



**GREATER NOIDA INDUSTRIAL DEVELOPMENT AUTHORITY  
GAUTAM BUDH NAGAR, UTTAR PRADESH**

Request for Proposal

for

**Selection of a Consultant and a Legal Counsel for Corporate Insolvency Resolution  
Process (CIRP) for Greater Noida Industrial Development Authority**

**November 2021**

**Issued by:**

**Greater Noida Industrial Development Authority**

Plot No. 1, Knowledge Park IV,  
Greater Noida, Gautam Budh Nagar,  
Uttar Pradesh – 201308



## Disclaimer

This Request for Proposal (RFP) document for Selection of a Consultant and a Legal Counsel for Corporate Insolvency Resolution Process (CIRP) for Greater Noida Industrial Development Authority (hereinafter referred to as the “Project”) contains brief information about the scope of work and qualification process for the selection of Bidder. The purpose of the RFP Document is to provide the Bidders (hereinafter referred to as “Bidder/s”) with information to assist the formulation of their proposals (hereinafter referred to as the “Proposal/s”).

This RFP is not an agreement and is neither an offer by the Authority to the prospective Bidder or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in making their Financial Bids pursuant to this RFP. While all efforts have been made to ensure the accuracy of information contained in this RFP Document, this document does not purport to contain all the information required by the Bidders. The Bidders should conduct their own independent assessment, investigations and analysis and should check the reliability, accuracy and completeness of the information at their end and obtain independent advice from relevant sources as required before submission of their Proposal. **Greater Noida Industrial Development Authority** (hereinafter referred to as “Client” or the “Authority”) or any of its employees or existing advisors shall incur no liability under any law, statute, rules or regulations as to the accuracy or completeness of the RFP Document. The Authority reserves the right to change any or all conditions/ information set in this RFP Document by way of revision, deletion, updating or annulment through issuance of appropriate addendum as the Authority may deem fit without assigning any reason thereof.

The Authority reserves the right to accept or reject any or all Proposals without giving any reasons thereof. The Authority will not entertain or be liable for any claim for costs and expenses in relation to the preparation of the Proposals to be submitted in response to this RFP Document.

Information provided in this RFP to the Bidder (s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.



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## 1 Data Sheet

1	Name of the Bid	Selection of a Consultant and a Legal Counsel for Corporate Insolvency Resolution Process (CIRP) for Greater Noida Industrial Development Authority
2	Time-period of contract	2 year + extension of maximum 1 year each based on performance of the consultant
3	Method of selection	<b>QCBS – Quality-cum-Cost Based Selection</b>
4	Bid Processing Fee	Non-refundable/Nonadjustable fee of INR 10,000 + GST ( <i>INR Ten Thousand Only + GST</i> ) For payment portal: <a href="https://induscollect.indusind.com/pay/index.php">https://induscollect.indusind.com/pay/index.php</a>
5	Earnest Money Deposit (EMD)	Refundable amount of INR 1,00,000 ( <i>INR One lakh Only</i> ) For payment portal: <a href="https://induscollect.indusind.com/pay/index.php">https://induscollect.indusind.com/pay/index.php</a>
6	Financial Bid to be submitted together with Technical Bid	Yes
7	Name of the Authority's official for addressing queries and clarifications	GM Finance, GNIDA Plot no. 1, Knowledge Park IV, Greater Noida, Gautam Budh Nagar 201308 Email: <a href="mailto:dgmfinance@gnida.in">dgmfinance@gnida.in</a> Ph No.: +91 120 2336023
8	Proposal Validity Period	90 days from Proposal Due Date
9	<b>Schedule of Bidding Process</b>	
	<b>Task</b>	<b>Key Dates</b>
	Bid upload date/time	11.11.2021, 10:00 am
	Last date of receiving queries	17.11.2021, 5:00 pm
	Pre-bid conference	18.11.2021 at 1:00 pm
	Zoom Meeting ID	830 9534 7903
	Passcode	12345
	Proposal Due Date (PDD)/ Bid End Date	02.12.2021 at 5:00 pm
	Bid Start Date	11.11.2021, 10:00 am
	Opening of Technical Bids	03.12.2021 at 3:00 pm
	Technical presentation	To be communicated
	Opening of Financial Bid	To be communicated
Issuance of Letter of Award (LOA)	To be communicated	
Signing of Agreement	To be communicated	
10	Consortium to be allowed	Yes
11	Sub-contracting is allowed	Yes



## **2 Instructions to Bidders**

### **2.1 General instructions**

#### **2.1.1 Number of Proposals and respondents**

1. No Bidder shall submit more than one (1) Proposal, in response to this RFP.
2. The RFP is non-transferable, and Proposals shall be submitted only by the respective Bidders to whom the RFP has been issued by Authority.
3. A Bidder applying individually shall not be entitled to submit another Proposal.
4. A Bidder applying individually or as a member of a Consortium shall not be entitled to submit another application either individually or as a member of any Consortium, as the case may be.

#### **2.1.2 Proposal preparation cost**

1. The Bidders shall bear all costs associated with the preparation and submission of the Proposal. Authority will not be responsible and liable for any costs, regardless of the conduct or outcome of the Proposal/process.
2. Bidders are encouraged to submit their respective Proposals after visiting the office of the Client and ascertaining for themselves the availability of documents and other data with the Client, Applicable Laws and regulations or any other matter considered relevant by them.
3. All papers submitted with the Proposal are neither returnable nor claimable.

#### **2.1.3 Right to accept and reject any or all the Proposals**

1. Notwithstanding anything contained in this RFP, Authority reserves the right to accept or reject any Proposal and to annul the bidding process and reject all the Proposals, at any time without any liability or any obligation for such acceptance, rejection or annulment, without assigning any reason.
2. Authority reserves the right to reject any Proposal if:
  - i. At any time, a material misrepresentation is made or discovered, or
  - ii. The Bidder/s do/does not respond promptly and diligently to requests for supplemental information required for the evaluation of Proposals, or
  - iii. The Bidder does not adhere to the formats provided in the Annexure A to the RFP while furnishing the required information/details.

#### **2.1.4 Clarifications**

1. Bidders are encouraged to inform themselves fully about the assignment and the local conditions before submitting the Proposal by paying a visit to the Authority and the Project site, sending written queries to the Authority, and attending a Pre-Proposal Conference.
2. Bidders requiring any clarification on the RFP may send their queries to the Client by email at the mail-id provided in communications details in the Data Sheet with subject clearly written the following identification:



“Queries/Request for Additional Information concerning RFP to undertake Selection of a Consultant and a Legal Counsel for Corporate Insolvency Resolution Process (CIRP) for Greater Noida Industrial Development Authority.”

3. The Client shall endeavour to respond to the queries within the period specified therein but no later than 7 (seven) days prior to the PDD. The Client will post the reply to all such queries on the Official Website.
4. The Client reserves the right not to respond to any queries or provide any clarifications, in its sole discretion, and nothing in this Clause 2.1.4 shall be construed as obliging the Client to respond to any question or to provide any clarification.

#### **2.1.5 Amendment of the RFP**

1. At any time prior to the Proposal Due Date (PDD), the Authority, for any reason, whether at its own initiative or in response to a clarification requested by eligible Bidder/s, may modify the RFP by issuance of an addendum. Such amendments shall be uploaded on the e-procurement website <http://etender.up.nic.in> and Authority web site at <https://www.greaternoidaauthority.in> through a corrigendum and this shall form an integral part of the e-bid/Proposal document. The relevant clauses of the e-bid/Proposal document shall be treated as amended accordingly. It shall be the sole responsibility of the prospective Bidder to check the above-mentioned websites from time to time for any amendment in the RFP document/s. The Authority shall not be responsible for failure to get/download the amendments.
2. In order to provide the Bidders a reasonable time to examine the addendum, or for any other reason, Authority may, at its own discretion, extend the PDD.

#### **2.1.6 Data identification and collection**

1. It is desirable that the Bidders submit their Proposal/s after verifying the availability of the data, information and/or any other matter considered relevant.
2. It would be deemed that by submitting the Proposal, the Bidder has:
  - i. Made a complete and careful examination and accepted the RFP in totality.
  - ii. Received all relevant information requested from Authority and:
  - iii. Made a complete and careful examination of the various aspects of the indicative Scope of Work.
3. Authority shall not be liable for any mistake or error on the part of the Bidder in respect of the above.

## **2.2 Preparation, submission, opening & acceptance of Proposals/e-bids**

### **2.2.1 Language and currency**

1. The Proposal and all related correspondence and documents should be written in the English language. Supporting documents and printed literature furnished by the Bidders with the Proposal may be in any other language provided that they are accompanied by appropriate translations of the pertinent passages in the English language. Supporting materials, which are not translated into English, may not be considered for evaluation. For the purpose of interpretation and evaluation of the Proposal, the English language translation shall prevail.



2. The currency for the purpose of the Proposal shall be the Indian National Rupee (INR).

#### **2.2.2 Proposal validity period and extension**

1. Proposals shall remain valid for a period of as mentioned in the data sheet from the Proposal Due Date ("Proposal Validity Period") and Authority may solicit the Bidder's consent for extension of the period of validity, if required. Authority reserves the right to reject any Proposal, which does not meet this requirement.
2. In exceptional circumstances, prior to expiry of the original Proposal Validity Period, Authority may request Bidders to extend the validity period for specified additional period. Bidders, who may not extend the validity period, will deem to have withdrawn their Proposal at the expiry of validity period.

#### **2.2.3 Format and signing of Proposals**

1. The Bidders shall prepare electronic copies of the technical and financial e-bid/Proposals separately.
2. Bidders should provide all the information as per the RFP and in the specified formats. Authority reserves the right to reject any Proposal that is not in the specified formats.
3. In case the Bidders intends to provide additional information for which specified space in the given format is not sufficient, it can be furnished in duly stamped and signed PDFs.

#### **2.2.4 Submission of e-bid/Proposal**

1. The bid submission module of e-procurement website <http://etender.up.nic.in> enables the Bidders to submit the Proposal online in response to this RFP published by the Authority. Submission can be done till the Proposal Due Date specified in the RFP. Bidders should start the process well in advance so that they can submit their Proposal in time. The Bidder should submit their Proposal considering the server time displayed in the e-procurement website. This server time is the time by which the submission activity will be allowed on the Proposal Due Date indicated in the RFP schedule. Once the submission date and time has passed, the Bidders cannot submit their Proposals. For delay in submission of Proposal due to any reasons, the Bidders shall only be held responsible.
2. The Bidders have to follow the following instructions for submission:
  - i. For participating through the e-tendering system, it is necessary for the Bidders to be the registered users of the e-procurement website <http://etender.up.nic.in>. The Bidders must obtain a user login ID and password by registering themselves with U.P. Electronics Corporation Ltd. (UPLC), Lucknow if they have not done so previously.
  - ii. In addition to the normal registration, the Bidder has to register with his/her Digital Signature Certificate (DSC) in the e-tendering system and subsequently he/she will be allowed to carry out his/her e-bid/Proposal submission activities. Registering the DSC is a one-time activity. Before proceeding to register his/her DSC, the Bidder should first log on to the e-tendering system using the user login option on the home page with the login ID and password with which he/she has registered.
  - iii. For successful registration of DSC on e-procurement website <http://etender.up.nic.in> the Bidder must ensure that he/she should possess class-2/class-3 DSC issued by any Certifying Authorities approved by Controller of Certifying Authorities, Government of India, as the e-



procurement website <http://etender.up.nic.in> is presently accepting DSC issued by these authorities only. The Bidder can obtain user login ID and perform DSC registration exercise above even before e-bid/Proposal submission date starts. The Authority shall not be held responsible if the Bidder fails to submit his/her e-bid/Proposal before the Proposal Due Date due to DSC registration problem.

- iv. The Bidder can search for active tenders through "search active tenders" link, select a tender in which he/she is interested in and then move it to 'My Tenders' folder using the options available in the e-bid submission menu. After selecting the tender, for which the Bidder intends to e-bid/Proposal, from "My tenders" folder, the Bidder can place his/her e-bid/Proposal by clicking "pay offline" option available at the end of the view tender details form. Before this, the Bidder should download the RFP document including financial format and study them carefully. The Bidder should keep all the documents ready as per the requirements of RFP document in the PDF format.
- v. After clicking the 'pay offline' option, the Bidder will be redirected to terms and conditions page. The Bidder should read the terms & condition before proceeding to fill in the Bid Processing Fee offline payment details. After entering and saving the Bid Processing Fee details form so that "Bid document preparation and submission" window appears to upload the documents as per technical and financial schedules/packets given in the tender details. The details of the RTGS should tally with the details available in the scanned copy and the date entered during e-bid/Proposal submission time otherwise the e-bid/Proposal submitted will not be accepted.
- vi. Before uploading, the Bidder has to select the relevant DSC. He may be prompted to enter the DSC password, if necessary. For uploading, the Bidder should click "browse" button against each document label in technical and financial schedules/packets and then upload the relevant PDF files already prepared and stored in the Bidder's computer.
- vii. The Bidder should click "Encrypt" next for successfully encrypting and uploading of required documents. During the above process, the e-bid/Proposal documents are digitally signed using the DSC of the Bidder and then the documents are encrypted/locked electronically with the DSC's of the bid openers to ensure that the e-bid/Proposal documents are protected, stored and opened by concerned bid openers only.
- viii. After successful submission of e-bid/Proposal document, a page giving the summary of e-bid submission will be displayed confirming end of e-bid/Proposal submission process. The Bidder can take a printout of the bid summary using the "print" option available in the window as an acknowledgement for future reference.
- ix. Authority reserves the right to cancel any or all e-bids/Proposals without assigning any reason.

#### **2.2.5 Deadline for submission**

1. E-bid/Proposal (technical and financial) must be submitted by the Bidder at e-procurement website <http://etender.up.nic.in> no later than the time specified on the Proposal Due Date. The Authority may, at its discretion, extend this deadline for submission of Proposal by amending the RFP document, in which case all rights and obligations of the Authority and Bidders previously subject to the deadline will thereafter be subject to the deadline, as extended.

#### **2.2.6 Late submission**





1. The server time indicated in the bid management window on the e-procurement website <http://etender.up.nic.in> will be the time by which the e-bid/Proposal submission activity will be allowed till the permissible date and time scheduled in the e-tender. Once the e-bid/Proposal submission date and time is over, the Bidder cannot submit his/her e-bid/Proposal. Bidder has to start the bid submission well in advance so that the submission process passes off smoothly. The Bidder will only be held responsible if his/her e-bid/Proposal is not submitted in time due to any of his/her problems/faults, for whatsoever reason, during the e-bid/Proposal submission process.

#### **2.2.7 Withdrawal and resubmission of Proposal**

1. At any point of time, a Bidder can withdraw his/her Proposal submitted online before the Proposal Due Date. For withdrawing, the Bidder should first log in using his/her login ID and password and subsequently by his/her DSC on the e-procurement website <http://etender.up.nic.in>. The Bidder should then select "My bids" option in the bid submission menu. The page listing all the bids submitted by the Bidder will be displayed. Click "View" to see the details of the bid to be withdrawn. After selecting the "bid withdrawal" option, the Bidder has to click "Yes" to the message- "Do you want to withdraw this bid?" displayed in the bid information window for the selected bid. The Bidder also has to enter the bid withdrawing reasons and upload the letter giving the reasons for withdrawing before clicking the "Submit" button. The Bidder has to confirm again by pressing "OK" button before finally withdrawing his/her selected e-bid/Proposal.
2. No e-bid/Proposal may be withdrawn in the interval between the Proposal Due Date and the Proposal Validity Period. Withdrawal of an e-bid/Proposal during this interval may result in the Bidder's forfeited of his/her e-bid/Proposal security.
3. The Bidder can re-submit his/her e-bid/Proposal as when required till the e-bid submission end date and time. The e-bid/Proposal submitted earlier will be replaced by the new one. The payment made by the Bidder earlier will be used for revised e-bid and the new e-bid submission summary generated after the successful submission of the revised e-bid will be considered for evaluation purposes. For resubmission, the Bidder should first log in using his/her login ID and password and subsequently by his/her digital signature certificate on the e-procurement website <http://etender.up.nic.in>. The Bidder should then select "My bids" option in the bid submission menu. The page listing all the bids submitted by the Bidder will be displayed. Click "View" to see the detail of the e-bid to be resubmitted. After selecting the "bid resubmission" option, click "Encrypt & upload" to upload the revised e-bids documents.
4. The Bidder can submit their revised e-bids/Proposals as many times as possible by uploading their e-bid documents within the scheduled date & time for submission of e-bids/Proposals.
5. No e-bid can be resubmitted subsequently after the deadline for submission of e-bids.

#### **2.2.8 Selection of the Bidder**

1. From the time the Proposals are opened to the time the contract is awarded, if any Bidder wishes to contact the Authority, on any matter related to their Proposal it should do so in writing. Any effort by the Bidders to influence any officer or bearer of the Authority in the Proposal evaluation or contract award decisions may result in the rejection of the Bidder's Proposal.

#### **2.2.9 Proposal opening**



1. After the technical evaluation, the Authority shall prepare a list of prequalified Bidders in terms of Section 4 for opening of their financial bid. A date, time and venue will be notified to all Bidders for announcing the result of evaluation and opening of Financial Bid. Before opening of the Financial Bid, the list of pre-qualified Bidders along with their technical scores will be read out. The opening of Financial Bid shall be done in presence of respective representatives of Bidders who choose to be present. The Authority will not entertain any query or clarification from Bidder who fail to qualify at any stage of the selection process.
2. Bidders are advised that selection shall be entirely at the discretion of the Authority. Bidders shall be deemed to have understood and agreed that the Authority shall not be required to provide any explanation or justification in respect of any aspect of the selection process.
3. Any information contained in the Proposal shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Bidder if the service is subsequently awarded to it.

#### **2.2.10 Confidentiality**

1. Information relating to the examination, clarification, evaluation and recommendation for the short-listed Bidder/s shall not be disclosed to any person not officially concerned with the process.
2. After opening of the Proposals, no information relating to the examination, clarification, evaluation and comparison of Proposals and recommendations concerning the award of contract shall be disclosed to Bidders or their representatives, if any. Any effort by a Bidder to exert undue or unfair influence in the process of examination, clarification, evaluation and comparison of Proposal/s shall result in outright rejection of the offer, made by the said Bidder.

#### **2.2.11 Tests of responsiveness**

1. Prior to evaluation of the Proposals, Authority will determine whether each Proposal is responsive to the requirements of the RFP. The Proposals shall be considered responsive if:
  - i. It is received or deemed to be received by the due date and time including any extension thereof pursuant to the Data Sheet.
  - ii. It contains all information as desired in this RFP.
  - iii. Information is provided as per the formats specified in the RFP.
  - iv. Bids are accompanied with Bid Processing Fee (non-refundable) and EMD as specified in the Date Sheet of this RFP.
  - v. Power of Attorney for Lead Member of Consortium, if applicable
2. Authority reserves the right to reject any Proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by Authority in respect of such Proposal.

#### **2.2.12 Clarifications sought by Authority**

1. To assist in the process of evaluation of Proposals, Authority may, at its sole discretion, ask any Bidder for clarification on its Proposal. The request for clarification and the response shall be in writing. No change in the substance of the Proposal would be permitted by way of such clarifications.



### **2.2.13 Proposal evaluation**

1. Submissions from Bidders would first be checked for responsiveness as set out in Clause 2.2.11. All Proposals found to be substantially responsive shall be evaluated as per the Eligibility Criteria set out in Clause 4.1 of this RFP.
2. The Proposal containing the Technical Details in Clause 4.2 of the Bidder/s who do not meet the Technical Criteria shall not be considered for further process.

### **2.2.14 Earnest Money Deposit**

1. The Bid document should be accompanied with an Earnest Money Deposit (EMD) as mentioned in the data sheet of this document.
2. Any e-Bid not secured in accordance with above shall be treated as non-responsive and rejected by the Authority.
3. For unsuccessful Bidder's EMD will be returned promptly as possible after opening of the Price Bid.
4. For successful Bidder's e-Bid EMD will be returned after submission of Performance Security and signing of the contract.
5. The EMD may be forfeited:
  - a) If Bidder (i) withdraws its e-Bid during the period of e-Bid validity specified by the Bidder on the e-bid form: or (ii) does not accept the correction of errors or (iii) modifies its e-Bid price during the period of e-Bid validity specified by the Bidder on the form.
  - b) In case of a successful Bidder, if the Bidder fails to sign the contract with the Authority.

### **2.2.15 Award Criteria**

1. The final Letter of Award (*LoA*) will be given to the selected Bidder as the successful bidder as Eligibility & Evaluation Criteria of Bids laid in Clause 4.
2. The Authority will award the contract to the successful Bidder whose bid has been determined to be responsive to all the conditions of the contract and meeting the eligibility requirement of the bidding document.

### **2.2.16 Notification of Award**

1. Prior to the expiration of the period of e-Bid validity, the Authority will notify the successful Bidder in writing, by letter/e-mail/fax, that its e-Bid has been accepted.
2. The notification of award will constitute the formation of the contract.

### **2.2.17 Performance Security**

1. Prior to award of contract, to fulfil the requirement of performance security during the implementation period, the successful Bidder will deposit Performance Security amount equivalent to as mentioned in the Data Sheet of the financial Bid value in the form of FDR/Bank Guarantee drawn on any Nationalized/Scheduled Bank in favor of GNIDA valid for six months after completion of the Project.
2. Before the contract is awarded to the Consultant, an agreement (to be given later) will have to be signed by the Consultant at his cost on proper stamp paper.



### 3 Terms of reference

Greater Noida is a greenfield, modern, integrated city, located about 35 km from the National Capital, Delhi. The Master Plan of this city envisages a population of around 1.2 million by the year 2021. The Greater Noida Industrial Development Authority (GNIDA) is the nodal authority responsible for development and administration of the city.

The integrated township is shaping up as India's smartest city, the National Capital Region's most modern urban development centre and its fastest developing centre of attraction. It has emerged as a modern model of far-sighted town planning.

In past decade, Greater Noida has exhibited infrastructural development at enormous levels. Involvement of private investment in developing housing, commercial, and industrial alleys of Greater Noida has played a major role. Alongside the development driving investment, there have been multiple insolvency cases identified where one of the key creditors is GNIDA. In recent years, looking at the complexity of the Corporate Insolvency Resolution Process (CIRP), GNIDA looks forward for advisory services (*Financial & Legal*) to assist Authority in the CIRP process and to gain maximum realisation of the resolution or liquidation of the insolvent entity.

Tentative NCLT cases involving GNIDA: **20** (*number is indicative and may change at the point of hiring or commencement of the services*).

#### 3.1 Scope of services

Recently, multiple insolvency cases have been realised in Greater Noida where GNIDA is Creditor. The Authority intends to hire a consultant who can support Authority in Corporate Insolvency Resolution Process (CIRP). The Consultant must ensure the entire cycle of Insolvency is followed and documentation is submitted in a timely manner. The broad scope of services but not limited to shall involve the following components:

##### ***Component 1: Legal Advisory in the Corporate Insolvency Resolution Process***

- i. Close coordination at each and every step of the CIRP process with IRP/RP and all internal departments of Authority to streamline work distribution, submission of representation (claims) and delegation of responsibilities.
- ii. Drafting reviewing and finalizing counter affidavits, rejoinders or any other document/ application to be filed before the NCLT/NCLAT as required.
- iii. Remain present in all the hearings, proceedings, CoC meetings etc.
- iv. Assistance in all the required approvals and clearances in the process if required.
- v. Draft Plaints, Original Applications, Written Statements, Applications, Rejoinders, Claim Affidavits, Execution Petitions etc. which may be required in relation to proceedings in all courts/ forums including but not limited to DRTs, DRATs, NCLT, NCLAT, High Courts, Supreme Court etc.
- vi. The legal counsel or the consultant must ensure assistance in all the required documentation required in the process.
- vii. Review of the orders passed by NCLT/NCLAT and suggesting the way forward on the future course of action.

##### ***Component 2: Financial Advisory in the Corporate Insolvency Resolution Process***

- i. Review and assess the amount to total claim to be filled, after studying the Authorities dues, as per Form B and Form C, and provide all supporting reasonings and documents to show the legitimacy of claims.
  - Form C shall have claims pertaining to land premium, interest on premium, additional compensation, lease rent
  - Form B shall have claims on charges & penalties



- ii. Assist in collating the documents required for filing of claims such that all claims are admitted with the Resolution Professional.
- iii. Review for such a list of claims from RP and verify it with the latest audited financial statements of the corporate debtor. Oppose any claim which is not sustainable.
- iv. Detailed analysis and review of Resolution Plans proposed to ascertain the best option for Authority.
- v. Assist in collating the documents required for filing of claims such that all claims are admitted with the Resolution Professional.
- vi. Detailed analysis and financial modelling of options of resolution available. Conduct a market research and suggest the Authority with market trends of the resolution and liquidation options.
- vii. Work closely with the accounts team of authority for computation of claims owed by corporate debtor to the authority.

**Component 3: Risk Assessment in the Corporate Insolvency Resolution Process**

- i. Collect and review all information pertaining to existing insolvency process and prepare preliminary status report. Regular monitoring of newly added cases on the website of Insolvency and Bankruptcy Board of India (IBBI) - <https://www.ibbi.gov.in/>. Regular monitoring of cases published in Jansatta & Financial Express newspapers in accordance with Section 15 of IBC.
- ii. Assessment and notification of risk management in the process to the Committee of Creditors (CoC).
- iii. Ensure compliance of resolution plan and process with requirement of IBC and CIRP regulations.
- iv. Assistance in preparation and marketing of public expression of interest as and when required in the process of resolution.
- v. The Consultant must assess all the conflict of interests and notify the Authority regarding the same on a timely manner.

**Component 4: Legal Representation for Authority in all the courts as required**

- i. The consultant must appoint a legal counsel who will be representing the Authority.
- ii. The legal counsel shall lead the negotiations for the Authority and remain present in all the hearings, proceedings, meetings etc.
- iii. Assistance in all the required approvals and clearances in the process if required.
- iv. The legal counsel must draft Plaints, Original Applications, Written Statements, Applications, Rejoinders, Claim Affidavits, Execution Petitions etc. which may be required in relation to proceedings in all courts/ forums including but not limited to DRTs, DRATs, NCLT, NCLAT, High Courts, Supreme Court etc.
- v. The legal counsel or the consultant must ensure assistance in all the required documentation required in the process.

**3.2 Payment Schedule, Deliverables and Timelines**

The overall period of the engagement of the shall be two (2) years from the date of signing the contract, with the provision for extension (maximum 1 year each) based on the satisfactory performance during the pursuing years and requirements in the following years.

In response to the RFP, Applicants shall provide financial quote in the form of Month Rate for services rendered as part of the Project. The Applicants, while providing the financial quote shall factor in all costs for running an office from Greater Noida like laptop, printers, regular travel, software, technical expertise etc. Unless otherwise specified, the Advisor shall be paid on a quarterly basis, in accordance with the total payment agreed.



### 3.3 Team

The Bidder will provide relevant workforce in sufficient numbers to carry out the services as required. The key team shall constitute of the members as defined below:

#	Position	Qualifications and Experiences
1	Insolvency Personnel	<ul style="list-style-type: none"><li>• A qualified and registered IRP with IBBI (<i>certification to be attached along with CV</i>)</li><li>• A minimum experience of at least 10 NCLT cases and successful resolution closure of at least 2 NCLT cases for CIRP post certification of Insolvency Personnel.</li></ul>
2	Legal Counsel and Advisor	<ul style="list-style-type: none"><li>• A competent Advocate / Lawyer / Legal Counsel with an experience of practicing corporate law for 15 years and contesting at least 10 NCLT cases post qualifying as a registered lawyer</li></ul>
3	Financial Advisor	<ul style="list-style-type: none"><li>• Certified CA or CS</li><li>• Experience in financial advisory of at least 8 years post qualification</li><li>• A minimum experience of at least 10 NCLT cases</li></ul>

All the CVs submitted must be accompanied by a self declaration from all the key personnel as listed which shall certify the authenticity and correctness of the qualifications and experience. For sub-contractors, an additional declaration must be attached mentioning their availability for the project.

Any kind of deviation observed in the qualification or experience of the key personnel deployed in comparison to as required in this RFP shall be liable for measures as per GCC 1.7 of this document.



## 4 Eligibility and Evaluation criteria

### 4.1 Prequalification criteria

The Bidders must carefully examine the below mentioned eligibility criteria. The Bidder has to meet all the Eligibility criteria set out in this Clause to be eligible for evaluation.

To be eligible for evaluation of its Bid, the Bidder shall fulfil the conditions as mentioned in Table 1.

Table 1: Eligibility Conditions

#	Eligibility Conditions	Documentary proof to be submitted
1	The Bidder should be a Company registered under the Companies Act or Partnership firm registered under the Partnership Act of 1932 or registered (converted to) under the Indian Limited Liability Partnership Act, 2008.	Company Registration certificate
2	Financial Capacity: The Consultant ( <i>only Lead member in case of consortium</i> ) must have an average annual turnover of at least INR 3 crore in three (3) consecutive financial years in last four (4) financial years from the date of bid submission.	Form 3 and Audited Financial statements from Chartered Accountant or Statutory Auditor
3	The Bidder must have satisfactorily completed consulting service during the last five (5) financial years to at least ten (10) NCLT cases. ( <i>With percentage of recovery</i> )	Form 4 Completion certificate confirming year and area of activity
4	The Bidder should not have been barred / blacklisted by the Central Government, any State Government, a statutory authority or a public sector undertaking, as the case may be, from participating in any project, and the bar subsists as on the date of the Proposal submission.	Undertaking as per FORM 6
5	Bidder should have, during the last three years, neither failed to perform on any agreement, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder, nor been expelled from any project or agreement nor have had any agreement terminated for breach by such Bidder.	Undertaking as per FORM 7

Only Eligible Bidders will be taken up for Technical and Financial Evaluation.

#### 4.1.1 Conditions for Consortium and Subcontracting

**In case the Bidder is a Consortium, it shall, comply with the following additional requirements:**

- a) Number of members in a Consortium shall not exceed 2 (two);



- b) Subject to the provisions of the sub clause above, the Application should contain the information required for each member of the Consortium;
- c) Members of the Consortium shall nominate one member as the lead member (the “Lead Member”) The nomination shall be supported by a Power of Attorney, as per the format at FORM 2: Format for Power of Attorney for Lead Member of Consortium, signed by the other member/s of the Consortium;
- d) The Application should include a brief description of the roles and responsibilities of individual members;
- e) The consortium formed must not be terminated till the end of contract period.

**In case, subcontracting is being undertaken for the project, the following additional conditions shall apply:**

- a) The subcontractors must comply with the team qualification as mentioned in Section 3.3
- b) On-boarding a sub-contractor at any stage for this project post award of the contract shall require approval of the Authority
- c) The subcontractors involved in the project must not be changed without GNIDA’s approval throughout the contract period.

## 4.2 Evaluation

The Bidder shall be selected under the Quality-cum-Cost Based Selection (QCBS) with procedures described in this RFP.

### 4.2.1 Technical Evaluation:

The Technical Evaluation of the proposals shall be based on following parameters:

#	Criteria	Marks	Documents to be submitted
A	<p><b>Financial Capability</b></p> <p>Turnover of the Consultant</p> <p>3 Crores to &lt;6 Crores – 5 marks</p> <p>6 Crores to &lt;9 Crores – 10 marks</p> <p>9 Crore+ – 15 marks</p>	15	Audited Financial statements from Chartered Accountant or Statutory Auditor
B	<p><b>Technical Capability</b></p>		
B.1	<p>Number of consultancy projects involving <b>NCLT cases or Corporate Insolvency Resolution Process</b></p> <p>10-14 cases: 10 Marks</p> <p>15–19 cases: 20 Marks</p> <p>20 or More than 20 Cases: 30 Marks</p>	30	Completion certificate from client





#	Criteria	Marks	Documents to be submitted
B.2	<p><b>CVs of key personnel</b></p> <p><i>IRP – 10 marks</i></p> <p><i>Legal Counsel – 10 marks</i></p> <p><i>Financial Advisor – 10 marks</i></p> <p><i>The number of marks to be assigned to shall be determined considering the following three sub-criteria and relevant percentage weights:</i></p> <p><i>1. General qualifications (general education, training, and experience): 25% weightage</i></p> <p><i>2. Adequacy for the Project (relevant education, training, experience in Similar Projects): 50% weightage</i></p> <p><i>3. Years of experience in similar role: 25% weightage</i></p>	30	Key personnel CVs submitted
C.1	<p><b>Technical Presentation</b></p> <p><i>Approach &amp; Presentation – 10 marks</i></p> <p><i>Cases closed in favour of the client – 5 marks</i></p> <p><i>Percentage Recovery (25- up to 50 / 50 – up to 75 / 75+) – 10 marks</i></p>	25	
	<b>Total</b>	<b>100</b>	

Minimum score of 60 marks is required in the evaluation process. Only those bids having minimum score would be eligible for opening of financial bids. All the firms which meet the minimum qualifying marks prescribed will stand technically qualified for consideration of their financial bids.

#### 4.2.2 Financial Evaluation

Financial proposals are then opened for only the eligible and qualified offers (Financial bids of other un-responsive and technically non-qualified Bidders are returned un-opened).

#### FOR Quality cum Cost based Selection (QCBS)

Under QCBS, the technical proposals will be allotted weightage of 70% while the financial proposals will be allotted weightages of 30%

Proposal with the lowest cost may be given a financial score of 100 and other proposals given financial scores that are inversely proportional to their prices.

The total score, both technical and financial, shall be obtained by weighing the quality and cost scores and adding them up. The proposed weightages for quality and cost shall be specified in the RFP.

**Highest points basis:** On the basis of the combined weighted score for quality and cost, the consultant shall be ranked in terms of the total score obtained. The proposal obtaining the highest total combined score in evaluation of quality and cost will be ranked as H-1 followed by the proposals securing lesser marks as H-2, H-3 etc. The proposal securing the highest combined marks and ranked H-1 will be invited for negotiations, if required and shall be recommended for award of contract.



As an example, the following procedure can be followed.

In a particular case of selection of consultant, it was decided to have minimum qualifying marks for technical qualifications as 75 and the weightage of the technical bids and financial bids was kept as 70:30.

In response to the RFP, 3 proposals, A, B & C were received. The technical evaluation committee awarded them 75, 80 and 90 marks respectively. The minimum qualifying marks were 75. All the 3 proposals were, therefore, found technically suitable and their financial proposals were opened after notifying the date and time of bid opening to the successful participants. The price evaluation committee examined the financial proposals and evaluated the quoted prices as under:

Proposal Evaluated cost:

A Rs. 120.

B Rs. 100.

C Rs. 110.

Using the formula  $LEC \times 100 / EC$ , where LEC stands for lowest evaluated cost and EC stands for evaluated cost, the committee gave them the following points for financial proposals:

A:  $100 \times 100 / 120 = 83$  points

B:  $100 \times 100 / 100 = 100$  points

C:  $100 \times 100 / 110 = 91$  points

In the combined evaluation, thereafter, the evaluation committee calculated the combined technical and financial score as under:

Proposal A:  $75 \times 0.70 + 83 \times 0.30 = 77.4$  points

Proposal B:  $80 \times 0.70 + 100 \times 0.30 = 86$  points

Proposal C:  $90 \times 0.70 + 91 \times 0.30 = 90.3$  points

The three proposals in the combined technical and financial evaluation were ranked as under:

Proposal A: 77.4 points H3

Proposal B: 86 points H2

Proposal C: 90.3 points H1

Proposal C at the evaluated cost of Rs. 110 was, therefore, declared as H1 (highest ranked) and recommended for negotiations/approval, to the competent authority.



## Annexure A: Standard Forms

### FORM 1: Technical Proposal Submission Form

[*Location, Date*]

To: [*Name and address of Client*]

Dear Sirs:

We, the undersigned, offer to provide the consulting services for [*title of assignment*] in accordance with your Request for Proposal dated [*Date*] and our Proposal. We are hereby submitting our Proposal, which includes this a Technical Proposal, and a Financial Proposal.

We hereby declare that all the information and statements made in this Proposal are true and accept that any misinterpretation contained in it may lead to our disqualification.

If negotiations are held during the Proposal Validity Period, we undertake to negotiate on the basis of the proposed staff. Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations.

We undertake, if our Proposal is accepted, to initiate the Consulting services related to the assignment at a date mutually agreed between us.

We understand you are not bound to accept any Proposal you receive.

We remain,

Yours sincerely,

Authorized Signature [*In full and initials*]: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Address: \_\_\_\_\_



## FORM 2: Format for Power of Attorney for Lead Member of Consortium

Power of Attorney for Lead Member of Consortium

(To be executed on Stamp Paper of Rs. 100/-)

Whereas the Authority/Client has invited applications from interested parties for [•] <name of the project> Project in <Name of City>

Project <Name of the project>

Whereas, ..... And ..... (collectively the Consortium) being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal (RFP) and other connected documents in respect of the Project, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead

Member with all necessary power and Authority/Client to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary with the Bid of the Project and its execution.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS

We, .....having our registered office at ..... And

M/s. .... having our registered office at ....., (hereinafter collectively referred to as "Contractor") do hereby irrevocably designate, nominate, constitute, appoint and authorize

M/s. .... having its registered office at ....., being one of the members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as "Attorney"). We hereby irrevocably authorize the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and; in the event the Consortium is awarded the contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the pre-qualification of the Consortium and submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, participate in the conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium's Bid for the Project and/ or upon award thereof till the contract is entered into with the Authority.

AND

hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.



IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ..... <insert date> DAY OF .....,.....

For .....

(Signature)

.....

(Name & Title)

For .....

(Signature)

.....

(Name & Title)

Witnesses:

1.

2.

.....

(Executants)

(To be executed by all the Members of the Consortium)



### FORM 3: Financial capacity of the Bidder

#	Financial Year	Annual Revenue (in INR)
1.		
2.		
3.		
4.		

*Note: Attach audited financial statements as proof of the above figures.*

Sincerely,

\_\_\_\_\_

(Signature of the Authorized Person)

Name:

Designation:

<Seal and stamp of the bidder and CA>



### FORM 4: Eligible assignments of the Bidder

#	Name of Project*	Name of Client	Professional fee received by the Bidder (in Rs. crore)
1			
2			
3			

\* The Bidder should provide details of only those assignments that have been undertaken by it under its own name.

Assignment name:	
Country: Location within country:	Duration of assignment (months):
Name of Client:	Total No of man-months of the assignment:
Address:	Amount of consulting fee received by your firm (INR)
Start date (month/year):	Completion date (month/year):
Name of associated Bidders, if any:	No. of professional man-months provided by associated Bidders:
Narrative description of Project	
Description of actual services provided by your staff within the assignment:	
Firm's Name:	



## **FORM 5: Bidder's organization and experience**

*[Provide here a brief (two pages) description of the background and organization of your firm/entity]*

In case of a Consortium, the description shall be provided for all companies forming a part of consortium.





## **FORM 6: Declaration**

Declaration for not have been barred / blacklisted by the Central Government, any State Government, a statutory authority or a public sector undertaking, as the case may be, from participating in any project, and the bar subsists as on the as on the date of the Proposal Submission.

### **Declaration Letter for “<insert name of the RFP>”**

(To be printed on Letter Head)

Sir/Madam,

This is to notify you that our Company / LLP / Partnership / Society / Proprietorship <Please delete whichever is not applicable> intends to submit a proposal in response to <insert name of the RFP>, we also declare that our Company / LLP / Partnership / Society / Proprietorship <Please delete whichever is not applicable> has not been blacklisted by any Central / State Government Department / Public Sector Undertaking.

Sincerely,

\_\_\_\_\_

(Signature of the Authorized Person)

Name:

Designation:



## **FORM 7: Declaration**

Declaration that, during the last three years, the Bidder has neither failed to perform on any agreement, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder, nor been expelled from any project or agreement nor have had any agreement terminated for breach by such Bidder.

### **Declaration Letter for “<insert name of the RFP>”**

(To be printed on Letter Head)

Sir/Madam,

This is to notify you that our Company / LLP / Partnership / Society / Proprietorship <Please delete whichever is not applicable> intends to submit a proposal in response to <insert name of the RFP>, we also declare that our Company / LLP / Partnership / Society / Proprietorship <Please delete whichever is not applicable> has during the last three years, neither failed to perform on any agreement, nor has been evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or agreement nor have had any agreement terminated for breach by us.

Sincerely,

---

(Signature of the Authorized Person)

Name:

Designation:



## **FORM 8 - Financial Proposal**

[Date]

To: [Name and address of Client]

**Subject: Financial proposal**

**Reference: (Insert name of the consultancy)**

Dear Sirs,

We have read and examined the RFP document complete with the Terms of reference, Instructions to Bidders and General Conditions of Contract.

The financial proposal submitted is unconditional and fulfils all the requirements of the RFP document. Provisions for GST shall be as per the terms stated in Clause 1.6 of the RFP document.

Our Financial Proposal shall be binding upon us up to expiration of the validity period of the proposal. We understand the Authority is not bound to accept any proposal that is received.

---

Signature and Name of the Authorised Person

---

**NAME OF THE BIDDER AND SEAL**



## FORM 9: EMD Return Form

\*NOTE: This form will be utilised for return of EMD only as per the Clause

[Date]

To: [Name and address of Client]

**Subject: Return of EMD for Reference Number** <tender reference number> <name of RFP>

**Reference:** (Insert name of the consultancy)

Dear Sir,

This is in reference to return the Earnest Money Deposited for <name of the RFP> with Reference number <reference number> Tender ID <tender ID>. The details of deposit are illustrated below:

UTR Number:

Bank Name:

Amount:

Date of Transfer:

We wanted to request you to please return the above-mentioned transferred amount as EMD to the bank details as illustrated below:

Name of the beneficiary:

Name of Bank:

Name of Branch:

Account Number:

IFSC Code:

Swift Code:

Kindly grant us with your permission for the above.

Thanking You.

Yours Faithfully,

<name and signature of the authorized signatory along with seal and stamp of the Bidder>



## **Annexure B: General Conditions of Contract (GCC)**

### **1. General Provision**

#### **1.1. Definitions**

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- i. "Applicable Law" means the laws and any other instruments having the force of law in India as they may be issued and be in force from time to time;
- ii. "Authorized Representatives" shall have the meaning set forth in Clause 1.5 of Annexure B
- iii. "Bidder" means any private or public entity that will provide the Services to the Authority ("the Client") under the Contract.
- iv. "Client" means the Authority with which the Bidder signs the Contract for the Services
- v. "Contract" or "Agreement" means the Contract signed by the Parties and all the attached documents, if any
- vi. "Confidentiality" shall have the meaning set forth in Clause 3.3 of Annexure B
- vii. "Eligibility" shall have the meaning set forth in Clause 4.1 of the RFP
- viii. "EMD" Earnest Money Deposit
- ix. "Government" means the Government of the Client's country/state
- x. "Key Dates" shall mean the dates mentioned in the Data Sheet
- xi. "LOA" Letter of Award
- xii. "Official Website" is <https://www.greaternoidaauthority.in/>
- xiii. "Party" means the "Client or the Bidder" as the case may be, and "Parties" means both of them
- xiv. "Personnel" means professionals and support staff provided by the Bidder assigned to perform the Services or any part thereof
- xv. "Proposal Due Date" or "PDD" shall mean the date as specified in the Data Sheet
- xvi. "Proposal Validity Period" shall mean the number of days for which the proposal shall be called valid post bidding till the signing of contract (the number of days are as mentioned in the Data Sheet)
- xvii. "RFP" means Request for Proposal i.e. It is a document that solicits a proposal, made through bidding process, by an agency or Authority interested in procurement of a commodity, service, or valuable asset.
- xviii. "Scheduled Bank" means Banks specified in the RBI Act, 1932
- xix. "Services" means the work to be performed by the Bidder pursuant to the Contract.

#### **1.2. Law Governing Contract**

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

#### **1.3. Language**



This Contract has been executed in English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

#### **1.4. Notices**

Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an Authorized Representative of the Party to whom the communication is addressed.

A Party may change its address for notice hereunder by giving the other Party a notice in writing of such change to the address.

#### **1.5. Authorized Representatives**

Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Client or the Bidder may be taken or executed by the officials specified in the Contract.

#### **1.6. Taxes and Duties**

TDS shall be deducted and deposited by the Authority. The Professional Fee agreed as part of this contract shall be inclusive of statutory taxes, duties, cess and levies in India during the contractual period except GST which will be paid extra by GNIDA at the rate applicable on the date of invoicing.

#### **1.7. Fraud and Corruption**

For the purpose of this Contract, the terms set forth below as defined as follows:

- i. "corrupt practice" means offering, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the selection process or in contract execution;
- ii. "fraudulent practice" means misrepresentation or omission of facts in order to influence the selection process or the execution of a contract;
- iii. "collusive practices" means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Client, designed to establish prices at artificial, non-competitive levels;
- iv. "coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of the contract.

Measures to be taken:

The Client will cancel the Contract if representatives of the Bidder are engaged in corrupt, fraudulent, collusive or coercive practices during the selection process or the execution of the contract;

The Client will sanction the Bidder, including declaring the bidder ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the Bidder has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, the said contract.

#### **1.8. Limitation of Liability**

The Contract will require that the aggregate liability of the bidder under this Contract, or otherwise in connection with the services to be performed hereunder, shall in no event exceed the total fees



payable to the Bidder hereunder. The preceding limitation shall not apply to liability arising as a result of the Bidder's fraud in performance of the services hereunder.

#### **1.9. Insurance**

The Bidders are expected to maintain insurance cover for the following events to insure Bidder's risks against:

- i. loss of or damage to equipment, property in connection with the Contract; and
- ii. Personal injury or death of the employees

For any other events that may be applicable, the Client does not take any responsibility for insurance coverage in case of any mis-happening.

#### **1.10. Liquidated Damages**

In case of delay in completion of Services, liquidated damages not exceeding an amount equal to 2% (two per cent) of the Agreement/contract Value per month, subject to a maximum of 25% (twenty-five per cent) of the Agreement/contract Value shall be imposed and shall be recovered by appropriation from Payment of the consultant or the Performance Security.

The Authority shall have the right to invoke and appropriate the proceeds of the Performance Security, in whole or in part, without notice to the bidder in the event of breach of this Agreement or for recovery of liquidated damages specified in this Clause

#### **1.11. Performance Security**

For the purposes of the Agreement, performance security shall be deemed to be an amount equal to 10 % (ten per cent) of the Agreement Value (the "Performance Security"); which must be provided in the form of a bank guarantee from a Nationalised or a Scheduled Bank.

In case any services are not found as per the prescribed Specification as given in Section 3, the Client may impose penalties on the Bidder. The consequential damages thereof shall be quantified by the Authority in a reasonable manner and recovered from the bidder by way of deemed liquidated damages, subject to a maximum of 10% (Ten per cent) of the Agreement/ contract value and may be recovered by appropriation from the Performance Security or/and subsequent payments. Depending on the severity of the situation, the entire Performance Security may get forfeited.

#### **1.12. Forfeiture of Performance Security by Authority**

For successful bidders, the Performance Security submitted may be forfeited under following conditions:

- iii. If the consultant violates any such important conditions of the RFP / Contract; or
- iv. If the consultant indulges in such activity which will or may jeopardize the interest of GNIDA in timely finalization of this project; or
- v. If the liquidated damages are found to be higher than Performance Security Submitted by the consultant.

### **2. Commencement, Completion, Modification and Termination of Contract**

#### **2.1. Effectiveness of Contract**

This Contract shall come into effect from the date the Contract is signed by both Parties.

#### **2.2. Commencement of Services**



The Consultant shall begin carrying out the Services not later than 15 days after the Effective Date specified in the RFP or the Contract.

### **2.3. Expiration of Contract**

Unless terminated earlier pursuant to GC Clause 2.6 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the RFP or the Contract.

### **2.4. Modifications or Variations**

Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties.

### **2.5. Force Majeure**

#### **2.5.1. Definition**

For the purposes of this Agreement, "Force Majeure" means an event which is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies

Force Majeure shall not include

- i. Any event which is caused by the negligence or intentional action of a Party or such Party's Sub-Consultant or agents or employees, nor
- ii. Any event which a diligent Party could reasonably have been expected to both
- iii. Take into account at the time of the conclusion of this Agreement, and
- iv. Avoid or overcome in the carrying out of its obligations hereunder.

Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

#### **2.5.2. No Breach of Contract**

The failure of a Party to fulfil any of its obligations under the Contract shall not be considered to be a breach of, or default, under this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.

#### **2.5.3. Extension of Time**

Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

#### **2.5.4. Payments**

During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to continue to be paid under the terms of this Contract, as well as to





be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Services and in reactivating the Service after the end of such period.

## **2.6. Termination**

Either Party may terminate the Contract with immediate effect by serving prior written notice to the other party if services are not possible to be rendered as per applicable laws or professional obligations.

### **2.6.1. By the Client**

The Client may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this GC Clause 2.6.1. In such an occurrence the Client shall give a not less than thirty (30) days' written notice of termination to the Consultant, and sixty (60) days' in the case of the event referred to in (e).

- a) If the Consultant does not remedy a failure in the performance of their obligations under the Contract, within thirty (30) days after being notified or within any further period as the Client may have subsequently approved in writing.
- b) If the Consultant becomes insolvent or bankrupt.
- c) If the Consultant, in the judgment of the Client has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
- d) If, as the result of Force Majeure, the Consultant are unable to perform a material portion of the Services for a period of not less than sixty (60) days.
- e) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.
- f) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to GC Clause 8 hereof.

### **2.6.2. By the Consultant**

The Consultant may terminate this Contract, by not less than thirty (30) days' written notice to the Client, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (c) of this GC Clause 2.6.2:

- a) If the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to GC Clause 6 hereof within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue.
- b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.
- c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to GC Clause 8 hereof.

### **2.6.3. Payment upon Termination**

Upon termination of this Contract pursuant to GC Clauses 2.6.1 or 2.6.2, the Client shall make the following payments to the Consultant:

- a) payment pursuant to GC Clause 2.3 for Services satisfactorily performed prior to the effective date of termination;



- b) except in the case of termination pursuant to paragraphs (a) through (c), and (f) of GC Clause 2.6.1, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel and their eligible dependents.

### **3. Obligations of the Bidder**

#### **3.1. Standard of Performance**

The Bidder shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology safe and effective equipment, machinery, materials and methods. The Bidder shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with third Parties.

#### **3.2. Responsibility of the Bidder**

The Bidder shall be fully responsible for site review and event of the services conforming to relevant Indian or International standards.

The Bidder may commence execution of services on the start date and shall carry out the services in accordance with the program submitted by the Bidder, as updated with the approval of the Client, and complete them by the intended completion date.

The workmanship shall be of high order and quality so as to prevent accidents and damaging of the environment and surroundings.

Notwithstanding anything mentioned in this RFP, the Bidder shall ensure compliance with all Applicable Laws and any guidelines which have been issued by the government or Client from time to time.

#### **3.3. Confidentiality**

Except with the prior written consent of the Client, the Bidder and the Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Bidder and the Personnel make public the recommendations formulated in the course of, or as a result of, the Services. Except as otherwise permitted by the Contract, neither of the parties may disclose to third parties the contents of the Contract or any information/report/advice provided by or on behalf of the other that ought reasonably to be treated as confidential and/or proprietary. Parties may, however, disclose such confidential information to the extent that it: (a) is or becomes public other than through a breach of the Contract, (b) is subsequently received by the receiving party from a third party who, to the receiving party's knowledge, owes no obligation of confidentiality to the disclosing party with respect to that information, (c) was known to the receiving party at the time of disclosure or is thereafter created independently, (d) is disclosed as necessary to enforce the receiving party's rights under the Contract, or (e) must be disclosed under Applicable Law, legal process or professional regulations. These obligations shall be valid for a period of six (6) months post the date of termination of the Contract.

#### **3.4. Documents prepared by the Bidder to be the property of the Client**

- a. All deliverables in the form of data, software, designs, utilities, tools, models, systems and other methodologies and know-how ("Materials") submitted by the Bidder under this Contract shall, not later than upon termination or expiration of this Contract, be delivered to the Client, together with a detailed inventory thereof.



- b. Except as otherwise permitted by the Contract, neither of the parties may disclose to third parties the contents of the Contract or any information/report/advice provided by or on behalf of the other that ought reasonably to be treated as confidential and/or proprietary. Parties may, however, disclose such confidential information to the extent that it: (a) is or becomes public other than through a breach of the Contract, (b) is subsequently received by the receiving party from a third party who, to the receiving party's knowledge, owes no obligation of confidentiality to the disclosing party with respect to that information, (c) was known to the receiving party at the time of disclosure or is thereafter created independently, (d) is disclosed as necessary to enforce the receiving party's rights under the Contract, or (e) must be disclosed under Applicable Law, legal process or professional regulations.

### **3.5. Accounting**

The Bidder shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time changes and costs, and the bases thereof.

### **4. Obligations of the Client**

- a. Assistance and Exemptions - The Client shall use its best efforts to ensure that the Government shall provide the Bidder such assistance and exemptions as specified in the Contract.
- b. Change in the Applicable Law Related to Taxes and Duties: If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties, then the remuneration and reimbursable expenses payable to the Consultant under this Contract shall be increased or decreased accordingly under this Contract.

### **5. Payments to the Bidder**

#### **5.1. Professional fee and Payments**

The total payment due to the Bidder shall be governed by the professional fee as agreed in this Contract and shall be inclusive of statutory taxes, duties, cess and levies in India during the contractual period except GST which will be paid extra by GNIDA at the rate applicable on the date of invoicing.

#### **5.2. Terms and Conditions of Payment**

Payments will be made to the account of the Bidder and according to the payment schedule stated in Clause 3.2.

### **6. Good Faith and Indemnity**

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

To the fullest extent permitted by Applicable Law and professional regulations, both the parties indemnify each other and their associates and employees against all claims by third parties (including each other's affiliates) and resulting liabilities, losses, damages, costs and expenses (including reasonable external and internal legal costs) arising out of the third party's use of or reliance on any report, deliverable, etc. disclosed to it by or through the parties as part of the regular interactions or for project/s purposes.

### **7. Penalty**

In addition to the liquidated damages not amounting to penalty, warning may be issued to the Consultant for minor deficiencies on its part. In the case of significant deficiencies in Services causing



adverse effect on the Project or on the reputation of the Authority, other penal action including debarring for a specified period may also be initiated as per policy of the Authority.

## **8. Settlement of Disputes**

This Contract shall be governed by, and construed in accordance with, the laws of India.

### **a. Amicable Settlement**

The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of the Contract and the success of the assignment. The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

In the event of any dispute between the Parties arising out of or in connection with the Contract, including the validity thereof, the Parties hereto shall endeavour to settle such dispute amicably in the first instance. The attempt to bring about an amicable settlement shall be treated as having failed as soon as one of the Parties hereto, after reasonable attempts, which shall continue for not less than 30 (thirty) days, gives a notice to this effect, to the other party in writing.

### **b. Arbitration**

In case of such failure, the dispute shall be referred to a sole Arbitrator, who shall be appointed by the Parties by mutual consent, failing which each party shall appoint one Arbitrator each and together the two Arbitrators shall appoint an umpire. The Arbitration proceedings shall be governed by the (Indian) Arbitration and Conciliation Act, 1996 and shall be held in Gautam Budh Nagar, India. The language of arbitration shall be English.

The Contract and the rights and obligations of the Parties shall remain in full force and effect, pending the award in any arbitration proceedings hereunder.

### **c. Jurisdiction**

In the event that Parties fail to settle the dispute amicably, the same shall be settled by binding Arbitration conducted by a sole arbitrator appointed jointly by both Parties and governed by the Arbitration and Conciliation Act, 1996.

Any dispute arising in relation to this Contract shall be subjected to Jurisdiction of District court of Gautam Budh Nagar, Uttar Pradesh.