

**Request for Proposal
for
Selection of System Integrator for Ensuring
Continuity of Khanij Online (CHiMMS) Application
and
Design, Development, Implementation and
Maintenance of Khanij Online 2.0**

(Volume 3 of 3- Terms & Conditions)

RFP No.: 62157/CEO/CHiPS/KhanijOnline2.0/RFP/2020
dated 13th March 2020



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DISCLAIMER

This Request for Proposal (RFP) for Selection of System Integrator for “**Ensuring Continuity of Khanij Online (CHiMMS) Application and Design, Development, Implementation and Maintenance of Khanij Online 2.0**” for the state of Chhattisgarh is issued by CHiPS on behalf of Directorate of Geology and Mining (DGM), Government of Chhattisgarh.

Whilst the information in this RFP has been prepared in good faith, it is not and does not purport to be comprehensive or to have been independently verified. Neither DGM/CHiPS, nor any of its officers or employees, nor any of their advisers nor consultants accept any liability or responsibility for the accuracy, reasonableness or completeness of the information contained in the RFP, or for any errors, omissions or misstatements, negligent or otherwise, relating to the proposed. Project, or makes any representation or warranty, express or implied, with respect to the information contained in this RFP or on which this RFP is based or with respect to any written or oral information made or to be made available to any of the recipients or their professional advisers and, so far as permitted by law and except in the case of fraudulent misrepresentation by the party concerned, and liability therefore is hereby expressly disclaimed.

The information contained in this RFP is selective and is subject to updating, expansion, revision and amendment at the sole discretion of DGM/CHiPS. It does not, and does not purport to, contain all the information that a recipient may require for the purposes for making a decision for participation in this process. Each Party must conduct its own analysis of the information contained in this RFP, to correct any inaccuracies therein and is advised to carry out its own investigation into the proposed project, the regulatory regime which applies thereto and by and all matters pertinent to the project and to seek its own professional advice on the legal, financial and regulatory consequences of entering into any agreement or arrangement relating to the Project. DGM/CHiPS shall not be responsible for any direct or indirect loss or damage arising out of or for use of any content of the RFP in any manner whatsoever.

This RFP includes certain statements, estimates, projections, targets and forecasts with respect to the proposed project. Such statements, estimates, projections, targets and forecasts reflect various assumptions made by the management, officers, employees, consultants, and experts, which (the assumptions and the base information on which they are made) may or may not prove to be correct. No representation or warranty is given as to the reasonableness of forecasts or the assumptions on which they may be based and nothing in this RFP is, or should be relied on as, a promise, representation or warranty.

DGM/CHiPS shall be the final authority with respect to qualifying a bidder through this RFP. The decision in selecting the System Integrator who qualifies through this RFP shall be final and DGM/CHiPS reserves the right to reject any or all the bids without assigning any reason thereof. CHiPS further reserves the right to negotiate with the selected agency to enhance the value through this project and to create a more amicable environment for the smooth execution of the project.

DGM/CHiPS may terminate the RFP process at any time without assigning any reason and upon such termination CHiPS shall not be responsible for any direct or indirect loss or damage arising out of such a termination.

1. GENERAL CONDITIONS OF CONTRACT

1.1. Definitions

- a) **“Acceptance of System”** The system shall be deemed to have been accepted by the Purchaser, subsequent to its complete installation, rollout and deployment of trained manpower, when all the activities as defined in Scope of Work have been successfully executed and completed to the satisfaction of Purchaser.
- b) **“Applicable Law(s)”** Any statute, law, ordinance, notification, rule, regulation, judgment, order, decree, bye-law, approval, directive, guideline, policy, requirement or other governmental restriction or any similar form of decision applicable to the relevant party and as may be in effect on the date of the execution of this Agreement and during the subsistence thereof, applicable to the Project.
- c) **“Purchaser”** refers to Directorate of Geology & Mining, Mineral Resources Department, Govt. of Chhattisgarh (DGM) / Chhattisgarh Infotech Promotion Society (CHIPS).
- d) **“Bidder”** shall mean Sole / Prime / Lead Bidder submitting the proposal in response to this RFP.
- e) **“SI”** means the bidder who is selected by the Purchaser at the end of this bidding process and who shall carry out all the services mentioned in the scope of work of this RFP.
- f) **“Contract”** means the Agreement entered into between the purchaser and the “System Integrator” as recorded in the Contract form signed by the purchaser and the “System Integrator” including all attachments and Annexes thereto, the Tender and All Annexes thereto and the agreed terms as set out in the proposal, all documents incorporated by reference therein and amendments and modifications to the above from time to time;
- g) **“Contract Value”** means the price payable to SI under this Contract for the full and proper performance of its contractual obligations.
- h) **“Commercial Off-The-Shelf (COTS)”** refers to software products that are ready-made and available for sale, lease, or license to the general public.
- i) **“Confidential Information”** means any information disclosed to or by any Party to this Contract and includes any information in relation to the Parties, a third party or any such information that may come to the knowledge of the Parties hereto / 's team by virtue of this Contract that is by its nature confidential or by the circumstances in which it is disclosed confidential and/or is designated by the disclosing Party as confidential or identified in terms connoting its confidentiality; but does not include information which is or becomes public knowledge other than by a breach of this Contract.
- j) **“Document”** means any embodiment of any text or image however recorded and includes any data, text, images, sound, voice, codes, databases or any other electronic documents as per IT Act 2000 and amendments thereof.
- k) **“Effective Date”** means the date on which this Contract is signed and executed by the parties hereto.
- l) **“GCC”** means General Conditions of Contract
- m) **“Goods”** means all of the equipment, sub-systems, hardware, software, products accessories, software and/or other material/items which SI is required to supply, install

and maintain under the contract.

- n) **“Intellectual Property Rights”** means any patent, copyright, trademark, trade name, design, trade secret, permit, service marks, brands, proprietary information, knowledge, technology, licenses, databases, computer programs, software, know how or other form of intellectual property right, title, benefits or interest whether arising before or after the execution of this Contract and the right to ownership and registration of these rights.
- o) **“Go-Live”** means installation, testing, commissioning of project, training and commencement of all the services as per scope in the RFP as per scope of work mentioned in RFP Volume I. The Purchaser shall declare the Go-Live date.
- p) **“Notice”** means: a notice; or a consent, approval or other communication required to be in writing under this Contract.
- q) **“OEM”** means the Original Equipment Manufacturer of any equipment / system / software / product which are providing such goods to the Purchaser under the scope of this RFP.
- r) **“RFP”** shall mean the RFP along with clarifications, corrigendum, if any, issued by the Purchaser.
- s) **“System Integrator”** means System Integrator (SI) with whom the order has been placed for providing services as specified in this tender / contract and shall be deemed to include the system Integrator’s successors, representatives (Approved by the Purchaser), heirs, executors, administrators and permitted assigns, as case may be, unless excluded by the terms of the contract.
- t) **“SI’s Team”** means SI who has to provide goods & services to the Purchaser under the scope of this Contract. This definition shall also include any and/or all of the employees of SI, authorized service providers/partners and representatives or other personnel employed or engaged either directly or indirectly by SI for the purposes of this Contract.
- u) **“Sub-Contractor”** shall mean the entity named in the contract for any part of the work or any person to whom any part of the contract has been sublet with the consent in writing of the Purchaser and the heirs, legal representatives, successors and assignees of such person.
- v) **“SCC”** means Special Conditions of Contract.
- w) **“Services”** means the work to be performed by the agency pursuant to this RFP and to the contract to be signed by the parties in pursuance of any specific assignment awarded by the Purchaser.

1.2. Interpretation

In this Contract, unless a contrary intention is evident:

- a) The clause headings are for convenient reference only and do not form part of this Contract;
 - b) Unless otherwise specified a reference to a clause number is a reference to all of its sub-clauses;
 - c) The word “include” or “including” shall be deemed to be followed by “without limitation” or “but not limited to” whether or not they are followed by such phrases;
 - d) Unless otherwise specified a reference to a clause, sub-clause or section is a reference to
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a clause, sub-clause or section of this Contract including any amendments or modifications to the same from time to time;

- e) A word in the singular includes the plural and a word in the plural includes the singular;
- f) A word importing a gender includes any other gender;
- g) A reference to a person includes a partnership and a body corporate;
- h) A reference to legislation includes legislation repealing, replacing or amending that legislation;
- i) Where a word or phrase is given a particular meaning, it includes the appropriate grammatical forms of that word or phrase, which have corresponding meanings.
- j) In the event of an inconsistency between the terms of this Contract and the RFP and the Bid, the terms hereof shall prevail.

1.3. Conditions Precedent

This Contract is subject to the fulfilment of the following conditions precedent by SI.

- a) Furnishing by SI, an unconditional and irrevocable Performance Bank Guarantee (PBG) (RFP Volume II) and acceptable to the Purchaser which would remain valid until such time as stipulated by the Purchaser.
- b) Obtaining of all statutory and other approvals required for the performance of the Services under this Contract. This may include approvals/clearances, wherever applicable, that may be required for execution of this contract e.g. clearances from Government authorities for importing equipment, exemption of Tax / Duties / Levies, work permits /clearances for Bidder/Bidder's team, etc.
- c) Furnishing of such other documents as the Purchaser may specify/demand.
- d) The Purchaser reserves the right to waive any or all of the conditions specified in this clause by giving in in writing and no such waiver shall affect or impair any right, power or remedy that the Purchaser may otherwise have.
- e) In the event that any of the conditions set forth herein above are not fulfilled within One month from the date of this Contract, or such later date as may be mutually agreed upon by the parties, the Purchaser may terminate this Contract.

1.4. Scope of work

Scope of the work shall be as defined in RFP Volume I, Annexures thereto of the RFP, any subsequent addendum and corrigendum issued.

1.5. Key Performance Measurements

- a) SI shall perform the Services and carry out its obligations under the Contract with due diligence, efficiency and economy, in accordance with generally accepted techniques and best practices used in the industry and with IT standards recognized by international professional bodies and shall observe sound management, engineering and security practices. It shall employ appropriate advanced technology, engineering practices, safe and effective equipment, machinery, material and methods. SI shall always act, in respect of any matter relating to the Contract, as faithful advisors to the Purchaser, shall, at all times, support, and safeguard the Purchaser's legitimate interests in any dealings with Third Parties.
- b) Unless specified by the Purchaser to the contrary, SI shall perform all the functions and services necessary to accomplish the transition of the entire knowledgebase, application, infrastructure, and services under existing Khanij Online from the current SI on or before the specified completion dates and carry out the scope of work in accordance with the terms of this Contract, Scope of Work and the Service Specifications as laid down under RFP Volume I.
- c) If the Contract, scheduled requirements, service specification includes more than one document, then unless the Purchaser specifies to the contrary, the later in time shall prevail over a document of earlier date to the extent of any inconsistency.
- d) The Purchaser reserves the right to amend any of the terms and conditions in relation to the Contract/Service Specifications and may issue any such directions, which are not necessarily stipulated therein if it deems necessary for the fulfilment of the Schedule of Requirements.

1.6. Commencement and Progress

- a) SI shall subject to the fulfillment of the conditions precedent above, commence the performance of its obligations in a manner as per the Scope of Work (RFP Volume I).
- b) SI shall proceed to carry out the activities/services with diligence and expedition in accordance with any stipulation as to the time, manner, mode, and method of execution contained in this Contract.
- c) SI shall be responsible for and shall ensure that all activities/services are performed in accordance with the Contract, Scope of Work and Service Specifications and that SI's Team complies with such Specifications and all other standards, terms and other stipulations/conditions set out hereunder.
- d) SI shall perform the activities/services and carry out its obligations under the Contract with due diligence, efficiency and economy, in accordance with generally accepted techniques and practices used in the industry and shall observe sound management, engineering and security practices. SI shall always act, in respect of any matter relating to this Contract, as faithful advisors to the Purchaser and shall, at all times, support and safeguard the Purchaser's legitimate interests in any dealings with Third parties.

1.7. Approvals and Required Consents

- a) The Purchaser shall extend necessary support to SI to obtain, maintain and observe all relevant and customary regulatory and governmental licenses, clearances and applicable

approvals (hereinafter the "Approvals") necessary for SI to provide the Services. The costs of such Approvals shall be borne by SI. Both parties shall give each other all co-operation and information reasonably.

- b) The Purchaser shall also provide necessary support to Bidder in obtaining the Approvals. In the event that any Approval is not obtained, SI and the Purchaser shall co-operate with each other in achieving a reasonable alternative arrangement as soon as reasonably practicable for the Purchaser, to continue to process its work with as minimal interruption to its business operations as is commercially reasonable until such Approval is obtained, provided that SI shall not be relieved of its obligations to provide the Services and to achieve the Service Levels until the Approvals are obtained if and to the extent that SI's obligations are dependent upon such Approvals.

1.8. Constitution of Consortium

- a) For the purposes of fulfillment of its obligations as laid down under the Contract, where the Purchaser deems fit and unless the contract requires otherwise, Prime Bidder shall be the sole point of interface for the Purchaser and would be absolutely accountable for the performance of its own, the other member of Consortium and/or its Team's functions and obligations.
- b) The Consortium member has agreed that SI (Prime Bidder) is the prime point of contact between the Consortium members and the Purchaser and it shall be primarily responsible for the discharge and administration of all the obligations contained herein and, the Purchaser, unless it deems necessary shall deal only with SI. The Prime bidder shall be jointly and severally responsible for complete scope, whereas consortium partners shall be severally responsible only for its respective scope.
- c) Without prejudice to the obligation of the Consortium member to adhere to and comply with the terms of this Contract, the Consortium member has executed and submitted a Power of Attorney in favor of SI authorizing him to act for and on behalf of such member of the Consortium and do all acts as may be necessary for fulfillment of contractual obligations.
- d) The Purchaser reserves the right to review, approve and require amendment of the terms of the Consortium Contract or any contract or agreements entered into by and between the members of such Consortium and no such agreement/contract shall be executed, amended, modified and/or terminated without the prior written consent of the Purchaser. An executed copy of each of such agreements/contracts shall, immediately upon execution be submitted by SI to the Purchaser.
- e) Where, during the term of this Contract, SI terminates any contract/arrangement or agreement relating to the performance of Services, SI shall be responsible and severally liable for any consequences resulting from such termination. SI shall in such case ensure the smooth continuation of Services by providing a suitable replacement to the satisfaction of the Purchaser at no additional charge and at the earliest opportunity.

1.9. System Integrator's Obligations

- a) The System Integrator (SI) shall work closely with the Purchaser and abide by directives issued by them or their staff.

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- b) The System Integrator will abide by the job safety requirements prevalent in India and shall indemnify the Purchaser from any demands or liabilities that may arise during the execution of the contract, including that from accidents or loss of life.
 - c) The System Integrator shall be solely liable for any compensation that may become payable as a result of such incidents and will not hold the Purchaser responsible or obligated.
 - d) The System Integrator shall be responsible for managing the activities of its personnel or sub-contracted personnel and will hold itself responsible for any misdemeanors.
 - e) The System Integrator will treat as confidential all data and information obtained during the execution of his responsibilities about the Purchaser in strict confidence and will not reveal such information to any other party without the prior written approval of the Purchaser.
 - f) System Integrator's obligations shall include all the activities as specified by the Purchaser in the Scope of Work and other sections of the Tender and Contract and changes thereof to enable Purchaser to meet the objectives and operational requirements. It shall be SI's responsibility to ensure the proper and successful implementation, performance and continued operation of the proposed solution in accordance with and in strict adherence to the terms of his Bid, the Tender and this Contract.
 - g) In addition to the aforementioned, System Integrator shall provide services to manage and maintain the said systems and infrastructure as mentioned in Scope of Work (RFP Volume I)
 - h) Purchaser reserves the right to interview the personnel proposed that shall be deployed as part of the project team. If found unsuitable, the Purchaser may reject the deployment of the personnel. But ultimate responsibility of the project implementation shall lie with System Integrator.
 - i) Purchaser reserves the right to require changes in personnel, which shall be communicated to SI. SI with the prior approval of the Purchaser may make additions to the project team. SI shall provide the Purchaser with the resume of Key Personnel and provide such other information as the Purchaser may reasonably require. The Purchaser also reserves the right to interview the personnel and reject, if found unsuitable. In case of change in its team members, for any reason whatsoever, SI Shall also ensure that the exiting members are replaced with at least equally qualified and professionally competent members with prior approval of the Purchaser.
 - j) SI shall ensure that none of the Key Personnel (refer staffing requirement of RFP Volume I) and manpower exit from the project. In such cases of exit, a penalty for such replacement shall be imposed on SI as per the service level agreement.
 - k) In case of resignation from any of the Key Personnel, SI shall be liable to show the necessary proof of resignation to the Purchaser on their sole discretion.
 - l) SI should submit profiles of only those resources who shall be deployed on the project. Any change of resource should be approved by the Purchaser and compensated with equivalent or better resource. The Purchaser may interview the resources suggested by SI before their deployment on board.
 - m) In case of change in its team members, SI shall ensure a reasonable amount of time
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overlap in activities to ensure proper knowledge transfer and handover/takeover of documents and other relevant materials between the outgoing and the new member.

- n) SI shall ensure that SI's Team is competent, professional and possesses the requisite qualifications and experience appropriate to the task they are required to perform under this Contract. SI shall ensure that the services are performed through the efforts of SI's Team, in accordance with the terms hereof and to the satisfaction of the Purchaser. Nothing in this Contract relieves SI from its liabilities or obligations under this Contract to provide the Services in accordance with the Purchaser's directions and requirements and as stated in this Contract and the Bid to the extent accepted by the Purchaser and SI shall be liable for any non- performance, non-compliance, breach or other loss and damage resulting either directly or indirectly by or on account of its Team.
- o) SI shall be fully responsible for deployment / installation / development / migration and integration of all the software and hardware components (Cloud and otherwise) and resolve any problems/issues that may arise due to any of the components.
- p) It must clearly be understood by SI that warranty and O&M of the system, products and services incorporated as part of system would commence from the day of Go-Live of the respective phase including all the solutions proposed. The annual maintenance support shall include patches and updates the application, hardware components (if any) and change requests.
- q) All the software licenses (if any) that SI proposes should be perpetual software licenses. The software licenses shall not be restricted based on location and the Purchaser should have the flexibility to use the software licenses for other requirements.
- r) All software licenses will be in the name of Purchaser only.
- s) SI's representative(s) shall have all the powers requisite for the execution of scope of work and performance of services under this contract. SI's representative(s) shall liaise with the Purchaser's representative for the proper coordination and timely completion of the works and on any other matters pertaining to the works. SI shall extend full co-operation to Purchaser's representative in the manner required by them with respect to the scope of work as per RFP Volume I. He shall also have complete charge of SI's personnel engaged in the performance of the works and to ensure compliance of rules, regulations and safety practice. He shall also cooperate with the other Service Providers/Vendors of the Purchaser working at the Purchaser's office locations & field locations.
- t) SI is expected to deploy a project team (Refer Staffing Requirements of Vol I) at client office in Raipur / Naya Raipur. The technical manpower deployed on the project should work from the same office. However, some resources may be required to work from another office as specified by the Purchaser during the contract period.

A. Reporting Progress

- a) SI shall monitor progress of all the activities related to the execution of this contract and shall submit to the Purchaser, progress reports with reference to all related work, milestones and their progress during the implementation phase.
 - b) Formats for all above mentioned reports and their dissemination mechanism shall be discussed and finalized along with project plan. The Purchaser on mutual agreement between both parties may change the formats, periodicity and dissemination mechanism for such reports.
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- c) Periodic meetings shall be held between the representatives of the Purchaser and SI during the implementation phase to discuss the progress of implementation. After the implementation phase is over, the meeting shall be held as an ongoing basis, as desired by Purchaser, to discuss the performance of the contract.
- d) SI shall ensure that the respective solution teams involved in the execution of work are part of such meetings.
- e) Several review committees involving representative of the Purchaser and senior officials of SI shall be formed for the purpose of this project. These committees shall meet at intervals, as decided by the Purchaser later, to oversee the progress of the implementation.
- f) All the goods, services and manpower to be provided/deployed by SI under the Contract and the manner and speed of execution and maintenance of the work and services are to be conducted in a manner to the satisfaction of Purchaser's representative in accordance with the Contract.
- g) The Purchaser reserves the right to inspect and monitor/assess the progress/performance of the work/services at any time during the course of the Contract. The Purchaser may demand and upon such demand being made, SI shall provide documents, data, material or any other information which the Purchaser may require, to enable it to assess the progress/performance of the work/service.
- h) At any time during the course of the Contract, the Purchaser shall also have the right to conduct, either itself or through another agency as it may deem fit, an audit to monitor the performance by SI of its obligations/functions in accordance with the standards committed to or required by the Purchaser and SI undertakes to cooperate with and provide to the Purchaser/any other agency appointed by the Purchaser, all Documents and other details as may be required by them for this purpose. Such audit shall not include Bidder's books of accounts.
- i) SI shall reply to the written notice giving details of the measures he proposes to take to expedite the progress so as to complete the works by the prescribed time or to ensure compliance to RFP requirements. SI shall not be entitled to any additional payment for taking such steps. If at any time it should appear to the Purchaser or Purchaser's representative that the actual progress of work does not conform to the approved plan SI shall produce at the request of the Purchaser's representative a revised plan showing the modification to the approved plan necessary to ensure completion of the works within the time for completion or steps initiated to ensure compliance to the stipulated requirements
- j) The submission seeking approval by the Purchaser or Purchaser's representative of such plan shall not relieve SI of any of his duties or responsibilities under the Contract.
- k) In case during execution of works, the progress falls behind schedule or does not meet the Tender requirements, SI shall deploy extra manpower/resources to make up the progress or to meet the RFP requirements. Plan for deployment of extra manpower/resources shall be submitted to the Purchaser for its review and approval. All time and cost effect in this respect shall be borne, by SI within the contract value.

B. Project Plan

- a) Within 7 calendar days of effective date of the agreement / Acceptance of work order, SI shall submit to the Purchaser for its approval a detailed Project Plan with details of the Project showing the sequence, procedure and method in which he proposes to carry out the works. The Plan so submitted by SI shall conform to the requirements and timelines specified in the Contract. The Purchaser and SI shall discuss and agree upon the work procedures to be followed for effective execution of the works, which SI intends to deploy and shall be clearly specified. The Project Plan shall include but not limited to project organization, communication structure, proposed staffing, roles and responsibilities, processes and tool sets to be used for quality assurance, security and confidentiality practices in accordance with industry best practices, project plan and delivery schedule in accordance with the Contract. Approval by the Purchaser's Representative of the Project Plan shall not relieve SI of any of his duties or responsibilities under the Contract.
- b) If SI's work plans necessitate a disruption/shutdown in Purchaser's operation, the plan shall be mutually discussed and developed so as to keep such disruption/shutdown to the barest unavoidable minimum. Any time and cost arising due to failure of SI to develop/adhere such a work plan shall be to his account.

C. Adherence to safety procedures, rules regulations and restriction

- a) SI's Team shall comply with the provision of all laws including labor laws, rules, regulations and notifications issued there under from time to time. All safety and labor laws enforced by statutory agencies and by Purchaser shall be applicable in the performance of this Contract and SI's Team shall abide by these laws.
- b) No access to any person except the essential members of SI's Team who are authorized by the Purchaser and are genuinely required for execution of work or for carrying out management/maintenance shall be allowed. Even if allowed, access shall be restricted to the pertaining equipment of the Purchaser only. SI shall maintain a log of all activities carried out by each of its team personnel.
- c) No access to any staff of SI, except the essential staff who has genuine work-related need, should be given.
- d) SI shall take all measures necessary or proper to protect the personnel, work and facilities and shall observe all reasonable safety rules and instructions. SI's Team shall adhere to all security requirement/regulations of the Purchaser during the execution of the work. Purchaser's employee also shall comply with safety procedures/policy.
- e) SI shall report as soon as possible any evidence, which may indicate or is likely to lead to an abnormal or dangerous situation and shall take all necessary emergency control steps to avoid such abnormal situations.

D. Statutory Requirements

- a) During the tenure of this Contract nothing shall be done by SI or his team including consortium in contravention of any law, act and/or rules/regulations, there under or any amendment thereof governing inter-alia customs, stowaways, foreign exchange etc. and shall keep Purchaser indemnified in this regard.
- b) The System Integrator and their personnel/representative shall not alter / change / replace any hardware component proprietary to the Purchaser and/or under warranty or AMC of

third party without prior consent of the Purchaser.

- c) The System Integrator and their personnel/representative shall not without consent of the Purchaser install any hardware or software not purchased / owned by the Purchaser.

1.10. Purchaser's Obligations

- a) Purchaser or his/her nominated representative shall act as the nodal point for implementation of the contract and for issuing necessary instructions, approvals, commissioning, acceptance certificates, payments etc. to SI.
- b) Purchaser shall ensure that timely approval is provided to SI as and when required, which may include approval of project plans, implementation methodology, design documents, specifications, or any other document necessary in fulfillment of this contract.
- c) The Purchaser's representative shall interface with SI, to provide the required information, clarifications, and to resolve any issues as may arise during the execution of the Contract. Purchaser shall provide adequate cooperation in providing details, coordinating and obtaining of approvals from various governmental agencies, in cases, where the intervention of the Purchaser is proper and necessary.
- d) Purchaser may provide on SI's request, particulars/information/or documentation that may be required by SI for proper planning and execution of work and for providing services covered under this contract and for which SI may have to coordinate with respective vendors.
- e) Purchaser shall provide to SI only sitting space and basic infrastructure not including, stationery and other consumables at the Purchaser's office locations.
- f) In case, the rate of progress of the works or any part of them at any time fall behind the stipulated time for completion or is found to be too slow to ensure completion of the works by the stipulated time, or is in deviation to Tender requirements/standards, the Purchaser's representative shall so notify SI in writing.
- g) **Purchaser Site Not Ready:** Purchaser hereby agrees to make the project sites ready as per the agreed specifications, within the agreed timelines. Purchaser agrees that SI shall not be in any manner liable for any delay arising out of Purchaser's failure to make the site ready within the stipulated period.
- h) **Payments**
 - i. Purchaser shall make payments to SI at the times and in the manner set out in the Payment schedule as specified Payment Milestones in RFP Volume III subject to the penalties (Service level agreements) as mentioned in RFP Volume I. Purchaser shall make all efforts to make payments to SI within 45 days of receipt of invoice(s) and all necessary supporting documents.
 - ii. All payments agreed to be made by Purchaser to SI in accordance with the Bid and shall be inclusive of all statutory levies, duties, taxes and other charges whenever levied / applicable, if any. Purchaser shall not be liable to pay any such levies /other charges under or in relation to this Contract and/or the Services.
 - iii. No invoice for extra work / change order on account of change order shall be submitted by SI.

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- iv. In the event of Purchaser noticing at any time that any amount has been disbursed wrongly to SI or any other amount is due from SI to the Purchaser, the Purchaser may without prejudice to its rights recover such amounts by other means after notifying SI or deduct such amount from any payment falling due to SI. The details of such recovery, if any, shall be intimated to SI. SI shall receive the payment of undisputed amount under subsequent invoice for any amount that has been omitted in previous invoice by mistake on the part of the Purchaser or SI.
 - v. All payments to SI shall be subject to the deductions of tax at source under Income Tax Act, and other taxes and deductions as provided for under any law, rule or regulation. All costs, damages or expenses which Purchaser may have paid or incurred, for which under the provisions of the Contract, SI is liable, the same shall be deducted by Purchaser from any dues to SI. All payments to SI shall be made after making necessary deductions as per terms of the Contract and recoveries towards facilities, if any, provided by the Purchaser to SI on chargeable basis.

1.11. Data ownership Clause

SI shall not be authorized to use the system data pertaining to transactional information, statistical or analytical data for any other purpose except as per DGM requirement. If SI fails to do so, they will be solely responsible for consequential damages.

1.12. Intellectual Property Rights

- a) Retention of Ownership except for the rights expressly granted to the Licensee under this Agreement, the Licensor shall retain all right, title and interest in and to the Licensed Technology, including all worldwide Technology and intellectual property and proprietary rights.
- b) Preservation of Notice: Licensee shall not remove, efface or obscure any copyright notices or other proprietary notices or legends from any Licensed Technology or materials provided under this Agreement, and shall reproduce all such notices and legends when incorporating Licensed Technology or materials into any Integrated Products.
- c) Purchaser shall own and have a right in perpetuity to use all newly created Intellectual Property Rights which have been developed solely during execution of this Contract, including but not limited to all processes, products, specifications, reports and other documents which have been newly created and developed by SI solely during the performance of Services and for the purposes of inter-alia use or sub-license of such Services under this Contract. SI undertakes to disclose all such Intellectual Property Rights arising in performance of the Services to the Purchaser, execute all such agreements/documents and obtain all permits and approvals that may be necessary in regard to the Intellectual Property Rights of the Purchaser.
- d) Pre-existing work: All intellectual property rights existing prior to the Effective Date of this Agreement shall belong to the Party that owned such rights immediately prior to the Effective Date. Subject to the foregoing, the Purchaser will also have rights to use and copy all intellectual property rights, process, specifications, reports and other document, drawings, manuals etc. provided or used by the SI / Consortium / subcontractors as part of the Scope of Works under this Agreement for the purpose of this Agreement on non-exclusive, non-transferable, perpetual, royalty- free license to use basis.

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- e) COTS/ third party products: All Commercially off the Shelf (COTS) products and related solutions and fixes provided pursuant to this Agreement shall be licensed according to the terms of the license agreement packaged with or otherwise applicable to such products. Such licenses shall be brought on behalf of and in the name of the Purchaser or mentioning the Purchaser as the end user of such licenses. SI shall be responsible for arranging any licenses associated with products. "Product" means any computer code, web-based services, or materials comprising commercially released, pre-release or beta products (whether licensed for a fee or no charge) and any derivatives of the foregoing which are made available to the Purchaser for license which is published by product owner or its affiliates, or a third party. "Fixes" means product fixes that are either released generally (such as commercial product service packs) or that are provided to you when performing services (such as workarounds, patches, bug fixes, beta fixes and beta builds) and any derivatives of the foregoing. Unless otherwise specifically restricted by the Licensing Terms of the COTS products, all intellectual property rights in any development/enhancement/customization etc. done on the COTS products pursuant to this Agreement shall be owned by the Purchaser.
 - f) Further, the SI shall be obliged to ensure that all approvals, registrations, licenses, permits and rights which are, inter-alia, necessary for use of the Deliverables, goods, services, applications, services etc. provided by the SI / Consortium / subcontractors under this Agreement shall be acquired in the name of the Purchaser and to use such licenses till the Term on behalf of the Purchaser solely for the purpose of execution of any of its obligations under the terms of this Agreement. However, subsequent to the term of this Agreement, such approvals etc. shall endure to the exclusive benefit of the Purchaser.
 - g) SI shall not copy, reproduce, translate, adapt, vary, modify, disassemble, decompile or reverse engineer or otherwise deal with or cause to reduce the value of the Materials except as expressly authorized by Purchaser in writing.

1.13.Taxes

- a) SI shall bear all personnel taxes levied or imposed on its personnel, or any other member of SI's Team, etc. on account of payment received under this Contract. SI shall bear all corporate taxes, levied or imposed on SI on account of payments received by it from the Purchaser for the work done under this Contract.
 - b) SI shall bear all taxes and duties etc. levied or imposed on SI under the Contract including but not limited to GST, Customs duty, Excise duty, Octroi, and all Income Tax levied under Indian Income Tax Act – 1961 or any amendment thereof during the entire contract period, i.e., on account of material supplied and services rendered and payments received by him from the Purchaser under the Contract. It shall be the responsibility of SI to submit to the concerned authorities the returns and all other connected documents required for this purpose. SI shall also provide the Purchaser such information, as it may be required in regard to SI's details of payment made by the Purchaser under the Contract for proper assessment of taxes and duties. The amount of tax withheld by the Purchaser shall at all times be in accordance with Indian Tax Law and the Purchaser shall promptly furnish to SI original certificates for tax deduction at source and paid to the Tax Authorities.
 - c) SI agrees that he shall comply with the Indian Income Tax Act in force from time to time and pay Indian Income Tax, as may be imposed/levied on them by the Indian Income Tax Authorities, for the payments received by them for the works under the Contract
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- d) SIs shall fully familiarize themselves about the applicable domestic taxes (such as GST, income taxes, duties, fees, levies, etc.) on amounts payable by the Purchaser under the Agreement. All such taxes must be included by Bidders in the financial proposal. (Bidder to find out applicable taxes for the components being proposed.)
- e) Should SI fail to submit returns/pay taxes in times as stipulated under applicable Indian/State Tax Laws and consequently any interest or penalty is imposed by the concerned Authority, SI shall pay the same. SI shall indemnify Purchaser against any and all liabilities or claims arising out of this Contract for such taxes including interest and penalty by any such Tax Purchaser may assess or levy against the Purchaser/Prime Bidder.
- f) The Purchaser shall if so required by applicable laws in force, at the time of payment, deduct income tax payable by SI at the rates in force, from the amount due to SI and pay to the concerned tax Purchaser directly.
- g) If any upward/ downward revision in applicable Taxes shall be borne by Purchaser on actual basis at the time of Invoicing.

1.14. Indemnity

SI shall indemnify the Purchaser from and against any costs, loss, damages, expense, claims including those from third parties or liabilities of any kind howsoever suffered, arising or incurred inter alia during and after Contract period out of:

- i. Any negligence or wrongful act or omission by SI or any third party associated with SI in connection with or incidental to this Contract; or
- ii. Any infringement of patent, trademark/copyright or industrial design rights arising from the use of the supplied goods and related services or any part thereof
- iii. Regardless of anything contained (except for SI's liability for bodily injury arising out of gross negligence or willful misconduct for which it is legally liable and its liability for patent and copyright infringement in accordance with the terms of this Agreement) the total liability of SI, is restricted to the total value of the contract.
- iv. Any breach of any of the terms the System Integrator 's Proposal as agreed, the Tender and this Contract by the System Integrator, its Team or any Agency/ Third Party.
- v. The indemnity shall be to the extent of 100% of project cost in favor of the Purchaser.

1.15. Representations and Warranty

In order to induce the Purchaser to enter into this Contract, the System Integrator hereby represents and warrants as of the date hereof, which representations and warranties shall survive the term and termination hereof, the following:

- a) That the system Integrator has the requisite experience in design, development, implementation, supply, installation, configuration, training, testing, final acceptance Test, Operation & maintenance work for "Existing Khanij Online / Khanij Online 2.0" application enablement component, the technical know-how & financial wherewithal, the power of Authority that would be required to successfully provide the services sought by Purchaser for the purpose of contract.
- b) That the System Integrator is not involved in any major litigation or legal proceedings,

pending, existing and potential or threatened that may have an impact of affecting or compromising the performance or delivery of services under the contract.

- c) That the representations and warranties made by the System Integrator made in this contract are and shall continue to remain true and fulfill all the requirements as are necessary for executing the obligations and responsibilities as laid down in the contract and tender and unless the Purchaser specifies to the contrary, the system Integrator shall be bound by the terms of the Bid and contract through the terms of contract.
- d) That the System Integrator has the professional skills, personnel and resources/authorizations that are necessary for providing all such services as are necessary to fulfill the Scope of Work stipulated in the Tender and this Contract.
- e) That there shall not be any privilege, claim or assertion made by a third party with respect to right or interest in, ownership, mortgage or disposal of any asset, property, movable or immovable as mentioned in any Intellectual Property Rights, licenses and permits.
- f) That the System Integrator shall use such assets of the Govt. of Chhattisgarh as the Govt. of Chhattisgarh may permit for the sole purpose of execution of its obligations under the terms of the Proposal, Tender or this Contract. The System Integrator shall however, have no claim to any right, title, lien or other interest in any such property, and any possession of property for any duration whatsoever shall not create any right in equity or otherwise, merely by the fact of such use or possession during or after the term hereof.
- g) That the execution of the Services and the Scope of work herein are and shall be in accordance and in compliance with all applicable laws. it is a competent provider of a variety of information technology services as specified in RFP Volume I;
- h) That all conditions precedent under the Contract has been satisfied.
- i) That neither the execution and delivery by the System Integrator of the Contract nor the System Integrator's compliance with or performance of the terms and provisions of the Contract
 - i. Will contravene any provision of any Applicable Law or any order, writ, injunction or decree of any court or Governmental Authority binding on the System Integrator,
 - ii. Will conflict or be inconsistent with or result in any breach of any or the terms, covenants, conditions or provisions of, or constitute a default under any Contract, Contract or instrument to which the System Integrator is a party or by which it or any of its property or assets is bound or to which it may be subject or
 - iii. Will violate any provision of the Memorandum and Articles of Association of the System Integrator.
- j) That the System Integrator certifies that all registrations, recordings, filings and notarizations of the Contract and all payments of any tax or duty, including, without limitation of stamp duty, registration charges or similar charges which are required to be effected or made by the System Integrator which is necessary to ensure the legality, validity, enforceability or admissibility in evidence of the Contract have been made.
- k) That the System Integrator owns, has license to use or otherwise has the right to use, free of any pending or threatened liens or other security or other interests all its Intellectual

Property Rights, which are required or desirable for the performance of its services under this contract and regarding the same the System Integrator does not, so far as the System Integrator is aware, in carrying on its business and operations, infringe any Intellectual Property Rights of any person. So far as the System Integrator is aware, none of the Intellectual Property Rights, owned or enjoyed by the System Integrator or which the System Integrator is licensed to use, which are material in the context of System Integrator's business and operations for the performance of this contract are being infringed nor, so far as the System Integrator is aware, is there any infringement or threatened infringement of those Intellectual Property Rights licensed or provided to the System Integrator by any person. All Intellectual Property Rights (owned by the System Integrator or which the System Integrator is licensed to use) required by the System Integrator for the performance of the contract are valid and subsisting. All actions (including registration, payment of all registration and renewal fees) required to maintain the same in full force and effect have been taken thereon and shall keep the Govt. of Chhattisgarh indemnified in relation thereto.

- l) That time is the essence of the Contract and hence the System Integrator shall at all times maintain sufficient manpower, resources, and facilities, to provide the Services in a workmanlike manner on a timely basis.
- m) That its security measures, policies and procedures are adequate to protect and maintain the confidentiality of the Confidential Information.
- n) That in providing the Services, or deliverables or materials, neither System Integrator nor its agent, nor any of its employees, shall utilize information which may be considered confidential information of, or proprietary to, any prior employer or any other person or entity;
- o) That it has taken all necessary corporate and other actions under laws applicable to its business to authorize the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- p) from the Effective Date, it will have the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement;
- q) in providing the Services, it shall use reasonable endeavors not to cause any unnecessary disruption to Purchaser's normal business operations
- r) this Agreement has been duly executed by it and constitutes a legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement shall be legally valid, binding and enforceable against it in accordance with the terms hereof;
- s) the information furnished in the tender documents and as updated on or before the date of this Agreement is to the best of its knowledge and belief, true and accurate in all material respects as at the date of this Agreement;
- t) the execution, delivery and performance of this Agreement shall not conflict with, result in the breach of, constitute a default by any of the terms of its Memorandum and Articles of Association or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;

- u) there are no material actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other Purchaser, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its material obligations under this Agreement;
- v) it has no violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any Adverse Effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;
- w) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have an Adverse Effect on its ability to perform its obligations under this Agreement;
- x) no representation or warranty by it contained herein or in any other document furnished by it to Purchaser or its nominated agencies in relation to the Required Consents contains or shall contain any untrue or misleading statement of material fact or omits or shall omit to state a material fact necessary to make such representation or warranty not misleading; and
- y) no sums, in cash or kind, have been paid or shall be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for entering into this Agreement or for influencing or attempting to influence any officer or employee of CHiPS or its nominated agencies in connection therewith.

1.16. Term and Extension of the Contract

- a) The Contract period shall commence from the date of signing of contract and shall remain valid for 60 Months from the date of signing of contract.
- b) If the delay occurs due to circumstances beyond control of SI such as strikes, lockouts, fire, accident, defective materials, delay in approvals or any cause whatsoever beyond the reasonable control of SI, a reasonable extension of time shall be granted by the Purchaser.
- c) The Purchaser shall reserve the sole right to grant any extension to the term abovementioned and shall notify in writing to SI, at least 3 (three) months before the expiration of the Term hereof, whether it shall grant SI an extension of the Term. The decision to grant or refuse the extension shall be at the Purchaser's discretion and such extension of the contract, if any, shall be as per terms agreed mutually between the Purchaser and SI.
- d) Where the Purchaser is of the view that no further extension of the term be granted to SI, the Purchaser shall notify SI of its decision at least 3 (three) months prior to the expiry of the Term. Upon receipt of such notice, SI shall continue to perform all its obligations hereunder, until such reasonable time beyond the Term of the Contract within which, the Purchaser shall either appoint an alternative agency/SI or create its own infrastructure to operate such Services as are provided under this Contract.

1.17. Dispute Resolution

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- a) In case, a dispute is referred to arbitration, the arbitration shall be under the Indian Arbitration and Conciliation Act, 1996 and any statutory modification or re-enactment thereof.
 - b) If during the subsistence of this Contract or thereafter, any dispute between the Parties hereto arising out of or in connection with the validity, interpretation, implementation, material breach or any alleged material breach of any provision of this Contract or regarding any question, including as to whether the termination of this Contract by one Party hereto has been legitimate, the Parties hereto shall endeavor to settle such dispute amicably and/or by Conciliation to be governed by the Arbitration and Conciliation Act, 1996 or as may be agreed to between the Parties. The attempt to bring about an amicable settlement is considered to have failed as soon as one of the Parties hereto, after reasonable attempts; which attempt shall continue for not less than thirty (30) days, gives thirty (30) day notice to refer the dispute to arbitration to the other Party in writing.
 - c) The Arbitration proceedings shall be governed by the Arbitration and Conciliation Act, 1996.
 - d) The Arbitration proceedings shall be held in Raipur, Chhattisgarh, India.
 - e) The Arbitration proceeding shall be governed by the substantive laws of India.
 - f) The proceedings of Arbitration shall be in English / Hindi language.
 - g) Except as otherwise provided elsewhere in the contract if any dispute, difference, question or disagreement arises between the parties hereto or their respective representatives or assignees, at any time in connection with construction, meaning, operation, effect, interpretation or out of the contract or breach thereof the same shall be referred to a Tribunal of three (3) Arbitrators, constituted as per the terms of and under the (Indian) Arbitration and Conciliation Act, 1996. Each party to the contract shall appoint/nominate one Arbitrator each, the two Arbitrators so appointed/nominated by the Parties herein shall together choose the third Arbitrator, who shall be the Presiding Arbitrator of the Tribunal. The consortium of the three Arbitrators shall form the Arbitral Tribunal.
 - h) In case, a party fails to appoint an arbitrator within 30 days from the receipt of the request to do so by the other party or the two Arbitrators so appointed fail to agree on the appointment of third Arbitrator within 30 days from the date of their appointment upon request of a party, the Chief Justice of the Chhattisgarh High Court or any person or institution designated by him shall appoint the Arbitrator/Presiding Arbitrator upon request of one of the parties.
 - i) Any letter, notice or other communications dispatched to SI relating to either arbitration proceeding or otherwise whether through the post or through a representative on the address last notified to the Purchaser by SI shall be deemed to have been received by SI although returned with the remarks, refused 'undelivered' where about not known or words to that effect or for any other reasons whatsoever
 - j) If the Arbitrator so appointed dies, resigns, incapacitated or withdraws for any reason from the proceedings, it shall be lawful for the Purchaser to appoint another person in his place in the same manner as aforesaid. Such person shall proceed with the reference from the stage where his predecessor had left if both parties consent for the same; otherwise, he shall proceed de novo.
 - k) It is a term of the contract that the party invoking arbitration shall specify all disputes to be
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referred to arbitration at the time of invocation of arbitration and not thereafter.

- l) It is also a term of the contract that neither party to the contract shall be entitled for any interest on the amount of the award.
- m) The Arbitrator shall give reasoned award and the same shall be final, conclusive and binding on the parties.
- n) The fees of the arbitrator, costs and other expenses incidental to the arbitration proceedings shall be borne equally by the parties.
- o) The System Integrator shall not be entitled to suspend the Service/s or the completion of the job, pending resolution of any dispute between the Parties and shall continue to render the Service/s in accordance with the provisions of the Contract/Agreement notwithstanding the existence of any dispute between the Parties or the subsistence of any arbitration or other proceedings.

1.18. Conflict of interest

- a) SI shall disclose to the Purchaser in writing, all actual and potential conflicts of interest that exist, arise or may arise (either for SI or SI's Team) in the course of performing the Services as soon as practical after it becomes aware of that conflict.

1.19. Publicity

- a) SI shall not make or permit to be made a public announcement or media release about any aspect of this Contract unless the Purchaser first gives SI its written consent.

1.20. Force Majeure

- a) Force Majeure shall not include any events caused due to acts/omissions of SI resulting in a breach/contravention of any of the terms of the Contract and/or SI's Bid. It shall also not include any default on the part of SI due to its negligence or failure to implement the stipulated/proposed precautions, as were required to be taken under the Contract.
- b) The failure or occurrence of a delay in performance of any of the obligations of either party shall constitute a Force Majeure event only where such failure or delay could not have reasonably been foreseen i.e. war, or hostility, acts of the public enemy, civil commotion, sabotage, fires, floods, Vandalism (due to Law & Order situation), Terrorism, explosions, epidemics, quarantine restriction, strikes, lockouts or act of God (hereinafter referred to as events) , or where despite the presence of adequate and stipulated safeguards the failure to perform obligations has occurred at any location in scope. In such an event, the affected party shall inform the other party in writing within five days of the occurrence of such event. Any failure or lapse on the part of SI in performing any obligation as is necessary and proper, to negate the damage due to projected force majeure events or to mitigate the damage that may be caused due to the above mentioned events or the failure to provide adequate disaster management/recovery or any failure in setting up a contingency mechanism would not constitute force majeure, as set out above.
- c) In case of a Force Majeure, all Parties shall endeavor to agree on an alternate mode of performance in order to ensure the continuity of service and implementation of the obligations of a party under the Contract and to minimize any adverse consequences of

Force Majeure.

1.21.Delivery

- a) The Goods/Services and manpower supplied under this Contract shall conform to the standards mentioned in the RFP, and, when no applicable standard is mentioned, to the authoritative standards; such standard shall be approved by Purchaser.
- b) In case model quoted by the System Integrator becomes obsolete in market, then System Integrator may provide items with higher specification after approval from Purchaser.

1.22.Insurance

- a) The Goods/Services supplied under this Contract shall be comprehensively insured, if applicable, by SI at its own cost, against any loss or damage, for the entire period of the contract. SI shall submit to the Purchaser, documentary evidence issued by the insurance company, indicating that such insurance has been taken.
- b) SI shall bear all the statutory levies like customs, insurance, freight, etc. applicable on the goods and also the charges like transportation charges, octroi, etc. that may be applicable till the goods are delivered at the respective sites of installation shall also be borne by SI.
- c) SI shall take out and maintain at its own cost, on terms and conditions approved by the Purchaser, insurance against the risks, and for the coverage's, as specified below;
 - i. At the Purchaser's request, shall provide evidence to the Purchaser showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid.
 - ii. Employer's liability and workers' compensation insurance in respect of the Personnel of the Company, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate

1.23.Transfer of Ownership

- a) SI must transfer all titles to the assets and goods procured for the purpose of the project to the Purchaser at the time of Acceptance of System. This includes all licenses, titles, source code, certificates, hardware, devices, equipment etc. related to the system designed, developed, installed and maintained by SI. SI is expected to provide source code, transfer IPR and ownership right of only those solutions which would be customized by System Integrator for the use of Directorate of Geology & Mining, Mineral Resources Department, Govt. of Chhattisgarh (DGM). For any pre-existing work, SI and Chhattisgarh Infotech Promotion Society (CHIPS) / DGM shall be held jointly responsible and its use in any other project by SI shall be decided on mutual consent.
- b) Forthwith upon expiry or earlier termination of the Contract and at any other time on demand by the Purchaser, SI shall deliver to the Purchaser all Documents provided by or originating from the Purchaser and all Documents produced by or from or for SI in the course of performing the Services, unless otherwise directed in writing by the Purchaser at no additional cost. SI shall not, without the prior written consent of the Purchaser store, copy, distribute or retain any such Documents.

1.24.Exit Management Plan

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- a) An Exit Management plan shall be furnished by SI in writing to the Purchaser within 90 days from the date of signing the Contract, which shall deal with at least the following aspects of exit management in relation to the contract as a whole and in relation to the Project Implementation, and Service Level monitoring.
- i. A detailed program of the transfer process that could be used in conjunction with a Replacement Service Provider including details of the means to be used to ensure continuing provision of the services throughout the transfer process or until the cessation of the services and of the management structure to be used during the transfer;
 - ii. Plans for the communication with such of the System Integrator's sub contracts, staff, suppliers, customers and any related third party as are necessary to avoid any material detrimental impact on the Purchaser operations as a result of undertaking the transfer;
 - iii. Proposed arrangements for the segregation of the System Integrator's networks from the networks employed by Purchaser and identification of specific security tasks necessary at termination, if applicable;
 - iv. Plans for provision of contingent support to Project and Replacement Service Provider for a reasonable period after transfer.
 - v. Exit Management plan in case of normal termination of Contract period
 - vi. Exit Management plan in case of any eventuality due to which Project is terminated before the contract period.
 - vii. Exit Management plan in case of termination of SI
 - viii. The exit management plan may be suitably modified by the SI to cover all the aspects during the transition period and upon acceptance by Purchaser, will be implemented by the SI.
 - ix. The System Integrator shall re-draft the Exit Management Plan annually thereafter to ensure that it is kept relevant and up to date.
 - x. Each Exit Management Plan shall be presented by the System Integrator to and approved by the Purchaser or its nominated agencies.
 - xi. The terms of payment as stated in the Terms of Payment Schedule include the costs of the System Integrator complying with its obligations under this Schedule.
 - xii. In the event of termination or expiry of MSA, and Project Implementation, each Party shall comply with the Exit Management Plan.
 - xiii. During the exit management period, the System Integrator shall use its best efforts to deliver the services.
 - xiv. The System Integrator will hand over all the data compiled/ recorded during the period of the contract to the Purchaser in a readable digital format along with the data structure design & Source code for migration into any other system at the end of the contract period.
- b) Under the SI Exit Management Plan, SI shall provide following minimum activities to Purchaser / new SI or any other authorized person:
- i. Provide control of all IT assets including hardware, software, licenses, warranty,
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- source code, credentials and knowledge base
 - ii. SI to up to date the knowledgebase
 - iii. Transfer the knowledge to new SI or authorized representative with documents sharing, application demo, joint code review, credential sharing and explaining the prevailing IT policies and processes followed
 - iv. Complete handover of the Planning documents, bill of materials, functional requirements specification, technical specifications of all equipment, change requests if any, sources codes, wherever applicable, reports, documents and other relevant items to the Replacement Service Provider/Purchaser
 - v. Certificate of Acceptance from authorized representative of Replacement Service Provider issued to SI on successful completion of handover and knowledge transfer
 - vi. Allowing new SI or authorized representative to shadow for specified period while continue to deal with reported issues directly
 - vii. Support new SI or authorized representative in tackling reported issues during transition period as specified by DGM
 - viii. Support new SI or authorized representative for a minimum 6 months or a period as directed by DGM
- c) Following is the summary of key tasks that the SI need to perform during transition period.
- i. Transfer of Assets: Transfer both IT and non-IT Assets acquired for the Khanij Online 2.0 project to the new SI or authorized representative. The list of assets shall cover those under the purview of SI as well as its subcontractors
 - ii. Testing: The SI shall ensure that the system being handed over is tested rigorously before being handed over to the new SI or authorized representative.
 - iii. Close critical issues: The SI shall close all critical open issues as on date of exit. All other open issues as on date of Exit shall be listed and provided to Purchaser.
 - iv. Risks: All the risks during transition stage shall be properly documented by the SI and mitigation measures be planned in advance along with the new SI or authorized representative and recorded in the Exit Management Plan so as to ensure smooth transition without any service disruption.
 - v. Transfer of Agreements: Arrange or provide support for Assignment / Transfer / Novation of Agreements with all the OEMs / contractors / sub-contractors who are being used by the SI in the execution of the Khanij Online 2.0 project.
 - vi. Provision of Information: Provide access to information reasonably required to define the current mode of operation associated with the provision of services and also access and copies of all information / data / documentation, prepared or maintained, pertaining to DGM, services rendered including but not limited to applications, Business and IT Operations, and other performance data.
 - vii. Access Rights: Provide reasonable rights of access to Khanij Online 2.0, Project Location and premises where assets are located. Provide access to its employees and facilities as reasonably required to understand the methods of delivery of the services employed by the SI and to assist appropriate knowledge transfer.
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viii. Personnel: Provide a list of all employees (with job titles) of the SI dedicated to providing the services. To the extent that any Transfer Regulation does not apply to any employee of the SI, the SI shall not enforce or impose any contractual provision that would prevent any such employee from being hired by DGM or new SI or authorized representative in case an offer of employment or contract for services is made to such employee.

d) List of deliverables: SI shall prepare the exit plan with timelines as per the requirements of the Purchaser. Indicative list of deliverables for exit management is mentioned below.

S.N.	Deliverable
i.	- System / Network credentials
ii.	<ul style="list-style-type: none"> - IT Assets - IT Asset list with OEM, location and access details - Hardware - Software - Licenses - Warranty
iii.	<ul style="list-style-type: none"> - Up to date Knowledge base: - Process Maps - Functional Requirement Specification - System Requirement Specifications (SRS) - High Level Design Document - Low Level Design Document - ER Diagram - Database Schema - Logical and Physical Design of database - Enhancement log - Issues Log - User Manuals - Test cases - SLA reports - Risk Assessment Report - Onsite project manpower details
iv.	- Working and up to date Source Code
v.	- Back up data

S.N.	Deliverable
vi.	- Weekly Report on critical issues fixed during transition period
vii.	- Modified code after fixing critical issue

- e) In the event of termination or expiry of the contract, Project Implementation, or Service Level monitoring, both Bidder and Purchaser shall comply with the Exit Management Plan.
- f) During the exit management period, SI shall use its best efforts to deliver the services.

2. SPECIAL CONDITIONS OF CONTRACT (SCC)

2.1. Performance Security

- a) The SI shall submit performance guarantee which is unconditional & irrevocable equal to 10% of the contract value in the format prescribed in RFP issued by any of the Nationalized Banks Only. The performance guarantee shall be valid for the 5 years and 3 months & shall be renewed & maintained by the SI for the term of the agreement & extension, if any. The performance guarantee shall be forfeited / liquidated by the CHiPS /DGM as a penalty in the event of failure to complete obligations or breach of any of the conditions by the SI.

2.2. Payment Milestones

- a) The SI shall be eligible for payment as per the milestones as a percentage of the Cost Component defined in the Financial Bid Format in RFP Vol 2 (Summary of Charges) and as per the final as per the final contract value:

SI. No.	Milestones	Payment (%)	Supporting Documentation required with invoice
Transition of existing Khanij Online Application			
1	Takeover of complete As-Is business operations from incumbent System Integrator and deployment of manpower for helpdesk, handholding at site	3 % of the Total Project Cost [TPC]	1. Signed copy of Kick Off meeting Minutes 2. Detailed Project Plan 3. Resource Deployment details 4. Knowledge Transfer plan with checklist 5. Acknowledgement of documents as per checklist 6. Approved Transition completion Certificate as per transition plan By DGM/CHiPS
2	Set up HA and DR in Cloud for Khanij Online 1.0 and Migration of Khanij Online 1.0 with security certificate	2% of the Total Project Cost [TPC]	Approved Transition completion and Cert-in Security Certificate as per transition plan Acceptance report for Successful Migration for Khanij Online 1.0 in Cloud and signed by DGM/CHiPS

Sl. No.	Milestones	Payment (%)	Supporting Documentation required with invoice
3	Khanij Online 1.0 Application Maintenance, Resource Deployment and Cloud DC & DR Charges (Total 4 QGR)	1.5% of the Total Project Cost [TPC] Per QGR	Quarterly Certified copy from the DGM office regarding activity completed under O&M Phase to be submitted along with a. Service availability b. Helpdesk/ Ticket Report c. Resource Deployment/Availability Cert-in Certification after 6 months
Development and Implementation of Khanij Online 2.0			
4	Approval of SRS of Khanij Online 2.0	2% of the Total Project Cost [TPC]	Approved SRS by DGM / CHiPS
5	User Acceptance Testing for Major Mineral -Design, development / enhancement of Khanij Online 2.0 including Mobile Application, Establishment Module, Change Control, Management Dashboard and Analytics, Integrations and all other functionalities as per SRS on staging environment	5% of the Total Project Cost [TPC]	1. Test Cases and Test Results 2. Source code of Khanij Online 2.0 and signed UAT
6	Go-Live for Major Mineral functionality in production environment (Cloud), Cutover (Migration of data) from 1.0 to Khanij Online 2.0 and stabilization in Production environment	2% of the Total Project Cost [TPC]	Go-live certificate from DGM/CHiPS
7	User Acceptance Testing for Minor Mineral - Configuration and Policy mapping in application for Minor Mineral, Management Dashboard and Analytics in staging environment	3% of the Total Project Cost [TPC]	1. Test Cases and Test Results 2. Source code of Khanij Online 2.0 and signed UAT
8	Go live for Minor Mineral functionality in production environment (Cloud), Minimum 5 mines to be onboarded	1% of the Total Project Cost [TPC]	Go-live certificate from DGM/CHiPS
9	Launch of Mobile App for all stakeholders in Android and iOS platform	1% of the Total Project Cost [TPC]	Acceptance report signed by appropriate authority of DGM
10	User Acceptance Testing for Vehicle Tracking System in Staging environment	3% of the Total Project Cost [TPC]	1. Test Cases and Test Results 2. Source code of Khanij Online 2.0 and signed UAT

Sl. No.	Milestones	Payment (%)	Supporting Documentation required with invoice
11	Configuration, pilot testing of VTS with all empanelled GPS devices (POC)	6% of the Total Project Cost [TPC]	Acceptance report signed by appropriate authority of DGM
12	Configuration, pilot testing of Desktop Application for minimum 5 mines with fluctuating and no internet (POC)	2% of the Total Project Cost [TPC]	Acceptance report signed by appropriate authority of DGM
13	STQC certification for complete Khanij Online 2.0 application	2% of the Total Project Cost [TPC]	STQC Certificate as per requirement
Operation & Maintenance of Khanij Online 2.0			
14	AMC and Operation & Maintenance of Khanij Online 2.0 (Total 16 QGR)	3.75% of the Total project Cost [TPC] per QGR	Quarterly Certified copy from the DGM office regarding activity completed under O&M Phase to be submitted along with a. Service availability b. Helpdesk/ Ticket Report c. Resource Deployment/Availability and other deliverables as specified by DGM/CHiPS Security Audit Certificate (Annually) Cert-in Certification in every 6 months
15	EXIT of SI (end of contract)	2% of the Total Project Cost [TPC]	Acceptance report signed by appropriate authority of DGM
Supply, Installation, Commissioning and Operation & Maintenance of ICCC			
16	Supply of Equipment including Site Set up of Civil Infrastructure (Sr. No. 1 to 29 from Financial BoM Table for ICCC Set up)	70% against Supply (Sr. No. 1 to 29 from Financial BoM Table for establishment of Integrated Command & Control Centre (ICCC))	DGM approved Site plan / Layouts Goods Receipt Note for all items
17	Successful Installation and Commissioning of ICCC Equipment (Sr. No.1 to 29)	20% against Installation (Sr. No. 1 to 29 from Financial BoM Table for establishment of Integrated Command & Control Centre (ICCC))	Installation & commissioning Acceptance report signed by appropriate authority of DGM

Sl. No.	Milestones	Payment (%)	Supporting Documentation required with invoice
18	On ICCC Operation and GO Live from (T1 + 6 Months)	10% of (Sr. No. 1 to 29 from Financial BoM Table for establishment of Integrated Command & Control Centre (ICCC))	Acceptance report signed by appropriate authority of DGM
19	QGR for AMC and Operation cost (Sr. No. 30 to 34) (Total 18 QGR)	5.55% of (Sr. No. 30 to 34 from Financial BoM Table for establishment of Integrated Command & Control Centre (ICCC))	Quarterly Certified copy from the DGM office regarding activity completed under O&M Phase to be submitted

- b) If the number of resources is increased beyond those specified in the contract, during the contract period, then such payment will be calculated on the basis of contract rates of such resource position and period for which they are deployed. Such payment will be done separately on quarterly basis by DGM.
- c) If the number of resources are decreased by the Purchaser below those specified in the contract, during the contract period, then the prospective payments shall be recalculated by reducing those resources and the remaining period for which they are to be deployed.
- d) No payment shall become eligible for the next stage till the SI completes to the satisfaction of the Purchaser the work pertaining to the preceding stage.
- e) Payment due shall be computed after deducting applicable penalties.
- f) Payment due shall be made after deducting applicable taxes.
- g) GST shall be paid at actuals / as per prevailing rates.
- h) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the SI and approved as satisfactory by the Purchaser.

2.3. Liquidated Damages

Implementation Service Levels (Liquidated damages) as defined in RFP Vol 1 shall be followed.

2.4. Limitation of Liability:

- a) Limitation of SI's Liability towards the Purchaser:
 - i. Neither Party shall be liable to the other Party for any indirect or consequential loss or damage (including loss of revenue and profits) arising out of or relating to the Contract. Except in case of gross negligence or willful misconduct on the part of SI or on the part of any person or company acting on behalf of SI in carrying out the Services,
- b) SI, with respect to damage caused by SI to Purchaser's property, shall not be liable to Purchaser:
 - i. For any indirect or consequential loss or damage; and
 - ii. For any direct loss or damage that exceeds the total payments payable under the Contract to SI hereunder,
- c) This limitation of liability shall not affect SI liability, if any, for damage to Third Parties caused by SI or any person or company acting on behalf of SI in carrying out the Services.
- d) SI's aggregate liability for damages shall be capped at 100% of the total contract value.

2.5. Ownership and Retention of Documents

- a) The Purchaser shall own the Documents, prepared by or for SI arising out of or in connection with the Contract.
- b) Forthwith upon expiry or earlier termination of this Contract and at any other time on demand by the Purchaser, SI shall deliver to the Purchaser all documents provided by or originating from the Purchaser and all documents produced by or for SI in the course of performing the Services, unless otherwise directed in writing by the Purchaser at no additional cost. SI shall not, without the prior written consent of the Purchaser store, copy, distribute or retain any such documents.

2.6. Information Security

- a) SI shall not carry any written/printed document, layout diagrams, CD, hard disk, storage tapes, other storage devices or any other goods/material proprietary to Purchaser into/out of any location without written permission from the Purchaser.
 - b) SI shall not destroy any unwanted documents, defective tapes/media present at any location on their own. All such documents, tapes/media shall be handed over to the Purchaser.
 - c) All documentation and media at any location shall be properly identified, labeled and numbered by SI. SI shall keep track of all such items and provide a summary report of these items to the Purchaser whenever asked for.
 - d) Access to Purchaser's data and systems, Internet facility by SI at any location shall be in accordance with the written permission by the Purchaser. The Purchaser shall allow SI to
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use facility in a limited manner subject to availability. It is the responsibility of SI to prepare and equip himself in order to meet the requirements.

- e) SI must acknowledge that Purchaser's business data and other Purchaser proprietary information or materials, whether developed by Purchaser or being used by Purchaser pursuant to a license agreement with a third party (the foregoing collectively referred to herein as "proprietary information") are confidential and proprietary to Purchaser; and SI along with its team agrees to use reasonable care to safeguard the proprietary information and to prevent the unauthorized use or disclosure thereof, which care shall not be less than that used by SI to protect its own proprietary information. SI recognizes that the goodwill of Purchaser depends, among other things, upon SI keeping such proprietary information confidential and that unauthorized disclosure of the same by SI or its team could damage the goodwill of Purchaser, and that by reason of SI's duties hereunder. SI may come into possession of such proprietary information, even though SI does not take any direct part in or furnish the services performed for the creation of said proprietary information and shall limit access thereto to employees with a need to such access to perform the services required by this agreement. SI shall use such information only for the purpose of performing the said services
- f) SI shall, upon termination of this agreement for any reason, or upon demand by Purchaser, whichever is earliest, return any and all information provided to SI by Purchaser, including any copies or reproductions, both hardcopy and electronic.
- g) By virtue of the Contract, SI team may have access to personal information of the Purchaser and/or a third party. The Purchaser has the sole ownership of and the right to use, all such data in perpetuity including any data or other information pertaining to the citizens that may be in the possession of SI team in the course of performing the Services under the Contract.

2.7. Records of contract documents

- a) SI shall at all-time make and keep sufficient copies of the process manuals, operating procedures, specifications, Contract documents and any other documentation for him to fulfil his duties under the Contract.
- b) SI shall keep on the Site at least three copies of each and every specification and Contract Document, in excess of his own requirement and those copies shall be available at all times for use by the Purchaser's Representative and by any other person authorized by the Purchaser's Representative.

2.8. Security and Safety

- a) SI shall comply with the directions issued from time to time by the Purchaser and the standards related to the security and safety, in so far as it applies to the provision of the Services.
- b) SI shall upon reasonable request by the Purchaser, or its nominee(s) participate in regular meetings when safety and information technology security matters are reviewed.
- c) The systems implemented for project should be highly secure, considering that it is intended to handle sensitive data relating to the business user of the state/country. The overarching security considerations are described below.
 - i. The security services used to protect the solution shall include: Identification,

Authentication, Access Control, Administration and Audit and support for industry standard protocols.

- ii. The solution shall support advanced user authentication mechanisms, including digital certificates and biometric authentication.
- iii. Security design should provide for a well-designed identity management system, security of physical and digital assets, data and network security, backup and recovery and disaster recovery system.
- iv. The solution should provide for maintaining an audit trail of all the transactions and should also ensure the non-repudiation of audit trail without impacting the overall performance of the system.
- v. The overarching requirement is the need to comply with ISO 27001 standards of security.
- vi. The application design and development should comply with OWASP top 10 principles
- vii. The bidder should follow all quality and security standards and guidelines issued time to time by Ministry of Information Technology (MeitY) and IT Act 2008.

2.9. Confidentiality

- a) SI shall not, either during the term or after expiration of this Contract, disclose any proprietary or confidential information relating to the Services/Contract and/or Purchaser's business/operations, information, Application/software, hardware, business data, architecture schematics, designs, storage media and other information/documents without the prior written consent of the Purchaser.
 - b) The Purchaser reserves the right to adopt legal proceedings, civil or criminal, against SI in relation to a dispute arising out of breach of obligation by SI under this clause.
 - c) SI shall do everything reasonably possible to preserve the confidentiality of the Confidential Information including execution of a confidentiality agreement with the Purchaser to the satisfaction of the Purchaser.
 - d) SI shall notify the Purchaser promptly if it is aware of any disclosure of the Confidential Information otherwise than as permitted by the Contract or with the Purchaser of the Purchaser.
 - e) SI shall be liable to fully recompense the Purchaser for any loss of revenue arising from breach of confidentiality.
 - f) The System Integrator shall do everything reasonably possible to preserve the confidentiality of the Confidential Information including execution of a confidentiality agreement with the members of the, sub-Implementation Agencies and other team members having such terms and conditions which shall be no less onerous than those contained under this Agreement.
 - g) The System Integrator shall sign a Non-Disclosure Agreement (NDA) with the Purchaser. The System Integrator will be held responsible for any breach of the NDA by its antecedents, delegates or sub-Implementation Agencies.
 - h) The System Integrator shall not take away or remove in whatever manner any information on any media like but not limited to Floppy, Digital Drives, CDs, DVDs, email etc. without the specific written permission of Purchaser. System Integrator, if required, shall take specific permission for each such event
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- i) The System Integrator shall not use any information which might have come to its knowledge in whatever manner during the discharge of its obligation under the contract for any purpose except strictly for discharging his obligation under the contract and no more
- j) System Integrator may, however, disclose such confidential information to the extent that it:
 - (a) is or becomes public other than through a breach of this Agreement, (b) is subsequently received by the System Integrator from a third party who, to the System Integrator knowledge, owes no obligation of confidentiality to the disclosing party with respect to that information, (c) was known to the System Integrator at the time of disclosure or is thereafter created independently, (d) is disclosed as necessary to enforce the System Integrator rights under this Agreement, or (e) must be disclosed under applicable law, legal process or professional regulations.
- k) As used herein, the term —Confidential Informationll means any information, including information created by or for the other party, whether written or oral, which relates to internal controls, computer or data processing programs, algorithms, electronic data processing applications, routines, subroutines, techniques or systems, or information concerning the business or financial affairs and methods of operation or proposed methods of operation, accounts, transactions, proposed transactions or security procedures of either party or any of its affiliates, or any client of either party, except such information which is in the public domain at the time of its disclosure or thereafter enters the public domain other than as a result of a breach of duty on the part of the party receiving such information. It is the express intent of the parties that all the business process and methods used by the System Integrator in rendering the services hereunder are the Confidential Information of the System Integrator.
- l) The System Integrator shall keep confidential, any information related to this tender, with the same degree of care as it would treat its own confidential information. The System Integrator shall note that the confidential information will be used only for the purposes of this tender and shall not be disclosed to any third party for any reason what-so-ever.
- m) At all time of the performance of the services, the Bidder shall abide by all applicable security rules, policies, standards, guidelines and procedures. The Bidder should note that before any of its employees or assignees is given access to the Confidential Information, each such employee and assignees shall agree to be bound by the term of this tender and such rules, policies, standards, guidelines and procedures by its employees or agents.
- n) The obligations of confidentiality under this section shall survive rejection of the contract.

2.10.Events of Default by SI

- a) The failure on the part of SI to perform any of its obligations or comply with any of the terms of this Contract shall constitute an Event of Default on the part of SI. The events of default are but not limited to:
 - i. SI has failed to perform any instructions or directives issued by the Purchaser which it deems proper and necessary to execute the scope of work or provide services under the Contract, or
 - ii. SI has failed to confirm/adhere to any of the key performance indicators as laid down in the Key Performance Measures/Service Levels, or if SI has fallen short of matching

- such standards/benchmarks/targets as the Purchaser may have designated with respect to the system or any goods, task or service, necessary for the execution of the scope of work and performance of services under this Contract. The above-mentioned failure on the part of SI may be in terms of failure to adhere to performance, quality, timelines, specifications, requirements or any other criteria as defined by the Purchaser;
- iii. SI has failed to remedy a defect or failure to perform its obligations in accordance with the specifications issued by the Purchaser, despite being served with a default notice which laid down the specific deviance on the part of SI to comply with any stipulations or standards as laid down by the Purchaser; or
 - iv. SI has failed to adhere to any amended direction, instruction, modification or clarification as issued by the Purchaser during the term of this Contract and which the Purchaser deems proper and necessary for the execution of the scope of work under this Contract.
 - v. SI has failed to demonstrate or sustain any representation or warranty made by it in this Contract, with respect to any of the terms of its Bid, the RFP and this Contract.
 - vi. There is a proceeding for bankruptcy, insolvency, winding up or there is an appointment of receiver, liquidator, assignee, or similar official against or in relation to SI.
 - vii. SI has failed to comply with or is in breach or contravention of any applicable laws.
- b) Where there has been an occurrence of such defaults inter alia as stated above, the Purchaser shall issue a notice of default to SI, setting out specific defaults/deviances/omissions/non-compliances/non-performances and providing a notice of thirty (30) days to enable such defaulting party to remedy the default committed.
 - c) Where despite the issuance of a default notice to SI by the Purchaser, SI fails to remedy the default to the satisfaction of the Purchaser, the Purchaser may, where it deems fit, issue to the defaulting party another default notice or proceed to contract termination.

2.11.Termination

- a) The Purchaser may, terminate this Contract in whole or in part by giving SI a prior and written notice indicating its intention to terminate the Contract under the following circumstances:
 - i. Where the Purchaser is of the opinion that there has been such Event of Default on the part of SI which would make it proper and necessary to terminate this Contract and may include failure on the part of SI to respect any of its commitments with regard to any part of its obligations under its Bid, the RFP or under this Contract.
 - ii. If deductions on account of liquidated damages /Penalty exceeds more than 10% of the total contract price.
 - iii. Where it comes to the Purchaser's attention that SI is in a position of actual conflict of interest with the interests of the Purchaser, in relation to any of terms of SI's Bid, the RFP or this Contract.

- iv. Where SI's ability to survive as an independent corporate entity is threatened or is lost owing to any reason whatsoever, including inter-alia the filing of any bankruptcy proceedings against SI, any failure by SI to pay any of its dues to its creditors, the institution of any winding up proceedings against SI or the happening of any such events that are adverse to the commercial viability of SI. In the event of the happening of any events of the above nature, the Purchaser shall reserve the right to take any steps as are necessary, to ensure the effective transition of the sites pilot site to a successor agency, and to ensure business continuity.
- v. Termination for Insolvency: The Purchaser may at any time terminate the Contract by giving written notice to SI, without compensation to SI, if SI becomes bankrupt or otherwise insolvent, provided that such termination shall not prejudice or affect any right of action or remedy which has accrued or shall accrue thereafter to the Purchaser.
- vi. Termination for Default: The Purchaser may, at any time, terminate the Contract by giving 30 days written notice to the System Integrator without compensation to the System Integrator in the Event of Default on the part of the System Integrator which may include failure on the part of the System Integrator to respect any of its commitments with regard to any part of its obligations under its Bid, the Tender or under this Contract.
- vii. Termination for Convenience: The Purchaser may by prior written notice sent to the SI at least 3 months in advance terminate the Contract in whole or in part at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser convenience, the extent to which performance of work under the Contract is terminated and the date upon which such termination becomes effective.

2.12. Consequence of Termination

- a) In the event of termination of the Contract due to any cause whatsoever, whether consequent to the stipulated Term of the Contract or otherwise the Purchaser shall be entitled to impose any such obligations and conditions and issue any clarifications as may be necessary to ensure an efficient transition and effective business continuity of the project which SI shall be obliged to comply with and take all available steps to minimize loss resulting from that termination/breach, and further allow and provide all such assistance to the Purchaser and/or the successor agency/service provider, as may be required, to take over the obligations of SI in relation to the execution/continued execution of the requirements of the Contract.
- b) Where the termination of the Contract is prior to its stipulated term on account of a Default on the part of SI or due to the fact that the survival of SI as an independent corporate entity is threatened/has ceased, or for any other reason, whatsoever, the Purchaser, through unilateral re-determination of the consideration payable to SI, shall pay SI for that part of the Services which have been authorized by the Purchaser and satisfactorily performed by SI up to the date of termination. Without prejudice to any other rights, the Purchaser may retain such amounts from the payment due and payable by the Purchaser to SI as may be required to offset any losses caused to the Purchaser as a result of any act/omissions of SI. In case of any loss or damage due to default on the part of SI in performing any of its obligations with regard to executing the Schedule of Requirements under the contract, SI shall compensate the Purchaser for any such loss, damages or other costs, incurred by the Purchaser. Additionally, members of its team shall perform all its

obligations and responsibilities under the Contract in an identical manner as were being performed before the collapse of SI as described above in order to execute an effective transition and to maintain business continuity. All third parties shall continue to perform all/any functions as stipulated by the Purchaser and as may be proper and necessary to execute the Schedule of Requirements under the Contract in terms of SI's Bid, the Bid Document and the Contract

- c) Nothing herein shall restrict the right of the Purchaser to invoke the Bank Guarantee and other Guarantees furnished hereunder and pursue such other rights and/or remedies that may be available to the Purchaser under law.
- d) The termination hereof shall not affect any accrued right or liability of either Party nor affect the operation of the provisions of the Contract that are expressly or by implication intended to come into or continue in force on or after such termination.
- e) In the event of termination of this contract, due to any cause whatsoever, except where termination is for Purchaser convenience, the System Integrator shall be blacklisted and the contract will stand cancelled effective from the date of termination of this contract.

2.13. Service Level Change Control

- a) Service Level Change Control as defined in RFP Vol 1 shall be followed

3. SERVICE LEVEL AGREEMENT

SLA as defined in RFP Vol 1 shall be followed.

4. ANNEXURES

4.1. Annexure I: Form of Agreement

THIS Agreement made ondate of.....2020, between.....
(hereinafter.....referred to as the "SI") of the one part and (hereinafter called the "Purchaser") of the other part.

WHEREAS SI has the required professional skills, personnel and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract and is about to perform services as specified in this RFP(hereinafter called "works") mentioned, enumerated or referred to in certain Contract conditions, specification, scope of work, other sections of the RFP, covering letter and schedule of prices which, for the purpose of identification, have been signed by on behalf of the

SI and..... (the Purchaser) on behalf of the Purchaser and all of which are deemed to form part of the Contract as though separately set out herein and are included in the expression "Contract" whenever herein used.

NOW, THEREFORE, IT IS HEREBY AGREED between the parties as follows:

- a) The Purchaser has accepted the tender of SI for the provision and execution of the said works for the sum of upon the terms laid out in this RFP.
- b) SI hereby agrees to provide Services to Purchaser, conforming to the specified Service Levels and conditions mentioned
- c) The following documents attached hereto shall be deemed to form an integral part of this Agreement:

Complete Request for Proposal (RFP) Document	<i>Volumes I, II and III of the RFP and corrigendum and addendum, if any</i>
Break-up of cost components	<i>Bidder's Commercial bid</i>
The Purchaser's Letter of Intent dated <<>>	<i>To be issued later by the Purchaser</i>
SI's Letter of acceptance dated <<>>	<i>To be issued later by the SI</i>
Bid submitted by SI as per file No. <<>>	<i>Bidder's Technical bid</i>

- d) The mutual rights and obligations of the "Purchaser" and SI shall be as set forth in the

Agreement, in particular:

- SI shall carry out and complete the Services in accordance with the provisions of the Agreement; and
- The “Purchaser” shall make payments to SI in accordance with the provisions of the Agreement.

NOW THESE PRESENTS WITNESS and the parties hereto hereby agree and declare as follows, that is to say, in consideration of the payments to be made to SI by the Purchaser as hereinafter mentioned, SI shall deliver the services for the said works and shall do and perform all other works and things in the Contract mentioned or described or which are implied there from or there in respectively or may be reasonably necessary for the completion of the said works within and at the times and in the manner and subject to the terms, conditions and stipulations mentioned in the said Contract.

AND in consideration of services and milestones, the Purchaser shall pay to SI the said sum ofor such other sums as may become payable to SI under the provisions of this Contract, such payments to be made at such time and in such manner as is provided by the Contract.

IN WITNESS WHEREOF the parties hereto have signed this deed hereunder on the dates respectively mentioned against the signature of each.

Signed
Name
Designation
Date
Place

Signed
Name
Designation
Date
Place

In the presence of

In the presence of

Signed
Name
Designation

Signed
Name
Designation

4.2. Annexure II: Non-Disclosure Agreement

This Non-Disclosure Agreement ("Agreement") is made and entered into _____ day of _____, 2020 by and between having its office at ____ (hereinafter referred to as "Client")

And

....., **having** its office at _____ (hereinafter referred to as: System Integrator" and/or "SI")

Whereas, CLIENT and SYSTEM INTEGRATOR have entered into a Contract bearing reference number _____ dated _____ for _____ provision of _____ (hereinafter referred to as 'Contract'); and

Whereas, THE PARTIES may disclose to EACH OTHER certain information which is confidential and proprietary in nature and wishes to protect such information from unauthorized disclosure and use;

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements contained herein and in the Contract, the parties agree as follows:

1. Definitions. As used herein:

- (a) The term "Confidential Information" shall include, without limitation, all information and materials, furnished by A PARTY (Disclosure) to Another PARTY (Recipient) in connection with Government/corporates/citizen/users/persons/customers data, products and/or services, including information transmitted in writing, orally, visually, (e.g. video terminal display) or on magnetic or optical media, and including all proprietary information, customer & prospect lists, trade secrets, trade names or proposed trade names, methods and procedures of operation, commercial or marketing plans, licensed document know-how, ideas, concepts, designs, drawings, flow charts, diagrams, quality manuals, checklists, guidelines, processes, formulae, source code materials, specifications, programs, software packages, codes and other intellectual property relating to such PARTY's data, computer database, products and/or services. Confidential Information shall also include results of any tests, sample surveys, analytics, data mining exercises or usages etc. carried out by Disclosure in connection with the Recipients' or any government department's / Corporates information including citizen/users/persons/customers personal or sensitive personal information as defined under any law for the time being in force.
- (b) The term, "CLIENT" shall include the officers, employees, agents, consultants, contractors and representatives of CLIENT and its assigns and successors.
- (c) The term, "SYSTEM INTEGRATOR" shall include the directors, officers, employees, agents, consultants, contractors and representatives of SYSTEM INTEGRATOR, including its applicable affiliates, subsidiary companies and permitted assigns and successors.

2. Protection of Confidential Information:

With respect to any Confidential Information disclosed by the Discloser to the Recipient or to which any PARTY has access, BOTH THE PARTIES agree that it shall:

- (a) Use the Confidential Information only for accomplishment of the services to be performed under the Contract and in accordance with the terms and conditions contained herein;
- (b) Maintain the Confidential Information in strict confidence and take all reasonable steps to enforce the confidentiality obligations imposed hereunder, but in no event takes less care than it takes to protect the confidentiality of its own proprietary and confidential information and that of its clients;
- (c) Not make or retain copy of any Confidential Information except as necessary, under prior written permission from OTHER PARTY, in connection with the services to be performed under the Contract, and ensure that any such copy is immediately returned to the OTHER PARTY even without express demand from such party to do so;
- (d) Not disclose or in any way assist or permit the disclosure of any Confidential Information to any person or entity without the express written consent of DISCLOSER except as provided in clause 6 below; and
- (e) Return to Discloser, or destroy, at Discloser's direction, any and all Confidential Information disclosed in a printed form or other permanent record, or in any other tangible form (including without limitation, all copies, notes, extracts, analyses, studies, summaries, records and reproductions thereof) immediately upon the earlier to occur of:
 - i. expiration or termination of the Contract, or
 - ii. on request of Discloser.
- (f) Not discuss with any member of public, media, press or any other person about the nature of arrangement entered between the PARTIES or the nature of services to be provided by the SYSTEM INTEGRATOR to the CLIENT.

3. **Onus.** RECIPIENT shall have the burden of proving that any disclosure or use inconsistent with the terms and conditions hereof falls within any of the exceptions provided in clause 4 below.

4. **Exceptions.** The obligations of confidentiality as mentioned in this Agreement shall not apply to any information:

- (a) Which has become generally available to the public without breach of this Agreement by RECIPIENT; or
- (b) Which at the time of disclosure to RECIPIENT was known to RECIPIENT free of confidentiality restriction as evidenced by documentation in RECIPIENT's possession; or
- (c) Which EITHER PARTY agrees in writing is free of such confidentiality restrictions.

5. **Remedies.** THE PARTIES acknowledge and agrees that (a) any actual or threatened unauthorized disclosure or use of the Confidential Information by RECIPIENT would be a breach of this Agreement and may cause immediate and irreparable harm to DISCLOSER; (b) damages from such unauthorized disclosure or use may be impossible to measure accurately and injury sustained by CLIENT may be impossible to calculate and remedy fully. RECIPIENT acknowledges that in the event of such a breach, DISCLOSURE shall be entitled to specific performance by

RECIPIENT of RECIPIENT's obligations contained in this Agreement. RECIPIENT shall indemnify, save, hold harmless and defend DISCLOSURE promptly upon demand and at its expense, any time and from time to time, from and against any and all suits, proceedings, actions, demands, losses, claims, damages, liabilities, costs (including reasonable attorney's fees and disbursements) and expenses (collectively, "Losses") to which DISCLOSURE may become subject, in so far as such Losses arise out of, in any way relate to, or result from breach of obligations under this Agreement by RECIPIENT .

6. **Need to Know.** THE PARTIES shall restrict disclosure of Confidential Information to its employees and/or consultants who have a need to know such information for accomplishment of services under the Contract provided such employees and/or consultants have agreed to abide by the terms and conditions of this Agreement and agree that they shall not disclose such Confidential Information to any affiliates, subsidiaries, associates and/or third party without prior written approval of DISCLOSURE.
7. **Intellectual Property Rights Protection.** No license to DISCLOSURE, under any trademark, patent, copyright, design right, mask work protection right, or any other intellectual property right is either granted or implied by the conveying of Confidential Information to DISCLOSURE.
8. **No Conflict.** The parties represent and warrant that the performance of their obligations here under do not and shall not conflict with any other agreement or obligation of the respective parties to which they are a party or by which the respective parties are bound.
9. **Purchaser.** The parties represent and warrant that they have all necessary Purchaser and power to enter into this Agreement and perform their obligations hereunder.
10. **Governing Law.** This Agreement shall be interpreted in accordance with and governed by the substantive and procedural laws of India and the parties hereby consent to submit to the exclusive jurisdiction of Courts and/or Forums situated at RAIPUR, CHATTISGARH India only.
11. **Entire Agreement.** This Agreement constitutes the entire understanding and agreement of the parties, and supersedes all previous or contemporaneous agreement or communications, both oral and written, representations and under standings among the parties with respect to the subject matter hereof.
12. **Amendments.** No amendment, modification and/or discharge of this Agreement shall be valid or binding on the parties unless made in writing and signed on behalf of each of the parties by their respective duly authorized officers or representatives.
13. **Binding Agreement.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.
14. **Severability.** It is the intent of the parties that in case any one or more of the provisions contained in this Agreement shall be held to be invalid or unenforceable in any respect, such provision shall be modified to the extent necessary to render it, as modified, valid and enforceable under applicable laws, and such invalidity or unenforceability shall not affect the other provisions of this Agreement.
15. **Waiver.** If either party should waive any breach of any provision of this Agreement, it shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any other provision hereof.

16. **Survival.** THE PARTIES agree that all of their obligations undertaken herein with respect to Confidential Information received pursuant to this Agreement and obligations of indemnity shall survive for a period of 5 years after any expiration or termination of this Agreement.
17. **Non-solicitation.** During the term of this Agreement and thereafter for a further period of two (2) years THE PARTIES shall not solicit or attempt to solicit EACH OTHER's employees and/or consultants, for the purpose of hiring/contract or to proceed to conduct operations/business similar to EITHER PARTY with any employee and/or consultant of the EITHER PARTY who has knowledge of the Confidential Information, without the prior written consent of DISCLOSURE. This section will survive irrespective of the fact whether there exists a commercial relationship between SYSTEM INTEGRATOR and CLIENT.
18. **Term.** This Agreement shall come into force on the date first written above and, subject to aforesaid clause 16, shall remain valid up to TWO (2) YEARS from the expiry or termination of the Contract.

IN WITNESS HEREOF, and intending to be legally bound, the parties have executed this Agreement to make it effective from the date and year first written above.

For Purchaser,

Name:

Title:

For: System Integrator

Name:

Title:

WITNESSES:

1.

2.

4.3. Annexure III: Signed Copy of the RFP

Signed copy of the RFP will be a part of the Contract

Volume 1: Scope of Services

Volume 2: Commercial & Bidding Terms

Addendum and corrigendum to RFP, If any