

SECTION III – GENERAL CONDITIONS OF CONTRACT

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SECTION III

GENERAL CONDITIONS OF CONTRACT

1. Definitions

1.1 In this Contract, the following terms shall be interpreted as indicated:

- i. **"UIDAI"** means the Unique Identification Authority of India.
- ii. **"The Purchaser"** means the President of India acting through the Director General, Unique Identification Authority of India or any other representative authorized by the Director General, Unique Identification Authority of India.
- iii. **"Purchase Officer"** means the officer signing the acceptance of Bid and includes any officer who has authority to execute the relevant contract on behalf of the Purchaser.
- iv. The **"Contract"** means the agreement entered into between the Purchaser and the Vendor as recorded in the Contract Form signed by the Purchaser and the Vendor, including all attachments and annexes thereto and all documents incorporated by reference therein.
- v. The **"Vendor"** means the person or the firm or the company with whom the order for the Procurement of the Goods/Services is placed and shall be deemed to include the Vendor's successors, representatives (approved by the Purchaser), heirs, executors, administrators and permitted assigns, as the case may be, unless excluded by the terms of the contract.
- vi. **"The Contract Price"** means the price payable to the Vendor under the Contract for the full and proper performance of its contractual obligations;
- vii. **"The Goods"** mean all of the equipment, hardware, software, machinery, accessories and/or other material which the Vendor is required to supply to the Purchaser under the Contract;
- viii. **"Service"** means services ancillary to the supply of the Goods, such as transportation and insurance, and any other incidental services, such as installation, integration, commissioning, configuration, testing, acceptance, warranty and post warranty maintenance and support, provision of technical assistance, training and other obligations of the Vendor covered under the Contract;
- ix. **"Acceptance of Bid"** means the letter/telex/telegram/ fax or any memorandum communicating to the selected Bidder the acceptance of his Bid and includes an advance acceptance of his Bid.
- x. **"Supply"** means once the purchaser issues a Purchase Order, the bidder has to supply the items within stipulated time.
- xi. **"Delivery"** includes logistics, tracking and physical delivery of goods at purchaser premise (up to the equipment handling room-EHR) and handing over the sealed boxes to purchaser representatives. Delivery will be validated as number of boxes delivered

against invoices. Delivery Challan needs to be signed by Purchaser/Authorized representatives. Extent of damage to the boxes will be also scrutinized and informed to the vendor.

- xii. **"Installation"** includes unpacking and movement of goods from EHR to the proposed location in Data Centre as indicated in the Deployment plan of the purchaser and the installation of these components adhering to OEM guidelines.
- xiii. **"Configuration"** includes installation of Operating systems in respective components and power-on, basic hygiene tests, setup and tuning as per purchaser requirements.
- xiv. **"Commissioning"** is declaration of completion of installation of the component by the bidder. Purchaser reserves the right to inspect the installation and the bidder has to obtain the installation note duly signed by purchaser or its representative to claim the successful commissioning of the component.
- xv. **"Integration"** includes passive cabling and network connectivity, end to end testing of the components with the existing setup by the purchaser representative and asset tagging.
- xvi. **"Acceptance"** - Bidder has to submit test cases for each component and shall get approval of the purchaser. Acceptance includes execution of these test cases and verifying the expected results by Purchaser or its representatives. The components and its performance will be validated against the minimum specifications and requirements in the RFP. On successful completion of AT, a certificate will be issued to bidder.

2. Application

- 2.1 These General Conditions shall apply to the extent that they are not superseded by provisions in other parts of the Contract.

3. Standards

- 3.1 The Goods supplied under this Contract shall conform to the standards mentioned in the Technical Specifications, and, when no applicable standard is mentioned, to the authoritative standards, such standard shall be the latest issued by the concerned institution.
- 3.2 The Vendor shall ensure that the Goods supplied under the Contract against all purchase orders are new, unused, of the most recent or current models and incorporate all recent improvements in design and materials without any additional cost to the Purchaser.

4. Use of Contract Documents and Information

- 4.1 The Vendor shall not, without the Purchaser's prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample or information furnished by or on behalf of the Purchaser in connection therewith, to any person other than a person employed by the Vendor in the Performance of the Contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 4.2 The Vendor shall not, without the Purchaser's prior written consent, make use of any document of information enumerated in **Clause 3 of Section II** except for purposes of performing the Contract.

- 4.3 Any document, other than the Contract itself, enumerated in **Clause 3 of Section II** shall remain the property of the Purchaser and shall be returned (in all copies) to the Purchaser on completion of the Vendor's performance under the Contract, if so required by the Purchaser.

5. Patent Rights

- 5.1 The Vendor shall indemnify the Purchaser against all third-party claims of infringement of patent, trademark or industrial design rights arising from the use of the Goods or any part thereof.

6. Performance Security

- 6.1 Within 7 days after the receipt of notification of award of the Contract from the Purchaser, the successful Vendor shall furnish performance security to the Purchaser, which shall be equal to **10 percent (Ten Percent)** of the value of the contract in the form of a bank guarantee bond from a scheduled bank.
- 6.2 The Performance Security Bank Guarantee shall be released on completion of the **Contract Period**.

7. Installation, Commissioning and Integration, Configuration, Testing and Acceptance Tests

- 7.1 The Vendor shall be responsible for installation, commissioning and integration of the Goods/Services at the destination sites including configuration for making them fully operational.
- 7.2 The acceptance test which involves the operation of the complete Goods/Services shall be conducted by the Vendor in the presence of the Purchaser and/or authorized officials and/or any other team or agency nominated by the Purchaser. All expenses for special devices, if any, for installation, commissioning, configuration, testing and acceptance of the Goods/Services shall be borne by the Vendor.
- 7.3 The Vendor shall describe in advance the tests and in details the system on which he proposes to demonstrate the correct working of the equipment supplied both individually and as an integrated system. System testing schedules are thus additional to test specifications for individual items or units of equipment and shall comprise of:
- a) On-site commissioning tests
- 7.4 The above test shall demonstrate the satisfactory operation of all equipment as an integrated whole covering full range of the facilities of the equipment. Simulation equipment shall be provided by the Vendor wherever necessary, to simulate all input and output functions on the test configuration. All functions shall be tested including but not limited to:
- a) Power failure and restoration.
 - b) All combinations of permissible voltage and frequency variations.
 - c) Limiting signal-noise ratios on data carrying circuits.
 - d) Maintenance and testing facilities.

- 7.5 The acceptance test shall be carried out by the Vendor in the presence of the Purchaser or any other person(s) or agency designated by the Purchaser. In order to qualify for acceptance, the equipment must, as a complete system, operate **for a month, 24 hours a day, at 99.9% up-time efficiency.**
- 7.6 The Vendor shall conclude the Acceptance test not later than forty five (45) days after the arrival of each equipment and not later than fifteen (15) days from the installation of the System, in the presence of person(s) or agency designated by the Purchaser.
- 7.7 Should the Acceptance Tests not be concluded to the satisfaction of the Purchaser within the said Forty Five (45) days from the arrival of the equipment and 15 days from the installation, the Vendor shall repair or replace, at the Vendor's cost, the whole or any part of the equipment as may be necessary for conclusion of the acceptance tests to the satisfaction of the Purchaser within a further period of fifteen (15) days.
- 7.8 Should Acceptance Tests still not be concluded to the satisfaction of the Purchaser after the expiration of one hundred and twenty (120) days from the arrival of each equipment, the Purchaser shall have the right to reject the equipment in respect of which the acceptance tests are not satisfactorily concluded as provided in this Clause and to terminate this contract to the extent it relates to such equipment and in that event the Vendor shall refund and repay all amounts received by the Vendor from the Purchaser and all moneys paid by the Purchaser towards freight, insurance, customs duty, octroi and other connected expenses including interest at the rate of 10% per annum in respect of that equipment, within 60 days from the receipt of a written claim from the Purchaser.

8. Incidental Services

- 8.1 The Vendor shall be required to provide any or all of the following services:
 - (a) Installation, commissioning and integration, configuration, testing, acceptance, warranty and post warranty maintenance and support in respect of supplied Goods.
 - (b) Performance or supervision of on-site assembly and start-up of the supplied Goods;
 - (c) Furnishing of tools required for assembly and start-up of the Supplied Goods;
 - (d) Furnishing of detailed operations and maintenance manuals for each appropriate unit of the supplied Goods;
 - (e) Performance, supervision, maintenance and repair of the supplied Goods, for Contract Period agreed by the Purchaser and the Vendor, provided that this service shall not relieve the Vendor of any warranty obligations under this Contract; and

- (f) Conduct of training of the Purchase's personnel, at Hebbal (Bengaluru) and Manesar (Haryana) on-site in assembly, start-up, configuration, operation, maintenance of the supplied Goods.
- (g) Provision of **1(one) Resident Engineer/Technician** at each of the two Data Centres on a 24x7 basis for maintenance support for the duration of Contract Period.
- (h) Other obligations of the Vendor covered under the Contract.

9. Training – The user training, if required by UIDAI, to be provided by the vendor/ successful Bidder without any additional cost.

10. Delivery and Documents

- 10.1 Delivery of the Goods shall be made by the Vendor in accordance with the terms specified by the Purchaser in its Notification of Award / Letter of Intent.

11. Maintenance and Spare Parts

- 11.1 Documentation shall be supplied for installation, maintenance, servicing and operation of equipment. All equipment, symbols and abbreviations shall be in accordance with the generally accepted nomenclature and standards. The maintenance manual shall contain a description of the complete hardware system and maintenance procedures. The hardware description shall start with the overall configuration of the system with layouts showing the location of every unit with block diagram and explanation of operation. Detailed descriptions of component units shall explain their operation. Block diagrams showing the flow and interaction of data and logic diagrams shall be provided. Part list and wiring schedules shall be provided, but care shall be taken to avoid obscuring of the operational description. Maintenance procedures shall cover the diagnosis of faults, testing and setting up adjustments, replacement of units, routine mechanical servicing, if any, and operation of test equipment.
- 11.2 The servicing manual shall cover all the procedures and information necessary for the diagnosis and repair of faulty units or components of every type. It shall include circuits, board layouts, component schedules (with Vendors' names), test points and test parameters, and use of test equipment.
- 11.3 After acceptance tests and final acceptance of the entire system by UIDAI (refer **Section V, Clause 13**), the vendor shall hand over the entire system to the Managed Service Provider (MSP) of UIDAI and shall continue to provide Warranty / AMC services under the direct supervision of MSP. The vendor shall be liable and provide all necessary support and cooperation to the MSP in this regard.

12. WARRANTY AND PERIOD OF CONTRACT

12.1 Warranty

- 12.1.1 The Vendor warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models and incorporate all recent improvements in design and materials unless provided otherwise in the Contract. The Vendor further warrants that the Goods supplied under this Contract shall have no defect arising from design, materials or workmanship (except insofar as the design or material is required by the Purchaser's Specifications) or from any act or omission of the Vendor, that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.
- 12.1.2 This warranty shall remain valid, for **3 Years (36 months)** in respect of **Servers, Blade Chassis** and **1 Year (12 months)** in respect of all other Goods, after the Goods, or any portion thereof as the case may be, have been delivered (and commissioned) to the final destination indicated and accepted as part of the scope of this bid. **The warranty period shall commence from the date of acceptance of the system.**
- 12.1.3 The Purchaser shall promptly notify the Vendor in writing of any claims arising under this warranty.
- 12.1.4 Upon receipt of such notice, the Vendor shall, with all reasonable speed, repair or replace the defective Goods or parts thereof, without prejudice to any other rights which the Purchaser may have against the Vendor under the Contract.
- 12.1.5 If the Vendor, having been notified, fails to remedy the defect(s) within a reasonable period, the Purchaser may proceed to take such remedial action as may be necessary, at the Vendor risk and expense and without prejudice to any other rights which the Purchaser may have against the Vendor under the Contract.

12.2 Period of Contract

- 12.2.1 This contract for **“Supply, Installation, Commissioning, Integration and Maintenance of Servers and Accessories”** shall be valid for a total period of **5 (Five) Years**, including warranty period of **3 years (36 months)** in respect of **Servers, Blade Chassis** and **1 year (12 months)** in respect of all other Goods, after the Goods, or any portion thereof as the case may be, have been delivered (and commissioned) to the final destination indicated and accepted as part of the scope of this bid. **The Contract Period is extendable up to 3 Years on same terms and conditions of this contract at the sole discretion of the Purchaser. The warranty period shall commence from the date of acceptance of the system.**
- 12.2.2 Notwithstanding the provisions of **Clauses 21, 22, 23 and 24**, the period of Contract shall be valid subject to the satisfaction of the Purchaser.

13. Payment

- 13.1 The payment terms are as follows (which shall be subject to the following conditions):

A. One Time Non-Recurring Costs (Annexure 4.2.3 refers)

- i) **10%** against delivery of all equipments and accessories for all phases (if any).

- ii) **50%** against installation and satisfactory commissioning of all Goods/ Services for all phases (if any).
- iii) **30%** against acceptance testing of Goods/ Services as per **Section V – Clause 13** for entire system including all phases (if any). In case the acceptance test of the Goods/Services is delayed or put off beyond 90 days of the receipt of the equipment at Purchaser's sites (as per **Appendix F**) due to express written instructions of the Purchaser, this amount may be released to the Vendor on his furnishing a necessary Bank Guarantee on stamp paper of requisite value of an equivalent amount from any of the **Scheduled Bank**.
- iv) **Balance 10%** to be disbursed on 12 (twelve) equal quarterly installments after completion of each quarter from commencement of warranty period.
- v) No payment shall, however, accrue until after the Performance Guarantee Bond envisaged in **Clause 6** has been furnished.

B. Recurring Costs (Annexure 4.2.3 refers)

The post warranty annual maintenance cost would be paid in equal quarterly installments after completion of each quarter over the AMC period.

14. Currency of Payment

- 14.1 Payment shall be made in Indian Rupees only.

15. Change Orders

- 15.1 The Purchaser may at any time, by a written order given to the Vendor pursuant to **Clause 28**, make changes within the general scope of the Contract in any one or more of the following:
- (a) drawings, designs or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
 - (b) the method of shipment or packing;
 - (c) the place of delivery; or
 - (d) the Services to be provided by the Vendor.
 - (e) increase/ decrease quantities of goods
- 15.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Vendor's performance of any part of the work under the Contract, whether changed or not changed by the order, an equitable adjustment shall be made in the Contract Price or delivery schedule, or both, and the Contract shall accordingly be amended. Any claims by the Vendor for adjustment under this Clause must be asserted within thirty days from the date of the Vendor's receipt of the Purchaser's change order.

16. Contract Amendments

- 16.1 Subject to **Clause 18**, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

17. Assignment

- 17.1 The Vendor shall not assign, in whole or in part, its obligations to perform under the Contract, except with the Purchaser's prior written consent. The permission, if any, of the purchaser has to be taken within 15 days of award of the contract.

18. Sub-contracts

- 18.1 The Vendor shall notify the Purchaser in writing of all subcontracts awarded under the Contract if not already specified in his bid. Such notification, in his original bid or later, shall not relieve the Vendor from any liability or obligation under the Contract.

19. Delays in the Vendor's Performance

- 19.1 Delivery of the Goods and performance of Service shall be made by the Vendor in accordance with the Timelines specified by the Purchaser in **Clause 12 Section V – Scope of Work**.
- 19.2 An un-excused delay by the Vendor in the performance of its delivery obligations shall render the Vendor liable to any or all of the following sanctions: forfeiture of its performance security, imposition of liquidated damages, and/or termination of the Contract for default.
- 19.3 If at any time during performance of the Contract, the Vendor or its sub-contractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the Vendor shall promptly notify the Purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Vendor's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Vendor's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract. If the vendor request to delay the delivery of goods and performance of services is not found acceptable to the purchaser, **Clause 19.2** would be invoked.

20. Liquidated Damages

- 20.1 Subject to **Clause 22**, if the Supplier fails to deliver any or all of the Goods or to perform the Services within the time period(s) specified in the Contract, the Purchaser shall without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the **0.5 per cent per week** (Seven Days) or **part thereof** of the contract price of the delayed Goods or unperformed Services for each week (Seven Days) or part thereof of delay until actual delivery or performance, up to **maximum deduction of 10%** of the contract price. Once the maximum is reached, the Purchaser may consider termination of the Contract pursuant to **Clause 21**.
- 20.2 In the event of failure of the Vendor to secure acceptance of equipment by the Purchaser, within one hundred and twenty (120) days after arrival at site, it is agreed that the Purchaser reserves the option to recover from the Vendor as liquidated damages and not by way of penalty for the period after the said one hundred twenty days, until acceptance a sum equivalent to **two percent (2%)** of the equipment value for each month of the failure of Vendor up to a

maximum deduction of **Ten (10) percent of the Contract price**, to secure acceptance or part thereof, without prejudice to the Purchaser's other remedies under the Contract.

- 20.3 If the successful bidder fails to meet one or more of the above Service Levels within the Target time limit(s) as specified in Table 20.1 of Section V on more than One Incident per quarter, the Purchaser shall without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to 0.5 percent per Incident for which service levels are not met of the equal quarterly installments payable for that quarter, up to maximum deduction of 10% of the equal quarterly installment payable for that quarter. Once the maximum is reached, the Purchaser may consider termination of the Contract pursuant to Clause 21.

21. Termination for Default

- 21.1 The Purchaser may, without prejudice to any other remedy for breach of contract, by written notice of default sent to the Vendor, terminate the Contract in whole or in part:

- (a) If the Vendor fails to deliver any or all of the Goods/Services within the time period(s) specified in the Contract, or any extension thereof granted by the Purchaser pursuant to **Clause 19**; OR
- (b) If the Vendor fails to perform any other obligation(s) under the contract.

- 21.2 In the event the Purchaser terminates the Contract in whole or in part, pursuant to **Clause 21.1** the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods similar to those undelivered, and the Vendor shall be liable to the Purchaser for any excess costs for such similar Goods including the efforts of the Purchaser for such arrangement. However, the Vendor shall continue performance of the Contract to the extent not terminated.

22. Force Majeure

- 22.1 Notwithstanding the provisions of **Clauses 19, 20, 21** the Vendor shall not be liable for forfeiture of its performance security, liquidated damages or termination for default, if and to the extent that, its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

- 22.2 For Purposes of this Clause, "Force Majeure" means an event beyond the control of the Vendor and not involving the Vendor and not involving the Vendor's fault or negligence and not foreseeable. Such events may include, but are not restricted to, acts of the Purchaser either in its sovereign or contractual capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

- 22.3 If a force Majeure situation rises, the Vendor shall promptly notify the Purchaser in writing of such conditions and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Vendor shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

23. Termination for Insolvency

- 23.1 The Purchaser may at any time terminate the Contract by giving written notice to the Vendor, without compensation to the Vendor, if the Vendor becomes bankrupt or otherwise insolvent, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Purchaser.

24. Termination for Convenience

- 24.1 The Purchaser may by written notice sent to the Vendor, terminate the Contract, in whole or in part at any time of its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.
- 24.2 The Goods that are complete and ready for shipment within 30 days after the Vendor receipt of notice of termination shall be purchased by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect:
 - (a) to have any portion completed and delivered at the Contract terms and prices; and/or
 - (b) to cancel the remainder and pay to the Vendor an agreed amount for partially completed Goods and for materials and parts previously procured by the Vendor.

25. Dispute Resolution

- 25.1. If during the subsistence of this Contract or thereafter, any dispute between the Parties hereto arising out of or in connection with the validity, interpretation, implementation, material breach or any alleged material breach of any provision of this Contract or regarding any question, including as to whether the termination of this Contract by one Party hereto has been legitimate, the Parties hereto shall endeavor to settle such dispute amicably and/or by Conciliation to be governed by the Arbitration and Conciliation Act, 1996 or as may be agreed to between the Parties. The attempt to bring about an amicable settlement is considered to have failed as soon as one of the Parties hereto, after reasonable attempts; which attempt shall continue for not less than thirty (30) days, gives thirty (30) days notice to refer the dispute to arbitration to the other Party in writing.
- 25.2. The Arbitration proceedings shall be governed by the Arbitration and Conciliation Act, 1996.
- 25.3. The Arbitration proceedings shall be held in Delhi, India.
- 25.4. The Arbitration proceeding shall be governed by the substantive laws of India.
- 25.5. The proceedings of Arbitration shall be in English language.
- 25.6. Except as otherwise provided elsewhere in the contract if any dispute, difference, question or disagreement arises between the parties hereto or their respective representatives or assignees, at any time in connection with construction, meaning, operation, effect, interpretation or out of the contract or breach thereof the same shall be decided by an Arbitral Tribunal consisting of three Arbitrators. Each party shall appoint one Arbitrator and the Arbitrators so appointed shall appoint the third Arbitrator who will act as Presiding Arbitrator.
- 25.7. In case, a party fails to appoint an arbitrator within 30 days from the receipt of the request to do so by the other party or the two Arbitrators so appointed fail to agree on the appointment of third Arbitrator within 30 days from the date of their appointment upon request of a party, the Chief Justice of India or any person or institution designated by him (in case of International commercial Arbitration) shall appoint the Arbitrators/Presiding Arbitrator. In case of domestic contracts, the Chief Justice of the High Court or any person or institution designated by him within whose jurisdiction the subject purchase order/contract has been placed / made, shall appoint the arbitrator/Presiding Arbitrator upon request of one of the parties.
- 25.8. If any of the Arbitrators so appointed dies, resigns, incapacitated or withdraws for any reason from

the proceedings, it shall be lawful for the concerned party/ arbitrator to appoint another person in his place in the same manner as aforesaid. Such person shall proceed with the reference from the stage where his predecessor had left if both parties consent for the same, otherwise, he shall proceed de novo.

- 25.9. It is a Scope of the contract that the party invoking arbitration shall specify all disputes to be referred to arbitration at the time of invocation of arbitration and not thereafter.
- 25.10. It is also a Scope of the contract that neither party to the contract shall be entitled for any interest on the amount of the award.
- 25.11. The Arbitral Tribunal shall give reasoned award and the same shall be final, conclusive and binding on the parties.
- 25.12. The fees of the arbitrator shall be borne by the parties nominating them and the fee of the Presiding Arbitrator, costs and other expenses incidental to the arbitration proceedings shall be borne equally by the parties.
- 25.13. Subject to as aforesaid the provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications or re-enactment in lieu thereof shall apply to the arbitration proceedings under this clause.
- 25.14. Continuance of the Contract: Notwithstanding the fact that settlement of dispute(s) (if any) under arbitration may be pending, the parties hereto shall continue to be governed by and perform the work in accordance with the provisions under this Contract.

26. Governing Language.

- 26.1 The Contract shall be written in the English language. Subject to **Clause 27**, that language version of the Contract shall govern its interpretation. All correspondence and other documents pertaining to the Contract which are exchanged by the parties shall be written in that same language.

27. Applicable Law

- 27.1 The Contract shall be governed by and construed in accordance with the laws of India.

28. Notices

- 28.1 Any notice by one party to the other pursuant to the Contract shall be sent in writing or by telegram or telex/cable/fax and confirmed in writing to the address specified for that purpose in the contract.
- 28.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.

29. Back-up Support

- 29.1 Vendor shall furnish details of the back-up engineering and systems support that will be available to the Purchaser. If the maintenance of the system, after expiry of the Warranty period, is taken over either by the Purchaser or any other person/Agency to be nominated by the Purchaser, the Vendor shall be responsible for supply of spare parts and back-up maintenance support required

by the Purchaser or that Agency and shall continue to make available the spare parts.

30. Power Tolerance

- 30.1 The system must be capable of withstanding power failures and must not get damaged due to 'tripouts'. It should be capable of withstanding permissible voltage and frequency variations without any damage to equipment or loss of information.

31. Price Fall

- 31.1 The prices charged for goods and services supplied under this contract by the Vendor shall in no event exceed the lowest price at which the Vendor sells the Goods/ Services or offers to sell Goods/ Services of identical description to any persons/organizations including the Purchaser or any department of the Central or State Government or any statutory undertaking of the Central or State Govt., as the case may be, during the currency of the contract.
- 31.2 If any time during the contract period the Vendor reduces the sale price, sells or offers to sell such Goods/ Services to any person/organization including the purchaser or any department of State or Central Govt. or any department. of a State Govt. for statutory undertaking of the Central or State Govt. as the case may be at a price lower than the price chargeable under the contract, he shall forthwith notify such reduction of sale or offer to sell to the purchaser and the price payable under the contract for the Goods/ Services supplied after the date of coming into force of such reduction or sale or offer to sell shall stand correspondingly reduced.
- 31.3 Prices shall remain firm and shall not be subject to any upward revision on any account whatsoever throughout the currency of contract. The Purchaser, however, reserves the right to review and negotiate the charges payable for Goods/ Services at the beginning of each year or at any time, whichever is earlier, to incorporate downward revisions as applicable and necessary.

32. Delivery

- 32.1 The computer system and other equipment specified in the schedule **(Annexe 4.1.6)** are required to be supplied installed and commissioned by the Vendor within the period indicated in the letter of intent.

33. Passing of Property

- 33.1 Ownership shall not pass to the Purchaser unless and until the Goods have been delivered, installed and accepted, in accordance with the conditions of the contract to the entire satisfaction of the Purchaser.

34. Prices

- 34.1 **Prices to be firm:** The prices quoted for the Goods shall be firm throughout the currency of contract and shall not be subject to any variation.

35. Deductions

- 35.1 Payments, as envisaged in **Clause 13**, shall be subject to deductions of any amount, for which the Vendor is liable under the agreement against this Bid.

36. Taxes and Duties

- 36.1 The Vendor shall be entirely responsible for all taxes, duties, octroi, license fees, **demurrage charges** etc., incurred until delivery of the contracted Goods to the Purchaser. If there is any reduction/increase in duties and taxes due to any reason whatsoever, after Notification of Award, the same shall be passed on to the Purchaser/Vendor.
- 36.2 **The Vendor must also note that the octroi exemption certificate, if any, applicable to the Central Government purchases, may be issued by the Purchaser on receipt of the request from the Vendor. The Purchaser will, however, not be responsible if the octroi exemption certificate issued by it is not honoured by the concerned local/municipal authorities. In that case, the Vendor shall have to bear octroi duties, demurrage charges etc.**

37. Insurance

- 37.1 The Goods supplied under the Contract shall be fully insured by the Vendor against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery.

38. "No Claim" Certificate

- 38.1 The Vendor shall not be entitled to make any claim whatsoever against the Purchaser under or by virtue of or arising out of this contract, nor shall the Purchaser entertain or consider any such claim, if made by the Vendor after he shall have signed a "No claim" certificate in favour of the Purchaser in such forms as shall be required by the Purchaser after the works are finally accepted.

39. Continuing Support

- 39.1 The Vendor shall provide adequate and appropriate support and participation, on a continuing basis, in tuning all vendor supplied software to meet the requirements of the applications.

40. Satisfactory Complimentary Performance

- 40.1 The Vendor shall, notwithstanding anything stated in **Clauses 6, 7 and 12 of Section III**, guarantee satisfactory performance of all hardware and software to the specifications in the contract and further undertake to reimburse the Purchaser or any agency nominated by the Purchaser, all payments made in pursuance of this contract and such other cost as may be decided by mutual consent or by arbitrator as envisaged in **Clause 25**, if the software

features do not perform to committed standards thus materially affecting performance of the applications.