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**Dedicated Freight Corridor Corporation of India Limited**  
(A Government of India Enterprise)

**BIDDING DOCUMENT (SINGLE-STAGE)**

Issued on: 4<sup>th</sup> July 2011

for the

# **Supply & Installation of Integrated IT System**

**IFB No: DFCCIL/IT/SI/2011**

**Project: Eastern Dedicated Freight Corridor**

**Loan No.: 8066 – IN**

**Purchaser: Dedicated Freight Corridor Corporation of  
India Limited, India**



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## CONTENTS

|   |            |
|---|------------|
| <b>Section I. Instructions to Bidders (ITB)</b> .....   | <b>7</b>   |
| Table of Clauses .....  | 8          |
| <b>Section II. Bid Data Sheet (BDS)</b> .....   | <b>45</b>  |
| <b>Section III. Eligible Countries for the Provision of Goods, Works, and Services in Bank-Financed Procurement</b> ..... | <b>57</b>  |
| <b>Section IV. General Conditions of Contract</b> .....   | <b>59</b>  |
| Table of Clauses .....  | 60         |
| <b>Section V. Special Conditions of Contract (SCC)</b> .....  | <b>133</b> |
| Table of Clauses .....  | 134        |
| <b>Section VI. Technical Requirements (including Implementation Schedule)</b> .....                                       | <b>159</b> |
| Table of Contents: Technical Requirements .....   | 160        |
| <b>Section VII. Sample Forms</b> .....  | <b>213</b> |
| Notes to Bidders on working with the Sample Forms .....   | 214        |



## **Invitation for Bids (IFB)**

4<sup>th</sup> July 2011

*India*

***Loan Number: 8066 - IN***

*Supply & Installation of Integrated IT System*

***IFB Number: DFCCIL/IT/SI/2011***

1. This Invitation for Bids (IFB) follows the General Procurement Notice (GPN) for this project that appeared in UNDB online on February 08, 2010.
2. The Dedicated Freight Corridor Corporation of India Limited has applied for a loan from the International Bank for Reconstruction and Development towards the cost of the Eastern Dedicated Freight Corridor Project, and it intends to apply part of the proceeds of this loan to payments under the agreement(s) resulting from this IFB: "Supply & Installation of Integrated IT System".
3. The Dedicated Freight Corridor Corporation of India Limited serves as the implementing agency for the project and now invites sealed bids from eligible Bidders for design and development of package-based integrated IT Solution, procurement of hardware and software, testing, ensuring security, deployment and commissioning, training to end-users, post implementation Warranty and Operation & Maintenance for a period of three years, for IT Project at Dedicated Freight Corridor Corporation of India Limited(DFCCIL).
4. Bidding will be conducted using the International Competitive Bidding (ICB) procedures specified in the World Bank's Guidelines: Procurement under IBRD Loans and IDA Credits, edition of January 2011, and is open to all Bidders eligible as defined in these Guidelines, that meet the following minimum qualification criteria
  - a) The Bidder organization should be an IT Services company
  - b) The Bidder organization must have been successfully assessed SEI CMMi Level 5 for IT Application Services.
  - c) The Bidder should have a minimum total turnover of INR 1 Billion from its IT and ITES operations for each year during the last 3 financial years (2007-08, 2008-09 and 2009-10).
  - d) The bidder should also be profitable during each of the last three 3 financial years.
5. Interested eligible Bidders may obtain further information from Room No 514 Dedicated Freight Corridor Corporation of India Limited, Fifth Floor Pragati Maidan Metro Station Complex, between. 1000 hours to 1730 hours. A pre-bid meeting which potential bidders may attend will be held on 1<sup>st</sup> August 2011
6. A complete set of bidding documents in English and in hardcopy may be collected in person from the address below on submission of a request and payment of a non-

- refundable fee of INR 10,000 through Demand Draft drawn in favour of “Dedicated Freight Corridor Corporation of India Limited”. For the convenience of Bidders an unofficial electronic copy of the Bidding Documents may be downloaded from <http://dfcc.in>
7. Prior registration through purchase of bidding document is required for attending the pre-bid meeting, submitting clarification questions on the bidding documents and receiving automatic notice of answers and of addenda to the bidding documents.
  8. Bids must be delivered to the address below on or before 26<sup>th</sup> September 2011, 1500 hours. Bids need to be secured by a Bid Security. The amount of Bid Security required is INR 2.5 Million. Late bids will be rejected. Bids will be opened in the presence of Bidders’ representatives who choose to attend at the address below on 26<sup>th</sup> September 2011, 1530 hours.
  9. The attention of prospective Bidders is drawn to (i) the fact that they will be required to certify in their bids that all software is either covered by a valid license or was produced by the Bidder and (ii) that violations are considered fraud, which can result in ineligibility to be awarded World Bank-financed contracts.

*Bharat Salhotra*

*General Manager (Fin&IT)*

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**SECTION I. INSTRUCTIONS TO BIDDERS (ITB)**  
**(Single-Stage Bidding)**

## Table of Clauses

|   |           |
|---|-----------|
| <b>A. General.....</b>  | <b>10</b> |
| 1. Scope of Bid and Bidding Process.....  | 10        |
| 2. Source of Funds .....  | 10        |
| 3. Fraud and Corruption.....  | 11        |
| 4. Eligible Bidders .....   | 13        |
| 5. Eligible Goods and Services.....   | 14        |
| 6. Qualifications of the Bidder .....   | 15        |
| 7. Cost of Bidding.....   | 18        |
| 8. Site Visit.....  | 18        |
| <b>B. The Bidding Documents.....</b>  | <b>18</b> |
| 9. Content of Bidding Documents .....   | 18        |
| 10. Clarification of Bidding Documents and Pre-bid Meeting .....                                  | 19        |
| 11. Amendment of Bidding Documents .....  | 20        |
| <b>C. Preparation of Bids.....</b>  | <b>20</b> |
| 12. Language of Bid .....   | 20        |
| 13. Documents Comprising the Bid .....  | 20        |
| 14. Bid Prices .....  | 22        |
| 15. Bid Currencies .....  | 25        |
| 16. Documents Establishing the Conformity of the Information System to the Bidding Documents..... | 25        |
| 17. Securing the Bid .....  | 26        |
| 18. Period of Validity of Bids .....  | 28        |
| 19. Format and Signing of Bid.....  | 29        |
| <b>D. Submission of Bids.....</b>   | <b>29</b> |
| 20. Sealing and Marking of Bids.....  | 29        |
| 21. Deadline for Submission of Bids.....  | 30        |
| 22. Late Bids .....   | 30        |
| 23. Withdrawal, Substitution, and Modification of Bids.....                                       | 30        |
| <b>E. Bid Opening and Evaluation .....</b>  | <b>31</b> |
| 24. Opening of Bids by Purchaser .....  | 31        |
| 25. Clarification of Bids.....  | 32        |
| 26. Preliminary Examination of Bids .....   | 33        |
| 27. Conversion to Single Currency .....   | 34        |
| 28. Evaluation and Comparison of Bids .....   | 34        |
| 29. Domestic Preference .....   | 39        |
| 30. Contacting the Purchaser.....   | 39        |
| <b>F. Postqualification and Award of Contract .....</b>   | <b>40</b> |
| 31. Postqualification .....   | 40        |
| 32. Award Criteria .....  | 40        |
| 33. Purchaser’s Right to Vary Quantities at Time of Award.....                                    | 40        |



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|     |   |    |
|-----|---|----|
| 34. | Purchaser’s Right to Accept Any Bid and to Reject Any or All Bids ..... | 41 |
| 35. | Notification of Award .....   | 41 |
| 36. | Signing of Contract .....   | 42 |
| 37. | Performance Security .....  | 42 |
| 38. | Adjudicator .....   | 42 |

## Instructions to Bidders

### A. GENERAL

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- |   |  |
|---|--|
| <p><b>1. Scope of Bid and Bidding Process</b></p> | <p>1.1 The Purchaser named in the BDS and the SCC for GCC Clause 1.1 (b) (i), or its duly authorized Purchasing Agent if so <b>specified in the BDS</b> (interchangeably referred to as “the Purchaser” in these Bidding Documents), invites bids for the supply and installation of the Information System (IS), as briefly <b>described in the BDS</b> and specified in greater detail in these Bidding Documents.</p> <p>1.2 The title and identification number of the Invitation for Bids (IFB) and resulting Contract(s) are <b>provided in the BDS</b>.</p> <p>1.3 Throughout the Bidding Documents, the term "in writing" means communicated in written form (e.g. by mail, e-mail, fax, telex) with proof of receipt, and the term "days" means calendar days unless a different meaning is evident from the context.</p> <p>1.4 If the BDS so provides, alternative procedures forming part or all of what is commonly known as e-Tendering are available to the extent <b>specified in, or referred to by, the BDS</b>.</p>   |
| <p><b>2. Source of Funds</b></p>                  | <p>2.1 The <b>Borrower named in the BDS</b> has applied for or received a loan or credit (as identified in the BDS, and called a “loan” in these Bidding Documents) from the International Bank for Reconstruction and Development or the International Development Association (called “the Bank” in these Bidding Documents) equivalent to the amount indicated in the BDS toward the cost of the Project specified in the BDS. The Borrower intends to apply a portion of the proceeds of this loan to eligible payments under the Contract for which these Bidding Documents are issued.</p> <p>2.2 Payment by the Bank will be made only at the request of the Borrower, or the Borrower’s executing agency, and upon approval by the Bank in accordance with the terms and conditions of the Loan Agreement, and will be subject in all respects to the terms and conditions of that agreement. The Loan Agreement prohibits a withdrawal from the loan account for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Bank, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. No party other than the Borrower shall derive any rights from the Loan Agreement or have any claim to the</p> |

loan proceeds.

### 3. Fraud and Corruption

3.1 It is the Bank's policy to require that Borrowers (including beneficiaries of Bank loans), as well as bidders, suppliers, and contractors and their subcontractors under Bank-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts.<sup>1</sup> In pursuance of this policy, the Bank:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
  - (i) "corrupt practice"<sup>2</sup> is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
  - (ii) "fraudulent practice"<sup>3</sup> is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
  - (iii) "collusive practice"<sup>4</sup> is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
  - (iv) "coercive practice"<sup>5</sup> is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
  - (v) "obstructive practice" is
    - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to

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<sup>1</sup> In this context, any action taken by a bidder, supplier, contractor, or a sub-contractor to influence the procurement process or contract execution for undue advantage is improper.

<sup>2</sup> "Another party" refers to a public official acting in relation to the procurement process or contract execution]. In this context, "public official" includes World Bank staff and employees of other organizations taking or reviewing procurement decisions.

<sup>3</sup> A "party" refers to a public official; the terms "benefit" and "obligation" relate to the procurement process or contract execution; and the "act or omission" is intended to influence the procurement process or contract execution.

<sup>4</sup> "Parties" refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non competitive levels.

<sup>5</sup> A "party" refers to a participant in the procurement process or contract execution.

investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or

- (bb) acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under sub-clause 3.1 (e) below.
  - (b) will reject a proposal for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question;
  - (c) will cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a beneficiary of the loan engaged in corrupt, fraudulent, collusive, or coercive practices during the procurement or the execution of that contract, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur;
  - (d) will sanction a firm or individual, including declaring ineligible, either indefinitely or for a stated period of time, to be awarded a Bank-financed contract if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing, a Bank-financed contract; and
  - (e) will have the right to require that a provision be included in bidding documents and in contracts financed by a Bank loan, requiring bidders, suppliers, and contractors and their sub-contractors to permit the Bank to inspect their accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors appointed by the Bank.
- 3.2 Furthermore, Bidders shall be aware of the provision stated in Clause 9.8 and Clause 41.2 of the General Conditions of Contract.
- 3.3 Any communications between the Bidder and the Purchaser related to matters of alleged fraud or corruption must be made in

writing.

3.4 By signing the Bid Submission Form, the Bidder represents that it either is the owner of the Intellectual Property Rights in the hardware, software or materials offered, or that it has proper authorization and/or license to offer them from the owner of such rights. For the purpose of this Clause, Intellectual Property Rights shall be as defined in GCC Clause 1.1 (c) (xvii). Willful misrepresentation of these facts shall be considered a fraudulent practice subject to the provisions of Clauses 3.1 through 3.4 above, without prejudice of other remedies that the Purchaser may take.

#### **4. Eligible Bidders**

4.1 A Bidder, and all parties constituting the Bidder, may have the nationality of any country, subject to the restrictions specified in Section III, Eligible Countries. A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country.

4.2 If a prequalification process has been undertaken for the Contract(s) for which these Bidding Documents have been issued, only those Bidders may participate that had been prequalified and continue to meet the eligibility criteria of this Clause. A prequalified Joint Venture may not change partners or its structure when submitting a bid.

4.3 A firm may be excluded from bidding if:

(a) it was engaged by the Purchaser to provide consulting services for the preparation of the design, specifications, or other documents to be used for the procurement of the Information System described in these Bidding Documents; or

(b) it is a government-owned enterprise in the Borrower's country, unless it can establish that it (i) is legally and financially autonomous and (ii) operates under commercial law. No dependent agency of the Borrower or Sub-Borrower shall be permitted to bid.

4.4 A firm that has been determined to be ineligible by the Bank in relation to the Bank Guidelines On Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants shall be not be eligible to be awarded a contract.

4.5 A firm or individual is or will be disqualified from participation

in this bidding if, at any time from advertisement of the bidding until and including contract award, the firm or individual is under:

- (a) a suspension by the Purchaser agreed by the Bank as a result of execution of a Bid-Securing Declaration pursuant to ITB Clause 17.6 in another Bank-financed procurement, or under a suspension by the Purchaser for other reasons that have been agreed by the Bank; or
- (b) a declaration of ineligibility by the Bank in accordance with ITB Clause 3.1 (d). The list of individuals and firms debarred from participating in World Bank projects is available at <http://www.worldbank.org/debar/>, or
- (c) a sanction imposed by the United Nations Security Council, as mentioned in ITB Clause 2.2.

4.6 A firm or other entity that is ineligible according to any of the above provisions of this Clause, may also not participate as a Joint Venture partner, or as Subcontractor for or supplier of goods, works or services. If a bid becomes materially incomplete after removing ineligible entities, the bid may be disqualified.

4.7 Bidders shall provide such evidence of their continued eligibility satisfactory to the Purchaser, as the Purchaser shall reasonably request.

## **5. Eligible Goods and Services**

5.1 For the purposes of these Bidding Documents, the Information System means all:

- (a) the required information technologies, including all information processing and communications-related hardware, software, supplies, and consumable items that the Supplier is required to supply and install under the Contract, plus all associated documentation, and all other materials and goods to be supplied, installed, integrated, and made operational (collectively called “the Goods” in some clauses of the ITB); and
- (b) the related software development, transportation, insurance, installation, customization, integration, commissioning, training, technical support, maintenance, repair, and other services necessary for proper operation of the Information System to be provided by the selected Bidder and as specified in the Contract.

5.2 Funds from Bank loans are disbursed only for expenditures for

an Information System made up of goods and services provided by nationals of, and produced in or supplied from, eligible source countries as defined in Section III, Eligible Countries. An Information System is deemed to be produced in a certain country when, in the territory of that country, through software development, manufacturing, or substantial and major assembly or integration of components, a commercially recognized product results that is substantially different in basic characteristics or in purpose or utility from its components.

5.3 For purposes of this clause, the nationality of the Bidder is distinct from the country in which the Information System and its goods components are produced or from which the related services are supplied.

## 6. Qualifications of the Bidder

6.1 By submission of documentary evidence in its bid, the Bidder must establish to the Purchaser's satisfaction:

(a) that it has the financial, technical, and production capability necessary to perform the Contract, meets the qualification criteria **specified in the BDS**, and has a successful performance history. If a prequalification process has been undertaken for the Contract(s) for which these Bidding Documents have been issued, the Bidder shall, as part of its bid, update any information submitted with its application for prequalification;

(For the purposes of establishing a Bidder's qualifications, and unless stated to the contrary in the BDS, the experience and / or resources of any Subcontractor will not contribute to the Bidder's qualifications; only those of a Joint Venture partner will be considered.)

(b) that, in the case of a Bidder offering to supply key goods components of the Information System, as **identified in the BDS**, that the Bidder does not itself produce, the Bidder is duly authorized by the producer to supply those components in the Purchaser's country under the Contract(s) that may result from this bidding; (This will be accomplished by including Manufacturer's Authorizations in the bid, based on the sample found in Section VII.)

(c) that, if a Bidder proposes Subcontractors for key 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

(d) that, in the case of a Bidder not doing business within the

Purchaser'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.

- 6.2 Bids submitted by a Joint Venture of two or more firms as partners shall also comply with the following requirements:
- (a) the bid shall be signed so as to be legally binding on all partners;
  - (b) 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;
  - (c) 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, and the entire execution of the Contract, including payment, shall be done exclusively with the partner in charge;
  - (d) the partner or combination of partners that is responsible for a specific component of the Information System must meet the relevant minimum qualification criteria for that component;
  - (e) a firm may submit bids either as a single Bidder on its own, or as partner in one, and only one, Joint Venture. If, as a result of the bid opening pursuant to ITB Clause 24, this requirement is not met, all bids involving the firm as a single Bidder or Joint Venture partner will be disqualified;
  - (f) all partners of the Joint Venture 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 6.2 (b) above, in the bid as well as in the Contract (in case of a successful bid).
- 6.3 If a Bidder intends to subcontract major items of supply or services, it shall include in the bid details of the name and nationality of the proposed Subcontractor for each of those items and shall be responsible for ensuring that any Subcontractor proposed complies with the requirements of ITB Clause 4, and that any Goods or Services components of the Information



System to be provided by the Subcontractor comply with the requirements of ITB Clause 5 and the related evidence required by ITB Clause 13.1 (e) (iii) is submitted. Bidders are free to list more than one Subcontractor against each item. Quoted rates and prices will be deemed to apply, whichever Subcontractor is appointed, and no adjustment of the rates or prices will be permitted. The Purchaser reserves the right to delete any proposed Subcontractor from the list. This shall be done prior to Contract signature, by deleting such unacceptable Subcontractors from Appendix 3 to the Contract Agreement, which shall list the approved Subcontractors for each item prior to Contract signature. Subsequent additions and deletions from the list of approved Subcontractors shall be performed in accordance with GCC Clause 20 (as revised in the SCC, if applicable) and Appendix 3 to the Contract Agreement.

For the purposes of these Bidding Documents, a Subcontractor is any vendor or service provider with whom the Bidder contracts for the supply or execution of any part of the Information System to be provided by the Bidder under the Contract (such as the supply of major hardware, software, or other components of the required Information Technologies specified, or the performance of related Services, e.g., software development, transportation, installation, customization, integration, commissioning, training, technical support, maintenance, repair, etc.).

- 6.4 A firm which is a Bidder, whether as a single Bidder or as a partner in a Joint Venture, cannot be a Subcontractor in other bids, except for the supply of commercially available hardware or software by the firm, as well as purely incidental services such as installation/configuration, routine training, and ongoing maintenance/support. If the BDS for ITB Clause 6.1 (a) allows the qualification of Subcontractors nominated for certain components to be taken into account in assessing the Bidder's overall qualifications, any Subcontractor so nominated by any Bidder is automatically disqualified from being a Bidder itself or a partner in a Joint Venture. The same will normally apply to firms that have provided Subcontractor agreements for certain services pursuant to ITB Clause 6.1 (c). Non-compliance may result in the rejection of all bids in which the affected firm participates as Bidder or as partner in a Joint Venture. As long as in compliance with these provisions, or as long as unaffected by them due to not participating as Bidder or as partner in a Joint Venture, a firm may be proposed as a Subcontractor in any number of bids. If the BDS for ITB 28.1 permits the submission of bids for Subsystems, lots, or slices, then the provisions of this

Clause 6.4 apply only to bids for the same Subsystem(s), lot(s), or slice(s);

- 7. Cost of Bidding**
- 7.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the Purchaser will in no case be responsible or liable for those costs.
- 8. Site Visit**
- 8.1 The Bidder may wish to visit and examine the site or sites of the Information System 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.
- 8.2 The Purchaser 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 Purchaser adequate notice of a proposed visit of at least fourteen (14) days. Alternatively, the Purchaser may organize a site visit or visits concurrently with the pre-bid meeting, as specified in the BDS for ITB Clause 10.2. Failure of a Bidder to make a site visit will not be a cause for its disqualification.
- 8.3 No site visits shall be arranged or scheduled after the deadline for the submission of the Bids and prior to the award of Contract.

## **B. THE BIDDING DOCUMENTS**

- 9. Content of 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 11:
- |             |   |
|-------------|---|
| Section I   | Instructions to Bidders (ITB)   |
| Section II  | Bid Data Sheet (BDS)  |
| Section III | Eligible Countries for the Provision of Goods, Works, and Services in Bank-Financed Procurement |
| Section IV  | General Conditions of Contract (GCC)  |
| Section V   | Special Conditions of Contract (SCC)  |
| Section VI  | Technical Requirements (including Implementation Schedule)                                      |
| Section VII | Sample Forms  |
- 9.2 Bidders are expected to examine all instructions, forms, terms,

specifications, and other information in the Bidding Documents. Failure to furnish all information required by the Bidding Documents or to submit a bid not substantially responsive to the Bidding Documents in every respect will be at the Bidder's risk and may result in the rejection of its bid.

- 9.3 The Invitation for Bids is not formally part of the Bidding Documents and is included for reference only. In case of inconsistencies, the actual Bidding Documents shall prevail.

**10. Clarification of Bidding Documents and Pre-bid Meeting**

- 10.1 A prospective Bidder requiring any clarification of the Bidding Documents may notify the Purchaser in writing at the Purchaser's address and by one of the means **indicated in the BDS**. Similarly, if a Bidder feels that any important provision in the documents will be unacceptable, such an issue should be raised as soon as possible. The Purchaser will respond in writing to any request for clarification or modification of the Bidding Documents that it receives no later than twenty-one (21) days prior to the deadline for submission of bids prescribed by the Purchaser. Copies of the Purchaser's response (including an explanation of the query but not identifying its source) will be sent to all prospective Bidders that received the Bidding Documents from the Purchaser.

- 10.2 When **specified in the BDS**, the Purchaser will organize and Bidders are welcome to attend a pre-bid meeting at the time and place **indicated in the BDS**. 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 Purchaser 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 Purchaser. Any modification to the Bidding Documents listed in ITB Clause 9.1, which may become necessary as a result of the pre-bid meeting, shall be made by the Purchaser exclusively by issuing an Addendum pursuant to ITB Clause 11 and not through the minutes of the pre-bid meeting.

- 11. Amendment of Bidding Documents**
- 11.1 At any time prior to the deadline for submission of bids, the Purchaser may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, amend the Bidding Documents. Later amendments on the same subject modify or replace earlier ones.
- 11.2 Amendments will be provided in the form of Addenda to the Bidding Documents, which will be sent in writing to all prospective Bidders that received the Bidding Documents from the Purchaser. Addenda will be binding on Bidders. Bidders are required to immediately acknowledge receipt of any such Addenda. It will be assumed that the amendments contained in such Addenda will have been taken into account by the Bidder in its bid.
- 11.3 In order to afford prospective Bidders reasonable time in which to take the amendment into account in preparing their bids, the Purchaser may, at its discretion, extend the deadline for the submission of bids, in which case, the Purchaser will notify all Bidders in writing of the extended deadline.

## **C. PREPARATION OF BIDS**

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- 12. Language of Bid**
- 12.1 The bid prepared by the Bidder and all correspondence and documents related to the bid exchanged by the Bidder and the Purchaser shall be written in the **language specified in the BDS**, or, if the BDS so provides, in either one of two languages specified there. Any printed literature furnished by the Bidder as part of its bid may be in a language not specified in the BDS, as long as such literature is accompanied by a translation of its pertinent passages into the language of the bid, in which case, for purposes of interpretation of the bid, the translation shall govern.
- 13. Documents Comprising the Bid**
- 13.1 The bid submitted by the Bidder shall comprise:
- (a) Bid Submission Form completed and signed by a person or persons duly authorized to bind the Bidder to the Contract;
  - (b) all Price Schedules duly completed in accordance with ITB Clauses 14, 15, and 18 and signed by a person or persons duly authorized to bind the Bidder to the Contract;
  - (c) if required, Bid-securing Declaration or Bid Security furnished in accordance with ITB Clause 17;
  - (d) written confirmation authorizing the signatory of the bid to

commit the Bidder, in accordance with ITB Clause 19.2;

(e) Attachments:

(i) Attachment 1: Bidder's Eligibility

In the absence of prequalification, documents establishing to the Purchaser's satisfaction the Bidder's eligibility to bid, including but not limited to documentary evidence that the Bidder is legally incorporated in a territory of an eligible source country as defined under ITB Clause 4;

(ii) Attachment 2: Bidder's Qualifications

Documentary evidence establishing to the Purchaser's satisfaction, and in accordance with ITB Clause 6, that the Bidder is qualified to perform the Contract if its bid is accepted. In the case where prequalification of Bidders has been undertaken, and pursuant to ITB Clause 6.1 (a), the Bidder must provide evidence on any changes in the information submitted as the basis for prequalification or, if there has been no change at all in said information, a statement to this effect;

Any Manufacturer's Authorizations and Subcontractor agreements specified as required in the BDS for ITB Clauses 6.1 (b) and 6.1 (c);

(iii) Attachment 3: Eligibility of Goods and Services

Documents establishing, to the Purchaser's satisfaction, that the Goods and Services components of the Information System to be supplied, installed, and/or performed by the Bidder are eligible Goods and Services as defined under ITB Clause 5. If awarded the Contract, the Bidder shall submit for such components of the Information System evidence of eligibility, which shall be confirmed by a certificate of origin issued at the time of shipment;

(iv) Attachment 4: Conformity of the Information System to the Bidding Documents

Documentary evidence establishing to the Purchaser's satisfaction, and in accordance with ITB Clause 16, that the Goods and Services components of the Information System to be supplied, installed, and/or performed by the Bidder conform to the

Bidding Documents;

(v) Attachment 5: Proposed Subcontractors

A list of all major items of Goods or Services that the Bidder proposes to purchase or subcontract from others, and the name and nationality of the proposed Subcontractor, including vendors, for each of those items;

(vi) Attachment 6: Intellectual Property

A list of:

(1) all Software included in the Bidder's bid, assigning each item to one of the software categories defined in GCC Clause 1.1 (c):

(A) System, General Purpose, and Application Software; and

(B) Standard and Custom Software.

(2) all Custom Materials, as defined in GCC Clause 1.1 (c), included in the Bidder's bid.

All Materials not identified as Custom Materials shall be deemed Standard Materials, as defined in GCC Clause 1.1 (c).

Re-assignments among the Software and Materials categories, if necessary, will be made during the implementation of the Contract according to GCC Clause 39 (Changes to the System).

**14. Bid Prices**

14.1 All Goods and Services identified in the Supply and Installation Cost Sub-Table and the Recurrent Cost Sub-Table in Section VII (Forms 2.5 and 2.6), and all other Goods and Services proposed by the Bidder to fulfill the requirements of the Information 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 VII for the various cost tables, in the manner specified below.

- 14.2 The price of items that the Bidder has left blank in the cost tables provided in Section VII shall be assumed to be included in the price of other items. Items omitted altogether from the cost tables shall be assumed to be omitted from the bid and, provided that the bid is substantially responsive, an adjustment to the bid price will be made during evaluation in accordance with ITB Clause 28.6 (c) (iii).
- 14.3 Unit prices must be quoted at a level of detail appropriate for calculation of any partial deliveries or partial payments under the contract, in accordance with the Implementation Schedule in Section VI, and with GCC and SCC Clause 12 – Terms of Payment. Bidders may be required to provide a breakdown of any composite or lump-sum items included in the Cost Tables.
- 14.4 The prices for Goods components of the System are to be expressed and shall be defined and governed in accordance with the rules prescribed in the edition of Incoterms **specified in the BDS**, and quoted in the appropriate columns of the cost tables of Section VII as follows:
- (a) Goods supplied from outside the Purchaser's country:
- Unless otherwise **specified in the BDS**, the prices shall be quoted on a CIP (named place of destination) basis, exclusive of all taxes, stamps, duties, levies, and fees imposed in the Purchaser's country. The named place of destination and special instructions for the contract of carriage are as **specified in the BDS**. In quoting the price, the Bidder shall be free to use transportation through carriers registered in any eligible countries. Similarly, the Bidder may obtain insurance services from any eligible source country.
- (b) Locally supplied Goods:
- Unit prices of Goods offered from within the Purchaser's Country, shall be quoted on an EXW (ex factory, ex works, ex warehouse or off-the-shelf, as applicable) basis, including all customs duties, levies, fees, sales and other taxes incurred until delivery of the Goods, but excluding all VAT or sales and other taxes and duties/fees incurred for the Goods at the time of invoicing or sales transaction, if the Contract is awarded.
- (c) Inland transportation:
- Unless otherwise **stated in the BDS**, 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 14.5, whether the Goods are to be supplied locally or from outside the Purchaser's country, except when these costs are already included in the price of the Goods, as is, e.g., the case, when ITB Clause 14.4 (a) specifies CIP, and the named places of destination are the Project Sites.

- 14.5 The price of Services shall be quoted in total for each service (where appropriate, broken down into unit prices), separated into their local and foreign currency components. Prices must include all taxes, duties, levies and fees whatsoever, except only VAT or other indirect taxes, or stamp duties, that may be assessed and/or apply in the Purchaser's country on/to the price of the Services invoiced to the Purchaser, if the Contract is awarded. Unless otherwise **specified in the BDS**, the prices must include all costs incidental to the performance of the Services, as incurred by the Supplier, such as travel, subsistence, office support, communications, translation, printing of materials, etc. Costs incidental to the delivery of the Services but incurred by the Purchaser or its staff, or by third parties, must be included in the price only to the extent such obligations are made explicit in these Bidding Documents (as, e.g., a requirement for the Bidder to include the travel and subsistence costs of trainees).
- 14.6 Prices for Recurrent Costs beyond the scope of warranty services to be incurred during the Warranty Period, defined in SCC Clause 29.4 and prices for Recurrent Costs to be incurred during the Post-Warranty Period, defined in SCC Clause 1.1. (e) (xii), shall be quoted as Service prices in accordance with ITB Clause 14.5 on the Recurrent Cost Sub-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, labor, etc., needed for the continued and proper operation of the System and, if appropriate, of the Bidder's own allowance for price increases.
- 14.7 Unless otherwise **specified in the BDS**, 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.



- 15. Bid Currencies** 15.1 Prices shall be quoted in the following currencies:
- (a) The Bidder may quote its prices for all Information Technologies, associated Goods, and Services to be supplied from outside the Purchaser's Country in the currencies of countries eligible according to Section III. If the Bidder wishes to be paid in a combination of different currencies, it must quote unit prices accordingly, but no more than three foreign currencies may be used.
  - (b) Unless otherwise **specified in the BDS**, the Bidder shall express its prices for such Information Technologies, associated Goods, and Services to be supplied locally (i.e., from within the Purchaser's Country) in the currency of the Purchaser's Country.
- 16. Documents Establishing the Conformity of the Information System to the Bidding Documents** 16.1 Pursuant to ITB Clause 13.1 (e) (iv), the Bidder shall furnish, as part of its bid, documents establishing the conformity to the Bidding Documents of the Information System that the Bidder proposes to supply and install under the Contract.
- 16.2 The documentary evidence of conformity of the Information System to the Bidding Documents shall be in the form of written descriptions, literature, diagrams, certifications, and client references, including:
- (a) the Bidder's technical bid, i.e., a detailed description of the Bidder's proposed technical solution conforming in all material aspects with the Technical Requirements (Section VI) and other parts of these Bidding Documents, overall as well as in regard to the essential technical and performance characteristics of each component making up the proposed Information System;
  - (b) an item-by-item commentary on the Purchaser's Technical Requirements, demonstrating the substantial responsiveness of the Information System offered to those requirements. In demonstrating responsiveness, the commentary shall include explicit cross references to the relevant pages in the supporting materials included in the bid. Whenever a discrepancy arises between the item-by-item commentary and any catalogs, technical specifications, or other preprinted materials submitted with the bid, the item-by-item commentary shall prevail;
  - (c) a Preliminary Project Plan describing, among other things, the methods by which the Bidder will carry out its overall management and coordination responsibilities if awarded

the Contract, and the human and other resources the Bidder proposes to use. The Plan should include a detailed Contract Implementation Schedule in bar chart form, showing the estimated duration, sequence, and interrelationship of all key activities needed to complete the Contract. The Preliminary Project Plan must also address any other topics **specified in the BDS**. In addition, the Preliminary Project Plan should state the Bidder's assessment of what it expects the Purchaser and any other party involved in the implementation of the Information System to provide during implementation and how the Bidder proposes to coordinate the activities of all involved parties;

- (d) a written confirmation that the Bidder accepts responsibility for the successful integration and interoperability of all components of the Information System as required by the Bidding Documents.

16.3 For purposes of the commentary to be furnished pursuant to ITB Clause 16.2 (b), the Bidder shall note that references to brand names or model numbers or national or proprietary standards designated by the Purchaser in its Technical Requirements are intended to be descriptive and not restrictive. Except where explicitly **prohibited in the BDS** for specific items or standards, the Bidder may substitute alternative brand/model names or standards in its bid, provided that it demonstrates to the Purchaser's satisfaction that the use of the substitute(s) will result in the Information System being able to perform substantially equivalent to or better than that specified in the Technical Requirements.

## 17. Securing the Bid

17.1 The BDS for this Clause specifies whether bids must be secured, and if so, whether by a Bid-Securing Declaration or by a Bid Security. If a Bid Security is required or optional, the **BDS also specifies the amount**.

17.2 Securing the bids shall be substantially in accordance with the related sample forms included in Section VII or other forms approved by the Purchaser prior to bid submission. Bids must remain secured for a period of 28 days beyond the validity period of the bids, as extended, if applicable, in accordance with ITB Clause 18.2. In case of a Bid Security, it shall also:

- (a) at the Bidder's option, be in the form of either a certified check, letter of credit, or a bank guarantee from a banking institution, or a bond issued by a surety;

- (b) be issued by a reputable institution selected by the Bidder and located in any eligible country; if the institution issuing the security is located outside the Purchaser's Country, it shall have a correspondent financial institution located in the Purchaser's Country to make the security enforceable;
- (c) be payable promptly upon written demand by the Purchaser in case any of the conditions listed in ITB Clause 17.6 is/are invoked;
- (d) be submitted in its original form; copies will not be accepted.

17.3 The Bid-Securing Declaration or the Bid Security of a Joint Venture 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 in the name of all partners proposed for the Joint Venture in the bid. Sanctions due to a breach of the terms of a Bid-Securing Declaration pursuant to ITB Clause 17.6 will apply to all partners to the Joint Venture.

17.4 If a Bid-Securing Declaration or Bid Security is required in accordance with ITB Clause 17.1, any bid not accompanied by a substantially acceptable Bid-Securing Declaration or Bid Security in accordance with ITB Clauses 17.2 and 17.3, shall be rejected by the Purchaser as non-responsive.

17.5 Unless executed or forfeited pursuant to ITB Clause 17.6, Bid-Securing Declarations, if any, will expire for, or Bid Securities, if any, will be returned as promptly as possible to,

- (a) all Bidders upon annulment of the bidding pursuant to ITB Clause 34;
- (b) Bidders refusing a request to extend the period of validity of their bids pursuant to ITB Clause 18.2;
- (c) the successful Bidder once it has signed the Contract Agreement and furnished a valid Performance Security as required;
- (d) the unsuccessful Bidders at the same time as in (c), that is, when they are informed about the successful establishment of the contract with the successful Bidder.

17.6 The Bid-Securing Declaration, if any, may be executed, or the Bid Security, if any, may be forfeited:

- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Submission Form or any extension of validity the Bidder has agreed to pursuant to ITB Clause 18.2; or
- (b) in the case of the successful Bidder, if the Bidder fails to:
  - (i) sign the Contract Agreement in accordance with ITB Clause 36; or
  - (ii) furnish the Performance Security in accordance with ITB Clause 37.

17.7 If a bid security is **not required in the BDS**, and

- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid Form, except as provided in ITB 18.2, or
- (b) if the successful Bidder fails to: sign the Contract in accordance with ITB 36; or furnish a performance security in accordance with ITB 37;

the Borrower may, **if provided for in the BDS**, declare the Bidder disqualified to be awarded a contract by the Employer for a period of time **as stated in the BDS**.

## 18. Period of Validity of Bids

18.1 Bids shall remain valid, at a minimum, for the period **specified in the BDS** after the deadline date for bid submission prescribed by the Purchaser, pursuant to ITB Clause 21. A bid valid for a shorter period shall be rejected by the Purchaser as non-responsive. For the convenience of Bidders, the BDS spells out the minimal original expiration dates for the validity of the bid and, if applicable pursuant to ITB Clause 17.1, for securing the bid. However, Bidders are responsible for adjusting the dates in the BDS in accordance with any extensions to the deadline date of bid submission pursuant to ITB Clause 21.2.

18.2 In exceptional circumstances, prior to expiry of the bid validity period, the Purchaser may request that the Bidders 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 execution of the Bid-Securing Declaration or forfeiting the Bid Security, but in this case the bid will be out of the competition for the award. Except as provided in ITB Clause 18.3, a 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 17.2.

18.3 In the case of fixed price contracts, if the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial bid validity, the contract price will be adjusted as specified in the request for extension. Bid evaluation will be based on the bid prices without taking into consideration the above correction.

### **19. Format and Signing of Bid**

19.1 The Bidder shall prepare an original and the number of copies/sets of the bid **specified in the BDS**, clearly marking each one as “ORIGINAL BID,” “COPY NO. 1,” “COPY NO. 2,” etc., as appropriate. In the event of any discrepancy between them, the original shall govern.

19.2 The original and all copies of the bid, each consisting of the documents listed in ITB Clause 13.1, shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Bidder. The authorization must be in writing and included in the bid pursuant to ITB Clause 13.1 (d). The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the bid, except for unamended printed literature, shall be initialed by the person or persons signing the bid.

19.3 The bid shall contain no interlineations, erasures, or overwriting, except to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the bid.

19.4 The Bidder shall furnish in the Bid Submission Form (a sample of which is provided in the Sample Forms Section of the Bidding Documents) information regarding commissions or gratuities, if any, paid or to be paid to agents relating to this procurement and to the execution of the Contract should the Bidder be successful.

## **D. SUBMISSION OF BIDS**

### **20. Sealing and Marking of Bids**

20.1 The Bidder shall seal the original and each copy of the bid in separate envelopes, duly marking the envelopes as “ORIGINAL BID” and “COPY NO. [number].” The envelopes shall then be sealed in an outer envelope.

20.2 The inner and outer envelopes shall

- (a) be addressed to the Purchaser at the address **given in the BDS**, and
- (b) bear the loan/Project name indicated in the BDS for ITB Clause 2.1, the Invitation for Bids title and number, and the Contract name(s), as indicated in the BDS for ITB Clause 1.2, and the statement “DO NOT OPEN BEFORE [*time and date*],” to be completed with the time and date specified in the BDS for ITB Clause 24.1.

20.3 The inner envelopes shall also indicate the name and address of the Bidder so that the bid can be returned unopened in case it is declared “late.”

20.4 If the outer envelope is not sealed and marked as required by ITB Clause 20.2 above, the Purchaser will assume no responsibility for the bid’s misplacement or premature opening. If the outer envelope discloses the Bidder’s identity, the Purchaser will not guarantee the anonymity of the bid submission, but this disclosure will not constitute grounds for bid rejection.

**21. Deadline for Submission of Bids**

21.1 Bids must be received by the Purchaser at the address specified in the BDS for ITB Clause 20.2 no later than the time and date **stated in the BDS**.

21.2 The Purchaser may, at its discretion, extend this deadline for submission of bids by amending the Bidding Documents in accordance with ITB Clause 11.3, in which case all rights and obligations of the Purchaser and Bidders will thereafter be subject to the deadline as extended.

**22. Late Bids**

22.1 Any bid received by the Purchaser after the bid submission deadline prescribed by the Purchaser in the BDS for ITB Clause 21, will be rejected and returned unopened to the Bidder.

**23. Withdrawal, Substitution, and Modification of Bids**

23.1 The Bidder may withdraw, substitute, or modify its bid after submission, provided that written notice of the withdrawal, substitution, or modification is received by the Purchaser prior to the deadline prescribed for bid submission. All notices must be duly signed by an authorized representative and shall include a copy of the authorization (the power of attorney) in accordance with ITB Sub-Clause 19.2.

23.2 All notices of withdrawal, substitution, or modification shall

- (a) be addressed to the Purchaser at the address named in the

BDS for ITB Clause 20.2 (a), and

- (b) bear the Contract name, the IFB Title and IFB Number, and the words “BID WITHDRAWAL NOTICE”, BID SUBSTITUTION NOTICE”, or “BID MODIFICATION NOTICE”.

23.3 A notice may also be sent by electronic means such as fax or e-mail, but in this case must include a scan of the mailing receipt showing both the sender's and receiver's addresses for the signed hardcopy of the notice, and a scan of the power of attorney.

23.4 Bids requested to be withdrawn in accordance with ITB 23.1 shall be returned unopened to the Bidders. Bid withdrawal notices received after the bid submission deadline will be ignored, and the submitted bid will be deemed to be a validly submitted bid.

23.5 The substitution or modification of the bid shall be prepared, sealed, marked, and dispatched as follows:

- (a) The Bidders shall provide an original and the number of copies specified in the BDS for ITB Clause 19.1 of any substitution or modification to its bid, clearly identified as such, in two inner envelopes duly marked “BID SUBSTITUTION -- ORIGINAL” or “BID MODIFICATION -- ORIGINAL” and “BID SUBSTITUTION -- COPIES” or “BID MODIFICATION -- COPIES.” The inner envelopes shall be sealed in an outer envelope, which shall be duly marked “BID SUBSTITUTION” or “BID MODIFICATION”.
- (b) Other provisions concerning the marking and dispatch of a bid substitution or modification shall be in accordance with ITB Clauses 20.2, 20.3, and 20.4.

23.6 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 execution of the Bid-Securing Declaration, if any, or forfeiture of the Bid Security, if any, pursuant to ITB Clause 17.6.

## **E. BID OPENING AND EVALUATION**

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### **24. Opening of Bids by**

24.1 The Purchaser will open all bids, including withdrawals, substitutions, and modifications, in public, in the presence of

**Purchaser**

Bidders' representatives who choose to attend, at the time, on the date and at the place **specified in the BDS**. Bidders' representatives shall sign a register as proof of their attendance.

- 24.2 First, envelopes marked "BID WITHDRAWAL NOTICE" shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next, envelopes marked "BID SUBSTITUTION NOTICE" shall be opened and read out and exchanged with the corresponding bid being substituted, and the substituted bid shall not be opened, but returned to the Bidder. No bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes marked "BID MODIFICATION NOTICE" shall be opened and read out with the corresponding bid. No bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at bid opening. Only bids that are opened and read out at bid opening shall be considered further.
- 24.3 Bids shall be opened one at a time, reading out: the name of the Bidder and whether there is a modification; the total bid price including any unconditional discounts, and, if applicable, the prices and unconditional discounts for Subsystems, lots, or slices; the presence or absence of a Bid-Securing Declaration or a Bid Security if one was required; any conditional discounts offered for the award of more than one Subsystem, lot, or slice, if the BDS for ITB Clause 28.1 permits such discounts to be considered in the bid evaluation; and any other such details as the Purchaser may consider appropriate.
- 24.4 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 24.2, will promptly be returned, unopened, to their Bidders.
- 24.5 The Purchaser will prepare minutes of the bid opening, including the information disclosed to those present in accordance with ITB Clause 24.3. The minutes will promptly be distributed to all Bidders that met the deadline for submitting bids.

**25. Clarification of Bids**

For Limited Circulation Only

- 25.1 During the bid evaluation, the Purchaser may, at its discretion, ask the Bidder for a clarification of its bid. The request for



clarification and the response shall be in writing, and no change in the price or substance of the bid shall be sought, offered, or permitted.

**26. Preliminary Examination of Bids**

- 26.1 The Purchaser will examine the bids to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the bids are generally in order. In the case where a prequalification process has been undertaken for the Contract(s) for which these Bidding Documents have been issued, the Purchaser will ensure that each bid is from a prequalified Bidder, and in the case of a Joint Venture, that partners and structure of the Joint Venture are unchanged from those in the prequalification.
- 26.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price, which is obtained by multiplying the unit price and quantity, or between added or subtracted subtotals and totals, the unit or subtotal price shall prevail and the total price shall be corrected, unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the unit or subtotal prices, in which case the line item total as quoted shall govern and the unit price or sub-total shall be corrected. If there is a discrepancy between words and figures, the amount in words will prevail, unless the discrepancy is the result of a typo/error for which the correction is self-evident to the Purchaser. If the Bidder with the Lowest Evaluated Bid does not accept the correction of errors, the bid shall be rejected.
- 26.3 The Purchaser may waive any minor informality, nonconformity, or irregularity in a bid that does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Bidder.
- 26.4 Prior to the detailed evaluation, the Purchaser will determine whether each bid is of acceptable quality, is complete, and is substantially responsive to the Bidding Documents. For purposes of this determination, a substantially responsive bid is one that conforms to all the terms, conditions, and specifications of the Bidding Documents without material deviations, exceptions, objections, conditionalities, or reservations. A material deviation, exception, objection, conditionality, or reservation is one: (i) that limits in any substantial way the scope, quality, or performance of the Information System; or (ii) that limits, in any substantial way that is inconsistent with the Bidding Documents, the Purchaser's rights or the successful

Bidder's obligations under the Contract; or (iii) the acceptance of which would unfairly affect the competitive position of other Bidders who have submitted substantially responsive bids.

26.5 If a bid is not substantially responsive, it will be rejected by the Purchaser and may not subsequently be made responsive by the Bidder by correction of the nonconformity. The Purchaser's determination of bid responsiveness will be based on the contents of the bid itself.

**27. Conversion to Single Currency**

27.1 For evaluation and comparison purposes, the Purchaser shall convert all bid prices expressed in various currencies and amounts into a single currency **specified in the BDS**, using the selling exchange rate established by the source and on the date also **specified in the BDS**.

**28. Evaluation and Comparison of Bids**

28.1 The Purchaser will evaluate and compare the bids that have been determined to be substantially responsive, pursuant to ITB Clause 26. The evaluation will be performed assuming either that:

- (a) the Contract will be awarded to the lowest evaluated Bidder for the entire Information System; or
- (b) if **specified in the BDS**, Contracts will be awarded to the Bidders for each individual Subsystem, lot, or slice defined in the Technical Requirements whose bids result in the lowest combined evaluated price for the entire System.

In the latter case, discounts that are conditional on the award of more than one Subsystem, lot, or slice may be offered in bids. However, such discounts will only be considered in the price evaluation if so **confirmed in the BDS**.

28.2 To be considered for Contract award, Bidders must have submitted bids

- (a) for which detailed bid evaluation using the same standards for compliance determination as listed in ITB Clauses 26.3 and 26.4 confirms that the bids are commercially and technically responsive, and include the hardware, Software, related equipment, products, Materials, and other Goods and Services components of the Information System in, substantially, the full required quantities for the entire Information System or, if allowed in the BDS for ITB Clause 28.1, the individual Subsystem, lot or slice bid on; and
- (b) that offer Information Technologies that are proven to

perform up to the standards promised in the bid by having successfully passed the performance, benchmark, and/or functionality tests the Purchaser may require, pursuant to ITB Clause 31.2.

28.3 The Purchaser's evaluation of a bid will be made on the basis of prices quoted in accordance with ITB Clause 14 (Bid Prices).

28.4 If **indicated by the BDS**, the Purchaser's evaluation of responsive bids will take into account technical factors, in addition to cost factors. An Evaluated Bid Score (B) will be calculated for each responsive bid using the following formula, which permits a comprehensive assessment of the bid price and the technical merits of each bid:

$$B \equiv \frac{C_{low}}{C} X + \frac{T}{T_{high}} (1 - X)$$

where

$C$  = Evaluated Bid Price

$C_{low}$  = the lowest of all Evaluated Bid Prices among responsive bids

$T$  = the total Technical Score awarded to the bid

$T_{high}$  = the Technical Score achieved by the bid that was scored highest among all responsive bids

$X$  = weight for the Price as **specified in the BDS**

The bid with the highest Evaluated Bid Score (B) among responsive bids shall be termed the Lowest Evaluated Bid and is eligible for Contract award, provided the Bidder was prequalified and/or it was found to be qualified to perform the Contract in accordance with ITB Clause 31 (Postqualification).

28.5 If, in addition to the cost factors, the Purchaser has chosen to give weight to important technical factors (i.e., the price weight, X, is less than 1 in the evaluation), that cannot be reduced to life-cycle costs or pass/fail criteria, the Total Technical Points assigned to each bid in the Evaluated Bid Formula will be determined by adding and weighting the scores assigned by an evaluation committee to technical features of the bid in accordance with the criteria set forth below.

(a) The technical features to be evaluated are generally defined below and specifically **identified in the BDS**:

- (i) Performance, capacity, or functionality features that either exceed levels specified as mandatory in the Technical Requirements; and/or influence the life-cycle cost and effectiveness of the Information System.
  - (ii) Usability features, such as ease of use, ease of administration, or ease of expansion, which influence the life-cycle cost and effectiveness of the Information System.
  - (iii) The quality of the Bidder's Preliminary Project Plan as evidenced by the thoroughness, reasonableness, and responsiveness of: (a) the task and resource schedules, both general and specific, and (b) the proposed arrangements for management and coordination, training, quality assurance, technical support, logistics, problem resolution, and transfer of knowledge, and other such activities as specified by the Purchaser in Section VI (Technical Requirements) or proposed by the Bidder based on the Bidder's experience.
- (b) Feature scores will be grouped into a small number of evaluation categories, generally defined below and specifically **identified in the BDS**, namely:
- (i) The technical features that reflect how well the Information System meets the Purchaser's Business Requirements (including quality assurance and risk-containment measures associated with the implementation of the Information System).
  - (ii) The technical features that reflect how well the Information System meets the System's Functional Performance Standards.
  - (iii) The technical features that reflect how well the Information System meets the General Technical Requirements for hardware, network and communications, Software, and Services.
- (c) As **specified in the BDS**, each category will be given a weight and within each category each feature may also be given a weight.
- (d) During the evaluation process, the evaluation committee will assign each desirable/preferred feature a whole

number score from 0 to 4, where 0 means that the feature is absent, and 1 to 4 either represent predefined values for desirable features amenable to an objective way of rating (as is the case for, e.g., extra memory, or extra mass storage capacity, etc., if these extras would be conducive for the utility of the system), or if the feature represents a desirable functionality (e.g., of a software package) or a quality improving the prospects for a successful implementation (such as the strengths of the proposed project staff, the methodology, the elaboration of the project plan, etc., in the bid), the scoring will be 1 for the feature being present but showing deficiencies; 2 for meeting the requirements; 3 for marginally exceeding the requirements; and 4 for significantly exceeding the requirements.

- (e) The score for each feature (i) within a category (j) will be combined with the scores of features in the same category as a weighted sum to form the Category Technical Score using the following formula:

$$S_j \equiv \sum_{i=1}^k t_{ji} * w_{ji}$$

where:

$t_{ji}$  = the technical score for feature “i” in category “j”

$w_{ji}$  = the weight of feature “i” in category “j”

$k$  = the number of scored features in category “j”

and  $\sum_{i=1}^k w_{ji} = 1$

- (f) The Category Technical Scores will be combined in a weighted sum to form the total Technical Bid Score using the following formula:

$$T \equiv \sum_{j=1}^n S_j * W_j$$

where:

$S_j$  = the Category Technical Score of category “j”

$W_j$  = the weight of category “j” as **specified in the BDS**

$n$  = the number of categories

$$\text{and } \sum_{j=1}^n W_j = 1$$

28.6 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:

- (a) The price of the hardware, Software, related equipment, products, Materials and other Goods offered from within or from outside the Purchaser's Country, in accordance with ITB 14.4; plus
- (b) 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 14.5;
- (c) with adjustments for:
  - (i) 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.
  - (ii) 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 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**.
  - (iii) 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.

- (iv) Corrections to errors in arithmetic, in accordance with ITB Clause 26.2.
  - (v) Any discounts offered for the award of more than one Subsystem, lot, or slice, if the BDS for ITB Clause 28.1 permits the consideration of discounts in the price evaluation.
- (d) 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 29.4

$M$  = number of years of the Post-Warranty Services Period, as defined in SCC Clause 1.1.(e) (xii)

$x$  = 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**.

### 29. Domestic Preference

29.1 No margin of domestic preference will apply.

### 30. Contacting the Purchaser

30.1 From the time of bid opening to the time of Contract award, if any Bidder wishes to contact the Purchaser on any matter related to the bid, it should do so in writing.

30.2 If a Bidder tries to directly influence the Purchaser or otherwise interfere in the bid evaluation process and the Contract award decision, its bid may be rejected.

## F. POST-QUALIFICATION AND AWARD OF CONTRACT

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- |  |  |
|--|--|
| <b>31. Post-qualification</b>                                    | <p>31.1 The Purchaser will determine at its own cost and to its satisfaction whether the Bidder (including Joint Venture Partners, and any Subcontractors for which the BDS for ITB Clause 6.1 (a) permits that their qualifications count towards the required Bidder qualifications) that is selected as having submitted the Lowest Evaluated Bid is qualified to perform the Contract satisfactorily, in accordance with ITB Clause 6. If a prequalification process was undertaken for the Contract(s) for which these Bidding Documents were issued, the Purchaser will determine in the manner described above that no material changes have occurred after the prequalification that negatively affect the ability of the Bidder that has submitted the Lowest Evaluated Bid to perform the Contract.</p> <p>31.2 Pursuant to ITB Clauses 6 and 16, and as additionally may be <b>specified in the BDS</b>, the determination will evaluate the Bidder's financial, technical, design, integration, customization, production, management, and support capabilities and will be based on an examination of the documentary evidence of the Bidder's qualifications, as well as other information the Purchaser deems necessary and appropriate. This determination may include visits or interviews with the Bidder's clients referenced in its bid, site inspections, and any other measures. If so <b>specified in the BDS</b>, at the time of postqualification the Purchaser may also carry out tests to determine that the performance or functionality of the Information System offered meets those stated in the Technical Requirements.</p> <p>31.3 An affirmative postqualification determination will be a prerequisite for award of the Contract to the Lowest Evaluated Bidder. A negative determination will result in rejection of the Bidder's bid, in which event the Purchaser will proceed to the next lowest evaluated Bidder to make a similar determination of that Bidder's capabilities to perform satisfactorily.</p> |
| <b>32. Award Criteria</b>  | <p>32.1 Subject to ITB Clause 34, the Purchaser will award the Contract to the Bidder whose bid has been determined to be substantially responsive and the Lowest Evaluated Bid, provided further that the Bidder has been determined to be qualified to perform the Contract satisfactorily, pursuant to ITB Clause 31.</p>   |
| <b>33. Purchaser's Right to Vary Quantities at Time of Award</b> | <p>33.1 The Purchaser reserves the right at the time of Contract award to increase or decrease, by the percentage(s) <b>indicated in the BDS</b>, any of the following:</p>  |



- (a) the quantity of substantially identical Subsystems; or
- (b) the quantity of individual hardware, Software, related equipment, Materials, products, and other Goods components of the Information System; or
- (c) 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 11), without any change in unit prices or other terms and conditions.

- 34. Purchaser's Right to Accept Any Bid and to Reject Any or All Bids**
- 34.1 The Purchaser reserves the right to accept or reject any bid or to annul the bidding process and reject all bids at any time prior to Contract award, without thereby incurring any liability to the Bidders.
- 35. Notification of Award**
- 35.1 Prior to the expiration of the period of bid validity, the Purchaser shall notify the successful Bidder, in writing, that its bid has been accepted.
- 35.2 Until a formal Contract is prepared and executed, the notification of award shall constitute a binding Contract.
- 35.3 The Purchaser shall promptly publish in UNDB online and in dgMarket the results, identifying the bid and lot numbers and the following information: (i) name of each Bidder who submitted a bid; (ii) bid prices as read out at bid opening; (iii) name, evaluated price and, if the bidding conditions included scoring for technical quality, the technical score of each bid that was evaluated; (iv) name of Bidders whose bids were rejected and the reasons for their rejection; and (v) name of the winning Bidder, the price it offered, as well as the duration and summary scope of the contract awarded. After publication of the award, unsuccessful Bidders may make a request in writing to the Purchaser for a debriefing seeking explanations on the grounds on which their bids were not selected. The Purchaser shall promptly respond in writing to any unsuccessful Bidder who, after publication of contract award, requests a debriefing.
- 35.4 Upon the successful Bidder furnishing the signed Contract Agreement and the Performance Security pursuant to ITB Clause 37, the Purchaser will promptly notify each unsuccessful Bidder, and will discharge all remaining Bid Securities, if any, as provided in ITB Clause 17.5 (c) and (d).

- 36. Signing of Contract**
- 36.1 At the same time as the Purchaser notifies the successful Bidder that its bid has been accepted, the Purchaser will send the Bidder the Contract Agreement provided in the Bidding Documents, incorporating all agreements between the parties.
- 36.2 As soon as practically possible, but no more than twenty-eight (28) days following receipt of the Contract Agreement, the successful Bidder shall sign and date it, and return it to the Purchaser.
- 37. Performance Security**
- 37.1 As soon as practically possible, but no more than twenty-eight (28) days following receipt of notification of award from the Purchaser, the successful Bidder shall furnish the Performance Security in accordance with the GCC, using the Performance Security form provided in the Bidding Documents or another form acceptable to the Purchaser.
- 37.2 Failure of the successful Bidder to comply with the requirements of ITB Clause 36 or ITB Clause 37.1 shall constitute sufficient grounds for the annulment of the award and, if and as applicable, execution of the Bid-Securing Declaration or forfeiture of the Bid Security, in which event the Purchaser may make the award to the next lowest evaluated bid submitted by a qualified Bidder or call for new bids.
- 38. Adjudicator**
- 38.1 Unless otherwise **stated in the BDS**, the Purchaser proposes that the person named in the BDS be appointed as Adjudicator under the Contract to assume the role of informal Contract dispute mediator, as described in GCC Clause 6. In this case, a résumé of the named person is **attached to the BDS**. The proposed hourly fee for the Adjudicator is **specified in the BDS**. The expenses that would be considered reimbursable to the Adjudicator are also **specified in the BDS**. If a Bidder does not accept the Adjudicator proposed by the Purchaser, it should state its non-acceptance in its Bid Submission Form and make a counterproposal of an Adjudicator and an hourly fee, attaching a résumé of the alternative. If the successful Bidder and the Adjudicator nominated in the BDS happen to be from the same country, and this is not the country of the Purchaser too, the Purchaser reserves the right to cancel the Adjudicator nominated in the BDS and propose a new one. If by the day the Contract is signed, the Purchaser and the successful Bidder have not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed, at the request of either party, by the Appointing Authority specified in the SCC clause relating to GCC Clause 6.1.4, or if no Appointing Authority is specified there, the Contract will be implemented without an Adjudicator.





## **SECTION II. BID DATA SHEET (BDS)**

## Bid Data Sheet

The following specific information relating to the System to be procured and the procurement procedures that will be used shall complement, supplement, or amend the provisions in the Instructions to Bidders (ITB). Whenever there is a conflict, the provisions in the Bid Data Sheet (BDS) shall prevail over those in the ITB.

### A. GENERAL

|         |   |
|---------|---|
| ITB 1.1 | <p>Name of Purchaser: <b>Dedicated Freight Corridor Corporation Of India Limited</b></p> <p>Name of authorized Purchasing Agent: <b>None</b></p> <p><b>Description of the System for which bids are invited:</b> DFCCIL proposes to implement an enterprise-wide Integrated IT System which will completely automate its core organizational business functions. The broad Scope of Work of the Supplier shall comprise design and development of package-based integrated IT Solution, procurement of hardware and software, testing, ensuring security, deployment and commissioning, training to end-users, post implementation Warranty and Operation &amp; Maintenance for a period of three years</p> |
| ITB 1.2 | <p>Title of IFB: Supply &amp; Installation of Integrated IT System</p> <p>Number of IFB: DFCCIL/IT/SI/2011</p> <p>Name of resulting Contract(s): <b>“Supply &amp; Installation of Integrated IT Systems (including supply, warranty and post warranty of computer hardware, software and networking equipment) for DFCCIL”</b></p>  |
| ITB 1.4 | <p>Alternative e-Tendering procedures <b>are NOT</b> available in this procurement.</p>   |
| ITB 2.1 | <p>Name of the Borrower: Dedicated Freight Corridor Corporation of India Limited.</p> <p>Loan number: 8066 - IN</p> <p>Loan amount: US\$975.0 MILLION</p> <p>Name of Project: Eastern Dedicated Freight Corridor</p>  |

| <p>ITB 6.1 (a)</p>   | <p>Qualification requirements for Bidders are:</p>  |  |
|--|---|--|
|  | #   | Supporting Evidence  |
|  | <p>1. The Single Bidder (or Partner-in-charge in case of Joint Venture) should be an IT Services company</p>  | <p>Certificate of Incorporation,</p>   |
|  | <p>2. The Single Bidder (or Partner-in-charge in case of Joint Venture) should have a minimum total turnover of INR 1 Billion from its IT and ITES operations for each year during the last 3 financial years (2007-08, 2008-09 and 2009-10) out of which a minimum of INR 500 million should be from application development/ customization, system integration and maintenance in each year. The bidder should also be profitable during each of the 3 financial years.</p> | <p>Audited balance sheets or attested certificate from auditor, of the last 3 financial years (2007-08, 2008-09 &amp; 2009-10). The Turnover from IT services related operations (application development/ customization, system integration and maintenance) should be evidenced by the relevant financial statements and audited accounts of the company;</p> <p>A self attested declaration may be submitted to substantiate the INR 500 million claim for application development/ customization, system integration and maintenance in each year.</p> |
|  | <p>3. The Single Bidder (or Partner-in-charge in case of Joint Venture) must have been successfully assessed and must be holding valid SEI CMMi Level 5 for IT Application Services.</p>  | <p>Copy of current &amp; valid SEI CMMi Level 5 certificate</p>  |
|  | <p>4. In case of a Joint Venture, partners other than partner-in-charge must be at least CMMi Level 3 or ISO 9001:2000 certified. For the sake of clarity it is stated, OEMs for Hardware/ Software will not be considered as JV partner</p> <p>However, the Partner-in-charge must execute over 70% of the total contract value on its own</p>   | <p>Copy of current &amp; valid SEI CMMi Level 3 or ISO 9001:2000 certificate for all Partners other than Partner-in-charge</p>   |
| <p>5. The Bidder (Single Bidder or any of the partners in a JV) should have successfully completed at least two system integration projects (covering design and implementation of an Integrated Enterprise System) globally in last 5 years. The total value (excluding taxes) of each of such projects should at least be INR 100 Million.</p> | <ol style="list-style-type: none"> <li>1. Work Order (including scope)</li> <li>2. Completion certificate/ Go – Live Certificate</li> <li>3. References</li> </ol>  |  |

|                    |   |  |
|--------------------|---|--|
|                    | <p>For each of these projects the value of the component of Application Design &amp; Development and for covering Configuration &amp; Customization, Testing, Installation, Training, Hand-holding and support activities within the project should be at least INR 30 Million.</p> <p>The bidder must submit client certificate/ references of satisfactory completion of the above projects during last 5 years (Financial years counted backwards from 31<sup>st</sup> March 2011). Work-in-Progress projects will not be considered for evaluation.</p> | <p>Self Attested Certificate to substantiate the INR 30 Million claims</p>   |
|                    | <p>6. The Bidder (Single Bidder or any of the partners in a JV) should have successfully completed at least 2 project covering design and implementation of Geographic Information System (GIS) globally in last 5 years.</p> <p>The bidder must submit client certificate/ references of satisfactory completion of the above projects during last 5 years (Financial years counted backwards from 31<sup>st</sup> March 2011). Work-in-Progress projects will not be considered for evaluation.</p>   | <ol style="list-style-type: none"> <li>1. Work Order (including scope)</li> <li>2. Completion certificate/ Go – Live Certificate</li> <li>3. References</li> </ol> |
| <p>ITB 6.1 (b)</p> | <p>Manufacturer's Authorizations for Information Technologies - except for those technologies which the Bidder itself manufactures - are required for the following types/categories: <b>“all active (i.e. powered) equipment and all software”</b></p>   |  |
| <p>ITB 6.1 (c)</p> | <p>If the Bidder proposes to use Subcontractors for the provision of certain key services, written agreements by the proposed firms to provide these services in case of contract(s) resulting from this bidding are required for the following</p>   |  |



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|  |  |
|--|--|
|  | types/categories of services:<br><b>All services</b> |
|--|--|



## B. THE BIDDING DOCUMENTS

|          |   |
|----------|---|
| ITB 10.1 | <p>Purchaser's / duly authorized Purchasing Agent's address:</p> <p><b>Dedicated Freight Corridor Corporation India Ltd. (DFCCIL)</b></p> <p><b>5th Floor, Pragati Maidan,</b></p> <p><b>Metro Station Building Complex</b></p> <p><b>New Delhi - 110001</b></p> <p><b>Office Landline No. - 011-23454780</b></p> <p><b>Fax – 011 - 23454782</b></p> <p><b>Mail Id- itproject@dfcc.co.in</b></p> <p><b>Contact Person – Amitava Gupta</b></p> |
| ITB 10.2 | <p>Dates, times, and places for the pre-bid meeting:</p> <p><b>Date:</b> 1<sup>st</sup> August 2011</p> <p><b>Time:</b> 1100 hours</p> <p><b>Place:</b> 4th Floor, DFCCIL, Pragati Maidan Metro Station Building Complex, New Delhi</p>   |

### C. PREPARATION OF BIDS

|              |   |
|--------------|---|
| ITB 12.1     | The language of the bid and of all correspondence and documents related to it is: <b>English</b>  |
| ITB 14.1     | Recurrent cost items <b>are</b> required. Please refer Section VI: Technical Requirements → C. Technical Specifications → 2.7 Consumables and Other Recurrent Cost Items  |
| ITB 14.4     | The Incoterms edition is <b>Incoterms 2010 launched in mid-September 2010 by ICC Incoterms®, 38 cours Albert 1er, 75008 Paris, France</b>   |
| ITB 14.4 (a) | <p>For foreign goods priced on a CIP (named place of destination) basis:</p> <ul style="list-style-type: none"> <li>(i) The contract of carriage shall include the cost of unloading the goods at destination, as well as payment by the Supplier of the cost of custom formalities, duties, taxes or other charges payable on the foreign Goods for their transit through any country other than the Purchaser's country.</li> <li>ii) The named place of destination shall be the DFCCIL Headquarters at New Delhi, India and its CPM offices across India (refer Attachment 7: CPM Office Location)</li> </ul> |
| ITB 14.5     | Bidders should note that the Government of India has granted exemption to all goods imported into India for execution of projects financed by the World Bank and approved by Government of India from the whole of duty of customs, additional duty of customs and special duty of customs. However, it should be noted that it is the Bidder's responsibility to ascertain validity and continuance of this exemption at the time of submission of bids.   |
| ITB 14.7     | Prices quoted by the Bidder shall be <b>FIXED</b> .   |

|              |   |
|--------------|---|
| ITB 15.1 (b) | The currency to be used for quoting prices of the Goods and Services components of the System offered locally (i.e., from within the Purchaser's Country), as well as local currency expenditures for local technical support, training, maintenance, transportation, insurance, and other local services incidental to delivery, installation and operation of the System, is: Indian National Rupee (INR)                                       |
| ITB 16.2     | The Bid <b>MUST</b> be organized in a manner so as to distinctly map/ relate the sections of the Bid with the Evaluation Parameters defined in Attachment 2: Technical/Quality evaluation parameters.   |
| ITB 16.2 (c) | In addition to the topics described in ITB Clause 16.2 (c), the Preliminary Project Plan must address the following topics:<br><b>Please refer SCC Related to GCC clause 19: Project Plan</b>   |
| ITB 16.3     | In the interest of effective integration, cost-effective technical support, and reduced re-training and staffing costs, Bidders are required to offer specific brand names and models for the following limited number of specific items: <b>None</b>   |
| ITB 17.1     | Bids need to be secured by a Bid Security. <b>The amount of Bid Security required is INR 2.5 Million.</b> Bidders are allowed to submit bank guarantees directly issued by the bank of their choice located in any eligible country. If the Bid security is issued by a financial institution that is located outside India, such financial institution shall have a corresponding financial institution located in India to make it enforceable. |
| ITB 17.7     | If the Bidder incurs any of the actions prescribed in ITB Clause 17.7 (a) or (b), the Borrower will declare the Bidder ineligible to be awarded contracts by the Employer for a period of 3 Years.  |
| ITB 18.1     | The bid validity period shall be 120 days after the deadline for bid submission, as specified below in reference to ITB Clause 21. Accordingly, each bid shall be valid through 24 <sup>th</sup> January 2012<br><br>Accordingly, a bid with a Bid Security that expires before 21 <sup>st</sup> February 2012 shall be rejected as non-responsive.   |

|          |   |
|----------|---|
|          |   |
| ITB 19.1 | <p>Required number of bid copies, besides the original: 3 Copies of Technical Bid</p> <p>In addition, soft copy of the Bid document must be enclosed.</p> |

### **D. SUBMISSION OF BIDS**

|              |   |
|--------------|---|
| ITB 20.2 (a) | <p>The address for bid submission is:</p> <p>GM – Finance &amp; IT</p> <p>Dedicated Freight Corridor Corporation India Ltd. (DFCCIL)</p> <p>Room No. 514,</p> <p>5th Floor, Pragati Maidan,</p> <p>Metro Station Building Complex</p> <p>New Delhi - 110001</p> <p>Office Landline No. - 011-23454780</p> <p>Fax – 011- 23454782</p> <p>Mail Id- itproject@dfcc.co.in</p> |
| ITB 21.1     | <p>Deadline for bid submission is: <b>26<sup>th</sup> September 2011, 1500 hours.</b></p>   |

### **E. BID OPENING AND EVALUATION**

|          |  |
|----------|--|
| ITB 24.1 | <p>Time, date, and place for bid opening are:</p> <p>26<sup>th</sup> September 2011</p> <p>1530 hour</p> <p>Dedicated Freight Corridor Corporation India Ltd. (DFCCIL)</p> <p>5th Floor, Pragati Maidan,</p> <p>Metro Station Building Complex</p> |
|----------|--|

|                   |   |
|-------------------|---|
|                   | New Delhi - 110001  |
| ITB 27.1          | <p>The currency chosen for the purpose of converting to a common currency is: INR (Indian National Rupee).</p> <p>The source of exchange rate is: Exchange rate published by State Bank of India</p> <p>The date of exchange rate determination is: <b>26<sup>th</sup> September 2011</b></p> |
| ITB 28.1          | <p>Bids for Subsystems, lots, or slices of the overall Information System <b>will not</b> be accepted.</p> <p>Discounts for the award of multiple Subsystems, lots, or slices <b>will not</b> be considered in bid evaluation.</p>  |
| ITB 28.4          | <p>The bid evaluation <b>will</b> take into account technical factors in addition to cost factors.</p> <p>The weight of the Price (“X” multiplied by 100 in the Evaluated Bid Score formula) = 30%</p>  |
| ITB 28.5          | <p>The technical/quality evaluation parameters and scoring scheme can be found attached to this BDS as <b>Attachment 2: Technical/Quality evaluation parameters</b></p> <p>Bidder <b>MUST</b> obtain 70% marks in Technical Evaluation</p>  |
| ITB 28.6 (c) (i)  | <p>The Purchaser <b>will not</b> accept deviations in the schedule of installation and commissioning specified in the Implementation Schedule.</p>  |
| ITB 28.6 (c) (ii) | <p>The Purchaser <b>will not</b> accept deviations in the payment schedule in the SCC.</p>  |
| ITB 28.6 (d)      | <p>Interest Rate (I) for net present value calculations of recurrent costs = <b>10</b> percent per annum.</p>   |

## F. POST-QUALIFICATION AND AWARD OF CONTRACT

|          |   |
|----------|---|
| ITB 31.2 | <p>As additional post-qualification measures, the Information System (or components/parts of it) offered by the Lowest Evaluated Bidder may be subjected to the following tests and performance benchmarks prior to Contract award:</p> <p><b>Reference site visits by Purchaser or its appointed representatives Expenses towards the same will be borne by Purchaser.</b></p> |
| ITB 33.1 | Percentage for quantity increase or decrease: <b>20%</b>  |
| ITB 38.1 | The proposed Adjudicator is: There will be no Adjudicator under this Contract.  |





**SECTION III. ELIGIBLE COUNTRIES FOR THE PROVISION OF  
GOODS, WORKS, AND SERVICES IN BANK-FINANCED  
PROCUREMENT**

## **Eligible Countries for the Provision of Goods, Works, and Services in Bank-Financed Procurement**

As of September 2007

1. Eligible for this procurement are firms of, and goods manufactured in, all countries except countries, if any, listed in the following restrictions.
2. In accordance with para. 1.8 (a) of the Guidelines: Procurement under IBRD Loans and IDA Credits, firms of a Country or goods manufactured in a Country may be excluded if
  - (i) as a matter of law or official regulation, the Borrower's Country prohibits commercial relations with that Country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the supply of the goods or works required, or
  - (ii) by an Act of Compliance with a Decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's Country prohibits any import of goods from that Country or any payments to persons or entities in that Country.
3. For the information of borrowers and bidders, at the present time firms, goods and services from the following countries are excluded from this bidding:

With reference to paragraph (i) above: *none*

With reference to paragraph (ii) above: *none*

## **SECTION IV. GENERAL CONDITIONS OF CONTRACT**

## Table of Clauses

|   |            |
|---|------------|
| <b>A. Contract and Interpretation.....</b>  | <b>62</b>  |
| 1. Definitions .....  | 62         |
| 2. Contract Documents.....  | 70         |
| 3. Interpretation .....   | 70         |
| 4. Notices .....  | 72         |
| 5. Governing Law .....  | 73         |
| 6. Settlement of Disputes .....   | 74         |
| <b>B. Subject Matter of Contract.....</b>   | <b>76</b>  |
| 7. Scope of the System.....   | 76         |
| 8. Time for Commencement and Operational Acceptance .....                                 | 76         |
| 9. Supplier’s Responsibilities .....  | 77         |
| 10. Purchaser’s Responsibilities.....   | 79         |
| <b>C. Payment.....</b>  | <b>81</b>  |
| 11. Contract Price .....  | 81         |
| 12. Terms of Payment.....   | 81         |
| 13. Securities .....  | 82         |
| 14. Taxes and Duties.....   | 83         |
| <b>D. Intellectual Property .....</b>   | <b>84</b>  |
| 15. Copyright.....  | 84         |
| 16. Software License Agreements .....   | 85         |
| 17. Confidential Information.....   | 87         |
| <b>E. Supply, Installation, Testing, Commissioning, and Acceptance of the System.....</b> | <b>88</b>  |
| 18. Representatives .....   | 88         |
| 19. Project Plan.....   | 90         |
| 20. Subcontracting .....  | 91         |
| 21. Design and Engineering .....  | 92         |
| 22. Procurement, Delivery, and Transport.....   | 95         |
| 23. Product Upgrades.....   | 97         |
| 24. Implementation, Installation, and Other Services .....                                | 98         |
| 25. Inspections and Tests .....   | 98         |
| 26. Installation of the System.....   | 99         |
| 27. Commissioning and Operational Acceptance .....  | 100        |
| <b>F. Guarantees and Liabilities.....</b>   | <b>104</b> |
| 28. Operational Acceptance Time Guarantee .....   | 104        |
| 29. Defect Liability .....  | 105        |
| 30. Functional Guarantees.....  | 108        |
| 31. Intellectual Property Rights Warranty .....   | 108        |
| 32. Intellectual Property Rights Indemnity .....  | 109        |
| 33. Limitation of Liability.....  | 112        |

---

**G. Risk Distribution ..... 112**

- 34. Transfer of Ownership ..... 112
- 35. Care of the System ..... 112
- 36. Loss of or Damage to Property; Accident or Injury to Workers; Indemnification. 113
- 37. Insurances ..... 115
- 38. Force Majeure ..... 117

**H. Change in Contract Elements ..... 119**

- 39. Changes to the System ..... 119
- 40. Extension of Time for Achieving Operational Acceptance ..... 123
- 41. Termination ..... 124
- 42. Assignment ..... 132

## General Conditions of Contract

### A. CONTRACT AND INTERPRETATION

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#### 1. Definitions

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

(a) contract elements

- (i) “Contract” means the Contract Agreement entered into between the Purchaser and the Supplier, 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.
- (ii) “Contract Documents” means the documents specified in Article 1.1 (Contract Documents) of the Contract Agreement (including any amendments to these Documents).
- (iii) “Contract Agreement” means the agreement entered into between the Purchaser and the Supplier 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 Purchaser and the Supplier. The date of the Contract Agreement shall be recorded in the signed form.
- (iv) “GCC” means the General Conditions of Contract.
- (v) “SCC” means the Special Conditions of Contract.
- (vi) “Technical Requirements” means the Technical Requirements Section of the Bidding Documents.
- (vii) “Implementation Schedule” means the Implementation Schedule Sub-section of the Technical Requirements.
- viii) “Contract Price” means the price or prices defined in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement.

- (ix) “Procurement Guidelines” refers to the edition **specified in the SCC** of the World Bank Guidelines: Procurement under IBRD Loans and IDA Credits.
  - (x) “Bidding Documents” refers to the collection of documents issued by the Purchaser to instruct and inform potential suppliers of the processes for bidding, selection of the winning bid, and Contract formation, as well as the contractual conditions governing the relationship between the Purchaser and the Supplier. The General and Special Conditions of Contract, the Technical Requirements, and all other documents included in the Bidding Documents reflect the Procurement Guidelines that the Purchaser is obligated to follow during procurement and administration of this Contract.
- (b) entities
- (i) “Purchaser” means the entity purchasing the Information System, as **specified in the SCC**.
  - (ii) “Project Manager” means the person **named as such in the SCC** or otherwise appointed by the Purchaser in the manner provided in GCC Clause 18.1 (Project Manager) to perform the duties delegated by the Purchaser.
  - (iii) “Supplier” means the firm or Joint Venture whose bid to perform the Contract has been accepted by the Purchaser and is named as such in the Contract Agreement.
  - (iv) “Supplier’s Representative” means any person nominated by the Supplier and named as such in the Contract Agreement or otherwise approved by the Purchaser in the manner provided in GCC Clause 18.2 (Supplier’s Representative) to perform the duties delegated by the Supplier.
  - (v) “Subcontractor” means any firm to whom any of the obligations of the Supplier, including preparation of any design or supply of any Information Technologies or other Goods or Services, is subcontracted directly or indirectly

by the Supplier.

- (vi) “Adjudicator” means the person named in Appendix 2 of the Contract Agreement, appointed by agreement between the Purchaser and the Supplier to make a decision on or to settle any dispute between the Purchaser and the Supplier referred to him or her by the parties, pursuant to GCC Clause 6.1 (Adjudication).
- (vii) “The World Bank” (also called “The Bank”) means the International Bank for Reconstruction and Development (IBRD) or the International Development Association (IDA).

(c) scope

- (i) “Information System,” also called “the System,” means all the Information Technologies, Materials, and other Goods to be supplied, installed, integrated, and made operational (exclusive of the Supplier’s Equipment), together with the Services to be carried out by the Supplier under the Contract.
- (ii) “Subsystem” means any subset of the System identified as such in the Contract that may be supplied, installed, tested, and commissioned individually before Commissioning of the entire System.
- (iii) “Information Technologies” means all information processing and communications-related hardware, Software, supplies, and consumable items that the Supplier is required to supply and install under the Contract.
- (iv) “Goods” means all equipment, machinery, furnishings, Materials, and other tangible items that the Supplier is required to supply or supply and install under the Contract, including, without limitation, the Information Technologies and Materials, but excluding the Supplier’s Equipment.
- (v) “Services” means all technical, logistical, management, and any other Services to be provided by the Supplier under the Contract to



supply, install, customize, integrate, and make operational the System. Such Services may include, but are not restricted to, activity management and quality assurance, design, development, customization, documentation, transportation, insurance, inspection, expediting, site preparation, installation, integration, training, data migration, Pre-commissioning, Commissioning, maintenance, and technical support.

- (vi) “The Project Plan” means the document to be developed by the Supplier and approved by the Purchaser, pursuant to GCC Clause 19, based on the requirements of the Contract and the Preliminary Project Plan included in the Supplier’s bid. The “Agreed and Finalized Project Plan” is the version of the Project Plan approved by the Purchaser, in accordance with GCC Clause 19.2. Should the Project Plan conflict with the Contract in any way, the relevant provisions of the Contract, including any amendments, shall prevail.
- (vii) “Software” means that part of the System which are instructions that cause information processing Subsystems to perform in a specific manner or execute specific operations.
- (viii) “System Software” means Software that provides the operating and management instructions for the underlying hardware and other components, and is identified as such in Appendix 4 of the Contract Agreement and such other Software as the parties may agree in writing to be Systems Software. Such System Software includes, but is not restricted to, micro-code embedded in hardware (i.e., “firmware”), operating systems, communications, system and network management, and utility software.
- (ix) “General-Purpose Software” means Software that supports general-purpose office and software development activities and is identified as such in Appendix 4 of the Contract Agreement and such other Software as the parties may agree in writing to be General-

Purpose Software. Such General-Purpose Software may include, but is not restricted to, word processing, spreadsheet, generic database management, and application development software.

- (x) “Application Software” means Software formulated to perform specific business or technical functions and interface with the business or technical users of the System and is identified as such in Appendix 4 of the Contract Agreement and such other Software as the parties may agree in writing to be Application Software.
- (xi) “Standard Software” means Software identified as such in Appendix 4 of the Contract Agreement and such other Software as the parties may agree in writing to be Standard Software.
- (xii) “Custom Software” means Software identified as such in Appendix 4 of the Contract Agreement and such other Software as the parties may agree in writing to be Custom Software.
- (xiii) “Source Code” means the database structures, dictionaries, definitions, program source files, and any other symbolic representations necessary for the compilation, execution, and subsequent maintenance of the Software (typically, but not exclusively, required for Custom Software).
- (xiv) “Materials” means all documentation in printed or printable form and all instructional and informational aides in any form (including audio, video, and text) and on any medium, provided to the Purchaser under the Contract.
- (xv) “Standard Materials” means all Materials not specified as Custom Materials.
- (xvi) “Custom Materials” means Materials developed by the Supplier at the Purchaser’s expense under the Contract and identified as such in Appendix 5 of the Contract Agreement and such other Materials as the parties may agree in writing to be

Custom Materials. Custom Materials includes Materials created from Standard Materials.

(xvii) “Intellectual Property Rights” means any and all copyright, moral rights, trademark, patent, and other intellectual and proprietary rights, title and interests worldwide, whether vested, contingent, or future, including without limitation all economic rights and all exclusive rights to reproduce, fix, adapt, modify, translate, create derivative works from, extract or re-utilize data from, manufacture, introduce into circulation, publish, distribute, sell, license, sublicense, transfer, rent, lease, transmit or provide access electronically, broadcast, display, enter into computer memory, or otherwise use any portion or copy, in whole or in part, in any form, directly or indirectly, or to authorize or assign others to do so.

(xviii) “Supplier’s Equipment” means all equipment, tools, apparatus, or things of every kind required in or for installation, completion and maintenance of the System that are to be provided by the Supplier, but excluding the Information Technologies, or other items forming part of the System.

(d) activities

(i) “Delivery” means the transfer of the Goods from the Supplier to the Purchaser in accordance with the current edition Incoterms specified in the Contract.

(ii) “Installation” means that the System or a Subsystem as specified in the Contract is ready for Commissioning as provided in GCC Clause 26 (Installation).

(iii) “Pre-commissioning” means the testing, checking, and any other required activity that may be specified in the Technical Requirements that are to be carried out by the Supplier in preparation for Commissioning of the System as provided in GCC Clause 26 (Installation).

(iv) “Commissioning” means operation of the

System or any Subsystem by the Supplier following Installation, which operation is to be carried out by the Supplier as provided in GCC Clause 27.1 (Commissioning), for the purpose of carrying out Operational Acceptance Test(s).

- (v) “Operational Acceptance Tests” means the tests specified in the Technical Requirements and Agreed and Finalized Project Plan to be carried out to ascertain whether the System, or a specified Subsystem, is able to attain the functional and performance requirements specified in the Technical Requirements and Agreed and Finalized Project Plan, in accordance with the provisions of GCC Clause 27.2 (Operational Acceptance Test).
  - (vi) “Operational Acceptance” means the acceptance by the Purchaser of the System (or any Subsystem(s) where the Contract provides for acceptance of the System in parts), in accordance with GCC Clause 27.3 (Operational Acceptance).
- (e) place and time
- (i) “Purchaser’s Country” is the **country named in the SCC**.
  - (ii) “Supplier’s Country” is the country in which the Supplier is legally organized, as named in the Contract Agreement.
  - (iii) “Project Site(s)” means the place(s) **specified in the SCC** for the supply and installation of the System.
  - (iv) “Eligible Country” means the countries and territories eligible for participation in procurements financed by the World Bank as defined in the Procurement Guidelines. (**Note:** The World Bank maintains a list of countries from which Bidders, Goods, and Services are not eligible to participate in procurement financed by the Bank. The list is regularly updated and can be obtained from the Public Information Center of the Bank or its web site on procurement. A copy of the list is contained

in the Section of the Bidding Documents entitled “Eligible Countries for the Provision of Goods, Works, and Services in Bank-Financed Procurement”).

- (v) “Day” means calendar day of the Gregorian Calendar.
- (vi) “Week” means seven (7) consecutive Days, beginning the day of the week as is customary in the Purchaser’s Country.
- (vii) “Month” means calendar month of the Gregorian Calendar.
- (viii) “Year” means twelve (12) consecutive Months.
- (ix) “Effective Date” means the date of fulfillment of all conditions specified in Article 3 (Effective Date for Determining Time for Achieving Operational Acceptance) of the Contract Agreement, for the purpose of determining the Delivery, Installation, and Operational Acceptance dates for the System or Subsystem(s).
- (x) “Contract Period” is the time period during which this Contract governs the relations and obligations of the Purchaser and Supplier in relation to the System, as **specified in the SCC**.
- (xi) “Defect Liability Period” (also referred to as the “Warranty Period”) means the period of validity of the warranties given by the Supplier commencing at date of the Operational Acceptance Certificate of the System or Subsystem(s), during which the Supplier is responsible for defects with respect to the System (or the relevant Subsystem[s]) as provided in GCC Clause 29 (Defect Liability).
- (xii) “The Post-Warranty Services Period” means the number of years **defined in the SCC** (if any), following the expiration of the Warranty Period during which the Supplier 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).

(xiii) “The Coverage Period” means the Days of the Week and the hours of those Days during which maintenance, operational, and/or technical support services (if any) must be available.

## 2. Contract Documents

2.1 Subject to Article 1.2 (Order of Precedence) of the Contract Agreement, all documents forming part of the Contract (and all parts of these documents) are intended to be correlative, complementary, and mutually explanatory. The Contract shall be read as a whole.

## 3. Interpretation

### 3.1 Governing Language

3.1.1 All Contract Documents and related correspondence exchanged between Purchaser and Supplier shall be written in the language **specified in the SCC**, and the Contract shall be construed and interpreted in accordance with that language.

3.1.2 If any of the Contract Documents or related correspondence are prepared in a language other than the governing language under GCC Clause 3.1.1 above, the translation of such documents into the governing language shall prevail in matters of interpretation. The originating party, with respect to such documents shall bear the costs and risks of such translation.

### 3.2 Singular and Plural

The singular shall include the plural and the plural the singular, except where the context otherwise requires.

### 3.3 Headings

The headings and marginal notes in the GCC are included for ease of reference and shall neither constitute a part of the Contract nor affect its interpretation.

### 3.4 Persons

Words importing persons or parties shall include firms, corporations, and government entities.

### 3.5 Incoterms

Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by the current Incoterms (“Incoterms 2000” or a more recent version if

and as published). Incoterms are the international rules for interpreting trade terms published by the International Chamber of Commerce, 38 Cours Albert 1er, 75008 Paris, France.

### 3.6 Entire Agreement

The Contract constitutes the entire agreement between the Purchaser and Supplier with respect to the subject matter of Contract and supersedes all communications, negotiations, and agreements (whether written or oral) of parties with respect to the subject matter of the Contract made prior to the date of Contract.

### 3.7 Amendment

No amendment or other variation of the Contract shall be effective unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party to the Contract.

### 3.8 Independent Supplier

The Supplier shall be an independent contractor performing the Contract. The Contract does not create any agency, partnership, joint venture, or other joint relationship between the parties to the Contract.

Subject to the provisions of the Contract, the Supplier shall be solely responsible for the manner in which the Contract is performed. All employees, representatives, or Subcontractors engaged by the Supplier in connection with the performance of the Contract shall be under the complete control of the Supplier and shall not be deemed to be employees of the Purchaser, and nothing contained in the Contract or in any subcontract awarded by the Supplier shall be construed to create any contractual relationship between any such employees, representatives, or Subcontractors and the Purchaser.

### 3.9 Joint Venture

If the Supplier is a Joint Venture of two or more firms, all such firms shall be jointly and severally bound to the Purchaser for the fulfillment 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. The composition or constitution of the Joint Venture shall not be

altered without the prior consent of the Purchaser.

### 3.10 Nonwaiver

3.10.1 Subject to GCC Clause 3.10.2 below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, nor shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

3.10.2 Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, must be dated and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

### 3.11 Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity, or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

### 3.12 Country of Origin

"Origin" means the place where the Information Technologies, Materials, and other Goods for the System were produced or from which the Services are supplied. Goods are produced when, through manufacturing, processing, Software development, or substantial and major assembly or integration of components, a commercially recognized product results that is substantially different in basic characteristics or in purpose or utility from its components. The Origin of Goods and Services is distinct from the nationality of the Supplier and may be different.

## 4. Notices

4.1 Unless otherwise stated in the Contract, all notices to be given under the Contract shall be in writing and shall be sent, pursuant to GCC Clause 4.3 below, by personal delivery, airmail post, special courier, cable, telegraph, telex, facsimile, electronic mail, or Electronic Data Interchange (EDI), with the following provisions.

4.1.1 Any notice sent by cable, telegraph, telex, facsimile,



electronic mail, or EDI shall be confirmed within two (2) days after dispatch by notice sent by airmail post or special courier, except as otherwise specified in the Contract.

4.1.2 Any notice sent by airmail post or special courier shall be deemed (in the absence of evidence of earlier receipt) to have been delivered ten (10) days after dispatch. In proving the fact of dispatch, it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped, and conveyed to the postal authorities or courier service for transmission by airmail or special courier.

4.1.3 Any notice delivered personally or sent by cable, telegraph, telex, facsimile, electronic mail, or EDI shall be deemed to have been delivered on the date of its dispatch.

4.1.4 Either party may change its postal, cable, telex, facsimile, electronic mail, or EDI addresses for receipt of such notices by ten (10) days' notice to the other party in writing.

4.2 Notices shall be deemed to include any approvals, consents, instructions, orders, certificates, information and other communication to be given under the Contract.

4.3 Pursuant to GCC Clause 18, notices from/to the Purchaser are normally given by, or addressed to, the Project Manager, while notices from/to the Supplier are normally given by, or addressed to, the Supplier's Representative, or in its absence its deputy if any. If there is no appointed Project Manager or Supplier's Representative (or deputy), or if their related authority is limited by the SCC for GCC Clauses 18.1 or 18.2.2, or for any other reason, the Purchaser or Supplier may give and receive notices at their fallback addresses. The address of the Project Manager and the fallback address of the Purchaser are as **specified in the SCC** or as subsequently established/amended. The address of the Supplier's Representative and the fallback address of the Supplier are as specified in Appendix 1 of the Contract Agreement or as subsequently established/amended.

## 5. Governing Law

5.1 The Contract shall be governed by and interpreted in accordance with the laws of the country specified in the SCC.

## 6. Settlement of Disputes

### 6.1 Adjudication

6.1.1 If any dispute of any kind whatsoever shall arise between the Purchaser and the Supplier in connection with or arising out of the Contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity, or termination, or the operation of the System (whether during the progress of implementation or after its achieving Operational Acceptance and whether before or after the termination, abandonment, or breach of the Contract), the parties shall seek to resolve any such dispute by mutual consultation. If the parties fail to resolve such a dispute by mutual consultation within fourteen (14) days after one party has notified the other in writing of the dispute, then, if the Contract Agreement in Appendix 2 includes and names an Adjudicator, the dispute shall, within another fourteen (14) days, be referred in writing by either party to the Adjudicator, with a copy to the other party. If there is no Adjudicator specified in the Contract Agreement, the mutual consultation period stated above shall last twenty-eight (28) days (instead of fourteen), upon expiry of which either party may move to the notification of arbitration pursuant to GCC Clause 6.2.1.

6.1.2 The Adjudicator shall give his or her decision in writing to both parties within twenty-eight (28) days of the dispute being referred to the Adjudicator. If the Adjudicator has done so, and no notice of intention to commence arbitration has been given by either the Purchaser or the Supplier within fifty-six (56) days of such reference, the decision shall become final and binding upon the Purchaser and the Supplier. Any decision that has become final and binding shall be implemented by the parties forthwith.

6.1.3 The Adjudicator shall be paid an hourly fee at the rate specified in the Contract Agreement plus reasonable expenditures incurred in the execution of duties as Adjudicator, and these costs shall be divided equally between the Purchaser and the Supplier.

6.1.4 Should the Adjudicator resign or die, or should the Purchaser and the Supplier agree that the Adjudicator is not fulfilling his or her functions in accordance with

the provisions of the Contract, a new Adjudicator shall be jointly appointed by the Purchaser and the Supplier. Failing agreement between the two within twenty-eight (28) days, the new Adjudicator shall be appointed at the request of either party by the Appointing Authority **specified in the SCC**, or, if no Appointing Authority is **specified in SCC**, the Contract shall, from this point onward and until the parties may otherwise agree on an Adjudicator or an Appointing Authority, be implemented as if there is no Adjudicator.

## 6.2 Arbitration

### 6.2.1 If

- (a) the Purchaser or the Supplier is dissatisfied with the Adjudicator's decision and acts before this decision has become final and binding pursuant to GCC Clause 6.1.2, or
- (b) the Adjudicator fails to give a decision within the allotted time from referral of the dispute pursuant to GCC Clause 6.1.2, and the Purchaser or the Supplier acts within the following fourteen (14) days, or
- (c) in the absence of an Adjudicator from the Contract Agreement, the mutual consultation pursuant to GCC Clause 6.1.1 expires without resolution of the dispute and the Purchaser or the Supplier acts within the following fourteen (14) days,

then either the Purchaser or the Supplier may act to give notice to the other party, with a copy for information to the Adjudicator in case an Adjudicator had been involved, of its intention to commence arbitration, as provided below, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.

- 6.2.2 Any dispute in respect of which a notice of intention to commence arbitration has been given, in accordance with GCC Clause 6.2.1, shall be finally settled by arbitration. Arbitration may be commenced prior to or after Installation of the Information System.

6.2.3 Arbitration proceedings shall be conducted in accordance with the rules of procedure **specified in the SCC**.

6.3 Notwithstanding any reference to the Adjudicator or arbitration in this clause,

(a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree;

(b) the Purchaser shall pay the Supplier any monies due the Supplier.

## B. SUBJECT MATTER OF CONTRACT

### 7. Scope of the System

7.1 Unless otherwise expressly **limited in the SCC** or Technical Requirements, the Supplier's obligations cover the provision of all Information Technologies, Materials and other Goods as well as the performance of all Services required for the design, development, and implementation (including procurement, quality assurance, assembly, associated site preparation, Delivery, Pre-commissioning, Installation, Testing, and Commissioning) of the System, in accordance with the plans, procedures, specifications, drawings, codes, and any other documents specified in the Contract and the Agreed and Finalized Project Plan.

7.2 The Supplier shall, unless specifically excluded in the Contract, perform all such work and / or supply all such items and Materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Operational Acceptance of the System as if such work and / or items and Materials were expressly mentioned in the Contract.

7.3 The Supplier's obligations (if any) to provide Goods and Services as implied by the Recurrent Cost tables of the Supplier's bid, such as consumables, spare parts, and technical services (e.g., maintenance, technical assistance, and operational support), are as **specified in the SCC**, including the relevant terms, characteristics, and timings.

### 8. Time for Commencement and Operational Acceptance

8.1 The Supplier shall commence work on the System within the period **specified in the SCC**, and without prejudice to GCC Clause 28.2, the Supplier shall thereafter proceed with the System in accordance with the time schedule specified in the

Implementation Schedule in the Technical Requirements Section and any refinements made in the Agreed and Finalized Project Plan.

8.2 The Supplier 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 Technical Requirements Section and any refinements made in the Agreed and Finalized Project Plan, or within such extended time to which the Supplier shall be entitled under GCC Clause 40 (Extension of Time for Achieving Operational Acceptance).

## **9. Supplier's Responsibilities**

9.1 The Supplier shall conduct all activities with due care and diligence, in accordance with the Contract and with the skill and care expected of a competent provider of information technologies, information systems, support, maintenance, training, and other related services, or in accordance with best industry practices. In particular, the Supplier 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.

9.2 The Supplier 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 Purchaser and on the basis of information that the Supplier 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 Supplier relating to the System as at the date twenty-eight (28) days prior to bid submission. The Supplier 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.

9.3 The Supplier 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 19.2) 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 41.2.

- 9.4 The Supplier shall acquire in its name all permits, approvals, and/or licenses from all local, state, or national government authorities or public service undertakings in the Purchaser's Country that are necessary for the performance of the Contract, including, without limitation, visas for the Supplier's and Subcontractor's personnel and entry permits for all imported Supplier's Equipment. The Supplier shall acquire all other permits, approvals, and/or licenses that are not the responsibility of the Purchaser under GCC Clause 10.4 and that are necessary for the performance of the Contract.
- 9.5 The Supplier shall comply with all laws in force in the Purchaser's Country. The laws will include all national, provincial, municipal, or other laws that affect the performance of the Contract and are binding upon the Supplier. The Supplier shall indemnify and hold harmless the Purchaser 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 Supplier or its personnel, including the Subcontractors and their personnel, but without prejudice to GCC Clause 10.1. The Supplier shall not indemnify the Purchaser to the extent that such liability, damage, claims, fines, penalties, and expenses were caused or contributed to by a fault of the Purchaser.
- 9.6 The Supplier shall, in all dealings with its labor and the labor of its Subcontractors currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs, and all local laws and regulations pertaining to the employment of labor.
- 9.7 Any Information Technologies or other Goods and Services that will be incorporated in or be required for the System and other supplies shall have their Origin, as defined in GCC Clause 3.12, in a country that shall be an Eligible Country, as defined in GCC Clause 1.1 (e) (iv).
- 9.8 The Supplier shall permit the Bank and/or persons appointed by the Bank to inspect the Supplier's offices and/or the accounts and records of the Supplier and its sub-contractors relating to the performance of the Contract, and to have such accounts and records audited by auditors appointed by the Bank if required by the Bank. The Supplier's attention is drawn to Sub-Clause 41.2.1(c), which provides, inter alia, that acts intended to materially impede the exercise of the

Bank's inspection and audit rights provided for under Sub-Clause 9.8 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility under the Procurement Guidelines)

9.9 Other Supplier responsibilities, if any, are as **stated in the SCC**.

#### **10. Purchaser's Responsibilities**

10.1 The Purchaser shall ensure the accuracy of all information and/or data to be supplied by the Purchaser to the Supplier, except when otherwise expressly stated in the Contract.

10.2 The Purchaser 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 19.2) 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 41.3.1 (b).

10.3 The Purchaser shall be responsible for acquiring and providing legal and physical possession of the site and access to it, and for providing possession of and access to all other areas reasonably required for the proper execution of the Contract.

10.4 If requested by the Supplier, the Purchaser shall use its best endeavors to assist the Supplier 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 Supplier or Subcontractors or the personnel of the Supplier or Subcontractors, as the case may be, to obtain.

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

10.6 The Purchaser 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 Supplier. Delay by the Purchaser may result in an appropriate extension of the Time for Operational Acceptance, at the Supplier's discretion.

- 10.7 Unless otherwise specified in the Contract or agreed upon by the Purchaser and the Supplier, the Purchaser shall provide sufficient, properly qualified operating and technical personnel, as required by the Supplier to properly carry out Delivery, Pre-commissioning, Installation, Commissioning, and Operational Acceptance, at or before the time specified in the Technical Requirements Section's Implementation Schedule and the Agreed and Finalized Project Plan.
- 10.8 The Purchaser will designate appropriate staff for the training courses to be given by the Supplier and shall make all appropriate logistical arrangements for such training as specified in the Technical Requirements, SCC, the Agreed and Finalized Project Plan, or other parts of the Contract.
- 10.9 The Purchaser assumes primary responsibility for the Operational Acceptance Test(s) for the System, in accordance with GCC Clause 27.2, and shall be responsible for the continued operation of the System after Operational Acceptance. However, this shall not limit in any way the Supplier's responsibilities after the date of Operational Acceptance otherwise specified in the Contract.
- 10.10 The Purchaser is responsible for performing and safely storing timely and regular backups of its data and Software in accordance with accepted data management principles, except where such responsibility is clearly assigned to the Supplier elsewhere in the Contract.
- 10.11 All costs and expenses involved in the performance of the obligations under this GCC Clause 10 shall be the responsibility of the Purchaser, save those to be incurred by the Supplier with respect to the performance of the Operational Acceptance Test(s), in accordance with GCC Clause 27.2.
- 10.12 Other Purchaser responsibilities, if any, are **as stated in the SCC.**



## C. PAYMENT

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- 11. Contract Price**
- 11.1 The Contract Price shall be as specified in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement.
- 11.2 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 39 or to other clauses in the Contract;
  - (b) in accordance with the price adjustment formula (if any) **specified in the SCC.**
- 11.3 The Supplier 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.
- 12. Terms of Payment**
- 12.1 The Supplier's request for payment shall be made to the Purchaser 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 22.5 and upon fulfillment of other obligations stipulated in the Contract.
- The Contract Price shall be paid as **specified in the SCC.**
- 12.2 No payment made by the Purchaser herein shall be deemed to constitute acceptance by the Purchaser of the System or any Subsystem(s).
- 12.3 Payments shall be made promptly by the Purchaser, but in no case later than forty five (45) days after submission of a valid invoice by the Supplier. In the event that the Purchaser fails to make any payment by its respective due date or within the period set forth in the Contract, the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate(s) **specified in the SCC** for the period of delay until payment has been made in full, whether before or after judgment or arbitration award.
- 12.4 All payments shall be made in the currency(ies) specified in the Contract Agreement, pursuant to GCC Clause 11. For Goods and Services supplied locally, payments shall be made in the currency of the Purchaser's Country, unless

otherwise **specified in the SCC**.

12.5 Unless otherwise **specified in the SCC**, payment of the foreign currency portion of the Contract Price for Goods supplied from outside the Purchaser's Country shall be made to the Supplier through an irrevocable letter of credit opened by an authorized bank in the Supplier's Country and will be payable on presentation of the appropriate documents. It is agreed that the letter of credit will be subject to Article 10 of the latest revision of Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce, Paris.

### 13. Securities

#### 13.1 Issuance of Securities

The Supplier shall provide the securities specified below in favor of the Purchaser at the times and in the amount, manner, and form specified below.

#### 13.2 Advance Payment Security

13.2.1 As **specified in the SCC**, the Supplier shall provide a security equal in amount and currency to the advance payment, and valid until the System is Operationally Accepted.

13.2.2 The security shall be in the form provided in the Bidding Documents or in another form acceptable to the Purchaser. The amount of the security shall be reduced in proportion to the value of the System executed by and paid to the Supplier from time to time and shall automatically become null and void when the full amount of the advance payment has been recovered by the Purchaser. The way the value of the security is deemed to become reduced and, eventually, voided is as **specified in the SCC**. The security shall be returned to the Supplier immediately after its expiration.

#### 13.3 Performance Security

13.3.1 The Supplier 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**.

13.3.2 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 Purchaser.

13.3.3 The security shall automatically become null and void once all the obligations of the Supplier 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 Supplier no later than twenty-eight (28) days after its expiration.

13.3.4 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 Supplier.

#### 14. Taxes and Duties

14.1 For Goods or Services supplied from outside the Purchaser's country, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Purchaser's country. Any duties, such as importation or customs duties, and taxes and other levies, payable in the Purchaser's country for the supply of Goods and Services from outside the Purchaser's country are the responsibility of the Purchaser unless these duties or taxes have been made part of the Contract Price in Article 2 of the Contract Agreement and the Price Schedule it refers to, in which case the duties and taxes will be the Supplier's responsibility.

14.2 For Goods or Services supplied locally, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods or Services to the Purchaser. The only exception are taxes or duties, such as value-added or sales tax or stamp duty as apply to, or are clearly identifiable, on the invoices and provided they apply in the Purchaser's country, and only if these taxes, levies and/or duties are also excluded from the Contract Price in Article 2 of the Contract Agreement and the Price Schedule it refers to.

14.3 If any tax exemptions, reductions, allowances, or privileges may be available to the Supplier in the Purchaser's Country, the Purchaser shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

14.4 For the purpose of the Contract, it is agreed that the Contract

Price specified in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement is based on the taxes, duties, levies, and charges prevailing at the date twenty-eight (28) days prior to the date of bid submission in the Purchaser's Country (also called "Tax" in this GCC Clause 14.4). 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 Supplier, 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.

## D. INTELLECTUAL PROPERTY

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### 15. Copyright

- 15.1 The Intellectual Property Rights in all Standard Software and Standard Materials shall remain vested in the owner of such rights.
- 15.2 The Purchaser agrees to restrict use, copying, or duplication of the Standard Software and Standard Materials in accordance with GCC Clause 16, except that additional copies of Standard Materials may be made by the Purchaser for use within the scope of the project of which the System is a part, in the event that the Supplier does not deliver copies within thirty (30) days from receipt of a request for such Standard Materials.
- 15.3 The Purchaser's contractual rights to use the Standard Software or elements of the Standard Software may not be assigned, licensed, or otherwise transferred voluntarily except in accordance with the relevant license agreement or as may be otherwise **specified in the SCC**.
- 15.4 As applicable, the Purchaser's and Supplier'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 4 and 5 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 Purchaser. The Supplier shall do

and execute or arrange for the doing and executing of each necessary act, document, and thing that the Purchaser may consider necessary or desirable to perfect the right, title, and interest of the Purchaser in and to those rights. In respect of such Custom Software and Custom Materials, the Supplier shall ensure that the holder of a moral right in such an item does not assert it, and the Supplier shall, if requested to do so by the Purchaser and where permitted by applicable law, ensure that the holder of such a moral right waives it.

15.5 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**.

## 16. Software License Agreements

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

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 under GCC Clauses 41.1 or 41.3);
  - (iii) valid throughout the territory of the Purchaser's Country (or such other territory as **specified in the SCC**); and
  - (iv) subject to additional restrictions (if any) as **specified in the SCC**.
- (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 Technical Requirements and/or the Supplier'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) as **specified in the SCC**, used or copied for use on or transferred to a replacement computer(s), (and use on the original and replacement computer(s) may be simultaneous during a reasonable transitional period) provided that, if the Technical Requirements and/or the Supplier's bid specifies a class of computer to which the license is restricted and unless the Supplier agrees otherwise in writing, the replacement computer(s) is(are) within that class;
- (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 Purchaser, 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) as **specified in the SCC**, disclosed to, and reproduced for use by, support service suppliers and their subcontractors, (and the Purchaser may sublicense such persons to use and copy for use the Software) to the extent reasonably necessary to the performance of their support service contracts, subject to the same restrictions as are set forth in this Contract; and
- (vii) disclosed to, and reproduced for use by, the Purchaser and by such other persons as are **specified in the SCC** (and the Purchaser may sublicense such persons to use and copy for use the Software), subject to the same restrictions as are set forth in this Contract.

16.2 The Standard Software may be subject to audit by the Supplier, in accordance with the terms **specified in the SCC**, to verify compliance with the above license agreements.

**17. Confidential Information**

17.1 Except if otherwise **specified in the SCC**, the "Receiving Party" (either the Purchaser or the Supplier) 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.

17.2 For the purposes of GCC Clause 17.1, the Supplier is also deemed to be the Receiving Party of Confidential Information generated by the Supplier itself in the course of the performance of its obligations under the Contract and relating to the businesses, finances, suppliers, employees, or other contacts of the Purchaser or the Purchaser's use of the System.

17.3 Notwithstanding GCC Clauses 17.1 and 17.2:

- (a) the Supplier may furnish to its Subcontractor Confidential Information of the Purchaser to the extent reasonably required for the Subcontractor to perform its work under the Contract; and
- (b) the Purchaser may furnish Confidential Information of the Supplier: (i) to its support service suppliers 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 17 as if that person were party to the Contract in place of the Receiving Party.

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

- 17.5 The obligation of a party under GCC Clauses 17.1 through 17.4 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.
- 17.6 The above provisions of this GCC Clause 17 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.
- 17.7 The provisions of this GCC Clause 17 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**.

## **E. SUPPLY, INSTALLATION, TESTING, COMMISSIONING, AND ACCEPTANCE OF THE SYSTEM**

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### **18. Representatives 18.1 Project Manager**

If the Project Manager is not named in the Contract, then within fourteen (14) days of the Effective Date, the Purchaser shall appoint and notify the Supplier in writing of the name of the Project Manager. The Purchaser 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 Supplier 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 Supplier. Subject to the extensions and/or limitations **specified in the SCC** (if any), the Project Manager shall have the authority to represent the Purchaser 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



Purchaser pursuant to GCC Clause 4.

## 18.2 Supplier's Representative

18.2.1 If the Supplier's Representative is not named in the Contract, then within fourteen (14) days of the Effective Date, the Supplier shall appoint the Supplier's Representative and shall request the Purchaser 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 Supplier's Representative. If the Purchaser does not object to the appointment within fourteen (14) days, the Supplier's Representative shall be deemed to have been approved. If the Purchaser objects to the appointment within fourteen (14) days giving the reason there for, then the Supplier shall appoint a replacement within fourteen (14) days of such objection in accordance with this GCC Clause 18.2.1.

18.2.2 Subject to the extensions and/or limitations **specified in the SCC** (if any), the Supplier's Representative shall have the authority to represent the Supplier 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 Supplier pursuant to GCC Clause 4.

18.2.3 The Supplier shall not revoke the appointment of the Supplier's Representative without the Purchaser's prior written consent, which shall not be unreasonably withheld. If the Purchaser consents to such an action, the Supplier shall appoint another person of equal or superior qualifications as the Supplier's Representative, pursuant to the procedure set out in GCC Clause 18.2.1.

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

personnel.

18.2.5 The Supplier's Representative may, subject to the approval of the Purchaser (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 Supplier'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.

18.2.6 Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with GCC Clause 18.2.5 shall be deemed to be an act or exercise by the Supplier's Representative.

### 18.3 Objections and Removals

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

18.3.2 If any representative or person employed by the Supplier is removed in accordance with GCC Clause 18.3.1, the Supplier shall, where required, promptly appoint a replacement.

## 19. Project Plan

19.1 In close cooperation with the Purchaser and based on the Preliminary Project Plan included in the Supplier's bid, the Supplier 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.

19.2 The Supplier shall formally present to the Purchaser the Project Plan in accordance with the procedure specified in the SCC.

- 19.3 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 39 and 40.
- 19.4 The Supplier shall undertake to supply, install, test, and commission the System in accordance with the Agreed and Finalized Project Plan and the Contract.
- 19.5 The Progress and other reports **specified in the SCC** shall be prepared by the Supplier and submitted to the Purchaser in the format and frequency specified in the Technical Requirements.

## **20. Subcontracting**

- 20.1 Appendix 3 (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 Purchaser. If no Subcontractors are listed for an item, the Supplier shall prepare a list of Subcontractors it considers qualified and wishes to be added to the list for such items. The Supplier may from time to time propose additions to or deletions from any such list. The Supplier shall submit any such list or any modification to the list to the Purchaser for its approval in sufficient time so as not to impede the progress of work on the System. The Purchaser shall not withhold such approval unreasonably. Such approval by the Purchaser of a Subcontractor(s) shall not relieve the Supplier from any of its obligations, duties, or responsibilities under the Contract.
- 20.2 The Supplier may, at its discretion, select and employ Subcontractors for such critical items from those Subcontractors listed pursuant to GCC Clause 20.1. If the Supplier wishes to employ a Subcontractor not so listed, or subcontract an item not so listed, it must seek the Purchaser's prior approval under GCC Clause 20.3.
- 20.3 For items for which pre-approved Subcontractor lists have not been specified in Appendix 3 to the Contract Agreement, the Supplier may employ such Subcontractors as it may select, provided: (i) the Supplier notifies the Purchaser 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 Purchaser has granted its approval in writing or fails to respond. The Supplier shall not engage any Subcontractor to which the Purchaser has objected in writing prior to the end of the notice period. The absence of a written objection by the Purchaser 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 Purchaser of Subcontractors not listed in the Contract Agreement, nothing in this Clause, however, shall limit the rights and obligations of either the Purchaser or Supplier as they are specified in GCC Clauses 20.1 and 20.2, in the SCC, or in Appendix 3 of the Contract Agreement.

## 21. Design and Engineering

### 21.1 Technical Specifications and Drawings

21.1.1 The Supplier shall execute the basic and 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 Supplier 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 Supplier by or on behalf of the Purchaser.

21.1.2 The Supplier 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 Purchaser, by giving a notice of such disclaimer to the Project Manager.

### 21.2 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 Purchaser and shall be treated in accordance with GCC Clause 39.3.

### 21.3 Approval/Review of Technical Documents by the Project Manager

21.3.1 The Supplier 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 Clauses 21.3.2 through 21.3.7 shall apply to those documents requiring the Project Manager's approval, but not to those furnished to the Project Manager for its review only.

21.3.2 Within fourteen (14) days after receipt by the Project Manager of any document requiring the Project Manager's approval in accordance with GCC Clause 21.3.1, the Project Manager shall either return one copy of the document to the Supplier with its approval endorsed on the document or shall notify the Supplier 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 fourteen (14) days, then the document shall be deemed to have been approved by the Project Manager.

21.3.3 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.

21.3.4 If the Project Manager disapproves the document, the Supplier shall modify the document and resubmit it for the Project Manager's approval in accordance with GCC Clause 21.3.2. If the Project Manager approves the document subject to modification(s), the Supplier shall make the required modification(s), and the document shall then be deemed to have been approved, subject to GCC Clause 21.3.5. The procedure set out in GCC Clauses 21.3.2 through 21.3.4 shall be repeated, as appropriate, until the Project Manager approves such documents.

21.3.5 If any dispute occurs between the Purchaser and the Supplier 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 6.1 (Adjudicator). 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 Supplier shall proceed with the Contract in accordance with the Project Manager's instructions, provided that if the Adjudicator upholds the Supplier's view on the dispute and if the Purchaser has not given notice under GCC Clause 6.1.2, then the Supplier shall be reimbursed by the Purchaser 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.

21.3.6 The Project Manager's approval, with or without modification of the document furnished by the Supplier, shall not relieve the Supplier 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 Supplier by or on behalf of the Purchaser.

21.3.7 The Supplier shall not depart from any approved document unless the Supplier 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 21.3. 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 39 (Changes to the System) shall apply to such request.

**22. Procurement,  
Delivery, and  
Transport**

22.1 Subject to related Purchaser's responsibilities pursuant to GCC Clauses 10 and 14, the Supplier shall manufacture or procure and transport all the Information Technologies, Materials, and other Goods in an expeditious and orderly manner to the Project Site.

22.2 Delivery of the Information Technologies, Materials, and other Goods shall be made by the Supplier in accordance with the Technical Requirements.

22.3 Early or partial deliveries require the explicit written consent of the Purchaser, which consent shall not be unreasonably withheld.

**22.4 Transportation**

22.4.1 The Supplier 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 Purchaser's instructions to the Supplier.

22.4.2 The Supplier 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.

22.4.3 Unless otherwise **specified in the SCC**, the Supplier shall be free to use transportation through carriers registered in any eligible country and to obtain insurance from any eligible source country.

22.5 Unless otherwise **specified in the SCC**, the Supplier will provide the Purchaser with shipping and other documents, as specified below:

22.5.1 For Goods supplied from outside the Purchaser's Country:

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

insurance company:

- (a) two copies of the Supplier'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 Purchaser's Country and at the site.

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

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

- (a) two copies of the Supplier'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.

22.6 Customs Clearance

- (a) The Purchaser will bear responsibility for, and cost of, customs clearance into the Purchaser's country in accordance the particular Incoterm(s) used for Goods supplied from outside the Purchaser's country in the Price Schedules referred to by Article 2 of the Contract Agreement.
- (b) At the request of the Purchaser, the Supplier will make available a representative or agent during the process of customs clearance in the Purchaser's country for goods supplied from outside the Purchaser's country. In the event of delays in customs clearance that are not the



fault of the Supplier:

- (i) the Supplier shall be entitled to an extension in the Time for Achieving Operational Acceptance, pursuant to GCC Clause 40;
- (ii) the Contract Price shall be adjusted to compensate the Supplier for any additional storage charges that the Supplier may incur as a result of the delay.

### **23. Product Upgrades**

23.1 At any point during performance of the Contract, should technological advances be introduced by the Supplier for Information Technologies originally offered by the Supplier in its bid and still to be delivered, the Supplier shall be obligated to offer to the Purchaser 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 39 (Changes to the System).

23.2 At any point during performance of the Contract, for Information Technologies still to be delivered, the Supplier will also pass on to the Purchaser any cost reductions and additional and/or improved support and facilities that it offers to other clients of the Supplier in the Purchaser's Country, pursuant to GCC Clause 39 (Changes to the System).

23.3 During performance of the Contract, the Supplier shall offer to the Purchaser 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 Supplier to other clients of the Supplier in the Purchaser'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 Supplier in the Recurrent Costs tables in its bid.

23.4 During the Warranty Period, unless otherwise **specified in the SCC**, the Supplier will provide at no additional cost to the Purchaser all new versions, releases, and updates for all Standard Software that are used in the System, within thirty (30) days of their availability from the Supplier to other clients of the Supplier in the Purchaser's country, and no later than twelve (12) months after they are released in the country of origin of the Software.

23.5 The Purchaser shall introduce all new versions, releases or

updates of the Software within eighteen (18) 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 Supplier 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 Supplier stop supporting or maintaining a version or release of the Software less than twenty four (24) months after the Purchaser receives a production-ready copy of a subsequent version, release, or update. The Purchaser shall use all reasonable endeavors to implement any new version, release, or update as soon as practicable, subject to the twenty-four-month-long stop date.

**24. Implementation, Installation, and Other Services**

24.1 The Supplier 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.

24.2 Prices charged by the Supplier 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 Supplier in the Recurrent Cost Schedules of its Bid) and shall not exceed the prevailing rates charged by the Supplier to other purchasers in the Purchaser's Country for similar services.

**25. Inspections and Tests**

25.1 The Purchaser or its representative shall have the right to inspect and/or test any components of the System, as specified in the 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.

25.2 The Purchaser or its representative shall be entitled to attend any such inspections and/or tests of the components, provided that the Purchaser 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.

25.3 Should the inspected or tested components fail to conform to the Contract, the Purchaser may reject the component(s), and the Supplier shall either replace the rejected component(s),

or make alterations as necessary so that it meets the Contract requirements free of cost to the Purchaser.

25.4 The Project Manager may require the Supplier to carry out any inspection and/or test not specified in the Contract, provided that the Supplier'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 impedes the progress of work on the System and/or the Supplier'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.

25.5 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 6 (Settlement of Disputes), starting with referral of the matter to the Adjudicator in case an Adjudicator is included and named in the Contract Agreement.

**26. Installation of the System**

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

26.2 The Project Manager shall, within fourteen (14) days after receipt of the Supplier's notice under GCC Clause 26.1, 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 27.2.1), has achieved Installation by the date of the Supplier's notice under GCC Clause 26.1, or notify the Supplier 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 Supplier shall use all reasonable endeavors to promptly remedy any defect and/or deficiencies that the Project Manager has notified the Supplier of. The Supplier shall then promptly carry out retesting of the System or

Subsystem and, when in the Supplier's opinion the System or Subsystem is ready for Commissioning and Operational Acceptance Testing, notify the Purchaser in writing, in accordance with GCC Clause 26.1. The procedure set out in this GCC Clause 26.2 shall be repeated, as necessary, until an Installation Certificate is issued.

26.3 If the Project Manager fails to issue the Installation Certificate and fails to inform the Supplier of any defects and/or deficiencies within fourteen (14) days after receipt of the Supplier's notice under GCC Clause 26.1, or if the Purchaser 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 Supplier's notice or repeated notice, or when the Purchaser put the System into production operation, as the case may be.

## **27. Commissioning and Operational Acceptance**

### 27.1 Commissioning

27.1.1 Commissioning of the System (or Subsystem if specified pursuant to the SCC for GCC Clause 27.2.1) shall be commenced by the Supplier:

- (a) immediately after the Installation Certificate is issued by the Project Manager, pursuant to GCC Clause 26.2; or
- (b) as otherwise specified in the Technical Requirement or the Agreed and Finalized Project Plan; or
- (c) immediately after Installation is deemed to have occurred, under GCC Clause 26.3.

27.1.2 The Purchaser shall supply the operating and technical personnel and all materials and information reasonably required to enable the Supplier 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.

### 27.2 Operational Acceptance Tests

27.2.1 The Operational Acceptance Tests (and repeats of such tests) shall be the primary responsibility of the Purchaser (in accordance with GCC Clause 10.9), but shall be conducted with the full cooperation of the

Supplier during Commissioning of the System (or major components or Subsystem[s] if **specified in the SCC** and supported by the Technical Requirements), to ascertain whether the System (or major component or Subsystem[s]) conforms to the Technical Requirements and meets the standard of performance quoted in the Supplier's bid, including, but not restricted to, the functional and technical performance requirements. The Operational Acceptance Tests during Commissioning will be conducted as **specified in the SCC**, the Technical Requirements and/or the Agreed and Finalized Project Plan.

At the Purchaser'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.

27.2.2 If for reasons attributable to the Purchaser, the Operational Acceptance Test of the System (or Subsystem[s] or major components, pursuant to the SCC for GCC Clause 27.2.1) 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 Purchaser and the Supplier, the Supplier shall be deemed to have fulfilled its obligations with respect to the technical and functional aspects of the Technical Specifications, SCC and/or the Agreed and Finalized Project Plan, and GCC Clause 28.2 and 28.3 shall not apply.

### 27.3 Operational Acceptance

27.3.1 Subject to GCC Clause 27.4 (Partial Acceptance) below, Operational Acceptance shall occur in respect of the System, when

- (a) the Operational Acceptance Tests, as specified in the 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 Purchaser within the period from the date of Installation or any other agreed-upon period as

specified in GCC Clause 27.2.2 above; or

- (c) the Purchaser 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 Supplier shall notify the Purchaser and document such use.

27.3.2 At any time after any of the events set out in GCC Clause 27.3.1 have occurred, the Supplier may give a notice to the Project Manager requesting the issue of an Operational Acceptance Certificate.

27.3.3 After consultation with the Purchaser, and within fourteen (14) days after receipt of the Supplier's notice, the Project Manager shall:

- (a) issue an Operational Acceptance Certificate; or
- (b) notify the Supplier 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 27.3.1 (b) arises.

27.3.4 The Supplier shall use all reasonable endeavors 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 Supplier of. Once such remedies have been made by the Supplier, the Supplier shall notify the Purchaser, and the Purchaser, with the full cooperation of the Supplier, shall use all reasonable endeavors to promptly carry out retesting of the System or Subsystem. Upon the successful conclusion of the Operational Acceptance Tests, the Supplier shall notify the Purchaser of its request for Operational Acceptance Certification, in accordance with GCC Clause 27.3.3. The Purchaser shall then issue to the Supplier the Operational Acceptance Certification in accordance with GCC Clause 27.3.3 (a), or shall notify the Supplier of further defects, deficiencies, or other reasons for the failure of the Operational Acceptance Test. The procedure set out in this GCC Clause 27.3.4 shall be repeated, as necessary, until an

Operational Acceptance Certificate is issued.

27.3.5 If the System or Subsystem fails to pass the Operational Acceptance Test(s) in accordance with GCC Clause 27.2, then either:

(a) the Purchaser may consider terminating the Contract, pursuant to GCC Clause 41.2.2;

or

(b) if the failure to achieve Operational Acceptance within the specified time period is a result of the failure of the Purchaser to fulfill its obligations under the Contract, then the Supplier shall be deemed to have fulfilled its obligations with respect to the relevant technical and functional aspects of the Contract, and GCC Clauses 30.3 and 30.4 shall not apply.

27.3.6 If within fourteen (14) days after receipt of the Supplier's notice the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the Supplier 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 Supplier's said notice.

#### 27.4 Partial Acceptance

27.4.1 If so specified in the SCC for GCC Clause 27.2.1, 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 27.4.2.

27.4.2 The issuance of Operational Acceptance Certificates for individual major components or Subsystems pursuant to GCC Clause 27.4.1 shall not relieve the Supplier 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 12.1 and 27.2.1)

once all major components and Subsystems have been supplied, installed, tested, and commissioned.

27.4.3 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 Supplier shall, however, use all reasonable endeavors to promptly remedy any defects or deficiencies in such minor components detected by the Purchaser or Supplier.

## F. GUARANTEES AND LIABILITIES

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### 28. Operational Acceptance Time Guarantee

28.1 The Supplier guarantees that it shall complete the supply, Installation, Commissioning, and achieve Operational Acceptance of the System (or Subsystems, pursuant to the SCC for GCC Clause 27.2.1) within the time periods specified in the Implementation Schedule in the Technical Requirements Section and/or the Agreed and Finalized Project Plan pursuant to GCC Clause 8.2, or within such extended time to which the Supplier shall be entitled under GCC Clause 40 (Extension of Time for Achieving Operational Acceptance).

28.2 If the Supplier fails to supply, install, commission, and achieve Operational Acceptance of the System (or Subsystems pursuant to the SCC for GCC Clause 27.2.1) within the time for achieving Operational Acceptance specified in the Implementation Schedule in the Technical Requirement or the Agreed and Finalized Project Plan, or any extension of the time for achieving Operational Acceptance previously granted under GCC Clause 40 (Extension of Time for Achieving Operational Acceptance), the Supplier shall pay to the Purchaser 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 Purchaser may consider termination of the Contract, pursuant to GCC Clause 41.2.2.

28.3 Unless otherwise **specified in the SCC**, liquidated damages



payable under GCC Clause 28.2 shall apply only to the failure to achieve Operational Acceptance of the System (and Subsystems) as specified in the Implementation Schedule in the Technical Requirements and/or Agreed and Finalized Project Plan. This Clause 28.3 shall not limit, however, any other rights or remedies the Purchaser may have under the Contract for other delays.

28.4 If liquidated damages are claimed by the Purchaser for the System (or Subsystem), the Supplier shall have no further liability whatsoever to the Purchaser 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 Supplier from any of its obligations to complete the System or from any other of its obligations and liabilities under the Contract.

## 29. Defect Liability

29.1 The Supplier 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. Exceptions and/or limitations, if any, to this warranty with respect to Software (or categories of Software), shall be as **specified in the SCC**. Commercial warranty provisions of products supplied under the Contract shall apply to the extent that they do not conflict with the provisions of this Contract.

29.2 The Supplier 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 fulfill the Technical Requirements.

29.3 In addition, the Supplier warrants that: (i) all Goods components to be incorporated into the System form part of the Supplier'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**.

29.4 The 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**.

- 29.5 If during the Warranty Period any defect as described in GCC Clause 29.1 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 Supplier, the Supplier shall promptly, in consultation and agreement with the Purchaser regarding appropriate remedying of the defects, and at its sole cost, repair, replace, or otherwise make good (as the Supplier 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 Supplier shall remain the property of the Supplier.
- 29.6 The Supplier 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 Purchaser;
  - (b) normal wear and tear;
  - (c) use of the System with items not supplied by the Supplier, unless otherwise identified in the Technical Requirements, or approved by the Supplier; or
  - (d) modifications made to the System by the Purchaser, or a third party, not approved by the Supplier.
- 29.7 The Supplier's obligations under this GCC Clause 29 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 Purchaser or any matters for which the Supplier has disclaimed responsibility, in accordance with GCC Clause 21.1.2.
- 29.8 The Purchaser shall give the Supplier a notice promptly following the discovery of such defect, stating the nature of any such defect together with all available evidence. The Purchaser shall afford all reasonable opportunity for the

Supplier to inspect any such defect. The Purchaser shall afford the Supplier all necessary access to the System and the site to enable the Supplier to perform its obligations under this GCC Clause 29.

29.9 The Supplier may, with the consent of the Purchaser, 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 Purchaser may give the Supplier notice requiring that tests of the defective part be made by the Supplier immediately upon completion of such remedial work, whereupon the Supplier shall carry out such tests.

If such part fails the tests, the Supplier 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 Purchaser and the Supplier.

29.10 If the Supplier 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 Purchaser may, following notice to the Supplier, proceed to do such work or contract a third party (or parties) to do such work, and the reasonable costs incurred by the Purchaser in connection with such work shall be paid to the Purchaser by the Supplier or may be deducted by the Purchaser from any monies due the Supplier or claimed under the Performance Security.

29.11 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 Purchaser because of such defect and/or making good of such defect.

29.12 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.

29.13 At the request of the Purchaser and without prejudice to any other rights and remedies that the Purchaser may have

against the Supplier under the Contract, the Supplier will offer all possible assistance to the Purchaser 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 favor of the Purchaser of the benefit of any warranties given by such producers or licensors to the Supplier.

### **30. Functional Guarantees**

30.1 The Supplier guarantees that, once the Operational Acceptance Certificate(s) has been issued, the System represents a complete, integrated solution to the Purchaser's requirements set forth in the Technical Requirements and it conforms to all other aspects of the Contract. The Supplier acknowledges that GCC Clause 27 regarding Commissioning and Operational Acceptance governs how technical conformance of the System to the Contract requirements will be determined.

30.2 If, for reasons attributable to the Supplier, the System does not conform to the Technical Requirements or does not conform to all other aspects of the Contract, the Supplier shall at its cost and expense make such changes, modifications, and/or additions to the System as may be necessary to conform to the Technical Requirements and meet all functional and performance standards. The Supplier shall notify the Purchaser upon completion of the necessary changes, modifications, and/or additions and shall request the Purchaser to repeat the Operational Acceptance Tests until the System achieves Operational Acceptance.

30.3 If the System (or Subsystem[s]) fails to achieve Operational Acceptance, the Purchaser may consider termination of the Contract, pursuant to GCC Clause 41.2.2, and forfeiture of the Supplier's Performance Security in accordance with GCC Clause 13.3 in compensation for the extra costs and delays likely to result from this failure.

### **31. Intellectual Property Rights Warranty**

31.1 The Supplier 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 Purchaser 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 Purchaser to own or exercise all Intellectual Property Rights as provided in the Contract. Without limitation, the Supplier 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.

**32. Intellectual  
Property Rights  
Indemnity**

32.1 The Supplier shall indemnify and hold harmless the Purchaser 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 Purchaser 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 Supplier 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 Supplier 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 Purchaser's breach of GCC Clause 32.2.

32.2 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 Supplier, where the infringement arises because of such association or combination and not because of use of the System in its own right.

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

- (a) is asserted by a parent, subsidiary, or affiliate of the Purchaser's organization;

- (b) is a direct result of a design mandated by the Purchaser's Technical Requirements and the possibility of such infringement was duly noted in the Supplier's Bid; or
- (c) results from the alteration of the System, including the Materials, by the Purchaser or any persons other than the Supplier or a person authorized by the Supplier.

32.4 If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Clause 32.1, the Purchaser shall promptly give the Supplier notice of such proceedings or claims, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

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

32.5 The Purchaser shall indemnify and hold harmless the Supplier 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 Supplier 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 Supplier in connection with this Contract by the Purchaser or any persons (other than the Supplier) contracted by the Purchaser, except to the extent that such losses, liabilities, and costs arise as a result of the Supplier's breach of GCC Clause 32.8.

32.6 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 Purchaser or any other person contracted by the Purchaser, 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.

32.7 Such indemnities shall also not apply:

- (a) if any claim of infringement is asserted by a parent, subsidiary, or affiliate of the Supplier's organization;
- (b) to the extent that any claim of infringement is caused by the alteration, by the Supplier, or any persons contracted by the Supplier, of the design, data, drawing, specification, or other documents or materials provided to the Supplier by the Purchaser or any persons contracted by the Purchaser.

32.8 If any proceedings are brought or any claim is made against the Supplier arising out of the matters referred to in GCC Clause 32.5, the Supplier shall promptly give the Purchaser notice of such proceedings or claims, and the Purchaser may at its own expense and in the Supplier's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the Purchaser fails to notify the Supplier within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Supplier shall be free to conduct the same on its own behalf. Unless the Purchaser has so failed to notify the Supplier within the twenty-eight (28) days, the Supplier shall make no admission that may be prejudicial to the defense of any such proceedings or claim. The Supplier shall, at the Purchaser's request, afford all available assistance to the Purchaser in conducting such proceedings or claim and shall be reimbursed by the Purchaser for all reasonable expenses incurred in so doing.

**33. Limitation of Liability**

- 33.1 Provided the following does not exclude or limit any liabilities of either party in ways not permitted by applicable law:
- (a) the Supplier shall not be liable to the Purchaser, 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 Supplier to pay liquidated damages to the Purchaser; and
  - (b) the aggregate liability of the Supplier to the Purchaser, 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 Supplier to indemnify the Purchaser with respect to intellectual property rights infringement.

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**G. RISK DISTRIBUTION**

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**34. Transfer of Ownership**

- 34.1 With the exception of Software and Materials, the ownership of the Information Technologies and other Goods shall be transferred to the Purchaser at the time of Delivery or otherwise under terms that may be agreed upon and specified in the Contract Agreement.
- 34.2 Ownership and the terms of usage of the Software and Materials supplied under the Contract shall be governed by GCC Clause 15 (Copyright) and any elaboration in the Technical Requirements.
- 34.3 Ownership of the Supplier's Equipment used by the Supplier and its Subcontractors in connection with the Contract shall remain with the Supplier or its Subcontractors.

**35. Care of the System**

- 35.1 The Purchaser shall become responsible for the care and custody of the System or Subsystems upon their Delivery. The Purchaser 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 27 (Commissioning and Operational Acceptance), excepting such loss or damage arising from acts or omissions of the Supplier, its employees, or subcontractors.



35.2 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 37;
- (b) any use not in accordance with the Contract, by the Purchaser 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 Purchaser, or any such matter for which the Supplier has disclaimed responsibility in accordance with GCC Clause 21.1.2,

the Purchaser shall pay to the Supplier 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 Purchaser requests the Supplier in writing to make good any loss or damage to the System thereby occasioned, the Supplier shall make good the same at the cost of the Purchaser in accordance with GCC Clause 39. If the Purchaser does not request the Supplier in writing to make good any loss or damage to the System thereby occasioned, the Purchaser shall either request a change in accordance with GCC Clause 39, 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 Purchaser shall terminate the Contract pursuant to GCC Clause 41.1.

35.3 The Purchaser shall be liable for any loss of or damage to any Supplier's Equipment which the Purchaser has authorized to locate within the Purchaser's premises for use in fulfillment of Supplier's obligations under the Contract, except where such loss or damage arises from acts or omissions of the Supplier, its employees, or subcontractors.

### **36. Loss of or**

For Limited Circulation Only

36.1 The Supplier and each and every Subcontractor shall abide

**Damage to  
Property;  
Accident or  
Injury to  
Workers;  
Indemnification**

by the job safety, insurance, customs, and immigration measures prevalent and laws in force in the Purchaser's Country.

- 36.2 Subject to GCC Clause 36.3, the Supplier shall indemnify and hold harmless the Purchaser 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 Purchaser 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 Supplier or its Subcontractors, or their employees, officers or agents, except any injury, death, or property damage caused by the negligence of the Purchaser, its contractors, employees, officers, or agents.
- 36.3 If any proceedings are brought or any claim is made against the Purchaser that might subject the Supplier to liability under GCC Clause 36.2, the Purchaser shall promptly give the Supplier notice of such proceedings or claims, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the Supplier fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf. Unless the Supplier has so failed to notify the Purchaser within the twenty-eight (28) day period, the Purchaser shall make no admission that may be prejudicial to the defense of any such proceedings or claim. The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.
- 36.4 The Purchaser shall indemnify and hold harmless the Supplier 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 Supplier 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 Purchaser, 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 37 (Insurances), provided that such fire, explosion, or other perils were not caused by any act or failure of the Supplier.

- 36.5 If any proceedings are brought or any claim is made against the Supplier that might subject the Purchaser to liability under GCC Clause 36.4, the Supplier shall promptly give the Purchaser notice of such proceedings or claims, and the Purchaser may at its own expense and in the Supplier's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the Purchaser fails to notify the Supplier within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Supplier shall be free to conduct the same on its own behalf. Unless the Purchaser has so failed to notify the Supplier within the twenty-eight (28) days, the Supplier shall make no admission that may be prejudicial to the defense of any such proceedings or claim. The Supplier shall, at the Purchaser's request, afford all available assistance to the Purchaser in conducting such proceedings or claim and shall be reimbursed by the Purchaser for all reasonable expenses incurred in so doing.
- 36.6 The party entitled to the benefit of an indemnity under this GCC Clause 36 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.

### **37. Insurances**

- 37.1 The Supplier 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 Purchaser, 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 Purchaser’s personnel) and loss of or damage to property (including the Purchaser’s property and any Subsystems that have been accepted by the Purchaser) 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 Purchaser’s Country, covering use of all vehicles used by the Supplier or its Subcontractors (whether or not owned by them) in connection with the execution of the Contract.

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

37.2 The Purchaser shall be named as co-insured under all insurance policies taken out by the Supplier pursuant to GCC Clause 37.1, except for the Third-Party Liability, and the Supplier’s Subcontractors shall be named as co-insured under all insurance policies taken out by the Supplier pursuant to GCC Clause 37.1 except for Cargo Insurance During Transport. 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.

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

37.4 The Supplier shall ensure that, where applicable, its Subcontractor(s) shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for work executed by them under the Contract, unless

such Subcontractors are covered by the policies taken out by the Supplier.

37.5 If the Supplier fails to take out and/or maintain in effect the insurance referred to in GCC Clause 37.1, the Purchaser may take out and maintain in effect any such insurance and may from time to time deduct from any amount due the Supplier under the Contract any premium that the Purchaser shall have paid to the insurer or may otherwise recover such amount as a debt due from the Supplier.

37.6 Unless otherwise provided in the Contract, the Supplier shall prepare and conduct all and any claims made under the policies effected by it pursuant to this GCC Clause 37, and all monies payable by any insurers shall be paid to the Supplier. The Purchaser shall give to the Supplier all such reasonable assistance as may be required by the Supplier in connection with any claim under the relevant insurance policies. With respect to insurance claims in which the Purchaser's interest is involved, the Supplier shall not give any release or make any compromise with the insurer without the prior written consent of the Purchaser. With respect to insurance claims in which the Supplier's interest is involved, the Purchaser shall not give any release or make any compromise with the insurer without the prior written consent of the Supplier.

### **38. Force Majeure**

38.1 "Force Majeure" shall mean any event beyond the reasonable control of the Purchaser or of the Supplier, 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, lack of usual means of public transportation and communication, industrial dispute, 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 Supplier, to obtain the necessary export permit(s) from the governments of the Country(s) of Origin of the Information Technologies or other Goods, or Supplier's Equipment provided that the Supplier 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.

38.2 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.

38.3 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 40 (Extension of Time for Achieving Operational Acceptance).

38.4 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 fulfill its or their obligations under the Contract, but without prejudice to either party's right to terminate the Contract under GCC Clause 38.6.

38.5 No delay or nonperformance 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 35.2, 38.3, and 38.4) give rise to any claim for damages or additional cost or expense occasioned by the delay or nonperformance,

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

- 38.6 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.
- 38.7 In the event of termination pursuant to GCC Clause 38.6, the rights and obligations of the Purchaser and the Supplier shall be as specified in GCC Clauses 41.1.2 and 41.1.3.
- 38.8 Notwithstanding GCC Clause 38.5, Force Majeure shall not apply to any obligation of the Purchaser to make payments to the Supplier under this Contract.

## **H. CHANGE IN CONTRACT ELEMENTS**

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### **39. Changes to the System**

#### **39.1 Introducing a Change**

39.1.1 Subject to GCC Clauses 39.2.5 and 39.2.7, the Purchaser shall have the right to propose, and subsequently require, the Project Manager to order the Supplier from time to time during the performance of the Contract to make any change, modification, addition, or deletion to, in, or from the System (interchangeably called “Change”), provided that such Change falls within the general scope of the System, does not constitute unrelated work, and is technically practicable, taking into account both the state of advancement of the System and the technical compatibility of the Change envisaged with the nature of the System as originally specified in the Contract.

A Change may involve, but is not restricted to, the substitution of updated Information Technologies

and related Services in accordance with GCC Clause 23 (Product Upgrades).

- 39.1.2 The Supplier may from time to time during its performance of the Contract propose to the Purchaser (with a copy to the Project Manager) any Change that the Supplier considers necessary or desirable to improve the quality or efficiency of the System. The Purchaser may at its discretion approve or reject any Change proposed by the Supplier.
- 39.1.3 Notwithstanding GCC Clauses 39.1.1 and 39.1.2, no change made necessary because of any default of the Supplier 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.
- 39.1.4 The procedure on how to proceed with and execute Changes is specified in GCC Clauses 39.2 and 39.3, and further details and sample forms are provided in the Sample Forms Section in the Bidding Documents.
- 39.1.5 Moreover, the Purchaser and Supplier 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.

## 39.2 Changes Originating from Purchaser

- 39.2.1 If the Purchaser proposes a Change pursuant to GCC Clauses 39.1.1, it shall send to the Supplier a “Request for Change Proposal,” requiring the Supplier to prepare and furnish to the Project Manager as soon as reasonably practicable a “Change Proposal,” which shall include the following:
- (a) brief description of the Change;
  - (b) impact on the Time for Achieving Operational Acceptance;



- (c) detailed estimated cost of the Change;
  - (d) effect on Functional Guarantees (if any);
  - (e) effect on any other provisions of the Contract.
- 39.2.2 Prior to preparing and submitting the “Change Proposal,” the Supplier shall submit to the Project Manager an “Change Estimate Proposal,” which shall be an estimate of the cost of preparing the Change Proposal, plus a first approximation of the suggested approach and cost for implementing the changes. Upon receipt of the Supplier’s Change Estimate Proposal, the Purchaser shall do one of the following:
- (a) accept the Supplier’s estimate with instructions to the Supplier to proceed with the preparation of the Change Proposal;
  - (b) advise the Supplier of any part of its Change Estimate Proposal that is unacceptable and request the Supplier to review its estimate;
  - (c) advise the Supplier that the Purchaser does not intend to proceed with the Change.
- 39.2.3 Upon receipt of the Purchaser’s instruction to proceed under GCC Clause 39.2.2 (a), the Supplier shall, with proper expedition, proceed with the preparation of the Change Proposal, in accordance with GCC Clause 39.2.1. The Supplier, at its discretion, may specify a validity period for the Change Proposal, after which if the Purchaser and Supplier has not reached agreement in accordance with GCC Clause 39.2.6, then GCC Clause 39.2.7 shall apply.
- 39.2.4 The pricing of any Change shall, as far as practicable, be calculated in accordance with the rates and prices included in the Contract. If the nature of the Change is such that the Contract rates and prices are inequitable, the parties to the Contract shall agree on other specific rates to be used for valuing the Change.
- 39.2.5 If before or during the preparation of the Change Proposal it becomes apparent that the aggregate impact of compliance with the Request for Change

Proposal and with all other Change Orders that have already become binding upon the Supplier under this GCC Clause 39 would be to increase or decrease the Contract Price as originally set forth in Article 2 (Contract Price) of the Contract Agreement by more than fifteen (15) percent, the Supplier may give a written notice of objection to this Request for Change Proposal prior to furnishing the Change Proposal. If the Purchaser accepts the Supplier's objection, the Purchaser shall withdraw the proposed Change and shall notify the Supplier in writing of its acceptance.

The Supplier's failure to so object to a Request for Change Proposal shall neither affect its right to object to any subsequent requested Changes or Change Orders, nor affect its right to take into account, when making such subsequent objection, the percentage increase or decrease in the Contract Price that any Change not objected to by the Supplier represents.

39.2.6 Upon receipt of the Change Proposal, the Purchaser and the Supplier shall mutually agree upon all matters contained in the Change Proposal. Within fourteen (14) days after such agreement, the Purchaser shall, if it intends to proceed with the Change, issue the Supplier a Change Order. If the Purchaser is unable to reach a decision within fourteen (14) days, it shall notify the Supplier with details of when the Supplier can expect a decision. If the Purchaser decides not to proceed with the Change for whatever reason, it shall, within the said period of fourteen (14) days, notify the Supplier accordingly. Under such circumstances, the Supplier shall be entitled to reimbursement of all costs reasonably incurred by it in the preparation of the Change Proposal, provided that these do not exceed the amount given by the Supplier in its Change Estimate Proposal submitted in accordance with GCC Clause 39.2.2.

39.2.7 If the Purchaser and the Supplier cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Achieving Operational Acceptance, or any other matters identified in the Change Proposal, the Change will not be

implemented. However, this provision does not limit the rights of either party under GCC Clause 6 (Settlement of Disputes).

### 39.3 Changes Originating from Supplier

If the Supplier proposes a Change pursuant to GCC Clause 39.1.2, the Supplier shall submit to the Project Manager a written “Application for Change Proposal,” giving reasons for the proposed Change and including the information specified in GCC Clause 39.2.1. Upon receipt of the Application for Change Proposal, the parties shall follow the procedures outlined in GCC Clauses 39.2.6 and 39.2.7. However, should the Purchaser choose not to proceed or the Purchaser and the Supplier cannot come to agreement on the change during any validity period that the Supplier may specify in its Application for Change Proposal, the Supplier shall not be entitled to recover the costs of preparing the Application for Change Proposal, unless subject to an agreement between the Purchaser and the Supplier to the contrary.

### **40. Extension of Time for Achieving Operational Acceptance**

40.1 The time(s) for achieving Operational Acceptance specified in the Schedule of Implementation shall be extended if the Supplier 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 39 (Change in the Information System);
- (b) any occurrence of Force Majeure as provided in GCC Clause 38 (Force Majeure);
- (c) default of the Purchaser; 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 Supplier.

40.2 Except where otherwise specifically provided in the Contract, the Supplier 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 Purchaser and the Supplier shall agree upon the period of such extension. In the event that the Supplier does not accept the Purchaser's estimate of a fair and reasonable time extension, the Supplier shall be entitled to refer the matter to the provisions for the Settlement of Disputes pursuant to GCC Clause 6.

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

## **41. Termination**

### 41.1 Termination for Purchaser's Convenience

41.1.1 The Purchaser may at any time terminate the Contract for any reason by giving the Supplier a notice of termination that refers to this GCC Clause 41.1.

41.1.2 Upon receipt of the notice of termination under GCC Clause 41.1.1, the Supplier 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 Purchaser 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 Purchaser pursuant to GCC Clause 41.1.2 (d) (ii) below;
- (c) remove all Supplier's Equipment from the site, repatriate the Supplier's and its Subcontractors' personnel from the site, remove from the site any wreckage, rubbish, and debris of any kind;
- (d) in addition, the Supplier, subject to the payment specified in GCC Clause 41.1.3, shall
  - (i) deliver to the Purchaser the parts of the System executed by the Supplier up to the date of termination;
  - (ii) to the extent legally possible, assign to the

Purchaser all right, title, and benefit of the Supplier to the System, or Subsystem, as at the date of termination, and, as may be required by the Purchaser, in any subcontracts concluded between the Supplier and its Subcontractors;

- (iii) deliver to the Purchaser all nonproprietary drawings, specifications, and other documents prepared by the Supplier or its Subcontractors as of the date of termination in connection with the System.

41.1.3 In the event of termination of the Contract under GCC Clause 41.1.1, the Purchaser shall pay to the Supplier the following amounts:

- (a) the Contract Price, properly attributable to the parts of the System executed by the Supplier as of the date of termination;
- (b) the costs reasonably incurred by the Supplier in the removal of the Supplier's Equipment from the site and in the repatriation of the Supplier's and its Subcontractors' personnel;
- (c) any amount to be paid by the Supplier to its Subcontractors in connection with the termination of any subcontracts, including any cancellation charges;
- (d) costs incurred by the Supplier in protecting the System and leaving the site in a clean and safe condition pursuant to GCC Clause 41.1.2 (a); and
- (e) the cost of satisfying all other obligations, commitments, and claims that the Supplier may in good faith have undertaken with third parties in connection with the Contract and that are not covered by GCC Clauses 41.1.3 (a) through (d) above.

## 41.2 Termination for Supplier's Default

41.2.1 The Purchaser, without prejudice to any other rights or remedies it may possess, may terminate the Contract forthwith in the following circumstances by giving a notice of termination and its reasons therefore to the Supplier, referring

to this GCC Clause 41.2:

- (a) if the Supplier becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the Supplier is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Supplier takes or suffers any other analogous action in consequence of debt;
- (b) if the Supplier assigns or transfers the Contract or any right or interest therein in violation of the provision of GCC Clause 42 (Assignment); or
- (c) if the Supplier, in the judgment of the Purchaser, has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, including but not limited to willful 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.

For the purposes of this Clause:

- (i) “corrupt practice”<sup>1</sup> is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
- (ii) “fraudulent practice”<sup>2</sup> is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an

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<sup>1</sup> “Another party” refers to a public official acting in relation to the procurement process or contract execution]. In this context, “public official” includes World Bank staff and employees of other organizations taking or reviewing procurement decisions.

<sup>2</sup> A “party” refers to a public official; the terms “benefit” and “obligation” relate to the procurement process or contract execution; and the “act or omission” is intended to influence the procurement process or contract execution.

obligation;

- (iii) “collusive practice”<sup>1</sup> is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (iv) “coercive practice”<sup>2</sup> is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (v) “obstructive practice” is
  - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
  - (bb) acts intended to materially impede the exercise of the Bank’s inspection and audit rights provided for under Sub-Clause 9.8.

#### 41.2.2 If the Supplier:

- (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

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<sup>1</sup> “Parties” refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non competitive levels.

<sup>2</sup> A “party” refers to a participant in the procurement process or contract execution.

Contract without just cause;

- (d) refuses or is unable to provide sufficient Materials, Services, or labor to execute and complete the System in the manner specified in the Agreed and Finalized Project Plan furnished under GCC Clause 19 at rates of progress that give reasonable assurance to the Purchaser that the Supplier can attain Operational Acceptance of the System by the Time for Achieving Operational Acceptance as extended;

then the Purchaser may, without prejudice to any other rights it may possess under the Contract, give a notice to the Supplier stating the nature of the default and requiring the Supplier to remedy the same. If the Supplier fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, then the Purchaser may terminate the Contract forthwith by giving a notice of termination to the Supplier that refers to this GCC Clause 41.2.

41.2.3 Upon receipt of the notice of termination under GCC Clauses 41.2.1 or 41.2.2, the Supplier 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 Purchaser 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 Purchaser pursuant to GCC Clause 41.2.3 (d) below;
- (c) deliver to the Purchaser the parts of the System executed by the Supplier up to the date of termination;
- (d) to the extent legally possible, assign to the Purchaser all right, title and benefit of the Supplier to the System or Subsystems as at the date of termination, and, as may be required by the Purchaser, in any subcontracts concluded



between the Supplier and its Subcontractors;

(e) deliver to the Purchaser all drawings, specifications, and other documents prepared by the Supplier or its Subcontractors as at the date of termination in connection with the System.

41.2.4 The Purchaser may enter upon the site, expel the Supplier, and complete the System itself or by employing any third party. Upon completion of the System or at such earlier date as the Purchaser thinks appropriate, the Purchaser shall give notice to the Supplier that such Supplier's Equipment will be returned to the Supplier at or near the site and shall return such Supplier's Equipment to the Supplier in accordance with such notice. The Supplier shall thereafter without delay and at its cost remove or arrange removal of the same from the site.

41.2.5 Subject to GCC Clause 41.2.6, the Supplier shall be entitled to be paid the Contract Price attributable to the portion of the System executed as at 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 41.2.3 (a). Any sums due the Purchaser from the Supplier accruing prior to the date of termination shall be deducted from the amount to be paid to the Supplier under this Contract.

41.2.6 If the Purchaser completes the System, the cost of completing the System by the Purchaser shall be determined. If the sum that the Supplier is entitled to be paid, pursuant to GCC Clause 41.2.5, plus the reasonable costs incurred by the Purchaser in completing the System, exceeds the Contract Price, the Supplier shall be liable for such excess. If such excess is greater than the sums due the Supplier under GCC Clause 41.2.5, the Supplier shall pay the balance to the Purchaser, and if such excess is less than the sums due the Supplier under GCC Clause 41.2.5, the Purchaser shall pay the balance to the Supplier. The Purchaser and the Supplier shall agree, in writing, on the computation described above and the manner in which any sums shall be paid.

### 41.3 Termination by Supplier

#### 41.3.1 If:

- (a) the Purchaser has failed to pay the Supplier any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause **pursuant to the SCC**, or commits a substantial breach of the Contract, the Supplier may give a notice to the Purchaser that requires payment of such sum, with interest on this sum as stipulated in GCC Clause 12.3, requires approval of such invoice or supporting documents, or specifies the breach and requires the Purchaser to remedy the same, as the case may be. If the Purchaser fails to pay such sum together with such interest, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, fails to remedy the breach or take steps to remedy the breach within fourteen (14) days after receipt of the Supplier's notice; or
- (b) the Supplier is unable to carry out any of its obligations under the Contract for any reason attributable to the Purchaser, including but not limited to the Purchaser'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;

then the Supplier may give a notice to the Purchaser of such events, and if the Purchaser has failed to pay the outstanding sum, to approve the invoice or supporting documents, to give its reasons for withholding such approval, or to remedy the breach within twenty-eight (28) days of such notice, or if the Supplier is still unable to carry out any of its obligations under the Contract for any reason attributable to the Purchaser within twenty-eight (28) days of the said notice, the Supplier may by a further notice to the Purchaser referring to this GCC Clause 41.3.1, forthwith terminate the Contract.

- 41.3.2 The Supplier may terminate the Contract immediately by giving a notice to the Purchaser to that effect, referring to this GCC Clause 41.3.2, if

the Purchaser becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, being a corporation, if a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Purchaser takes or suffers any other analogous action in consequence of debt.

41.3.3 If the Contract is terminated under GCC Clauses 41.3.1 or 41.3.2, then the Supplier 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 Purchaser pursuant to Clause 41.3.3 (d) (ii);
- (c) remove all Supplier's Equipment from the site and repatriate the Supplier's and its Subcontractor's personnel from the site.
- (d) In addition, the Supplier, subject to the payment specified in GCC Clause 41.3.4, shall:
  - (i) deliver to the Purchaser the parts of the System executed by the Supplier up to the date of termination;
  - (ii) to the extent legally possible, assign to the Purchaser all right, title, and benefit of the Supplier to the System, or Subsystems, as of the date of termination, and, as may be required by the Purchaser, in any subcontracts concluded between the Supplier and its Subcontractors;
  - (iii) to the extent legally possible, deliver to the Purchaser all drawings, specifications, and other documents prepared by the Supplier or its Subcontractors as of the date of termination in connection with the System.

41.3.4 If the Contract is terminated under GCC Clauses 41.3.1 or 41.3.2, the Purchaser shall pay to the Supplier all payments specified in GCC Clause 41.1.3, and reasonable compensation for all loss, except for loss of profit, or damage sustained by the Supplier arising out of, in connection with, or in consequence of such termination.

41.3.5 Termination by the Supplier pursuant to this GCC Clause 41.3 is without prejudice to any other rights or remedies of the Supplier that may be exercised in lieu of or in addition to rights conferred by GCC Clause 41.3.

41.4 In this GCC Clause 41, 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 Supplier and used or intended to be used for the purpose of the System, up to and including the date of termination.

41.5 In this GCC Clause 41, in calculating any monies due from the Purchaser to the Supplier, account shall be taken of any sum previously paid by the Purchaser to the Supplier under the Contract, including any advance payment paid **pursuant to the SCC.**

## **42. Assignment**

42.1 Neither the Purchaser nor the Supplier shall, without the express prior written consent of the other, assign to any third party the Contract or any part thereof, or any right, benefit, obligation, or interest therein or thereunder, except that the Supplier shall be entitled to assign either absolutely or by way of charge any monies due and payable to it or that may become due and payable to it under the Contract.

## **SECTION V. SPECIAL CONDITIONS OF CONTRACT (SCC)**

## Table of Clauses

|   |            |
|---|------------|
| <b>A. Contract and Interpretation.....</b>  | <b>136</b> |
| 1. Definitions (GCC Clause 1) .....   | 136        |
| 2. Contract Documents (GCC Clause 2).....   | 137        |
| 3. Interpretation (GCC Clause 3).....   | 137        |
| 4. Notices (GCC Clause 4).....  | 137        |
| 5. Governing Law (GCC Clause 5) .....   | 137        |
| 6. Settlement of Disputes (GCC Clause 6) .....  | 137        |
| <b>B. Subject Matter of Contract.....</b>   | <b>138</b> |
| 7. Scope of the System (GCC Clause 7) .....   | 138        |
| 8. Time for Commencement and Operational Acceptance (GCC Clause 8) .....                  | 139        |
| 9. Supplier’s Responsibilities (GCC Clause 9) .....                                       | 139        |
| 10. Purchaser’s Responsibilities (GCC Clause 10) .....                                    | 139        |
| <b>C. Payment.....</b>  | <b>140</b> |
| 11. Contract Price (GCC Clause 11) .....  | 140        |
| 12. Terms of Payment (GCC Clause 12) .....  | 140        |
| 13. Securities (GCC Clause 13) .....  | 143        |
| 14. Taxes and Duties (GCC Clause 14).....   | 143        |
| <b>D. Intellectual Property .....</b>   | <b>144</b> |
| 15. Copyright (GCC Clause 15).....  | 144        |
| 16. Software License Agreements (GCC Clause 16) .....                                     | 145        |
| 17. Confidential Information (GCC Clause 17).....   | 146        |
| <b>E. Supply, Installation, Testing, Commissioning, and Acceptance of the System.....</b> | <b>146</b> |
| 18. Representatives (GCC Clause 18) .....   | 146        |
| 19. Project Plan (GCC Clause 19).....   | 147        |
| 20. Subcontracting (GCC Clause 20) .....  | 149        |
| 21. Design and Engineering (GCC Clause 21) .....  | 150        |
| 22. Procurement, Delivery, and Transport (GCC Clause 22) .....                            | 152        |
| 23. Product Upgrades (GCC Clause 23) .....  | 153        |
| 24. Implementation, Installation, and Other Services (GCC Clause 24).....                 | 153        |
| 25. Inspections and Tests (GCC Clause 25) .....   | 153        |
| 26. Installation of the System (GCC Clause 26) .....                                      | 153        |
| 27. Commissioning and Operational Acceptance (GCC Clause 27).....                         | 153        |
| <b>F. Guarantees and Liabilities.....</b>   | <b>154</b> |
| 28. Operational Acceptance Time Guarantee (GCC Clause 28).....                            | 154        |
| 29. Defect Liability (GCC Clause 29) .....  | 154        |
| 30. Functional Guarantees (GCC Clause 30).....  | 155        |
| 31. Intellectual Property Rights Warranty (GCC Clause 31).....                            | 155        |
| 32. Intellectual Property Rights Indemnity (GCC Clause 32) .....                          | 155        |
| 33. Limitation of Liability (GCC Clause 33).....  | 155        |

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|   |            |
|---|------------|
| <b>G. Risk Distribution .....</b>   | <b>155</b> |
| 34. Transfer of Ownership (GCC Clause 34).....  | 155        |
| 35. Care of the System (GCC Clause 35) .....  | 155        |
| 36. Loss of or Damage to Property; Accident or Injury to Workers; Indemnification<br>(GCC Clause 36)..... | 155        |
| 37. Insurances (GCC Clause 37) .....  | 156        |
| 38. Force Majeure (GCC Clause 38) .....   | 156        |
| <b>H. Change in Contract Elements .....</b>   | <b>156</b> |
| 39. Changes to the System (GCC Clause 39) .....   | 156        |
| 40. Extension of Time for Achieving Operational Acceptance (GCC Clause 40).....                           | 157        |
| 41. Termination (GCC Clause 41).....  | 157        |
| 42. Assignment (GCC Clause 42) .....  | 157        |

## Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement or amend the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions of the SCC shall prevail over those in the General Conditions of Contract. For the purposes of clarity, any referenced GCC clause numbers are indicated in the left column of the SCC.

### A. CONTRACT AND INTERPRETATION

#### 1. Definitions (GCC Clause 1)

|                    |  |
|--------------------|--|
| GCC 1.1 (a) (ix)   | The applicable edition of the Procurement Guidelines is dated: <b>January 2011</b>   |
| GCC 1.1 (b) (i)    | The Purchaser is: <b>Dedicated Freight Corridor Corporation of India Limited.</b>  |
| GCC 1.1 (b) (ii)   | The Project Manager is: <b>Mr. Bharat Salhotra, General Manager Finance &amp; IT</b>   |
| GCC 1.1 (e) (i)    | The Purchaser's Country is: <b>India.</b>  |
| GCC 1.1 (e) (iii)  | The Project Site(s) is/are:<br><br><ol style="list-style-type: none"> <li>1. Dedicated Freight Corridor Corporation of India Limited, 5<sup>th</sup> Floor, Pragati Maidan Metro Station Building Complex, Pragati Maidan, New Delhi – 110001</li> <li>2. List of CPM Office Locations: Please refer Attachment 7: CPM Office Locations</li> </ol> |
| GCC 1.1 (e) (x)    | The Contract shall continue in force until the Information System and all the Services have been provided as detailed out in 'Section VI: Technical Requirements' unless the Contract is terminated earlier in accordance with the terms set out in the Contract.  |
| GCC 1.1. (e) (xii) | The Post-Warranty Services Period is <b>0 (Zero) months</b> starting with the completion of the Warranty Period.   |



## 2. Contract Documents (GCC Clause 2)

|       |  |
|-------|--|
| GCC 2 | <b>There are no Special Conditions of Contract applicable to GCC Clause 2.</b> |
|-------|--|

## 3. Interpretation (GCC Clause 3)

|           |   |
|-----------|---|
| GCC 3.1.1 | The Contract's governing language is <b>English</b> . |
|-----------|---|

## 4. Notices (GCC Clause 4)

|         |   |
|---------|---|
| GCC 4.3 | <p>Address of the Project Manager:</p> <p><b>Mr. Bharat Salhotra</b></p> <p><b>General Manager Finance &amp; IT</b></p> <p><b>Dedicated Freight Corridor Corporation of India Limited</b></p> <p><b>5th Floor, Pragati Maidan Metro Station Building Complex</b></p> <p><b>Pragati Maidan, New Delhi – 110001</b></p> <p><b>Office Landline No. - 011-23454780</b></p> <p><b>Fax - 011-23454782</b></p> <p><b>Mail Id- itproject@dfcc.co.in</b></p> |
|---------|---|

## 5. Governing Law (GCC Clause 5)

|         |  |
|---------|--|
| GCC 5.1 | The Contract shall be interpreted in accordance with the laws of: <b>India</b> . |
|---------|--|

## 6. Settlement of Disputes (GCC Clause 6)

|           |   |
|-----------|---|
| GCC 6.1.4 | The Appointing Authority for the Adjudicator is: Not Applicable.  |
| GCC 6.2.3 | If the supplier is local; Arbitration proceedings shall be conducted in accordance with the rules of arbitration of “Arbitration and Conciliation Act, 1996” and all Arbitration proceedings shall be conducted at New Delhi, India. These rules, in the version in force at the time of the request for arbitration, will be deemed to |

|  |  |
|--|--|
|  | <p>form part of this Contract.</p> <p>If the Supplier is foreign, arbitration proceedings shall be conducted in accordance with the rules of arbitration of <b>UNCITRAL</b> (United Nations Commission on International Trade Law). These rules, in the version in force at the time of the request for arbitration, will be deemed to form part of this Contract.</p> <p>A supplier would be considered foreign, if the nationality, in the case of Joint Venture of the Partner-in-charge, and in case of a single entity/ firm, is foreign to the Purchaser's country. All other Suppliers would be considered local.</p> |
|--|--|

## **B. SUBJECT MATTER OF CONTRACT**

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### **7. Scope of the System (GCC Clause 7)**

|         |   |
|---------|---|
| GCC 7.3 | <p>The Supplier's obligations under the Contract will include the guarantee for the following recurrent cost items, as identified in the Recurrent Cost tables in the Supplier's Bid:</p> <ol style="list-style-type: none"> <li>1. Hardware Maintenance</li> <li>2. Software Maintenance:             <ol style="list-style-type: none"> <li>a. System and General-Purpose Software</li> <li>b. Application, Standard, and Custom Software</li> </ol> </li> <li>3. Managed Services</li> <li>4. Bandwidth</li> <li>5. Digital Signatures</li> </ol> <p>The Supplier agrees to guarantee the supply of spare parts required for the operation and maintenance of the System, as stated above, for a period of 36 months beginning with Operational Acceptance. The Supplier <b>MUST</b> provide, at its own cost, the necessary spares for the support. DFCCIL won't bear the cost of any spare parts for maintenance during the Warranty Period.</p> |
|---------|---|

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### 8. Time for Commencement and Operational Acceptance (GCC Clause 8)

|         |   |
|---------|---|
| GCC 8.1 | The Supplier shall commence work on the System within: <b>Fifteen (15) number</b> of days from the Effective Date of the Contract.                                    |
| GCC 8.2 | Operational Acceptance will occur on or before: <b>Operational Acceptance date consistent with the Implementation Schedule in the Technical Requirements Section.</b> |

### 9. Supplier's Responsibilities (GCC Clause 9)

|         |  |
|---------|--|
| GCC 9.9 | <p>The Supplier shall have the following additional responsibilities:</p> <p>Bidder <b>MUST</b> ensure that there is no change of Key Team members (Team members included in the Bid and evaluated thereafter).</p> <p>Purchaser will not consider substitution of Key Team members except on medical grounds or separation from the Company. Such substitution shall be permitted subject to equally or better qualified and experienced personnel being provided to the satisfaction of Purchaser.</p> |
|---------|--|

### 10. Purchaser's Responsibilities (GCC Clause 10)

|           |   |
|-----------|---|
| GCC 10.12 | <p>The Purchaser shall have the following additional responsibilities:</p> <p>Purchaser shall provide seating facility to 10 number of Supplier's representatives in a 15 X 10 sq.ft. room at 4<sup>th</sup> Floor of DFCCIL HQ at New Delhi, India. However, Supplier would be charged @ INR 250 per sq.ft. per month. The Purchaser shall raise invoice for the same at the beginning of each month and payment would be made by the Supplier within 7 days from the receipt of the invoice.</p> <p>Supplier must <b>NOT</b> assume that the Purchaser would provide/ bear the cost of any item like Desktop/ Laptop, WAN, Stationery, Printer, Fax, Phone, Internet to be used by Supplier representative.</p> |
|-----------|---|

## C. PAYMENT

### 11. Contract Price (GCC Clause 11)

|              |  |
|--------------|--|
| GCC 11.2 (b) | Adjustments to the Contract Price shall be as follows: <b>None</b> |
|--------------|--|

### 12. Terms of Payment (GCC Clause 12)

|          |  |     |   |                                |                                 |
|----------|--|-----|---|--------------------------------|---------------------------------|
| GCC 12.1 | <p>Subject to the provisions of GCC Clause 12 (Terms of Payment), the Purchaser shall pay the Contract Price to the Supplier according to the categories and in the manner specified below.</p> <p>No advance Payment shall be made.</p> <p>The payments hereunder shall be made net of taxes as per applicable law in the Purchaser's country.</p> <p>In case of Joint Venture, Payments shall be made into the accounts of the members of Joint Venture as indicated by the lead partner.</p> <p>(a) <b>Supply &amp; Installation:</b></p> <p>One Hundred percent (100%) of the Supply &amp; Installation Cost for the mentioned head shall be paid, on submission and Purchaser's approval of invoices.</p> |     |   |                                |                                 |
|          | Sl. No.  | KD  | Deliverables  | Milestone                      | % of Supply & Installation Cost |
|          | 1  | I – | 1. Project Plan<br>2. Procurement Schedule<br>3. Acceptance Criteria<br>4. Updated Risk Management Plan<br>5. Communication Strategy<br>6. Change Management Plan<br>7. Change Management Workshop(s)<br>Execution Report – 1 | Requirement Sign-off by DFCCIL | 5%                              |

|   |                               |  |   |     |
|---|-------------------------------|--|---|-----|
|   |                               | <ul style="list-style-type: none"> <li>8. Detailed Business Blueprint</li> <li>9. System Requirement Specification Document</li> <li>10. Gap Fit Document</li> <li>11. Site Assessment Report (Hosting site)</li> </ul>  |   |     |
| 2 | II – Solution Design          | <ul style="list-style-type: none"> <li>1. Application Architecture</li> <li>2. Security Architecture</li> <li>3. Data Design and Data modeling</li> <li>4. Interface Design</li> <li>5. Procedural Design/ Low Level Design</li> <li>6. Network Architecture</li> <li>7. Design of Server Room/Data Center</li> <li>8. Design of LAN/WAN and Internet connectivity</li> <li>9. Website Design</li> </ul> | Design documents signoff by DFCCIL                                    | 5%  |
| 3 | III – Network Readiness       | <ul style="list-style-type: none"> <li>1. Installation Report - WAN (all sites)</li> <li>2. Installation Report - LAN (all sites)</li> </ul>   | Network readiness (LAN & WAN)   | 4%  |
| 4 | IV – Data Center Readiness    | <ul style="list-style-type: none"> <li>1. Installation Report - DC equipment</li> <li>2. Installation Report - System Software(s)</li> <li>3. Domain Migration Report</li> <li>4. Site Readiness Report (Hosting site)</li> <li>5. Firewall Configuration Documentation</li> <li>6. Security Policy</li> <li>7. Security Policy compliance Report</li> </ul>   | DC readiness assessment and sign-off by DFCCIL and Website Deployment | 6%  |
| 5 | V – Pre Commissioning Testing | <ul style="list-style-type: none"> <li>1. Test Plan</li> <li>2. Test Cases</li> <li>3. Change Management</li> </ul>  | Pre-commissioning Test, Pilot Run of the solution                     | 20% |

|   |                              |   |  |     |
|---|------------------------------|---|--|-----|
|   |                              | <ul style="list-style-type: none"> <li>Workshop(s)</li> <li>Execution Report – 2</li> <li>4. Pre-commissioning Test issue sheet</li> <li>5. Sign-off on MIS Reports</li> <li>6. Sign-off on Pre-commissioning Test</li> </ul>   | at DFCC HQ and 3 CPM and signoff by DFCCIL   |     |
| 6 | VI – User Training           | <ul style="list-style-type: none"> <li>1. Training Plan</li> <li>2. Training Execution Reports</li> <li>3. CBT Application sign-off</li> <li>4. CBT Application Manual</li> </ul>   | User Training  | 10% |
| 7 | VII – Operational Acceptance | <ul style="list-style-type: none"> <li>1. Installation Roll-out Plan</li> <li>2. Data Migration Strategy</li> <li>3. Data Migration Sign-off</li> <li>4. Operational Acceptance Plan</li> <li>5. Administration/technical Manual</li> <li>6. User Manual</li> <li>7. Installation Manual</li> <li>8. Operational Acceptance Sign-off</li> </ul> | Operational Acceptance   | 30% |
| 8 | VIII – Successful Operation  |   | 6 Months of successful running of the complete solution after Operational Acceptance | 20% |

(b) Recurrent Costs

One hundred percent (100%) of the price of the services actually delivered will be paid quarterly in arrears, on submission and Purchaser’s approval of invoices and in accordance with credits for adherence to Service Performance Levels. Please refer ‘Attachment 3: Service Performance Levels’

Please refer Section VI: Technical Requirements → C. Technical Specifications → 2.7 Consumables and Other Recurrent Cost Items

|          |   |
|----------|---|
|          |   |
| GCC 12.3 | The Purchaser shall pay to the Supplier interest on the delayed payments at a rate of: 0% per annum.                      |
| GCC 12.4 | For Goods and Services supplied locally, the Purchaser will pay the Supplier in Indian National Rupees                    |
| GCC 12.5 | Payment for Goods supplied from outside the Purchaser's Country shall be in the form of: an irrevocable letter of credit. |

### 13. Securities (GCC Clause 13)

|            |  |
|------------|--|
| GCC 13.2.1 | The Supplier shall provide within twenty-eight (28) days of the notification of Contract award an Advance Payment Security in the amount and currency of the Advance Payment specified in SCC for GCC Clause 12.1 above. |
| GCC 13.2.2 | The reduction in value and expiration of the Advance Payment Security are calculated as follows: Not Applicable  |
| GCC 13.3.1 | The Performance Security shall be denominated in <b>Indian National Rupee</b> for an amount equal to <b>10</b> percent of the Contract Price, excluding any Recurrent Costs.   |
| GCC 13.3.4 | During the Warranty Period (i.e., after Operational Acceptance of the System), the Performance Security shall be reduced to <b>2.5 percent</b> of the Contract Price, excluding any Recurrent Costs.                     |

### 14. Taxes and Duties (GCC Clause 14)

|        |  |
|--------|--|
| GCC 14 | <b>Supplier shall bear all the taxes &amp; duties. Only Service Tax shall be paid by the Purchaser as per applicable law of the Purchaser's country.</b> |
|--------|--|

## D. INTELLECTUAL PROPERTY

### 15. Copyright (GCC Clause 15)

|          |  |
|----------|--|
| GCC 15.3 | <p>The Purchaser may assign, license, or otherwise voluntarily transfer its contractual rights to use the Standard Software or elements of the Standard Software, without the Supplier's prior written consent, under the following circumstances:</p> <ul style="list-style-type: none"> <li>(a) To a third party to assist DFCCIL in making a transition from its existing system (s) to the new system (s)</li> <li>(b) to any purchaser of the concern, or any successor entities following a group reorganization or bankruptcy or other insolvency procedures</li> <li>(c) if directed, in writing, by the Government of India or any statutory agency to comply with any audit, legal or special investigative proceedings that may arise</li> </ul>  |
| GCC 15.4 | <p>The Purchaser's and Supplier's rights and obligations with respect to Custom Software or elements of the Custom Software are as follows:</p> <ul style="list-style-type: none"> <li>(a) The Purchaser will hold the Intellectual Property Right and the Source code for all software system and sub system</li> <li>(b) The Purchaser has the right for: <ul style="list-style-type: none"> <li>a. Duplicating and using the software on different equipment, such as back-ups, additional computers, replacements, upgraded units, etc.</li> <li>b. Transferring the license or sublicensing the software for other entities to use, modify, develop, commercialize, etc.</li> <li>c. Sharing proprietary information regarding the Custom Software with various parties</li> </ul> </li> <li>(c) The Supplier's rights in relation to the Custom Software is limited to use in order to support the Purchaser</li> <li>(d) The Supplier's rights in relation to the Custom Software can be extended to commercial exploitation by re-licensing to third-party customers by the written permission of the Purchaser</li> <li>(e) The Supplier will be required to pay royalties to the Purchaser when it licenses third parties to use the Custom Software as</li> </ul> |



|          |  |
|----------|--|
|          | <p>decided by mutual consultation with the Purchaser.</p> <p>The Purchaser's and Supplier's rights and obligations with respect to Custom Materials or elements of the Custom Materials are as follows "<b>Same Terms as applicable for Custom Software</b>"</p> |
| GCC 15.5 | <b>No software escrow contract is required for the execution of the Contract.</b>  |

### 16. Software License Agreements (GCC Clause 16)

|                    |   |
|--------------------|---|
| GCC 16.1 (a) (iii) | The Standard Software license shall be valid throughout the territory of the Purchaser's Country.   |
| GCC 16.1 (a) (iv)  | Use of the software shall be subject to the following additional restrictions <b>None</b> .   |
| GCC 16.1 (b) (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 class of machine and maintains approximately the same number of users, if a multi-user machine.  |
| GCC 16.1 (b) (vi)  | The Software license shall permit the Software to be disclosed to and reproduced for use (including a valid sublicense) by support service suppliers or their subcontractors, exclusively for such suppliers or subcontractors in the performance of their support service contracts for use for DFCCIL; subject to the same restrictions set forth in this Contract. |
| GCC 16.1 (b) (vii) | In addition to the persons specified in GCC Clause 16.1 (b) (vi), the Software may be disclosed to, and reproduced for use by, any department, stakeholders and other institutional authorities recognized by the Purchaser subject to the same restrictions as are set forth in this Contract.   |
| GCC 16.2           | The Supplier's right to audit the Standard Software will be subject to the following terms:   |

|  |   |
|--|---|
|  | <p>(a) The Purchaser will make available to the Supplier on receiving a written request and accurate and up-to-date records of the number and location of copies, the number of authorized users, or any other relevant data required to demonstrate use of the Standard Software as per the license agreement.</p> <p>(b) The Purchaser will allow, under a pre-specified procedure, execution of embedded software functions under Supplier's control, and unencumbered transmission of resulting information on software usage.</p> <p>(c) As on-site audits are acceptable, the Purchaser would specify from time to time, conditions on the duration and number of audits per year; the hours or days during which audits may be conducted; the categories of software subject to audit; the procedures for access to Purchaser's hardware or software; the number and affiliation of individual auditors; the timing and terms of advance notice; the indemnity by Supplier for losses, liabilities, and costs incurred by the Purchaser as a direct result of the audit.</p> |
|--|---|

### 17. Confidential Information (GCC Clause 17)

|          |   |
|----------|---|
| GCC 17.1 | <b>There are no modifications to the confidentiality terms expressed in GCC Clause 17.1</b> except in cases of statutory audit and law enforcement. |
| GCC 17.7 | The provisions of this GCC Clause 17 shall survive the termination, for whatever reason, of the Contract for the period specified in the GCC.       |

## **E. SUPPLY, INSTALLATION, TESTING, COMMISSIONING, AND ACCEPTANCE OF THE SYSTEM**

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### 18. Representatives (GCC Clause 18)

|          |  |
|----------|--|
| GCC 18.1 | The Purchaser's Project Manager shall have the following additional powers and / or limitations to his or her authority to represent the |
|----------|--|

|            |  |
|------------|--|
|            | <p>Purchaser in matters relating to the Contract.</p> <p>No additional powers or limitations.</p>  |
| GCC 18.2.2 | <p>The Supplier's Representative shall have the following additional powers and / or limitations to his or her authority to represent the Supplier in matters relating to the Contract.</p> <p>No additional powers or limitations</p> |

### 19. Project Plan (GCC Clause 19)

|          |  |
|----------|--|
| GCC 19.1 | <p>Chapters in the Project Plan shall address the following subject:</p> <ul style="list-style-type: none"> <li>a) Project Organization and Management Plan;</li> <li>b) Procurement Plan</li> <li>c) Delivery and Installation Plan</li> <li>d) Quality Plan</li> <li>e) Measurement Tools &amp; Processes proposed for monitoring: <ul style="list-style-type: none"> <li>a. Performance of the System</li> <li>b. Service Performance Level</li> </ul> </li> <li>f) Risk Management Plan</li> <li>g) Training Plan</li> <li>h) Communication Plan</li> <li>i) Change Management Plan</li> <li>j) Pre-commissioning and Operational Acceptance Testing Plan</li> <li>k) Warranty Service Plan</li> <li>l) Task, Time, and Resource Schedules</li> <li>m) Technical Support Plan</li> </ul> |
| GCC 19.2 | <p>Within <b>15</b> days from the Effective Date of the Contract, the Supplier shall present a Project Plan to the Purchaser. The Purchaser shall notify the Supplier of any respects in which it considers that the</p>   |

|          |  |
|----------|--|
|          | <p>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 19.2 called “non-conformities” below). The Supplier shall, within <b>3</b> days of receipt of such notification, correct the Project Plan and resubmit to the Purchaser. The Purchaser shall notify the Supplier 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 Purchaser shall provide confirmation in writing to the Supplier. This approved Project Plan (“the Agreed and Finalized Project Plan”) shall be contractually binding on the Purchaser and the Supplier.</p>   |
| GCC 19.5 | <p>The Supplier shall submit to the Purchaser the following reports:</p> <p>(a) Fortnightly progress reports containing, <i>inter-alia</i>:</p> <ul style="list-style-type: none"> <li>(i) results accomplished during the prior period;</li> <li>(ii) cumulative deviations to date from schedule of progress milestones as specified in the Agreed and Finalized Project Plan;</li> <li>(iii) corrective actions to be taken to return to planned schedule of progress; proposed revisions to planned schedule;</li> <li>(iv) other issues and outstanding problems; proposed actions to be taken;</li> <li>(v) resources that the Supplier expects to be provided by the Purchaser and/or actions to be taken by the Purchaser in the next reporting period;</li> <li>(vi) Issues and potential risks the Supplier foresees that could impact on project progress and/or effectiveness and proposed mitigation strategy.</li> </ul> <p>Other reports needed to monitor Contract performance/progress with System implementation,:</p> <p>(a) inspection and quality assurance reports</p> |

|  |  |
|--|--|
|  | <p>(b) training participants test results</p> <p>(c) monthly log of service calls and problem resolution</p> |
|--|--|

## 20. Subcontracting (GCC Clause 20)

|        |  |
|--------|--|
| GCC 20 | <p>Details and roles of “sub-contractors” (if any), needs to be clearly stated. The Supplier must have back-to-back agreements with all its sub-contractors.</p> <p>The following services <b>MUST NOT</b> be subcontracted unless the subcontractor brings specialized skill-sets relevant to the following items. Any Appointment/ changes in subcontractors would require explicit approval from Purchaser:</p> <ol style="list-style-type: none"> <li>1. Requirement Gathering</li> <li>2. Solution Design</li> <li>3. Procurement of Hardware/ Software</li> <li>4. Software development/ customization</li> <li>5. Solution Implementation</li> <li>6. System Integration</li> <li>7. Training &amp; Change Management</li> <li>8. Warranty Support for the Solution</li> </ol> <p>The Bidder shall be solely responsible for the actions and output of the sub-contractor. All financial liabilities and performance issues related to parameters of the sub-contracted services shall be borne exclusively by the Bidder itself.</p> |
|--------|--|

## 21. Design and Engineering (GCC Clause 21)

|            |  |
|------------|--|
| GCC 21.2   | The Contract shall be executed in accordance with the edition or the revised version of all referenced codes and standards current at the date as specified in the GCC.  |
| GCC 21.3.1 | <p>The Supplier shall prepare and furnish to the Project Manager the following documents for which the Supplier must obtain the Project Manager's approval before proceeding with work on the System or any Subsystem covered by the documents.</p> <p>Key Deliverable – I (Requirement Gathering)</p> <ol style="list-style-type: none"> <li>1. Project Plan</li> <li>2. Procurement Schedule</li> <li>3. Acceptance Criteria</li> <li>4. Updated Risk Management Plan</li> <li>5. Communication Strategy</li> <li>6. Change Management Plan</li> <li>7. Change Management Workshop(s) Execution Report – 1</li> <li>8. Detailed Business Blueprint (including business scenarios, business processes and process steps are organized in a hierarchical structure)</li> <li>9. System Requirement Specification Document (including Use cases, ER Diagram, Data Flow diagram, Alerts, Notifications, Dashboards, Output Reports)</li> <li>10. Gap Fit Document</li> <li>11. Site Assessment Report (Hosting site)</li> </ol> <p>Key Deliverable – II (Solution Design)</p> <ol style="list-style-type: none"> <li>12. Application Architecture</li> <li>13. Security Architecture</li> <li>14. Data Design &amp; Data Modeling</li> <li>15. Interface Design</li> </ol> |

|  |  |
|--|--|
|  | <p>16. Procedural Design/ Low Level Design</p> <p>17. Network Architecture</p> <p>18. Design of Server Room/Data Center</p> <p>19. Design of LAN/WAN and Internet connectivity</p> <p>20. Website Design</p> <p>Key Deliverable – III (Network Readiness)</p> <p>21. Installation Report - WAN (all sites)</p> <p>22. Installation Report - LAN (all sites)</p> <p>Key Deliverable – IV (Data Center Readiness)</p> <p>23. Installation Report - DC equipment</p> <p>24. Installation Report - System Software(s)</p> <p>25. Domain Migration Report</p> <p>26. Site Readiness Report (Hosting site)</p> <p>27. Firewall Configuration Documentation</p> <p>28. Security Policy</p> <p>29. Security Policy compliance Report</p> <p>Key Deliverable – V (Pre Commissioning Testing)</p> <p>30. Test Plan</p> <p>31. Test Cases</p> <p>32. Change Management Workshop(s) Execution Report – 2</p> <p>33. Pre-commissioning Test issue sheet</p> <p>34. Sign-off on Reports</p> <p>35. Sign-off on Pre-commissioning Test</p> <p>Key Deliverable – VI (User Training)</p> <p>36. Training Plan</p> |
|--|--|

|  |   |
|--|---|
|  | <p>37. Training Execution Reports</p> <p>38. CBT Application sign-off</p> <p>39. CBT Application Manual</p> <p>Key Deliverable – VII (Operational Acceptance)</p> <p>40. Installation Roll-out Plan</p> <p>41. Data Migration Strategy</p> <p>42. Data Migration Sign-off</p> <p>43. Operational Acceptance Plan</p> <p>44. Administration/ technical Manual</p> <p>45. User Manual</p> <p>46. Installation Manual</p> <p>During the post Operational Acceptance phase, following deliverables need to be submitted monthly:</p> <ol style="list-style-type: none"> <li>1. Service Performance Reports</li> <li>2. Call Log Reports</li> <li>3. Bandwidth Utilization Report</li> <li>4. Uptime Report</li> </ol> <p>Any other documents not mentioned here but necessary for concluding the documentation requirement of scope definition of the Bid Document in Section VI.</p> |
|--|---|

## **22. Procurement, Delivery, and Transport (GCC Clause 22)**

|            |   |
|------------|---|
| GCC 22.4.3 | The Supplier shall be free to use transportation through carriers registered in any eligible country and shall obtain insurance from any eligible source country. |
| GCC 22.5   | The Supplier shall provide the Purchaser with shipping and other documents as specified in the GCC.   |



**23. Product Upgrades (GCC Clause 23)**

|          |  |
|----------|--|
| GCC 23.4 | The Supplier shall provide the Purchaser: with all patches to all Standard Software during the Warranty Period, for free, as specified in the GCC. |
|----------|--|

**24. Implementation, Installation, and Other Services (GCC Clause 24)**

|        |  |
|--------|--|
| GCC 24 | Supplier is required to render services as defined in the Section VI: Technical Requirements of this Bid Document. |
|--------|--|

**25. Inspections and Tests (GCC Clause 25)**

|        |   |
|--------|---|
| GCC 25 | There are no Special Conditions of Contract applicable to GCC Clause 25 |
|--------|---|

**26. Installation of the System (GCC Clause 26)**

|          |  |
|----------|--|
| GCC 26.3 | No System or a Sub-system should be deemed to have been put into production without Installation Certificate being issued. Project Manager shall endeavor to issue Installation Certificate or notify the Supplier in writing of any defects and/or deficiencies within fourteen (14) days after receipt of the Supplier's notice under GCC Clause 26.1 however, the duration of fourteen (14) days is non-binding on the Project Manager. |
|----------|--|

**27. Commissioning and Operational Acceptance (GCC Clause 27)**

|            |   |
|------------|---|
| GCC 27.2.1 | Operational Acceptance Testing shall be conducted in accordance with the details specified in Section VI: Technical Requirements (D. Testing and Quality Assurance Requirements).   |
| GCC 27.2.2 | If the Operational Acceptance Test of the System, or Subsystem(s), cannot be successfully completed within 90 days from the date of Installation or any other period agreed upon by the Purchaser and the Supplier, then GCC Clause 27.3.5 (a) or (b) shall apply, as the |

|  |                            |
|--|----------------------------|
|  | circumstances may dictate. |
|--|----------------------------|

## **F. GUARANTEES AND LIABILITIES**

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### **28. Operational Acceptance Time Guarantee (GCC Clause 28)**

|          |  |
|----------|--|
| GCC 28.2 | Liquidated damages shall be assessed at 0.5% percent per week. The maximum liquidated damages are 10% percent of the Contract Price. |
| GCC 28.3 | Liquidated damages shall be assessed at the Pre-commissioning Test (KD – V) and Operational Acceptance Test (KD – VII).              |

### **29. Defect Liability (GCC Clause 29)**

|                |   |
|----------------|---|
| GCC 29.1       | For Software, exceptions or limitations to the Supplier's warranty obligations shall be as follows: None.   |
| GCC 29.3 (iii) | The Supplier warrants that the following items have been released to the market for the following specific minimum time periods: No specific minimum time requirements are established for this Contract other than that the Information Technologies must have proven track record or reach end of life within the performance of this Contract. |
| GCC 29.4       | The Warranty Period (N) shall begin from the date of Operational Acceptance of the System and extend for 36 months.   |
| GCC 29.10      | The Supplier must commence the work necessary to remedy defects or damage within as much time so as to ensure that there is no degradation in Service Performance Requirement as defined in the Section VI: Technical Requirements (Service Performance Requirements).  |

**30. Functional Guarantees (GCC Clause 30)**

|        |  |
|--------|--|
| GCC 30 | There are no Special Conditions of Contract applicable to GCC Clause 30. |
|--------|--|

**31. Intellectual Property Rights Warranty (GCC Clause 31)**

|        |  |
|--------|--|
| GCC 31 | There are no Special Conditions of Contract applicable to GCC Clause 31. |
|--------|--|

**32. Intellectual Property Rights Indemnity (GCC Clause 32)**

|        |  |
|--------|--|
| GCC 32 | There are no Special Conditions of Contract applicable to GCC Clause 32. |
|--------|--|

**33. Limitation of Liability (GCC Clause 33)**

|        |  |
|--------|--|
| GCC 33 | There are no Special Conditions of Contract applicable to GCC Clause 33. |
|--------|--|

**G. RISK DISTRIBUTION****34. Transfer of Ownership (GCC Clause 34)**

|        |  |
|--------|--|
| GCC 34 | There are no Special Conditions of Contract applicable to GCC Clause 34. |
|--------|--|

**35. Care of the System (GCC Clause 35)**

|        |  |
|--------|--|
| GCC 35 | There are no Special Conditions of Contract applicable to GCC Clause 35. |
|--------|--|

**36. Loss of or Damage to Property; Accident or Injury to Workers; Indemnification (GCC Clause 36)**

|        |  |
|--------|--|
| GCC 36 | There are no Special Conditions of Contract applicable to GCC Clause 36. |
|--------|--|

**37. Insurances (GCC Clause 37)**

|              |   |
|--------------|---|
| GCC 37.1 (c) | The Supplier shall obtain Third-Party Liability Insurance in the amount of INR 10 Million. The Insurance shall cover bodily injury or death suffered by third parties (including the DFCCIL's personnel, Consultants and Contractual Staff) and loss of or damage to property (including the DFCCIL's property and any Subsystems that have been accepted by the DFCCIL) occurring in connection with the supply and installation of the Information System. The Insurance shall cover the period from 15 days of effective date of Contract <b>until</b> Date of Completion of Contract.   |
| GCC 37.1 (e) | <p>The Supplier shall obtain Worker's Compensation Insurance in accordance with the statutory requirements of the Purchaser's Country. The Insurance shall cover the period from beginning date, relative to the Effective Date of the Contract until expiration date, relative to the Effective Date of the Contract or its completion.</p> <p>The Supplier shall obtain Employer's Liability Insurance in accordance with the statutory requirements of the Purchaser's Country. The Insurance shall cover the period from beginning date, relative to the Effective Date of the Contract until expiration date, relative to the Effective Date of Contract or its completion</p> |

**38. Force Majeure (GCC Clause 38)**

|        |  |
|--------|--|
| GCC 38 | There are no Special Conditions of Contract applicable to GCC Clause 38. |
|--------|--|

**H. CHANGE IN CONTRACT ELEMENTS****39. Changes to the System (GCC Clause 39)**

|        |  |
|--------|--|
| GCC 39 | There are no Special Conditions of Contract applicable to GCC Clause 39. |
|--------|--|

**40. Extension of Time for Achieving Operational Acceptance (GCC Clause 40)**

|        |  |
|--------|--|
| GCC 40 | There are no Special Conditions of Contract applicable to GCC Clause 40. |
|--------|--|

**41. Termination (GCC Clause 41)**

|        |  |
|--------|--|
| GCC 41 | There are no Special Conditions of Contract applicable to GCC Clause 41. |
|--------|--|

**42. Assignment (GCC Clause 42)**

|        |  |
|--------|--|
| GCC 42 | There are no Special Conditions of Contract applicable to GCC Clause 42. |
|--------|--|



**SECTION VI. TECHNICAL REQUIREMENTS (INCLUDING  
IMPLEMENTATION SCHEDULE)**

## Table of Contents: Technical Requirements

|   |            |
|---|------------|
| <b>A. Background.....</b>   | <b>162</b> |
| 0.1 The Purchaser .....   | 162        |
| 0.2 Business Objectives of the Purchaser .....  | 164        |
| 0.3 Acronyms Used in Technical Requirements .....   | 173        |
| <b>B. Business Function and Performance Requirements .....</b>  | <b>174</b> |
| 1.1 Business Requirements to Be Met by the System .....   | 174        |
| 1.2 Functional Performance Requirements of the System.....  | 181        |
| 1.3 Related Information Technology Issues and Initiatives.....  | 182        |
| <b>C. Technical Specifications .....</b>  | <b>186</b> |
| 2.0 General Technical Requirements.....   | 186        |
| 2.1 Computing Hardware Specifications .....   | 186        |
| 2.2 Network and Communications Specifications .....   | 186        |
| 2.3 Software Specifications.....  | 187        |
| 2.4 System Management, Administration, and Security Specifications.....                                     | 188        |
| 2.5 Service Specifications .....  | 188        |
| 2.6 Documentation Requirements .....  | 200        |
| 2.7 Consumables and Other Recurrent Cost Items.....   | 201        |
| 2.8 Other Non-IT Goods.....   | 202        |
| <b>D. Testing and Quality Assurance Requirements .....</b>  | <b>202</b> |
| 3.1 Inspections.....  | 202        |
| 3.2 Pre-commissioning Tests .....   | 203        |
| 3.3 Operational Acceptance Tests .....  | 203        |
| <b>E. Implementation Schedule .....</b>   | <b>204</b> |
| 4.1 Implementation Schedule Table .....   | 205        |
| 4.2 System Inventory Table (Supply and Installation Cost Items).....  | 206        |
| 4.3 System Inventory Table (Recurrent Cost Items).....  | 207        |
| 4.4 Site Table(s) .....   | 208        |
| <b>F. Required Format of Technical Bids .....</b>   | <b>209</b> |
| 5.1 Description of Information Technologies, Materials, Other Goods, and Services.....                      | 209        |
| 5.2 Item-by-Item Commentary on the Technical Requirements.....  | 209        |
| 5.3 Preliminary Project Plan .....  | 209        |
| 5.4 Confirmation of Responsibility for Integration and Interoperability of Information<br>Technologies..... | 210        |
| <b>G. Technical Responsiveness Checklist .....</b>  | <b>211</b> |
| Technical Responsiveness Checklist .....  | 211        |
| <b>H. Attachments.....</b>  | <b>212</b> |
| Attachment 1: Project Governance Structure.....   | 212        |
| Attachment 2: Technical/Quality evaluation parameters.....  | 212        |



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|   |     |
|---|-----|
| Attachment 3: Service Performance Levels.....                           | 212 |
| Attachment 4: Envisaged Network Architecture .....                      | 212 |
| Attachment 5: Application wise User breakup .....                       | 212 |
| Attachment 6: Usage of Digital Signature .....                          | 212 |
| Attachment 7: CPM Office Locations .....                                | 212 |
| Attachment 8: Minimum Envisaged Hardware Components .....               | 212 |
| Attachment 9: Minimum Bill of Quantity .....                            | 212 |
| Attachment 10: Indicative Specification: Computing Hardware .....       | 212 |
| Attachment 11: Indicative Specifications: UPS & Rack .....              | 212 |
| Attachment 12: Indicative Specifications: LAN Equipment & Cabling ..... | 212 |
| Attachment 13: Indicative Specifications: WAN Equipment .....           | 212 |
| Attachment 14: Minimum Envisaged Software Components.....               | 212 |
| Attachment 15: System Software Specifications .....                     | 212 |
| Attachment 16: Mail messaging solution specifications .....             | 212 |
| Attachment 17: Database Server Specification.....                       | 212 |
| Attachment 18: Functional Requirement Specifications (FRS).....         | 212 |

# Technical Requirements

## A. BACKGROUND

### 0.1 The Purchaser

0.1.1 Ministry of Railways has embarked upon a long-term, strategic plan to construct high capacity, high speed, Dedicated Freight Corridors (DFCs) along the Golden Quadrilateral and its diagonals. Dedicated Freight Corridor Corporation of India (DFCCIL) is a Special Purpose Vehicle set-up as a company under the provisions of the Companies Act, 1956. DFCCIL is under the administrative control of Ministry of Railways, which has 100% equity holding. The main activities envisaged to be performed by DFCCIL include planning & development, mobilization of financial resources, construction and Operation & Maintenance of the Dedicated Freight Corridors and operation of freight traffic trains.

In the first phase, DFCCIL is constructing two corridors:

- Eastern Dedicated Freight Corridor
- Western Dedicated Freight Corridor

**Table 1 : DFC Details**

|                       | <b>Eastern Corridor</b>                            | <b>Western Corridor</b>  |
|-----------------------|--|--|
| <b>From – To</b>      | Ludhiana – Dankuni                                 | Dadri – JNPT (Mumbai)  |
| <b>Length</b>         | 1279 Km  | 1483 Km  |
| <b>Number of CPMs</b> | 7  | 7  |
| <b>Funding</b>        | Indian Railways, World Bank, PPP, Market Borrowing | Indian Railways, Japan International Cooperation Agency (JICA) |

Preliminary Survey Work on four additional freight corridors is currently in progress and construction work on these corridors will be taken up in future.

DFCCIL plans to construct the Eastern and Western DFCs by outsourcing the design, construction and supervision work to contractors/ consultants selected

through competitive bidding based on the guidelines of multilateral/bilateral funding agencies. DFCCIL plans to procure the work by using standard Design – Build Contracts (based on FIDIC Plant & Design Build Yellow Book). As such, DFCCIL is envisaged as a lean & trim organization with satellite field offices or Chief Project Manager Offices (CPMs) located at important towns along the two corridors. As on date, there are 14 CPM offices (Please refer Attachment 7: CPM Office Locations) whose primary role is monitoring the progress of construction work in their jurisdiction. The DFCs, to the extent possible, are being built along the existing Indian Railways' track alignment and on land belonging to Indian Railways. At places where land is not available with Indian Railways for the decided alignment of the DFCs, land will be acquired. While, DFCCIL is facilitating land acquisition process along the corridors, ownership of the Land lies with Indian Railways. The Land will be licensed to DFCCIL for building, maintaining & operating the DFCs. The relationship between DFCCIL & IR will be governed by the Concession Agreement which will define the obligation of Contracting Parties and will extend up-to 40 years.

Funding of the Western Dedicated Freight Corridor will be undertaken by JICA in two phases. Phase I will comprise of the section between Rewari and Makarpura. Phase II will cover funding the two sections at the ends i.e. Dadri to Rewari and Makarpura to JNPT, Mumbai. The Eastern DFC will be funded by the World Bank (between Ludhiana and Mugalsarai), Ministry of Railways (between Mugalsarai to Sonnagar) and PPP Vendor (between Sonnagar and Dankuni). The completion cost for the two corridors is estimated in the region of Rs. 77,640 Crore and the target date for completion is December 2016.

As per the mandate, DFCCIL will function as an infrastructure service provider offering non-discriminatory access to qualified train operators (which in present case comprises only the Indian Railways) for running freight trains and will not own or run freight trains of its own. Thus, while DFCCIL will operate and regulate the movement of trains over its network, it will not be responsible for owning, maintaining or manning the freight trains. DFCCIL will also not deal directly with the end customer – all commercial dealing will be undertaken by Ministry of Railways. Revenue for DFCCIL will be generated in the form of Track Access Charge (TAC) to be levied on the qualified train operators (Indian Railways in present scenario). The TAC will be determined by a combination of availability cum usage of DFCCIL infrastructure.

- 0.1.2 **Purchaser's project management arrangements:** DFCCIL has appointed consulting arm of Wipro Ltd. as its independent IT Consultant, through an open competitive bidding process for executing this project on IT Strategy and Programme Management of DFCCIL.

Scope of work for Wipro includes, conducting the As Is Study, suggesting the To Be processes, design the high level IT roadmap and project plan for

implementation, develop the Bid document and undertake Bid Process Management for selection of Supplier. The IT Consultant has done an As – Is study and prepared a High Level Solution. The reports submitted by the IT Consultant would be made available to the successful Bidder.

IT Consultant will also be responsible for Program Management and Test Phase Documentation wherein it will supervise successful implementation of the integrated IT solution by the selected System Integrator. This would comprise monitoring the work of System Integrator to facilitate implementation of integrated IT solution as planned, as well as post implementation reviews. Wipro, therefore, will not be competing for any downstream business in this project. The reports submitted by the IT Consultant would be made available to the successful Bidder.

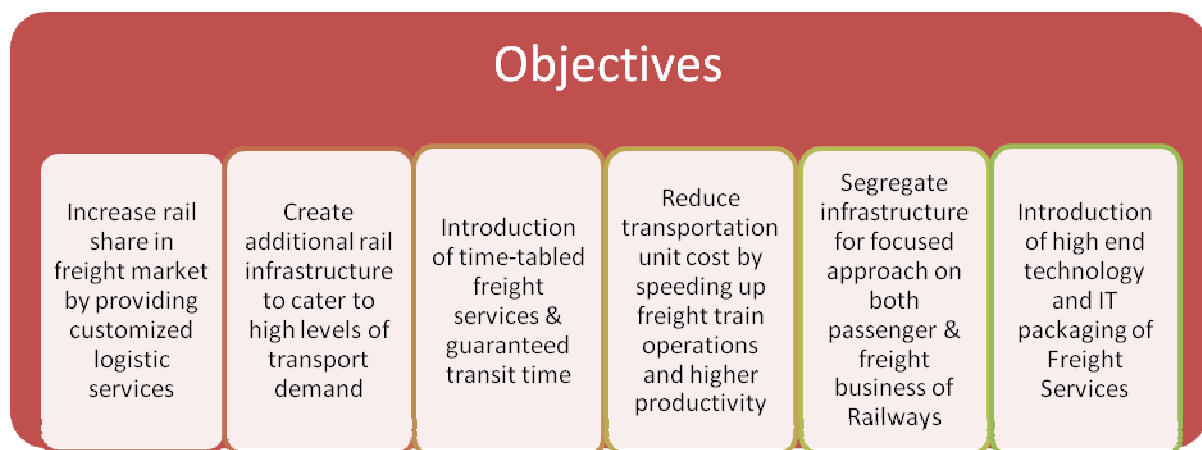
**Please refer ‘Attachment 1: Project Governance Structure’** to these Technical Requirements. It provides a detailed description regarding the Purchaser’s project management arrangements.

## 0.2 Business Objectives of the Purchaser

### 0.2.1 Overview of Current Business Objectives & Processes

DFCCIL has been established as a Special Purpose Vehicle for undertaking planning & development, mobilization of financial resources and construction, and thereafter, maintenance and operation of the dedicated freight corridors.

The objectives of DFCCIL are:



DFCCIL is therefore a project management company during the construction phase and an infrastructure operations and maintenance management company thereafter. During the Construction Phase, success of DFCCIL is contingent on its effectiveness in constructing

the dedicated freight corridors with minimal cost and time overruns. During the Operations phase, its success will be determined by its ability to maximize the fluidity of traffic over its network with the lowest operations and maintenance cost that is comparable with state – of-the-art heavy haul railways of the world.

The business strategy for DFCCIL must necessarily entail two separate elements during the two phases of its life cycle:

- Asset Creation with minimal cost and time overruns during Construction Phase
- Efficient and effective Operations & Maintenance Management during Operation Phase

DFCCIL’s focus during the Construction phase lies in:

- Track Alignment Design and Land Surveys
- Management of Land Acquisition workflow & data management related to Project Affected People (PAP)
- Procurement of Consultants/Contractors
- Management of Project Risks with respect to each Contract/Engagement
- Overall Program Management
- Archival of drawings/ specifications/ documents
- Quality Control during Construction
- Contract Monitoring & Management
- Loan/Fund Management
- Enterprise Asset Management

**Key Processes:** The following table compiles function-wise list of key processes involved during the Construction phase of DFCCIL.

**Table 2: Key Construction Phase processes**

| HR                                | Finance                       | Project Management | Land Acquisition and R&R    |
|-----------------------------------|-------------------------------|--------------------|-----------------------------|
| Joining, Posting and Pay Fixation | Budgeting & Budgetary Control | Survey             | Land Acquisition            |
| Allowances                        | Financing                     | Planning           | Baseline Survey & Census    |
| Leave                             | Capital Asset Accounting      | Design Approval    | R&R Action Plan Preparation |

| <b>HR</b>                      | <b>Finance</b>                                     | <b>Project Management</b>            | <b>Land Acquisition and R&amp;R</b> |
|--------------------------------|--|--------------------------------------|-------------------------------------|
| Lease                          | Contractual Payments                               | Estimation                           | R&R Grievance Handling              |
| Reimbursements                 | Payroll and Employee Payment                       | Engagement of Consultant/ Contractor |                                     |
| Absorption                     | Treasury Management                                | Project Execution                    |                                     |
| Last Pay Certificate (LPC)     | Payment of FSC and LSC                             | Project Monitoring & Control         |                                     |
| Composite Transfer Grant (CTG) | Debt Management                                    | Corridor Development Monitoring      |                                     |
| Loans and Advances             | Risk Management                                    | Quality Control                      |                                     |
| Manpower Planning              | Insurance Purchase                                 | Asset Lifecycle Management           |                                     |
| Recruitment                    | Insurance - Claims Management                      |                                      |                                     |
| Progression Management         | Working Capital Management                         |                                      |                                     |
| Separation                     | Financial Reporting (JICA, WB and Indian Railways) |                                      |                                     |
| Training & Development         | Resource Planning & Mobilization                   |                                      |                                     |
| Disciplinary & Appeal Rules    |  |                                      |                                     |
| LTC                            |  |                                      |                                     |

0.2.2 DFCCIL faces certain challenges which it aims to address through this IT automation initiative. The following table describes the key challenges across various functions.

**Table 3: Key Challenges**

| <b>#</b> | <b>Department</b>        | <b>Key Challenges</b>   |
|----------|--------------------------|---|
| <b>0</b> | <b>Alignment Surveys</b> | The total length of the two corridors is around 3,300 km. Because of the sheer size, the survey work was undertaken in segments. Survey for each segment used relative coordinates for the survey – as such, while on-the-ground there is no discrepancy, on paper, when one tries to stitch the segments together, there are correction errors. These errors are sought to be corrected by geo referencing the entire alignment as well as all the control points used by each segment. The task of geo-referencing the alignment has been taken up separately and is on-going. The alignment, free of all errors, will then be available in a stitched form on a GIS Platform. The alignment is not final, in the sense that it may undergo some changes at the construction stage. |

| # | Department   | Key Challenges  |
|---|--|---|
| 1 | <b>Land Acquisition and R&amp;R</b>                        | Land Acquisition process is executed by GoI appointed Competent Authority (CA) for Land Acquisition. CA is responsible for Land Acquisition in his/her concerned District. Land Acquisition Data is currently maintained in different formats by CPM offices. Consolidation of Land Acquisition related data is limited. There is a need for uniform formats as well as a standardized mechanism of data collection, reporting and its preservation. The CPM Offices will be required to collect all land data from the CA and organize the data in standard data formats.  |
| 2 | <b>Design</b>  | <p>Designs are prepared by Design- Build Contractors and shared with CPMs/HQ Office, through the Project Monitoring Consultants. There is absence of any uniform numbering/ identification mechanism for Design Drawings. These drawings, particularly the final “as- build’ drawings need to be documented and retained. Archival and easy retrieval of approved Design documents is therefore a departmental priority, not only during construction, but also during the post-construction maintenance phase. Further, sharing of Design documents between Design Cell at DFCCIL HQ, CPM office and the Contractors/Consultants as of now happens in physical form. The “as-build” drawings need to be made easily accessible through a standard nomenclature that identifies the asset, the type of asset, the contractor who deployed it, the location of the deployment on/along the alignment, the department, the CPM office etc.</p> <p>As the number of awarded contracts increase, the number of drawings and their various versions will increase exponentially.</p> |
| 3 | <b>Civil Engineering/ Signal &amp; Telecom/ Electrical</b> | <p>Execution of the contracts is primarily monitored at CPM office level. CPMs are responsible for development of section of DFC under its jurisdiction. DFCCIL HQ will monitor the construction of DFC which is spanning across jurisdiction of multiple CPM offices. This requires collection and collation of execution related data from various CPM offices.</p> <p>Information is first compiled at CPM level for different contracts that it is executing. This information is sent to HQ. At DFCCIL HQ, information from various CPMs is compiled to present the status of construction of DFCs.</p> <p>The process of information collection, compilation and report generation is manual and non – standardized at present.</p>   |

| # | Department                    | Key Challenges  |
|---|-------------------------------|---|
|   |                               | <p>There are multiple dimensions/ levels (viz. Contractor, General Consultant, CPM, Department and HQ) at which the information is compiled. This is leading to duplication of effort and increase in chances of error because of multiple points of human intervention. There is a need to institutionalize a mechanism of data collection directly at the point of its origin, compilation and reporting.</p>   |
| 4 | <b>Human Resource</b>         | <p>Currently majority of employees are on deputation and are governed by Central government deputation rules. DFCCIL plans to gradually recruit its own employees.</p> <p>Employee details and other HR / Admin related information is maintained either manually or in MS-Office thereby making it difficult to analyze and generate reports. Further, there is multiplicity of sources of information which leads to duplicity of efforts at various levels.</p> <p>For structured manpower planning, their training and meeting employee aspirations, employee database will have to be developed for managerial control and planning.</p>   |
| 5 | <b>Finance &amp; Accounts</b> | <p>As per DFCCIL's long-term vision, it would operate each DFC as independent profit centers. Each CPM Office will be a separate cost center and is required to maintain detailed expenditure accounts for the section under its own jurisdiction. DFCCIL would like to track financial performance parameters corridor-wise, CPM-wise, Contact-wise, function-wise etc. However, at present, the accounting classification is function-wise only. For better managerial control and costing purposes, the relevant functional data may be collected corridor-wise and CPM-wise as well as activity-wise. This is also required for better budgetary formulation and control. Therefore, the classification and codification of accounts will have to be suitably amended. Separate accounts will also be maintained for each loan agreement and each source of funds – JICA, World Bank, PPP etc.</p> <p>At present Manual Registers are being maintained for various purposes and these will be required to be computerized and integrated with other applications such as Project Monitoring System, GIS Application and Enterprise Asset Management etc.</p> <p>Duplicity of efforts – Account books is maintained at CPMs,</p> |



| # | Department    | Key Challenges   |
|---|---------------|--|
|   |               | <p>also at HO by Chartered Accountant firm who have been outsourced the work of managing accounts in Tally software. Same Data is therefore Captured at various levels.</p> <p>Though operating manuals exist, there is a variance between the policy/process listed in the manual vis-à-vis that implemented in day-to-day work.</p> <p>It is difficult to ascertain the real-time financial Status - by Corridor, by CPM, by project, by contractor, by Supplier, by functional area, by time (till date, till last quarter etc.).</p> <p>Budgeting and Accounting processes being manual are time-consuming and do not automatically link to the expenditure incurred against the budget. Various routine reports sent to JICA/World Bank/ CAAA will need to be automated so that these are generated seamlessly through the Financial Management System.</p> <p>As International Financial Reporting System (IFRS) and Goods and Services Tax (GST) are expected to be implemented in a phased manner in the near future, DFCC will have to make adequate preparation for meeting the challenges.</p> <p>The formats of the MIS Reports that have been prepared as a part of the Financial Reporting Manual of F&amp;A Department needs to be streamlined so that a proper system needs to be put in place for monitoring fund flow.</p> |
| 6 | IT Department | <p>Website is mostly static with no mechanism for periodic content generation and updation. Data is currently maintained independently by departments making it difficult for version control and access. Policies such as IT Security Policy, IT Asset Management Policy etc. are also not in place.</p>  |

Even though DFCCIL is in formative stage, the data volume is expected to grow exponentially. Likely data numbers are depicted below:

**Table 4: Envisaged Data Volume**

| # | Item | Amount of Data |
|---|------|----------------|
|---|------|----------------|

| # | Item                                | Amount of Data  |
|---|-------------------------------------|---|
| 1 | Drawings                            | Multiple versions of over 100,000 drawings (including 91,100 cross sections, 6000 minor bridges, 1325 level crossings. 911 long sections, 150 yard plans) for Civil Engineering alone. An equivalent number may exist for Electrical, Signaling and Mechanical Departments. |
| 2 | Records related to Land Acquisition | Land Acquisition Process managed by over 65 Competent Authorities, across over 2000 villages effecting over 250,000 Project Affected People (PAP)   |
| 3 | Contracts                           | At any pointy of time, approximate 150 Contracts for sites spread along 3300 Km   |
| 4 | Employee records                    | Upto 11,000 employee records during the O&M phase   |
| 5 | Assets                              | Over 100 broad categories of Assets   |

**0.2.3 Expected Benefits from the Envisaged IT Solution:** DFCCIL has embarked on a project to create and deploy an enterprise-wide Integrated IT System which will automate its core organizational business functions/ processes and provide each employee with an environment to conduct its regular office activities more efficiently and effectively.

The proposed IT system will help DFCCIL to preserve important artifacts (plans, drawings, notes, documents, reports etc) in a secure and manageable environment in digitized format. It is envisaged that in the new environment, DFCCIL's employees would have access to any business related information at the click of the mouse. The employees will be connected to their work areas through the DFCCIL Portal. Appropriate triggers will generate management reports every time an event causes a substantial shift in project risk or a deviation in processes developed.

The envisaged system would expedite decision making, ensure better planning and co-ordination between different functions, better data management, effective reporting, knowledge management, etc. Time lost in accessing information will be reduced. State-of-the-art processes will be established to ensure that best practices are followed. Program Management will provide senior management with critical information related to various contracts, activities and funds in the form of management dashboards with inbuilt triggers to ensure timely decision making.

Business benefits of the proposed system are listed in the table below:

**Table 5: Business Benefits of Proposed System**

| <b>System Stakeholders</b>              | <b>Users/</b> | <b>Benefits</b>   |
|---|---------------|---|
| <b>Top Management</b>                   |               | <ul style="list-style-type: none"> <li>○ Decision Support System</li> <li>○ Decision making based on information as a resource</li> <li>○ Integrated view of data across functions and applications</li> </ul>  |
| <b>CPM Offices</b>                      |               | <ul style="list-style-type: none"> <li>○ Efficient Project &amp; Contract Management</li> <li>○ Faster access to enterprise resources</li> <li>○ Proper control and monitoring of financial transactions</li> <li>○ Easy generation of reports for management reporting</li> </ul>  |
| <b>Department Users</b>                 |               | <ul style="list-style-type: none"> <li>○ Faster and structured availability of information</li> <li>○ Well-defined workflows</li> <li>○ Clarity of roles and responsibilities</li> <li>○ Faster access to enterprise resources</li> <li>○ Clean and less paper work environment</li> <li>○ faster, data driven decision making</li> </ul>                                   |
| <b>Employees (Self Service)</b>         |               | <ul style="list-style-type: none"> <li>○ Online information on salary, income tax, pension, loans and other benefits</li> <li>○ Online information on HR policies, Government Notices</li> <li>○ Secure e-mail services</li> <li>○ Remotely available services via Internet</li> <li>○ Seamless exchange of data across departments and organizational hierarchy</li> </ul> |
| <b>Audit Officials</b>                  |               | <ul style="list-style-type: none"> <li>○ Readily available information on revenue and expense</li> <li>○ Availability of audit logs till the last transaction details</li> </ul>  |
| <b>Project Consultants/ Contractors</b> |               | <ul style="list-style-type: none"> <li>○ Online access to drawings and plans</li> <li>○ Timely clearance of bills and payments</li> <li>○ Real-time availability of project status</li> <li>○ Standardized and seamless data exchange among Contractors, Consultants and DFCCIL</li> </ul>  |
| <b>MoR/ External Funding Agencies</b>   |               | <ul style="list-style-type: none"> <li>○ Comprehensive information on the projection, utilization and performance of the funds provided by them</li> <li>○ Automated process for budgetary requirement and fund flow management</li> </ul>  |



### 0.3 Acronyms Used in Technical Requirements

| Abbreviation | Meaning  |
|--------------|--|
| CA           | Competent Authority                                  |
| CBT          | Computer Based Training                              |
| CPM          | Chief Project Manager                                |
| CRP          | Class Room Pilot                                     |
| DC           | Data Center  |
| DFC          | Dedicated Freight Corridor                           |
| DFCCIL       | Dedicated Freight Corridor Corporation of India Ltd. |
| DR           | Data Recovery  |
| F&A          | Finance & Accounts                                   |
| FRS          | Functional Requirement Specification                 |
| GIS          | Geographical Information System                      |
| GoI          | Government of India                                  |
| GUI          | Graphical User Interface                             |
| HQ           | Head Quarter   |
| HR           | Human Resource                                       |
| ISO          | International Standards Organization                 |
| IT           | Information Technology                               |
| JICA         | Japan International Cooperation Agency               |
| JNPT         | Jawaharlal Nehru Port Trust, Mumbai                  |
| LAN          | Local Area Network                                   |
| MPLS         | Multi Protocol Label Switching                       |
| OEM          | Original Equipment Manufacturer                      |
| PAP          | Project Affected Person                              |
| PDF          | Portable Document Format                             |
| PPP          | Public Private Partnership                           |
| SOA          | Service Oriented Architecture                        |
| SRS          | Software Requirement Specification                   |
| VPN          | Virtual Private Network                              |
| WAN          | Wide Area Network                                    |

## B. BUSINESS FUNCTION AND PERFORMANCE REQUIREMENTS

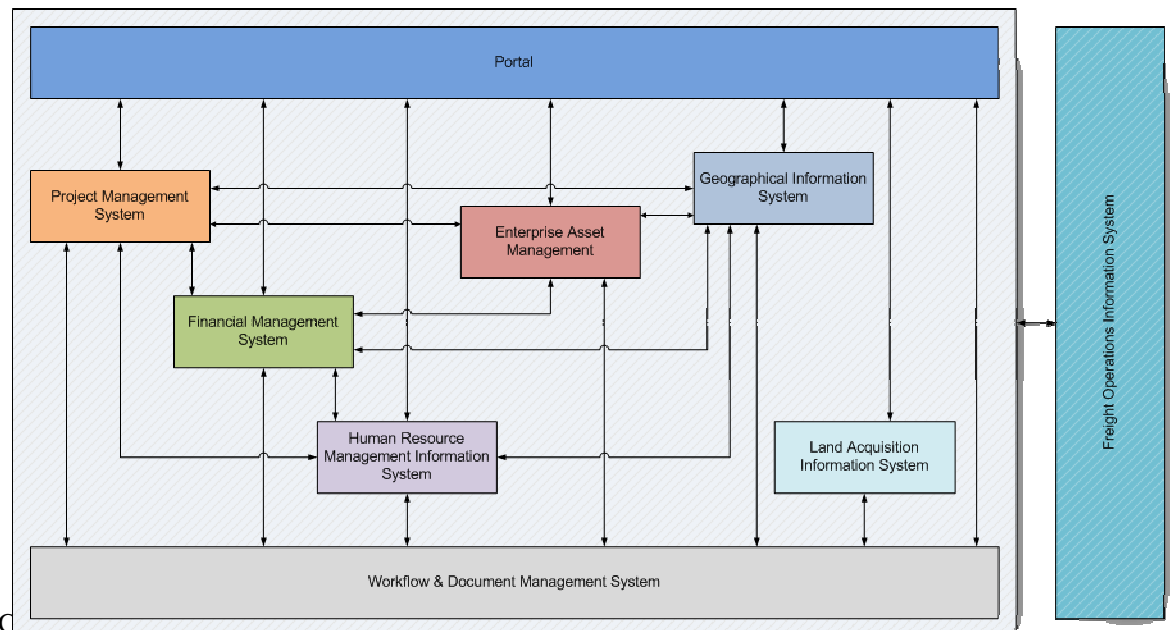
### 1.1 Business Requirements to Be Met by the System

1.1.1 **Business Requirements from the envisaged IT Solution:** The envisaged solution would primarily handle the functions of Construction phase of DFCCIL while keeping in view the data and functional requirement during Operations phase.

The envisaged system would handle both:

1. Business Operations (Construction management related activities like Project Management, Contract Management, and Design/ Drawing Archival)
2. Internal Functions (Organizational support functions like Accounting, Finance & Human Resource)
3. Ancillary Functions (Land Acquisition, Monitoring R&R Programs)

**A total of eight (8) applications** are envisaged for DFCCIL. The applications will cater primarily to the Construction Phase functions of DFCCIL. The applications defined within the boundary (shaded area) are covered under the current scope of assignment. The Freight Operations Information System (FOIS) depiction is merely to show future requirement during Operation phase of DFCCs. Freight Operations Information System is not in the scope of this Bid



Document.

Portal will be the interface to all other DFCCIL applications for users. Workflow & Document Management System will form the backbone for most of the applications.

Following are the key areas demanding IT System deployment during the Construction phase. Please refer Attachment 18: Functional Requirement Specifications (FRS) for detailed requirement from the envisaged IT solution.

- **Land Acquisition Record Management:** Data related to land acquisition needs to be properly collated and put in a standardized database so that a workflow can be woven around the entire Land Acquisition process. There are number of steps in Land Acquisition in accordance with Railway Act 2003. As a part of Land Acquisition Process, money has to be paid to project Affected Families/ Project Affected People. Similarly PAP identification, payment due to PAP and tracking of payments should be captured and reports should be generated as per the requirement of Funding Agencies and DFCCIL. A small program that captures details of all the Project Affected Families/Project Affected people does exist however; the Supplier needs to determine whether the same may be scaled as per the requirements of DFCCIL. Further, since land acquisition has a strong process driven workflow, it would be helpful to have the entire workflow computerized so that meaningful management information reports. The key features of the envisaged solution are:
  1. Standardization of input formats for data capture and MIS Reports
  2. To ensure easy data capture
  3. Centralized database and deployment of application
  4. Consolidation and regular reporting for status check
  5. Workflow for capturing the land acquisition process
  
- **Program & Contract Management:** Program Management requires collection and collation of execution related data from various CPM offices and development of appropriate information reports as well as triggers that provide an advance warning system of delays or cost overruns. Information related to execution of different contracts, irrespective of being Civil,

Electrical, Signal & Telecom or any combination of these, and the key milestones for each contract will be recorded by the Contractors, verified and vetted by the Independent Engineer/ Project Monitoring Consultants and ratified by the CPM level. At DFCCIL's Corporate Office, this information needs to be combined and compiled so that the current status of each Contract, and the overall details related to development of DFCs is available through dashboards. In other words, Senior Managers and Directors should be able to view the current status of each Contract and determine the implications of any delays in project execution on the overall project cost and time. The process of information collection, compilation and report generation which is currently manual is proposed to be automated across multiple levels (viz. Contractor, General Consultant, CPM and HQ). Items used in various Works have different specifications in different codes. There is, therefore, a need for online library of items and their specifications as per the desired Code.

The monitoring of Contracts should be automated by ensuring that PERT Charts as uploaded by the Contractor are available for viewing and commenting both at the CPM and at the HQ level. Dashboards need to be designed to ensure that time and cost overruns with respect to the original implementation plan trigger generation of critical MIS reports. Similarly, decisions sought by the Contractor/PMC and CPM Offices need to be documented with proper audit trails.

The key requirements of the Program & Contract Management System are:

- Monitoring of Construction at different levels viz.:
  - Corridor
  - CPM
  - Department
  - Project
  - Contract
  - Contractor
- Mapping of Contract → Contractor → Project → CPM → Corridor → Asset Creation
- Centralized database and deployment of application
- Workflow implementation for hierarchy based escalation and approval process



- **Document Management:** The IT application tools should allow the Contractor to upload drawings and to obtain comments/approvals electronically. Further, these documents need to be retained for posterity and therefore, there is a need to catalogue these so as to ensure that post construction retrieval of these efficient and convenient. IT application should ensure that each modification in drawing is properly recorded and archived through a date stamp, authorizations, summary to changes made etc. Version control over these drawings is equally essential so that at a later date, it should be possible to trace the modification of a drawing from its initial version to its final as-build version.

At the construction stage, defining absolute chainages for each asset as it is deployed/constructed over the Dedicated Freight Corridor and associating each asset to As Build Drawings as well as various versions of that drawing that may exist for a single asset, is essential to ensure that engineering information is available online and without any loss of time and data in the post construction phase. The nomenclature for drawings should facilitate ease in accessing the location of deployment of the asset, the type of asset, the contractor who deployed the asset etc. There is a need to put in place a mechanism which would allow archival, convenient retrieval and sharing of design documents not only within DFCCIL but also between the Design-Build Contractor, the Independent Engineer, Proof Consultant(s) and DFCCIL.

- **Internal Business Operations:** Requirements are equally compelling for efficient management of financial processes in the light of DFCCIL's vision to operate each DFC as independent profit centers. It would, be essential to track financial performance parameters corridor-wise and CPM-wise, among others. The proposed IT system will not only meet the requirements of a Project Organization, but also the requirements of an operations organization, post construction. Thus, all O&M expenses will need to be tracked and traced at the CPM as well as HQ level, assets registers prepared during construction will be used to determine economic life of assets, depreciation accounting and predictive maintenance schedules.

The key processes have already been indicated in Table 2 above.

Similarly, the Human Resource management related functions such as those listed below also need to be managed effectively.

- Tracking all manpower data – records of assignment etc.
  - Performing activities related to manpower planning, recruitment & selection
  - Supporting all events in the employee work life from entry to exit including probation, confirmation, promotion, transfer, deputation, training, disciplinary proceedings, grievance handling, retirement, resignation, termination
  - Supporting employee self-service options in the areas of self-appraisal, training, leave & attendee etc.
  - Salary Fixation
  - Performing online approvals and authorizations, and generating appropriate notifications
  - Tracking and maintaining leave data for all employees
  - Checking loan entitlements and availability online
  - Processing loans and advances within the system
  - Tracking all statutory deductions
  - Performing online approvals and authorizations, and generating appropriate notifications
  - Processing all pension related matters
  - Processing all employee reimbursements
- **Geographical Information System:** Since the life of railway assets spans many decades, it is proposed to geo-reference and geo-code all Rail assets that are deployed along the alignment. These include, among others, bridges, level crossings, stations, turnouts, depots, road over bridges etc. Details of these assets would be provided on a GIS Platform to be developed by Supplier. While the Attribute data may reside in the Enterprise Asset Management Application, it should be accessible through the GIS interface. GIS based Reports should form a part of the dashboard for senior management. Various management reports related to spatial as well as physical attributes of each asset should be generated. It should also be possible to click on an asset on a GIS map, using the GIS application and obtain the “as build” drawing that resides in the Document Management System.

- **Enterprise Asset Management:** Assets would be created as result of construction activities. Asset details such as spatial data, type, as – built drawing number, maintenance detail, approximate capital cost, status of the asset would be captured. These assets would be then utilized during the Operations & Maintenance Phase. The overarching maintenance philosophy for these assets would be that of predictive maintenance. The assets which will be available as geo-referenced assets along the alignment, will be managed and maintained through their lifetime, via the Asset Management System.

Key highlights envisaged of the proposed system are described in the following table:

| System Modules                                 | Key Highlights  |
|--|---|
| <b>Project Management</b>                      | <ul style="list-style-type: none"> <li>• Tender Management</li> <li>• Contract Management</li> <li>• Project cost, resources and milestone definition</li> <li>• Execution monitoring</li> <li>• Financial details of the project and real-time budget utilization</li> <li>• Generation of various reports for senior management and project review</li> </ul> |
| <b>Enterprise Asset Management</b>             | <ul style="list-style-type: none"> <li>• Operations &amp; maintenance of assets created</li> <li>• CPM –wise, Project-wise asset mapping</li> <li>• Depreciation Value Calculation</li> <li>• Utilization Status</li> <li>• Asset Insurance details</li> <li>• Accident and incident reports</li> <li>• AMC details including SLAs</li> </ul>                   |
| <b>Financial Management</b>                    | <ul style="list-style-type: none"> <li>• Cash Management</li> <li>• Budgeting &amp; Financial Planning</li> <li>• General Ledger</li> <li>• Interfacing with PM,HRM &amp; EAM</li> <li>• Decision Support Systems for comparing various expenses</li> </ul>   |
| <b>Human Resource Management</b>               | <ul style="list-style-type: none"> <li>• Employee data management</li> <li>• Employee Self Services</li> <li>• Online information on salary, income tax, pension, loans and other employee benefits</li> </ul>  |
| <b>Land Acquisition Information Management</b> | <ul style="list-style-type: none"> <li>• Information on land acquisition</li> <li>• Tracking of Notifications</li> <li>• Tracking of Award</li> </ul>   |
| <b>Geographical Information System</b>         | <ul style="list-style-type: none"> <li>• Geo-spatial data of all projects and assets</li> <li>• Visual depiction on map</li> <li>• Users can click on an asset and drill down to the drawing, the contract document etc.</li> </ul>   |
| <b>Document Workflow Management</b>            | <ul style="list-style-type: none"> <li>• Work-flow definition</li> <li>• Knowledge Management</li> <li>• Documents and drawings uploading</li> <li>• Role-based access to information</li> <li>• Search and indexing facility</li> </ul>  |
| <b>DFCCIL Portal</b>                           | <ul style="list-style-type: none"> <li>• Gateway to the core enterprise applications</li> <li>• General Information about the organization, corporate notices etc</li> <li>• Login based access management</li> <li>• Management Dashboards</li> </ul>  |

### 1.1.2 Relevant Legal Codes and Regulations

- Companies Act, 1956
- Income Tax Act, 1961
- Accounting Standards issued by ICAI
- Railways Act, 1989
- Railways (Amendment) Act 2008
- NRRP (National Resettlement & Rehabilitation Policy), 2007
- Indian Electricity Act, 1910
- Central Electricity Regulatory Commission Act
- IFRS Guidelines
- Guidelines issued by MoR, DoPT, MoF from time to time

## 1.2 Functional Performance Requirements of the System

- 1.2.1 The Business Applications to be implemented as part of this engagement must meet the Functional Performance as per the table mentioned below. Please refer Attachment 18: Functional Requirement Specifications (FRS).

**Table 6: Application Performance Requirement**

| # | Application                             | Response Time | Control Condition (Number of Concurrent Users) |
|---|---|---------------|--|
| 1 | Portal                                  | < 3 Seconds   | 70   |
| 2 | Project Management System               | < 4 Seconds   | 40   |
| 3 | Financial Management System             | < 4 Seconds   | 10   |
| 4 | Human Resource Management System        | < 4 Seconds   | 10   |
| 5 | Enterprise Asset Management             | < 4 Seconds   | 10   |
| 6 | Land Acquisition Information System     | < 4 Seconds   | 15   |
| 7 | Workflow and Document Management System | < 4 Seconds   | 20   |
| 8 | Geographical Information System         | < 7 Seconds   | 10   |

### 1.3 Related Information Technology Issues and Initiatives

The current state of IT readiness and usage is described in this section.

#### 1.3.1 Computing Hardware

At present all the Users have Desktops/ Laptops assigned to them to execute their office related work. Users at HQ have centralized Power Backup facility. Users at CPM offices have PCs with individual UPS. Most Users have access to printer facility.

There are 3 servers of DELL make; each for individual application.

**Table 7: Existing Server Configuration**

| # | Make & Model | RAM   | Storage        |
|---|--------------|-------|----------------|
| 1 | DELL PE 2950 | 8 GB  | 3 X 300 GB HDD |
| 2 | DELL PE 210  | 8 GB  | 2 X 146 GB HDD |
| 3 | DELL PE 710  | 12 GB | 3 X 300 GB HDD |

#### 1.3.2 Connectivity

LAN is available at the DFCC HQ across both the floors. LAN is available at CPM offices as well; however typically to cater to the current requirement at CPM offices.

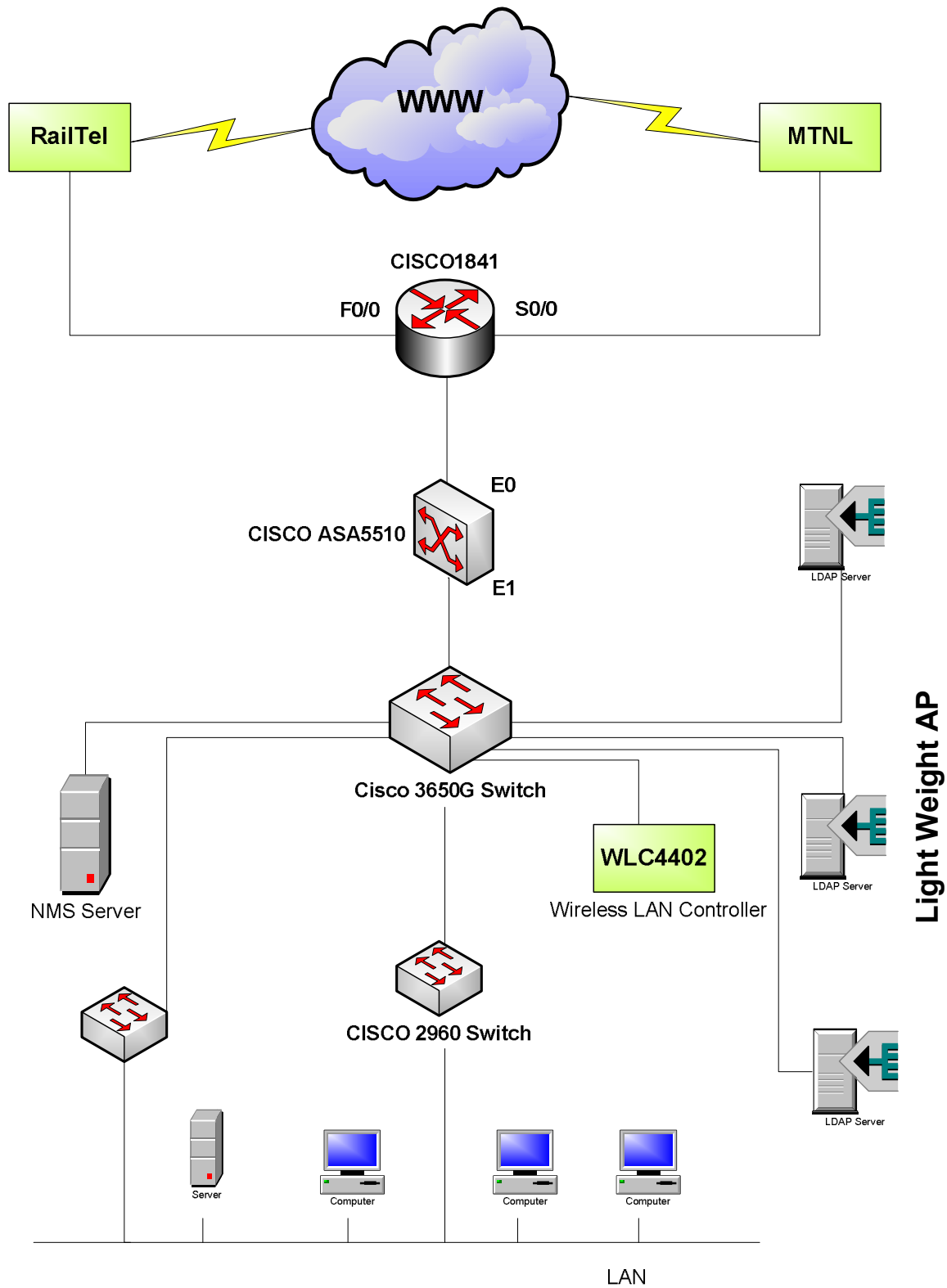
As far as Internet connectivity is concerned, there are redundant links at HQ. Each of the CPMs is managing broadband Internet for data Connectivity purposes.

**Table 8 : Existing Internet Connectivity**

| # | Office      | Type of Connectivity | Mode                       | Capacity  |
|---|-------------|----------------------|----------------------------|-----------|
| 1 | HQ          | Internet             | Redundant (RailTel & MTNL) | 2 Mbps    |
| 2 | CPM offices | Internet             | Single                     | Broadband |

The current redundant Internet connectivity is planned to be upgraded to 4 Mbps shortly.

The Network Architecture at HQ has been depicted in the following diagram.



### 1.3.3 Applications

The Desktops/Laptops are running Microsoft Windows Operating System. Microsoft Office is used for Word Processing, Spreadsheet and Presentation purposes. Apart from these Desktop based applications, DFCC has following Application Software for different needs.

**Table 9 : Existing Application Software**

| # | Application | Intended Usage                           |
|---|-------------|--|
| 1 | Primavera   | Project Management                       |
| 2 | Tally       | Accounting                               |
| 3 | Voice Mail  | Communication                            |
| 4 | Aconex      | Project Management & Document Management |

Apart from the above licenses DFCCIL has recently procured Microsoft Project and Microsoft Visio licenses.

#### **Aconex**

The General Consultant (GC) for the Western Corridor, NK Consortium (NK-JARTS-PBJ-NKI), has leased in Aconex, which is project collaboration and online project management system that securely and efficiently manages information in Construction, Government & Infrastructure, and Energy & Resources. This enables the employees working on a construction project to view, track and share documents such as drawings, building plans, workflows and correspondence, at any time and from any location.

### 1.3.4 Email

DFCCIL has Enterprise wide email facility. DFCCIL is utilizing 3rd party hosting facility for its email needs. Microsoft Office Outlook is used as email client.

### 1.3.5 Security

Basic network security measures are in place at DFCCIL. Firewall (CISCO ASA5510) is installed. However no Intrusion Detection System/Intrusion Prevention (IDS/IP) is available. Password Policy is not defined.

IT Security Policy has not been defined.

### 1.3.6 Business Continuity



Data Backup Policy is not in place. Data is primarily resident on the Desktops/Laptops of the Users with little or no backup. Data is highly susceptible to loss because of individual system failure.

Lack of redundancy at Network Termination Equipment (NTE) level makes the entire Data Connectivity Setup highly susceptible to device failure.

There is no provision for Disaster Recovery (DR).

### **1.3.7 Hosting**

DFCCIL has hosted its servers and switches in Server Room at HQ. The Racks in the Server Room are fed with redundant power supply and has sufficient cooling facility for its current usage. The redundant Internet links from RailTel and MTNL terminate at the CISCO router within the Server Room. The Server Room can accommodate 4-5 more racks.

## C. TECHNICAL SPECIFICATIONS

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### 2.0 General Technical Requirements

- 2.0.1 Language Support: All information technologies must provide support for the English Language. Specifically, all display technologies and software must support the ISO/IEC 10646 character set.
- 2.0.2 Dates: All information technologies MUST properly display, calculate, and transmit date data, including, but not restricted to 21st-Century date data.
- 2.0.3 Electrical Power: All active (powered) equipment must operate on 220V +/- 20V, 50Hz +/- 2Hz. All active equipment must include power plugs standard in India.
- 2.0.4 Environmental: Unless otherwise specified, all equipment must operate in environments of 10-40 degrees centigrade, 20-80 percent relative humidity, and 0-40 grams per cubic meter of dust.
- 2.0.5 Safety:
  - 2.0.5.1 Unless otherwise specified, all equipment must operate at noise levels no greater than 55 decibels.
  - 2.0.5.2 All electronic equipment that emits electromagnetic energy must be certified as meeting emission standard, US FCC class B or EN 55022 and EN 50082-1, or equivalent, emission standards.

### 2.1 Computing Hardware Specifications

- 2.1.1 Please refer Attachment 10: Indicative Specification: Computing Hardware
- 2.1.2 UPS and Rack Specification: Please refer Attachment 11: Indicative Specifications: UPS & Rack

### 2.2 Network and Communications Specifications

- 2.2.1 Local Area Network(S):
  - 2.2.1.1 Equipment and software: Please refer Attachment 12: Indicative Specifications: LAN Equipment & Cabling
  - 2.2.1.2 Cabling: Please refer Attachment 12: Indicative Specifications: LAN Equipment & Cabling
- 2.2.2 Wide-Area Network:
  - 2.2.2.1 Equipment and software: Please refer Attachment 13: Indicative Specifications: WAN Equipment

2.2.2.2 Telecommunications Services: DFCCIL currently has 14 CPM offices. Supplier MUST link all the CPM offices, DFCCIL HQ and Hosting site through a MPLS VPN based Wide Area Network (WAN). The capacity of individual links MUST be 2 Mbps. DFCCIL currently has redundant Internet links at HQ, one each from RailTel & MTNL. DFCCIL envisages terminating the existing Internet connections onto the MPLS network and centrally managing the Internet data traffic to all offices. Supplier MUST configure existing Internet connections to terminate onto the deployed MPLS network.

Please refer Attachment 4: Envisaged Network Architecture

## 2.3 Software Specifications

### 2.3.1 System Software and System-Management Utilities:

Supplier MUST supply and install following system software utilities as per the architecture agreed with DFCCIL.

- Directory server
- Backup software
- Enterprise Management System
- Network Management System
- Antivirus Tool for monitoring server

Please refer Attachment 15: System software specifications

2.3.2 General-Purpose Software: Please refer Attachment 16: Mail messaging solution specifications.

2.3.3 Database Software and Development Tools: Please refer Attachment 17: Database Server specifications

2.3.4 Business Application Software: In order to meet DFCCIL's business requirement Supplier need to implement following Business Applications as per the Section "2.5 Service Specifications"

- Project Management System
- Financial Management System
- Enterprise Asset Management
- Human Resource Management System
- Land Acquisition Information System

- Workflow and Document Management System
- Geographical Information System
- Portal

Please refer Attachment 18: Functional Requirement Specifications (FRS)

## 2.4 System Management, Administration, and Security Specifications

- 2.4.0 **General Requirements:** In addition to the management, administration, and security requirements specified in each sections covering the various hardware and software components of the System, the System must also provide for the following management, administration, and security features at the overall system level.
- 2.4.1 **Technical management and troubleshooting:** Supplier MUST manage the solution and troubleshoot any problem in the intended operation of the solution and arising because of defect or shortcoming
- 2.4.2 **User and usage administration:** Supplier MUST manage the User and Usage rights and privileges of the Users of the Solution
- 2.4.3 **Security:** Supplier MUST develop, document and implement security policies and procedure which will ensure at all times the security of the IT system deployed by the Supplier. Supplier MUST design and implement the Solution in compliance to the defined Information Security, which should be ISO 27001 ready.

Design of Information Security Policy should necessarily include but not limited to the following policies to ensure IT security in DFCCIL:

- IT Risk Management Policy
- Information Classification Policy
- Access Control Policy
- User ID and Password Management Policy
- Internet Access Policy
- Asset Management Policy
- Physical and environmental security Policy
- Incident Management Policy
- E-mail Security Policy

## 2.5 Service Specifications

- 2.5.1 **System Integration:** Supplier shall Design, Develop, Customize, Deliver, Install, Configure and provide necessary support for software, hardware and

network that will cater to the requirements of integrated application system as intended by DFCCIL. Supplier shall train and equip all intended end users and beneficiaries of the system with all necessary skills required to operate in the new work environment due to the system implemented. Supplier shall provide the support for continuing operations and maintenance of the system during the Managed Services phase. The Supplier is expected to perform and deliver the following services during the system implementation phase. Please note that the services mentioned below are the minimum services that the Supplier needs to provide. The Supplier however is not expected to limit its services to the below mentioned scope only and may require to perform activities which are deemed appropriate by DFCCIL in order to meet the expectations & goals of the Project.

### 2.5.1.1 Requirement Gathering & Analysis

- 1) The Supplier MUST clearly understand the requirements of the stakeholders through extensive requirement gathering.

It is required that the requirement gathering would be done at two levels namely,

- a) Business requirement gathering
- b) Software requirement gathering

**Business Requirement Gathering:** The Supplier MUST capture in detail, the Business Processes of the functions at DFCCIL. As mentioned in Section 0.1.2 of Chapter VI: Technical Requirements, the IT Consultant have done an As – Is study and prepared a High Level Solution. The reports submitted by the IT Consultant would be made available to the successful Bidder.

The Supplier should build on the work done by the IT Consultant and perform Business blueprinting through exploding the processes and finalizing formats, nomenclatures and templates. Supplier should include available industry best-practices. The business blueprint MUST be validated by the Purchaser.

**Software Requirement Gathering:** Once the documented Business requirements are signed-off, Supplier must proceed with requirement gathering from Software System perspective.

Please note that even though the functional requirement specifications (FRS) as mentioned in this Bid Document cover a significant part of the functional requirements, they are not exhaustive, it is therefore expected that the Supplier may need to

add some additional functions to the FRS so as to arrive at an appropriate design of the solution. The Business Processes captured by the Supplier, FRS and formats captured shall be the basis of software systems to be implemented.

Requirement gathering **MUST** be done through standard Tools/Templates/ Questionnaires and Structured Interaction with officials both at DFCCIL HQ and CPM offices. Supplier should use industry templates and blueprinting based methods to speed up the requirement gathering process. Class Room Pilot (CRP) and/ or Prototyping sessions **MUST** be conducted for structured requirement gathering for all the Applications/ Modules comprising the solution. The Supplier Team must comprise of experts in specific domains like Construction Program Management, Financial Management, Human Resource, Land Acquisition and Resettlement & Rehabilitation.

- 2) The Supplier **MUST** develop a Change Management Plan and Training Plan based on a gap analysis of the skill set of the intended users.

#### **2.5.1.2 Solution Architecture & Design**

Supplier **MUST** prepare Architecture of the Solution demonstrating Availability, Scalability, Security, Interoperability, Maintainability, Performance, Cost of Ownership, Extendibility and Reliability. Supplier should plan and ensure well in advance about the likely increase in data volume (please refer below mentioned considerations) and therefore should keep provisions in the hardware and software. Supplier **MUST** obtain sign-off on the Architecture from DFCCIL.

Supplier **MUST** Design the solution based on the signed-off Architecture. Supplier should keep following points in mind before designing the solution.

Supplier should design the Website for DFCCIL and maintain the same during the Warranty Period. The website should support the requirements of:

- RTI (Right to Information) [Mandatory provisions of Right To Information Act 2005]
- Complaint Management & Grievance Handling
- Statutory Disclosure Requirements required for CPSE (Central Public Sector Enterprises)
- Guidelines for Indian Government Websites issued by Department of Information Technology, Government of India.

**Specific Design Considerations:**

- (a) DFCCIL shares documents with external parties; sanctity of which is of prime importance. These include documents like Tender WO, Tender PO, Design Document, Measurement book, Tax Return and Company Accounts. Approximately 30 employees in DFCCIL are expected to authorize the mentioned documents through use of Digital Signatures. Supplier should ensure that the envisaged system has proper workflow and functionality to allow authorized users to digitally sign the documents. Refer Attachment 6: Usage of Digital Signature
- (b) DFCCIL can provide space for 4-5 racks within its existing server room. Existing server room is equipped with raised flooring, Cooling facility and availability of power. Supplier should prepare the Hosting Site and deploy the Servers, Storage, and Peripherals etc. Existing racks may require rearrangement for making additional space. Suppliers should visit existing server room with prior approval of DFCCIL for preparation of Bid.
- (c) DFCCIL intends to use its inventory of Microsoft Outlook client licenses. Supplier need not budget for or supply the email client licenses.
- (d) Supplier must design and implement the infrastructure so as to meet the DFCCIL's current requirement as well as its requirement over the next Five (5) years. Please refer Annexure 6: Application wise User breakup.
- (e) DFCCIL currently has 14 CPM offices. Typical CPM office requires 20-node Local Area Network (LAN).
- (f) Sub – CPM offices, reporting to CPM offices may be setup at a later stage. Post construction, Maintenance Depots will be set up at approximately 100 km. and stocked with spares as well as manpower for ensuring rapid deployment in failures.
- (g) Supplier should ensure that every data element is uniquely identifiable across proposed application for a) seamless flow of data across applications; b) same data element is not represented in multiple ways across applications.
- (h) DFCCIL doesn't propose to create a Disaster Recovery (DR) facility. However, to ensure Business Continuity, Vendor shall supply relevant software and Hardware for setting up backup facility within the hosting facility. The backup would be regularly taken and kept at a location different from hosting

facility. Vendor shall supply vault for safekeeping of backup tape.

**General Design Considerations:**

- (a) Solution should have Web based graphical user interface (GUI) for all business functionality which would comply with major web browsers like Internet Explorer, Netscape, Mozilla, etc.
- (b) Solution should be designed and developed using component based solution on Service Oriented Architecture (SOA) principles
- (c) The solution must be able to maintain the history for each transaction that the user performs during his/her session.
- (d) Solution should have Unicode standards based interface
- (e) Solution should provide Authentication of users at presentation level by deploying employing robust authentication methods
- (f) Solution should provide Single Sign-On facility to ensure seamless access/ navigation experience to the system users
- (g) Solution should be scalable (both horizontally and vertically) to meet future needs
- (h) Solution should support uploading of data from pre-formatted templates to the system – offline mode.
- (i) The solution should ensure a seamless flow of common data across various applications.

**2.5.1.3 Solution Development/ Packaged Software Customization**

The Supplier shall develop the Solution based on the signed-off Solution Design. The Supplier preferably should use packaged solution and customize the same in compliance to the Solution Design.

**2.5.1.4 Procurement & Supply**

- (a) The details of the complete hardware as deemed necessary MUST be provided in the Bill of Material (BOM) as part of Bid. The hardware provided MUST at least meet the specifications defined in the Bid. Any deviation from the proposed BOM would require explicit approval from the Purchaser.
- (b) The Supplier will procure and supply items proposed in the Bill of Material (BOM) as per the requirements of the project.



- (c) Supplier MUST procure and supply licenses for the number of users as specified in Attachment 5: Application wise User breakup. However, Supplier should only include the number of licenses satisfying the user requirement of initial two years as part of Financial Bid. Supplier MUST mention Unit Rates of the Licenses at which it is willing to supply licenses at a Future Date to DFCCIL during the performance of the Contract years as per the approved Project plan.
- (d) Supplier shall provide CDs/ Related Documents/ License Certificates for all the software (wherever applicable) to DFCCIL. Licenses shall be in the name of DFCCIL. Licenses shall be procured (wherever applicable) on a perpetual user-ship rights basis.
- (e) Supplier should plan to procure only developer licenses prior to the pre-commissioning testing phase. User Licenses should be procured at the time of Pre-commissioning Testing.

#### **2.5.1.5 Solution Implementation**

With respect to Solution Implementation, the Supplier will need to perform the following (but not limited to) activities:

- (a) Supplier MUST setup the production environment. Supplier MUST deploy the solution which has cleared the Pre-commissioning Test stage
- (b) Supplier MUST undertake Application Training as defined in the Bid Document and agreed in the Training Plan
- (c) Supplier MUST provide Documentation (Technical and User Manual)
- (d) Supplier MUST undertake necessary data migration for the proper functioning of the solution
- (e) Supplier MUST install the supplied licenses and configure the same to achieve the intended purpose
- (f) Supplier MUST prepare the hosting site and deploy the Servers, Storage, and Peripherals etc.
- (g) Supplier MUST install the supplied hardware in the configuration agreed with DFCCIL
- (h) Supplier MUST install the required OS and System Software
- (i) Supplier MUST install and configure the backup solution so as to ensure backup at predefined intervals
- (j) Supplier MUST setup mail messaging server for DFCCIL use. Supplier MUST configure mail boxes for users at DFCCIL.

Each mailbox should have size of 200MB and permit attachments upto 20MB to be sent out.

- (k) Supplier MUST configure clients for the mail system. Supplier MUST transfer the existing mails of the DFCCIL users to the new mail system
- (l) Supplier MUST setup LAN at each of the CPM offices. Supplier needs to bear the cost of any equipment, consumable and software for the said service. Supplier MUST migrate existing IT assets of DFCCIL office locations to the new domain.
- (m) Supplier MUST provide necessary equipments like RF Antenna, Router, power backup etc. for the WAN to operate as per intended usage. Supplier need to provide necessary power backup for the router and other networking equipment provided by Supplier.
- (n) Supplier MUST perform site preparation like earthing, installation of rack etc. necessary for intended usage of WAN
- (o) Supplier should procure and implement Digital Signatures for the identified roles.
- (p) Supplier MUST create logical and physical Security Plans for Application, Server Room, Data Networks and Desktops as per IT security policies.
- (q) Supplier MUST implement the Security Policy
- (r) Supplier MUST deploy the Business Continuity Policy
- (s) GIS: Supplier has to develop a user interface including data entry templates, formats and reports that will be used for defining and populating GIS databases and layer(s) for:
  - for proposed alignment
  - for development progress monitoring
  - for assets
    - signals
    - Road over bridge
    - Road Under Bridge
    - Foot Over Bridge
    - Stations
    - Level crossings
    - Maintenance depots
    - Yards

- Turnouts
- Elevation of embankments
- Supplier will need to integrate GIS with applications like Project Management System, Enterprise Asset Management System and Document Management System.
- (t) Supplier should ensure proper transition to handing over the system maintenance and operation to an in-house Support Team prior to disengagement with DFCCIL. Supplier should prepare and get approval on the handover plan. Supplier should ensure that key managers, technical staff, and support staff understands their responsibility and ownership of the system. Supplier should deliver project documentation to Support Team

#### **2.5.1.6 Testing & User Acceptance**

- The Supplier **MUST** build and obtain sign-off from DFCCIL on an overall plan for testing and acceptance of system. However, DFCCIL's approval of the Test Plan cannot be the excuse for non delivery of functionality. The Supplier will be responsible for the delivery of the functionality and associated testing. DFCCIL will further help to identify the gaps in a proactive manner. The Acceptance Test Plan will include all the necessary steps to ensure complete **FUNCTIONALITY, INTEGRATION, OPERATION, SECURITY AND PERFORMANCE** of the system, either individually (i.e. specific module-wise/component-wise) or collectively as a whole, whichever would be appropriate to such an exercise. The Acceptance Test plan must describe the following:
  - Testing methodology for each component of the solution
  - Indicate how the Supplier would demonstrate to Purchaser that all the components of the new system have been tested
  - Define the various levels or types of testing that will be performed
  - Provide necessary checklist/documentation that will be required for testing.
- The Supplier should design and submit adequate number of Test Cases for each item of the scope.
- Before commencement of the pre-commissioning test, Supplier **MUST** perform Automated Tool based testing on the solution at its own cost. Supplier should ensure that the supplied solution is free

from any bug and error. The Test reports MUST be shared with the client.

- Supplier should prepare a Traceability Report against the FRS and SRS/ Gap Fit Document
- It is Supplier's responsibility during the tests to evaluate and recommend any further changes to the infrastructure & application, at no extra cost to Purchaser. Any recommendations for change will be discussed with Purchaser.
- Supplier should also provision for repeatable sets of test cases to cover implementation of patches or minor enhancements to reduce effort.

#### **2.5.1.7 Audit Support**

Purchaser reserves the right to conduct System Audit and Security Audit of the entire system. Purchaser may procure the services of a Third Party agency to conduct the audits. Supplier shall facilitate and co-ordinate with the appointed Third Party agency.

In case of any changes suggested by Third Party Auditors, the Supplier shall implement the changes in consultation with the Purchaser without any additional cost to the Purchaser

#### **2.5.2 Training and Training Materials:**

**2.5.2.1 User:** The Supplier will provide training to users, as nominated by the departments of DFCCIL, for operation of various services and software applications incorporated in the system.

It may be brought to the attention of the supplier that the serving manpower at DFCCIL is moderately IT literate with fair knowledge of common office software (like MS office, Adobe, Primavera, AutoCAD, STADPro etc.) and common Internet services like emails etc. Hence the Supplier may not plan for any basic level of training for the users. The Supplier MUST conduct training for the end users which would comprise of the following:

1. Process Training
2. Application Training

The program is expected to impart the required skill set and capacity for performance of defined roles and responsibilities in the new work environment.

It may be recommended to conduct these trainings in batches classifying them in to different groups. Please refer Attachment 5: Application wise User breakup to plan for the training sessions.

### **Process & Application Training**

This program would be designed and developed by the Supplier to help end users understand how effective use of IT will reduce their work and improve quality of decision making. The training should propose to deliver a detailed understanding of revised processes and procedures for the various business functionalities as covered under the project.

The process training should detail out the steps of the process along with the roles and responsibilities to the concerned end users and acquaint them with the revised processes.

The application training should be proposed to acquaint and train the work force with specific modules of the software applications thus giving the end users the skill to conduct their work through the new applications.

**2.5.2.2 Technical:** The Supplier MUST conduct separate technical training program to train the core technical staff of the IT department of DFCCIL. The Supplier shall provide training about technical operations and configurations of various equipments incorporated in the integrated IT Solution. The training should cover system design, installation, configuration, set-up, upgrade, administration, testing, management, and maintenance of equipment (hardware, software, network, security and DBMS).

**2.5.2.3 Management:** The Supplier MUST provide training to managers and senior administrative personnel, as nominated by departments, specifically on monitoring and reporting features provided by the System. The training should cover features such as various dashboards and reports related to usage, capacity planning and decision support systems.

**2.5.2.4 OEM Training Program:** Supplier MUST arrange for OEM training for approximately 20 people. OEM training will necessarily include but not limited to:

- Functional & Technical training for core team as proposed by the Departments

- Conducting training in line with official OEM course curriculum mapped with the product to be implemented in the organization.
- Conducting training at the training facilities of departments or at training facility of OEM/Supplier and should be in line with the products procured
- Defining training program and all the other modalities of the training in consultation with the DFCCIL
- Conducting training in 5 batches and for 2 weeks per batch (maximum 4 participants per batch from each department ) by Instructors of Software Solution Provider i.e. OEM

**2.5.2.5 Computer Based Training (CBT):** The Supplier shall develop and deploy a computer based training which should be available online to all DFCCIL employees at all times. It is left to the Supplier to propose the design and functionality of the Computer Based Training (CBT) module. However, the CBT is expected to be rich in content, interactive and a user driven training utility.

**2.5.2.6 Change Management:** The Supplier MUST develop a change management strategy while keeping in mind the implications of the revised systems on working within DFCCIL after the implementation of the new IT system. DFCCIL will take all necessary steps to facilitate the organization wide role out of the strategy once approved. It is expected that the Change Management Plan proposed by the Supplier clearly defines the following:

- Communication plan that will help in managing perceptions of all the stakeholders and creating awareness about the dimensions of change
- Operational plan that will help in developing change management team and implementing the overall change management strategy in a phased approach
- Risk mitigation plan that will help in identifying and developing risk contingency plans

### **Change Management Workshop**

The objective of the Change Management Workshop would be to generate awareness about the project and acquaint the staff at DFCCIL with the new changes that would take place as a part of IT implementation strategy. Its aim would be to address the attendees

with a formal introduction to the project and address their fears, if any that they might have of the new system. The emphasis of the Orientation-cum-Workshop would lie on getting the user acceptance for the project from the end users of the system and making them comfortable with the change with the implementation of IT project.

All the users irrespective of the levels and the departments will have to be provided orientation training to apprise them of the changed environment and the usage of IT based functioning. Supplier would be required to conduct maximum of 10 such Workshops during the performance of the Contract. More Workshops should be planned in the beginning of the Project and should be followed up with assessment workshops towards the end of the engagement.

### **2.5.3 Technical Support:**

**2.5.3.1 Warranty Service:** The Supplier shall warrant that the Systems and overall Solution shall have no defect arising from the design or workmanship, or through any act of omission or commission. This Warranty shall inter alia cover fine tuning, optimizing or changing the Application to serve its intent during the actual use of the Application. The Warranty shall remain valid for a period of 36 months from the Operational Acceptance date (for the entire solution).

**2.5.3.2 Managed Services:** Supplier MUST provide Managed Services till the end of Warranty Service. Supplier MUST setup Help Desk to cater to end-user complaints of all employees of DFCCIL. Supplier MUST put in place a complaint logging system for the help desk. Reports from the complaint logging system will be used for monitoring SLAs related to Help Desk.

- Supplier MUST maintain the LAN setup by it at various field offices as well as at the corporate office
- Supplier MUST manage the User and their Usage rights and privileges of the users
- Supplier MUST interact with OEM for any support / management related issues
- Supplier MUST manage the developed website
- Supplier MUST install patches as released by the OEM
- Supplier MUST ensure that backup is regularly taken and tapes are transferred to vault for safekeeping
- Supplier MUST manage and maintain the Wide Area Network along all the nodes

- Supplier **MUST** generate required reporting for SLA computation. Supplier **MUST** submit regular performance level reports through automated tools

Please refer Attachment 3: Service Performance Levels.

**2.5.3.3 Technical Assistance:** Supplier **MUST** provide Technical Assistance till the end of Warranty Service.

- Supplier **MUST** provide Technical Assistance in terms of application performance, client configuration, and database management
- Supplier shall provide Technical Assistance for the licensed software for the entire duration of engagement
- Supplier **MUST** provide Technical Assistance for the supplied hardware; computing, network and peripheral

Please refer Attachment 3: Service Performance Levels

**2.5.3.4 Post-warranty maintenance services:** Nil

**2.5.4 Data Conversion and Migration:** Supplier **MUST** undertake necessary data migration for the proper functioning of the solution.

**Table 10 : Data to be migrated**

| # | Data                             | Data Source                 | Target System                       | Volume                                 |
|---|----------------------------------|-----------------------------|-------------------------------------|--|
| 1 | Financial Data                   | Tally Software              | Financial Management System         | 3 Years                                |
| 2 | Data related to Land Acquisition | Microsoft Excel based files | Land Acquisition Information System | 2,50,000 Project Affected People (PAP) |
| 3 | Employee Data                    | Microsoft Excel based files | Human Resource Management System    | 250 Employees, 4 years                 |

## 2.6 Documentation Requirements

### 2.6.1 END-User documents:



- Supplier must provide the complete set of user guides for operation of software solution products in English. The content for these guides must be generated depending on the application roles. This documentation must cover business processes and instruction on how to work with the GUI.
- The Supplier must provide user manuals which should be in the form of step by step guide along with the various screen shots.
- The Supplier must also provide manual covering DOs and DON'Ts, known issues and workarounds as required for operating and maintaining the end-user systems.
- Supplier must establish, as part of Help Desk, a set of FAQs and help assistant that is available online for DFCCIL employees as well as external stakeholders.
- These manuals must be available to end-users as PDF files as well in the form of online help as web pages. The help should be in the form of screenshots

### **2.6.2 Technical Documents:**

- The Supplier must provide the specifications, installation, configuration and troubleshooting guides for various equipments installed.
- Supplier shall provide maintenance manuals related to service and repair of a technical product as well as its safe disposal.
- Supplier must prepare all implementation documents such the requirements document, functional design/setup document, technical design document for customizations, technical documentation for programs, screens, interfaces, files formats used and reports generated, data migration strategy document, user acceptance testing documents

## **2.7 Consumables and Other Recurrent Cost Items**

The Supplier MUST provision the following Recurrent Cost Items from the day of achieving Operational Acceptance of the Entire System till the end of Warranty Period:

- Hardware Maintenance
- Software Maintenance:
  - System and General-Purpose Software
  - Application, Standard, and Custom Software
- Managed Services

For Limited Circulation Only

- MPLS Bandwidth
- Digital Signatures

## 2.8 Other Non-IT Goods

Not Applicable

# D. TESTING AND QUALITY ASSURANCE REQUIREMENTS

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## 3.1 Inspections

**3.1.1 Factory Inspections:** Not Applicable

**3.1.2 Inspections following delivery:** The inspection of the goods shall be carried out to check whether the goods are in conformity with the technical specifications attached to the purchase- order form and shall be in line with the inspection/test procedures laid down in the technical specifications and the General Conditions of contract. The supplier will dispatch the goods to the ultimate consignee after internal inspection testing along with the supplier's inspection report, manufacturer's warranty certificate.

Purchaser will conduct a thorough physical inspection of all the products delivered to ensure that they arrive at the sites in good condition and are free from physical damage including but not limited to crushed or broken equipments, missing seals, opened packages and incomplete shipments. Purchaser reserves the right to return the products to the Supplier at the Supplier's expense. Physical inspection of hardware will also include physical checking, unpacking and counting of the delivered equipment by Purchaser staff in presence of the Supplier. This equipment will only be acceptable when each received item corresponds with the checklist that will be prepared by the Supplier prior to shipment. Any shortfalls in terms of number of items received may render the delivered equipments incomplete.

The purchaser will test the equipment after completion of the installation and commissioning at the site of the installation. For site preparation, the supplier should furnish all details to the purchaser sufficiently in advance so as to get the works completed before receipt of the equipment. Complete hardware and software should be supplied, installed and commissioned properly by the supplier prior to commencement of performance tests.

### 3.2 Pre-commissioning Tests

3.2.0 In addition to the Supplier's standard check-out and set-up tests, the Supplier (with the assistance of the Purchaser) must perform the tests on the System and its Subsystems before Installation will be deemed to have occurred and the Purchaser will issue the Installation Certificate(s) (pursuant to GCC Clause 26 and related SCC clauses). Please refer Section VI: Technical Requirement → C: Technical Specifications → 2.5.1.6 Testing & User Acceptance

**3.2.1 The Entire System:** Supplier MUST define and obtain approval from the Purchaser in accordance with the defined Performance levels for entire system in accordance with the procedure mentioned in this bid document. Please refer Section VI: Technical Requirement → C: Technical Specifications → 2.5.1.6 Testing & User Acceptance

### 3.3 Operational Acceptance Tests

3.3.0 Pursuant to GCC Clause 27 and related SCC clauses, the Purchaser (with the assistance of the Supplier) will perform the tests on the System and its Subsystems following Installation to determine whether the System and the Subsystems meet all the requirements mandated for Operational Acceptance.

3.3.1 The Operational Acceptance test will be conducted by the purchaser/their consultant or any other person nominated by the purchaser, at its option. The acceptance will involve trouble-free operation for not less than 90 calendar days. There shall not be any additional charges for carrying out acceptance tests. No malfunction, partial or complete failure of any part of hardware or excessive heating of motors attached to printers, drivers etc. or bugs in the software should occur. All the software should be complete and no missing modules/sections will be allowed. The supplier shall maintain necessary log in respect of the results of the tests to establish to the entire satisfaction of the purchaser, the successful completion of the test specified. The Supplier has to adhere to Service Performance Levels as described in Attachment 3: Service Performance Levels

## **E. IMPLEMENTATION SCHEDULE**

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## 4.1 Implementation Schedule Table

System, Subsystem, or lot number: entire System Procurement

### 4.1.1 Preferred Approach for Engagement:

- a) DFCCIL prefers to implement a package based solution.
- b) The solution is expected to be implemented within 15 months from the effective date of signing the contract.
- c) The Supplier is supposed to provide Warranty support for 3 years post operational acceptance of the solution.
- d) Requirement gathering & Pre-commissioning Testing would happen in a staggered manner; however, the Operational Acceptance would happen at a single go for the complete system.
- e) Hardware, Software and Licenses would be procured in a manner to maximize the usable life of the Asset and Warranty Support.
- f) Licenses would be procured in accordance with the actual need of the organization. Supplier would agree to supply the licenses at the quoted Unit Rates at a Future Date to DFCCIL during the performance of the Contract.

### 4.1.2 Tentative Implementation Timelines:

| Sl. No. | KD  | Milestone  | Expected Time of Completion in Months from T (Effective Date of Contract) |
|---------|---|--|---|
| 1       | Submission of Project Plan, Project Kick-off and Project Office Setup | Project Plan   | T + 0.5   |
| 2       | I – Requirement Gathering   | Requirement Sign-off by DFCCIL   | T + 6   |
| 3       | II – Solution Design  | Design documents signoff by DFCCIL   | T + 8   |
| 4       | III – Network Readiness   | Network readiness (LAN & WAN)  | T + 8   |
| 5       | IV – Data Center Readiness  | DC readiness assessment and sign-off by DFCCIL   | T + 8   |
| 6       | V – Pre Commissioning Testing   | Pre-commissioning Test, Pilot Run of the solution at DFCC HQ and 3 CPM and signoff by DFCCIL | T + 9   |
| 7       | VI – User Training  | User Training  | T + 12  |
| 8       | VII – Operational Acceptance  | Operational Acceptance   | T + 15  |

## **4.2 System Inventory Table (Supply and Installation Cost Items)**

**Please refer Attachment 9: Minimum BoQ**

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### **4.3 System Inventory Table (Recurrent Cost Items)**

System, Subsystem, or lot number: Entire System Procurement

**Please refer Attachment 9: Minimum BoQ**

### 4.4 Site Table(s)

**Please refer Attachment 7: CPM Office Locations**





## **F. REQUIRED FORMAT OF TECHNICAL BIDS**

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### **5.1 Description of Information Technologies, Materials, Other Goods, and Services**

5.1.0 The Bidder must provide detailed descriptions of the essential technical, performance, or other relevant characteristics of all key Information Technologies, Materials, other Goods, and Services offered in the bid (e.g., version, release, and model numbers). Without providing sufficient clear detail, Bidders run the risk of their bids being declared non-responsive.

5.1.1 To assist in the bid evaluation, the detailed descriptions should be organized and cross referenced in the same manner as the Bidder's item-by-item commentary on the Technical Requirements described in Section 5.2 below. All information provided by cross reference must, at a minimum, include clear titles and page numbers.

### **5.2 Item-by-Item Commentary on the Technical Requirements**

5.2.0 The Bidder must provide an item-by-item commentary on the Purchaser's Technical Requirements, demonstrating the substantial responsiveness of the overall design of the System and the individual Information Technologies, Goods, and Services offered to those Requirements, see ITB Clause 16.2 (b) (ITB Clause 14.2 (b) in the two-stage SBD).

5.2.1 In demonstrating the responsiveness of its bid, the Bidder is strongly urged to use the Technical Responsiveness Checklist provided in Section G of the Technical Requirements. Failure to do so increases significantly the risk that the Bidder's Technical Bid will be declared technically non-responsive. Among other things, the checklist should contain explicit cross references to the relevant pages in the Bidder's Technical Bid.

5.2.2 The Bid MUST be organized in a manner so as to distinctly map/relate the sections of the Bid with the Evaluation Parameters defined in Attachment 2: Technical/Quality evaluation parameters.

### **5.3 Preliminary Project Plan**

5.3.0 The Bidder must prepare a Preliminary Project Plan describing, among other things, the methods and human and material resources that the Bidder proposes to employ in the design, management, coordination, and execution of all its responsibilities, if awarded the Contract, as well as the estimated duration and completion date for each major activity. The Preliminary Project Plan must include a Resource Allocation Table linking the activities under each Key Deliverable with the resources deployed for successful completion.

The Preliminary Project Plan must also address the topics and points of emphasis specified in SCC Clause 19.

The Preliminary Project Plan should also state the Bidder's assessment of the major responsibilities of the Purchaser and any other involved third parties in System supply and installation, as well as the Bidder's proposed means for coordinating activities by each of the involved parties to avoid delays or interference.

#### **5.4 Confirmation of Responsibility for Integration and Interoperability of Information Technologies**

- 5.4.0 The Bidder must submit a written confirmation that, if awarded the Contract, it shall accept responsibility for successful integration and interoperability of all the proposed Information Technologies included in the System, as further specified in the Bidding Document.

## G. TECHNICAL RESPONSIVENESS CHECKLIST

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### Technical Responsiveness Checklist

Note to Bidders: The following Checklist is provided to help the Bidder organize and consistently present its Technical Bid. For each of the following Technical Requirements, the Bidder must describe how its Technical Bid responds to each Requirement. In addition, the Bidder must provide cross references to the relevant supporting information, if any, included in the bid. The cross reference should identify the relevant document(s), page number(s), and paragraph(s). The Technical Responsiveness Checklist does not supersede the rest of the Technical Requirements (or any other part of the Bidding Documents). If a requirement is not mentioned in the Checklist that does not relieve the Bidder from the responsibility of including supporting evidence of compliance with that other requirement in its Technical Bid. One- or two-word responses (e.g. “Yes,” “No,” “Will comply,” etc.) are normally not sufficient to confirm technical responsiveness with Technical Requirements.

|   |   |  |
|---|---|--|
| Tech. Require. No. 1  | Technical Requirement:<br><i>[ insert: abbreviated description of Requirement ]</i> | <i>[ specify: Mandatory or Preferred ]</i> |
| Bidder’s technical reasons supporting compliance:                     |   |  |
| Bidder’s cross references to supporting information in Technical Bid: |   |  |

|   |   |  |
|---|---|--|
| Tech. Require. No. 2  | Technical Requirement:<br><i>[ insert: abbreviated description of Requirement ]</i> | <i>[ specify: Mandatory or Preferred ]</i> |
| Bidder’s technical reasons supporting compliance:                     |   |  |
| Bidder’s cross references to supporting information in Technical Bid: |   |  |

## H. ATTACHMENTS

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**Please refer the document “Bid Document Attachments” distributed along with this document**

Attachment 1: Project Governance Structure

Attachment 2: Technical/Quality evaluation parameters

Attachment 3: Service Performance Levels

Attachment 4: Envisaged Network Architecture

Attachment 5: Application wise User breakup

Attachment 6: Usage of Digital Signature

Attachment 7: CPM Office Locations

Attachment 8: Minimum Envisaged Hardware Components

Attachment 9: Minimum Bill of Quantity

Attachment 10: Indicative Specification: Computing Hardware

Attachment 11: Indicative Specifications: UPS & Rack

Attachment 12: Indicative Specifications: LAN Equipment & Cabling

Attachment 13: Indicative Specifications: WAN Equipment

Attachment 14: Minimum Envisaged Software Components

Attachment 15: System Software Specifications

Attachment 16: Mail messaging solution specifications

Attachment 17: Database Server Specification

Attachment 18: **Functional Requirement Specifications (FRS)**

## **SECTION VII. SAMPLE FORMS**

**Please refer the document “DFCCIL Bid Document Forms”  
distributed along with this document**

## Notes to Bidders on working with the Sample Forms

The Purchaser has prepared the forms in this section of the Bidding Documents to suit the specific requirements of the System being procured. They are derived from the forms contained in the World Bank's Standard Bidding Documents for the Supply and Installation of Information Systems. In its bid, the Bidder must use these forms (or forms that present in the same sequence substantially the same information). Bidders should not introduce changes without the Purchaser's prior written consent (which may also require the clearance of the World Bank). If the Bidder has a question regarding the meaning or appropriateness of the contents or format of the forms and/or the instructions contained in them, these questions should be brought to the Purchaser's attention as soon as possible during the bid clarification process, either at the pre-bid meeting or by addressing them to the Purchaser in writing pursuant to ITB Clause 10.

The Purchaser has tried to provide explanatory text and instructions to help the Bidder prepare the forms accurately and completely. The instructions that appear directly on the forms themselves are indicated by use of typographical aides such as italicized text within square brackets as is shown in the following example taken from the Bid Submission Form:

Duly authorized to sign this bid for and on behalf of [ *insert: name of Bidder* ]

In preparing its bid, the Bidder must ensure all such information is provided and that the typographical aides are removed.

The sample forms provide a standard set of documents that support the procurement process as it moves forward from the stage of bidding, through Contract formation and onto Contract performance. The first set of forms must be completed and submitted as part of the bid prior to the deadline for bid submission. These include: (i) the Bid Submission Form; (ii) the Price Schedules; (iii) the Manufacturer's Authorizations and key Subcontractor agreements; (iv) the List of Proposed Subcontractors; (v) the form(s) for securing the bid (if and as required); and other forms as found in sub-sections 1 through 4 of this Section VII of the Bidding Documents.

- **Bid Submission Form:** In addition to being the place where official confirmation of the bid price, the currency breakdown, the completion date(s), and other important Contract details are expressed, the Bid Submission Form is also used by the Bidder to confirm - in case adjudication applies in this Contract - its acceptance of the Purchaser's proposed Adjudicator, or to propose an alternative. If the bid is being submitted on behalf of a Joint Venture, it is essential that the Bid Submission Form be signed by the partner in charge and that it be supported by the authorizations and power of attorney required pursuant to ITB Clause 6.2. Given widespread concern about illegal use of licensed software, Bidders will be asked to certify in the Bid Submission Form that either the Software included in the bid was developed and is owned by the Bidder, or, if not, the Software is covered by valid licenses with the proprietor of the Software.
- **Price Schedules:** The prices quoted in the Price Schedules should constitute full and fair compensation for supply, installation, and achieving Operational Acceptance of the System as described in the Technical Requirements based on the Implementation Schedule, and the terms and conditions of the proposed Contract as set forth in the Bidding Documents. Prices should be given for each line item provided in the Schedules, with costs carefully aggregated first at the Subsystem level and then for the entire System. If the Price Schedules provide only a summary breakdown of items and

components, or do not cover some items unique to the Bidder's specific technical solution, the Bidder may extend the Schedules to capture those items or components. If supporting price and cost tables are needed for a full understanding of the bid, they should be included.

Arithmetical errors should be avoided. If they occur, the Purchaser will correct them according to ITB Clause 26.2 (ITB Clause 38.2 in the two-stage SBD) without consulting the Bidder. Major omissions, inconsistencies, or lack of substantiating detail can lead to rejection of a bid for commercial non-responsiveness. Presenting prices according to the breakdown prescribed in the Price Schedules is also essential for another reason. If a bid does not separate prices in the prescribed way, and, as a result, the Purchaser cannot apply the domestic preference provision described in ITB Clause 29 (ITB Clause 41 in the two-stage SBD), if they are applicable in this bidding, the Bidder will lose the benefit of the preference. Once bids are opened, none of these problems can be rectified. At that stage, Bidders are not permitted to change their bid prices to overcome errors or omissions.

- **Manufacturer's Authorizations and written agreements by key Subcontractors:** In accordance with ITB Clauses 6.1 (b) and (c), a Bidder may be required to submit, as part of its bid, Manufacturer's Authorizations in the format provided in the Bidding Documents, and agreements by Subcontractors proposed for key services, for all items specified in the Bid Data Sheet. There is no particular format (or sample form) for Subcontractor agreements.
- **List of Proposed Subcontractors:** In accordance with ITB Clause 6.3, a Bidder must submit, as part of its bid, a list of proposed subcontracts for major items of Technologies, Goods, and/or Services. The list should also include the names and places of registration of the Subcontractors proposed for each item and a summary of their qualifications.
- **List of Software and Materials:** In accordance with ITB Clause 13.1 (e) (vi) (ITB Clauses 13.1 (c) (vi) and 25.1 (e) (vi) in the two-stage SBD), Bidders must submit, as part of their bids, lists of all the Software included in the bid assigned to one of the following categories: (A) System, General-Purpose, or Application Software; or (B) Standard or Custom Software. Bidders must also submit a list of all Custom Materials. If provided for in the Bid Data Sheet, the Purchaser may reserve the right to reassign certain key Software to a different category.
- **Qualification information forms:** In accordance with ITB Clause 6, the Purchaser will determine whether the Bidder is qualified to undertake the Contract. This entails financial, technical as well as performance history criteria which are specified in the BDS for ITB Clause 6. The Bidder must provide the necessary information for the Purchaser to make this assessment through the forms in this sub-section. The forms contain additional detailed instructions which the Bidder must follow.
- **Securing the bid:** If the BDS for ITB Clause 17 (ITB Clause 29 in the two-stage SBD) requires that bids be secured, the Bidder shall do so in accordance with the type and details specified in the same ITB/BDS Clause, either using the form(s) included in these Sample Forms or using another form acceptable to the Purchaser. If a Bidder wishes to use an alternative form, it should ensure that the revised format provides substantially the

same protection as the standard format; failing that, the Bidder runs the risk of rejection for commercial non-responsiveness.

Bidders need not provide the Performance Security and Advance Payment Security with their bids. Only the Bidder selected for award by the Purchaser will be required to provide these securities.

The following forms are to be completed and submitted by the successful Bidder following notification of award: (i) Contract Agreement, with all Appendices; (ii) Performance Security; and (iii) Advance Payment Security.

- **Contract Agreement:** In addition to specifying the parties and the Contract Price, the Contract Agreement is where the: (i) Supplier Representative; (ii) if applicable, agreed Adjudicator and his/her compensation; and (iii) the List of Approved Subcontractors are specified. In addition, modifications to the successful Bidder's Bid Price Schedules are attached to the Agreement. These contain corrections and adjustments to the Supplier's bid prices to correct errors, adjust the Contract Price to reflect – if applicable - any extensions to bid validity beyond the last day of original bid validity plus 56 days, etc.
- **Performance Security:** Pursuant to GCC Clause 13.3, the successful Bidder is required to provide the Performance Security in the form contained in this section of these Bidding Documents and in the amount specified in accordance with the SCC.
- **Advance Payment Security:** Pursuant to GCC Clause 13.2, the successful Bidder is required to provide a bank guarantee for the full amount of the Advance Payment - if an Advance Payment is specified in the SCC for GCC 12.1 - in the form contained in this section of these Bidding Documents or another form acceptable to the Purchaser. If a Bidder wishes to propose a different Advance Payment Security form, it should submit a copy to the Purchaser promptly for review and confirmation of acceptability before the bid submission deadline.

The Purchaser and Supplier will use the following additional forms during Contract implementation to formalize or certify important Contract events: (i) the Installation and Operational Acceptance Certificates; and (ii) the various Change Order forms. These and the procedures for their use during performance of the Contract are included in the Bidding Documents for the information of Bidders.