

EOI Document for

Management and Maintenance of The Smart Meter System (Systems, Software, And Hardware) And Its Communications Network for The Main Site and Exchange For The Customer Services Sector – Part-1, Part-2, Part-3 & Part-4.

EOI No: TCILKWT/2024-25/015

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<https://www.tcil.net.in/>

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SECTION-1

EXPRESSION OF INTEREST (EOI)

EOIs are invited from all eligible bidders for Pre-Tender Tie-up with TCIL for as Consortium partner/Vendor “*Management and Maintenance of The Smart Meter System (Systems, Software, And Hardware) And Its Communications Network for The Main Site and Exchange for The Customer Services Sector – Part-1, Part-2, Part-3 & Part-4*” against client’s MEW Kuwait Tender No. 44/2023-2024 for “*Management and Maintenance of The Smart Meter System (Systems, Software, And Hardware) And Its Communications Network for The Main Site and Exchange for The Customer Services Sector*”

Telecommunications Consultants India Ltd. (TCIL) is a Govt. of India Enterprise, under Department of Telecommunications, Ministry of Communications. It was set up in 1978 to share Indian experience and expertise with developing countries and to assist bulk users of telecom services in setting up dedicated telecom networks.

TCIL has been undertaking various projects in all fields of telecommunications and information technology and also continuously deploying new technologies in the field of Telecom Software, Switching and Transmission Systems, Cellular Services, Rural Telecommunications, Optical Fiber based Backbone Transmission Systems etc. TCIL has diversified its operation and has been executing projects in the field of Civil Infrastructure, Architecture and Power, Rural Roads and Civil Construction. TCIL has been executing projects in the latest technologies like FTTH, VOIP, IPTV etc.

TCIL operates in Kuwait under the name of local agent namely **M/s Ahmed Yousuf Behbehani General Trading & Contracting Company WLL (AYB)** as per requirement of local regulations. TCIL Kuwait shall be participating in this consortium in the name of AYB which is a private registered company. However, all the interaction/ coordination will be done by TCIL Kuwait with respect to the EOI and the client tender.

TCIL intends to participate in this “*Management and Maintenance of The Smart Meter System (Systems, Software, And Hardware) And Its Communications Network for The Main Site and Exchange for The Customer Services Sector – Part-1, Part-2, Part-3 & Part-4*” as Main Bidder as Kuwaiti contractor for developing the Network Infrastructure. This EOI is floated for selection of as Consortium partner/Vendor ready to work in the above project for TCIL.

This EOI is divisible. Bidder/Consortium can bid Either Part-1, Part-2, Part-3 & Part-4 or all parts of clause “C. Scope of work Page-14” of the client RFP subject to meeting cumulative eligibility of the parts being participated:

- **Part-1: Hardware Infrastructure specifications**
- **Part-2 Network & Connectivity & Security Specifications (Excluding Dark Fiber Supply installation and testing)**
- **Part-3: System components (Server’s infrastructure, Network and Security Infrastructure, software and database) Managed Services**
- **Part-4: Software and Systems Support.**

However, each part of the EOI is not further divisible.

Prospective bidders need to submit their bids with the most competitive Techno-commercial offer for the aforesaid work. EOI document is available on TCIL website (<https://www.tcil.net.in/nit.php>) & GePNIC portal (<https://www.etenders.gov.in>). The important dates are as given below:

1.1 IMPORTANT DATES

Date of Posting of EOI:	[08/01/2025]
Start Date of downloading/viewing EOI:	[08/01/2025]
Last date & time for submitting Tender Fee:	[15/01/2025],[13:00]
Last date & time for seeking clarification, if any:	[14/01/2025],[14:00]
Start date & time for Online submission of Bids:	[09/01/2025],[08:00]

Last date & time for Online submission of Bids:	[22/01/2025],[13:00]
Online Opening of Technical Bid (Part-I):	[22/01/2025],[16:00]
All times are Arabic Standard (Kuwait) time i.e. GMT+3 hrs..	

Bids shall be submitted in hard copy at TCIL Kuwait office or with password protected email at mmtech.tcilkwait@gmail.com and kuwait.tsp@tcil.net.in. Passwords may be shared after bid submission date, Bidders are advised to visit GePNIC portal (<https://www.etenders.gov.in>) and/or TCIL website regularly for updates/amendments, if any.

1.2 ELIGIBILITY CRITERIA

BIDDER HAS TO MEET THE ELIGIBILITY CRITERIA AS SPECIFIED IN THE CLIENT'S TENDER, AND ITS AMENDMENTS (WHICH FORMS PART OF THIS EOI), BUT NOT LIMITED TO THE FOLLOWING

- a) The bidder should be an Registered Company / Proprietorship / Partnership Firm / Government Societies. Copy of Certificate of Incorporation/ Registration/ Partnership Deed or any other relevant document, as applicable, should be submitted along with a copy of address proof.
- b) The bidder shall fulfill the following financial criteria:
 - i. Average Annual Financial Turnover during the last 3 financial years, ending 31st March of the previous financial year should be at least
 - a. **Part-1: KWD 900,000** or equivalent excluding GST/Taxes).
 - b. **Part-2: KWD 600,000** or equivalent (excluding GST/Taxes).
 - c. **Part-3: KWD 300,000** or equivalent (excluding GST/Taxes)
 - d. **Part-4: KWD 600,000** or equivalent (excluding GST/Taxes)
 - ii. Net worth should be positive as on 31st March of last Financial Year.
 - iii. The bidder should have Profit Before Tax (PBT) in two out of the last three financial years.

Experience of having successfully completed similar works/supplies during the last 7 years from the date of bid submission should be either of the following:

c) Experience Criteria for IT/ Telecom project:

For Part-1 of tender:

Two similar works each costing not less than **KWD 900,000** or equivalent (excluding taxes), in last 7 years.

OR

One similar work costing not less than **KWD 1,500,000** or equivalent (excluding taxes), in last 7 years.

Similar work implies: Supply installation and commissioning of IT hardware e.g. Server, virtualization, Storage, mail & backup solution etc.

- a. Bidder Should have Gold or Higher Partnership for Network Infrastructure Vendors
- b. Bidder Should have Gold or Higher Partnership for IT Infrastructure Vendors

- c. Bidder should have MSSP or above Partnership with Key Security Vendors
- d. **Authorized Service Center**-The bidder must have a professional and standard central workshop located at the bidder Company (premises) in Kuwait and equipped by all instruments required for maintenance operation up to component level; the bidder will arrange a site visit for MEWRE-CSS staff to the workshop during the evaluation period.
- e. The bidder must have a professional and standard comprehensive contact management center located at the bidder premises and equipped with all sophisticated and state of art equipment to enable receiving and management of MEWRE service requests calls.

For Part-2 of tender:

Two similar works each costing not less than **KWD 600,000** or equivalent (excluding taxes), in last 7 years.

OR

One similar work costing not less than **KWD 1,000,000** or equivalent (excluding taxes) in last 7 years.

Similar work implies: Supply installation and commissioning of OFC Links, Wireless microwave links, 5G links, internet links, SDWAN and Network & Security solutions.

Bidder shall also comply to the following pre/qualification, non-compliance to any of them shall lead to the disqualification of the bidder.

A. CAIT Certification:

The Service Provider Should Be Certified In (CAIT) To Work in the Government Sector in Kuwait. The Following Specialist Areas:

- Data and Internet Service Provider.
- Network Communications Systems.
- Network Security System.

Bidder should submit valid Not Expired CAIT Certificate in the Offer.

B. CITRA Certification:

The Service Provider should Be Certified in (CITRA) As an Internet Service Provider across fiber Optic.

C. The proposed solution provider must be a licensed Service Provider from CITRA and a Copy of a valid license must be submitted along with the proposal.

D. The proposed wireless solution must be from a licensed main wireless Service Provider from CITRA and copy of valid license must be submitted along with the Proposal.

E. Service Provider must provide cellular coverage map of Kuwait covered;

F. Bidder should have Gold or Higher Partnership for Network Infrastructure Vendor;

G. Bidder should have MSSP or above Partnership with Key Security and SD-WAN. Vendors.

H. The bidder must have the below ISO certification and submit with the tender Document provide of it.

- ISO/IEC 27001:2013 - Information Security Management System
- ISO/IEC 20000-1:2018 – IT Services Management System
- ISO 22301:2019 – Business Continuity Management

I. The bidder should demonstrate at least one (1) site of comparable or larger projects where he is performing similar SD-WAN services for an enterprise entity by proposed Vendor.

J. The bidder should have the latest Technologies as part of their Platform which must include MPLS Technology which will ensure the Future forecast of higher Bandwidth Links for Internet/Data Services for MEW Sites.

K. The bidder must be an official distributor of internet service The Bidder should be known in Kuwait market in the field of Internet & WAN Services for 10 years (at least) and registered with central agency for information technology as Service Provider.

L The proposed solution must be sourced from a reputable vendor holding a leading position on Gartner platform.

For Part-3 of tender:

Two similar works each costing not less than **KWD 300,000** or equivalent (excluding taxes) in last 7 years.

OR

One similar work costing not less than **KWD 500,000** or equivalent (excluding taxes) in last 7 years.

Similar work implies: Managed Services for servers system software like operating systems, data base, SAP ECC, S4/HANA, Network operation and support, NOC/SOC. Also following experience is required.

- a. At least 10 years' experience as an SAP system integration partner
- b. At least 5 years' experience in SAP S/4 HANA implementations.
- c. Proven expertise in implementing SAP ISU in minimum 2 power utilities globally.
- d. SAP industry standard certifications (no. of associates certified)

For Part-4 of tender:

Two similar works each costing not less than **KWD 600,000** or equivalent (excluding taxes), in last 7 years.

OR

One similar work costing not less than **KWD 1,000,000** or equivalent (excluding taxes), in last 7 years.

Similar work implies: Expertise in Implementing & Managing E2E AMI systems. Consulting partner: Global leader in delivering AMI for power and utilities clients and SAP implementation as detailed below.

- a. Utility solutions in the sustainability space
- b. At least 10 years' experience as an SAP system integration partner
- c. At least 5 years' experience in SAP S/4 HANA implementations.
- d. Power Utilities customer projects as a management contractor in at least two (2) contracts
- e. Similar scope within the last five (5) years that have been successfully and substantially
- f. Completed and that are similar to the proposed Information System globally.
- g. Proven expertise in implementing SAP ISU in minimum 2 power utilities globally.
- h. SAP industry standard certifications (no. of associates certified)

Note: "Project Completion period is **Completion Period of Client Project** i.e., the period from date of issue of LOI to completion of Supply, Installation, Testing, Commissioning and Acceptance Testing of the system."

One Similar Work means a Single Work/Purchase Order of value as given in this clause above.

The bidder should submit supporting documents i.e., work order and completion certificate from client.

- d) The bidder should have a valid company Registration. In case registration is not available, the bidder shall give undertaking that it will get registered before start of work if work is awarded to them.
- e) Manufacturers Authorization Certificate (MAF)

The bidder should submit Manufacturers Authorization Certificate (MAF) from Original Equipment Manufacturers (OEMs) specific to the bid for items mentioned in this EOI. In case of unavailability of MAF at the time of EOI response, bidder should submit an undertaking stating that the same shall be submitted before opening of financial bid.
- f) The bidder should not be insolvent, in receivership, bankrupt or being wound up, not have had their business activities suspended and not be the subject of legal proceedings for any of the foregoing. An undertaking by the bidder should be submitted.
- g) The Bidder should not be blacklisted/debarred/banned/restricted by MEW or any Government authority of State of Kuwait. as on date of submission of the Bid. "No-Conviction Certificate" duly signed by authorized signatory signing the bid, should be submitted in the prescribed format.
- h) The bidder needs to submit un-priced BOQ along with their technical bid.
- i) The bidder needs to submit an undertaking stating that: Vendors, whose Purchase Order(s) for any Project of TCIL was/were cancelled on risk & cost basis for non-performance or non-submission of performance guarantee in last 2 years, are not eligible to participate in this tender.
- j) Local laws of Kuwait shall apply as applicable.
- k) The bidder should have a local office where work is to be executed. Else, he should give an undertaking that he will open a local office after award of work.

l) LABOUR LAWS (wherever applicable):

The Bidder should comply with all applicable Local Labor laws as applicable.

- m) Bid by Consortium is allowed (if applicable). Consortium must comply the following requirements:
 - i. The consortium agreement must be submitted clearly identifying the "Lead Partner". This authorization shall be evidenced by submitting with the bid a Authorization letter/Board Resolution signed by legally authorized signatories of all the partners. Application in consortium is permitted subject to a maximum of three (03) agencies. For Turnover Financial Eligibility Criteria, the turnover of each partner shall be added for the propose of eligibility criteria. However, the turnover of lead bidder shall not be less than 25% of average turnover requirement of bid and must fulfil net-worth requirement criteria.

In case of consortium, the experience criteria of similar work to be full filled by lead bidder against eligibility criteria 1.2.d is as follow:

- a) One work if total requirement is for One work (Value/ years as per Clause 1.2.c)
- b) At least One work if total requirement is for Two work (Value/ years as per Clause 1.2.c)

In case Lead Partner nominated by the consortium does not meet the experience criteria and Net Worth Criteria, submitted bid shall not be considered. Each consortium partner shall be

jointly and severally responsible for completing the task as per the contract. TCIL, in any case, will deal with the lead partner, who shall be responsible for execution of work and shall be entitled to receive payments as per payment terms.

- ii. The bid may be signed by all members of the consortium. Alternatively, the leader may sign the bid. In such a case, the Authorization Letter/ Board Resolution from each member authorizing the leader for signing and submission of bid on behalf of individual member must accompany the bid offer.
- iii. The formation of consortium or change in the consortium character/partners after submission of the bid and any change in the bidding regarding consortium will not be permitted.
- iv. The bid submission must include documentary evidence to the relationship between consortium partners in the form of Consortium Agreement to legally bind all partners jointly and severally for the proposed agreement, which should set out the principles for the constitution, operation, responsibilities regarding work and financial arrangements, participation (percentage share in the total) and liabilities (jointly and severally) in respect of each and all of the firms in the consortium. Such consortium agreement must evidence the commitment of the parties to bid for the facilities applied for (if pre-qualified) and to execute the contract for the facilities if their bid is successful.
- v. The consortium agreement must provide that the lead partner shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the consortium and the entire execution of the contract shall be done with active participation of the lead partner.
- vi. The contract agreement should be signed by each consortium partners so as to legally bind all partners jointly and severally and bid shall be submitted with a copy of the consortium agreement providing the joint and several liabilities with respect to the contract. Subsequent declarations/letters/documents shall be signed by lead partner authorized to sign on behalf of the consortium or authorized signatory on behalf of consortium.
- vii. The consortium agreement must specifically state that it is valid for the project for which bidding is done. If consortium breaks up midway before award of work and during bid validity period, bid will be rejected. If consortium breaks up midway before award of work and during bid validity/after award of work/during pendency of contract, in addition to normal penalties as per provision of tender document, all the partners of the consortium shall be debarred from participating in future bids for a minimum period of twelve (12) months or maximum 36 months as per decision of TCIL.
- viii. Consortium agreement shall be registered in accordance with law so as to be legally valid and binding on the members before making any payment.
- ix. In case of separate entity by way of JV etc., then eligibility of the entity only shall be considered.

- 1.3** The bidder should give an undertaking on the company's letter head that all the documents/certificates/information submitted by them against this EOI are genuine.

In case any of the documents/certificates/information submitted by the bidder is found to be false or forged, TCIL shall immediately reject the bid of such bidder(s) or cancel/terminate the contract and forfeit bid security / Performance Security submitted by the bidder and debar them from participation in future EOIs/tenders of TCIL for a period up to 2 years.

- 1.4** A statement showing Clause-by-Clause compliance to all Terms & Conditions of all the Sections of this EOI as well as client's tender (which forms part of this EOI), duly Signed and stamped on the Letter Head of their Organization. The bidder shall submit No-Deviation Certificate along with above.

Bidder shall submit technical data sheet by highlighting each complied specification. Wherever technical specifications and operational/functional requirements are not mentioned in the datasheet, OEM compliance shall be submitted.

1.5 BID SECURITY (EARNEST MONEY DEPOSIT)

For Part-1 of tender:

EMD amount shall be **KWD 35,000**.

For Part-2 of tender:

EMD amount shall be **KWD 25,000**.

For Part-3 of tender:

EMD amount shall be **KWD 15,000**

or Part-4 of tender:

EMD amount shall be **KWD 25,000**

EMD amount can be submitted in the form of **Bankers Cheque/Certified Cheque** drawn in favour of "Telecommunications Consultants India Limited" payable at Kuwait along with the bid, OR in the form of a **Bank Guarantee (BG)**.

The validity period of Bid Security / EMD (in any form) should be 120 days.

Details of Bank Account is as below:

Name of Beneficiary and its Details	Name	Telecommunications Consultants India Limited
	Address	First Floor, Block No-1, Street No-145 Building-342 Mahaboula, Kuwait
Name of Beneficiary Bank and its Details	Name	National Bank Of Kuwait S.A.K.P
	Account No	1000108110
	IBAN No.	KW69NBOK0000000000001000108110
	Address	Kuwait City, Kuwait
	Swift Code	NBOKKWKW

EMD can also be paid in above mentioned Bank Account.

Note: Bids received without Bid Security (EMD) may be summarily rejected.

1.6 TENDER FEES

Tender Fee can be paid through the following prescribed electronic mode of payment (Tender fee need to be paid as per the payment method defined for EMD.)

For Part-1 of tender:

Tender Fee shall be **KWD 1000**.

For Part-2 of tender:

Tender Fee shall be **KWD 1,000**.

For Part-3 of tender:

Tender Fee shall be **KWD 500**.

or Part-4 of tender:

Tender Fee shall be **KWD 1,000**.

Notes for EMD and Tender Fees

- a) Bid security/tender fees has to be submitted as BG/DD/Electronically, it should reach o/o Tender Accepting Authority i.e. TCIL Kuwait office within the last date & time stipulated for bid submission in the tender.
- b) The EMD/Bid Security of unsuccessful bidder shall be returned as promptly as possible as but not later than 30 days after expiry of the bid validity period.
- c) The EMD/Bid Security may be forfeited if:
 - (i) If the Bidder withdraws his bid during the period of bid validity specified by the Bidder on the Bid form or
 - (ii) fails or refuses to execute the Contract, if required; or
 - (iii) The successful bidder fails to submit performance security within the prescribed time. or
- d) The proceeds of EMD shall be payable to TCIL in case of breach of any of the terms and conditions of the contract/PO/tender by the vendor.

1.7 EVALUATION

- a) TCIL shall evaluate bids in respect to substantive responsiveness of the bid or otherwise. TCIL shall carry out detailed evaluation of the substantially responsive bids only.
- b) A bid determined as substantially non-responsive technically/financially shall be rejected, even after opening the price bid.
- c) TCIL may waive any minor infirmity or non-conformity or irregularity in the bid which does not constitute a material deviation.
- d) Among all technically qualified bids, the bid with lowest NPV will be termed as L1 (excluding taxes) derived from Price Bid Schedule. The Purchase Preference needs to be given as per Purchase Preference defined in this EOI.
- e) If there is a discrepancy between the unit price and total price that is obtained multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected.
- f) NPV BASED EVALUATION CRITERIA:
 - 1) Applicable for works/tenders where scope of work includes CAPEX and OPEX (O&M/AMC) or only OPEX, where OPEX activity is spread over a period of two or more years.
 - 2) Bids shall be evaluated on the basis of the lowest NPV (Net Present Value) without taxes.
 - 3) Total cost shall be CAPEX+NPV of O&M/ AMC.

- 4) The discounting rate of 10% per annum shall be used for calculating NPV.

1.8 VALIDITY PERIOD OF BID

Bid shall remain valid for **120 days** after the date of bid opening. The bid valid for a shorter period shall be rejected as non-responsive.

In exceptional circumstances, TCIL may request the bidder for an extension to the period of bid validity if same is extended by end client and accordingly, the bid security shall also be suitably extended by the bidder.

1.9 IP PROGRAMME

As a part of implementation of Integrity Pact Programme (IPP) in TCIL, all tenders with the estimate value equal to or exceeding the threshold value will be covered under the Integrity Pact Programme (IPP) and the vendors are required to sign the IP document and submit the same to TCIL before or along with the bids. Latest IP document is available at TCIL website (www.tcil.net.in) Link-https://www.tcil.net.in/integrity_pact.php. Even in case of tenders with the estimated value less than the threshold value, the vendors would be required to sign the IP document if the total value of the Purchase Orders (POs) exceeds the threshold value in respect of:

- Multiple/repeat POs on the single vendors against a tender.
- POs placed on multiple vendors against a tender.

Only those vendors who have signed the IP document can send their grievances, if any, to the Independent External Monitors (IEMs) through the nodal officer, i.e., Chief Vigilance Officer (CVO). TCIL in the prescribed proforma.

NAME OF IEMs WITH THEIR CONTACT DETAILS:

- 1) Shri Anil Kumar Shrivastava, Independent External Monitor Email ID: anilifs86@gmail.com
- 2) Shri Harishwar Dayal, Independent External Monitor E mail ID: dayalagra@gmail.com

NAME and CONTACT DETAILS OF NODAL OFFICER (IP) IN TCIL:

Shri Pramod Kumar Choudhary, Chief Vigilance Officer E-mail ID: cvotcil@tcil.net.in

If the Order, with total value equal to or more than the threshold value, is split to more than one vendor and even if the value of PO placed on any/each vendor(s) is less than the threshold value, IP document having been signed by the vendors at bid stage itself, the Pact shall continue to be applicable.

In respect of tenders for Pre-bid tie up/Expression of Interest (EOI): In case of TCIL getting the Order from the client, before placement of Purchase Order/Work Order on technically & commercially qualified vendor, the selected vendor is required to sign the IP document.

IP document shall be in plain white sheet and to be signed by the vendor and TCIL with two witnesses from each party. The name, designation, company etc. of the persons signing the IP document and the project/tender name shall be clearly mentioned. All pages of the IP document shall be initialed by both parties along with company seal.

Tender received without a signed & stamped copy of the Integrity Pact document will be liable to be rejected, and the bidder himself will be responsible for that.

1.10 INTEGRITY PACT

- a) This EOI is covered under the Integrity Pact Programme of TCIL and bidders are required to sign the Integrity Pact Document and submit same to TCIL before or along with the bids.
- b) The integrity Pact Agreement duly signed and stamped by Authorized Signatory & Witnesses has to

be submitted in physical form at the time of bid submission. In case of consortium bid, the lead partner shall sign as authorized signatory and the consortium partner as witness.

- c) EOI received without a signed copy of the Integrity Pact document will be liable to be rejected.
- d) In case of Joint Venture, all partners of the joint venture should sign the Integrity Pact. In case of sub-contracting, the Principal Contractor shall take the responsibility of the adoption of IP by the sub-contractor. It is to be ensured that all sub-contractors also sign the IP.
- e) Mediation Clause

In the event of any dispute between management and the contractor relating to those contracts where integrity pact is applicable, in case, both the parties are agreeable, the dispute may be settled through mediation before the panel of IEMs in a time bound manner. If required, the organizations may adopt any mediation rules for this purpose.

In case the dispute remains unresolved even after mediation by panel of IEMs, the organization may take further action as per terms and conditions of the contract.

1.11 SIGNING OF NON-DISCLOSURE AGREEMENT (NDA)

Bidders interested to participate in EOI, where client requires signing of NDA, then bidder also have to sign a NON-DISCLOSURE AGREEMENT with TCIL. In case the bid is to be submitted by a consortium, NDA should be signed by each partner of the consortium. Participation without compliance to the above shall be invalid and such bids will not be considered by TCIL.

1.12 AUTHORIZATION LETTER / BOARD RESOLUTION

The bidders need to submit board resolution along with authorization Letter in Online mode authorizing the signatory to act on behalf of the bidder. The Authorized person should be either authorized by Board or a employee authorized by one of the following person who has the Board Resolution to delegate authorization to other:

1. Managing director
2. The Chief Executive Officer
3. The Manager
4. The Company Secretary
5. The Whole-time director
6. The Chief Financial Officer

1.13 MOU / AGREEMENT

The selected bidder will have to sign a MoU with TCIL (as per format enclosed) before TCIL submits bid to the end client.

The template of Pre-bid MoU documents [(1) with consortium, and (2) without consortium] are enclosed. Necessary changes/modifications as applicable should be made prior to floating in EOI/signing the MoU. The relevant MoU format may be made a part of EOI document, so that it can be signed on selection of vendor at pre-bid stage.

1.14 SUBMISSION OF FORGED DOCUMENTS

Bidders should note that TCIL may verify authenticity of all the documents/certificate/information submitted by them against the EOI. In case at any stage of this process, if it is established that bidder has submitted forged documents/certificates/information towards fulfillment of any of the EOI/contract conditions, TCIL shall immediately reject the bid of such bidder(s) or cancel/terminate the contract and forfeit bid security / Performance Security submitted by the bidder and debar them from participation in future tenders of TCIL for a period up to 2 years.

1.15 CLARIFICATION FROM BIDDERS

The queries may be asked from bidders for submitting shortfall to be submitted within specified date and time. Also, every document submitted against following queries should be signed by the person authorized as per Authorization letter / Board Resolution submitted by bidder against tender, without which the documents will not be accepted as valid.

1.16 The bidder must ensure that their bid is complete in all respects and conforms to EOI terms and conditions, EOI specifications etc. including client specifications, failing which the bids are liable to be rejected without seeking any clarifications on any exception/deviation taken by the bidder in their bid.

1.17 TCIL reserves the right to accept or reject any or all the EOIs without assigning any reason.

1.18 CONTACT INFORMATION

Project Division:	Manish Rathor, AGM (Misc) Kuwait
	Telephone: +965-6902995
	Email:- manish.rathor@tcil.net.in
MM Division:	Mr. Margbandhu
	Telephone:+965-55883906
	Email:mmtech.tcilkwait@gmail.com

END OF SECTION-1

SECTION-2**GENERAL TERMS & CONDITIONS OF THE CONTRACT****2.1 FINANCING OF TRADE RECEIVABLES OF MSE'S THROUGH TRADE RECEIVABLES DISCOUNTING SYSTEM (TREDS) PLATFORM**

- a) Based on the initiatives of government of India to help MSME vendors get immediate access to liquid fund based on TCIL's credit rating by discounting MSE's trade receivables through an auction mechanism where multiple financiers can participate and bid, TCIL registered itself on TReDS platform with M/s RXIL.
- b) Micro and Small Enterprise (MSE) bidders / vendors can avail this benefit by registering themselves with M/s RXIL providing e-discounting/electronic factoring services on its TReDS platform and following the procedures defined therein.
- c) All costs relating to availing the facility of discounting on TReDS platform including but not limited to Registration charges, Transaction charges for financing, Discounting Charges, Interest on financing, or any other charges known by any name shall be borne by MSE Bidders / Vendor.
- d) MSE Bidders / Vendor hereby agrees to indemnify, hold harmless and keep TCIL and its affiliates, Directors, officers, representatives, agents and employees indemnified, from any and all damages, losses, claims and liabilities (including legal costs) which may arise from Sellers submission, posting or display, participation, in any manner, on the RXIL's TReDS Platform or from the use of Services or from the TCIL's breach of any of the terms and conditions of the Usage Terms or of this Agreement and any Applicable Law on a full indemnity basis.
- e) TCIL shall not be liable for any special, indirect, punitive, incidental or consequential damages or any damages whatsoever (including but not limited to damages for loss of profits or savings, business interruption, loss of information), whether in contract, tort, equity or otherwise or any other damages resulting from using facilities on RXIL's TReDS platform.

2.2 PRICE PREFERENCE TO MICRO AND SMALL ENTERPRISES

(Price Preference to MSEs shall be extended as per GOI guidelines applicable from time to time).

- a) If items mentioned in EOI are **non-splittable / non-dividable** and L1 is non-MSE bidder:
 - i) If a MSE vendor / bidder is within L1+15% price range, the complete purchase / work order shall be given to MSE bidder subject to their matching the L1 price.
 - ii) If MSE vendor / bidder is not within L1+15% price range, then complete purchase / work order shall be given to L1 bidder.
- b) If items mentioned in EOI are **splittable / dividable** and MSE is neither L1 nor within L1+15%, The purchase/work order shall be given to L1 bidder.
- c) If the items mentioned in EOI are **splittable / dividable** and MSE is not L1 but within L1+15%, 25% of total procurement shall be made from MSE, subject to their matching of L1 price. In case of more than such eligible MSEs who are within L1+15% range, procurement will be shared equally among such MSEs with a minimum 4% procurement from SC/ST MSEs, subject to their matching of L1 price. In event of failure of SC/ST MSEs to participate in EOI process or meet EOI requirements and L1 price or none of these SC/ST MSEs are in L1+15%, then this 4% sub-target shall be met from other MSEs. Minimum 3% reservation within above mentioned 25% reservation shall be applicable for women owned MSEs.

2.3 PURCHASE PREFERENCE: MAKE IN INDIA (Purchase Preference to Make IN India shall be given as per GOI guidelines applicable from time to time.)

- a) Minimum local content: (to be specified)
- b) Margin of purchase preference: 20%

- c) Subject to the provisions of this order and to any specific instructions issued by the Nodal Ministry or in pursuance of this Order. Purchase preference shall be given to Class –I local supplier in procurements undertaken by procuring entities in the manner specified here under
- d) In the procurements of goods or works, which are covered by para 1.2(a)(ii) and which are **divisible in nature** ‘Class –I local supplier’ shall get purchase preference over Class –II local supplier as well as non-local supplier’ as per following procedure:
- i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is Class –I local supplier the contract for full quantity will be awarded to L1.
 - ii. If L1 bid is not a Class-I local supplier, 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the Class –I local supplier will be invited to match the L1 price for the remaining 50% quantity subject to the Class –I local supplier’s quoted price falling within the margin of Purchase preference and contract for that quantity shall be awarded to such Class –I local supplier subject to matching the L1 Price. In case such lowest eligible Class –I local supplier fails to match the L1 price or accepts less than the offered quantity the next higher ‘Class –I local supplier’ within the margin of purchase preference shall be invited to match the L1 price for remaining quantity and so on and contract shall be awarded accordingly. In case some quantity is still left uncovered on Class-I local suppliers, then such balance quantity may also be ordered on the L1 bidder.
- e) In the procurements of goods or works, which are covered by para 1.2(a)(ii) above and which are **not divisible in nature** and in procurement of services where the bid is evaluated on price alone, the ‘Class-I local suppliers’ shall get purchase preference over ‘Class-II local supplier’ as well as ‘Non-local supplier’ as per following procedure.
- i) Among qualified bids, the lowest bid will be termed as L1. If L1 is Class-I local supplier, the contract will be awarded to L1.
 - ii) If L1 is not ‘Class-I local supplier’ the lowest bidder among the Class-I local supplier will be invited to match the L1 price subject to Class-I local supplier’s quoted price falling within the margin of purchase preference and the contract shall be awarded to such ‘Class-I local supplier’ subject to matching the L1 price.
 - iii) In case such lowest eligible ‘Class-I local supplier’ fails to match the L1 price, the ‘Class-I local supplier’ with the next higher bid within the margin of purchase preference shall be invited to match the L1 price and so on and contract shall be awarded accordingly. In case none of the Class-I local supplier within the margin of purchase preference matches the L1 price, the contract may be awarded to the L1 bidder.
- f) ‘Class-II local supplier’ will not get purchase preference in any procurement undertaken by procuring entities.
- g) Verification of local content:
- i. In cases of procurement for a value less than Rs. 10 crores, the local supplier (Class-I and Class-II), at the time of bidding, shall submit a self-certification that the item offered meets the minimum local content and shall give details of the location(s) at which the local value addition is made.
 - ii. In cases of procurement for a value in excess of Rs. 10 crores, the local supplier (Class-I & Class-II) shall be required to provide a certificate from statutory auditor or cost auditor of company (in case of companies) or from practicing cost accountant or chartered accountant (in respect of suppliers other than companies) giving percentage of local content in addition to self-certification at point (i)

2.4 RESTRICTIONS ON PROCUREMENT FROM A BIDDER OF A COUNTRY WHICH SHARES A LAND BORDER WITH INDIA

Bidders shall submit the certificate for sourcing products and services in tender as per clause 1.2.i. [wherever applicable the bidder must submit evidence of valid registration by Competent Authority]

- 2.4.1 The bidder shall offer and supply only those product(s)/goods/equipment(s)/Software(s) under this contract which are in compliance with Government of India, Ministry of Finance, Department of Expenditure, Office Memorandum No. F.No. 6/18/2019-PPD dated 23-07-2020, circular attached as Section-20 of this EOI.

GUIDELINES FOR ELIGIBILITY OF A 'BIDDER FROM A COUNTRY WHICH SHARES A LAND BORDER WITH INDIA'

As per Order dated 23.07.2020, issued by Department of Expenditure, Ministry of Finance, Govt, of India in this regard, the following guidelines have been issued by DoE for tenders:-

1. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority.

Competent Authority for the purpose of registration shall be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT), as mentioned under Annex I of the Order (Public Procurement No.1) dated 23.07.2020.

2. "Bidder" (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency, branch or office controlled by such person, participating in a procurement process.

3. "Bidder from a country which-shares a land border with India" for the purpose of this Order means:-

- i. An entity incorporated, established or registered in such a country; or
- ii. A subsidiary of an entity incorporated, established or registered in such a country; or
- iii. An entity substantially controlled through entities incorporated, established or registered in such a country; or
- iv. An entity whose beneficial owner is situated in such a country; or
- v. An Indian (or other) agent of such an entity; or
- vi. A natural person who is a citizen of such a country; or
- vii. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above.

4. The beneficial owner for the purpose of (3) above will be as under:

- i. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person (s), has a controlling ownership interest or who exercises control through other means.

Explanation-

- a) "**Controlling ownership interest**" means ownership of or entitlement to, more than **twenty-five per cent**, of shares or capital or profits of the company;
- b) "**Control**" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
- ii. In case of a partnership firm, the beneficial owner is the natural person who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than **fifteen percent of capital or profits of the partnership**;

- iii. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
- iv. Where no natural person is identified under (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
- v. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.
- vi. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.

2.4.2 **PROCUREMENT OF PRODUCTS FROM TRUSTED SOURCES**

If the supplied product(s) under this contract is to be connected with Telecommunication Network then such product(s)/goods/equipment(s)/Software(s) shall be only from Trusted Sources duly certified by NSCT as notified by Govt. of India, Ministry of Communication vide OM No. 20-271/2010 AS-I (Vol-III) dated 10.03.2021. Copy of circular/guidelines is attached as Section-21 of this EOI.

- 2.4.3 Bidder who is found violating these directions /guidelines of Govt. of India or any other guidelines in this regard shall be liable to face action from TCIL which may include non-award of work, cancellation of contract, rejection of goods supplied, getting the work done at risk and cost of the bidder, forfeiting the Performance Security , banning for future work for period up to **five (5) years** or any other action as deemed fit.

2.5 **RISK PURCHASE**

- a) In case, the sub-contractor/ Supplier is not performing its obligations under the contract, the notice shall be sent as per law to the sub-contractor informing that in case of non-performance by a particular date/period, the contract shall be terminated and the work/project will be executed (through a third party) at the risk and cost of the said sub-contractor/ supplier as per the terms of the contract.
- b) On completion of the specified period/date, the notice of termination shall be issued clearly specifying that the remaining work shall be executed (through a third party) at the risk and cost of the sub-contractor/supplier. Along with this notice of termination, intimation shall be sent to the said sub-contractor/supplier for joint preparation of inventory of the works performed/ supplies already undertaken by him. If the sub-contractor/supplier fails to turn up on an appointed date for joint preparation of inventory, in that situation he shall be proceeded ex parte and the inventory shall be prepared by TCIL/Employer and the same be sent to the sub-contractor/supplier.
- c) Further at the time of award of work to another sub-contractor/ Supplier, if the work is awarded at an additional cost than the original sub-contractor/ Supplier, another notice may be issued to the original sub-contractor/ Supplier specifying that the work has been awarded to another agency at the additional cost of such and such amount, and he is liable to pay that amount to TCIL.
- d) Demand notices may be sent to the original sub-contractor / supplier from time to time.

2.6 **GENERAL LIEN / SET-OFF**

- a) Whenever under this contract, any sum of money is recoverable from and payable by the supplier, the purchaser shall be entitled to recover such sum by appropriating in part or in whole the security deposit of the supplier, if a security is taken from the supplier. In the event of the security being insufficient or if no security has been taken from the supplier, the balance or the total sum recoverable, as the case may be, shall be deducted from any sum due to the supplier or which at any time thereafter may become due to the supplier under this or any other contract with the purchaser. Should this sum not be sufficient to cover the full amount recoverable, the supplier, shall pay to the purchaser on demand the remaining balance due.
- b) Any some of money (including refundable security deposit) due and payable to the supplier, under this contract or any other contract entered between the parties herein whether continuing or completed may be appropriated by TCIL and set off against any claim of TCIL of any nature whatsoever, arising under this contract or any other contract entered into between the parties, herein whether continuing or completed.

2.7 REPEAT / ADD-ON ORDER

- a) In exceptional situation where the requirement is of an emergent nature, the purchaser reserves the right to place repeat order up to 50% of the value of goods and services contained in the running tender/contract within a period of twelve months from the date of commissioning/commercialization of the project (date of acceptance of APO of the items procured in case where no installation, commissioning is involved) at the same rate or a rate negotiated (downwardly) with the existing vendors considering the reasonability of rates based on prevailing market conditions and the impact of reduction in duties and taxes etc.
- b) Further if required, an additional order for 50% of the value of the goods & services limited to 100% of the value of goods and services contained in the running tender/contract may be placed within a period of twelve months from the date of commissioning/ commercialization of the project (date of acceptance of APO of the items procured in case where no installation, commissioning is involved) on the existing vendors at the same rate or a rate negotiated (downwardly) considering the reasonability of rates based on prevailing market conditions and the impact of reduction in duties and taxes etc.(with due approval of the Board).

2.8 PURCHASERS RIGHT TO VARY QUANTITIES

TCIL will have the right to increase or decrease up to 25% of the value of goods and services specified in the schedule of requirements without any change in the unit price or other terms and conditions at the time of award of contract.

2.9 FORCE MAJEURE

The supplier shall be exempted from the responsibility for any non-performance arising from a case of force majeure or act of God, hereinafter called force majeure (a) war and (b) earthquake. If such circumstances should arise, the supplier shall inform the purchaser within 72 hours in writing of the existence of the fact before suspending work without penalty on either side from the period of such suspension not exceeding 3 months. Likewise, it must proceed to inform the end of such fact. As soon as the facts constituting a force majeure cease in their effects, the supplier shall restart or continue the fulfillment of its obligations agreed upon. Should suspension of work as explained above exceed three months, the contract shall be violable at the option of either party without penalty on either side.

2.10 DISPUTE RESOLUTION

- 1) The parties to this agreement/contract agree that they shall resolve all disputes or differences whatsoever arising between them under and/or in connection with and/or in respect of this Tender/EOI/Agreement/Purchase Order/MoU through a "Conciliation and Settlement Mechanism (CSM)" and the detailed guidelines/procedure for such CSM is annexed hereto as Annexure-A in Section-19. That it is understood and agreed between the parties that the CSM annexed as Annexure-A with the present agreement forms and shall be treated as part and parcel of the present agreement.

- 2) In cases, wherein the contract value/price is less than or equal to Rs. 5 crore (Rupees Five Crore) and the parties fail to resolve such disputes through the conciliation proceedings as provided in sub- clause '1' above, then and only then, a party shall refer the dispute to arbitration under Arbitration & Conciliation Act 1996 as amended from time to time. The venue of the arbitration proceedings shall be Delhi.
- 3) For all the contracts other than those mentioned in sub-clause '2' above, the matter shall not be referred to arbitration at all and such disputes, on failure of conciliation proceedings in sub-clause '1' above, shall be resolved under the mechanism provided by the State in form of Courts of Law/Ordinary Civil Courts for resolution of such disputes under applicable Laws.
- 4) The courts at New Delhi shall have exclusive jurisdiction in respect to any dispute pertaining to this agreement.
- 5) The parties shall continue to perform their respective obligations as per the Agreement during the pendency of proceedings under the above clauses.

For Public Sector Undertaking / Government Departments:

In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Center Enterprise (CPSEs)/Port Trusts inter se and also between CPSEs and Govt. Depts/ organizations (excluding disputes relating to Railways, Income Tax, Customs & Excise Dept), such dispute or difference shall be taken up by either party for its resolution through AMRCD as mentioned in DPE OM No. 05/003/2019-FTS-10937 dated 14th December 2022 and the decision of AMRCD on the said dispute will be binding on both the parties

2.11 FALL CLAUSE

- a) The prices once fixed will remain valid during the scheduled delivery period. Further, if at any time during the contract
 - I. It comes to the notice of purchaser regarding reduction of price for the same or similar equipment/ service

And/or

- II. The prices received in a new tender for the same or similar equipment/service are less than the prices chargeable under the contract.

The purchaser, for the purpose of delivery period extension/during rate contract, if any, will determine and intimate the new price, taking into account various related aspects such as quantity, geographical location etc., and the date of its effect for the balance quantity/ service to the vendor. In case the vendor does not accept the new price to be made applicable during the extended delivery period and the date of its effect, the purchaser shall have the right to terminate the contract without accepting any further supplies. This termination of the contract shall be at the risk and responsibility of the supplier and the purchaser reserves the right to purchase the balance unsupplied quantity/ service at the risk and cost of the defaulting vendor besides considering the forfeiture of his performance security.

- b) The vendor while applying for extension of time for delivery of equipment/services, if any, shall have to provide an undertaking as "We have not reduced the sale price, and/ or offered to sell the same or similar equipment/ service to any person/organization including Department of central/state Government or any central/state PSU at a price lower than the price chargeable under the contract for scheduled delivery period."

In case undertaking as in (b) above is not applicable, the vendor will give the details of prices, the name(s) of purchaser, quantity etc. to the purchaser, while applying extension of delivery period.

2.12 OFFLINE DOCUMENTS

The Bidder should submit all the bid documents (except Bank Guarantee/Certified Cheque) via password protected email as indicated in the Tender /EOI schedule. The Tender Fees / EMD if paid through online mode, transaction detail is to be provided by bidder in their bid. Only Bank Guarantee/Certified cheque, if required in tender/EOI schedule, shall be taken in offline mode.

2.13 BANNING OF NON-PERFORMING VENDOR

In case any of the vendor's work/PO/agreement is cancelled/terminated by TCIL after award, due to non-performance, the vendor may be banned/blacklisted up to 2 years or action as deemed fit may be taken by TCIL.

2.14 AMENDMENT TO BID DOCUMENTS

- a) At any time, prior to the date of submission of bids, TCIL may for any reason, whether at its own initiative or in response to a clarification requested by a prospective bidder, modify the bid documents by amendments, which shall be available on TCIL Website and the e-tendering portal.
- b) In order to give the required time to the prospective bidders, in which to take the amendments into action in preparing their bid, TCIL may at its discretion extend the deadline for submission of bid suitably.

2.15 BID PRICE

- a) The prices quoted by the bidder shall remain firm during the entire period of the contract and shall not be subject to variation (unless asked by TCIL). Clauses such as "at actual", "extra", "to be given later" etc. shall also be treated as non-responsive & are liable for rejection.

2.16 MODIFICATION AND WITHDRAWAL OF BIDS

- a) Bid withdrawal/modification shall not be allowed after end date and time of bid submission.
- b) Withdrawal of a bid between the deadline for submission of bids and the expiration of the period of bid validity specified in the tender or as extended, may result in the forfeiture of the bid security. Such defaulting vendor is liable to be debarred from participating in future bids for a period of up to 2 years.

2.17 CLARIFICATION OF BIDS

During evaluation of bids, TCIL may at its discretion ask the Bidder for clarifications / confirmations / deficient documents of its bid. The request for clarification and the response shall be in writing and no change in the price of substance of the bid shall be sought or permitted.

2.18 PURCHASER'S RIGHT TO SEEK QUOTES DIRECTLY FROM OEM

During the EOI / NIT process, TCIL may seek rates directly from OEM(s) or its representative / distributor for partially or all items of BOQ under this EOI/NIT. In addition to seeking rates, TCIL reserves right to place direct purchase order(s) on OEM(s) or its authorized representative(s) / distributor(s) for Partially or all items of BOQ under this EOI/NIT.

2.19 TERMINATION FOR DEFAULT

- a) TCIL may, without prejudice to any other remedy for breach of contract, by written notice of default, sent to the supplier, terminate this contract in whole or in part.
- if the supplier fails to deliver any or all the services/goods within the time period specified in the contract, or any extension thereof granted by TCIL.
 - if the supplier fails to perform any other obligation(s) under the contract;
 - if the supplier, in either of the above circumstances, does not remedy his failure within a period of 15 days (or such longer period as TCIL may authorize in writing) after receipt of the default notice from TCIL.
 - Failure of the successful bidder to comply with the requirement of submission of performance security shall constitute sufficient ground for cancellation of the award of work and forfeiture of the bid security.
- b) In the event TCIL terminates the contract in whole or in part pursuant to above clause, TCIL may procure, upon such terms and in such manner as it deems appropriate, goods/services similar to those undelivered and the supplier shall be liable to TCIL for any excess cost for such similar goods/services. However, the supplier shall continue the performance of the contract to the extent not terminated.

2.20 TERMINATION FOR INSOLVENCY

TCIL may at any time terminate the contract by giving written notice to the supplier, without compensation to the supplier, if the supplier becomes bankrupt or otherwise insolvent as declared by the competent court; provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to TCIL.

- 2.21 At any time, in case it comes to the knowledge of TCIL any of wrong information related with eligibility of the bidder or non-compliance to any terms and conditions of tender, then TCIL reserves the right to cancel or reject the bid of such bidder, cancel the tender or take any other action as deemed fit in accordance with tender terms and conditions.

2.22 ADDITIONAL CLAUSES FOR DEBARMENT:

- A. A bidder or any of its successor, shall be debarred from participating in any procurement process undertaken by TCIL for a period not exceeding **three (3) years** if he has been convicted of an offence as under:
- a) under the Prevention of Corruption Act, 1988; or
 - b) the Indian Penal Code or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract.
- B. A bidder or any of its successor, shall be debarred from participating in any procurement process undertaken by TCIL for a period not exceeding **two (2) years** if the following code of integrity as per rule 175 of GFRs 2017, is breached:
1. prohibition of
 - a) making offer, solicitation or acceptance of bribe, reward or gift or any material benefit, either directly or indirectly, in exchange for an unfair advantage in the procurement process or to otherwise influence the procurement process.
 - b) any omission, or misrepresentation that may mislead or attempt to mislead so that financial or other benefit may be obtained or an obligation avoided.

- c) any collusion, bid rigging or anticompetitive behaviour that may impair the transparency, fairness and the progress of the procurement process.
 - d) improper use of information provided by the procuring entity to the bidder with an intent to gain unfair advantage in the procurement process or for personal gain.
 - e) any financial or business transactions between the bidder and any official of the procuring entity related to tender or execution process of contract; which can affect the decision of the procuring entity directly or indirectly.
 - f) any coercion or any threat to impair or harm, directly or indirectly, any party or its property to influence the procurement process.
 - g) Obstruction of any investigation or auditing of a procurement process.
 - h) *making false declaration or providing false information* for participation in a tender process or to secure a contract;
2. disclosure of conflict of interest.
 3. Disclosure by the bidder of any previous transgressions made in respect of the provisions of sub-clause (i) with any entity in any country during the last three years or of being debarred by any other procuring entity.
- C. A bidder or any of its successor, shall be debarred from participating in any procurement process undertaken by TCIL for a period not exceeding **two (2) years** if the following is breached:
- (i) If a Bidder withdraws the proposal or increases the quoted prices after opening of the Proposal and during the period of Bid validity period or its extended period, if any.
 - (ii) In case of a successful Bidder, if the Bidder fails to sign the Agreement in accordance with the terms and conditions (including timelines for execution of the Agreement) of this tender or fails to furnish the Performance Security in accordance with the terms and conditions (including timelines for furnishing Performance Security) of this tender.
 - (iii) During the Bid process, if a Bidder indulges in any act as would jeopardize or unnecessarily delay the process of bid evaluation and finalization.
- D. The debarment in all cases shall be automatically extended to all its allied firms. In case of Joint ventures/Consortium is debarred all partners shall also stands debarred for a period specified in debarment order. The names of partners should be clearly specified in the debarment order.

END OF SECTION-2

SECTION – 3 SPECIAL CONDITIONS OF CONTRACT

*(In case clauses/ sub-clauses have any difference mentioned in this EOI at different places, the conditions mentioned in Section-3 shall prevail. The terms and conditions of Section-3 shall be **on back-to-back basis based on client's tender**)*

The procurement of services /material is being done by TCIL Kuwait project office for client based in Kuwait. Moreover, TCIL operates in Kuwait under the name of local agent namely M/s Ahmed Yousuf Behbehani General Trading & Contracting Company WLL (AYB) as per requirement of local regulations. Further, TCIL shall be participating in this consortium in the name of AYB which is a private registered company in Kuwait. Hence, clauses 2.1, 2.2, 2.3, 2.4 and 2.22(A) of Section-2 are not applicable in this EOI.

3.1 PAYMENT TERMS

- i) The bidder shall be bound by the payment terms as per client's tender as specifically mentioned in this EOI.
- ii) Payment to the vendor/supplier/partner upon its submitting all required documents showing completion of work as well as the tentative invoice, shall be on a back-to-back basis with the client i.e. only on client finally certifying, accepting and making payment of the said work done by the vendor/supplier/partner as forwarded by TCIL to the Client, such vendor/supplier/partner shall become eligible for payment. As the work is being executed through vendor/supplier/partner by TCIL, on behalf of the client, the vendor/supplier/partner's eligibility for receiving payment from TCIL shall depend solely upon acceptance of the work, certification of the bill and payment of the certified bill by the client. Entitlement of the vendor/supplier/partner for payment from TCIL regarding the bill raised by it in respect of a particular work would arise within a reasonable time of 15 working days upon receipt of above payments after statutory and contractual deductions by the client and TCIL. Such payments shall also be subject to contractual requirements/payment terms between client and TCIL to which the vendor/supplier/partner shall also be bound. However, in the event client certifies the work for lesser amount, the entitlement of vendor/supplier/partner of TCIL would be only for the certified value of work by the client minus the statutory and contractual deductions as per contract of vendor/supplier/partner with TCIL.

TCIL will make reasonable efforts to secure acceptance and certification of the work and release of the payment by the client, however, any delay on the part of the client in certification and acceptance of the work and release of the payment will not entitle the vendor/supplier/partner to raise claim regarding the same against TCIL. *(Undertaking shall be submitted as per Section-24).*

3.2 PERFORMANCE SECURITY

Performance Security can be submitted in the following modes:

- 1) Performance Bank Guarantee (PBG)
 - 2) Bankers Cheque or certified cheque
- a) The bidder will submit an undertaking to submit Performance Security on back-to-back basis for his portion if the contract is awarded to TCIL by end Client. The performance security will be 10% of the amount of the P.O. issued to the bidder and shall be valid beyond three months as required by client RFP.

- b) PBG to be submitted in the prescribed format to TCIL as per details below:

Name of Beneficiary and its Details	Name	Telecommunications Consultants India Limited
	Address	First Floor, Block No-1, Street No-145 Building-342 Mahaboula, Kuwait
Name of Beneficiary Bank and its Details	Name	National Bank Of Kuwait S.A.K.P
	Account No	1000108110
	IBAN No.	KW69NBOK0000000000001000108110
	Address	Kuwait City, Kuwait
	Swift Code	NBOKKWKW

- c) The proceeds of Performance Security shall be payable to TCIL in case of breach of any of the terms and conditions of the contract/PO/tender by the vendor. Recovery/adjustment due to LD or any other loss to TCIL shall be in addition to point (f).
- d) The Performance Security will be discharged by TCIL after completion of supplier's obligations, including any warranty obligations, under the contract.
- e) Performance Security should be valid beyond three months as required by client RFP. The Performance Security shall be refunded once the performance security of TCIL is returned by the client.
- f) Failure of the successful bidder to submit the Performance Security or bidders' failure to complete its obligations under the contract shall constitute sufficient ground for the annulment of the award / cancellation of the award of work and forfeiture of the Bid Security / Performance Security.
- g) Additionally, TCIL reserves the right to debar such defaulting bidder from participating in future bids for a period up to 2 years.

3.3 PRICE BASIS

Back-to-back and in payments stages are as per client's tender.

3.4 PAYING AUTHORITY

Deputy General Manager (Finance)
TCIL Kuwait

3.5 INSURANCE

As per Client's Terms and conditions

3.6 DELIVERY / IMPLEMENTATION SCHEDULE

As per Client's Terms and conditions

3.7 WARRANTY

As per Client's Terms and conditions

3.8 PERIOD OF CONTRACT

As per Client's Terms and conditions

3.9 TERMINATION OF CONTRACT

As per Client's Terms and conditions

3.10 PENALTY

As per Client's Terms and conditions

3.11 SLA

As per Client's Terms and conditions

3.12 UPTIME

As per Client's Terms and conditions

3.13 LIQUIDATED DAMAGES

As per Client's Terms and conditions.

Liquidated Damages, wherever referred under this Tender/Agreement, shall mean and refer to the damages, not in the nature of penalty, which the supplier agrees to pay in the event of delay in delivery of stores, installation, commissioning, breach of contract etc. as the case may be. Liquidated Damages is not a penalty but is a sum which is agreed by the parties as a reasonable and genuine pre-estimate of damages which will be suffered by the purchaser on account of delay/breach on the part of the supplier.

3.13.1 The date of delivery of the stores and Installation and/or Commissioning stipulated in the acceptance of the tender should be deemed to be the essence of the contract and delivery must be completed not later than the dates specified therein. Extension will not be given except in exceptional circumstances subject to conditions as enumerated in the contract/tender including levying of Liquidated Damages in terms of Clause 3.13.2 below.

3.13.2 While granting extension of delivery period as per tender terms, the liquidated damages shall be levied as follows:

- i. **For delivery of stores:** Should the supplier fails to deliver the store or any consignment thereof within the period prescribed and agreed for delivery, the purchaser, without prejudice to other remedies available to the purchaser shall be entitled to recover Liquidated Damages, for breach of contract, a sum equivalent to 0.5% of the value of the delayed supply and/ or undelivered material/ supply for each week of delay or part thereof for a period up to eight (8) weeks, and thereafter at the rate of 1.0% of the value supply and/ or undelivered material/ supply for each week of delay or part thereof for another eight (8) weeks of delay.
- ii. **Installation & Commissioning:** Should the supplier fail to install and commissioning the project with the stipulated time the purchaser shall be entitled to recover Liquidated Damages, 0.5% of the value of the purchase order for each week of delay or part thereof for a period up to eight (8) weeks and thereafter at the rate of 1.0% of the value of the purchase order for each week of delay or part thereof or another eight (8) weeks of delay. In cases where the delay affects installation/commissioning of only a part of the project and part of the equipment is already in commercial use, then in such cases, LD shall be levied on the affected part of the project.

- iii. Provisions contained in clause 3.13.2 (i) shall not be applicable for durations (periods) which attract L.D. against clause 3.13.2 (ii) above.

3.14 DELIVERY PERIOD EXTENSION

- a) DP extension beyond 16 weeks would not be generally allowed. The extension beyond 16 weeks may be decided in most exceptional circumstances on a case-to-case basis, by the Tender approving authority, stating reasons and justifications for grant of extension of delivery period beyond 16 weeks.
- b) In the case of package supply/ turnkey projects when the delayed portion of the supply materially hampers installation and commissioning of the systems, LD charges shall be levied as above on the total value of the concerned package of the Purchase Order.
- c) Quantum of liquidated damages assessed and levied by the purchaser and decision of the purchaser thereon shall be final and binding on the supplier, further the same shall not be challenged by the supplier either before Arbitration tribunal or before the court. The same shall stand specifically excluded from the purview of the arbitration clause, as such shall not be referable to arbitration.
- d) The total value of the liquidated damages as per above sub-clauses shall be limited to a maximum of 12% (Twelve percent) i.e. LD shall be levied up to 16 weeks only as per provision at Para (a).
- e) The Liquidated Damages shall be calculated on the all inclusive Price CIF-destination inclusive of Freight, Forwarding Packing, insurance, any other incidental charges and other non-creditable taxes after discount, if any but excluding GST and other creditable taxes. GST on LD shall be calculated as per GST rule applicable from time to time.
- f) If the deliveries are made after expiry of the contracted delivery period, without prior concurrence of the purchaser and accepted by the consignee, such delivery will not deprive the purchaser of its right to recover liquidated damages under clause 3.13.2 above.

3.15 In cases where the scheduled delivery period is distributed month-wise or is in installments, liquidated damages shall be imposed for delay in each scheduled month/ installment. Liquidated damages shall be calculated separately for quantities to be supplied in every month/ installment and the corresponding delay. If the supplier supplies full quantity before the expiry of the scheduled delivery period of the last month/ installment but there is delay in month-wise/ installment-wise supply, then also liquidated damages shall be levied on the supplies against the earlier months/ installments that have been delayed. Twenty (20) weeks for the purpose of additional BG and grant of DP extension shall be counted from the last month/ installment.

3.16 Notwithstanding anything contained in this Agreement or any other agreement between the parties, the Purchaser may, without prejudice to its right to effect recovery by any other method, deduct the amount of Liquidated Damages from any money belonging to the supplier in its hand in relation to this or any other contract between the parties (which includes purchaser's right to claim such amount against invoices raised by the supplier or Bank Guarantees submitted by the supplier under this Contract or any other contract) or which may become due to the supplier. Any such recovery of Liquidated Damages shall not in any way relieve the supplier from any of its obligations to complete the Works or from any other obligation and liabilities under the Contract.

3.17 To facilitate recovery of Liquidated Damages from the invoices raised by the supplier, the Credit Note shall be issued by the supplier, failing which the purchaser shall adjust the amount to be recovered from the pending payments by issuing an invoice/debit note for the corresponding amount, at the risk and cost to the supplier including applicable Taxes, interest and penalty, if any.

3.18 Taxes

Tax invoice / Debit Note / Credit Note:

- a. It shall be the responsibility of Bidder / Supplier / Contractor / Vendor to raise Tax Invoice (e-invoice wherever applicable).
- b. The Bidder / Supplier / Contractor / Vendor shall ensure to issue Debit / Credit Note wherever applicable.

Documents:

- c. Self-declaration along with evidence that the Bidder / Supplier / Contractor / Vendor is not blacklisted.
- d. An undertaking from the Bidder / Supplier / Contractor / Vendor that information provided by him is correct and in case of any loss, the Bidder / Supplier / Contractor / Vendor is fully responsible.

END OF SECTION-3

SECTION-4**SCOPE OF WORK & TECHNICAL SPECIFICATIONS**

[INSERT AS PER CLIENT'S TENDER]

Scope of work of the tender “*Management and Maintenance of The Smart Meter System (Systems, Software, and hardware) and its Communications Network for the main site and exchange for the customer services sector – Part-1, Part-2 Part-3 & Part-4*” is as per clause “C. Scope of work Page-14” of the client’s tender and its amendment (which forms the integral part of this EOI)

Bidder has to quote the prices and submit the unpriced BOQ separately for each Part-1, Part-2, Part-3 and Part-4 as per price schedule of client RFP.

END OF SECTION-4

SECTION-5
PROJECT EXPERIENCE

S. No	Item	Details
General Information		
1	Customer Name/Government Department	
2	Name of the Contact Person and Contact details for the Project	
Brief Description of scope of Project		
Size of the Project		
3	Contract Value of the Project (in crore) excluding taxes	
4	Contract Value of the Project (in crore) including taxes	
Project Details		
5	Name of the Project	
6	Start Date & End Date	
7	Current Status (work in progress in %, completed)	
8	Contract Tenure	
9	Type of Project	

END OF SECTION-5

SECTION – 6
PRICE BID SCHEDULE

To: [Head of Department]

Dear Sir,

We, the undersigned, offer to provide the [Insert title of assignment] against your EOI No. [Insert EOI No.] dated [Insert Date]. Our attached Financial Proposal is for the sum of [Insert amount(s) in words and figures].

Yours sincerely,

Authorized Signature [*In full and initials*]: _____
Name and Title of Signatory: _____
Name of Firm: _____
Address: _____

[insert price bid format as per client RFP]

Note 1: The bidder to provide un-priced Price-Bid along with Technical bid.

Notes2:

- a) Lowest Bid will be on the basis of Grand Total.
- b) Bidder shall mandatory mention the 8 digit / 6 digit applicable HSN / SAC code of all the Quoted items.
- c) In case of change in rate due to change in Taxes/Duties the rate shall be applicable on prorated basis based on actual nos. of applicable days.
- d) Before Submitting their Duly Filled "Price Bid Schedule & BOQ" the bidders should ensure that they do not enter any Comments in the above Table like "As per Actuals, Will be Intimated Later on etc". If Bidder uses these type of Comments while filling up the above Table for Price Bid Schedule & BOQ Or if the charges for any item is left blank the Charges for the Items wherever such comments are used or if left blank shall be Considered as "Zero" and the same shall be a binding on the bidder.
- e) If there is a discrepancy between the unit price and total price that is obtained multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected.
- f) The Bidder must specify the make of each product / Line items of the BOQ in the price bid.
- g) The requirements / Quantity mentioned above are indicative & may vary as per the actual requirements.

END OF SECTION-6

SECTION-7**MANUFACTURER'S AUTHORISATION FORM**

[Head of Department]
Telecommunications Consultants India Limited.
TCIL Bhawan, Greater Kailash-I
New Delhi-110 048 (INDIA)

Dear Sir,

Ref: Your [document No] _____ dated _____

We, _____ who are proven and reputable manufacturers of (name and description of the factories at goods offered in the bid) having, hereby authorize M/s (name and address of the agent) to submit a bid, process the same further and enter into a contract with you against your requirement as contained in the above referred documents for the above goods manufactured by us.

We also state that we are not participating directly in this bid for the following reason(s):

_____ (Please provide reason here).

We also hereby extend our full warranty, CAMC as applicable as per Client's [tender No.] and [tender name], read with modification, if any, for the goods and services offered for supply by the above firm against this EOI document.

We also hereby confirm that we would be responsible for the satisfactory execution of contract placed on the authorized agent and the spares for the equipment shall be available for at least 10 years from the date of supply of equipment.

We also confirm that the price quoted by our agent shall not exceed the price which we would have quoted directly"

Yours faithfully,
[Signature with date, name and designation]
for and on behalf of M/s _____
[Name & address of the manufacturers]

Note:

- 1) This letter of authorization should be on the letter head of the manufacturing firm and should be signed by a person competent and having the Authorization letter / Board Resolution to legally bind the manufacturer.
- 2) Original letter may be sent.

END OF SECTION-7

SECTION - 8**BID SECURITY / EMD (BANK GUARANTEE FORMAT)**

Whereas (hereinafter called “the Bidder”) has submitted its bid dated For the supply of Vide Tender No. dated KNOW ALL MEN by these presents that WE OF Having our registered office at (hereinafter called “the Bank”) are bound unto Telecommunications Consultants India Limited (hereinafter called “the Purchaser”) in the sum of Rs. for which payment will and truly to be made of the said Purchaser, the Bank binds itself, its successors and assigns by these present.

THE CONDITIONS of the obligation are:

1. If the Bidder withdraws his bid during the period of bid validity specified by the Bidder on the Bid form or
2. If the Bidder, having been notified of the acceptance of his bid by the Purchaser during the period of bid validity
 - (i) fails or refuses to execute the Contract, if required; or
 - (ii) The successful bidder fails to submit performance security within the prescribed time or
 - (iii) The proceeds of EMD shall be payable to TCIL in case of breach of any of the terms and conditions of the contract / PO / tender by the vendor.

We undertake to pay to the Purchaser up to the above amount upon receipt of its first written demand, without the purchaser having to substantiate its demand, provided that in its demand, the purchaser will note that the amount claimed by it is due to it owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to and including THIRTY (30) days after the Period of bid validity and any demand in respect thereof should reach the Bank not later than the specified date/dates.

Name & Signature of witness

Signature of the Bank Authority

Address of witness

Name

Signed in Capacity of

Full address of Branch

Tel No. of Branch

Fax No. of Branch

END OF SECTION-8

SECTION-9
INTEGRITY PACT

[As per format given on TCIL Website]

Link on TCIL website: https://www.tcil.net.in/public/pdf/integrity_pact.pdf

END OF SECTION-9

SECTION-10**AUTHORIZATION LETTER****Format for Authorization letter to be submitted by Bidder**

Know all men by these presents that we (name of Company) _____, incorporated in India under the Companies Act, 1956 and having its Registered Office at _____. (India) ("Hereinafter called the Company") DOTH hereby nominate, constitute and appoint (Name, Designation) _____, S/o _____ to be true and lawful authorized signatory in fact and at law of the Company for and in the name and on behalf of the Company, to do, execute and perform all or any of the following acts, deeds, matters and things namely:-

1. To represent the Company to all intents and purposes in connection with the matters pertaining to signing & submission of (EOI No, EOI Date, EOI Description) _____, _____, _____ and all affairs ancillary or incidental thereto.
2. AND the Company hereby agrees that all acts, deeds and things lawfully done by the said authorized signatory shall be construed as acts, deeds and things done by the Company itself and the Company hereby undertakes to ratify and confirm all and whatever its authorized signatory shall lawfully do or cause to be done for and on behalf of the Company by virtue of the powers hereby given.

In witness whereof (Name , Designation) _____, _____ of the Company acting for and on behalf of the Company under the authority conferred by the Board of Directors of the Company in its _____ meeting held on (Date) _____ has signed this Authorization Letter at (place) _____ on this (Date) _____.

The signatures of (Name, Designation) _____ given below are hereby certified.

Signature: _____

Signature of (Name, Designation) _____

CERTIFIED

Signature: _____

WITNESS:

Signature: _____

(Name, Designation): _____

END OF SECTION-10

SECTION-11

Deleted

SECTION-12**NO-CONVICTION CERTIFICATE****[To be submitted on the Letterhead of the Bidder]**

Offer No.: _____

Date: _____

To

[Head of Department]

Telecommunications Consultants India Limited,

TCIL Bhawan, Greater Kailash-I,

New Delhi-110 048 (INDIA)

Sub: Self Declaration of not been blacklisted for [EOI No.] dated [EOI date]

Dear Sir,

This is to notify you that our Firm /Company/ Organization <provide Name of the Firm/ Company/ **Organization**> intends to submit a proposal in response to [EOI No.] dated [EOI date] for [EOI Name].

In accordance with the above, we declare that:

- a. We are not involved in any major litigation that may have an impact of affecting or compromising the delivery of goods / services as required under this [EOI No] dated [EOI date].
- b. We are neither banned/ debarred/ blacklisted/ put on holiday list nor action for banning / debarment / blacklisting / holiday listing has been initiated by any Central/ State Government/ agency of Central/ State Government of India or any other country in the world/ Public Sector Undertaking/ any Regulatory Authorities in India or any other country in the world for any kind of fraudulent activities on any ground including but not limited to indulgence in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as on date of submission of the Bid.

Yours sincerely,

(Signature of the Authorized signatory of the Bidding Organization)

Name:

Designation:

Contact details (including E-mail):

Business Address:

Date:

Seal:

END OF SECTION-12

SECTION-13**BID SUBMISSION FORM**

Offer No.:

Date:

To: [Head of Department], TCIL

Dear Sir,

In response to your Tender No. _____, we hereby submit our offer herewith.

1. Bidder Name : _____
2. Website Address : _____
3. Email Address : _____
4. Address for Communication : _____

5. Telephone Number : _____
6. Fax/Telefax Number : _____
7. Authorized Person -

Name	:	_____
Designation	:	_____
Mobile No.	:	_____
Email ID	:	_____
8. Alternate Person

Name:	:	_____
Designation	:	_____
Mobile No.	:	_____
Email ID	:	_____
9. PAN Number : _____
10. GST Regn. No. with Address : _____

11. Beneficiary's complete Bank Details.

Bank Account No.	:	_____
IFSC / NEFT Code	:	_____
Name of the Bank	:	_____
Address of the Branch	:	_____
12. Particulars of EMD

Amount	:	Rs. _____
Mode of Payment (DD/BG)	:	_____
DD/BG No.	:	_____
Date	:	_____
Name of the Bank	:	_____
Address of the Bank	:	_____
Validity of BG	:	_____
13. Particulars of Tender Fee

Amount	:	Rs. _____
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DD No. : _____
 Date : _____
 Name of the Bank : _____
 Address of the Bank : _____

14. Turnover of the Bidder in last 3 years:

Year	Year Annual Report attached at Page No.	Turnover in Rs. (Lakh)
Average Turnover		

15. Are you a MSME Unit. If yes, please furnish Registration Details, Name of the DIC/State.

16. If you are MSME, is it owned by SC/ST Entrepreneurs or Women Entrepreneurs? If Yes, please specify the Name of the Owner who is SC or ST or Women Entrepreneur (as applicable).

17. Following Documents are submitted to substantiate other eligibility criteria.

i) _____

ii) _____

iii) _____

DECLARATION

- We have read and understood the terms & conditions of the above-mentioned tender and comply to all Terms & Conditions of the Tender.
(In case of any deviation, the Bidder must attach a separate sheet clearly mentioning the Clause No. of the Tender and Deviation thereto)
- We certify that the information mentioned above are true and correct to best of our knowledge.

Place:
Date:

Signature of Authorized Signatory with Seal
Name:
Designation:

END OF SECTION -13

SECTION-14

DELETED

SECTION-15**EOI CHECKLIST**

S.No	Document	Submitted (Yes or No)
1	Tender Fee	
2	EMD (BG / DD / NEFT / Insurance Surety Bond / FDR etc.)	
3Deleted....	
4Deleted....	
5	Authorization Letter/Board Resolution	
6Deleted....	
7	Certificate of Incorporation/ Registration/ Partnership Deed or any other	
8	Financial criteria	
9	Similar Experience Criteria	
10Deleted....	
11	MAF	
12	Insolvent Undertaking	
13	No-Conviction Certificate	
14Deleted....	
15	Unpriced BOQ	
16	Undertaking from Vendors for non-cancellation of Purchase Order(s) on risk and cost on risk & cost basis or non-performance.	
17Deleted....	
18	Local Office Undertaking	
17	Labor Laws Compliance Undertaking	
18	Consortium Agreement	
19	Genuine Documents Undertaking	
20	No-Deviation Certificate/ Clause-by Clause Compliance	
21	Technical Brochure and Data Sheet	
22	Integrity Pact document as applicable	
23	Bid Submission Form	
24	NDA as applicable	
25	Any Other Undertaking/ document as per EOI.	

END OF SECTION-15

SECTION-16**RATE CONTRACT**

**[The following terms and conditions need to be included in Rate Contracts only]
[Other terms and conditions shall be as per EOI format]
[Refer point 21 of EOI guidelines]**

1. The quantity to be supplied during the currency of the rate Contract is not fixed and will be decided based on their actual requirement as per approved Budget/ Indent on “as and when” required basis.
2. The Company can place the orders during the validity of the rate contract period at the same rate, terms and conditions.
3. Normally, no variation is allowed except statutory variations in Sales Tax and Excise Duties. Sometimes, there are significant variations in the raw-material prices during the rate contract period. If there are downward variations and the client insists for revised quotations, the earlier rate contract is cancelled and new tenders are invited.
4. **FALL CLAUSE (applicable for Rate Contract)**
 - a) The prices once fixed will remain valid during currency of rate contract. Further, if at any time during the contract
 - i. It comes to the notice of purchaser regarding reduction of price by the supplier/vendor for the same or similar equipment/ service;
And/or
 - ii. The prices received in a new tender for the same or similar equipment/service are less than the prices chargeable under the contract.

The purchaser, for the purpose of rate contract, if any, will determine and intimate the new price, taking into account various related aspects such as quantity, geographical location etc., and the date of its effect for the balance quantity/ service to the vendor. In case the vendor does not accept the new price to be made applicable during the extended delivery period and the date of its effect, the purchaser shall have the right to terminate the contract without accepting any further supplies. This termination of the contract shall be at the risk and responsibility of the supplier/vendor/contractor and the purchaser reserves the right to purchase the balance unsupplied quantity/ service at the risk and cost of the defaulting vendor besides considering the forfeiture of his performance security.

- b) The vendor during any time of the currency of the rate contract, shall have to provide an undertaking as “We have not reduced the sale price, and/ or offered to sell the same or similar equipment/ service to any person/organization including Department of central/state Government or any central/state PSU at a price lower than the price chargeable under the contract for scheduled delivery period.”

In case clarification is required by TCIL, the vendor supplier shall produce related documents such as PO/Agreement etc.

END OF SECTION-16

SECTION -17
PERFORMANCE SECURITY (BANK GUARANTEE FORMAT)

(TO BE ISSUED BY A DELHI BRANCH)

M/s Telecommunications Consultants India Ltd.,
TCIL Bhawan, Greater Kailash-I
New Delhi – 110 048 (INDIA)

(With due stamp duty if applicable)

OUR LETTER OF GUARANTEE No: _____

In consideration of TELECOMMUNICATIONS CONSULTANTS INDIA LIMITED, having its office at TCIL Bhawan, Greater Kailash-I, New Delhi – 110 048 (INDIA) (hereinafter referred to as “TCIL” which expression shall unless repugnant to the content or meaning thereof include all its successors, administrators and executors) and having entered into an agreement dated _____/issued Purchase Order No. _____ dated _____ with/on _____ M/s _____ (hereinafter referred to as “The Supplier” which expression unless repugnant to the content or meaning thereof, shall include all the successors, administrators, and executors).

WHEREAS the Supplier having unequivocally accepted to supply the materials/Services as per terms and conditions given in the Agreement dated _____ /Purchase Order No. _____ dated _____ and TCIL having agreed that the Supplier shall furnish to TCIL a Performance Guarantee for the faithful performance of the entire contract, to the extent of 10% (ten percent) of the value of the Purchase Order i.e. for _____.

We, _____ (“The Bank”) which shall include OUR successors, administrators and executors herewith establish an irrevocable Letter of Guarantee No. _____ in your favour for account of _____ (The Supplier) in cover of performance guarantee in accordance with the terms and conditions of the Agreement/Purchase Order.

Hereby, we undertake to pay up to but not exceeding _____ (say _____ only) upon receipt by us of your first written demand accompanied by your declaration stating that the amount claimed is due by reason of the Supplier having failed to perform the Agreement and despite any contestation on the part of above named supplier.

The proceed of performance security shall be payable to TCIL in case of breach of any of the terms and conditions of the contract/PO/tender by the vendor.

This Letter of Guarantee will expire on _____ including 30 days of claim period and any claims made hereunder must be received by us on or before expiry date after which date this Letter of Guarantee will become of no effect whatsoever whether returned to us or not.

Authorized Signature
Manager
Seal of Bank
Contact details

END OF SECTION-17

SECTION-18

MEMORANDUM OF UNDERSTANDING

(*Format when backend partner is in consortium)

(To be signed by all Consortium Partners)

This Memorandum of Understanding (MoU) is made on ___ day of _____ at New Delhi by and between:

M/s Telecommunications Consultants India Limited, a Company registered under the Indian Companies Act 1956, with its registered and corporate office at TCIL Bhawan, Greater Kailash-1, New Delhi – 110048, hereinafter referred to as “**TCIL**”, which expression shall include its successors and its permitted assigns, of one part.

AND

_____ **CONSORTIUM** consisting of M/s _____ (**Vendor Name**), registered under the _____ Act, with its registered office at _____ (**Lead Member**), M/s _____ (**Vendor Name**), registered under the _____ Act, with its registered office at _____ (**Consortium Partner**) and M/s _____ (**Vendor Name**), registered under the _____ Act, with its registered office at _____ (**Consortium Partner**) hereinafter the said consortium shall be referred to as “_____”, which expression shall include its successors and permitted assigns, of the other part.

“TCIL” and “_____” are individually referred to as “Party” and collectively as “Parties”.

WHEREAS TCIL, a Government of India Enterprise under the Ministry of Communications and Information Technology, is a leading company in Telecommunications and Information Technology and has to its credit successful execution of many consultancy and turnkey projects in the fields of Telecom, IT and Civil both in India and abroad and it also acts as procurement consultant/agent/executing agency/implementing agency for number of Government of India enterprises/undertaking.

WHEREAS _____ (Name of Lead Member) is in the business of _____.

WHEREAS _____ (Name of Consortium Partner) is in the business of _____.

WHEREAS _____ (Name of Consortium Partner) is in the business of _____.

WHEREAS _____ (Client Name) (herein after called “_____”) issued TENDER No. _____ dated _____ for “_____”, hereinafter referred to as “_____ (Client Name) tender” /”Work”/”Project”.

WHEREAS TCIL published EOI No. _____ dated _____ (hereinafter referred as TCIL EOI) for selection of back-end partner for _____ (Client Name) tender.

AND WHEREAS M/s _____ & M/s _____ has entered into a Consortium Agreement / Memorandum of Agreement dated _____ (**Annexure A**) and a Role & Responsibility Matrix dated _____ (**Annexure B**) for the purpose of forming a consortium to participate in TCIL EOI wherein it is mentioned that _____ shall act as the Lead Member & _____ shall act as consortium partner and the Lead Member is authorized to sign the MOU with TCIL and accordingly they have submitted their offer for _____ in response to TCIL EOI & pursuant to the same were selected by TCIL as back-end partner for _____ (Client name) Tender.

Now, therefore, it is agreed between the Parties as under:

1. The Parties wish to work together with the understanding that TCIL shall act as the bidder (lead bidder) and _____ (consortium name) (partner for _____) for participating in the _____ (client name) Tender.

**Please note that the term "Lead bidder" shall be mentioned only when TCIL shall bid in consortium with backend partner.*

2. _____ (consortium name) shall not participate directly or indirectly whether in consortium or separately in _____ (client name) Tender and shall not quote rates to any other party participating/pre-qualified for _____ (client name) Tender directly or indirectly through its subsidiary, partnership, ownership, individual firm etc.
3. On award of the work of the _____ (client name) Tender to TCIL, TCIL will enter into a detailed agreement with _____ (consortium name) based on the terms & conditions of this MoU, TCIL EOI and _____ (client name) Tender.
4. The term of this MoU shall be for _____ months ("Term") from the date of signing of this MoU ("Effective Date") or till the completion of the project & release of all payments thereof whichever is later. All obligations hereunder shall only apply during the Term of this MoU and to such obligations and commitments in relation to the Tender/Work/Project under the scope of TCIL EOI & _____ (Client name) tender, as may have been undertaken by the Parties during the Term with validity exceeding the Term. The Term of this MoU can be extended by mutual agreement between the Parties, depending upon the requirement.
5. After mutual consultation, a joint team consisting of representatives of the parties will be formed for various activities like, technical discussions, deciding the preparation of final Bid/offer, terms & conditions and demonstration of functionality required in the _____ (Client name) Tender/Work/Project.
6. TCIL and _____ (consortium name) hereby mutually agree that both of them shall remain as irrevocable members of this tie-up for the complete execution and completion of _____ (client name) Tender/Work/Project (as per scope of TCIL EOI & _____ (Client name) tender).
7. Expenses towards bid preparation would be borne by the individual Parties viz. TCIL and _____ (consortium name) for their respective work. TCIL will not reimburse any such expenses to _____ (consortium name) towards preparation and submission of the bid.
8. All technical, financial and commercial terms and conditions of the Tender, except pricing, risk purchase, limitation of liability, advance payment & termination, will apply on back-to-back basis between TCIL and _____ (consortium name), for their respective part/scope of work. However, if _____ (consortium name) or any of its member fails to fulfill its part of the work to the satisfaction of TCIL, then TCIL shall have the right to terminate the contract with _____ (consortium name) and get the same executed departmentally or by other agencies at the risk and cost of _____ (consortium name).
9. Both M/s _____ (Lead Member name) and M/s _____ (Consortium Partner name) shall be jointly and severally responsible for compliance of all the terms and conditions of the tender document, this MOU and TCIL's contract with main client relating to performance of this MOU. Any non-compliance by either party of the Consortium shall be treated as a breach of this MOU.
10. Both M/s _____ (Lead Member name) and M/s _____ (Consortium Partner name) shall be jointly and severally liable to TCIL to compensate any losses or damages if so suffered by TCIL for any breach of this agreement and/or action initiated by the main client for non-performance of the contract.
11. In case of failure of either of M/s _____ (Lead Member name) or M/s _____ (Consortium Partner name), the total responsibility shall shift upon remaining party.
12. Notwithstanding anything contained in any other agreement, document, correspondence, arrangement between the parties in respect of _____ (Client name) Tender/ Works / Projects, the _____ (consortium name) understands, agrees and undertakes that:

- a) _____ (consortium name) participated in TCIL EOI and that all terms & conditions of the TCIL EOI shall apply to _____ (consortium name).
- b) Prices quoted by _____ (consortium name) shall remain firm and fixed till the execution of the Tender.
- c) the payments terms between TCIL & _____ (consortium name) are on back-to-back basis and the payment shall be released by TCIL only if and when received by TCIL from _____ (Client name) and subject to terms & conditions of agreement (as stipulated in 3 above) and submission of complete required documents. Payment to the vendor/supplier/partner upon its submitting all required documents showing completion of work as well as the tentative invoice, shall be on a back-to-back basis with the client i.e. only on client finally certifying, accepting and making payment of the said work done by the vendor/supplier/partner as forwarded by TCIL to the Client, such vendor/supplier/partner shall become eligible for payment. As the work is being executed through vendor/supplier/partner by TCIL, on behalf of the client, the vendor/supplier/partner's eligibility for receiving payment from TCIL shall depend solely upon acceptance of the work, certification of the bill and payment of the certified bill by the client. Entitlement of the vendor/supplier/partner for payment from TCIL regarding the bill raised by it in respect of a particular work would arise within a reasonable time of 15 working days upon receipt of above payments after statutory and contractual deductions by the client and TCIL. Such payments shall also be subject to contractual requirements/payment terms between client and TCIL to which the vendor/supplier/partner shall also be bound. However, in the event client certifies the work for lesser amount, the entitlement of vendor/supplier/partner of TCIL would be only for the certified value of work by the client minus the statutory and contractual deductions as per contract of vendor/supplier/partner with TCIL. TCIL will make reasonable efforts to secure acceptance and certification of the work and release of the payment by the client, however, any delay on the part of the client in certification and acceptance of the work and release of the payment will not entitle the vendor/supplier/partner to raise claim regarding the same against TCIL.
- d) _____ (consortium name) will not demand or make any claim under any law with respect to the pending payment till the time corresponding payment is received by TCIL from _____ (Client name). TCIL shall not be responsible in any manner whatsoever for any delay in releasing the payments or withholding of payments by _____ (Client name).
- e) the (day) date of delivery of goods and/or rendering of services by the _____ (consortium name) shall be the date of realization of payment from the client once the goods and/or services are accepted by the client.
- f) if in the instant contract, _____ (consortium name) is acting only as trader / reseller / distributor/authorized agents and/or is engaged in a WORKS contract, no benefits under MSME Act 2006 and PPP Policy 2012 as per MSE Guidelines issued by Ministry of MSME would be applicable to it on account of acceptance of back to back payment terms as above. By agreeing to the terms of _____ (client name) Tender, the _____ (consortium name) agrees to forgo its rights under this Act and Policy.
- g) _____ (consortium name) hereby agrees to ensure timely GST compliances as per the statutory requirements. All the costs pertaining to any GST non-compliance including but not limited to any loss of eligible input tax credit due to non-payment/non-filing of GST return and applicable interest/penalties shall be borne/indemnified by _____ (consortium name). Further _____ (consortium name) hereby agrees that TCIL reserves the right for reimbursement of any such cost incurred out of the aforesaid non-compliance(s). _____ (consortium name) will provide payment of GST proof i.e. GSTR-1, GSTR-3B, cash ledger and challan for taking GST payment from TCIL against invoices.
- h) Any deductions by the _____ (Client name) towards LD/penalties/contingencies shall be borne by _____ (consortium name) in terms of TCIL EOI.
- i) At any given point of time, _____ (consortium name) may not assign or delegate its rights, duties or obligations under this MOU without prior written consent of TCIL.
- j) On award of work of the Tender/Work/Project, _____ (consortium name) shall provide its GeM Seller id to TCIL (not applicable for "works" contract or non-Indian vendor).
- k) In the event of breach of any of the terms & conditions of this MOU or in case of any default of any terms & conditions of this MOU, on the part of _____ consortium and/or M/s _____ (Lead Member name) and/or M/s _____ (Consortium partner Name), TCIL reserves the right to take necessary steps / action as per available documents, including but not limited to, termination of contract, forfeiture of Performance Security / EMD, blacklisting / banning etc. and execute the work at their risk & cost.

13. TCIL and ____ (consortium name) agree to keep confidential all information shared with each other and disclose to third party only after taking prior written consent of each other. This clause excludes information available in public domain. The confidentiality provisions of this MoU shall remain in full force and effect during the term of this MoU and 12 months thereafter.
14. Any sum of money (including refundable security deposit) due and payable to the _____ (consortium name) and/or _____ (Lead bidder name) and/or _____ (Consortium partner name), under this contract or any other contract entered between the parties herein whether continuing or completed may be appropriated by TCIL and set off against any claim of TCIL of any nature whatsoever, arising under this contract or any other contract entered into between the parties, herein whether continuing or completed.
15. Nothing in this MoU shall constitute, create or give effect or recognize a JV, partnership or business entity of any kind.
16. This MoU shall be construed and governed by the laws of India and the parties hereby submit to the exclusive jurisdiction of the Delhi Courts of Law.
17. Any matter which is not stipulated in the MoU, shall be settled in good faith by discussion among the parties in the spirit of understanding and cooperation.

18. Dispute Resolution:

1. The parties to this agreement/contract agree that they shall resolve all disputes or differences whatsoever arising between them under and/or in connection with and/or in respect of this Tender/EOI/Agreement/Purchase Order/MoU through a “Conciliation and Settlement Mechanism (CSM)” and the detailed guidelines/procedure for such CSM is annexed hereto as Annexure-A (*Section-19 to made part of MOU*). That it is understood and agreed between the parties that the CSM annexed as Annexure-A with the present agreement forms and shall be treated as part and parcel of the present agreement.
2. In cases, wherein the contract value/price is less than or equal to Rs. 5 crore (Rupees Five Crore) and the parties fail to resolve such disputes through the conciliation proceedings as provided in sub-clause ‘1’ above, then and only then, a party shall refer the dispute to arbitration under Arbitration & Conciliation Act 1996 as amended from time to time. The venue of the arbitration proceedings shall be Delhi.
3. For all the contracts other than those mentioned in sub-clause ‘2’ above, the matter shall not be referred to arbitration at all and such disputes, on failure of conciliation proceedings in sub-clause ‘1’ above, shall be resolved under the mechanism provided by the State in form of Courts of Law/Ordinary Civil Courts for resolution of such disputes under applicable Laws.
4. The courts at New Delhi shall have exclusive jurisdiction in respect to any dispute pertaining to this agreement.
5. The parties shall continue to perform their respective obligations as per the Agreement during the pendency of proceedings under this clause.

**Please Note that in case of agreement/MoU with Government Organization, the following clause shall be applicable:*

In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Center Enterprise (CPSEs)/Port Trusts inter se and also between CPSEs and Govt. Depts/ organizations (excluding disputes relating to Railways, Income Tax, Customs & Excise Dept), such dispute or difference shall be taken up by either party for its resolution through AMRCD as mentioned in DPE OM No. 05/003/2019-FTS-10937 dated 14th December 2022 and the decision of AMRCD on the said dispute will be binding on both the parties

19. During its Term, this MOU will be terminated in the event of
 - a. Client withdrawing the Tender provided it does not create any financial obligation on TCIL.
 - b. Tender not awarded to TCIL
 - c. Mutual agreement between the "Parties"
 - d. As per TCIL EOI
20. Notices and other communications under this MoU shall be in writing and communicated through post, courier, fax, email or any other recognized mode of such communication. All such notices and communications shall be directed to the address as mentioned in the MoU.
21. By signing this MoU, the "Parties" acknowledge that it correctly records the understanding they have reached with regard to the Project.
22. EOI document, technical / financial bid, any further negotiations, all correspondences with or from _____ (consortium name) till EOI finalization shall be an integral of this MOU.

IN WITNESS WHEREOF, each party hereto has caused this MoU to be executed in duplicate to be effective as of the Effective Date, by its duly authorized representative.

For Telecommunications Consultants India Ltd

For _____ Private Limited

Signature:

Signature:

Name:

Name:

Designation:

Designation:

Date:

Date:

Witness:

Witness:

Memorandum of Understanding
(*Format when backend partner is a single bidder)

This Memorandum of Understanding (MoU) is made on ___th day of _____ at New Delhi by and between:

M/s Telecommunications Consultants India Limited, a Company registered under the Indian Companies Act 1956, with its registered and corporate office at TCIL Bhawan, Greater Kailash-1, New Delhi – 110048, hereinafter referred to as “**TCIL**”, which expression shall include its successors and its permitted assigns, of one part.

AND

M/s _____ (**vendor name**), registered under the Indian Companies Act 1956/2013 (whichever is applicable), with its registered office at _____, hereinafter referred to as “_____”, which expression shall include its successors and permitted assigns, of the other part.

“TCIL” and “_____” are individually referred to as “Party” and collectively as “Parties”.

WHEREAS TCIL, a Government of India Enterprise under the Ministry of Communications and Information Technology, is a leading company in Telecommunications and Information Technology and has to its credit successful execution of many consultancy and turnkey projects in the fields of Telecom, IT and Civil both in India and abroad and it also acts as procurement consultant/agent/executing agency/implementing agency for number of Government of India enterprises/undertaking.

WHEREAS _____ (vendor name) is in the business of _____.

WHEREAS _____ (Client Name) (herein after called “_____”) issued TENDER No. _____ dated _____ for ‘_____, hereinafter referred to as “_____ (Client Name) tender” /”Work”/”Project”.

WHEREAS TCIL published EOI No. _____ dated _____ (hereinafter referred as TCIL EOI) for selection of back-end partner for _____ (Client Name) tender.

AND WHEREAS _____ (Vendor Name) submitted their offer and pursuant to the same was selected by TCIL as back-end partner for _____ (Client Name) Tender.

Now, therefore, it is agreed between the Parties as under:

1. The Parties wish to work together with the understanding that TCIL shall act as the bidder (lead bidder) and _____ (vendor name) (partner for _____) for participating in the _____ (client name) Tender.
**Please note that the term “Lead bidder” shall be mentioned only when TCIL shall bid in consortium with backend partner.*
2. _____ (vendor name) shall not participate directly in _____ (client name) Tender and shall not quote rates to any other party participating/pre-qualified for _____ (client name) Tender directly or indirectly through its subsidiary, partnership, ownership, individual firm etc.
3. On award of the work of the _____ (client name) Tender to TCIL, TCIL will enter into a detailed agreement with _____ (vendor name) based on the terms & conditions of this MoU, TCIL EOI and _____ (client name) Tender.
4. The term of this MoU shall be for _____ months (“Term”) from the date of signing of this MoU (“Effective Date”) or till the completion of the project & release of all payments thereof whichever is later. All obligations hereunder shall only apply during the Term of this MoU and to such obligations and commitments in relation to the Tender/Work/Project under the scope of TCIL EOI & _____

(Client name) tender, as may have been undertaken by the Parties during the Term with validity exceeding the Term. The Term of this MoU can be extended by mutual agreement between the Parties, depending upon the requirement.

5. After mutual consultation, a joint team consisting of representatives of the parties will be formed for various activities like, technical discussions, deciding the preparation of final Bid/offer, terms & conditions and demonstration of functionality required in the _____ (Client name) Tender/Work/Project.
6. TCIL and _____ (vendor name) hereby mutually agree that both of them shall remain as irrevocable members of this tie-up for the complete execution and completion of _____ (client name) Tender/Work/Project (as per scope of TCIL EOI & _____ (Client name) tender).
7. Expenses towards bid preparation would be borne by the individual Parties viz. TCIL and _____ (vendor name) for their respective work. TCIL will not reimburse any such expenses to _____ (vendor name) towards preparation and submission of the bid.
8. All technical, financial and commercial terms and conditions of the Tender, except pricing, risk purchase, limitation of liability, advance payment & termination, will apply on back-to-back basis between TCIL and _____ (vendor name), for their respective part/scope of work. However, if _____ (vendor name) fails to fulfill its part of the work to the satisfaction of TCIL, then TCIL shall have the right to terminate the contract with _____ (vendor name) and get the same executed departmentally or by other agencies at the risk and cost of _____ (vendor name).
9. Notwithstanding anything contained in any other agreement, document, correspondence, arrangement between the parties in respect of _____ (Client name) Tender/ Works / Projects, the _____ (vendor name) understands, agrees and undertakes that:
 - a) _____ (vendor name) participated in TCIL EOI and that all terms & conditions of the TCIL EOI shall apply to _____ (vendor name).
 - b) Prices quoted by _____ (vendor name) shall remain firm and fixed till the execution of the Tender.
 - c) the payments terms between TCIL & _____ (vendor name) are on back to back basis and the payment shall be released to _____ (vendor name) by TCIL only if and when received by TCIL from _____ (Client name) and subject to submission of complete documents and invoices etc. by it. Payment to the vendor/supplier/partner upon its submitting all required documents showing completion of work as well as the tentative invoice, shall be on a back-to-back basis with the client i.e. only on client finally certifying, accepting and making payment of the said work done by the vendor/supplier/partner as forwarded by TCIL to the Client, such vendor/supplier/partner shall become eligible for payment. As the work is being executed through vendor/supplier/partner by TCIL, on behalf of the client, the vendor/supplier/partner's eligibility for receiving payment from TCIL shall depend solely upon acceptance of the work, certification of the bill and payment of the certified bill by the client. Entitlement of the vendor/supplier/partner for payment from TCIL regarding the bill raised by it in respect of a particular work would arise within a reasonable time of 15 working days upon receipt of above payments after statutory and contractual deductions by the client and TCIL. Such payments shall also be subject to contractual requirements/payment terms between client and TCIL to which the vendor/supplier/partner shall also be bound. However, in the event client certifies the work for lesser amount, the entitlement of vendor/supplier/partner of TCIL would be only for the certified value of work by the client minus the statutory and contractual deductions as per contract of vendor/supplier/partner with TCIL. TCIL will make reasonable efforts to secure acceptance and certification of the work and release of the payment by the client, however, any delay on the part of the client in certification and acceptance of the work and release of the payment will not entitle the vendor/supplier/partner to raise claim regarding the same against TCIL.

- d) _____ (vendor name) will not demand or make any claim under any law with respect to the pending payment till the time corresponding payment is received by TCIL from _____ (Client name). TCIL shall not be responsible in any manner whatsoever for any delay in releasing the payments or withholding of payments by _____ (Client name).
- e) the (day) date of delivery of goods and/or rendering of services by the ____ (vendor name) shall be the date of realization of payment from the client once the goods and/or services are accepted by the client.
- f) if in the instant contract, ____ (vendor name) is acting only as trader / reseller / distributor/authorized agents and/or is engaged in a WORKS contract, no benefits under MSME Act 2006 and PPP Policy 2012 as per MSE Guidelines issued by Ministry of MSME would be applicable to it on account of acceptance of back to back payment terms as above. By agreeing to the terms of _____ (client name) Tender, the _____ (vendor name) agrees to forgo its rights under this Act and Policy.
- g) ____ (vendor name) hereby agrees to ensure timely GST compliances as per the statutory requirements. All the costs pertaining to any GST non-compliance including but not limited to any loss of eligible input tax credit due to non-payment/non-filing of GST return and applicable interest/penalties shall be borne/indemnified by ____ (vendor name). Further ____ (vendor name) hereby agrees that TCIL reserves the right for reimbursement of any such cost incurred out of the aforesaid non-compliance(s). ____ (vendor name) will provide payment of GST proof i.e. GSTR-1, GSTR-3B, cash ledger and challan for taking GST payment from TCIL against invoices.
- h) Any deductions by the ____ (Client name) towards LD/penalties/contingencies shall be borne by ____ (vendor name) in terms of TCIL EOI.
- i) At any given point of time, _____ (vendor name) may not assign or delegate its rights, duties or obligations under this MOU without prior written consent of TCIL.
- j) On award of work of the Tender/Work/Project, _____ (vendor name) shall provide its GeM Seller id to TCIL (not applicable for “works” contract or non-Indian vendor).
- k) In the event of breach of any of the terms & conditions of this MOU or in case of any default of any terms & conditions of this MOU, on the part of the _____ (vendor name), TCIL reserves the right to take necessary steps / action as per available documents, including but not limited to, termination of contract, forfeiture of Performance Security / EMD, blacklisting / banning etc. and execute the work at their risk & cost.
10. TCIL and ____ (vendor name) agree to keep confidential all information shared with each other and disclose to third party only after taking prior written consent of each other. This clause excludes information available in public domain. The confidentiality provisions of this MoU shall remain in full force and effect during the term of this MoU and 12 months thereafter.
11. Any sum of money (including refundable security deposit) due and payable to the _____ (vendor name), under this contract or any other contract entered between the parties herein whether continuing or completed may be appropriated by TCIL and set off against any claim of TCIL of any nature whatsoever, arising under this contract or any other contract entered into between the parties, herein whether continuing or completed.
12. Nothing in this MoU shall constitute, create or give effect or recognize a JV, partnership or business entity of any kind.
13. This MoU shall be construed and governed by the laws of India and the parties hereby submit to the exclusive jurisdiction of the Delhi Courts of Law.
14. Any matter, which is not stipulated in the MoU, shall be settled in good faith by discussion among the parties in the spirit of understanding and cooperation.
- 15. Dispute Resolution:**
1. The parties to this agreement/contract agree that they shall resolve all disputes or differences whatsoever arising between them under and/or in connection with and/or in respect of this Tender/EOI/Agreement/Purchase Order/MoU through a “Conciliation and Settlement Mechanism

(CSM)” and the detailed guidelines/procedure for such CSM is annexed hereto as Annexure-A (Section-19 to made part of MOU). That it is understood and agreed between the parties that the CSM annexed as Annexure-A with the present agreement forms and shall be treated as part and parcel of the present agreement.

2. In cases, wherein the contract value/price is less than or equal to Rs. 5 crore (Rupees Five Crore) and the parties fail to resolve such disputes through the conciliation proceedings as provided in sub-clause ‘1’ above, then and only then, a party shall refer the dispute to arbitration under Arbitration & Conciliation Act 1996 as amended from time to time. The venue of the arbitration proceedings shall be Delhi.
3. For all the contracts other than those mentioned in sub-clause ‘2’ above, the matter shall not be referred to arbitration at all and such disputes, on failure of conciliation proceedings in sub-clause ‘1’ above, shall be resolved under the mechanism provided by the State in form of Courts of Law/Ordinary Civil Courts for resolution of such disputes under applicable Laws.
4. The courts at New Delhi shall have exclusive jurisdiction in respect to any dispute pertaining to this agreement.
5. The parties shall continue to perform their respective obligations as per the Agreement during the pendency of proceedings under this clause.

**Please Note that in case of agreement/MoU with Government Organization, the following clause shall be applicable:*

In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Center Enterprise (CPSEs)/Port Trusts inter se and also between CPSEs and Govt. Depts/ organizations (excluding disputes relating to Railways, Income Tax, Customs & Excise Dept), such dispute or difference shall be taken up by either party for its resolution through AMRCD as mentioned in DPE OM No. 05/003/2019-FTS-10937 dated 14th December 2022 and the decision of AMRCD on the said dispute will be binding on both the parties

16. During its Term, this MOU will be terminated in the event of
 - ii) Client withdrawing the Tender provided it does not create any financial obligation on TCIL.
 - iii) Tender not awarded to TCIL
 - iv) Mutual agreement between the “Parties”
 - v) As per TCIL EOI
17. Notices and other communications under this MoU shall be in writing and communicated through post, courier, fax, email or any other recognized mode of such communication. All such notices and communications shall be directed to the address as mentioned in the MoU.
18. By signing this MoU, the “Parties” acknowledge that it correctly records the understanding they have reached with regard to the Project.
19. EOI document, technical / financial bid, any further negotiations, all correspondences with or from _____ (vendor name) till EOI finalization shall be an integral of this MOU.

IN WITNESS WHEREOF, each party hereto has caused this MoU to be executed in duplicate to be effective as of the Effective Date, by its duly authorized representative.

For Telecommunications Consultants India Ltd

For _____ Private Limited

Signature:

Signature:

Name:

Name:

Designation:

Designation:

Date:

Date:

Witness:

Witness:

NOTE (For User Division):

The template of Pre-bid MoU documents [(1) with consortium, and (2) without consortium] are enclosed. Necessary changes/modifications as applicable should be made prior to floating in EOI/signing the MoU. The relevant MoU format may be made a part of EOI document, so that it can be signed on selection of vendor at pre-bid stage.

END OF SECTION-18

SECTION-19**Annexure-A to Dispute Resolution Clause****Establishment of a Conciliation & Settlement Mechanism (CSM) for Contractual Disputes under the contract agreements with the Contractors / Concessionaires / Consultants in TCIL.****1. Objective:**

The TCIL has been entering into various contract agreements with the Contractors/ Concessionaires/ Consultants for implementing projects and obtaining services in various modes. Several disputes have been arising under these contract agreements. The associated legal costs and diversion of manpower of both parties are enormous. The early resolution/ settlement of claim, preferably through an out-of-court settlement process, is in the interest of all the stakeholders.

2. The Standing Operating Procedure (SoP)

The procedure given hereunder will be implemented for resolving disputes through conciliation mechanism:

- 1) If any commercial/contractual dispute arises between TCIL and Bidder/MoU partner/Vendor/Contractor, then any of the party shall send a reference about the dispute containing a written brief identifying the subject of the dispute to the CMD, TCIL alongwith a copy of such reference to other party for resolution of dispute through conciliation.
- 2) CMD, TCIL or his authorized representative shall, within seven days of receipt of such a reference, nominate an officer of TCIL to act as the conciliator and shall arrange to issue necessary intimation to both the parties.
- 3) Within three days of appointment of conciliator by CMD,TCIL both the parties shall intimate to the conciliator, the name of their respective officer(s) who shall be representing such a party in the conciliation proceedings. The maximum number of such officer(s) shall not be more than three and no legal practitioner/advocate shall be part of such a team.
- 4) Thereafter, both the teams of the parties shall meet on the dates as fixed by the conciliator, discuss the agenda and explore the possibilities of conciliation/settlement. First such meeting shall be held within Seven (7) days of the nomination of the conciliation team by both the parties. The venue for conducting conciliation proceedings will be TCIL Bhawan, Greater Kailash-I, New Delhi 110048.
- 5) The conciliator shall assist the parties in an independent and impartial manner in their attempt to reach an amicable settlement of their dispute.
- 6) The conciliator shall be guided by principles of objectivity, fairness and justice,

giving consideration to, among other things, the rights and obligations of the parties, the usages of the trade concerned and the circumstances surrounding the dispute, including any previous business practices between the parties.

- 7) The conciliator may conduct the conciliation proceedings in such a manner as he considers appropriate, taking into account the circumstances of the case, the wishes the parties may express, including any request by a party that the conciliator hear oral statements, and the need for a speedy settlement of the dispute.
- 8) The conciliator may, at any stage of the conciliation proceedings, make proposals for a settlement of the dispute. Such proposals need not be in writing and need not be accompanied by a statement of the reasons therefor.
- 9) The teams thereafter can meet any number of times under the guidance and supervision of Conciliator and will try to find a solution that is acceptable to both the parties. The conciliation may be successful or partially successful. On the points of dispute or part of a dispute wherein parties have agreed for a common ground, the officers representing each party shall seek approval of their respective company/entity. After that a settlement deed shall be drafted and signed by the authorized representatives of the parties. When the parties sign the settlement agreement, it shall be final and binding on the parties and persons claiming under them respectively and this shall not be challenged by any of the party in any court or under any law. The parties shall unequivocally affirm, declare and confirm in the settlement agreement that they have signed the agreement without any coercion, duress, inducement and were fully competent to sign the said agreement.
- 10) The conciliator shall endorse and authenticate the settlement agreement and furnish a copy thereof to each of the parties.
- 11) The conciliation process shall be concluded within 60 days of nomination of its representatives by the second party. However, the parties, with mutual consent can extend this period and then the conciliation proceedings shall be concluded in this extended period.
- 12) If no settlement is arrived between the parties in the time mentioned in clause 11) above, then the conciliation proceedings shall be deemed to have been failed.
- 13) The conciliator shall intimate the appointing authority the final outcome of the conciliation proceedings.

3. Resort to arbitral or judicial proceedings:

The parties shall not initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject-matter of the conciliation proceedings

except that a party may initiate arbitral or judicial proceedings where, in his opinion, such proceedings are necessary for preserving his rights.

4. Admissibility of evidence in other proceedings.

- 1) The parties shall not rely on or introduce as evidence in arbitral or judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the conciliation proceedings,—
 - (a) views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;
 - (b) admissions made by the other party in the course of the conciliation proceedings;
 - (c) Proposals made by the parties or conciliator;
 - (d) The fact that the other party had indicated his willingness to accept a proposal for settlement made by the other party.

5. Confidentiality.

Notwithstanding anything contained in any other law for the time being in force, the parties shall keep confidential all matters relating to the conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of implementation and enforcement.

6. Termination of conciliation proceedings.

The conciliation proceedings shall be terminated on happening of any of the conditions below:-

- 1) by the signing of the settlement agreement by the parties, on the date of the agreement; or
- 2) by a written declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration; or
- 3) by a written declaration of the parties addressed to the conciliator to the effect that the conciliation proceedings are terminated, on the date of the declaration; or
- 4) by a written declaration of a party to the other party and the conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of the declaration; or
- 5) by the lapse of time or extended time as provided in clause 2(12) above

END OF SECTION – 19

(Section 20 -21 Deleted)

SECTION – 22

FORMAT FOR INSURANCE SURETY BOND FOR EMD / BID SECURITY
(To be stamped in accordance with Stamp Act of India)

As per standard format of bank for EMD or Bid Security

END OF SECTION - 22

SECTION – 23**FORMAT OF INSURANCE SURETY BOND FOR PERFORMANCE GUARANTEE /
PERFORMANCE SECURITY**

As per client defined format in the client tender else standard format of bank.

END OF SECTION – 23

SECTION – 24**UNDERTAKING BY BIDDER IN RESPECT OF BACK-TO-BACK PAYMENT TERMS**

(Only for client tender where payment terms are on back-to-back basis)

1. I/we,....., have perused the Tender/EOI/RFP of Client and/or the arrangement of TCIL with its Client,..... and have also examined scope of work and the payment terms therein.
2. I/we,....., have clearly understood the scope of work which TCIL is intending to award under the present Tender/RFP/EOI/PO/LOI/LOA and the terms of payments mentioned therein.
3. I/we,....., completely understand and agree that the work to be executed through undersigned by TCIL is on behalf of the client wherein the eligibility for payment depends solely upon acceptance of the undersigned's work, certification of the bill and payment of the certified bill by the said client. The date of delivery of such service/supply under the scope of work for entitlement of payment shall be the date on which the corresponding payments have been received by TCIL from its client. Undersigned's entitlement for payment regarding the bill raised in respect of a particular work would only arise within a reasonable time of 15 working days upon acceptance of the work and release of corresponding payment by the client to TCIL.
4. I/we,....., completely understand and agree that in the event client certifies the work for lesser amount, undersigned's entitlement would be only for the certified value of work by the client minus the statutory and contractual deductions as per our contract with TCIL.
5. I/we,....., also completely understand and agree that TCIL will make reasonable efforts to secure acceptance and certification of the work and release of the payment by the client. However, any delay on the part of the client in certification and acceptance of the work and release of the payment will not entitle undersigned to raise claim regarding the same against TCIL.

Signed by..... (Authorized Representative of))

Date....

Place.....

END OF SECTION – 24