

अति आवश्यक



उत्तर प्रदेश सरकार

उत्तर प्रदेश पुलिस भर्ती एवं प्रोन्नति बोर्ड

तुलसी गंगा कॉम्प्लेक्स, -19 सी, विधानसभा मार्ग,

लखनऊ, उत्तर प्रदेश 226001-

दूरभाष 223-0522 : फैक्स/5752 फैक्स 2235806-0522 -

Web-www.uppbpb.gov.in

संख्या:पीआरपीबी-एक-1(150)/2021

दिनांक:फरवरी 03, 2022

### विज्ञप्ति

आरक्षी नागरिक पुलिस के 26210 एवं फायरमैन के 172 पदों को सीधी भर्ती से भरे जाने हेतु ओपन टेण्डर के माध्यम से आमंत्रित निविदा के सम्बन्ध में।

1- आरक्षी नागरिक पुलिस के 26210 एवं फायरमैन के 172 पदों को सीधी भर्ती-2021 द्वारा भरे जाने के लिए परीक्षा आयोजित करने हेतु ओपन टेण्डर के माध्यम से कार्यदायी संस्थाओं को दिनांक 10.02.2022 तक भर्ती बोर्ड में निविदायें प्रस्तुत करने हेतु आमंत्रित किया गया है।

2- आरक्षी नागरिक पुलिस के 26210 एवं फायरमैन के 172 पदों को सीधी भर्ती-2021 द्वारा भरे जाने के लिए कार्यदायी संस्था के चयन हेतु सक्षम कार्यदायी संस्थाओं से दिनांक 10.02.2022 को समय 12:30 बजे अपरान्ह तक निविदायें आमंत्रित की गयी हैं। बोर्ड की वेबसाइट पर प्रदर्शित किये गये आर0एफ0क्यू0 में निहित शर्तों/प्रावधानों के सम्बन्ध में कतिपय कार्यदायी संस्थाओं द्वारा प्रेषित पृच्छाओं (Queries) एवं अनुरोध का बोर्ड स्तर पर परीक्षण/निस्तारण कर इसे बोर्ड की वेबसाइट पर प्रदर्शित किया जा रहा है।

3- अतः आरक्षी नागरिक पुलिस के 26210 एवं फायरमैन के 172 पदों को सीधी भर्ती-2021 द्वारा भरे जाने के लिए कार्यदायी संस्थाओं द्वारा प्रस्तुत की गयीं पृच्छायें (Queries) एवं अनुरोध के सम्बन्ध में लिये गये निर्णय एवं बोर्ड की वेबसाइट <http://uppbpb.gov.in> पर प्रकाशित किये गये आर0एफ0क्यू0 संख्या-पीआरपीबी-एक-1(150)2021, दिनांक 07.01.2022 में निहित शर्तों के अनुसार सक्षम कार्यदायी संस्थायें अपनी-अपनी निविदायें दिनांक 10.02.2022 को समय 12:30 बजे तक बोर्ड में प्रस्तुत करना सुनिश्चित करें।

अपर सचिव (भर्ती),

उ0प्र0 पुलिस भर्ती एवं प्रोन्नति बोर्ड,

लखनऊ।

**RFQ NO.-PRPB-ONE-1(150)/2021**  
**Decision regarding prebid queries/requests raised by agencies.**

S.No.	Ref Page No.	Document Section	Content of the RFP requiring clarification	Points of Clarification/ Remarks / Suggestions	Decision
1.	NA		Average turnover of value 200cr per year in the FY-2018-19,2019-20,2020-21,	Agency has requested to relax the total last 03 years average turnover clause from 200 cr to 75 cr.	The expected volume of the project is about 20 lac & it needs high level of integrity, reliability, transparency and professional competence. So the request could not be accepted.

• **Technical Queries**

S.No.	Ref Page No.	Document Section	Content of the RFP requiring clarification	Points of Clarification/ Remarks / Suggestions	Decision
1.	NA	General	Social Distance Guidelines	During the current pandemic -As per Govt guidelines to implement precautionary measures for Social Distancingfor all major gatherings we would request you to add points related to Social Distancing.  We also request an additional line item to be added to the BOQ for Social Distancing requirements.	The examination will be conducted when the situation gets normal. Request not accepted.



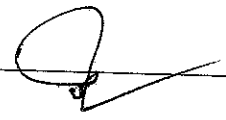
2.	4/5	Part II – Eligibility Criteria for Participation; Point 3	<p>Average turnover generated from services related to offline (OMR based) recruitment examination in the financial years (2018-2019, 2019-2020, 2020-2021) must be atleast Rs50 Crore.</p> <p>Annual accounts duly audited by Chartered Accountant and audited annual report for financial years must be furnished for corresponding period as mentioned in para(3) above.</p>	<p>We request the following changes to the criteria in line with the scoring matrix</p> <p>Average turnover generated from services related to offline (OMR based) recruitment/ examination business in the financial years (2018-2019, 2019-2020, 2020-2021) must be atleast Rs50 Crore.</p> <p>Offline (OMR based) recruitment examination is one of the multiple services provided by our organisation and hence our Annual Report will not show any breakup of the same.</p> <p>Request to accept CA Certificate as a document proof for the criteria</p>	<p>Annual audited report for the financial years(2018-2019 &amp; 2019-2020) must be submitted along with CA certificates for each financial years mentioned.</p> <p>Annual accounts report for the financial year 2020-2021 could be accepted unaudited but it must be submitted.</p>
3.	5	Part II – Eligibility Criteria for Participation; Point 4	<p>The company must have successfully completed atleast 3 projects of offline (OMR based) examination including receiving of online applications, uploading online admit cards, confidential item creation, conduct of Offline (OMR based) examination, and result of Offline (OMR based) examination having candidature of minimum 15 lac candidates each during the financial years(2018-2019, 2019-2020, 2020-2021)</p>	<p>Most of the customers prefer different vendors for application and conduct of examination.</p> <p>Hence we request to relax 'online applications' from the scope of similar project experience.</p>	<p>If activities "online application", "confidential item creation" have been completed by the Government department/PSU/Go vt agency then the project will be considered to be conducted end to end by the bidder.</p>



4.	10	Part IV - 1.2 Scoring Matrix for Technical Bids; Point 4. End to End offline (OMR based) recruitment / Exam experience	Experience of having executed end-to-end (OMR based) recruitment / Exam processing work for clients as enumerated at SI no. - 2 (Receiving online application, uploading online admit cards, conduct of Offline (OMT based) exam, evaluation and result preparation)		If activities "online application", "confidential item creation" have been completed by the Government department/PSU/Govt agency then the project will be considered to be conducted end to end by the bidder.
5.	5	Part II - Eligibility Criteria for Participation; Point 8	In OMR based examination OMR sheets has to be scanned immediately after examination. Company must have in-house scanning capability and company must be able to scan atleast 50,000 OMR sheets daily.	We request the following changes to the criteria  In OMR based examination OMR sheets has to be scanned immediately after examination. Company must have in-house scanning capability and company must be able to scan atleast 50,000 OMR sheets daily.	Not accepted.
6.	9	2. Scope of work for recruitment, Point 3.6	Objections raised by the candidates shall be resolved by agency with the given time frame. The agency will develop a software for this and get it approved from the board after giving a presentation.	We can create and share the web link for candidates to raise the objections with facility to upload supporting documents as well. Any other specific requirements and timelines to be discussed and mutually agreed between Agency & UPPRPB.	Not relevant.



7.	9	Part IV - Scoring Matrix for Technical Bids; Point 1. Turnover	<p>Average turnover per year in the financial years (2018-2019, 2019-2020, 2020-2021) from recruitment/ examination business in India.</p> <p>Proofs required CA Certificate &amp; audited annual report of last 03 Fin. years</p>	<p>Offline (OMR based) recruitment examination is one of the multiple services provided by our organisation and hence our Annual Report will not show any breakup of the same.</p> <p>Request to accept CA Certificate as a document proof for the criteria</p>	<p>Annual audited report for the financial years (2018-2019 &amp; 2019-2020) must be submitted along with CA certificates for each financial year mentioned.</p> <p>Annual accounts report for the financial year 2020-2021 could be accepted unaudited but it must be submitted.</p>
8.	10	Part IV - 1.2 Scoring Matrix for Technical Bids; Point 7. Scanning Ability	<p>In house scanning capacity of the agency (in terms of OMR sheets scanned per day). In no case scanning process may be outsourced</p> <p>Above 50,000 to 1,00,000 Above 1,00,000 to 1,50,000 More than 1,50,000</p>	<p>We request the following changes to the clause Inhouse Scanning capability of the agency (in terms of OMR sheets scanned per day)</p>	<p>Not accepted.</p>
9.	10	Part IV - 1.2 Scoring Matrix for Technical Bids; Point 9. Data Centre	<p>Proofs required</p> <p>Self Declaration and physical visit by UPPRPB Committee for verification</p>	<p>Our business model and security policies do not allow customer or customer arranged third party auditors to audit Data Centres Our DataCentres are already audited by third party auditors and certificate issued by them can be shared with the UPPRPB.</p> <p>We perform quarterly VAPT of the infrastructure by CERT-In empaneled auditors and identified vulnerabilities are addressed.</p> <p>Our organisation is also certified for ISO 9001-2015, 27001:2013, ISO 27017:2015, ISO 27018:2019.</p>	<p>Not accepted.</p>



10.	14	Part IV - 1.4 Bill of Quantity (BOQ)	Entire Table	We assume that the 'Name of Activity' for SNo 3 & 4 needs to be interchanged as this does not match with the Volume and Payment terms.	Accepted. Read as interchange.
11.	14	Part IV - 1.5	<p>The rates should be quoted inclusive of all applicable taxes</p> <ol style="list-style-type: none"> <li>1. The Firm shall be responsible for any fluctuation/changes of taxes in future.</li> <li>2. If taxes increase in future, it will be borne by the Agency. If taxes reduces, benefits of reduced taxes shall be passed to Govt.</li> <li>3. In case of calculation error by agency, any interpretation shall be in favor of the Govt.</li> </ol>	<p>Request to Accept quote exclusive of taxes OR Request the following changes to the clause The rates should be quoted inclusive of all applicable taxes</p> <ol style="list-style-type: none"> <li>1. The Firm shall <u>not</u> be responsible for any fluctuation/changes of taxes in future.</li> <li>2. <del>If taxes increase in future, it will be borne by the Agency. If taxes reduces, benefits of reduced taxes shall be passed to Govt.</del></li> <li>2. The charges during invoicing will be based on prevailing Govt. guidelines</li> <li>3. In case of calculation error by agency, any interpretation shall be in favor of the Govt.</li> </ol>	Not accepted.
12.	14	Part IV - 1.9	The documents should be self certified	<p>As per organizational process especially during the current pandemic all our documents are Digitally Signed by the POA authorized signatory. This signature will be only put on the letters and last page of the bid document making it uneditable after the process.</p> <p>Request to allow submission of bid with Digital Signature.</p>	Not accepted.

13.	16	2. Terms and Conditions; Point 2.5	The Agency shall provide minimum 15 Computer Systems (Laptops) along with sufficient manpower at Board's Office for Helpdesk management from 10 AM to 7 PM during the execution of project	Helpdesk- email/call support requires dedicated infrastructure such as server, IVR, User licenses etc. It is advised to have helpdesk at central location having all such facilities.  Daily MIS report will be shared with Board.	Not accepted.
14.	17	2. Terms and Conditions; Point 2.18	In case of any litigation, the agency will provide the relevant information/reply to the Board. Whenever required, agency will designate their officials to appear before the court to apprise and explain the procedures adopted for examination and preparation of the result, along with any other queries made by Hon'ble Court. No extra reimbursement for any expenses will be borne by the board	Please specify the time for such support.  It is recommended that agency provide all the required information to Board and Board officials represent the same in Court.	Not relevant.
15.	19	Annexure-1 Receiving online application forms, Preparing online database and Data Integration b) Design of online application forms; Point 1.	The application form shall be bilingual in English or Hindi. The information to be captured and fields to be included shall be finalized in consultation with the board.	The Data Labels in the applicable form can be bilingual. However, the candidates will be expected to enter the details each of the field in English only.	Accepted.

16.	19	Annexure-1 Receiving online application forms, Preparing online database and Data Integration c) Preparing the online database; Point 3.	After closure of application forms, application data will be handed over in duplicate hard drives to the board along with candidate wise unique registration number for storage and retrieval in printable format	Application data can be provided in Excel format after closure of application. A login can be provided for retrieval of application forms using registration number from central server.  No data is provided in External/ Hard drives.	Not accepted.
17.	19	Annexure-1 Receiving online application forms, Preparing online database and Data Integration c) Preparing the online database; Point 4.	An interface will be provided for enabling search on application form numbers and display of form in printable format.		Not accepted.
18.	20	Annexure-1 Receiving online application forms, Preparing online database and Data Integration c) Preparing the online database; Point 8.	The database shall be handed over to the Board into two copies in external drives of appropriate capacity.		Not accepted.
19.	21	Annexure-2 Generation and online uploading of admit cards; Point 1.	Identification of eligible/ ineligible candidates on various parameters.	Agency can build in validations in the application form fields as instructed by UPPRPB.  However, any manual identification of eligible/ ineligible candidates will be UPPRPB responsibility due to manual and subjective nature of the task.	Not accepted.



20.	23	Annexure-3 Conducting offline examination (OMR Based) A.	Agency shall select well equipped secure and non-controversial examination centers.	Agency will provide list of centers which are well- connected and have required infrastructure for conduct of exam. However, request that track-record and Background check of Test center be done by UPPRPB.	Not relevant.
21.	23	Annexure-3 Conducting offline examination (OMR Based) B. Supply of Examination Centre Management Kits; Point e	Room wise Attendance Sheets with roll number, colour photograph and signatures of the candidate, with provision for pasting of a fresh colour photograph on the attendance sheet and capturing candidates signature and thumb impression on it.	It is advisable that Photograph should not be pasted on attendance sheet as it makes the scanning of attendance very difficult, and glue used can damage OMR's. Instead, Photographs can be captured using biometric devices.	To be decided by Board with consultation with the selected agency.
22.	25	Annexure-5 Preparation of Merit List; Point 4.	The database shall be handed over to the Board in two copies in external drives of appropriate capacity. The database shall be in open server architecture and should be fully searchable. An interface for searching the database on all fields shall be provided which will display information in a format required by the board.	Soft copy of Merit list/ Results data is uploaded / provided through Web Cabinet in a secure manner. Authorized UPPRPB personnel can download the same using their access credentials.  No data is provided in External drives.  Please elaborate on the requirement for fully searchable database. Due to security policies we cannot not provide functionality / access to database. However, all data can be provided in excel format through secured channel.	Not accepted.



23.	26	Annexure-6 Document Verification and Physical Standard Test; Point 5	All the necessary hardware shall be arranged by agency and ensure proper internet connectivity with necessary hardware and power backup	Space, tent/enclosures, barricades, rope dividers, tables, chairs, height/ weight/ chest measurement equipment's along with operators, raw power to be provided by UPPRPB. Kindly confirm our understanding is correct.	Irrelevant.
24.	27	Annexure-7 Final result generation; Point 2.	The database of all candidates (selected and not selected separately) shall be handed over to the board in two copies in external devices of appropriate capacity. The database shall be in open server architecture and should be fully searchable.	Soft copy of candidate data is uploaded / provided through Web Cabinet in a secure manner. Authorized UPPRPB personnel can download the same using their access credentials.  No data is provided in External drives.  Please elaborate on the requirement for fully searchable database. Due to security policies we cannot provide functionality / access to database. However, all data can be provided in excel format through secured channel.	Not accepted.
25.	30	Annexure-9 Helpline; Point 3.	At least two technically qualified personnel will man the helpline being established at Board's office Lucknow for answering the queries of candidates.	Usually, helpdesk is located in a central location and not at customer premises.  Kindly confirm whether this will suffice.	Not accepted.
26.	36	Proforma - (6); Table SR No. 1.	Does agency has experience of preparing offline question bank?	Kindly clarify meaning of offline question bank.	To create, secure, safe custody and dispatch of question papers by agency to conduct OMR based examination.



27	36	Proforma - (6)	Entire Section	<p>Due to NDA with our customers, we are legally bound not to share any customer / project name for whom we have created question banks.</p> <p>We can provide any general count as a self-declaration without any customer / project reference to prove our capability.</p> <p>Request to delete/modify this Proforma</p>	Accepted.
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• **Legal Queries**

SR No	Page No	Original Clause	Suggested Modifications	Decision
1	16	<p>2- Terms and Conditions</p> <p>In the view of the nature of the Work, the Board expects 100% error free processing of the recruitment process at all stages. If the selected agency Commits error and fails to conduct various recruitment processes/exams to the satisfaction of Board, the Board reserves the right to cancel that particular process or whole recruitment process and can direct the agency to conduct that exam process or the whole recruitment process again and for this no extra, payment shall be made to the agency. If due to errors committed by the agency Board cancels the recruitment process and it is decided by the Board not to proceed with the same agency for conducting the recruitment process again, the Board may terminate 'the contract with selected agency and the Board shall not be liable to make any payment what so ever to the agency.</p>	<p>2- Terms and Conditions</p> <p>In the view of the nature of the Work, the Board expects 100% error free processing of the recruitment process at all stages. If the selected agency Commits error, <u>the Board can levy a penalty on the Bidder provided the cost recoverable is solely attributable by the bidder and the same does not exceeds 5% of the total delayed services/deliverables.</u> <del>and fails to conduct various recruitment processes/exams to the satisfaction of Board, the Board reserves the right to cancel that particular process or whole recruitment process and can direct the agency to conduct that exam process or the whole recruitment process again and for this no extra, payment shall be made to the agency. If due to errors committed by the agency Board cancels the recruitment process and it is decided by the Board not to proceed with the same agency for conducting the recruitment process again, the Board may terminate 'the contract with selected agency and the Board shall not be liable to make any payment what so ever to the agency.</del></p>	Not accepted.
2	16	2.2 The agency shall provide a bank guarantee equivalent to 10% of the	2.2 The agency shall provide a bank guarantee equivalent to <del>03</del> 10% of the estimated cost of the	Not accepted.

		estimated cost of the project.	project with in 15 days of signing an Agreement on mutual terms and conditions.	
3	17	<p>Confidentiality of the process shall be paramount and any lapse shall invite huge penalties and legal actions. The selected agency shall not disclose the fact that it is working for the Board to third parties.</p> <p>Penalties shall be imposed in case of failure by the agency to deliver the services according to the agreed terms and conditions and time lines.</p>	<p>Confidentiality of the process shall be paramount and any lapse shall invite huge penalties and legal actions. The selected agency shall not disclose the fact that it is working for the Board to third parties.</p> <p>Penalties shall be imposed in case of failure by the agency to deliver the services according to the agreed terms and conditions and time lines.</p> <p>Request that Overall penalty be capped to 5% of the exam value.</p>	Not accepted.
4	2.17	2.17 Limitation of Liability towards the firm shall not exceed the contract value.	<p><del>2.17 Limitation of Liability towards the firm shall not exceed the contract value. Notwithstanding anything contained in the Agreement or any other document, neither Party shall be liable to the other for any special, indirect, incidental, consequential (including loss of revenue, data and/or profit), exemplary or punitive damages, whether in contract, tort or other theories of law, even if the Party has been advised of the possibility of such damages. The total aggregate liability of either party under this Agreement or otherwise under any account whatsoever, shall not exceed the 5% of the Exam Value paid to TCS by the Board for the Service that gives rise to such liability. The limitation on any Party's liability herein shall not apply to liability for damages, resulting from (i) the wilful misconduct; and (ii) breach of the Use Terms in respect of use of Bidder Application System;. Bidder shall not be held liable for any delay or failure in its obligations, if and to the extent such delay or failure has resulted from a delay or failure by or on behalf of BOARD to perform any of BOARD's obligations. In such event, Bidder shall be</del></p> <p>(a) allowed additional time as may be required to perform its obligations, and (b) entitled to charge</p>	Not accepted.

			the BOARD for <u>additional costs incurred, if any, as may be mutually agreed upon between the Parties.</u>	
5	18	2.18 In case of any litigation, agency shall provide the relevant information/reply to the Board whenever required agency will designate their officials to appear before the court to apprise and explain the procedures adopted for examination and preparation of the result, along with any other queries made by the Hon'ble Court. No extra reimbursement for any expenses will be borne by the Board	2.18 In case of any litigation, agency shall provide the relevant information/reply to the Board whenever required agency will designate their officials to appear before the court to apprise and explain the procedures adopted for examination and preparation of the result, along with any other queries made by the Hon'ble Court. <u>Reimbursement of such expenses shall be mutually agreed with the Board.</u> <del>No extra reimbursement for any expenses will be borne by the Board</del>	Not accepted.
6		Anexure-1		Not accepted.



**Addl. Secretary (Recruitment)**  
UP Police Recruitment and Promotion Board  
Tulsi Ganga complex, 19-C Vidhan Sabha Marg  
Lucknow

## Anexure-1

**Note - We request the following clauses to be a part of the final agreement.**

1. Proprietary Rights

All rights, title and interests in and to the Services Environment and any other material used by Bidder in the provision of the Services shall exclusively belong to Bidder or its licensors ("Bidder Proprietary Material"). Any and all Intellectual Property Rights with respect to the Services and the Bidder Proprietary Material and all modifications, improvements, enhancements, or derivative works made thereto, shall always belong to Bidder or its licensors and the BOARD shall not be entitled to claim any rights therein. All rights, title and interests in the BOARD Data shall always remain with BOARD. However, Bidder shall have the right and license to use the BOARD Data for R&D and product enhancement purposes. BOARD agrees that Bidder shall have the right to list BOARD name in its marketing material and use BOARD logo with respect to such listing and for reference purposes. The BOARD acknowledges that the provision of the Services hereunder by Bidder shall be on a non-exclusive basis and Bidder shall be free at all times to provide the services or perform obligations same or similar to the Services and obligations envisaged hereunder to any of its other clients, either existing or future, and nothing herein shall preclude Bidder from providing such services or performing such obligations to its other clients.

2. Compensation

In consideration of the Services hereunder, the BOARD shall pay Bidder the fees and expenses ("Charges") as specified in Schedule. All amounts payable to Bidder are exclusive of any Taxes. BOARD shall be entitled to deduct from applicable payments to Bidder, any tax on Bidder's income deductible at source at the rates applicable as per the provisions of Income Tax Act 1961 and provide Bidder with evidence or certificate of payment of such tax to the taxing authorities. Bidder shall submit invoices to BOARD in accordance with the payment schedule. BOARD shall remit payment to Bidder within thirty (30) days from the date of invoice. Bidder shall invoice and BOARD shall make payment, in advance, in accordance with the billing period. If any invoice remains unpaid after the aforesaid period, Bidder shall be entitled to recover the unpaid invoices with interest of one percent (1%) per month calculated from the payment due date until the recovery is made in full with interest and/or suspend the Services.

3. Processing Norms

BOARD and Bidder acknowledge and agree that the provision of Services under this Agreement may require Bidder to interact with the BOARDS and suppliers of BOARD relating to the Services as special agent for and on behalf of the BOARD and/or to process transactions, in accordance with the general or special guidelines, norms and instructions ("Processing Norms") provided by BOARD and agreed by the Parties. Bidder shall be entitled to rely on and act in accordance with any such Processing Norms agreed by the parties and Bidder shall incur no liability for claims, loss or damages arising as a result of Bidder's compliance with the Processing Norms. BOARD agrees to indemnify, defend and hold Bidder and its affiliates, their officers and employees involved in the Services, harmless from any and all claims, actions, damages, liabilities, costs and expenses, including but not limited to reasonable attorney's fees and expenses, arising out

of or resulting from Bidder' compliance with Processing Norms. Further, BOARD shall be responsible for all activity occurring under its control and shall abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with their use of the Service, including those related to data privacy, international communications and the transmission of technical or personal data.

#### 4. Confidential Information

Each Party (the "Receiving Party") acknowledges and agrees to maintain the confidentiality of Confidential Information (as hereafter defined) provided by the other Party (the "Disclosing Party") hereunder. The Receiving Party shall not disclose or disseminate the Disclosing Party's Confidential Information to any person other than those employees, agents, contractors, subcontractors and licensees of the Receiving Party, or its affiliates, who have a need to know it in order to assist the Receiving Party in performing its obligations, or to permit the Receiving Party to exercise its rights under this Agreement. In addition, the Receiving Party (i) shall take all such steps to prevent unauthorized access to the Disclosing Party's Confidential Information, as it takes to protect its own confidential or proprietary information of a similar nature, which steps shall in no event be less than a reasonable standard of care, (ii) shall not use the Disclosing Party's Confidential Information, or authorize other persons or entities to use the Disclosing Party's Confidential Information, for any purposes other than in connection with performing its obligations or exercising its rights hereunder, and (iii) shall require all persons and entities who are provided access to the Disclosing Party's Confidential Information, to execute confidentiality or non-disclosure agreements containing provisions substantially similar to those set forth in this Clause. The provisions of this Clause respecting Confidential Information shall not apply to the extent, but only to the extent, that such Confidential Information is: (a) already known to the Receiving Party free of any restriction at the time it is obtained from the Disclosing Party, (b) subsequently learned from an independent third party free of any restriction and without breach of this provision; (c) is or becomes publicly available through no wrongful act of the Receiving Party or any third party; (d) is independently developed by the Receiving Party without reference to or use of any Confidential Information of the Disclosing Party; or (e) is required to be disclosed pursuant to an applicable law, rule, regulation, government requirement or court order, or the rules of any stock exchange. Upon the Disclosing Party's written request at any time, or following the completion or termination of this Agreement, the Receiving Party shall promptly return to the Disclosing Party, or destroy, all Confidential Information of the Disclosing Party provided under or in connection with this Agreement, including all copies, portions and summaries thereof.

#### 5. Non-employment

The BOARD will neither offer to employ nor employ, directly or otherwise, any Bidder employee, associated for the purpose of, or with the assignment, during the period between the date of this proposal and two years from the completion of the assignment arising herefrom.

#### 6. General Indemnity

The BOARD will, during the period of the coverage of this assignment, indemnify and hold Bidder harmless from any loss, injury, claim or damage resulting from any death or injury to any person or property of Bidder arising out of the use or possession of the equipment or location of the BOARD by Bidder or its personnel, unless caused by the negligence of Bidder personnel and the limitation or liability

provided herein shall not apply to such loss, injury, claim or damages.

7. Indemnity for infringement of intellectual property rights

The BOARD warrants that all software, information, data, materials and other assistance provided by it under this proposal shall not infringe any intellectual property rights of third parties, and agrees that it shall at all times indemnify and hold Bidder harmless from any loss, claim, damages, costs, expenses, including Attorney's fees, which may be incurred as a result of any action or claim that may be made or initiated against it by any third parties alleging infringement of their rights.

8. Termination in case of default and non payment of fees:

Bidder may terminate this Agreement for cause if BOARD materially breaches this Agreement, provided Bidder gives BOARD notice of such breach and it remains uncured after 30 days following notice.

9. If any amount due and payable by BOARD under the Agreement is more than 30 days overdue; and there is no dispute between BOARD and Bidder in relation to that amount, Bidder may issue to BOARD a notice that payment is overdue. If BOARD fails to pay Bidder within 7 days after the date of such notice, Bidder may by a further notice to BOARD terminate the Agreement or at its election withdraw services or stop performance of its obligations until payment is made.

10. Representations And Warranties

Bidder warrants that the Services will be provided in a skillful and workman like manner and in conformity with the scope described in Schedule . Notwithstanding the aforesaid, any Services which are provided by Bidder free of charge or are otherwise not chargeable shall be provided on an 'AS IS' basis without any warranties whatsoever. Each Party represents, warrants and covenants to the other that: (i) it is duly organized and validly existing and in good standing under the laws of the state of its incorporation or formation; (ii) it has the full right and authority to enter into and that this Agreement constitutes a legal, valid and binding obligation; and (iii) its execution, delivery and performance of this Agreement does not and will not conflict with, or constitute a breach or default under, its charter of organization, or any contract or other instrument to which it is a party. EXCEPT AS SET FORTH IN THIS CLAUSE, Bidder MAKES NO WARRANTIES TO BOARD , EXPRESS OR IMPLIED, WITH RESPECT TO ANY SERVICES OR DELIVERABLES PROVIDED HEREUNDER OR UNDER SCOPE OF WORK, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ALL SUCH OTHER WARRANTIES ARE HEREBY DISCLAIMED BY Bidder.



## 11. Term and Termination

- 11.1. Term: The term of this Agreement shall commence on the Effective Date and continue for \_ unless terminated earlier in accordance with the provisions herein. The Agreement may be renewed for further term(s) on mutual agreement between the Parties.
- 11.2. Termination for Material Breach. Either Party may terminate this Agreement immediately by a written notice to the other Party (i) in the event of a material breach by the other Party, by a written notice immediately, if the breach is not curable and by a written notice of 30 days, if the breach is curable and is not cured within the said notice period; or (ii) in the event of any proceedings in bankruptcy, insolvency or winding up filed by or against the other Party or for the appointment of an assignee or equivalent for the benefit of creditors or of a receiver or of any similar proceedings.
- 11.3. Effect of termination. In the event of termination or expiry of this Agreement, (A) BOARD shall (i) forthwith cease to access and/ or use any of Bidder Application Systems and Services Environment; (ii) return to Bidder any of Bidder confidential and proprietary information and material in its possession; and (B) Bidder shall (i) return to BOARD all confidential and proprietary information of BOARD ; (ii) if a third party software license is obtained specifically for the BOARD under this Agreement and allows BOARD to use such software after termination of this Agreement (as specifically identified in Schedule\_), then Bidder shall transfer such third party software to BOARD on an 'AS IS' basis. Any additional fee if applicable for such transfer shall be borne by the BOARD.

## 12. Miscellaneous Provisions

- 12.1. Independent Contractors and assignment. Each Party to this contract is an independent contracting entity and shall not be deemed an agent, legal representative, joint venture partner or partner of the other. Neither Party is authorized to bind the other to any third person. BOARD shall not assign or transfer this Agreement or any obligations hereunder to any third party, without the prior written consent of Bidder.
- 12.2. Governing Law and Dispute Resolution. This Agreement shall be governed by and interpreted in accordance with the laws of India. All disputes or differences whatsoever arising between the Parties, out of or in relation to the construction, meaning and operation or effect of this Agreement or breach thereof, shall be settled amicably. If, however, the Parties are not able to resolve such dispute or difference amicably, the same shall be referred for Arbitration to a sole Arbitrator to be mutually agreed upon, and failing such agreement to an Arbitration tribunal consisting of three arbitrators. Each Party will nominate an arbitrator and these two arbitrators by mutual agreement will appoint the third arbitrator to constitute the Arbitration tribunal. The Arbitration proceedings shall be governed by the provisions of the Arbitration and Conciliation Act 1996. The Arbitration proceedings will be carried out at New Delhi and the

award made in pursuance thereof shall be binding on the Parties.

12.3. Subcontract: Bidder shall have the right to subcontract any part of the Services under this Agreement.

12.4. TATA Code Of Conduct: The activities of all Bidder employees are governed by the Tata Code of Conduct, a copy of which is available at link <https://www.tata.com/about-us/tata-code-of-conduct> BOARD agrees to make good faith efforts to notify Bidder designated executives of any breach of the Tata Code of Conduct by any Bidder personnel relating to this Agreement. Bidder in turn, undertakes that it will maintain confidentiality of all communication received.

#### Definition

"Equipment" means certain hardware/software (including networking hardware (MPLS) and software) items identified, if any, in Schedule, to be supplied or made available by or on behalf of Bidder outside the Hosting Environment, for use by BOARD 's Authorised Users strictly for accessing Bidder Application System for the purpose of availing of the Services hereunder.

"Services Environment" means collectively or severally (as the context may require) the Hosting Environment, Bidder Link and Equipment.

"Hosting Environment" means Bidder's servers within the facilities and environment managed and utilized by Bidder to provide the Services to BOARD, including all software, servers, hardware, networks, equipment, and telecommunications facilities and the technology installed within such environment and as described Schedule \_\_\_\_\_

"Bidder Link" means a link either by way of a link located at a URL or a physical port prescribed by the Bidder in Schedule \_\_\_\_\_ established, provided and maintained by Bidder, as part of the Services, for connecting to Bidder Application System.

"Bidder Application System" means the specific software applications/solutions whether owned or licensed by Bidder identified in Schedule, which Bidder will either host on its Services Environment for the provision of Services under this Agreement. Bidder Application System includes, without limitation, proprietary software programs, processes, algorithms, user interfaces, know-how, techniques and other tangible and intangible technical material or information and the technology installed within Bidder Application System.

#### SCHEDULE

USE TERMS for Bidder Application System (Bidder proprietary)

These Use Terms will govern the Use by BOARD of Bidder Application System (more specifically described in Schedule 2), during the Contract Term of the Agreement for Services effective \_\_\_\_\_ ("Agreement") signed between BOARD named herein below and Tata Consultancy Services Limited ("Bidder").

#### 1. DEFINITIONS

The following capitalized terms shall have the meaning set forth below for all purposes of this Use Terms:

"Target Environment" shall mean Services Environment or BOARD Environment, as specified in the Schedule with respect to each component of the Bidder Application System. "Services Environment" has the meaning ascribed to it in the Agreement. "BOARD Environment" has the meaning ascribed to it in the Agreement. "Use" means using and/or accessing the Bidder Application System by the Authorised Users, whether it is installed on BOARD Environment or on the Services Environment, for the purposes of executing, processing, transmitting, transferring, loading and storing of data in connection with the Services rendered by the Bidder under this Agreement, in terms of this Use

Terms. All other capitalized terms used herein but not defined above, shall have the meaning ascribed to them in the Agreement.

## 2. USAGE RIGHTS AND RESTRICTIONS

2.1 Usage rights. (i) Subject to the terms and conditions set forth in this Use Terms, effective upon the installation of the Bidder Application System by Bidder or upon Bidder permitting access to BOARD of the Bidder Application System through any means, Bidder hereby grants to BOARD the right to Use as specifically permitted under this Use

Terms and to permit Authorized Users to Use the Bidder Application System during the Agreement for Contract Term. The forgoing does not (a) authorize installation of the Bidder Application System other than on Target Environment, (b) permit Use of the Bidder Application System for any purpose other than as permitted under this Use Terms, or (c) permit Use of the Bidder Application System to any Person other than Authorized User. Any extension or change of the contractual use of the Bidder Application System requires Bidder' prior written consent and authorization. BOARD is responsible to ensure compliance with all usage restrictions and other applicable terms and conditions of this Use Terms by each Authorized User. Any breach or non-compliance of the terms and conditions of this Use Terms by any Authorized User shall be deemed to be a breach or non-compliance by BOARD

. BOARD will indemnify and defend the Bidder in respect of any breach of this Use Terms to the extent that such breach arises from any act (or failure to act) by the Authorized Users. (ii) The usage rights granted herein and the provisions of this Use Terms do not grant or convey to BOARD any ownership rights and interest or title in or to the Bidder Application System any Intellectual Property Rights therein nor do they permit BOARD to make derivative works or to make copies of the Bidder Application System. To the extent that Bidder Application System consists of any software codes, such material, when delivered to BOARD pursuant to this Use Terms, shall be delivered by Bidder in Object Code form only and BOARD shall not have any right or license with respect to the Source Code or data base design of the Bidder Application System.

2.2 Proprietary and Confidentiality Markings or Notices. BOARD shall retain all of Bidder's and/or its licensors' Logo, Trademark, Copyright notice and other proprietary markings or notice on the Bidder Application System. BOARD shall not, permit any Authorized Users or other persons to, remove, alter or otherwise render illegible any of Bidder's Logo, Trademark, Copyright notice or other proprietary or confidentiality markings that may be placed on the Bidder Application System or components thereof provided to BOARD hereunder. BOARD shall not remove or alter Bidder's and/or its licensors' Logo, Trademark, Copyright notice and other proprietary markings or notice on all copies of the Bidder Application System or any part thereof including the documentation.

2.3 Restrictions on Copying. Copying of the Bidder Application System is prohibited except with Bidder's prior written consent and authorization. Neither BOARD nor any Authorized User is authorized to sell, license, sublicense, distribute, assign, transfer or distribute or timeshare the Bidder Application System or otherwise grant any right under this Use Terms to any third party (other than Authorized Users). Any attempted sale, licensing, sublicensing, distribution, marketing, assignment or time sharing including by interactive cable or remote processing services or otherwise shall be null and void. BOARD is not entitled to, and shall not make or permit others to, reverse engineer, disassemble, de-compile, recreate, enhance or modify the Bidder Application System or any part thereof or to create enhancements to or derivative works of the Bidder Application System or any portions thereof.

2.4 Trademarks. BOARD will have no rights in any trademarks or service marks or trade names adopted by the Bidder and/or its licensors for the

Bidder Application System or any part thereof.

2.5 Breach. Should the Bidder Application System be Used beyond the Use rights by Authorized Users as set out in this Section 2, Bidder shall notify BOARD in writing requiring BOARD to cure the breach of Use Terms and if BOARD does not cure such breach within 10 days (or such other period that the Bidder may permit upon BOARD 's request), of receipt of written notice from Bidder then Bidder shall be entitled to terminate the Use rights granted hereunder in respect of such Bidder Application System, without prejudice to any other rights or remedies Bidder may have under this Use Terms or otherwise.

### 3. OWNERSHIP AND PROPRIETARY RIGHTS

BOARD acknowledges and agrees that Bidder does and will continue to own all Intellectual Properties and Intellectual Property Rights in or attached to the Bidder Application System, including without limitation, in or attached to any enhancement and upgrades and any derivative works thereof even if made for, by or on behalf of BOARD . Nothing contained herein shall be construed as a transfer, assignment or conveyance by Bidder to BOARD of the ownership or title to the Intellectual Property or Intellectual Property Rights in or attached to the Bidder Application System or any enhancements, upgrades or derivative works thereof.

### 4. MISCELLANEOUS

In the event of any conflict between the provisions of this Use Terms and those in the Agreement for Services or the Agreement, notwithstanding any contrary provision anywhere else, BOARD and Bidder specifically agree and acknowledge that the provision of this Use Terms will prevail with respect to the Bidder Application System.