



Tender Document

Tender Reference Number:

CO:DIT:PUR:2017-18:245

Request for Proposal

For

Mail Messaging System

***(Supply, Installation, Training, Operationalisation and maintenance of
Mail Messaging System in Central Bank of India)***

Cost of RFP Rs.5,000/- (Rs. Five Thousand only)

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List of abbreviations

List of abbreviations used in this RFP

AMC –	Annual Maintenance Contract
ATS –	Annual Technical Support
BOM –	Bill of Material
CBS –	Core Banking Solution
CO	Central Office
DC –	Data Centre
DR	Disaster Recovery
DRC –	Disaster Recovery Centre
EMD –	Earnest Money Deposit
EOL –	End of Life
EOS –	End of Support
OEM –	Original Equipment Manufacturer
OTC –	Officers Training College
PBG –	Performance Bank Guarantee
RFP –	Request for Proposal
RO	Regional Office
SLA –	Service Level Agreement
UAT –	User Acceptance Test
ZO	Zonal Office
ZSTC	Zonal Staff Training Centre
Primary Site	CBD Belapur
Secondary Site	Hyderabad
PO	Purchase Order
Vendor	Successful bidder
Contract Period	5 years from the date of commissioning
MMS	Mail Messaging System
OEM	Original Equipment Manufacturer
FMS	Facility Management Service
CGST	Central Goods AND Services Tax
SGST	State Goods and Services Tax
IGST	Interstate Goods and Services Tax
ITR	Input Tax Credit
GST	Goods AND Services Tax

Invitation for Tender Offers

Central Bank of India (The Bank), one of the leading public sector Banks with a large network of branches spread across the country, invites sealed tender offers (technical offer and commercial offer separately) from the eligible bidders to participate in the competitive bidding (Sealed QUOTATIONS) for Supply, Installation, commissioning, Training, Operationalisation and FMS – as a turnkey project to Complete Mail Messaging system in Central Bank of India in the Bank's Primary & Secondary site, hereinafter called Mail Messaging System Project (MMS) as per specifications, terms and conditions in this RFP.

The objective is to build a highly reliable, scalable, robust, secure and easy to maintain messaging service based on best of breed technologies available. The proposed Mail Messaging Solution must fully meet the services, software and hardware components requirements described herein. The Mail Messaging Solution architecture must support minimum 18,000 users. However initially Central Bank of India would go for 10,000 existing users and 2000 additional users.

The bidder should design, implement a secure messaging architecture with all necessary hardware, software or any other relevant requirements and migrate the current users with its mail data. The bidder should migrate the existing mail messaging solution to new solution. The proposed solution should be integrated to Bank's Data centers with security zones clearly defined. The Mail Messaging Solution Architecture should be designed in such a way that resilience and redundancy should be built in with No Single Point of Failure. The solution will be owned by Central Bank of India.

Bid related details are given below:

Tender Reference	CO:DIT:PUR:2017-18:245
Earnest Money Deposit	Rs. 5,00,000/ (Rs. Five Lakh only)
Availability of RFP document	31-07-2017 onwards
Submission of Queries, Error & Omissions in respect of RFP.	By 05-08-2017 by 15.00 Hrs, or before.
Date, Time and Venue of Prebid meeting	07-08-2017 at 15.00 Hrs Central Bank of India, Dept of Information Technology, Plot No.26, Sector 11, CBD Belapur, Navi Mumbai-400 614
Last Date, Time and Place for receipts of tender offers	28-08-2017 at 15:00 Hrs at above mentioned address
Date, Time and Place of Technical Bid Opening	28-08-2017 at 15:30 Hrs at above mentioned address
Address for Communication	Assistant General Manager IT, Central Bank of India, Dept of Information Technology, Plot No.26, Sector 11, CBD Belapur, Navi

	Mumbai – 400 614
Contact Telephone Numbers	022-67123669/67123684
Email Id:	smitpurchase@centralbank.co.in cmnetwork@centralbank.co.in

It is essential that all clarifications / queries / suggestions be submitted to Central Bank of India at the above address at least two days before the date of the Prebid meeting.

Cost of RFP document Rs. 5,000/- (Rs. Five thousand only) (non refundable) to be paid in the form of Demand Draft or Banker cheque and should be submitted prior to the pre bid meeting.

If any bidder chooses not to attend the prebid meeting, their queries if any may not be entertained by the Bank. However, they will be allowed to participate in the RFP process and the said Cost of the RFP document can be submitted along with the "Technical Offer" on or before the prescribed last date of submission of the tender offers..

Earnest Money Deposit of Rs.5,00,000/-(Five lacs rupees only) must accompany all tender offers (as specified in this tender document). The document cost and EMD should be submitted in a separate sealed envelope.

Tender offers (Technical) will be opened, in the presence of the tenderer's representatives who choose to attend the opening of tender. No separate communication will be sent in this regard.

Assist. General Manager-IT

Terms and Conditions

Central Bank of India invites the bidder's attention to the following terms and conditions which underline this RFP and which provide a statement of understanding between the interested parties.

1. Two Bid System Tender

Offers (Technical & commercial) must be serially numbered and submitted at the same time, giving full particulars in **separate sealed envelopes** at the address given below, on or before the date and time given above. All envelopes should be securely sealed, numbered and stamped.

One copy of technical offer and one copy of the commercial offer should be submitted to the Central Bank of India.

Bank's address
Central Bank of India, Department of Information Technology, 1 st Floor, Plot No. 26, Sector – 11, Opp to CBD Railway Station, CBD Belapur, Navi Mumbai – 400614

All the envelopes must be super-scribed with the following information:

- Type of Offer (Technical or Commercial)
- Tender Reference Number
- Due Date
- Name of Bidder

Bank will go for Reverse auction process also. All technically qualified Bidders would participate in the reverse auction through the e-tendering process. The bidder has to participate in the e-tendering process adopted by the Bank and comply with the procedure mentioned in the e-tendering process. Bank reserves its right to open the commercial offer of all the technically qualified Bidders before the reverse auction process to arrive at the opening price (start price) for the Reverse Auction. However there would be no compulsion on the part of the Bank to accept these prices as Bench Mark for determining the Start Bid price and the Bank may at its discretion use any other process / methodology to determine the Start Bid Price without having to disclose the basis to the Bidders.

The lowest of the Reverse Auction quoted by the bidder would be considered as Final and shall be binding on all the participating bidders. L1 bidder should provide price bifurcation within 48(fourty eight) hours of bid completion otherwise L1 bidder's bid may be rejected and L2 bidder will be asked to submit their price bifurcations.

ENVELOPE-I (Technical Offer): (T.O.)

The Technical offer should be complete in all respects and contain all information asked for, except prices. The T.O. should include all items asked for in **Appendix 1 Form B 02 - TECHNICAL SPECS**. The technical offer **should not contain any price information**. The T.O. should be complete to indicate that all products and services asked for are quoted. For example, the Technical Offer should mention that charges are included in the Commercial Offer, without mentioning the actual amounts in the T.O.

ENVELOPE-II (Commercial Offer):

The Commercial Offer (C.O) should give all relevant price information and should not contradict the T.O. in any manner.

These two envelopes containing the Technical and Commercial Offer should be **separately** submitted. Please note that if any envelope is found to contain both technical and commercial offer, then that offer will be rejected outright.

ENVELOPE-III (Tender document cost and EMD):

The Tender document cost and EMD should be kept in Envelope III.

ALL THE THREE SEPARATE SEALED ENVELOPES SHOULD BE KEPT IN ONE BIG ENVELOPE AND SEALED BEFORE SUBMISSION.

Schedules of the Tender

The bidder must ensure that with all products as specified in the above schedule indicated in bill of material of this tender, it is in a position to create the integrated system and successfully install and commission so as to provide a complete, successful, cost-effective and efficient solution.

2. Date of Submission

The proposal should reach the Bank on or before date and time mentioned above. The proposals received later than the above scheduled date and time will not be accepted. The email address and phone/fax numbers of the bidder should also be indicated on the sealed cover. The details in both the Bids should be exactly as stipulated and otherwise the offer is liable to be rejected.

3. It is not an offer

This RFP is not an offer by Bank, but an invitation for bidder's responses. No contractual obligation on behalf of Bank whatsoever shall arise from the RFP process unless and until a formal contract is signed and executed by duly authorized officials of Bank and the successful bidder.

4. Proposal Process Management

Bank reserves the right to accept or reject any and all proposals, to revise the RFP, to request one or more resubmissions or clarifications from one or more Bidders, or to cancel the process in part or whole. No Bidder is obligated to respond to or to continue to respond to the RFP. Additionally, Bank reserves the right to alter the requirements, in part or whole, during the RFP process, and without reissuing the RFP. Bank has every right to award the contract even if only one bidder is eligible after technical evaluation.

5. Date of Bid Expiration

Proposals must be valid for a minimum of 180 (one eighty) days from the date of technical bid submission. Responses must clearly state the validity of the bid and its explicit expiration date.

6. Format for Technical Offer

The Technical offer must be made in a structured and neat manner. Brochures/leaflets etc. should not be submitted in loose form.

The suggested format for submission of technical offer is as follows:

1. Index
2. Covering letter.
3. Details of the bidder.
4. Bill of materials. This table should not contain any price information.
5. Technical Offer with Specifications, complete with all the columns filled in.
6. Block diagram of the solution offered. The block diagram will contain the following information
 - The equipments used in the solution.
 - Different modules used.
 - Cables and other components included in the offer.
 - Interconnection of all the components offered.
 - Full details of the proposed solution in terms of technical capabilities.
7. Scheduled date of commencement of delivery and completion of the project
8. Project Schedule for completing the work (Delivery and implementation)
9. Terms and Conditions Compliance Table in the following format. This table must cover bidder's response to all the terms and conditions specified in the tender document.

Term No	Short Description of term	Complied (Yes/No)	Detailed explanation about deviation, if not complied
1	Technical evaluation and performance evaluation		
x			

10. Warranty details (for all relevant schedules). This should not contain any price information.
11. Printed Technical Brochures and data sheets pertaining to different components offered.
12. Manufacturer's Authorization Form.
13. The support and Maintenance plan for the Bank for the services to be provided during the warranty maintenance period.
14. Supporting documents, as asked for in the tender document.
15. Valid Bank Draft for EMD.

7. Bidder's Indication of Authorization to Bid

Responses submitted by a Bidder to this RFP (including response to functional and technical requirements) represent a firm offer to contract on the terms and conditions described in the RFP. The proposal must be signed by an official authorized to sign on behalf of Bidder Firm/Company. Bidder must clearly identify the full title and authorization of the designated official and provide a statement of bid commitment with the accompanying signature of the official and submit the copy of power of attorney / authority letter authorizing the signatory to sign the bid.

8. RFP Ownership

The RFP and all supporting documentation/templates are the sole property of Central Bank of India and should NOT be redistributed, either in full or in part thereof, without the prior written consent of Bank. Violation of this would be a breach of trust and may, inter alia, cause the Bidder to be irrevocably disqualified. The aforementioned material must be returned to Bank when submitting the Bidder proposal, or upon request. In case the Bidder is not interested in responding to the RFP, the RFP documents and any

appendices (which are collected directly from Bank, other than through website) must be returned to Bank immediately.

9. Proposal Ownership

The proposal and all supporting documentation submitted by the Bidder, shall become the property of Central Bank of India.

10. Bid Pricing Information

By submitting a signed bid, the Bidder certifies that:

The Bidder has arrived at the prices in its bid without agreement with any other bidder of this RFP for the purpose of restricting competition. The prices in the bid have not been disclosed and will not be disclosed to any other bidder of this RFP. No attempt by the Bidder to induce any other bidder to submit or not to submit a bid for restricting competition has occurred.

11. Bidder Status

Each Bidder must indicate whether or not they have any actual or potential conflict of interest related to contracting services with Central Bank of India.

12. Bid Security

The Bidder is required to submit an interest free deposit of Rs 5.00 (Five) lacs towards bid security amount (EMD) by way of a Demand Draft or Bank Guarantee issued by a Nationalized / PSU Bank/ Scheduled commercial Bank, in favor of "**CENTRAL BANK OF INDIA**" as a part of the proposal.

The said bid security amount (EMD) will be forfeited, if the Bidder withdraws his proposal during the period of the proposal validity; or if the bidder, having been notified of the acceptance of its proposal by the purchaser during the period of validity of the proposal fails or refuses to execute the contract in accordance with the RFP.

The Demand Draft towards bid security amount (EMD) of the unsuccessful bidder(s) will be returned after completion of tendering process. However the EMD of successful bidder will be returned after submission of Performance Bank Guarantee (PBG) as per terms and conditions of the agreement

13. Disclaimer

The Bank and/or its officers, employees disown all liabilities or claims arising out of any loss or damage, whether foreseeable or not, suffered by any person acting on or refraining from acting because of any information including statements, information, forecasts, estimates or projections contained in this document or conduct ancillary to it whether or not the loss or damage arises in connection with any omission, negligence, default, lack of care or misrepresentation on the part of Bank and/or any of its officers, employees.

14. Right to Reject

Central Bank of India reserves the right to reject any or all proposals received in response to the RFP without assigning any reasons thereof.

Bank reserves the right, to waive or modify any formalities, irregularities, or inconsistencies in the bid, which does not prejudice or affect the relative ranking of any bidder, which shall be binding on all bidders.

15. Other General Conditions

- All responses received after the due date/time would be considered late and would be rejected.
- **Integrity Pact-** Each Participating bidder/s shall submit Integrity Pact as per attached **Annexure-7** on duly stamped of Rs 500. Integrity pact should submit by all participating bidder at the time of submission of Bid documents or as per satisfaction of the Bank. The Non submission of Integrity Pact as per time scheduled may be ground of disqualification to participating in Bid process.
- All responses by the bidders to this RFP document shall be binding on such bidders for a period of 180(one eighty) days after the submission of the bids.
- Any additional or different terms and conditions proposed by the bidder would be rejected unless expressly assented to in writing by the bank.
- Bank reserve the absolute right to reject the offer if it is not in accordance with its requirements and no further correspondence, whatsoever, will be entertained by the Bank in the matter.
- Any technical or commercial bid, submitted cannot be withdrawn / modified after the last date for submission of the bids.
- Each offer should specify only a single solution which is cost effective and meet the tender specifications and should not include any alternatives.
- The bidder shall bear all costs associated with the preparation and submission of its bid, attending prebid meeting or arranging Product Walk through and Bank will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the bidding process.
- The bidder shall also indemnify Bank against all third party claims of Intellectual Property Rights infringement such as Patent, Trademark, Copy Right or industrial design rights arising from use of the goods, software(s), hardware(s) or any part thereof in India and abroad.
- To assist in the scrutiny, evaluation and comparison of offers Bank may, at its discretion, ask some or all bidders for clarification of their offer. The request for clarification and the response shall be in writing and no change in the price or substance of the bid shall be sought, offered or permitted.
- In the event of any claim asserted by the third party of infringement of copyright, patent, trademark or industrial design rights, arising from the use of the Goods or any part thereof in India, the bidder shall act expeditiously to extinguish such claims. If the bidder fails to comply and Bank is required to pay compensation to a third party resulting from such infringement, the bidder shall be responsible for the compensation including all expenses, court costs and lawyer's fees. Bank will give notice to the bidder of such claims, if it is made, without delay by fax/email/registered post etc.
- The successful Bidder and Bank should execute:
 - a. **Service Level Agreement:** This would include all the services and terms and conditions of the services to be extended as detailed herein and as may be prescribed by the Bank.

Bidder shall provide personnel support during warranty period.

NonDisclosure Agreement. The successful bidder should execute the SLA and NDA as per format of the bank within one month from the date of acceptance of Letter of Appointment.

16.Detailed Scope of Work

- As per Appendix 1 Form B 02.

17.Buyback of existing mailing servers

- As per Appendix 1 Form B 01
- Existing devices under buyback will be sold on "as is where is" basis and purchase price of these items once accepted by the Bank cannot be withdrawn by the Bidder.
- It would be Bidder's responsibility to collect the buyback items, from CBI offices location. Bank will not provide any transportation towards this.
- It would be Bidder's responsibility to ensure safe disposal of e-waste comprising discarded
- Hardware/ electrical/ electronic equipment/components taken under buyback.

18.Project Completion Time

The Bidder shall be responsible for delivery, installation & commissioning of all the equipments ordered at the site and for making them fully operational at no additional charge within 16 (Sixteen) weeks of receiving the purchase order. The installation should be done in such a way that it does not affect the normal operations of the Bank in any way.

Appropriate insurance to cover the equipment for the transit period and till the time of its acceptance by Central Bank of India at the respective site is to be taken by the bidder. At the discretion of Central Bank of India, there will be an acceptance test conducted by the bidder in presence of Central Bank of India officials and/or its nominated consultants after installation of complete equipment. In case of serious discrepancy in hardware/software supplied, Central Bank of India may cancel the entire purchase order and return the equipment back to the bidder at bidder's costs and risks.

19.Acceptance

1. The acceptance / performance test will be performed after completion of installation of all the equipment's at Mumbai and Hyderabad locations. Complete hardware and software as specified in the tender must be supplied, installed and configured along with migration of the existing mail boxes, journal data etc to the new hardware must be properly done by the Bidder prior to acceptance of the same. The acceptance test will be conducted by the Bank. The Bidder will be responsible for setting up and running the acceptance test without any extra cost to the Bank.
2. In the event of hardware and software failing to pass the acceptance test, a period not exceeding four weeks will be given to rectify the defects and clear the acceptance test, failing which the Bank reserves the right to get the corresponding component replaced by the Bidder at no extra cost to the Bank or to cancel the order and recall all the payments made by the bank to the bidder under this contract.
3. Successful conduct and conclusion of the acceptance tests for the installed components shall also be the sole responsibility and at the cost of the Bidder. During acceptance testing the bidder has to demonstrate all the features of the respective hardware items.
4. The Bank "s right to inspect, test and, where necessary, reject the Goods after the Goods" arrival at destination shall in no way be limited or waived by reason of the Goods having previously been inspected, tested and passed by the Bank or its representative prior to the shipment of the goods.
5. Bidder shall submit the duly signed Installation certificate.

Acceptance test criteria are given below:

Sr No	Activity	Details
1	Physical Delivery of the hardware items as per the PO	The bidder has to deliver all the items mentioned in the PO at Banks locations- Mumbai and Hyderabad along with all the accessories, CDs/DVDs, manuals etc.
2	Installation and Configuration	Installation, configuration and migration of all equipment's as per Scope of work.
3	Installation Certificate.	As a confirmation to the above activities mentioned at Sr. 1 & 2, bidder shall obtain Installation certificate duly signed by Bank officials after 1 week of successful operation of the solution, and submit the same at the time of claiming payment

20. Payment Terms

The Bank will make payment to the successful bidder only electronically through CO as per following terms on submission of invoice:

Payments will be made on submission of Performance Bank Guarantee (as per the Bank's standard format) for 10% of the order value valid for the entire period of Warranty & AMC, with additional claim period of 3 months. This bank guarantee will be linked to the Warranty & AMC obligations of the vendor.

For Schedules 1 (Software)

Part 1A (Operating system and Database System)

- 100 % of the value of Part 1A will be paid on completion of installation and acceptance by Bank of all the items ordered and on submission of original invoice.

Part 1B (Mailing and Other Software)

1st Year

- 100 % of the value of Part 1B for 1st year will be paid on submission of all the licenses to the Bank and completion of installation of all the items ordered in the tender and acceptance by the Bank on submission of original invoice.

2nd to 5th Year

- 100% of the value of the Part 1B for 2nd to 5th year on yearly basis will be paid on submission of renewed Software subscription /assurance licenses for the year to the Bank and on receipt of original invoice.

For Schedule 2 (Hardware)

- 40% of the order value under schedule 2 will be paid on successful completion of delivery of all the devices and acceptance by Bank under the schedule and acceptance by Bank on submission of invoice.
- Remaining 60% of the order value under Schedule 2 will be paid on successful completion of installation of all the items ordered and acceptance by Bank on submission of original invoice.

For Schedule 3

Part 3A (AMC of Hardware New Devices) 4th and 5th Year

- Payment will be made on quarterly basis for every quarter at the end of each quarter on submission of original invoice.

Part 3B (AMC of Hardware Old Devices) 1st to 5th Year

- Payment will be made on quarterly basis for every quarter at the end of each quarter on submission of original invoice.

For Schedule 4

- 100% of the installation & commissioning charges and training charges on successful completion of acceptance of commissioning of the MMS Project and training on receipt of original invoice.

For Schedule 5

- FMS charges will be paid at the end of each quarter on submission of invoice.

The Payment schedule is available in RFP Part 1 (Payment sheet).

Bank shall not make any AMC payment for the particular period, where support not provided by vendor.

21.Costs &Currency Price Composition

The bidder is expected to quote unit price in Indian Rupees (without decimal places) for all components (hardware, software etc.) and services on a fixed price basis, as per the commercial Bid inclusive of all costs. GST (Goods and Services Taxes) shall be payable as per applicable structure laid down under GST Law.

Violation of terms

The Bank clarifies that the Bank shall be entitled to an injunction, restraining order, right for recovery, specific performance or such other equitable relief as a court of competent jurisdiction may deem necessary or appropriate to restrain the Vendor from committing any violation or enforce the performance of the covenants, obligations and representations contained in this RFP. These injunctive remedies are cumulative and are in addition to any other rights and remedies the Bank may have at law or in equity, including without limitation a right for recovery of any amounts and related costs and a right for damages.

Insurance

The equipment (hardware, software etc.) supplied under the contract shall be fully insured by the successful Bidder against loss or damage incidental to manufacture or acquisition, transportation,

storage, delivery acceptance. The insurance shall be obtained by the Bidder naming Central Bank of India as the beneficiary, for an amount Equal to 100% of the invoiced value of the goods on "all risks" basis. The period of insurance shall be up to the date the supplied components are accepted and the all rights of the property are transferred to the Bank in the Bank's premises.

Should any loss or damage occur, the selected Bidder shall: -

- i. Initiate and pursue claim till settlement and
- ii. Promptly make arrangements for repair and / or replacement of any damaged item irrespective of settlement of claim by the underwriters.

Goods and Services Taxes(GST) and its Compliance-

Goods and Services Tax Law in India is a Comprehensive,multi-stage,destination-based tax that will be levied on every value addition. Bidder/s shall have to follow GST Law as per time being enforced along with certain mandatory feature mentioned hereunder-

1-TDS(Tax Deducted on Source) is required to deduct as per applicable under GST Law on the payment made or credited to the supplier of taxable goods and services.It would enhance the tax base and would be compliance and self maintaining tax law based on processes. The statutory compliances contained in the statues include obtaining registration under the GST law by the existing assesses as well as new assesses, periodic payments of taxes and furnishing various statement return by all the registered taxable person.

2- It is mandatory to pass on the benefit due to reduction in rate of tax or from input tax credit (ITR) to the Bank by way of commensurate reduction in the prices under the GST Law.

Privacy and security safeguards

- i. The Vendor shall not publish or disclose in any manner, without the Bank's prior written consent, the details of any security safeguards designed, developed, or implemented by the Vendor or existing at any Bank location. The Vendor will have to develop procedures and implementation plans to ensure that IT resources leaving the control of the assigned user (such as being reassigned, removed for repair, replaced, or upgraded) are cleared of all Bank data and sensitive application software. The Vendor will have to also ensure that all subcontractors who are involved in providing such security safeguards or part of it shall not publish or disclose in any manner, without the Bank's prior written consent, the details of any security safeguards designed, developed, or implemented by the Vendor or existing at any Bank location.
- ii. The Vendor hereby agrees and confirms that they will disclose, forthwith, instances of security breaches.
- iii. The Vendor hereby agrees that they will preserve the documents.

22.Fixed Price

The commercial offer shall be on a fixed price basis. No price variation relating to increases in dollar price variation etc. is permitted.

23.Completeness of Installation

The installation will be deemed as incomplete if any of the component and other necessary accessories and equipments or any documentation/media is not delivered or is delivered but not installed and/or not operational or not acceptable to Central Bank Of India after acceptance testing/examination.

In such an event, the supply & installation will be termed as incomplete and it will not be accepted and warranty period will not commence. The entire site will be accepted after complete commissioning of equipment and satisfactory working of the entire equipment for a minimum period of 15(fifteen) days.

24.Liquidated Damages

The Bank will consider the inability of the bidder to deliver or install the equipment within the specified time limit, as a breach of contract and would entail the payment of Liquidation Damages on the part of the bidder. The liquidation damages represent an estimate of the loss or damage that the Bank may have suffered due to delay in performance of the obligations (relating to delivery, installation, Operationalization, implementation, training, acceptance, warranty, maintenance etc. of the Security Operations Center) by the bidder.

Installation will be treated as incomplete in one/all of the following situations:

Non-delivery of any component or other services mentioned in the order Non-delivery of supporting documentation

If the bidder fails to deliver any or all of the Goods or perform the Services within the time period(s) specified in the Contract, the Bank shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to 1% of the of the order value of the Device, Software per week or part thereof until actual delivery or performance, (3 days will be treated as a week); and the maximum deduction is 10% of the contract price. Once the maximum is reached, the Bank may consider termination of the contract and other penal measure will be taken like forfeiture of EMD, Foreclosure of BG etc.

25.Blacklisting

The Bank reserves its right to blacklist to concern Vendor to participate in future tender process, in the event of delay in project beyond the specified period or non-compliance of the RFP terms or non-fulfilment of RFP functional requirements or severe bugs in the application or proposed system performance is not satisfactory. Bank shall have right to exercise power conferred under this clause along with any or all right incorporated in this RFP/Agreement. If supplier is backlisted in the GST(Goods and Services Tax) portal or rating of a supplier falls below a mandatory level, as decided time to time may be relevant ground of cancellation of Contract.

26.Order Cancellation

Central Bank of India reserves its right to cancel the order in the event of one or more of the following situations:

1. Delay in delivery beyond the specified period for delivery.
2. Serious discrepancy in hardware noticed during the pre-dispatch factory inspection or during Installation.

In addition to the cancellation of purchase order, Central Bank of India reserves the right to appropriate the damages by foreclosing the bank guarantee given by the supplier against the advance payment.

27. Acceptance Tests

At the discretion of Central Bank of India, acceptance test will be conducted by the bidder at the site of installation in the presence of the officials of Central Bank of India and/or its nominated consultants. There

shall not be any additional charges payable by Central Bank of India for carrying out this acceptance test. Central Bank of India will take over the system on successful completion of the above acceptance

28. Hardware Warranty

The offer must include a minimum **Three years comprehensive on-site warranty** from the date of installation and acceptance of the system by Central Bank of India. The warranty will start only after acceptance of Installation.

The bidder has to submit document for back to back agreement with the Hardware OEM (Original Equipment Manufacturer). The Vendor should make proper arrangement with respective OEM to ensure that back to back arrangement in place for continuing support for the entire Project. So that continuity is maintained for project in the event of insolvency, bankruptcy, liquidation, acquisition, windup, amalgamation or termination on default of vendor. If the OEM provides login username & password for downloading firmware, other software's then the vendor has to pass on the same to Bank. Bidder shall be fully responsible for the manufacturer's warranty in respect of quality and workmanship of all equipment, accessories etc. covered by the tender. Bidder must warrant all equipment, accessories, spare parts etc. against any manufacturing defects during the warranty period. During the warranty period, bidder shall maintain the systems and repair/replace at the installed site all defective components and upgrade the firmware, at no additional charge to Central Bank of India.

If any of the components are not available or difficult to procure or the procurement is likely to be delayed for replacement if required, the replacement shall be carried out with state of the art technology equipment of equivalent capacity or higher capacity at no additional charges to Central Bank of India.

29. Software Warranty/ AMC/ATS Support

The offer must include on-site Support from the date which will be mentioned in Purchase Order.

The software support will includes all the system and application software provided by bidder, including operating systems, Application software etc., and bidder shall provide supplying and install new version/s, releases, upgrades, updates of software and any issue in the system for one year. The bidder shall update any patches/security fixes etc in all the systems installed by him as and when such fixes are available. Before porting new patches/bug fixes, the bidder shall test the same thoroughly at his site and details of such patches/bug fixes ported may be informed on a quarterly basis. If some new upgrade is released during the Warranty period then the bidder has to install the upgrade software and make it work successfully on the Central Bank of India network without any extra cost to the Bank.

The bidder should quote for support at site for software (at Primary & Secondary Site) for a period of five years from the date which will be mentioned in Purchase Order in Schedule 1B. This rate should be quoted as:

- 1st Year for software
- 2nd year for software
- 3rd year for software
- 4th year for software
- 5th year for software

The offer must give commitment to provide maintenance for onsite support for five years from the date which will be mentioned in Purchase Order. Bidders are expected to maintain the software supplied for at least five. If any software errors / bugs, issues are identified during the AMC period the bidder should rectify it without any additional charges to Central Bank of India.

The Bank reserves the right to discontinue the Support and award the same to any other bidder without assigning any reasons whatsoever.

Central Bank of India will pay Charges in Indian Rupees for Software AMC/ATS Subscription renewal on receipt of the licenses and on submission of invoices.

30. Annual Maintenance Charges for hardware

The bidder should also quote separately for annual Comprehensive maintenance at site for hardware for a period of two year from the date of expiry of the warranty period (post-warranty). This rate should be quoted in Schedule 3A as:

- 4th year comprehensive on-site AMC for hardware.
- 5th year comprehensive on-site AMC for hardware.

Bidders are expected to maintain the equipment supplied for at least five years from the date of acceptance of commissioning by Central Bank of India.

The bidder has to quote for AMC of old hardware as given in RFP Part -1 in the Bill of Material Schedule 3B AMC Charge of old Hardware in Rs. The bidder has to provide annual Comprehensive maintenance at site for the hardware for 5 years.

Bidder must warrant all equipment, accessories, spare parts etc. against any manufacturing defects during the AMC period. During the AMC period, bidder shall maintain the systems and repair/replace at the installed site all defective components and upgrade the firmware, at no additional charge to Central Bank of India.

The Bank reserves the right to discontinue the AMC and award the same to any other bidder without assigning any reasons whatsoever.

Central Bank of India will pay AMC Charges in Indian Rupees at the end of each quarter for every quarter after submission of invoice.

31. Penalty for downtime

Any equipment that is reported to be down on a given date should be either fully repaired or replaced by temporary substitute (of equivalent configuration) on the next working day. In case of Mail Servers, SAN and Tape Library, the downtime should not exceed 12 hours at CBD Belapur and Hyderabad. The reporting will be through a telephonic message or any other mode as Central Bank of India may decide.

The temporary substitute equipment should be replaced by the original equipment duly repaired or replaced with similar equipment of same capacity or higher capacity, within 5 days' time, failing which a

penalty in rupees per day as specified in the table of the below mentioned item cost will be imposed for the number of days exceeding 5 days subject to a maximum of 8 % of the equipment cost.

Sr. No.	Item	% of Purchase value of device /day
1	Mail Server (Clustered)	2%
2	SAN	2%
3	SAN Switch	1%
4	All other Devices at DC	1%
5	Backup Device	1%
6	Gateway Antivirus/Antispam Server	1%
7	DR Site Devices	1%
8	Old Devices	Rs. 10,000/- per Day to a Maximum of Rs. 80,000/-

Penalty for Software Failure

If any problem in software is not rectified by FM Engineer within 1 hour (One hour) from the time of reporting the problem, it should be escalated to Senior Support Engineer and onsite support must be made available by the Senior Support Engineer within 3 Hours of initial Problem Reporting. The problem must be rectified within 24 hours (Twenty hours) from the time of initial reporting of problem at both the locations (Primary and Secondary). Failure to do so will result in a penalty of Rs. 500/- (Five Hundred only) per hour per call shall be charged by the Bank. The penalty will be deducted from the FMS charges.

32. Performance bank guarantee

The successful bidder should provide a performance bank guarantee for the contract period and additional 3 months for an amount equivalent to 10% of the total order value from a Nationalized / PSU Bank/Scheduled commercial Bank in the format specified by the bank within 30 days from the date of purchase order. The Proforma for Performance Bank Guarantee is attached as annexure 8.

In the event of non performance of obligation or failure to meet the terms / requirements of the RFP, bank shall be entitled to invoke the performance bank guarantee without notice or right of demur to the successful bidder.

Bank reserves its right to invoke the Performance Bank Guarantee besides cancellation of the entire Purchase Order in the event of breach and/or nonobservance of any of the terms of performance bank guarantee.

33. Non Disclosure Agreement

The successful bidder will have to sign a Nondisclosure agreement with the Bank as per the format enclosed as annexure 10.

34. Cancellation of Order

The Bank reserves its right to cancel the Purchase Order at any time i.e in the event of delay in project beyond the specified period or noncompliance of the RFP terms or nonfulfillment of RFP functional requirements or severe bugs in the application or proposed system performance is not satisfactory etc. In

addition to the cancellation of Purchase order, the Bank reserves the right to invoke the Bank Guarantee given by the successful bidder to recover the damages.

35. Force Majeure

The successful bidder shall not be liable for forfeiture of its performance guarantee, liquidated damages or termination for default, if any to the extent that its delay in performance or other failure to perform its obligations under the contract is the result of an event of Force Majeure.

For purposes of this Clause, "Force Majeure" means an event explicitly beyond the control of the successful bidder and not involving the successful bidder's fault or negligence and not foreseeable. Such events may include, Acts of God or of public enemy, acts of Government of India in their sovereign capacity and acts of war.

If a Force Majeure situation arises, the successful bidder shall promptly notify the Bank in writing of such conditions and the cause thereof within fifteen calendar days. Unless otherwise directed by the Bank in writing, the successful bidder shall continue to perform his obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

In such a case the time for performance shall be extended by a period not less than duration of such delay. If the duration of delay continues beyond a period of three months, the Bank and the successful bidder shall hold performance in an endeavor to find a solution to the problem.

Notwithstanding the above, the decision of the Bank shall be final and binding on the Successful bidder.

36. Clarifications and amendments of RFP Document

RFP Clarifications

During Technical Evaluation of the proposals Bank may, at its discretion, ask bidders for clarifications on their proposal. The bidders are required to respond within the prescribed time frame.

Amendments in RFP

At any time prior to deadline for submission of proposal, Bank may for any reason, modify the terms of RFP. The prospective bidders having received the RFP shall be notified of the amendments through website and/or newspapers and such amendments shall be binding on them.

37. Confidentiality

The RFP document is confidential and is not to be disclosed, reproduced, transmitted, or made available by the Recipient to any other person. The RFP document is provided to the Recipient on the basis of the undertaking of confidentiality given by the Recipient to Bank. Bank may update or revise the RFP document or any part of it. The Recipient acknowledges that any such revised or amended document is received subject to the same confidentiality undertaking. The Recipient will not disclose or discuss the contents of the RFP document with any officer, employee, consultant, director, agent, or other person associated or affiliated in any way with Bank or any of its customers or suppliers without the prior written consent of Bank.

This tender document contains information proprietary to the Bank. Each recipient is entrusted to maintain its confidentiality. It should be disclosed only to those employees involved in preparing the requested

responses. The information contained in the tender document may not be reproduced in whole or in part without the express permission of the Bank. Disclosure of any such sensitive information to parties not involved in the supply of contracted services will be treated as breach of trust and could invite legal action. This will also mean termination of the contract and disqualification of the said Successful bidder.

Responses received become the property of the Bank and cannot be returned. Information provided by each bidder will be held in confidence, and will be used for the sole purpose of evaluating a potential business relationship with the successful bidder.

"Confidential Information" means any and all information that is or has been received by the successful bidder ("Receiving Party") from the Bank ("Disclosing Party") and that:

(a) Relates to the Disclosing Party; and

(b) is designated by the Disclosing Party as being confidential or is disclosed in circumstances where the Receiving Party would reasonably understand that the disclosed information would be confidential or

(c) Is prepared or performed by or on behalf of the Disclosing Party by its employees, officers, directors, agents, representatives or consultants.

(d) Without limiting the generality of the foregoing, Confidential Information shall mean and include any information, data, analysis, compilations, notes, extracts, materials, reports, drawings, designs, specifications, graphs, layouts, plans, charts, studies, memoranda or other documents, or materials that may be shared by the Bank with the bidder.

(e) "Confidential Materials" shall mean all tangible materials containing Confidential Information, including, without limitation, written or printed documents and computer disks or tapes, whether machine or user readable.

(f) Information disclosed pursuant to this clause will be subject to confidentiality for the term of contract plus two years.

The Receiving Party shall, at all times regard, preserve, maintain and keep as secret and confidential all Confidential Information and Confidential Materials of the Disclosing Party howsoever obtained and agrees that it shall not, without obtaining the written consent of the Disclosing Party:

i. Unless otherwise agreed herein, use any such Confidential Information and materials for its own benefit or the benefit of others or do anything prejudicial to the interests of the Disclosing Party or its customers or their projects.

In maintaining confidentiality hereunder the Receiving Party on receiving the confidential information and materials agrees and warrants that it shall:

i. Take at least the same degree of care in safeguarding such Confidential Information and materials as it takes for its own confidential information of like importance and such degree of care shall be at least, that which is reasonably calculated to prevent such inadvertent disclosure;

ii. Keep the Confidential Information and Confidential Materials and any copies thereof secure and in such a way so as to prevent unauthorized access by any third party;

iii. Limit access to such Confidential Information and materials to those of its directors, partners, advisers, agents or employees, sub contractors and contractors who are directly involved in the

consideration/evaluation of the Confidential Information and bind each of its directors, partners, advisers, agents or employees, sub contractors and contractors so involved to protect the Confidential Information and materials in the manner prescribed in this document; and

Upon discovery of any unauthorized disclosure or suspected unauthorized disclosure of Confidential Information, promptly inform the Disclosing Party of such disclosure in writing and immediately return to the Disclosing Party all such Information and materials, in whatsoever form, including any and all copies thereof.

iv. The Receiving Party who receives the confidential information and materials agrees that on receipt of a written demand from the Disclosing Party:

a) Immediately return all written Confidential Information, Confidential materials and all copies thereof provided to, or produced by it or its advisers, as the case may be, which is in Receiving Party's possession or under its custody and control;

b) To the extent practicable, immediately destroy all analyses, compilations, notes, studies, memoranda or other documents prepared by it or its advisers to the extent that the same contain, reflect or derive from Confidential Information relating to the Disclosing Party;

c) So far as it is practicable to do so immediately expunge any Confidential Information relating to the Disclosing Party or its projects from any computer, word processor or other device in its possession or under its custody and control; and

d) To the extent practicable, immediately furnish a certificate signed by its director or other responsible representative confirming that to the best of his/her knowledge, information and belief, having made all proper enquiries the requirements of this paragraph have been fully complied with.

v. The restrictions in the preceding clause shall not apply to:

a) Any information that is publicly available at the time of its disclosure or becomes publicly

available following disclosure (other than as a result of disclosure by the Disclosing Party contrary to the terms of this document); or any information which is independently developed by the Receiving Party or acquired from a third party to the extent it is acquired with the valid right to disclose the same.

b) Any disclosure required by law or by any court of competent jurisdiction, the rules and regulations of any recognized stock exchange or any enquiry or investigation by any governmental, statutory or regulatory body which is lawfully entitled to require any such disclosure provided that, so far as it is lawful and practical to do so prior to such disclosure, the Receiving Party shall promptly notify the Disclosing Party of such requirement with a view to providing the Disclosing Party an opportunity to obtain a protective order or to contest the disclosure or otherwise agree to the timing and content of such disclosure.

c) The Confidential Information and materials and all copies thereof, in whatsoever form shall at all times remain the property of the Disclosing Party and its disclosure hereunder shall not confer on the Receiving Party any rights whatsoever beyond those contained in this document.

d) The confidentiality obligations shall survive the expiry or termination of the agreement between the SI and the Bank.

38.Security

The successful bidders' proposal must include a plan to safeguard the confidentiality of the Bank's business information, legacy applications and data.

39.Resolution of Dispute

i.The Bank and the successful bidder shall make every effort to resolve amicably, by direct informal negotiation between the respective project directors of the Bank and the successful bidder, any disagreement or dispute arising between them under or in connection with the contract.

ii. If the Bank project director and successful bidder project director are unable to resolve the dispute after thirty days from the commencement of such informal negotiations, they shall immediately escalate the dispute to the senior authorized personnel designated by the successful bidder and Bank respectively.

iii. If after thirty days from the commencement of such negotiations between the senior authorized personnel designated by the successful bidder and Bank, the Bank and the successful bidder have been unable to resolve contractual dispute amicably, either party may require that the dispute be referred for resolution through formal arbitration.

iv. All questions, disputes or differences arising under and out of, or in connection with the contract or carrying out of the work whether during the progress of the work or after the completion and whether before or after the determination, abandonment or breach of the contract shall be referred to arbitration by a sole Arbitrator: acceptable to both parties OR the number of arbitrators shall be three, with each side to the dispute being entitled to appoint one arbitrator. The two arbitrators appointed by the parties shall appoint a third arbitrator shall act as the chairman of the proceedings. The award of the Arbitrator shall be final and binding on the parties. The Arbitration and Reconciliation Act 1996 or any statutory modification thereof shall apply to the arbitration proceedings and the venue of the arbitration shall be Mumbai.

v. If a notice has to be sent to either of the parties following the signing of the contract, it has to be in writing and shall be first transmitted by facsimile transmission by postage prepaid registered post with acknowledgement due or by a reputed courier service, in the manner as elected by the Party giving such notice. All notices shall be deemed to have been validly given on (i) the business date immediately after the date of transmission with confirmed answer back, if transmitted by facsimile transmission, or (ii) the expiry of five days after posting if sent by registered post with A.D., or (iii) the business date of receipt, if sent by courier.

vi. This tender document shall be governed and construed in accordance with the laws of India. The courts of Mumbai alone and no other courts shall be entitled to entertain and try any dispute or matter relating to or arising out of this tender document.

Notwithstanding the above, the Bank shall have the right to initiate appropriate proceedings before any court of appropriate jurisdiction, should it find it expedient to do so.

40. Exit option and contract re-negotiation

i. The Bank reserves the right to cancel the contract in the event of happening one or more of the following Conditions:

a) Failure of the successful bidder to accept the contract and furnish the Performance Guarantee within 30 days of receipt of purchase contract;

- b) Delay in providing the Solution with complete readiness;
- c) Serious discrepancy in functionality of any service, which has an impact on the Bank's equipments in production environment;
- ii. In addition to the cancellation of purchase contract, Bank reserves the right to appropriate the damages through encashment of Bid Security / Performance Guarantee given by the successful bidder.
- iii. The Bank will reserve a right to re-negotiate the price and terms of the entire contract with the SI at more favorable terms in case such terms are offered in the industry at that time.
- iv. Notwithstanding the existence of a dispute, and/or the commencement of arbitration proceedings, the successful bidder should continue to provide services to the Bank as per the contract.

41. Vendor's Liability

The Vendor's aggregate liability in connection with obligations undertaken as a part of the RFP regardless of the form or nature of the action giving rise to such liability (whether in contract, tort or otherwise), shall be at actuals and limited to the value of the contract. The Vendor's liability in case of claims against the Bank resulting from misconduct or gross negligence of the Vendor, its employees and subcontractors or from infringement of patents, trademarks, copyrights or such other Intellectual Property Rights or breach of confidentiality obligations shall be unlimited.

The Bank shall not be held liable for and is absolved of any responsibility or claim/litigation arising out of the use of any third party software or modules supplied by the Vendor as part of this Project.

In no event shall either party be liable for any indirect, incidental or consequential damages or liability, under or in connection with or arising out of this agreement or the hardware or the software delivered hereunder, howsoever such liability may arise, provided that the claims against customers, users and vendors of the Bank would be considered as a direct claim.

42. Patent Rights/Intellectual Property Rights

The vendor shall ensure that the equipment (including hardware and software) does not infringe third party intellectual property rights. If a third party's claim endangers or disrupts the Bank's use of the software, the Vendor shall be required to, at no further expense, charge, fees or costs to the Bank, (i) obtain a license so that the Bank may continue use of the equipment in accordance with the terms of this Agreement and the license agreement; or (ii) modify the equipment without affecting the functionality in any manner so as to avoid the infringement; or (iii) replace the equipment with a compatible, functionally equivalent and non-infringing product; or (iv) refund to the Bank the amount paid for the infringing software and bear the incremental costs of procuring a functionally equivalent equipment from a third party, provided the option under the sub clause (iv) shall be exercised by the Bank in the event of the failure of the vendor to provide effective remedy under options (i) to (iii) within a reasonable period which would not affect the normal functioning of the Bank. The vendor shall have no liability for any claim of infringement based on (i) a claim which continues because of Bank's failure to use a modified or replaced software that is at least functionally equivalent to the software, or the bank's failure to use corrections, fixes, or enhancements made available and implemented by the vendor, despite notice of such failure by the VENDOR in writing, (ii) any change, not made by or on behalf of the vendor, to some or all of the software/deliverables supplied by the vendor or modification thereof; or (iii) the Bank's continued misuse of some or all of the software/deliverables or any modification thereof despite notice from the vendor of such misuse in writing.

The Bank shall not be held liable for and is absolved of any responsibility or claim/Litigation or penal liability arising out of the use of any third party software or modules supplied by the vendor as part of this Agreement.

43.AUDIT/REVIEW

Bank shall undertake a periodic review of service provider outsourced process to identify new outsourcing risks as they arise. The vendor shall be subject to risk management and security and privacy policies that meet the Bank's standard. In case the vendor outsourced to third party, there must be proper Agreement with concerned third party. The Bank shall have right to intervene with appropriate measure to meet the Bank's legal and regulatory obligations. Access to books and records/Audit and Inspection would include:-

- a) Ensure that the Bank has the ability to access all books, records and information relevant to the outsourced activity available with the vendor. For technology outsourcing, requisite audit trails and logs for administrative activities should be retained and accessible to the Bank based on approved request.
- b) Provide the Bank with right to conduct audits on the vendor whether by its internal or external auditors, or by external specialist appointed to act on its behalf and to obtain copies of any audit or review reports and finding made on the service provider in conjunction with the services performed for the bank.
- c) Include clause to allow the reserve bank of India or persons authorized by it to access the bank's documents: records of transactions, and other necessary information given to you, stored or processed by the vendor within a reasonable time. This includes information maintained in paper and electronic formats.
- d) Recognized the right of the reserve bank to cause an inspection to be made of a service provider of the bank and its books and account by one or more of its officers or employees or other persons.

Banks shall at least on an annual basis, review the financial and operational condition of the vendor pertaining to the project. Bank shall also periodically commission independent audit and expert assessment on the security and controlled environment of the vendor. Such assessment and reports on the vendor may be performed and prepared by Bank's internal or external auditors, or by agents appointed by the Bank.

44.Independent contractor

The Vendor shall perform its obligations under this Agreement as an independent contractor, and may engage subcontractors to perform any of the Deliverables or Services, after taking prior approval in writing from the Bank. Neither this Agreement nor the Vendor's performance of obligations under this Agreement shall create an association, partnership, joint venture, or relationship of principal and agent, master and servant, or employer and employee, between the Bank and the Vendor or its employees, subcontractor; and neither Party shall have the right, power or authority (whether expressed or implied) to enter into or assume any duty or obligation on behalf of the other Party. This Agreement does not intend to create, constitute or evidence any partnership, joint venture, trust or employer/employee relationship amongst the Parties and constitutes an agreement between principals. None of the Parties shall be entitled to make, or allow to be made, any representation that any such relationship exists between the Parties. Other than the relationship of sponsor and the consequent inter-se rights and obligations between the Bank, in relation to this Agreement, the right of a Party to act on behalf of the other Party for, or to incur any obligation on behalf of, the other Party, is limited to the manner provided in this Agreement.

The Vendor shall be responsible for managing the activities of its personnel or the personnel of its subcontractors/franchisees/agents and shall be accountable for all of them. The Bidder shall also have the responsibility for payment of all dues and contributions, as applicable, towards statutory benefits including labour laws for its employees and sub-contractors or as the case may be. The Vendor shall be vicariously liable for any acts, deeds or things done by its/their employees, agents, contractors, subcontractors etc. The Vendor shall be the principal employer of the employees, agents, contractors, subcontractors etc. engaged by Vendor and shall be vicariously liable for all the acts, deeds or things, whether the same is within the scope of power or outside the scope of power, vested under this Agreement. No right of any employment shall accrue or arise, by virtue of engagement of employees, agents, contractors, subcontractors etc. by the Vendor, for any assignment under the Purchase Order issued under this Agreement. All remuneration, claims, wages, dues etc. of such employees, agents, contractors, subcontractors etc. of Vendor shall be paid by Vendor alone and the Bank shall not have any direct or indirect liability or obligation, to pay any charges, claims or wages of any of the Vendor's employees, agents, contractors, and subcontractors. The Vendor shall hold the Bank/RRBs, their successors, assignees and administrators fully indemnified and harmless against loss or liability, claims actions or proceedings, if any, that may arise from whatsoever nature caused to the Bank through the action of Vendor, its employees, agents, contractors, subcontractors etc. However, the Vendor would be given an opportunity to be heard by the Bank prior to making of a decision in respect of such loss or damage. The Vendor shall solely be responsible for all payments (including any statutory payments) to its employees and / or subcontractors and shall ensure that at no time shall its employees, personnel or agents hold themselves out as employees or agents of the Bank, nor seek to be treated as employees of the Bank for any purpose, including claims of entitlement to fringe benefits provided by the Bank, or for any kind of income or benefits. The Vendor alone shall file all applicable tax returns for all of its personnel assigned hereunder in a manner consistent with its status as an independent contractor of services; and the Vendor will make all required payments and deposits of taxes in a timely manner.

45. Indemnity

Vendor shall indemnify, protect and save the Bank and hold the Bank harmless from and against all claims, losses, costs, damages, expenses, action suits and other proceedings, (including reasonable attorney fees), relating to or resulting directly or indirectly from (i) an act or omission of the Vendor, its employees, its agents, or employees of the consortium in the performance of the services provided by this contract, (ii) breach of any of the terms of this RFP or breach of any representation or warranty by the Vendor, (iii) use of the deliverables and or services provided by the Vendor, (iv) infringement of any patent, trademarks, copyrights etc. or such other statutory infringements in respect of all components provided to fulfill the scope of this project. Vendor shall further indemnify the Bank against any loss or damage to the Bank's premises or property, Bank's data, loss of life, etc., due to the acts of the Vendor's employees or representatives. The Vendor shall further indemnify the Bank against any loss or damage arising out of loss of data, claims of infringement of third-party copyright, patents, or other intellectual property, and third-party claims on the Bank for malfunctioning of the equipment or software or deliverables at all points of time, provided however, (i) the Bank notifies the Vendor in writing immediately on aware of such claim, (ii) the Vendor has sole control of defense and all related settlement negotiations, (iii) the Bank provides the Vendor with the assistance, information and authority reasonably necessary to perform the above, and (iv) the Bank does not make any statement or comments or representations about the claim without prior written consent of the Vendor, except under due process of law or order of the court. It is clarified that the Vendor shall in no event enter into a settlement, compromise or make any statement (including failure to take appropriate steps) that may be detrimental to the Bank's (and/or its customers, users and vendors) rights, interest and reputation.

Vendor shall be responsible for any loss of data, loss of life, etc, due to acts of Vendor's representatives, and not just arising out of gross negligence or misconduct, etc, as such liabilities pose significant risk.

Vendor should take full responsibility for its and its employee's actions. Further, since the Bank's data could be integrated/used under Vendor provided software and since the Vendor would be managing the data centre, the Vendor should be responsible for loss/compromise or damage to Bank's data.

The Vendor's should indemnify the Bank (including its employees, directors or representatives) from and against claims, losses, and liabilities arising from:

- Non-compliance of the Vendor with Laws / Governmental Requirements
- IP infringement
- Negligence and misconduct of the Vendor, its employees, and agents
- Breach of any terms of RFP, Representation or Warranty
- Act or omission in performance of service.

The supplier/service provider shall indemnify the Bank in case of any mismatch of ITC(Input Tax Credit) in the GSTR 2A , where the Bank does not opt for retention of GST component on supplies.

Indemnity would be limited to court awarded damages and shall exclude indirect, consequential and incidental damages. However indemnity would cover damages, loss or liabilities suffered by the bank arising out of claims made by its customers and/or regulatory authorities.

The Vendor shall not indemnify the Bank for

- (i) Any loss of profits, revenue, contracts, or anticipated savings or
- (ii) Any consequential or indirect loss or damage however caused, provided that the claims against customers, users and vendors of the Bank would be considered as a "direct" claim.

46. Assignment

Bank may assign the hardware and related software provided therein by the Vendor in whole or as part of a corporate reorganization, consolidation, merger, or sale of substantially all of its assets. The Bank shall have the right to assign such portion of the contract to any of the sub-contractors, at its sole option, upon the occurrence of the following: (i) Vendor refuses to perform; (ii) Vendor is unable to perform; (iii) termination of the contract with the Vendor for any reason whatsoever; (iv) expiry of the contract. Such right shall be without prejudice to the rights and remedies, which the Bank may have against the Vendor. The Vendor shall ensure that the said subcontractors shall agree to provide such services to the Bank at no less favorable terms than that provided by the Vendor and shall include appropriate wordings to this effect in the agreement entered into by the Vendor with such sub contractors. The assignment envisaged in this scenario is only in certain extreme events such as refusal or inability of the Vendor to perform or termination/expiry of the contract.

47.Termination

The Bank shall be entitled to terminate the agreement with the Vendor at any time by giving ninety (90) days prior written notice to the Vendor.

The Bank shall also be entitled to terminate the agreement at any time by giving notice if:

(a) The Vendor breaches its obligations under the RFP or the subsequent agreement and if the breach is not cured within 15 (Fifteen) days from the date of notice.

(b) The Vendor (i) has a winding up order made against it; or (ii) has a receiver appointed over all or substantial assets; or (iii) is or becomes unable to pay its debts as they become due; or (iv) enters into any arrangement or composition with or for the benefit of its creditors; or (v) passes a resolution for its voluntary winding up or dissolution or if it is dissolved.

Termination for default

The Vendor shall have right to terminate only in the event of winding up of the Bank

Bank may, without prejudice to any other remedy for breach of agreement, by written notice of default sent to the successful bidder, terminate the agreement in whole or in part:

- If the successful bidder fails to deliver any or all of the Goods and Services within the time period(s) specified in the agreement, or within any extension thereof granted by Bank or
- If the successful bidder fails to perform any other obligation(s) under the agreement.
- If the successful bidder, in the judgment of Bank is engaged in corrupt or fraudulent practices in competing or for executing the agreement.

In the event Bank terminates the agreement in whole or in part, Bank may procure, upon such terms and in such manner, as it deems appropriate, Goods and services similar to those undelivered and the selected successful bidder shall be liable to Bank for any excess costs for such similar Goods and/or Services. However, the selected successful bidder shall continue performance of the agreement to the extent not terminated. The notice period will be minimum 4 months.

48. Effect of termination

The Vendor agrees that it shall not be relieved of its obligations under the reverse transition mechanism notwithstanding the termination of the assignment.

Reverse Transition mechanism would typically include service and tasks that are required to be performed / rendered by the Vendor to the Bank or its designee to ensure smooth handover and transitioning of Bank's deliverables and maintenance. The reverse transition will be for the period of 3(three) months post the notice period. Same terms (including payment terms) which were applicable during the term of the contract should be applicable for reverse transition services

The Vendor agrees that after completion of the Term or upon earlier termination of the assignment the Vendor shall, if required by the Bank, continue to provide warranty services to the Bank at no less favorable terms than those contained in this RFP. In case the bank wants to continue with the Vendor's services after the completion of this contract then the Vendor shall offer the same or better terms to the bank. Unless mutually agreed, the rates shall remain firm.

The Bank shall make such prorated payment for services rendered by the Vendor and accepted by the Bank at the sole discretion of the Bank in the event of termination, provided that the Vendor is in compliance with its obligations till such date. However, no payment for "costs incurred, or irrevocably

committed to, up to the effective date of such termination” will be admissible. There shall be no termination compensation payable to the Vendor.

Termination shall not absolve the liability of the Bank to make payments of undisputed amounts to the Vendor for services rendered till the effective date of termination. Termination shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into force or continuation in force of any provision hereof which is expressly intended to come into force or continue in force on or after such termination.

49.Publicity

Any publicity by the Vendor in which the name of the Bank is to be used should be done only with the explicit written permission of the Bank.

50.Solicitation of Employees

Both the parties agree not to hire, solicit, or accept solicitation (either directly, indirectly, or through a third party) for their employees directly involved in this contract during the period of the contract and one year thereafter, except as the parties may agree on a case-by-case basis. The parties agree that for the period of the contract and one year thereafter, neither party will cause or permit any of its directors or employees who have knowledge of the agreement to directly or indirectly solicit for employment the key personnel working on the project contemplated in this proposal except with the written consent of the other party. The above restriction would not apply to either party for hiring such key personnel who (i) initiate discussions regarding such employment without any direct or indirect solicitation by the other party (ii) respond to any public advertisement placed by either party or its affiliates in a publication of general circulation or (iii) has been terminated by a party prior to the commencement of employment discussions with the other party.

51.Information Ownership

All information processed, stored, or transmitted by Vendor equipment belongs to the Bank. By having the responsibility to maintain the equipment, the Vendor does not acquire implicit access rights to the information or rights to redistribute the information. The Vendor understands that civil, criminal, or administrative penalties may apply for failure to protect information appropriately.

Any information considered sensitive must be protected by the Vendor from unauthorized disclosure, modification or access. Types of sensitive information that will be found on Bank systems the Vendor may support or have access to include, but are not limited to Information subject to special statutory protection, legal actions, disciplinary actions, complaints, IT security, pending cases, civil and criminal investigations, etc.

52.Privacy & Security Safeguards

The Vendor shall not publish or disclose in any manner, without the Bank's prior written consent, the details of any security safeguards designed, developed, or implemented by the Vendor under this contract or existing at any Bank location. The Vendor shall develop procedures plans to ensure that IT resources leaving the control of the assigned user (such as being reassigned, removed for repair, replaced, or upgraded) are cleared of all Bank data and sensitive application software. The Vendor shall also ensure that all subcontractors who are involved in providing such security safeguards or part of it shall not publish

or disclose in any manner, without the Bank's prior written consent, the details of any security safeguards designed, developed, or implemented by the Vendor under this contract or existing at any Bank location.

53.Waiver

No failure or delay on the part of either party relating to the exercise of any right power privilege or remedy provided under this RFP or subsequent agreement with the other party shall operate as a waiver of such right power privilege or remedy or as a waiver of any preceding or succeeding breach by the other party nor shall any single or partial exercise of any right power privilege or remedy preclude any other or further exercise of such or any other right power privilege or remedy provided in this RFP all of which are several and cumulative and are not exclusive of each other or of any other rights or remedies otherwise available to either party at law or in equity.

54.Violation of terms

The Bank clarifies that the Bank shall be entitled to an injunction, restraining order, right for recovery, suit for specific performance or such other equitable relief as a court of competent jurisdiction may deem necessary or appropriate to restrain the Vendor from committing any violation or enforce the performance of the covenants, obligations and representations contained in this RFP. These injunctive remedies are cumulative and are in addition to any other rights and remedies the Bank may have at law or in equity, including without limitation a right for recovery of any amounts and related costs and a right for damages.

55.Guarantees

Vendor should guarantee that the software and allied components used to service the Bank are licensed, legal and the application/software is free from embedded malicious / fraudulent code. Confirmation/undertaking should be submitted to this effect. All hardware and related software must be supplied with their original and complete printed documentation.

56.Ownership, Grant and Delivery

The Successful bidder shall procure and provide a non-exclusive, non-transferable, perpetual license to the Bank for all the software to be provided as a part of this project. The use of software by vendors on behalf of the Bank would be considered as use thereof by the Bank and the software should be assignable / transferable to any successor entity of the Bank.

The bank reserves the right to use the excess capacity of the hardware, licenses and other infrastructure supplied by the vendor for any internal use of the Bank or its affiliates, subsidiaries, Sponsor Bank at no additional cost other than the prices mentioned in the commercial bid. The vendor agrees that they do not have any reservations on such use and will not have any claim whatsoever against such use of the hardware, licenses and infrastructure. Further the vendor also agrees that such use will not infringe or violate any license or other requirements.

57.Compliance with Laws

- i. Compliance with all applicable laws: The Vendor shall undertake to observe, adhere to, abide by, comply with and notify the Bank about all laws in force or as are or as made applicable in future, pertaining to or applicable to them, their business, their employees or their obligations towards them and all purposes of this tender and shall indemnify, keep indemnified, hold harmless, defend and protect the Bank and its employees/officers/staff/ personnel/representatives/agents from any failure

or omission on its part to do so and against all claims or demands of liability and all consequences that may occur or arise for any default or failure on its part to conform or comply with the above and all other statutory obligations arising there from.

- ii. Compliance in obtaining approvals/permissions/licenses: The Vendor shall promptly and timely obtain all such consents, permissions, approvals, licenses, etc., as may be necessary or required for any of the purposes of this project or for the conduct of their own business under any applicable Law, Government Regulation/Guidelines and shall keep the same valid and in force during the term of the project, and in the event of any failure or omission to do so, shall indemnify, keep indemnified, hold harmless, defend, protect and fully compensate the Bank and its employees/ officers/ staff/ personnel/ representatives/agents from and against all claims or demands of liability and all consequences that may occur or arise for any default or failure on its part to conform or comply with the above and all other statutory obligations arising there from and the Bank will give notice of any such claim or demand of liability within reasonable time to the Vendor.
- iii. All necessary compliances relating to the transaction such as disclosure in the returns to be filed, Tax Collected at Source(if applicable) etc. shall be duly undertaken by the supplier and in case of any non-compliance or delayed compliance, the Bank shall have right to recover interest and/or penalty that may be levied including liquidated damages 10% of the value of supplier.

This indemnification is only a remedy for the Bank. The Vendor is not absolved from its responsibility of complying with the statutory obligations as specified above. Indemnity would be limited to court awarded damages and shall exclude indirect, consequential and incidental damages. However indemnity would cover damages, loss or liabilities suffered by the bank arising out of claims made by its customers and/or regulatory authorities.

58.Amendments

Other than the rights of the Bank specified in this Agreement, no change or modification of this Agreement shall be valid unless the same shall be in writing and signed by all the Parties.

59.Counterparts

This Agreement may be signed in any number of counterparts, each of which is an original and all of which, taken together, constitutes one and the same instrument.

60. Governing Law & Jurisdiction

This Agreement shall be governed and construed in accordance with the laws of India. The courts of Mumbai alone and no other courts shall be entitled to entertain and try any dispute or matter relating to or arising out of this Agreement.

61.Severability

If any of the provisions of this Agreement may be constructed in more than one way, one of which would render the provision illegal or otherwise voidable or unenforceable, such provision shall have the meaning that renders it valid and enforceable.

In the event any court or other government authority shall determine any provisions in this Agreement is not enforceable as written, the Parties agree that the provision shall be amended so that it is enforceable

to the fullest extent permissible under the laws and public policies of the jurisdiction in which enforcement is sought, and affords the Parties the same basic rights and obligations and has the same economic effect as prior to amendment.

In the event that any of the provisions of this Agreement shall be found to be void, but would be valid if some part thereof was deleted or the scope, period or area of application were reduced, then such provision shall apply with the deletion of such words or such reduction of scope, period or area of application as may be required to make such provisions valid and effective; provided however, that on the revocation, removal or diminution of the law or provisions, as the case may be, by virtue of which such provisions contained in this Agreement were limited as provided hereinabove, the original provisions would stand renewed and be effective to their original intent, as if they had not been limited by the law or provisions revoked. Notwithstanding the limitation of this provision by any law for the time being in force, the Parties undertake to, at all times observe and be bound by the spirit of this Agreement.

Corrupt and Fraudulent Practices

As per Central Vigilance Commission (CVC) directives, it is required that Vendors / Suppliers / Contractors observe the highest standard of ethics during the procurement and execution of such contracts in pursuance of this policy:

"Corrupt Practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of an official in the procurement process or in contract execution AND "Fraudulent Practice" means a misrepresentation of facts in order to influence a procurement process or the execution of contract to the detriment of The Bank and includes collusive practice among Vendors (prior to or after offer submission) designed to establish offer prices at artificial non competitive levels and to deprive The Bank of the benefits of free and open competition.

The Bank reserves the right to reject a proposal for award if it determines that the Vendor recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question. The Bank reserves the right to declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract if at any time it determines that the firm has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

62.Survival of Clauses

Any provision or covenant of this RFP or subsequent Agreement, which expressly, or by its nature, imposes obligations beyond the expiration, or termination of this Agreement, shall survive such expiration or termination.

63.Change control process

Any deviations or changes/amendment in the workflow of Services required by BANK may always be agreed between the parties, which shall be notified in writing BANK to VENDOR as change control process. Any other customization suggested by the Bank in the application or due to Regulatory requirement will be provided by vendor without any additional charges to the Bank inter-alia provide any or all statutory/Regulatory report to the Bank free of Cost.

64.Acceptance of Terms and Conditions

The bidders participating in the tender process should give an Acceptance Certificate for all the points mentioned in the tender. Otherwise their offers are liable to be rejected.

65.No liability of Bank towards employees / agents of successful bidder

Notwithstanding anything contained hereinbefore and hereinafter, Bank shall not be liable in any manner for making any payment to any employee or agent of the successful bidder (i) for the services rendered in and for Bank or for bank by such employee or agent, as the case may be, towards performance of the contract to be entered into between Bank and the successful bidder, on express or implied instructions of the successful bidder , and (ii) for any claim accrued or claimed to have accrued in favour of such employee or agent arising due to such services and /or due to any consequences of such services as aforesaid, under any law.

66.Technological Advancement

The Bidder has to ensure that the equipment's supplied are not declared as end of sale for at least 24 months from the date of the submission of the offer. The Bidder also has to ensure that the equipment supplied as part of this bid are not declared end of support for at least 7 years from the date of the submission of the offer. The Bidder agrees that all parts & spares for the equipment would be made available during the period of the contract. It will be the obligation of the Bidder to provide a minimum of 1 year notice before any equipment is to be declared as end of support or sale.