this Contract or under separate contract(s).
- (qq) “Project Manager” of the Client shall be either the Client’s Project Manager or the Client’s authorized representative.
- (rr) “Proposal” means the submission made by the Contractor pursuant to the RFP.
- (ss) “RFP” means Request for Proposal dated along with schedules, annexures, appendices and any subsequent amendment issued by the Client for appointment of the Contractor.
- (tt) “SCC” means the special conditions of contract with specific details and information to supplement (and not override) the GCC.
- (uu) “Section” means a section of the Contract.
- (vv) “Services” means the work to be performed by the Bidder pursuant to the Contract, as described in greater detail in the RFP document.
- (ww) “Taxes” means all taxes, duties, imposts, levies and charges pursuant to any law (whether currently in force or coming into force on or after the Effective Date), including income tax, service tax, value added tax, central sales tax, customs duty excise duty, fees, cess, octroy, entry tax, and any interest, surcharge, penalty or fine in connection therewith.
- (xx) “Third Party” means any person or entity other than the Client and the Contractor.
- (yy) “Technical Proposal” means the technical proposal forming part of the Proposal submitted by the Contractor in response to the RFP.
- (zz) “Variation” has the meaning ascribed to it in GCC Clause 14.2.
- (aaa) “Variation Order” has the meaning to it in GCC Clause 14.5.

2. Relationship between the Parties

2.1 Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Client and the

Contractor. The Contractor, subject to this Contract, has complete charge of the Personnel, if any, performing the Services required of Contractor under this Contract and shall be fully responsible for the Services performed by them or on their behalf hereunder.

- 3. Governing Law** **3.1** This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.
- 4. Language** **4.1** This Contract has been executed in the language specified in the SCC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
- 5. Headings** **5.1** The headings are for convenience of reference only and shall not limit, alter or affect the meaning of this Contract.
- 6. Communications** **6.1** Any communication, approval, notice, report, consent, certificate or request required or permitted to be given or made pursuant to this Contract (“**Communication**”) shall be in writing in the language specified in the SCC. Unless otherwise specified in the Contract, any such Communication shall be sent by electronic mail or facsimile transmission, with a confirmation copy by courier or registered post to the address specified in the SCC. Any Communication sent by electronic mail or facsimile shall be deemed to have been received on the date of transmission and any notice served by courier or registered post shall be deemed to be received when actually delivered to the address specified in the SCC.
- 6.2** A Party may change its address for Communication hereunder by giving the other Party notice of such change to the address specified in the SCC.
- 7. Location** **7.1** The System shall be deployed at such locations as are specified in Section 5 – Technical Requirements hereto and, where the location of a particular task is not so specified, at such locations, as the Client may approve.
- 8. Authorized Representatives** **8.1** Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Client or the Contractor may be taken or executed by the officials specified in the SCC.

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| 9. Corrupt and Fraudulent Practices | 9.1 | The Contractor shall comply with the Client’s policy in regard to corrupt and fraudulent practices as set forth in Attachment 1 to the GCC. |
| a. Commissions and Fees | 9.2 | The Client requires the Contractor to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the selection process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee. Failure to disclose such commissions, gratuities or fees may result in termination of the Contract. |

B. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

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| 10. Effectiveness of Contract | 10.1 | This Contract shall come into force and effect on the date on which the conditions specified in Article 3 of Contract Agreement are fulfilled (the “Effective Date”) |
| 11. Commencement of Contract | 11.1 | The Contractor shall submit in writing an acceptance of LOA, ensure compliance to conditions of Article 3 and start the Project with Kick-off meeting from the effective date which shall be no later than the date specified in the SCC. |
| 12. Expiration of Contract | 12.1 | Unless terminated earlier pursuant to Clause 18, this Contract shall expire at the end of such time period after the Effective Date as specified in the SCC, unless extended in accordance with this Contract. |
| 13. Entire Agreement | 13.1 | This Contract constitutes the entire understanding between the Parties regarding the scope of the System and supersedes all prior written or oral understandings, offers, agreements, communication or representations affecting the same subject matter. It is clarified that the obligations of the Contractor under the RFP shall continue to subsist and shall be deemed to form part of the Contract. |
| 14. Change or Modifications or Variations | 14.1 | Any change or modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the System, may only be made by written agreement between the Parties. |
| | 14.2 | Both the Client and the Contractor may, at any time |

during the term of the Contract, propose a variation to the System or Solution and/or any other provision of the Contract (Variation).

14.3 No change made necessary because of any default of the Contractor in the performance of its obligations under the Contract shall be deemed to be a Change, and such change shall not result in any adjustment of the Contract Price or the Time for Achieving Operational Acceptance.

14.4 Moreover, the Client and Contractor will agree, during development of the Project Plan, to a date prior to the scheduled date for Operational Acceptance, after which the Technical Requirements for the System shall be “frozen.” Any Change initiated after this time will be dealt with after Operational Acceptance.

14.5 *Client Proposed Variation:*

(i) The Client may, at any time during the term of the Contract, instruct the Contractor, by issuing a written notice, to carry out a Variation (a **Variation Order**). Provided that, the Client shall not propose a Variation which is not technically or financially feasible, such feasibility being determined in accordance with Good Industry Practice, or any Variation that constitutes unrelated work;

(ii) Within fifteen (15) days of receipt of a Variation Order, the Contractor shall submit a proposal setting out in sufficient detail the implications of the proposed Variation, including the (a) description of the work required or no longer required; (b) an estimate of the increase or decrease in the Total Value of Contract; (c) the Service Schedule; (d) the Procurement & Supply Schedule and (e) Payment Schedule;

(iii) Based on its review of the proposal submitted by the Contractor, the Client may: (a) accept the proposal and the corresponding adjustments to the Total Value of Contract, Services Schedule, Procurement & Supply Schedule and Payment Schedule; (b) provide its comments on the proposal seeking amendments and/or justification for the implications put forth by the Contractor; or (c) reject the proposal submitted by the Contractor and withdraw the Variation Order, within seven (7) days from the date of receipt of the Contractor's proposal under Clause 14.5(ii);

(iv) If the Client accepts the Contractor's proposal

under Clause 14.5(ii) of this Section, it shall issue an instruction identifying the offer that is being accepted and requesting the Contractor to proceed with the Variation. Upon the Client's acceptance of the Contractor's proposal, the Contractor shall proceed with the Variation;

- (v) To the extent the Client seeks amendments and/or justification in the proposal submitted by the Contractor, the Contractor shall incorporate or address, in writing, the Client's comments and submit a revised proposal. On approval of the revised proposal in accordance with Clause 14.5 (iv), the Contractor shall proceed with the Variation;
- (vi) On implementation of a Variation Order, the Contractor shall be entitled to the agreed increase in the Total Value of Contract and/or adjustment to the Procurement & Supply Schedule, Services Schedule or Payment Schedule for carrying out the Variation;
- (vii) Notwithstanding anything to the contrary in this Clause 14.5, the Contractor shall be bound to implement any Variation that is necessitated by a Change in Law (*discussed in Clause 15 below*) and any consequent adjustment in the Total Value of Contract, Procurement & Supply Schedule, Services Schedule or Payment Schedule, on account of such Variation, shall be determined in accordance with Clause 15 below.

14.6 Contractor Proposed Variation:

- (i) The Contractor may propose a Variation, which it considers necessary or desirable to improve the quality of the System and Solution to be deployed. While proposing a Variation, the Contractor shall submit a proposal to the Client, with a statement setting out: (a) detailed particulars of the Variation; (b) the work required or no longer required; (c) an estimate of any adjustment in the Total Value of Contract; (d) any adjustment to the Procurement & Supply Schedule, Services Schedule or Payment Schedule; and (e) any other effect the proposed Variation would have on any other provision of the Contract;
- (ii) Based on its review of the Variation proposed

by the Contractor, the Client may: (a) confirm the Variation; (b) provide its comments on the proposed Variation; or (c) reject the proposed Variation, while giving reasons in writing for such rejection, within seven (7) days of the submission of the proposal for a Variation. Upon the Client's acceptance of the proposed Variation, the Contractor shall proceed with the Variation;

- (iii) To the extent the Client seeks amendments in the proposed Variation, the Contractor shall incorporate or address, in writing, the Client's comments and submit a revised proposal. On approval of the revised proposal in accordance with Clause 14.6(ii), the Contractor shall proceed with the Variation;
- (iv) If the Parties are unable to reach agreement regarding the terms of a Variation Order, such disagreement shall be resolved pursuant to GCC Clause 20.

14.7 Notwithstanding anything contained in this Clause 14, a Variation made necessary due to any act, omission or default of the Contractor in the performance of its obligations under the Contract will not result in any increase in the Total Value of Contract or extension of any Deliverable Due Date.

14.8 No Variation invalidates the Contract. The Contractor agrees that a Variation may involve the omission of any part of the Scope and further, the Contractor agrees that the Client may engage others to perform that part of the Scope which has been omitted. The Contractor further acknowledges that any omission or omissions will not constitute a basis to allege that the Client has repudiated the Contract no matter the extent or timing of the omission(s).

14.9 Notwithstanding anything contained in this Clause 14, the Client shall not agree to any Variation if: (i) the Contractor seeks any Variation in its obligations which is due to any shortcoming or deficiency in the documents provided by the Contractor; (ii) the Variation relates to repeat performance of the Solution due to the Contractor's failure to comply with the Client's requirements; or (iii) escalation in the cost of equipment, materials or the work force, other than on account of a Change in Law.

14.10 *If due to any reason the Contractor and Client are not able to finalize a change in the system (ex: including a hardware component or a software functionality which was not anticipated earlier), the Client reserves a right to get the change executed by any other third party. However the component or functionality being a part of the comprehensive system, the original Contractor shall have obligation to support any integration effort required whatsoever and extend full co-operation to the third party and the Client.*

14.11 The unit rates as indicated in the Contract shall be fixed during the Contractor's performance of the Contract and shall not subject to increase on any account for any variation order during the currency of the Contract.

15. Change in Law

15.1 For the purposes of this Contract, "Change in Law" means the occurrence of any of the following events after the date of execution of the Contract: (i) the modification, amendment or repeal of any existing Applicable Law; (ii) the enactment, promulgation, bringing into effect, adoption of any new Applicable Law; (iii) change in the interpretation or application of any Applicable Law by any Authority; (iv) the introduction of a requirement for the Contractor to obtain any new approval or permit or the unlawful revocation of an applicable approval or permit; or (v) the introduction of any new Tax or a change in the rate of an existing Tax.

Change in Law does not include: (i) any change in the (Indian) Income Tax Act, 1961 with regard to the taxes on the income of the Contractor; (ii) any statute that has been published in draft form or as a bill that has been placed before the legislature or that has been passed by the relevant legislature as a bill but has not come into effect prior to the date of the Contract and which is a matter of public knowledge; or (iii) a draft statutory instrument or delegated legislation that has been published prior to the date of the Contract, which is under the active consideration or contemplation of the GoI or GoO and which is a matter of public knowledge.

15.2 If, after the date of this Contract, there is any Change in Law which:

- (i) increases the cost incurred by the Contractor in deploying the Project; and/or
- (ii) affects the Project Schedule.

then the Contractor may notify the Client and appropriate adjustments shall be made to the Total Value of Contract to account for the Change in Law. The notice shall be accompanied by all supporting documents, details and information required by the Client to assess the claims of the Contractor. Provided that, if a Change in Law becomes applicable as a result of a delay by the Contractor, then the Contractor shall not be entitled to any adjustment in the Total Value of Contract and/or the Project Schedule.

Where it is not possible to address the effect of a Change in Law (through an adjustment in the Total Value of Contract and/or the Project Schedule), the Parties shall agree on a mechanism, including amending the terms of the Contract, to mitigate the adverse effects of the Change in Law to Contractor. If the Parties are unable to reach an agreement within thirty (30) days of the notification of a Change in Law, then the matter shall be referred to dispute resolution in accordance with GCC Clause 20.

16. Joint Venture

16.1

If the Contractor is a Joint Venture/Consortium of two or more firms, all such firms shall be jointly and severally bound to the Client for the fulfilment of the provisions of the Contract and shall designate one of such firms to act as a leader with authority to bind the Joint Venture/Consortium as well as each member of the Joint Venture / Consortium. The composition or constitution of the Joint Venture/Consortium shall not be altered without the prior consent of the Client.

17. Suspension

17.1

The Client may, by written notice of suspension to the Contractor, suspend all payments to the Contractor hereunder if the Contractor fails to perform or is in breach of any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension: (i) shall specify the nature of the failure or breach, and (ii) shall request the Contractor to remedy such failure within a period not exceeding thirty (30) calendar days after receipt by the Contractor of such notice of suspension.

- 18. Termination**
- 18.1** This Contract may be terminated by either Party as per provisions set out below:
- a. By the Client for Contractor's default**
- 18.1.1** A "Contractor's Event of Default" means any of the events set out below, unless such event has occurred as a consequence of a default by the Client as set out in GCC Clause 18.1.8, a Change in Law or any event of Force Majeure ("Contractor's Event of Default"):
- (i) if the Contractor fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to GCC Clause 17 within thirty (30) days of receipt of such notice of suspension or within such further period as the Client may have subsequently granted in writing;
 - (ii) if the Contractor becomes insolvent or bankrupt or enters into any agreements with its creditors for relief of debt or takes advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary or, if the Contractor is a corporation, a resolution is passed or order is made for its winding up;
 - (iii) if the Contractor's liability to pay delay liquidated damages reaches the cap on delay liquidated damages specified in GCC Clause 55.2 but the delay in respect of which the delay liquidated damages are payable continues to exist;
 - (iv) If the Contractor:
 - (a) has abandoned or repudiated the Contract;
 - (b) has without valid reason failed to commence work on the System promptly;
 - (c) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause;
 - (d) refuses or is unable to provide sufficient Materials, Services, or labour to execute and complete the System in the manner specified in the Agreed and Finalized Project Plan furnished under GCC Clause 46 at rates of progress that give reasonable assurance to the

Client that the Contractor can attain Operational Acceptance of the System by the Time for Achieving Operational Acceptance as extended;

- (e) *fails to provide sufficient Manpower, Material and Services for maintenance as required for meeting the SLA's specified under Service Level Agreement during the Maintenance Period (including warranty period and post-warranty service period);*
- (f) If the penalties calculated as per SLA's specified under *Service Level Agreement*, exceed twenty percent (20%) of the monthly payment of Recurrent Cost (OPEX) for that particular month.
- (v) if the Contractor has engaged in corrupt, fraudulent, collusive, coercive, undesirable or restrictive practice in competing for or in executing the Contract, including but not limited to wilful misrepresentation of facts concerning ownership of Intellectual Property Rights in, or proper authorization and/or licenses from the owner to offer, the hardware, software, or materials provided under this Contract;
- (vi) if the Contractor fails to furnish, renew and/or maintain the Performance Security in accordance with this Contract;
- (vii) if the Contractor assigns or transfers the Contract or its rights and obligations under this Contract without the prior written consent of the Client;
- (viii) if any of the Contractor's representations and warranties are found to be false and/or misleading; or
- (ix) if the Contractor is in breach of any Applicable Laws.

18.1.2 Without prejudice to other provisions of this Contract, upon the occurrence of a Contractor Event of Default, the Client may deliver a notice to the Contractor specifying the nature of the breach and giving a cure period of thirty (30) days to the Contractor to cure the Contractor Event of Default.

Provided that, in case of occurrence of a Contractor Event of Default set out in Clauses 18.1.1(ii), or 18.1.1 (iv), the Client shall have the right to terminate the Contract immediately, without any obligation to provide a cure period.

18.1.3 Subject to Clause 18.1.2, and except in case of the event set out at Clause 18.1.1 (iii), if by the end of the cure period, the Contractor has not remedied the Contractor Event of Default or taken steps to remedy the Contractor Event of Default to the satisfaction of the Client, then the Client shall have the right to issue a termination notice, upon which this Contract shall terminate forthwith.

18.1.4 Upon receipt of the notice of termination under GCC Clause 18.1.1, the Contractor shall, either immediately or upon such date as is specified in the notice of termination:

- (a) cease all further work, except for such work as the Client may specify in the notice of termination for the sole purpose of protecting that part of the System already executed or any work required to leave the site in a clean and safe condition;
- (b) terminate all subcontracts, except those to be assigned to the Client pursuant to GCC Clause 18.1.4(d) below;
- (c) deliver to the Client the parts of the System executed by the Contractor up to the date of termination;
- (d) to the extent legally possible, assign to the Client all right, title and benefit of the Contractor to the System or Subsystems as at the date of termination, and, as may be required by the Client, in any subcontracts concluded between the Contractor and its Subcontractors;
- (e) deliver to the Client all drawings, specifications, and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the System.

18.1.5 The Client may enter upon the site, expel the Contractor, and complete the System itself or by employing any third party. Upon completion of the System or at such earlier date as the Client thinks appropriate, the Client shall give notice to the

Contractor that such Contractor's Equipment will be returned to the Contractor at or near the site and shall return such Contractor's Equipment to the Contractor in accordance with such notice. The Contractor shall thereafter without delay and at its cost remove or arrange removal of the same from the site.

18.1.6 (a) *If the termination takes place prior to the Operational Acceptance subject to GCC Clause 18.1.7(a), the Contractor shall be entitled to be paid the Contract Price attributable to the portion of the System executed as on the date of termination and the costs, if any, incurred in protecting the System and in leaving the site in a clean and safe condition pursuant to GCC Clause 18.1.4(a). Any sums due to the Client from the Contractor accruing prior to the date of termination shall be deducted from the amount to be paid to the Contractor under the Contract.*

(b) If the termination takes place after the Operational Acceptance subject to GCC Clause 18.1.7(b), the Contractor shall be entitled to be paid the Contract Price attributable for supply of the System (Supply and Installation Cost) if any and portion of the recurrent cost up to the date of termination, and the costs, if any, incurred in protecting the System and in leaving the site in a clean and safe condition pursuant to GCC Clause 18.1.4(a). Any sums due to the Client from the Contractor accruing prior to the date of termination shall be deducted from the amount to be paid to the Contractor under the Contract. In such event, all rights of Contractor related to monetization pursuant to GCC Clause 21.7, mentioned under Special Conditions of Contract, shall stand terminated without any additional compensation to the Contractor.

18.1.7

(a) *If the termination takes place before the Operational acceptance, the cost of completing the System by the Client as per the Contract shall be determined. If the sum that the Contractor is entitled to be paid, pursuant to GCC Clause 18.1.6 (a), plus the reasonable costs incurred by the Client in the completing the Scope of Work, exceeds the Total cost, the Contractor shall be liable to reimburse such*

excess money to the Client. If such excess is greater than the sums due to the Contractor under GCC Clause 18.1.6, the Contractor shall pay the balance to the Client, and if such excess is less than the sums due to the Contractor under GCC Clause 18.1.6(a), the Client shall pay the balance to the Contractor. The Client and the Contractor shall agree in writing, on the computation described above and the manner in which any sums shall be paid.

- (b)** *If the termination takes place after Operational acceptance, the cost of completing the remaining Scope of Work by the Client as per the Contract shall be determined. If the pro-rata sum that the Contractor is entitled to be paid for the maintenance period, pursuant to GCC Clause 18.1.6 (b), plus the reasonable costs incurred by the Client in the completing the Scope of Work, exceeds the total pro-rata Recurrent Cost of the Contract due, the Contractor shall be liable to reimburse such excess money to the Client. If such excess is greater than the sums due to the Contractor for the maintenance period under GCC Clause 18.1.6 (b), the Contractor shall pay the balance to the Client, and if such excess is less than the sums due to the Contractor for the maintenance period under GCC Clause 18.1.6 (b), the Client shall pay the balance to the Contractor. The Client and the Contractor shall agree in writing, on the computation described above and the manner in which any sums shall be paid.*

b. By the Contractor for Client's default

18.1.8 A "Client Event of Default" means any of the following events set out below, unless such event has occurred as a consequence of a default by the Contractor as set out in Clause 18.1.1, a Change in Law or any event of Force Majeure:

- (i) if the Client fails to pay any undisputed money due to the Contractor pursuant to this Contract within forty five (45) calendar days after receiving written notice from the Contractor that such payment is overdue;
- (ii) if the Client is in material breach of its obligations under this Contract and has not remedied the same within forty five (45) days (or such longer period as the Contractor may have subsequently approved in writing)

following the receipt by the Client of the Contractor's notice specifying such breach;

- (iii) if the Contractor is unable to carry out any of its obligations under the Contract for any reason attributable to the Client, including but not limited to the Client's failure to provide possession of or access to the site or other areas or failure to obtain any governmental permit necessary for the execution and/or completion of the System;
- (iv) if the Client becomes insolvent or bankrupt or enters into any agreements with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary; or, if the Client is a corporation, a resolution is passed or order is made for its winding up;
- (v) if the Client suspends the performance of the Services for more than sixty (60) days, for reasons not attributable to the Contractor.

18.1.9 Without prejudice to other provisions of this Contract, upon the occurrence of a Client Event of Default, the Contractor may deliver a notice to the Client specifying the nature of the breach and giving a cure period of thirty (30) days to the Client to cure the Client Event of Default.

Provided that, in case of occurrence of a Client Event of Default set out in Clauses 18.1.8(iii) or 18.1.8 (iv), the Contractor shall have the right to terminate the Contract immediately, without any obligation to provide a cure period.

18.1.10 If the Contract is terminated under GCC Clause 18.1.8, then the Contractor shall immediately:

- (a) cease all further work, except for such work as may be necessary for the purpose of protecting that part of the System already executed, or any work required to leave the site in a clean and safe condition;
- (b) terminate all subcontracts, except those to be assigned to the Client pursuant to Clause 18.1.10(d) (ii);
- (c) remove all Contractor's Equipment from the site and repatriate the Contractor's and its

Subcontractor's personnel from the site;

- (d) In addition, the Contractor, subject to the payment specified in GCC Clause 18.1.11, shall:
 - (i) deliver to the Client the parts of the System executed by the Contractor up to the date of termination;
 - (ii) to the extent legally possible, assign to the Client all right, title, and benefit of the Contractor to the System, or Subsystems, as of the date of termination, and, as may be required by the Client, in any subcontracts concluded between the Contractor and its Subcontractors;
 - (iii) to the extent legally possible, deliver to the Client all drawings, specifications, and other documents prepared by the Contractor or its Subcontractors as of the date of termination in connection with the System.

18.1.11 If the Contract is terminated under GCC Clause 18.1.8, the Client shall pay to the Contractor all payments specified in GCC Clause 18.1.17, and reasonable compensation for all loss, except for loss of profit, or damage sustained by the Contractor arising out of, in connection with, or in consequence of such termination.

18.1.12 Termination by the Contractor pursuant to this GCC Clause 18 b is without prejudice to any other rights or remedies of the Contractor that may be exercised in lieu of or in addition to rights conferred by GCC Clause 18 b.

18.1.13 In this GCC Clause 18, the expression "portion of the System executed" shall include all work executed, Services provided, and all Information Technologies, or other Goods acquired (or subject to a legally binding obligation to purchase) by the Contractor and used or intended to be used for the purpose of the System, up to and including the date of termination.

18.1.14 In this GCC Clause 18, in calculating any monies due from the Client to the Contractor, account shall be taken of any sum previously paid by the Client to the Contractor under the Contract, including any advance payment paid pursuant to the SCC.

c. At Client's convenience

18.1.15 The Client may at any time terminate the Contract for any reason by giving the Contractor a notice of termination that refers to this GCC Clause 18 c.

18.1.16 Upon receipt of the notice of termination under GCC Clause 18.1.15, the Contractor shall either as soon as reasonably practical or upon the date specified in the notice of termination:

- (a) cease all further work, except for such work as the Client may specify in the notice of termination for the sole purpose of protecting that part of the System already executed, or any work required to leave the site in a clean and safe condition;
- (b) terminate all subcontracts, except those to be assigned to the Client pursuant to GCC Clause 18.1.16 (d) (ii) below;
- (c) remove all Contractor's Equipment from the site, repatriate the Contractor's and its Subcontractors' personnel from the site, remove from the site any wreckage, rubbish, and debris of any kind;
- (d) in addition, the Contractor, subject to the payment specified in GCC Clause 18.1.17, shall
 - (i) deliver to the Client the parts of the System executed by the Contractor up to the date of termination;
 - (ii) to the extent legally possible, assign to the Client all right, title, and benefit of the Contractor to the System, or Subsystem, as at the date of termination, and, as may be required by the Client, in any subcontracts concluded between the Contractor and its Subcontractors;
 - (iii) deliver to the Client all non-proprietary drawings, specifications, and other documents prepared by the Contractor or its Subcontractors as of the date of termination in connection with the System;
 - (iv) *If termination takes place after operational acceptance is achieved, the Contractor shall fully comply with the Exit Management Plan as specified*

in Section E of GCC.

18.1.17 In the event of termination of the Contract under GCC Clause 18.1.15, the Client shall pay to the Contractor the following amounts:

- (a) the Contract Price, properly attributable to the parts of the System executed by the Contractor and payable recurrent cost on pro-rata basis, if project is in Maintenance Period, as on the date of termination;
- (b) the costs reasonably incurred by the Contractor in the removal of the Contractor's Equipment from the site and in the repatriation of the Contractor's and its Subcontractors' personnel;
- (c) any amount to be paid by the Contractor to its Subcontractors in connection with the termination of any subcontracts, including any cancellation charges;
- (d) costs incurred by the Contractor in protecting the System and leaving the site in a clean and safe condition pursuant to GCC Clause 18.1.16 (a); and
- (e) the cost of satisfying all other obligations, commitments, and claims that the Contractor may in good faith have undertaken with third parties in connection with the Contract and that are not covered by GCC Clause 18.1.17 (a) through (d) above.

**d. Termination
for Force
Majeure**

18.1.18 If a Force Majeure event affecting any Party subsists for a continuous period of one hundred eighty (180) days, then either Party may issue a notice of termination to the other Party. Upon receipt of this notice, the Parties shall have a period of fifteen (15) days to agree on the manner in which the Contract may be progressed upon cessation of the Force Majeure event and the variations, if any, required to the Contract to address the consequences of the Force Majeure event. If on the expiry of the fifteen (15) day period, the Parties fail to arrive at an agreement, either Party may immediately terminate this Contract by written notice to the other Party.

Notwithstanding anything to the contrary in this Contract, in case of occurrence of a Force Majeure event which affects one or more of the Modules but not the entire Contract, the Contract may be partially

terminated with respect to the Modules affected by such Force Majeure event. Such partial termination shall not impact the validity of the Contract or the obligations of the Contractor with regard to the Modules which are not affected by the Force Majeure event.

e. Cessation of Rights and Obligations **18.1.19** Upon termination of this Contract pursuant to Clause 18, or upon expiration of this Contract pursuant to Clause 12, all rights and obligations of the Parties hereunder shall cease, except (i) any cause or action which may have occurred in favour of either Party or any right which is vested in either Party under any provision of the Contract as a result of any act, omission, deed, matter or thing done or omitted to be done by either Party before the expiry or termination of the Contract, (ii) the obligation of confidentiality set forth in Clause 23, (iii) the Contractor's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause 26, (iv) the indemnity obligations of the Parties as set out in Clause 19; (v) the obligations in relation to intellectual property rights under Clause 42; and (vi) any right which a Party may have under the Applicable Law.

f. Cessation of Services **18.1.20** Upon termination of this Contract by either Party, the Contractor shall: (i) immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum; and (ii) transfer to the Client all documents, data, programmes, applications, software, equipment etc. developed or acquired by the Client for the purposes of performing the System along with the right to use the Intellectual Property in such documents, data, programmes, applications, software, equipment for the Project.

19. Indemnity and Limitation of Liability **19.1** Contractor's indemnity:

The Contractor must indemnify and hold harmless the Client and the Client's staff, their Affiliates and directors of their Affiliates (each a "Client Indemnified Party") from and against any and all claims and losses suffered or incurred by the Client Indemnified Party, including claims by a third party, arising out of:

(i) any failure of the Contractor to pay taxes or any statutory dues;

- (ii) any non-compliance or violation of Applicable Law or applicable permits by the Contractor;
- (iii) breach of the Contractor's representations and warranties set out in the Contract;
- (iv) bodily injury, sickness or death of any person whatsoever engaged by Contractor, Client or any of their subcontractor on the site during duty hours;
- (v) breach of the Contractor's obligations under the Contract;
- (vi) physical damage to the Project Office or any property therein;
- (vii) loss of or physical damage to property of any third party; or
- (viii) Infringement of the Intellectual Property Rights of any third party by the Contractor under the Contract.

19.2 Client's indemnity:

The Client agrees to indemnify and hold harmless the Contractor and the Personnel (each a "Contractor Indemnified Party") from and against any and all claims or losses suffered or incurred by the Contractor Indemnified Party arising out of:

- (i) breach of the Client's representations and warranties under the Contract; or
- (ii) any non-compliance or violation of Applicable Laws or any Client's applicable permits or consents by the Client.

19.3 On receipt of a notice of any claim, which would entitle any Party ("Indemnified Party") to claim indemnification from the other Party ("Indemnifying Party"), the Indemnified Party shall, within a reasonable time, provide a written notice of the claim to the Indemnifying Party along with all the documents available with it in respect of the claim, specifying in detail the claim, the amount claimed by the third party, the date on which the claim arose and the nature of the default to which such claim relates (including a reference to the applicable provision of the Contract) and the Indemnifying Party shall settle the claim accordingly. The Indemnifying Party shall be entitled to but not obliged to participate in and control the defence of any such suit, action or proceeding at its own expense or direct the Indemnified Party to defend

such claim, at the cost of the Indemnifying Party. If the Indemnifying Party elects to control the defence of any such suit, action or proceeding, the Indemnified Party shall render all necessary assistance for the purposes of enabling the Indemnifying Party to take the action referred to in this Clause 19.3. The Indemnifying Party may also request the Indemnified Party, at the cost of the Indemnifying Party to dispute, resist, appeal, compromise, defend, remedy or mitigate the matter or enforce against the third party the Indemnifying Party's rights in relation to the matter and in connection with proceedings related to the matter, use reputable advisers and lawyers chosen by the Indemnifying Party. The Indemnified Party shall not settle any such suit, action or proceeding without the prior written consent of the Indemnifying Party.

- 19.4** The Indemnifying Party agrees and acknowledges that it shall fully indemnify the Indemnified Party for all amounts paid and/or costs incurred by the Indemnified Party in accordance with this Clause 19.
- 19.5** Unless otherwise specified in the Contract, neither Party shall be liable to the other Party for any kind of indirect, punitive or consequential loss or damage or for any economic loss, loss of profit, loss of revenue, loss of use or business interruption which may be suffered by the other Party in connection with this Contract, except for losses caused by the fraud or wilful misconduct of the Party.
- 19.6** The Party entitled to the benefit of an indemnity under this Clause 19 shall take all reasonable measures to mitigate any loss or damage which has occurred. If the Party fails to take such measures, the other Party's liabilities shall be correspondingly reduced.
- 19.7** The obligation to indemnify stipulated in this Clause 19 is:
- (i) continuing, separate and independent obligation of the Parties from their other obligations and shall survive the termination of this Contract; and
 - (ii) shall not be limited or reduced by any insurance, except to the extent that the proceeds of any such insurance are capable of being applied to reduce claims made against the affected Party.

19.8 For the purpose of this Clause 19: (i) “claim” means any claim, liability, proceeding, cause of action, action, suit, demand at law or in equity, in each case brought against either Party (including by any third party); and (ii) “loss” means all losses (excluding consequential losses, indirect losses and loss of profit), damages, liabilities, fines, interest, awards, penalties, costs (including, reasonable legal costs, lawyers’ and arbitrators’ fees), charges and expenses of whatever nature or howsoever occasioned including any of the above suffered by the non-defaulting Party or a third party as a result of any act or omission in the course of or in connection with the performance, non-performance or deficiency in the performance of obligations under this Contract.

20. Settlement of Disputes

Disputes shall be settled by arbitration in accordance with the following provisions:

- a) The seat of the arbitration shall be India and the arbitration proceedings shall be held in Bhubaneswar;
- b) The English language shall be the official language for all purposes;
- c) The arbitration shall be governed by the (Indian) Arbitration and Conciliation Act, 1996, as amended from time to time;
- d) Responsibility of payment for all costs of arbitration shall be as per the arbitration award; and
- e) The decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.

C. RIGHTS AND OBLIGATIONS OF THE CONTRACTOR

21. General

a. Standard of Performance

21.1 The Contractor shall perform the Work with all due diligence, efficiency and economy, in accordance with Best Industry Practices and this Contract, and shall observe sound management practices, and employ

appropriate information technologies, systems, support, maintenance, training and other related services or in accordance with Best Industry Practices. In particular, the Contractor shall provide and employ only technical personnel who are skilled and experienced in their respective callings and supervisory staff who are competent to adequately supervise the work at hand.

21.2 The Contractor confirms that it has entered into this Contract on the basis of a proper examination of the data relating to the System provided by the Client and on the basis of information that the Contractor could have obtained from a visual inspection of the site (if access to the site was available) and of other data readily available to the Contractor relating to the System as at the date twenty-eight (28) days prior to bid submission. The Contractor acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Contract.

21.3 The Contractor shall be responsible for timely provision of all resources, information, and decision making under its control that are necessary to reach a mutually Agreed and Finalized Project Plan (pursuant to GCC Clause 46.2) within the time schedule specified in the Implementation Schedule in the Technical Requirements Section. Failure to provide such resources, information, and decision making may constitute grounds for termination pursuant to GCC Clause 18 a.

21.4 The Contractor shall adhere to the SLA requirements as specified in RFP.

21.5 The Contractor shall comply with Exit Management Plan as specified in GCC Section E.

21.6 The Contractor shall not subcontract (unless otherwise specified in the SCC) any part of the Services required of Contractor under this Contract.

21.7 Other obligations of the Bidder as specified in SCC.

**b. Law
Applicable**

21.8 The Contractor shall comply with all laws in force in India. The laws will include all national, provincial, municipal, or other laws that affect the performance of the Contract and are binding upon the Contractor. The Contractor shall indemnify and hold harmless the Client from and against any and all liabilities, damages, claims, fines, penalties, and expenses of whatever nature arising or resulting from the violation

of such laws by the Contractor or its personnel, but without prejudice to GCC Clause 33. The Contractor shall not indemnify the Client to the extent that such liability, damage, claims, fines, penalties, and expenses were caused or contributed to by a fault of the Client.

21.9 Throughout the duration of the Contract, the Contractor shall comply with the prohibitions in India in relation to the import of goods and services when as a matter of law or official regulation, there is a prohibition on entering into or maintaining commercial relations with the country from where the import is proposed to be made.

21.10 The Contractor shall acquire in its name all permits, approvals, and/or licenses from all local, state, or national government authorities or public service undertakings that are necessary for the performance of the Contract, including, without limitation, visas for the Contractor's and entry permits for all imported Contractor's Equipment. The Contractor shall acquire all other permits, approvals, and/or licenses that are not the responsibility of the Client under GCC Clause 33.2 and that are necessary for the performance of the Contract.

22. Conflict of Interest

22.1 The Contractor shall hold the Client's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

a. Contractor Not to Benefit from Commissions, Discounts, etc.

22.1.1 The Contract Price pursuant to GCC Clause 36 shall constitute the Contractor's only payment in connection with this Contract and the Contractor shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Contractor shall use its best efforts to ensure that the Personnel and agents or either of them, similarly shall not receive any such additional payment.

b. Contractor and Affiliates Not to Engage in Certain Activities

22.1.2 The Contractor agrees that, during the term of this Contract and after its termination/completion, the Contractor and its Affiliates, shall be disqualified from providing consultancy related to the Services, for the implementation of the Bhubaneswar PBS Project, unless otherwise indicated in the SCC.

- c. Prohibition of Conflicting Activities** **22.1.3** The Contractor shall not engage, and shall cause its Personnel to not engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.
- d. Strict Duty to Disclose Conflicting Activities** **22.1.4** The Contractor has an obligation and shall ensure that its Personnel shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the Client, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Contractor or the termination of this Contract.
- 23. Confidentiality** **23.1** Except with the prior written consent of the Client, the Contractor and the Personnel shall not at any time communicate to any person or entity any proprietary or confidential information, including information relating to reports, data, drawings, design software or other material, whether written or oral, in electronic or magnetic format, and the contents thereof; and any reports, digests or summaries created or derived from any of the foregoing that is provided by the Client to the Personnel; any information provided by or relating to the Client, its technology, technical processes, business affairs or finances or any other information acquired in the course of the Services, nor shall the Contractor and the Personnel make public the recommendations formulated in the course of, or as a result of, the Solution subject to:
- (a) all Confidential Information shall be identified as confidential at the time of disclosure;
 - (b) each Party will comply with all applicable export and import laws and associated embargo and economic sanction regulations, applicable to either Party, that prohibit or restrict the export, re-export, or transfer of products, technology, services or data, directly or indirectly, to certain countries, or for certain end uses or end users.
- Notwithstanding the aforesaid, the Contractor and the Personnel may disclose such information to the extent that such information:
- (i) was in the public domain prior to its delivery to the Contractor/Personnel or becomes a part of the public domain from a source other than the

Contractor/Personnel;

- (ii) was obtained from a third party with no known duty to maintain its confidentiality;
- (iii) is required to be disclosed under Applicable Laws or judicial/ administrative/arbitral process or by any government instrumentality, provided that such disclosure is made: (a) after giving a prior written notice to the Client; and (b) using reasonable efforts to ensure that such disclosure is accorded confidential treatment;
- (iv) is provided to the professional advisers, agents, auditors or representatives of the Contractor on a needs basis as is reasonable under the circumstances, provided that the Contractor shall require such professional advisers, agents, auditors or representatives to undertake in writing to keep the information provided confidential, and further provided that the Contractor shall use best efforts to ensure compliance with such undertaking;
- (v) is independently developed by the recipient or is already in the possession of the recipient.

24. Liability of the Contractor

24.1

Subject to the exclusions set out in the SCC, the overall liability of the Contractor and the Client under this Contract shall not exceed the Contract Price, provided that this limitation shall not apply to any obligation of the Contractor to indemnify the Client with respect to intellectual property rights infringement.

25. Insurance to be Taken out by the Contractor

25.1

The Contractor shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurance set forth below. The identity of the insurers and the form of the policies shall be subject to the approval of the Client, who should not unreasonably withhold such approval.

- (a) Cargo Insurance During Transport
as applicable, 110 percent of the price of the Information Technologies and other Goods in a freely convertible currency, covering the Goods from physical loss or damage during shipment through receipt at the Project Site.
- (b) Installation “All Risks” Insurance

as applicable, 110 percent of the price of the Information Technologies and other Goods covering the Goods at the site from all risks of physical loss or damage (excluding only perils commonly excluded under “all risks” insurance policies of this type by reputable insurers) occurring prior to Operational Acceptance of the System.

(c) Third-Party Liability Insurance

On terms as **specified in the SCC**, covering bodily injury or death suffered by third parties (including the Client’s personnel) and loss of or damage to property (including the Client’s property and any Subsystems that have been accepted by the Client) occurring in connection with the supply and installation of the Information System.

(d) Automobile Liability Insurance

In accordance with the statutory requirements prevailing in the Client’s Country, covering use of all vehicles used by the Contractor (whether or not owned by them) in connection with the execution of the Contract.

(e) Other Insurance (if any), as **specified in the SCC**.

25.2 The Client shall be named as co-insured under all insurance policies taken out by the Contractor pursuant to GCC Clause 25.1, except for the Third-Party Liability. All insurer’s rights of subrogation against such co-insured for losses or claims arising out of the performance of the Contract shall be waived under such policies.

25.3 The Contractor shall deliver to the Client certificates of insurance (or copies of the insurance policies) as evidence that the required policies are in full force and effect.

25.4 *deleted*

25.5 If the Contractor fails to take out and/or maintain in effect the insurance referred to in GCC Clause 25.1, the Client may take out and maintain in effect any such insurance and may from time to time deduct from any amount due the Contractor under the Contract any premium that the Client shall have paid to the insurer or may otherwise recover such amount as a debt due from the Contractor.

25.6 Unless otherwise provided in the Contract, the Contractor shall prepare and conduct all and any claims made under the policies effected by it pursuant to this GCC Clause 25, and all monies payable by any insurers shall be paid to the Contractor. The Client shall give to the Contractor all such reasonable assistance as may be required by the Contractor in connection with any claim under the relevant insurance policies. With respect to insurance claims in which the Client's interest is involved, the Contractor shall not give any release or make any compromise with the insurer without the prior written consent of the Client. With respect to insurance claims in which the Contractor's interest is involved, the Client shall not give any release or make any compromise with the insurer without the prior written consent of the Contractor.

26. Accounting and Auditing

26.1 The Contractor shall keep accurate and systematic accounts and records in respect of the Services required of Contractor under this Contract, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and costs and the basis thereof.

26.2 The Contractor shall permit, the Client and/or persons appointed by the Client to inspect all accounts and records relating to the performance of the Contract, and to have such accounts and records audited by auditors appointed by the Client, if requested by the Client. Any act intended to materially impede the exercise of the Client's inspection and audit rights provided for under this Clause 26.2 shall constitute a material breach of the Contract, which would give the Client the right to terminate the Contract.

27. Time for Commencement and Operational Acceptance

27.1 The Contractor shall commence work on the System within the period specified in the SCC, and without prejudice to GCC Clause 55.2, the Contractor shall thereafter proceed with the System in accordance with the time schedule specified in the Implementation Schedule in the Section – 5 Technical Requirements and any refinements made in the Agreed and Finalized Project Plan.

27.2 The Contractor shall achieve Operational Acceptance of the System (or Subsystem(s) where a separate time for Operational Acceptance of such Subsystem(s) is specified in the Contract) within the time specified in

the SCC and in accordance with the time schedule specified in the Implementation Schedule in the Section 5 – Technical Requirements and any refinements made in the Agreed and Finalized Project Plan, or within such extended time to which the Contractor shall be entitled under GCC Clause 56 (Extension of Time for Achieving Operational Acceptance).

D. PERSONNEL

- | | | |
|---------------------------------------|-------------|---|
| 28. Description of Key Experts | 28.1 | The title, agreed job description and minimum qualification of each Key Expert to carry out the Work are described in ITB. |
| | 28.2 | All Key Expert as proposed by the Bidder should be full time employees of the Bidder (or JV/Consortium members) and shall be stationed at Bhubaneswar for the period of contract. |
| 29. Replacement of Key Experts | 29.1 | Except as the Client may otherwise agree in writing and no changes shall be made in the Key Experts without the prior consent of the Client. |
| | 29.2 | A request for substitution of a Key Expert during the term of the Contract may be considered based on the Contractor's written request. |
| | 29.3 | The Client may make a request in writing for the substitution of a Key Expert with an equal or better qualification and experience. On receiving request, the Contractor shall provide substitution within 30 days of receipt of request for the respective Key Expert. |
| | 29.4 | In case any proposed resource resigns, then the Contractor has to inform Client within one week of such resignation and the Contractor shall promptly initiate a search for a replacement to ensure that the role of any member of the Key Expert is not vacant at any point in time during the contract period, subject to reasonable extensions requested by the Contractor and its approval by the Client. |
| | 29.5 | If Client objects to any such replacement appointment, the Contractor shall not assign the individual to that position and shall seek an alternative candidate in accordance with the resource requirements. |

29.6 The Contractor needs to ensure at least 4 weeks of overlap period in such replacements. Client will not be responsible for any knowledge transition to the replacement resource and any impact/escalation of cost incurred by the Contractor due to resource replacement.

29.7 If in the first 6 month period from the Contract Effective Date and in any rolling 12 months period during the Term of the Contract, 15 percent or more of the members of the Key Expert cease or reduce their involvement in the Services required of Contractor under this Contract for any reason other than with Client's prior written consent, the Contractor shall:

29.7.1 provide Client with a reasonably detailed explanation as to the reasons for such change, including, where applicable and permitted, notes from any exit interviews conducted by the Contractor with any departing member of the Key Expert; and

29.7.2 if such change to Key Expert has or is likely to have any material adverse impact on the provision of the Services required of Contractor under this Contract or any substantial part thereof, undertake, at its own costs, such remediation acts as are reasonably necessary in order to improve the retention of the Key Expert including making reasonable changes to the human resources policies and procedures applicable to the Key Expert (including those related to compensation, benefits and other conditions so that they are competitive with the market) as may be necessary to ensure that such policies and procedures comply with Good Industry Practice.

30. Removal of Personnel

30.1 If the Client finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or if the Client determines that Contractor's Personnel have engaged in any corrupt, fraudulent, coercive, collusive, undesirable or restrictive practices (as specified in Attachment 1 to the GCC) while performing the Work, the Contractor shall, at the Client's written request, provide a replacement for such Personnel.

30.2 In the event that any of Personnel is found by the Client to be incompetent or incapable in discharging assigned duties, the Client, specifying the grounds therefore, may request the Contractor to provide a replacement.

- 30.3** The replacement of any Personnel shall possess equivalent or better qualifications and experience and shall be approved by the Client.

E. EXIT MANAGEMENT AFTER OPERATIONAL ACCEPTANCE

- 31. Under Contract Completion**
- (a) Before 6 months prior to the contract ending, the Contractor shall fully train Client's staff or any other agency designated by Client who is designated to take over the maintenance of the System.
 - (b) The Contractor shall be responsible for transferring all the knowledge regarding the Systems, technically and operationally to enable the new agency/ Client to carry out the requisite functions.
 - (c) All latest operations & technical manuals, configuration files, software, licenses, as-built drawings etc. shall be handed over to Client at least 3 months before contract completion.
 - (d) Client shall release the performance security to the Contractor only after satisfactory Exit Management is achieved as part of the project and Contractor is obligated to perform all required additional functions to facilitate the same for a smooth transfer of the duties.
 - (e) The Parties may, if mutually agreed, extend the contract in accordance with the terms and conditions **as specified in the SCC.**
- 32. Under Termination upon Contractor's Default / Client's Convenience (as per GCC Clauses 18 (a) and 18 (c))**
- (a) After termination notice by the Client, the Contractor shall as soon as possible and within 90 days (of Termination Period) fully train Client's staff or any other agency designated by Client who is designated to take over the maintenance of the System.
 - (b) The Contractor shall be responsible for continuing the maintenance as per the scope of the contract during the Termination period as per the SLA's in the RFP.
 - (c) The Contractor shall be responsible for transferring all the knowledge regarding the Systems, technically and operationally to enable the new agency/ Client to carry out the requisite functions.
 - (d) All latest operations & technical manuals, configuration files, software, licenses, as-built drawings etc. shall be handed over to Client within 1 month after termination notice.
 - (e) Client shall release the requisite payments to the Contractor pursuant to the GCC/SCC Clause 18 to the Contractor only after satisfactory Exit Management is

achieved as part of the project and Contractor is obligated to perform all required additional functions to facilitate the same for a smooth transfer of the duties.

F. RIGHTS AND OBLIGATIONS OF THE CLIENT

33. Assistance and Services

33.1 Unless otherwise specified in the SCC, the Client shall:

- (i) Assist the Contractor with obtaining any applicable permits, including work permits and such other documents as shall be necessary to enable the Contractor to perform the Services required of Contractor under this Contract;
- (ii) The Client shall be responsible for timely provision of all resources, information, and decision making under its control that are necessary to reach an Agreed and Finalized Project Plan (pursuant to GCC Clause 46.2) within the time schedule specified in the Implementation Schedule in the Section 5 – Technical Requirements.

33.2 If requested by the Contractor, the Client shall use its best endeavours to assist the Contractor in obtaining in a timely and expeditious manner all permits, approvals, and/or licenses necessary for the execution of the Contract from all local, state, or national government authorities or public service undertakings that such authorities or undertakings require the Contractor or Subcontractors or the personnel of the Contractor or Subcontractors, as the case may be, to obtain.

33.3 In such cases where the responsibilities of specifying and acquiring or upgrading telecommunications and/or electric power services falls to the Contractor, as specified in the Section 5 – Technical Requirements, SCC, Agreed and Finalized Project Plan, or other parts of the Contract, the Client shall use its best endeavours to assist the Contractor in obtaining such services in a timely and expeditious manner.

33.4 The Client shall be responsible for timely provision of all resources, access, and information necessary for the Installation and Operational Acceptance of the System (including, but not limited to, any required telecommunications or electric power services), as identified in the Agreed and Finalized Project Plan, except where provision of such items is explicitly identified in the Contract as being the responsibility of the Contractor. Delay by the Client may result in an

appropriate extension of the Time for Operational Acceptance, at the Contractor's discretion.

- 33.5** The Client assumes primary responsibility for the Operational Acceptance Test(s) for the System, in accordance with GCC Clause 54.2, and shall be responsible for the continued operation of the System after Operational Acceptance. However, this shall not limit in any way the Contractor's responsibilities after the date of Operational Acceptance otherwise specified in the Contract.
- 33.6** The Contractor is responsible for performing and safely storing timely and regular backups of its data and Software in accordance with accepted data management principles.
- 33.7** All costs and expenses involved in the performance of the obligations under this GCC Clause 33 shall be the responsibility of the Client, save those to be incurred by the Contractor with respect to the performance of the Operational Acceptance Test(s), in accordance with GCC Clause 54.2.
- 33.8** The Client may depute Project Management Consultant (PMC) or competent personnel to properly carry out Delivery, Pre-commissioning, Installation, Commissioning, and Operational Acceptance, at or before the time specified in the Section 5 - Technical Requirements- Implementation Schedule and the Agreed and Finalized Project Plan.
- 33.9** Provide to the Contractor any such other assistance as may be specified in the SCC.
- 34. Access to Project Office** **34.1** Contractor to establish own office and maintain it throughout the contract period in Bhubaneswar which shall be used to deliver this project. Client may visit Contractor office periodically to check the existence.
- 35. Counterpart Personnel** **35.1** Unless otherwise specified in the Contract or agreed upon by the Client and the Contractor, the Client shall provide sufficient, properly qualified operating and technical personnel, as required by the Contractor to properly carry out Delivery, Pre-commissioning, Installation, Commissioning, and Operational Acceptance, at or before the time specified in the Section 5 - Technical Requirements -Implementation Schedule and the Agreed and Finalized Project Plan.

- 35.2** The Client will designate appropriate staff for the training courses to be given by the Contractor and shall make all appropriate logistical arrangements for such training as specified in the Section 5 - Technical Requirements, SCC, the Agreed and Finalized Project Plan, or other parts of the Contract.

G. PAYMENTS TO THE CONTRACTOR

- 36. Total Value of the Contract**
- 36.1** The Contract Price shall be as specified in the Contract Agreement.
- 36.2** The Contract Price shall be a firm lump sum not subject to any alteration, except:
- (a) in the event of a Change in the System pursuant to GCC Clause 14 or to other clauses in the Contract;
 - (b) in accordance with the price adjustment formula (if any) **specified in the SCC.**
- 36.3** The Contractor shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price, which shall, except as otherwise provided for in the Contract, cover all its obligations under the Contract.
- 37. Taxes and Duties**
- 37.1** The Contractor is responsible for meeting any and all Tax liabilities arising out of the Contract in India or elsewhere, unless it is stated otherwise in the SCC.
- 37.2** All payments made by the Client to the Contractor shall be subject to deductions and withholding of applicable Taxes in accordance with Applicable Laws.
- 37.3** If any tax exemptions, reductions, allowances, or privileges may be available to the Contractor in the Client's Country, the Client shall use its best efforts to enable the Contractor to benefit from any such tax savings to the maximum allowable extent.
- 37.4** For the purpose of the Contract, it is agreed that the Contract Price as specified in Contract Agreement is inclusive of all taxes, duties, levies, and charges prevailing at the date twenty-eight (28) days prior to the date of bid submission in the Client's Country. If any Tax rates are increased or decreased, a new Tax is introduced, an existing Tax is abolished, or any change in interpretation or application of any Tax occurs in the

course of the performance of the Contract, which was or will be assessed on the Contractor, its Subcontractors, or their employees in connection with performance of the Contract, an equitable adjustment to the Contract Price shall be made to fully take into account any such change by addition to or reduction from the Contract Price, as the case may be.

38. Currency of Payment

38.1 Any payment under this Contract shall be made in Indian Rupees.

39. Securities

(a) Issuance of Securities

The Contractor shall provide the securities specified below in favour of the Client at the times and in the amount, manner, and form specified below.

(b) *deleted*

(c) Performance Security:

(i) The Contractor shall, within twenty-eight (28) days of the notification of Contract award, provide a security for the due performance of the Contract in the amount and currency **specified in the SCC**;

(ii) The security shall be a bank guarantee in the form provided in the Sample Forms Section of the Bidding Documents, or it shall be in another form acceptable to the Client;

(iii) The security shall automatically become null and void once all the obligations of the Contractor under the Contract have been fulfilled, including, but not limited to, any obligations during the Warranty Period and any extensions to the period. The security shall be returned to the Contractor no later than twenty-eight (28) days after its expiration;

(iv) Upon Operational Acceptance of the entire System, the security shall be reduced to the amount **specified in the SCC**, on the date of such Operational Acceptance, so that the reduced security would only cover the remaining warranty obligations of the Contractor.

40. Mode of Billing and Payment

40.1 The Contractor's request for payment shall be made to the Client in writing, accompanied by an invoice describing, as appropriate, the System or Subsystem(s), Delivered, Pre-commissioned, Installed, and Operationally Accepted, and by documents

submitted pursuant to GCC Clause 49.5 and upon fulfillment of other obligations stipulated in the Contract.

The Contract Price shall be paid as **specified in the SCC.**

40.2 No payment made by the Client herein shall be deemed to constitute acceptance by the Client of the System or any Subsystem(s).

40.3 Payments shall be made promptly by the Client, but in no case later than forty five (45) days after submission of a valid invoice by the Contractor.

40.4 Notwithstanding anything to the contrary in the Contract, the Client may withhold from any payment due to the Contractor any amounts that the Client deems reasonably necessary or appropriate because of any one or more of the following reasons:

- (i) Any penalties applicable on the Contractor as per SLA;
- (ii) Failure by the Contractor to provide certificates of insurance;
- (iii) Any overpayments made by the Client in a previous payment;
- (iv) Any payment required to be withheld under any Applicable Law;
- (v) The invoice is not accompanied by all necessary supporting documents;
- (vi) A dispute exists as to the accuracy or completeness of any invoice; or
- (vii) Any amounts due to the Client from the Contractor under the Contract.

40.5 All payments under this Contract shall be made by wire transfer to the accounts of the Contractor specified in the SCC.

41. Interest on Delayed Payments

41.1 If the Client had delayed payments beyond forty five (45) days after the due date or within the period set forth in the Contract, interest shall be paid to the Contractor on any amount due by, not paid on, such due date for each day of delay at the annual rate stated in the SCC.

H. INTELLECTUAL PROPERTY

42. Copyright

- 42.1** The Intellectual Property Rights in all Standard Software and Standard Materials shall remain vested in the owner of such rights.
- 42.2** The Client agrees to restrict use, copying, or duplication of the Standard Software and Standard Materials in accordance with GCC Clause 43, except that additional copies of Standard Materials may be made by the Client for use within the scope of the project of which the System is a part, in the event that the Contractor does not deliver copies within thirty (30) days from receipt of a request for such Standard Materials.
- 42.3** *The Client may assign, license, or otherwise voluntarily transfer its contractual rights to use the Standard Software or elements of the Standard Software, without the Contractor's prior written consent, under the following circumstances:*
- (a) To any agency that shall be responsible to operate the project in the future in the event of dilution of the Client or the responsibility being transferred from Client to other agency;*
 - (b) To any location or to any third party Contractor if the Client decides to outsource the ITS maintenance to a third party;*
 - (c) Integrating with additional similar or non-similar hardware for additional functional needs as deemed suitable by the Client;*
 - (d) In the event of termination of contract during the operational period.*

The Contractor shall protect the Client from any liabilities arising there from. The Contractor shall indicate all those components in the software, if any, that cannot be bound by this condition explicitly while responding to the bid, and supporting with the corresponding evidence for the same.

- 42.4** As applicable, the Client's and Contractor's rights and obligations with respect to Custom Software or elements of the Custom Software, including any license agreements, and with respect to Custom Materials or elements of the Custom Materials, are specified in the SCC. **Subject to the SCC**, the Intellectual Property Rights in all Custom Software and Custom Materials specified in Appendices 14 and 15 of the Contract Agreement (if any) shall, at the date of this Contract or

on creation of the rights (if later than the date of this Contract), vest in the Client. The Contractor shall do and execute or arrange for the doing and executing of each necessary act, document, and thing that the Client may consider necessary or desirable to perfect the right, title, and interest of the Client in and to those rights. In respect of such Custom Software and Custom Materials, the Contractor shall ensure that the holder of a moral right in such an item does not assert it, and the Contractor shall, if requested to do so by the Client and where permitted by applicable law, ensure that the holder of such a moral right waives it.

42.5 The Parties shall enter into such (if any) escrow arrangements in relation to the Source Code to some or all of the Software as are **specified in the SCC** and in **accordance with the SCC**.

43. Software License Agreements

43.1 Except to the extent that the Intellectual Property Rights in the Software vest in the Client, the Contractor hereby grants to the Client license to access and use the Software, including all inventions, designs, and marks embodied in the Software.

All software licenses and applications specific to this Project shall be provided with perpetual, royalty free licenses.

Such license to access and use the Software shall:

- (a) be:
 - (i) nonexclusive;
 - (ii) *fully paid up and irrevocable (except that it shall terminate if the Contract terminates before Operational Acceptance pursuant to GCC Clauses 18 b and 18 c;*
 - (iii) valid throughout the territory of the Client's Country; and
- (b) permit the Software to be:
 - (i) used or copied for use on or with the computer(s) for which it was acquired (if specified in the Section 5 – Technical Requirements and/or the Contractor's bid), plus a backup computer(s) of the same or similar capacity, if the primary is(are) inoperative, and during a reasonable transitional period when use

- is being transferred between primary and backup;
- (ii) *the Software license shall permit the Software to be used or copied for use or transferred to a replacement computer: **provided the replacement computer falls within approximately the same or a higher class of machine and maintains approximately the same number of users, if a multi-user machine;***
 - (iii) if the nature of the System is such as to permit such access, accessed from other computers connected to the primary and/or backup computer(s) by means of a local or wide-area network or similar arrangement, and used on or copied for use on those other computers to the extent necessary to that access;
 - (iv) reproduced for safekeeping or backup purposes;
 - (v) customized, adapted, or combined with other computer software for use by the Client, provided that derivative software incorporating any substantial part of the delivered, restricted Software shall be subject to same restrictions as are set forth in this Contract;
 - (vi) *the Software license shall permit the Software to be disclosed to and reproduced for use (including a valid sublicense) by: **support Contractors or their subcontractors, exclusively for such Contractors or subcontractors in the performance of their support service contracts,** subject to the same restrictions set forth in this Contract;*
 - (vii) *In addition to the persons specified in GCC Clause 43.1 (b) (vi), the Software may be disclosed to, and **reproduced** for use by, **Client or its SPV entities or any other party which would take over the project in the future** subject to the same restrictions as are set forth in this Contract.*

43.2 The Contractor's right to audit the Standard Software will be subject to the following terms:

- (i) *Maximum of 1 audit per calendar year is allowed by the Client and the duration of such audit shall not exceed 3 consecutive working days;*
- (ii) *The Contractor shall get a prior written approval from Bhubaneswar Smart City Limited (BSCL) at least 1 week in advance on the nature, number of people and duration of the audit.*

The Client does not have any financial implication for conducting any such audit and can only extend necessary logistic support pertaining to relevant technical man power resources.

44. Confidential Information

44.1 The "Receiving Party" (either the Client or the Contractor) shall keep confidential and shall not, without the written consent of the other party to this Contract ("the Disclosing Party"), divulge to any third party any documents, data, or other information of a confidential nature ("Confidential Information") connected with this Contract, and furnished directly or indirectly by the Disclosing Party prior to or during performance, or following termination, of this Contract.

44.2 For the purposes of GCC Clause 44.1, the Contractor is also deemed to be the Receiving Party of Confidential Information generated by the Contractor itself in the course of the performance of its obligations under the Contract and relating to the businesses, finances, Contractors, employees, or other contacts of the Client or the Client's use of the System.

44.3 Notwithstanding GCC Clauses 44.1 and 44.2:

- (a) The Contractor may furnish to its Subcontractor Confidential Information of the Client to the extent reasonably required for the Subcontractor to perform its work under the Contract; and
- (b) The Client may furnish Confidential Information of the Contractor: (i) to its support service Contractors and their subcontractors to the extent reasonably required for them to perform their work under their support service contracts; and (ii) to its affiliates and subsidiaries,

in which event the Receiving Party shall ensure that the person to whom it furnishes Confidential Information of the Disclosing Party is aware of and abides by the Receiving Party's obligations under this GCC Clause 44 as if that person were party to the Contract in place of the Receiving Party.

44.4 The Client shall not, without the Contractor's prior written consent, use any Confidential Information received from the Contractor for any purpose other than

the operation, maintenance and further development of the System. Similarly, the Contractor shall not, without the Client's prior written consent, use any Confidential Information received from the Client for any purpose other than those that are required for the performance of the Contract.

44.5 The obligation of a party under GCC Clause 44.1 through 44.4 above, however, shall not apply to that information which:

- (a) now or hereafter enters the public domain through no fault of the Receiving Party;
- (b) can be proven to have been possessed by the Receiving Party at the time of disclosure and that was not previously obtained, directly or indirectly, from the Disclosing Party;
- (c) otherwise lawfully becomes available to the Receiving Party from a third party that has no obligation of confidentiality.

44.6 The above provisions of this GCC Clause 44 shall not in any way modify any undertaking of confidentiality given by either of the Parties to this Contract prior to the date of the Contract in respect of the System or any part thereof.

44.7 The provisions of this GCC Clause 44 shall survive the termination, for whatever reason, of the Contract for three (3) years or such longer period as may be **specified in the SCC.**

I. DESIGN, PROCURE, INSTALLATION, TESTING, COMMISSIONING, AND ACCEPTANCE OF THE SYSTEM

45. Representatives 45.1 Project Manager

If the Project Manager is not named in the Contract, then within fourteen (14) days from the Effective Date, the Client shall appoint and notify the Contractor in writing of the name of the Project Manager. The Client may from time to time appoint some other person as the Project Manager in place of the person previously so appointed and shall give a notice of the name of such other person to the Contractor without delay. No such appointment shall be made at such a time or in such a manner as to impede the progress of work on the System. Such appointment shall take effect only upon receipt of such notice by the Contractor. Subject to the

extensions and/or limitations **specified in the SCC** (if any), the Project Manager shall have the authority to represent the Client on all day-to-day matters relating to the System or arising from the Contract, and shall normally be the person giving or receiving notices on behalf of the Client.

45.2 Contractor's Representative

45.2.1 If the Contractor's Representative is not named in the Contract, then within fourteen (14) days of the Effective Date, the Contractor shall appoint the Contractor's Representative and shall request the Client in writing to approve the person so appointed. The request must be accompanied by a detailed curriculum vitae for the nominee, as well as a description of any other System or non-System responsibilities the nominee would retain while performing the duties of the Contractor's Representative. If the Client does not object to the appointment within fourteen (14) days, the Contractor's Representative shall be deemed to have been approved. If the Client objects to the appointment within fourteen (14) days giving the reason therefore, then the Contractor shall appoint a replacement within fourteen (14) days of such objection in accordance with this GCC Clause 45.2.1;

45.2.2 Subject to the extensions and/or limitations **specified in the SCC** (if any), the Contractor's Representative shall have the authority to represent the Contractor on all day-to-day matters relating to the System or arising from the Contract, and shall normally be the person giving or receiving notices on behalf of the Contractor;

45.2.3 The Contractor shall not revoke the appointment of the Contractor's Representative without the Client's prior written consent, which shall not be unreasonably withheld. If the Client consents to such an action, the Contractor shall appoint another person of equal or superior qualifications as the Contractor's Representative, pursuant to the procedure set out in GCC Clause 45.2.1;

45.2.4 The Contractor's Representative and staff are obliged to work closely with the Client's Project Manager and staff, act within their own authority, and abide by directives issued by the Client that are consistent with the terms of the Contract. The Contractor's Representative is responsible for managing the activities of its personnel and any subcontracted personnel;

45.2.5 The Contractor's Representative may, subject to the approval of the Client (which shall not be unreasonably

withheld), at any time delegate to any person any of the powers, functions, and authorities vested in him or her. Any such delegation may be revoked at any time. Any such delegation or revocation shall be subject to a prior notice signed by the Contractor's Representative and shall specify the powers, functions, and authorities thereby delegated or revoked. No such delegation or revocation shall take effect unless and until the notice of it has been delivered;

45.2.6 Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with GCC Clause 45.2.5 shall be deemed to be an act or exercise by the Contractor's Representative.

45.3 Objections and Removals

45.3.1 The Client may by notice to the Contractor object to any representative or person employed by the Contractor in the execution of the Contract who, in the reasonable opinion of the Client, may have behaved inappropriately, be incompetent, or be negligent. The Client shall provide evidence of the same, whereupon the Contractor shall remove such person from work on the System;

45.3.2 If any representative or person employed by the Contractor is removed in accordance with GCC Clause 45.3.1, the Contractor shall, where required, promptly appoint a replacement.

46. Project Plan

46.1 In close cooperation with the Client and based on the Preliminary Project Plan included in the Contractor's bid, the Contractor shall develop a Project Plan encompassing the activities specified in the Contract. The contents of the Project Plan shall be as **specified in the SCC** and/or Technical Requirements.

46.2 The Contractor shall formally present to the Client the Project Plan in accordance with the procedure specified in the SCC.

46.3 If required, the impact on the Implementation Schedule of modifications agreed during finalization of the Agreed and Finalized Project Plan shall be incorporated in the Contract by amendment, in accordance with GCC Clauses 14 and 56.

46.4 The Contractor shall undertake to supply, install, test, and commission the System in accordance with the Agreed and Finalized Project Plan and the Contract.

- 46.5** The Progress and other reports **specified in the SCC** shall be prepared by the Contractor and submitted to the Client in the format and frequency specified in the Technical Requirements.
- 47. Subcontracting**
- 47.1** *Appendix 1 (List of Approved Subcontractors) to the Contract Agreement specifies critical items of supply or services and a list of Subcontractors for each item that are considered acceptable by the Client.*
- 47.2** *The Contractor may, at its discretion, select and employ Subcontractors for such critical items from those Subcontractors listed pursuant to GCC Clause 47.1. If the Contractor wishes to employ a Subcontractor not so listed, or subcontract an item not so listed, it must seek the Client's prior approval under GCC Clause 47.3.*
- 47.3** *For items for which pre-approved Subcontractor lists have not been specified in Appendix 1 to the Contract Agreement, the Contractor may employ such Subcontractors as it may select, provided: (i) the Contractor notifies the Client in writing at least twenty-eight (28) days prior to the proposed mobilization date for such Subcontractor; and (ii) by the end of this period either the Client has granted its approval in writing or fails to respond. The Contractor shall not engage any Subcontractor to which the Client has objected in writing prior to the end of the notice period. The absence of a written objection by the Client during the above specified period shall constitute formal acceptance of the proposed Subcontractor. Except to the extent that it permits the deemed approval of the Client of Subcontractors not listed in the Contract Agreement, nothing in this Clause, however, shall limit the rights and obligations of either the Client or Contractor as they are specified in GCC Clauses 47.1 and 47.2, in the SCC, or in Appendix 1 of the Contract Agreement.*
- 47.4** *The provisions as mentioned in GCC Clauses 47.2 & 47.3, does not apply on the sub-contractors whose qualifications are used by Contractor to get qualified. The Contractor will not be allowed to change any such sub-contractor during any stage of the Contract.*
- 48. Design and Engineering**
- 48.1** Technical Specifications and Drawings
- 48.1.1** The Contractor shall execute the detailed design and the implementation activities necessary for successful installation of the System in compliance with the

provisions of the Contract or, where not so specified, in accordance with good industry practice;

The Contractor shall be responsible for any discrepancies, errors or omissions in the specifications, drawings, and other technical documents that it has prepared, whether such specifications, drawings, and other documents have been approved by the Project Manager or not, provided that such discrepancies, errors, or omissions are not because of inaccurate information furnished in writing to the Contractor by or on behalf of the Client.

48.1.2 The Contractor shall be entitled to disclaim responsibility for any design, data, drawing, specification, or other document, or any modification of such design, drawings, specification, or other documents provided or designated by or on behalf of the Client, by giving a notice of such disclaimer to the Project Manager.

48.2 Codes and Standards

Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date twenty-eight (28) days prior to date of bid submission shall apply unless otherwise **specified in the SCC**. During Contract execution, any changes in such codes and standards shall be applied after approval by the Client and shall be treated in accordance with GCC Clause 14.6.

48.3 Approval/Review of Technical Documents by the Project Manager.

48.3.1 The Contractor shall prepare and furnish to the Project Manager the documents as **specified in the SCC** for the Project Manager's approval or review;

Any part of the System covered by or related to the documents to be approved by the Project Manager shall be executed only after the Project Manager's approval of these documents.

GCC Clause 48.3.2 through 48.3.7 shall apply to those documents requiring the Project Manager's approval, but not to those furnished to the Project Manager for its review only.

48.3.2 Within thirty (30) days after receipt by the Project Manager of any document requiring the Project Manager's approval in accordance with GCC Clause

48.3.1, the Project Manager shall either return one copy of the document to the Contractor with its approval endorsed on the document or shall notify the Contractor in writing of its disapproval of the document and the reasons for disapproval and the modifications that the Project Manager proposes. If the Project Manager fails to take such action within the thirty (30) days, then the document shall be deemed to have been approved by the Project Manager;

48.3.3 The Project Manager shall not disapprove any document except on the grounds that the document does not comply with some specified provision of the Contract or that it is contrary to good industry practice;

48.3.4 If the Project Manager disapproves the document, the Contractor shall modify the document and resubmit it for the Project Manager's approval in accordance with GCC Clause 48.3.2. If the Project Manager approves the document subject to modification(s), the Contractor shall make the required modification(s), and the document shall then be deemed to have been approved, subject to GCC Clause 48.3.5. The procedure set out in GCC Clause 48.3.2 through 48.3.4 shall be repeated, as appropriate, until the Project Manager approves such documents;

48.3.5 If any dispute occurs between the Client and the Contractor in connection with or arising out of the disapproval by the Project Manager of any document and/or any modification(s) to a document that cannot be settled between the Parties within a reasonable period, then, in case the Contract Agreement includes and names an Adjudicator, such dispute may be referred to the Adjudicator for determination in accordance with GCC Clause 20. If such dispute is referred to an Adjudicator, the Project Manager shall give instructions as to whether and if so, how, performance of the Contract is to proceed. The Contractor shall proceed with the Contract in accordance with the Project Manager's instructions, provided that if the Adjudicator upholds the Contractor's view on the dispute, then the Contractor shall be reimbursed by the Client for any additional costs incurred by reason of such instructions and shall be relieved of such responsibility or liability in connection with the dispute and the execution of the instructions as the Adjudicator shall decide, and the Time for Achieving Operational Acceptance shall be extended accordingly;

- 48.3.6** The Project Manager's approval, with or without modification of the document furnished by the Contractor, shall not relieve the Contractor of any responsibility or liability imposed upon it by any provisions of the Contract except to the extent that any subsequent failure results from modifications required by the Project Manager or inaccurate information furnished in writing to the Contractor by or on behalf of the Client;
- 48.3.7** The Contractor shall not depart from any approved document unless the Contractor has first submitted to the Project Manager an amended document and obtained the Project Manager's approval of the document, pursuant to the provisions of this GCC Clause 48.3. If the Project Manager requests any change in any already approved document and/or in any document based on such an approved document, the provisions of GCC Clause 14 shall apply to such request.

**49. Procurement,
Delivery, and
Transport**

- 49.1** Subject to related Client's responsibilities pursuant to GCC Clauses 33 to 35 and Clause 37, the Contractor shall manufacture or procure and transport all the Information Technologies, Materials, and other Goods in an expeditious and orderly manner to the Project Site.
- 49.2** Delivery of the Information Technologies, Materials, and other Goods shall be made by the Contractor in accordance with the Section 5 – Technical Requirements.
- 49.3** Early or partial deliveries require the explicit written consent of the Client, which consent shall not be unreasonably withheld.
- 49.4** Transportation
- 49.4.1** The Contractor shall provide such packing of the Goods as is required to prevent their damage or deterioration during shipment. The packing, marking, and documentation within and outside the packages shall comply strictly with the Client's instructions to the Contractor.
- 49.4.2** The Contractor will bear responsibility for and cost of transport to the Project Sites in accordance with the terms and conditions used in the specification of prices in the Price Schedules, including the terms and conditions of the associated Incoterms.

49.5 Unless otherwise **specified in the SCC**, the Contractor will provide the Client with shipping and other documents, as specified below:

49.5.1 For Goods supplied from outside the Client's Country:

Upon shipment, the Contractor shall notify the Client and the insurance company contracted by the Contractor to provide cargo insurance by telex, cable, facsimile, electronic mail, or EDI with the full details of the shipment. The Contractor shall promptly send the following documents to the Client by mail or courier, as appropriate, with a copy to the cargo insurance company:

- (a) Two copies of the Contractor's invoice showing the description of the Goods, quantity, unit price, and total amount;
- (b) Usual transportation documents;
- (c) Insurance certificate;
- (d) Certificate(s) of origin; and
- (e) Estimated time and point of arrival in the Client's Country and at the site.

49.5.2 For Goods supplied locally (i.e., from within the Client's country):

Upon shipment, the Contractor shall notify the Client by telex, cable, facsimile, electronic mail, or EDI with the full details of the shipment. The Contractor shall promptly send the following documents to the Client by mail or courier, as appropriate:

- (a) Two copies of the Contractor's invoice showing the Goods' description, quantity, unit price, and total amount;
- (b) Delivery note, railway receipt, or truck receipt;
- (c) Certificate of insurance;
- (d) Certificate(s) of origin; and
- (e) Estimated time of arrival at the site.

49.6 Customs Clearance:

The Contractor will bear responsibility for, and cost of, customs clearance into the Client's country in accordance the particular Incoterm(s) used for Goods

supplied from outside the Client's country in the Price Schedules.

50. Product Upgrades

- 50.1** At any point during performance of the Contract, should technological advances be introduced by the Contractor for Information Technologies originally offered by the Contractor in its bid and still to be delivered, the Contractor shall be obligated to offer to the Client the latest versions of the available Information Technologies having equal or better performance or functionality at the same or lesser unit prices, pursuant to GCC Clause 14.
- 50.2** At any point during performance of the Contract, for Information Technologies still to be delivered, the Contractor will also pass on to the Client any cost reductions and additional and/or improved support and facilities that it offers to other clients of the Contractor in the Client's Country, pursuant to GCC Clause 14.
- 50.3** During performance of the Contract, the Contractor shall offer to the Client all new versions, releases, and updates of Standard Software, as well as related documentation and technical support services, within thirty (30) days of their availability from the Contractor to other clients of the Contractor in the Client's Country, and no later than twelve (12) months after they are released in the country of origin. In no case will the prices for these Software exceed those quoted by the Contractor in the Recurrent Costs tables in its bid.
- 50.4** The Contractor shall provide the Client: with all new versions, releases, and updates for all Software used in the system during the Maintenance Period at no additional cost to the Client.
- 50.5** The Client shall introduce all new versions, releases or updates of the Software within nine (09) months of receipt of a production-ready copy of the new version, release, or update, provided that the new version, release, or update does not adversely affect System operation or performance or require extensive reworking of the System. In cases where the new version, release, or update adversely affects System operation or performance, or requires extensive reworking of the System, the Contractor shall continue to support and maintain the version or release previously in operation for as long as necessary to allow introduction of the new version, release, or update. In no case shall the Contractor stop supporting or

maintaining a version or release of the Software less than twenty four (24) months after the Client receives a production-ready copy of a subsequent version, release, or update. The Client shall use all reasonable endeavours to implement any new version, release, or update as soon as practicable, subject to the twenty-four-month-long stop date.

51. Implementation, Installation, and Other Services

51.1 The Contractor shall provide all Services specified in the Contract and Agreed and Finalized Project Plan in accordance with the highest standards of professional competence and integrity.

51.2 Prices charged by the Contractor for Services, if not included in the Contract, shall be agreed upon in advance by the parties (including, but not restricted to, any prices submitted by the Contractor in the Recurrent Cost Schedules of its Bid) and shall not exceed the prevailing rates charged by the Contractor to other Clients in the Client's Country for similar services.

52. Inspections and Tests

52.1 The Client or its representative shall have the right to inspect and/or test any components of the System, as specified in the Section 5 – Technical Requirements, to confirm their good working order and/or conformity to the Contract at the point of delivery and/or at the Project Site.

52.2 The Client or its representative shall be entitled to attend any such inspections and/or tests of the components, provided that the Client shall bear all costs and expenses incurred in connection with such attendance, including but not limited to all inspection agent fees, travel, and related expenses.

52.3 Should the inspected or tested components fail to conform to the Contract, the Client may reject the component(s), and the Contractor shall either replace the rejected component(s), or make alterations as necessary so that it meets the Contract requirements free of cost to the Client.

52.4 The Project Manager may require the Contractor to carry out any inspection and/or test not specified in the Contract, provided that the Contractor's reasonable costs and expenses incurred in the carrying out of such inspection and/or test shall be added to the Contract Price. Further, if such inspection and/or test impede the progress of work on the System and/or the Contractor's performance of its other obligations under the Contract,

due allowance will be made in respect of the Time for Achieving Operational Acceptance and the other obligations so affected.

52.5 If any dispute shall arise between the Parties in connection with or caused by an inspection and/or with regard to any component to be incorporated in the System that cannot be settled amicably between the Parties within a reasonable period of time, either Party may invoke the process pursuant to GCC Clause 20 (Settlement of Disputes), starting with referral of the matter to the Adjudicator in case an Adjudicator is included and named in the Contract Agreement.

52.6 *Client may employ qualified inspectors to inspect and certify the Information Technologies, Materials, and other Goods prior to shipment. A Prototype Approval Test might be requested by the Client to be conducted before shipment. If such a test is required, the expenses of the trip for the Inspectors shall be borne by the Contractor.*

53. Installation of the System

53.1 As soon as the System, or any Subsystem, has, in the opinion of the Contractor, been delivered, Pre-commissioned, and made ready for Commissioning and Operational Acceptance Testing in accordance with the Section 5 – Technical Requirements, the SCC and the Agreed and Finalized Project Plan, the Contractor shall so notify the Client in writing.

53.2 The Project Manager shall, within fourteen (14) days after receipt of the Contractor's notice under GCC Clause 53.1, either issue an Installation Certificate in the form specified in the Sample Forms Section in the Bidding Documents, stating that the System, or major component or Subsystem (if Acceptance by major component or Subsystem is specified pursuant to the SCC for GCC Clause 54.2.1), has achieved Installation by the date of the Contractor's notice under GCC Clause 53.1, or notify the Contractor in writing of any defects and/or deficiencies, including, but not limited to, defects or deficiencies in the interoperability or integration of the various components and/or Subsystems making up the System. The Contractor shall use all reasonable endeavours to promptly remedy any defect and/or deficiencies that the Project Manager has notified the Contractor of. The Contractor shall then promptly carry out retesting of the System or Subsystem and, when in the Contractor's opinion the System or Subsystem is ready for Commissioning and

Operational Acceptance Testing, notify the Client in writing, in accordance with GCC Clause 53.1. The procedure set out in this GCC Clause 53.2 shall be repeated, as necessary, until an Installation Certificate is issued.

53.3 If the Project Manager fails to issue the Installation Certificate and fails to inform the Contractor of any defects and/or deficiencies within fourteen (14) days after receipt of the Contractor's notice under GCC Clause 53.1, or if the Client puts the System or a Subsystem into production operation, then the System (or Subsystem) shall be deemed to have achieved successful Installation as of the date of the Contractor's notice or repeated notice, or when the Client put the System into production operation, as the case may be.

54. Commissioning and Operational Acceptance

54.1 Commissioning

54.1.1 Commissioning of the System (or Subsystem if specified pursuant to the SCC for GCC Clause 54.2.1) shall be commenced by the Contractor:

- (a) immediately after the Installation Certificate is issued by the Project Manager, pursuant to GCC Clause 53.2; or
- (b) as otherwise specified in the Section 5 – Technical Requirements or the Agreed and Finalized Project Plan; or
- (c) immediately after Installation is deemed to have occurred, under GCC Clause 53.3.

54.1.2 The Client shall supply the operating and technical personnel and all materials and information reasonably required to enable the Contractor to carry out its obligations with respect to Commissioning;

Production use of the System or Subsystem(s) shall not commence prior to the start of formal Operational Acceptance Testing.

54.2 Operational Acceptance Tests

54.2.1 The Operational Acceptance Tests (and repeats of such tests) shall be the primary responsibility of the Client (in accordance with GCC Clause 33.5), but shall be conducted with the full cooperation of the Contractor during Commissioning of the System (or major components or Subsystem[s] if **specified in the SCC** and supported by the Section 5 – Technical Requirements), to ascertain whether the System (or major component or Subsystem[s]) conforms to the

Section 5 – Technical Requirements and meets the standard of performance quoted in the Contractor's bid, including, but not restricted to, the functional and technical performance requirements. Operational Acceptance Testing shall be conducted in accordance with proper standard followed by best practices.

At the Client's discretion, Operational Acceptance Tests may also be performed on replacement Goods, upgrades and new version releases, and Goods that are added or field-modified after Operational Acceptance of the System.

54.2.2 If for reasons attributable to the Client, the Operational Acceptance Test of the System (or Subsystem[s] or major components, pursuant to the SCC for GCC Clause 54.2.1) cannot be successfully completed within the period **specified in the SCC**, from the date of Installation or any other period agreed upon in writing by the Client and the Contractor, the Contractor shall be deemed to have fulfilled its obligations with respect to the technical and functional aspects of the Section 5 – Technical Requirements, SCC and/or the Agreed and Finalized Project Plan, and GCC Clause 55.2 and 55.3 shall not apply.

54.3 Operational Acceptance

54.3.1 Subject to GCC Clause 54.4 (Partial Acceptance) below, Operational Acceptance shall occur in respect of the System, when:

- (a) the Operational Acceptance Tests, as specified in the Section 5 – Technical Requirements, and/or SCC and/or the Agreed and Finalized Project Plan have been successfully completed; or
- (b) the Operational Acceptance Tests have not been successfully completed or have not been carried out for reasons that are attributable to the Client within the period from the date of Installation or any other agreed-upon period as specified in GCC Clause 54.2.2 above; or
- (c) the Client has put the System into production or use for sixty (60) consecutive days. If the System is put into production or use in this manner, the Contractor shall notify the Client and document such use.

54.3.2 At any time after any of the events set out in GCC Clause 54.3.1 have occurred, the Contractor may give a notice to the Project Manager requesting the issue of

an Operational Acceptance Certificate;

54.3.3 After consultation with the Client, and within fourteen (14) days after receipt of the Contractor's notice, the Project Manager shall:

- (a) issue an Operational Acceptance Certificate; or
- (b) notify the Contractor in writing of any defect or deficiencies or other reason for the failure of the Operational Acceptance Tests; or
- (c) issue the Operational Acceptance Certificate, if the situation covered by GCC Clause 54.3.1 (b) arises.

54.3.4 The Contractor shall use all reasonable endeavours to promptly remedy any defect and/or deficiencies and/or other reasons for the failure of the Operational Acceptance Test that the Project Manager has notified the Contractor of. Once such remedies have been made by the Contractor, the Contractor shall notify the Client, and the Client, with the full cooperation of the Contractor, shall use all reasonable endeavours to promptly carry out retesting of the System or Subsystem. Upon the successful conclusion of the Operational Acceptance Tests, the Contractor shall notify the Client of its request for Operational Acceptance Certification, in accordance with GCC Clause 54.3.3. The Client shall then issue to the Contractor the Operational Acceptance Certification in accordance with GCC Clause 54.3.3(a), or shall notify the Contractor of further defects, deficiencies, or other reasons for the failure of the Operational Acceptance Test. The procedure set out in this GCC Clause 54.3.4 shall be repeated, as necessary, until an Operational Acceptance Certificate is issued;

54.3.5 If the System or Subsystem fails to pass the Operational Acceptance Test(s) in accordance with GCC Clause 54.2, then either:

- (a) the Client may consider terminating the Contract, pursuant to GCC Clause 18 a;

or

- (b) if the failure to achieve Operational Acceptance within the specified time period is a result of the failure of the Client to fulfil its obligations under the Contract, then the Contractor shall be deemed to have fulfilled its obligations with

respect to the relevant technical and functional aspects of the Contract, and GCC Clause 57.3 shall not apply.

54.3.6 If within fourteen (14) days after receipt of the Contractor's notice the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the Contractor in writing of the justifiable reasons why the Project Manager has not issued the Operational Acceptance Certificate, the System or Subsystem shall be deemed to have been accepted as of the date of the Contractor's said notice.

54.4 Partial Acceptance

54.4.1 If so specified in the SCC for GCC Clause 54.2.1, Installation and Commissioning shall be carried out individually for each identified major component or Subsystem(s) of the System. In this event, the provisions in the Contract relating to Installation and Commissioning, including the Operational Acceptance Test, shall apply to each such major component or Subsystem individually, and Operational Acceptance Certificate(s) shall be issued accordingly for each such major component or Subsystem of the System, subject to the limitations contained in GCC Clause 54.4.2;

54.4.2 The issuance of Operational Acceptance Certificates for individual major components or Subsystems pursuant to GCC Clause 54.4.1 shall not relieve the Contractor of its obligation to obtain an Operational Acceptance Certificate for the System as an integrated whole (if so specified in the SCC for GCC Clauses 40.1 and 54.2.1) once all major components and Subsystems have been supplied, installed, tested, and commissioned;

54.4.3 In the case of minor components for the System that by their nature do not require Commissioning or an Operational Acceptance Test (e.g., minor fittings, furnishings or site works, etc.), the Project Manager shall issue an Operational Acceptance Certificate within fourteen (14) days after the fittings and/or furnishings have been delivered and/or installed or the site works have been completed. The Contractor shall, however, use all reasonable endeavours to promptly remedy any defects or deficiencies in such minor components detected by the Client or Contractor.

J. GUARANTEES AND LIABILITIES

**55. Operational
Acceptance
Time Guarantee**

- 55.1** The Contractor guarantees that it shall complete the supply, Installation, Integration, Commissioning, and achieve Operational Acceptance of the System (or Subsystems, pursuant to the SCC for GCC Clause 54.2.1) within the time periods specified in the Implementation Schedule in the Section 5 – Technical Requirements and/or the Agreed and Finalized Project Plan pursuant to GCC Clause 27.2, or within such extended time to which the Contractor shall be entitled under GCC Clause 56 (Extension of Time for Achieving Operational Acceptance).
- 55.2** If the Contractor fails to supply, install, commission, and achieve Operational Acceptance of the System (or Subsystems pursuant to the SCC for GCC Clause 54.2.1) within the time for achieving Operational Acceptance specified in the Implementation Schedule in the Section 5 – Technical Requirements or the Agreed and Finalized Project Plan, or any extension of the time for achieving Operational Acceptance previously granted under GCC Clause 56 (Extension of Time for Achieving Operational Acceptance), the Contractor shall pay to the Client liquidated damages at the rate **specified in the SCC** as a percentage of the Contract Price, or the relevant part of the Contract Price if a Subsystem has not achieved Operational Acceptance. The aggregate amount of such liquidated damages shall in no event exceed the amount specified in the SCC (“the Maximum”). Once the Maximum is reached, the Client may consider termination of the Contract, pursuant to GCC Clause 18 a.
- 55.3** Unless otherwise **specified in the SCC**, liquidated damages payable under GCC Clause 55.2 shall apply only to the failure to achieve Operational Acceptance of the System (and Subsystems) as specified in the Implementation Schedule in the Section 5 – Technical Requirements and/or Agreed and Finalized Project Plan. This Clause 55.3 shall not limit, however, any other rights or remedies the Client may have under the Contract for other delays.
- 55.4** If liquidated damages are claimed by the Client for the System (or Subsystem), the Contractor shall have no further liability whatsoever to the Client in respect to the Operational Acceptance time guarantee for the System (or Subsystem). However, the payment of liquidated damages shall not in any way relieve the Contractor from any of its obligations to complete the System or

from any other of its obligations and liabilities under the Contract.

55.5 The liquidated damages as per GCC Clause 55.2 above, shall be applicable on all deliverables/milestones as defined in Implementation Schedule. The liquidated damages shall be calculated on the payment due against that deliverable/milestone which the Contractor is failed to achieve.

56. Extension of Time for Achieving Operational Acceptance

56.1 The time(s) for achieving Operational Acceptance specified in the Schedule of Implementation shall be extended if the Contractor is delayed or impeded in the performance of any of its obligations under the Contract by reason of any of the following:

- (a) Any Change in the System as provided in GCC Clause 14 (Change in the Information System);
- (b) Any occurrence of Force Majeure as provided in GCC Clause 65 (Force Majeure);
- (c) Default of the Client; or
- (d) Any other matter specifically mentioned in the Contract.

By such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Contractor.

56.2 Except where otherwise specifically provided in the Contract, the Contractor shall submit to the Project Manager a notice of a claim for an extension of the time for achieving Operational Acceptance, together with particulars of the event or circumstance justifying such extension as soon as reasonably practicable after the commencement of such event or circumstance. As soon as reasonably practicable after receipt of such notice and supporting particulars of the claim, the Client and the Contractor shall agree upon the period of such extension. In the event that the Contractor does not accept the Client's estimate of a fair and reasonable time extension, the Contractor shall be entitled to refer the matter to the provisions for the Settlement of Disputes pursuant to GCC Clause 20.

56.3 The Contractor shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the Contract.

- 57. Defect Liability**
- 57.1** The Contractor warrants that the System, including all Information Technologies, Materials, and other Goods supplied and Services provided, shall be free from defects in the design, engineering, Materials, and workmanship that prevent the System and/or any of its components from fulfilling the Technical Requirements or that limit in a material fashion the performance, reliability, or extensibility of the System and/or Subsystems.
- 57.2** The Contractor also warrants that the Information Technologies, Materials, and other Goods supplied under the Contract are new, unused, and incorporate all recent improvements in design that materially affect the System's or Subsystem's ability to fulfil the Technical Requirements.
- 57.3** In addition, the Contractor warrants that: (i) all Goods components to be incorporated into the System form part of the Contractor's and/or Subcontractor's current product lines, (ii) they have been previously released to the market, and (iii) those specific items **identified in the SCC** (if any) have been in the market for at least the minimum periods **specified in the SCC**.
- 57.4** The Defect Liability (Warranty) Period shall commence from the date of Operational Acceptance of the System (or of any major component or Subsystem for which separate Operational Acceptance is provided for in the Contract) and shall extend for the length of time specified in the SCC.
- 57.5** If during the Defect Liability (Warranty) Period any defect as described in GCC Clause 57.1 should be found in the design, engineering, Materials, and workmanship of the Information Technologies and other Goods supplied or of the Services provided by the Contractor, the Contractor shall promptly, in consultation and agreement with the Client regarding appropriate remedying of the defects, and at its sole cost, repair, replace, or otherwise make good (as the Contractor shall, at its discretion, determine) such defect as well as any damage to the System caused by such defect. Any defective Information Technologies or other Goods that have been replaced by the Contractor shall remain the property of the Contractor.
- 57.6** The Contractor shall not be responsible for the repair, replacement, or making good of any defect or of any

damage to the System arising out of or resulting from any of the following causes:

- (a) improper operation or maintenance of the System by the Client;
- (b) normal wear and tear;
- (c) use of the System with items not supplied by the Contractor, unless otherwise identified in the Section 5 – Technical Requirements, or approved by the Contractor; or
- (d) modifications made to the System by the Client, or a third party, not approved by the Contractor.

57.7 The Contractor's obligations under this GCC Clause 57 shall not apply to:

- (a) any materials that are normally consumed in operation or have a normal life shorter than the Warranty Period; or
- (b) any designs, specifications, or other data designed, supplied, or specified by or on behalf of the Client or any matters for which the Contractor has disclaimed responsibility, in accordance with GCC Clause 48.1.2.

57.8 The Client shall give the Contractor a notice promptly following the discovery of such defect, stating the nature of any such defect together with all available evidence. The Client shall afford all reasonable opportunity for the Contractor to inspect any such defect. The Client shall afford the Contractor all necessary access to the System and the site to enable the Contractor to perform its obligations under this GCC Clause 57.

57.9 The Contractor may, with the consent of the Client, remove from the site any Information Technologies and other Goods that are defective, if the nature of the defect, and/or any damage to the System caused by the defect, is such that repairs cannot be expeditiously carried out at the site. If the repair, replacement, or making good is of such a character that it may affect the efficiency of the System, the Client may give the Contractor notice requiring that tests of the defective part be made by the Contractor immediately upon completion of such remedial work, whereupon the Contractor shall carry out such tests.

If such part fails the tests, the Contractor shall carry out further repair, replacement, or making good (as the case may be) until that part of the System passes such

tests. The tests shall be agreed upon by the Client and the Contractor.

- 57.10** If the Contractor fails to commence the work necessary to remedy such defect or any damage to the System caused by such defect within the time period **specified in the SCC**, the Client may, following notice to the Contractor, proceed to do such work or contract a third party (or parties) to do such work, and the reasonable costs incurred by the Client in connection with such work shall be paid to the Client by the Contractor or may be deducted by the Client from any monies due the Contractor or claimed under the Performance Security.
- 57.11** If the System or Subsystem cannot be used by reason of such defect and/or making good of such defect, the Warranty Period for the System shall be extended by a period equal to the period during which the System or Subsystem could not be used by the Client because of such defect and/or making good of such defect.
- 57.12** Items substituted for defective parts of the System during the Warranty Period shall be covered by the Defect Liability Warranty for the remainder of the Warranty Period applicable for the part replaced or three (3) months, whichever is greater.
- 57.13** At the request of the Client and without prejudice to any other rights and remedies that the Client may have against the Contractor under the Contract, the Contractor will offer all possible assistance to the Client to seek warranty services or remedial action from any subcontracted third-party producers or licensor of Goods included in the System, including without limitation assignment or transfer in favour of the Client of the benefit of any warranties given by such producers or licensors to the Contractor.

58. Functional Guarantees

- 58.1** The Contractor guarantees that, once the Operational Acceptance Certificate(s) has been issued, the System represents a complete, integrated solution to the Client's requirements set forth in the Section 5 – Technical Requirements and it conforms to all other aspects of the Contract. The Contractor acknowledges that GCC Clause 54 regarding Commissioning and Operational Acceptance governs how technical conformance of the System to the Contract requirements will be determined.
- 58.2** If, for reasons attributable to the Contractor, the System does not conform to the Section 5 – Technical

Requirements or does not conform to all other aspects of the Contract, the Contractor shall at its cost and expense make such changes, modifications, and/or additions to the System as may be necessary to conform to the Section 5 – Technical Requirements and meet all functional and performance standards. The Contractor shall notify the Client upon completion of the necessary changes, modifications, and/or additions and shall request the Client to repeat the Operational Acceptance Tests until the System achieves Operational Acceptance.

58.3 If the System (or Subsystem[s]) fails to achieve Operational Acceptance, the Client may consider termination of the Contract, pursuant to GCC Clause 18 a, and forfeiture of the Contractor's Performance Security in accordance with GCC Clause 39 (c) in compensation for the extra costs and delays likely to result from this failure.

**59. Intellectual
Property Rights
Warranty**

59.1 The Contractor hereby represents and warrants that:

- (a) the System as supplied, installed, tested, and accepted;
- (b) use of the System in accordance with the Contract; and
- (c) copying of the Software and Materials provided to the Client in accordance with the Contract.

do not and will not infringe any Intellectual Property Rights held by any third party and that it has all necessary rights or at its sole expense shall have secured in writing all transfers of rights and other consents necessary to make the assignments, licenses, and other transfers of Intellectual Property Rights and the warranties set forth in the Contract, and for the Client to own or exercise all Intellectual Property Rights as provided in the Contract. Without limitation, the Contractor shall secure all necessary written agreements, consents, and transfers of rights from its employees and other persons or entities whose services are used for development of the System.

**60. Intellectual
Property Rights
Indemnity**

60.1 The Contractor shall indemnify and hold harmless the Client and its employees and officers from and against any and all losses, liabilities, and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability), that the Client or its employees or officers may suffer as a result of any

infringement or alleged infringement of any Intellectual Property Rights by reason of:

- (a) installation of the System by the Contractor or the use of the System, including the Materials, in the country where the site is located;
- (b) copying of the Software and Materials provided the Contractor in accordance with the Agreement; and
- (c) sale of the products produced by the System in any country, except to the extent that such losses, liabilities, and costs arise as a result of the Client's breach of GCC Clause 60.2.

60.2 Such indemnity shall not cover any use of the System, including the Materials, other than for the purpose indicated by or to be reasonably inferred from the Contract, any infringement resulting from the use of the System, or any products of the System produced thereby in association or combination with any other goods or services not supplied by the Contractor, where the infringement arises because of such association or combination and not because of use of the System in its own right.

60.3 Such indemnities shall also not apply if any claim of infringement:

- (a) is asserted by a parent, subsidiary, or affiliate of the Client's organization;
- (b) is a direct result of a design mandated by the Client's Section 5 – Technical Requirements and the possibility of such infringement was duly noted in the Contractor's Bid; or
- (c) results from the alteration of the System, including the Materials, by the Client or any persons other than the Contractor or a person authorized by the Contractor.

60.4 If any proceedings are brought or any claim is made against the Client arising out of the matters referred to in GCC Clause 60.1, the Client shall promptly give the Contractor notice of such proceedings or claims, and the Contractor may at its own expense and in the Client's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Contractor fails to notify the Client within twenty-eight (28) days after receipt of such notice that it intends

to conduct any such proceedings or claim, then the Client shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Client within the twenty-eight (28) days, the Client shall make no admission that may be prejudicial to the defence of any such proceedings or claim. The Client shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.

60.5 The Client shall indemnify and hold harmless the Contractor and its employees, officers, and Subcontractors from and against any and all losses, liabilities, and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability) that the Contractor or its employees, officers, or Subcontractors may suffer as a result of any infringement or alleged infringement of any Intellectual Property Rights arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided to the Contractor in connection with this Contract by the Client or any persons (other than the Contractor) contracted by the Client, except to the extent that such losses, liabilities, and costs arise as a result of the Contractor's breach of GCC Clause 60.8.

60.6 Such indemnity shall not cover:

- (a) any use of the design, data, drawing, specification, or other documents or materials, other than for the purpose indicated by or to be reasonably inferred from the Contract;
- (b) any infringement resulting from the use of the design, data, drawing, specification, or other documents or materials, or any products produced thereby, in association or combination with any other Goods or Services not provided by the Client or any other person contracted by the Client, where the infringement arises because of such association or combination and not because of the use of the design, data, drawing, specification, or other documents or materials in its own right.

60.7 Such indemnities shall also not apply:

- (a) if any claim of infringement is asserted by a parent, subsidiary, or affiliate of the Contractor's

organization;

- (b) to the extent that any claim of infringement is caused by the alteration, by the Contractor, or any persons contracted by the Contractor, of the design, data, drawing, specification, or other documents or materials provided to the Contractor by the Client or any persons contracted by the Client.

60.8 If any proceedings are brought or any claim is made against the Contractor arising out of the matters referred to in GCC Clause 60.5, the Contractor shall promptly give the Client notice of such proceedings or claims, and the Client may at its own expense and in the Contractor's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the Client fails to notify the Contractor within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Contractor shall be free to conduct the same on its own behalf. Unless the Client has so failed to notify the Contractor within the twenty-eight (28) days, the Contractor shall make no admission that may be prejudicial to the defence of any such proceedings or claim. The Contractor shall, at the Client's request, afford all available assistance to the Client in conducting such proceedings or claim and shall be reimbursed by the Client for all reasonable expenses incurred in so doing.

61. Limitation of Liability

61.1 Provided the following does not exclude or limit any liabilities of either Party in ways not permitted by applicable law:

- (a) the Contractor shall not be liable to the Client, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Contractor to pay liquidated damages to the Client; and
- (b) the aggregate liability of the Contractor to the Client, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to any obligation of the Contractor to indemnify the Client with respect to intellectual property rights infringement.

K. RISK DISTRIBUTION

- 62. Transfer of Ownership**
- 62.1** With the exception of Software and Materials, the ownership of the Information Technologies and other Goods shall be transferred to the Client at the time of Delivery or otherwise under terms that may be agreed upon and specified in the Contract Agreement.
- 62.2** Ownership and the terms of usage of the Software and Materials supplied under the Contract shall be governed by GCC Clause 42 (Copyright) and any elaboration in the Section 5 – Technical Requirements.
- 62.3** Ownership of the Contractor’s Equipment used by the Contractor and its Subcontractors in connection with the Contract shall remain with the Contractor or its Subcontractors.
- 63. Care of the System**
- 63.1** The Client shall become responsible for the care and custody of the System or Subsystems upon their Delivery. The Client shall make good at its own cost any loss or damage that may occur to the System or Subsystems from any cause from the date of Delivery until the date of Operational Acceptance of the System or Subsystems, pursuant to GCC Clause 54 (Commissioning and Operational Acceptance), excepting such loss or damage arising from acts or omissions of the Contractor, its employees, or subcontractors.
- 63.2** If any loss or damage occurs to the System or any part of the System by reason of:
- (a) (insofar as they relate to the country where the Project Site is located) nuclear reaction, nuclear radiation, radioactive contamination, a pressure wave caused by aircraft or other aerial objects, or any other occurrences that an experienced contractor could not reasonably foresee, or if reasonably foreseeable could not reasonably make provision for or insure against, insofar as such risks are not normally insurable on the insurance market and are mentioned in the general exclusions of the policy of insurance taken out under GCC Clause 65;
 - (b) any use not in accordance with the Contract, by the Client or any third party;
 - (c) any use of or reliance upon any design, data, or specification provided or designated by or on behalf of the Client, or any such matter for which

the Contractor has disclaimed responsibility in accordance with GCC Clause 48.1.2.

The Client shall pay to the Contractor all sums payable in respect of the System or Subsystems that have achieved Operational Acceptance, notwithstanding that the same be lost, destroyed, or damaged. If the Client requests the Contractor in writing to make good any loss or damage to the System thereby occasioned, the Contractor shall make good the same at the cost of the Client in accordance with GCC Clause 14. If the Client does not request the Contractor in writing to make good any loss or damage to the System thereby occasioned, the Client shall either request a change in accordance with GCC Clause 14, excluding the performance of that part of the System thereby lost, destroyed, or damaged, or, where the loss or damage affects a substantial part of the System, the Client shall terminate the Contract pursuant to GCC Clause 18 a.

- 63.3** Till the end of the Contract, the storage, safety and security of the equipment and the entire system shall be the responsibility of the Contractor. All the equipment supplied by the Contractor under the Contract shall be insured for sufficient value till the end of the OPERATION period. All associated costs shall be borne by the Contractor.
- 64. Loss of or Damage to Property; Accident or Injury to Workers; Indemnification**
- 64.1** The Contractor and each and every Subcontractor shall abide by the job safety, insurance, customs, and immigration measures prevalent and laws in force in the Client's Country.
- 64.2** Subject to GCC Clause 64.3, the Contractor shall indemnify and hold harmless the Client and its employees and officers from and against any and all losses, liabilities and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability) that the Client or its employees or officers may suffer as a result of the death or injury of any person or loss of or damage to any property (other than the System, whether accepted or not) arising in connection with the supply, installation, testing, and Commissioning of the System and by reason of the negligence of the Contractor or its Subcontractors, or their employees, officers or agents, except any injury, death, or property damage caused by the negligence of the Client, its contractors, employees, officers, or agents.

- 64.3** If any proceedings are brought or any claim is made against the Client that might subject the Contractor to liability under GCC Clause 64.2, the Client shall promptly give the Contractor notice of such proceedings or claims, and the Contractor may at its own expense and in the Client's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the Contractor fails to notify the Client within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Client shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Client within the twenty-eight (28) day period, the Client shall make no admission that may be prejudicial to the defence of any such proceedings or claim. The Client shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.
- 64.4** The Client shall indemnify and hold harmless the Contractor and its employees, officers, and Subcontractors from any and all losses, liabilities, and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability) that the Contractor or its employees, officers, or Subcontractors may suffer as a result of the death or personal injury of any person or loss of or damage to property of the Client, other than the System not yet achieving Operational Acceptance, that is caused by fire, explosion, or any other perils, in excess of the amount recoverable from insurances procured under GCC Clause 25 (Insurances), provided that such fire, explosion, or other perils were not caused by any act or failure of the Contractor.
- 64.5** If any proceedings are brought or any claim is made against the Contractor that might subject the Client to liability under GCC Clause 64.4, the Contractor shall promptly give the Client notice of such proceedings or claims, and the Client may at its own expense and in the Contractor's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the Client fails to notify the Contractor within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Contractor shall be free to conduct the same on its own behalf. Unless the Client has so failed to notify the Contractor within the twenty-

eight (28) days, the Contractor shall make no admission that may be prejudicial to the defence of any such proceedings or claim. The Contractor shall, at the Client's request, afford all available assistance to the Client in conducting such proceedings or claim and shall be reimbursed by the Client for all reasonable expenses incurred in so doing.

64.6 The party entitled to the benefit of an indemnity under this GCC Clause 64 shall take all reasonable measures to mitigate any loss or damage that has occurred. If the party fails to take such measures, the other party's liabilities shall be correspondingly reduced.

65. Force Majeure

65.1 "Force Majeure" shall mean any event beyond the reasonable control of the Client or of the Contractor, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected and shall include, without limitation, the following:

- (a) War, hostilities, or warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy, and civil war;
- (b) Rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion, and terrorist acts;
- (c) Confiscation, nationalization, mobilization, commandeering or requisition by or under the order of any government or de jure or de facto authority or ruler, or any other act or failure to act of any local state or national government authority;
- (d) Strike, sabotage, lockout, embargo, import restriction, port congestion, shipwreck, shortage or restriction of power supply, epidemics, quarantine, and plague;
- (e) Earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning, or other inclement weather condition, nuclear and pressure waves, or other natural or physical disaster;
- (f) Failure, by the Contractor, to obtain the necessary export permit(s) from the governments of the Country(s) of Origin of the Information Technologies or other Goods, or Contractor's Equipment provided that the

Contractor has made all reasonable efforts to obtain the required export permit(s), including the exercise of due diligence in determining the eligibility of the System and all of its components for receipt of the necessary export permits.

65.2 If either Party is prevented, hindered, or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances of the event of Force Majeure within fourteen (14) days after the occurrence of such event.

65.3 The Party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such Party's performance is prevented, hindered, or delayed. The Time for Achieving Operational Acceptance shall be extended in accordance with GCC Clause 56 (Extension of Time for Achieving Operational Acceptance).

65.4 The Party or Parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect of the event of Force Majeure upon its or their performance of the Contract and to fulfil its or their obligations under the Contract, but without prejudice to either Party's right to terminate the Contract under GCC Clause 65.6.

65.5 No delay or non-performance by either party to this Contract caused by the occurrence of any event of Force Majeure shall:

- (a) constitute a default or breach of the Contract;
- (b) (subject to GCC Clauses 63.2, 65.3, and 65.4) give rise to any claim for damages or additional cost or expense occasioned by the delay or non-performance.

if, and to the extent that, such delay or non-performance is caused by the occurrence of an event of Force Majeure.

65.6 If the performance of the Contract is substantially prevented, hindered, or delayed for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of one or more events of Force Majeure during the time period covered by the Contract, the Parties will

attempt to develop a mutually satisfactory solution, failing which, either party may terminate the Contract by giving a notice to the other.

- 65.7** In the event of termination pursuant to GCC Clause 65.6, the rights and obligations of the Client and the Contractor shall be as specified in GCC Clauses 18 a and b.
- 65.8** Notwithstanding GCC Clause 65.5, Force Majeure shall not apply to any obligation of the Client to make payments to the Contractor under this Contract.

L. FAIRNESS AND GOOD FAITH

- 66. Good Faith** **66.1** The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

M. MISCELLANEOUS

- 67. Amicable Settlement** **67.1** The Parties shall seek to resolve any dispute amicably by mutual consultation.
- 67.2** If either Party objects to any action or inaction of the other Party, the objecting Party may send a written notice of dispute to the other Party providing in detail the basis of the dispute. The Party receiving the notice of dispute will consider it and respond in writing within fourteen (14) days after receipt. If such Party fails to respond within fourteen (14) days, or the dispute cannot be amicably settled within fourteen (14) days following the response of that Party, GCC Clause 20 shall apply.
- 68. Performance Security** **68.1** The Contractor shall furnish to the Client the Performance Security in the format set out in Appendix A, from a scheduled commercial bank in India, to secure the performance of its obligations under the Contract. The Performance Security shall be for an amount specified in the SCC.
- 69. Assignment** **69.1** Except as expressly permitted in the Contract, the Contractor shall not be entitled to divest, transfer, assign or novate all or substantially all of its rights, interests, benefits and obligations under the Contract, without the prior written consent of the Client.

- 69.2** The Client shall be entitled to assign, transfer or novate its rights and obligations under the Contract or any part thereof to any third party or to an affiliate, without the requirement of any further consent from the Contractor, provided that where such assignment is made to a third party, the Client shall use its best efforts to ensure that the third party to whom the benefits and obligations under the Contract or any part thereof has been assigned, has the necessary financial capability to comply with the obligations under the Contract.

70. Representation and Warranties

70.1 Client's Representations and Warranties

The Client makes the following representations and warranties to the Contractor:

- (i) It has been incorporated as a company under the laws of India and is validly existing under those laws;
- (ii) It has power to enter into this Contract and comply with its obligations under it;
- (iii) This Contract and the transactions under it do not contravene its constituent documents or any Applicable Law or obligation by which it is bound or to which any of its assets are subject or cause a limitation of powers or the powers of its directors to be exceeded;
- (iv) It has in full force and effect the authorizations necessary for it to enter into this Contract and the transactions under it; and
- (v) Its obligations under this Contract are valid and binding and are enforceable against it in accordance with the terms of this Contract.

70.2 Contractor's Representations and Warranties

The Contractor makes the following representations and warranties to the Client:

- (i) It has been incorporated/registered as a company/firm under the laws of [*Insert country of incorporation/registration*] and is validly existing under those laws;
- (ii) It has power to enter into this Contract and comply with its obligations under it;
- (iii) This Contract and the transactions under it do not contravene its constituent documents or any applicable law of its jurisdiction or obligation by which it is bound or to which any of its assets are

- subject or cause a limitation of powers or the powers of its directors to be exceeded;
- (iv) It has in full force and effect the authorisations necessary for it to enter into this Contract and the transactions under it;
 - (v) Its obligations under this Contract are valid and binding and are enforceable against it in accordance with the terms of this Contract;
 - (vi) It is not in breach of any Applicable Law in a way which may result in a material adverse effect on its business or financial condition;
 - (vii) There is no pending or threatened proceeding affecting the Contractor or any of its assets that would affect the validity or enforceability of this Contract, the ability of the Contractor to fulfil its commitments under this Contract, or that could have a material adverse effect on the business or financial condition of the Contractor;
 - (viii) It has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under the Contract;
 - (ix) It has the necessary skill and experience to perform the Services in accordance with this Contract;
 - (x) It owns or has the right to use and license to the Client all Intellectual Property Rights in relation to the Services and the Deliverables to be provided under this Contract;
 - (xi) The performance of the Services shall not infringe the Intellectual Property Rights of any third party and that the Contractor has not received notice of any claim, and is not aware of any facts or circumstances that may give rise to such claim;
 - (xii) It will perform its obligations under the Contract and conduct its business with a high level of integrity which is reasonably expected of an international contractor of similar size and profile, conducting a similar line of business, and will not engage in any corrupt, fraudulent, coercive, collusive, undesirable or restrictive practices; and
 - (xiii) Without prejudice to any express provision contained in the Contract, the Contractor

acknowledges that prior to the execution of the Contract, the Contractor has after a complete and careful examination made an independent evaluation of the Technical Requirements and any information provided by or on behalf of the Client and has determined to its satisfaction the nature and extent of risks and hazards as are likely to arise or may be faced by the Contractor in the course of performance of its obligations hereunder.

II. General Conditions of Contract - Attachment 1

Attachment 1: Corrupt and Fraudulent Practices

- 1.1 The Contractor and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the selection process. Notwithstanding anything to the contrary contained in the RFP, the Client shall reject a Proposal without being liable in any manner whatsoever to the Contractor, if it determines that the Contractor has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the “Prohibited Practices”) in the selection process. In such an event, the Client shall, without prejudice to its any other rights or remedies, forfeit and appropriate the Performance Security, if available, as mutually agreed genuine pre-estimated compensation and damages payable to the Client for, *inter alia*, time, cost and effort of the Client, in regard to the RFP, including consideration and evaluation of such Contractor’s Proposal.
- 1.2 Without prejudice to the rights of the Client under the RFP and the rights and remedies which the Client may have under the LOA or the Contract, if an Contractor is found by the Client to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the selection process, or after the issue of the LOA or the execution of the Contract, such Applicant or Contractor shall not be eligible to participate in any tender or RFP issued by the Client during a period of 2 (two) years from the date such Contractor is found by the Client to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- 1.3 For the purposes of this clause, the following terms shall have the meaning hereinafter respectively assigned to them:
- (i) “corrupt practice” means (a) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the selection process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Client who is or has been associated in any manner, directly or indirectly with the selection process) or the LOA or has dealt with matters concerning the 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 Client, shall be deemed to constitute influencing the actions of a person connected with the selection process; or (b) save as provided herein, engaging in any manner whatsoever, whether during the selection process or after the issue of the LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Services or the LOA or the Contract, who at any time has been or is a legal, financial or technical Contractor/ adviser of the Client in relation to any matter concerning the Contract;
 - (ii) “fraudulent practice” means a misrepresentation or omission of facts or

- disclosure of incomplete facts, in order to influence the selection process;
- (iii) “coercive practice” means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person’s participation or action in the selection process;
 - (iv) “collusive practices” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party⁹;
 - (v) “undesirable practice” means (a) establishing contact with any person connected with or employed or engaged by the Client with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the selection process; or (b) having a Conflict of Interest; and
 - (vi) “restrictive practice” means forming a cartel or arriving at any understanding or arrangement among Contractors with the objective of restricting or manipulating a full and fair competition in the selection process.

⁹ For the purpose of this sub-paragraph, “parties” refers to participants in the procurement or selection process (including public officials) attempting either themselves, or through another person or entity not participating in the procurement or selection process, to simulate competition or to establish prices at artificial, non-competitive levels, or are privy to each other’s bid prices or other conditions.

III. Special Conditions of Contract

[Notes in brackets are for guidance purposes only and should be deleted in the final text of the signed contract]

Number of GCC Clause Amendments of, and Supplements to, Clauses in the General Conditions of Contract

GCC 1 (pp) **The post warranty service period (Operation Phase) is: 72 months (6 years)**

GCC 3.1 The Contract shall be construed in accordance with the law in the state of Odisha / India.

GCC 4.1 The language is: English.

GCC 6.1 and 6.2 The addresses are:

Client : Bhubaneswar Smart City Limited (BSCL)

Attention : _____

Facsimile : _____

E-mail (where permitted): _____

CONTRACTOR :

Attention : _____

Facsimile : _____

E-mail (where permitted) : _____

GCC 8.1 The Authorized Representatives are:

For the Client: [Insert name]
Chief Executive Officer,
Bhubaneswar Smart City Limited (BSCL)

For the CONTRACTOR:

[name, title] _____

GCC 11.1 **Commencement of Contract:**

The number of days shall be 30 (Thirty) Days from issuance of LOA.

GCC 12.1 Expiration of Contract:

The term of the Contract shall be Ninety Four (94) Months, which may be extended on mutually agreed terms and conditions, subject to satisfactory performance of the Services by the Contractor. If the term of the Contract is extended pursuant to the Clause 12 of the GCC, then the Contractor shall also extend the validity of the Performance Security for an equivalent period.

GCC 21.6 Sub-Contracting not allowed

GCC 21.7 Other Obligations of the Bidder:

- (i) The Service provider shall be entitled for the following revenue streams as mentioned in clause 7.1 of Section 5 of the RFP.
- (ii) The Contractor or consortium member or joint venture partner singly or together shall not be entitled to any compensation; or damages liquidated or otherwise; or monetization right which shall cease to exist upon termination of the Contract under either GCC 18 a, 18 b or 18 c.
- (iii) Save and except as provided under clause (i) above, the Contractor shall not monetize any other hardware, software or services under this Contract.
- (iv) The Contractor shall get the technical product data sheets approved by Client and its representative before supply of any material on-site. Client reserves the right to not evaluate the technical product data sheets during bid evaluation stage.
- (v) As specified in Section 5 – Technical Requirements.

GCC 22.1.2 The Client reserves the right to determine on a case-by-case basis whether the Contractor should be disqualified pursuant to GCC Clause 22.1.2.

- GCC 24.1** Exclusions of Liability of Contractor: No exclusions.
- GCC 25.1(c)** *The Contractor shall obtain Third-Party Liability Insurance in the amount of **INR 50 lakhs**. The Insurance shall cover the entire Contract Period.*
- GCC 25.1(e)**
- i. The Contractor shall meet the Client's liability and workers' compensation insurance in respect of its personnel of the Contractor including subcontractors if any, in accordance with the relevant provisions of various labour laws as applicable, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate;*
 - ii. The Contractor while employing the man-power required for the Maintenance of the project shall be responsible for following all the required mandates as per the prevailing laws of the land. Ex: Income Tax rules, Labour Laws, Employee benefits, employee related insurances etc.; and*
 - iii. Insurance against loss of or damage to (a) equipment purchased in whole or in part with funds provided under this Contract, (b) the sub-systems that have been accepted by the Client (c) any documents (software of the IT systems) prepared by the Contractor in the performance of the Services with a minimum coverage of two times the value of the contract.*
- The insurance shall cover the entire contract period commencing from the date of the signing of the contract till the effective date of the expiry of the contract.*
- The Contractor shall maintain standard forms of comprehensive insurance including liability insurance, system and facility insurance and any other insurance for the personnel, assets, data, software, etc.*
- The certificates of insurance shall indicate that the insurance company will notify the Client if, for any reason, the insurance coverage lapses.*
- GCC 27.1** *The **Contractor** shall commence work on the System within: **30** days from the date of signing of the Contract.*
- GCC 27.2** *Operational Acceptance will occur on or before: T + 10 months, where T is the Effective Date.*
- GCC 33.9** *The Client shall have the following other responsibilities:*
- Obligations as stated in Section 5 – Technical Requirements.

- GCC 36.2(b)** *Adjustments to the Contract Price shall be as follows: **none**.*
- GCC 39(c)(i)** *The Performance Security shall be denominated in the currency of the contract for an amount equal to **10 percent** of the **Contract Price**.*
- GCC 39(c)(iv)** *After the completion of defect liability period, the Performance Security shall be reduced by 6 percent of the Contract Price. The remaining 4 percent shall be released to the Contractor only after successful completion of the Post Warranty Service Period.*
- GCC 40.1** Subject to the provisions of GCC Clause 40, the Client shall pay the Contract Price to the Contractor according to the categories and in the manner specified below. The Total Contract Price shall be categorized as:
- I. Supply and Installation Cost (SIC): The Supply installation cost shall be bifurcated into two sub components:
 - (a) Purchaser Contribution for SIC (PSIC): This is the maximum fixed capital investment by the Purchaser and any additional beyond the limit has to be borne by the bidder and reduction that the bidder envisages has to be passed to the Purchaser. The Purchaser shall contribute up to a maximum of six (6) crores for roll out of whole PBS system with 1000 bicycles and other allied infrastructure & services complete in all respects as per Section 5: Technical Requirements.
 - Any further Capital Subsidy cost, in case of further augmentation of services or infrastructure by the Contractor through increase in no. of bicycles beyond 1000 bicycles and any allied infrastructure shall be based on mutual agreement between the parties. However, the Client shall continue to support such improvement / augmentation by providing land space for developing stations for such additional infrastructure.
 - (b) Bidder's Contribution (BSIC): The bidder will have to provide the cost beyond the Purchaser Contribution to complete the Supply Installation of the entire PBS System and achieving Operational Acceptance.
 - II. Recurrent Cost: Total of all Annual Recurrent Costs during DLP/Warranty Period and Post-Warranty Service (Comprehensive Maintenance) Period. The Recurrent cost will reflect the viability gap funding required by the bidder annually to operate the system taking into account the

revenue monetization opportunities provided to them.

Total Contract Price = Purchaser Contribution for Supply and Installation Cost (PSIC) + Bidders Contribution for Supply and Installation Cost (BSIC) + Recurrent Cost

The payment shall be made as per the following schedule:

Within each such category, the Contract Implementation Schedule may trigger partial payments for the portion of the total Contract Price for the category corresponding to the goods or services actually Delivered, Installed, or Operationally Accepted, at unit prices and in the currencies specified in the Price Schedules of the Contract Agreement.

I. Purchaser Contribution Fixed for Supply and Installation Cost (PSIC):

Sr.	Milestones	Payments (as % of PSIC)
i.	Acceptance and approval of Project Implementation Plan	3%
ii.	On successful demonstration of pilot deployment as per certification of Client	7%
iii.	Supply of Equipment:	25% (pro rata payment allowed at every 20% successful delivery)
iv.	Installation of Equipment and Development of Stations and allied infrastructure	25% (pro rata payment allowed at every 20% of installation completed as per client certification)
v.	Supply and Installation complete along with complete development of operations control room and associated software	10%
vi.	Operational Acceptance and Go-Live of the System	5%
vii.	Balance payment during the maintenance period	25% to be paid in 28 equal instalments on quarterly basis during the operations period starting from the operational acceptance date of the system. Therefore, the quarterly payment shall be equal to $1/28 \times 25\%$ of PSIC.

II. Recurrent Cost (RC)

Recurrent costs during the Maintenance Period –1/12th of the specified Annual recurrent cost to be paid monthly during the Operation Phase i.e. 7 years.

All payment to be made upon respective approval by Client and its representatives.

GCC 40.5

Payments shall be done in below account of the Contractor:

[insert account details viz.,

- (i) account name;*
- (ii) account number;*
- (iii) bank name and branch; and*
- (iv) IFSC Code*

GCC 41.1

The interest rate is: SBI Base rate.

GCC 42.4

The Client's and Contractor's rights and obligations with respect to Custom Software or elements of the Custom Software are as

follows :

- i. *The Contractor shall hand over the source code for software, database, and executables to the Client which shall correspond 100% to the operational module and shall be verified and certified by an independent agency as identified by the Client. This is limited to all custom software and its subsystems provided by the Contractor;*
- ii. *The Client may duplicate and use the software on different equipment, such as for back-ups, additional computers, replacements, upgraded units, etc.*

GCC 42.5 *Certified Software escrow contract is required for the execution of the Contract in case the Contractor is not willing to handover the source code to the Client limited to the systems as defined in SCC 42.4. All costs associated with such Escrow Account shall be borne by the Contractor. If Client intends to continue the Escrow account services after completion of the contract period, the Client can pay the fee for Escrow account services.*

GCC 44.7 *The provisions of this GCC Clause 44.7 shall survive the termination, for whatever reason, of the Contract for the period specified in the GCC.*

GCC 45.1 *No additional powers or limitations.*

GCC 45.2.2 *No additional powers or limitations.*

GCC 46.1 *In addition to the requirements mentioned in Section 5 of RFP, the Chapters in the Project Implementation Plan shall address the following subjects:*

- (a) *Project Organization and Management Plan;*
- (b) *Delivery and Installation Plan;*
- (c) *Training Plan (if any);*
- (d) *Pre-commissioning and Operational Acceptance Testing Plan;*
- (e) *Maintenance support Service Plan;*
- (f) *Task, Time, and Resource Schedules;*
- (g) *Technical Support Plan.*

Any other submission relevant to the project as required by the Client or its Project Manager post contract award.

GCC 46.2 *Within **twenty (20) days** from the Effective Date of the Contract, the Contractor shall present a Project Plan to the Client. The Client shall, within **fourteen (14) days** of receipt of the Project Plan, notify*

*the Contractor of any respects in which it considers that the Project Plan does not adequately ensure that the proposed program of work, proposed methods, and/or proposed Information Technologies will satisfy the Technical Requirements and/or the SCC (in this Clause 46.2 called “non-conformities” below). The Contractor shall, within **five (5)** days of receipt of such notification, correct the Project Plan and resubmits to the Client. The Client shall, within **five (5)** days of resubmission of the Project Plan, notify the Contractor of any remaining non-conformities. This procedure shall be repeated as necessary until the Project Plan is free from non-conformities. When the Project Plan is free from non-conformities, the Client shall provide confirmation in writing to the Contractor. This approved Project Plan (“the Agreed and Finalized Project Plan”) shall be contractually binding on the Client and the Contractor. In case of any deviation (which affects the project timelines and deliverables) from the finalized project plan during the course of the project, the Contractor is required to update the same within 5 days of such deviation and notify the Client and get the approval as per the timelines mentioned above.*

GCC 46.5

The Contractor shall submit to the Client the following reports during the Contract period:

- (a) Monthly progress reports, summarizing:
 - (i) results accomplished during the prior period;*
 - (ii) cumulative deviations to date from schedule of progress milestones as specified in the Agreed and Finalized Project Plan;*
 - (iii) corrective actions to be taken to return to planned schedule of progress; proposed revisions to planned schedule;*
 - (iv) other issues and outstanding problems; proposed actions to be taken;*
 - (v) resources that the Contractor expects to be provided by the Client and/or actions to be taken by the Client in the next reporting period;*
 - (vi) other issues or potential problems the Contractor foresees that could impact on project progress and/or effectiveness.**
- (b) inspection and quality assurance reports;*
- (c) system failure or fault reports;*
- (d) monthly log of service calls and problem resolutions.*

Any other report as required by the Client which is related to the present procurement.

GCC 48.3.1

The Contractor shall prepare and furnish to the Project Manager all the necessary documents for which the Contractor must obtain the

Project Manager's approval before proceeding with work on the System or any Sub-system covered by the documents. The following is an indicative but not an exhaustive list of documentation and the Project Manager can request for additional submissions during the course of the project:

- i. System detailed design;*
- ii. System Operation manuals;*
- iii. Project Organization and Management Plan;*
- iv. Delivery and Installation Plan;*
- v. Training Plan (if any);*
- vi. Pre-commissioning Plan;*
- vii. Prototype Approval Tests and Plan;*
- viii. Factory Acceptance Tests and Plan;*
- ix. Pilot Tests and Plan;*
- x. System Acceptance Tests and Plan*
- xi. Maintenance Support Service Plan;*
- xii. Task, Time, and Resource Schedules;*
- xiii. Technical Support Plan;*
- xiv. Preventive Maintenance Plan;*
- xv. Exit Management Plan.*

- GCC 49.5** *There are no Special Conditions of Contract applicable to GCC Clause 49.5*
- GCC 54.2.1** *Operational Acceptance Testing shall be conducted in accordance with System, Sub-systems, tests, test procedures, and the required results for acceptance as specified in Section 5 – Technical Requirements (Testing Requirements).*
- GCC 54.2.2** *Thirty (30) days from the date of System Acceptance.*
- GCC 55.2** *Liquidated damages shall be assessed at 1.0 percent per week of System Supply and Installation Cost (SIC). The maximum liquidated damages are 10 percent of the System Supply and Implementation Cost (SIC).*
- GCC 55.3** (vi) *Liquidated damages shall also be applicable to the Mile Stones as defined in the Section 5 – Technical Requirements.*
Liquidated damages shall be assessed at 1.0 percent per week of the total milestone payment. Maximum liquidated damages shall be 10 percent of the total milestone payment.

GCC 56 *There are no Special Conditions of Contract applicable to GCC Clause 56.*

GCC 57.3 (iii) *The Contractor warrants that the following items have been released to the market for the following **specific minimum time periods**: specific types of technologies and specific minimum time periods as mentioned below.*

S. No	Equipment Name	Minimum time in market and under full satisfactory operational condition in a similar nature of project elsewhere
1		
2		

The Contractor shall provide proven products, successfully working under the Environmental conditions similar to that of this Bhubaneswar Smart City Ltd., for the equipment's listed in the table above -- satisfying the commercial operations periods. The hardware functionality of all the equipment is specified in Section 5 – Technical Requirements of the RFP document. Software customization to meet the technical and functional requirements specified in Section 5 – Technical Requirements is allowed.

GCC 57.4 *The Defect Liability (Warranty) Period (N) shall begin from the date of Commissioning of the System and extend for **12 months**.*

GCC 57.10 *During the Maintenance Period, the Contractor must commence the work necessary to remedy defects or damage within 2 hours of notification. The Service levels to which the Contractor shall adhere to are specified in the **Section 5 – Technical Requirements**.*

GCC 68.1 Performance Security:

- (i) The Performance Security shall be for 10% of the Total Value of Contract;
- (ii) The Performance Security shall be issued by a Scheduled Commercial bank in India and acceptable to the Client. The Performance Security shall be valid until a date 60 days beyond the issuance of the Completion Certificate;
- (iii) The Client shall not make a claim under the Performance Security, except for amounts to which the Client is entitled under the Contract in the event of:
 - (a) failure by the Contractor to extend the validity of the Performance Security on extension of the validity of the Contract, in which event the Client may claim the full amount of the Performance

Security;

- (b) failure by the Contractor to pay the Client an amount due, as either agreed or determined pursuant to the dispute resolution process specified in the Contract, within forty two (42) days after determination of the dispute;
 - (c) failure by the Contractor to pay any damages due to the Client under the Contract;
 - (d) failure by the Contractor to pay any amounts that are due to the Client on termination of the Contract;
 - (e) the Contractor engaging in any corrupt, fraudulent, coercive, collusive, undesirable or restrictive practice.
- (iv) If the Performance Security is or becomes invalid for any reason during the term of the Contract, the Contractor shall immediately notify the Client and provide the Client with a replacement Performance Security in the form set out in Appendix A within five (5) days of the earlier Performance Security becoming invalid;
 - (v) If the validity period of the Performance Security is less than the period specified in sub-clause (ii) above, then no later than thirty (30) days before the expiry of the Performance Security, the Contractor shall obtain an extension of the validity of such Performance Security and provide the Client with a copy of the renewed security. If the Contractor fails to extend the Performance Security, the Client shall be entitled to draw on and claim the un-drawn amount thereunder, provided that the amount so received shall be treated as a cash security and to the extent that there are no outstanding claims, shall be released upon submission of a new Performance Security acceptable to the Client;
 - (vi) The provision, maintenance or renewal of the Performance Security by the Contractor in accordance with the terms of the Contract, shall be a condition precedent to any payment by the Client to the Contractor.

On completion of the contractual obligations under the Contract by the Contractor, the Client shall return the Performance Security within twenty one (21) days of the last payment made to the Contractor under the Contract.

IV. Appendices

us at our _____* branch a written claim or demand and received by us at our _____* branch on or before Dt. otherwise bank shall be discharged of all liabilities under this guarantee thereafter.

.....(Signature of the authorized officer of the Bank)

.....

Name and designation of the officer

.....

.....

Seal, name & address of the Bank and address of the Branch

*Preferably at the headquarters of the authority competent to sanction the expenditure for purchase of goods/ s