

RailTel Corporation of India Ltd
(A Mini Ratna PSU under Ministry of Railways)



NOTICE INVITING EXPRESSION OF INTEREST (EOI)

EOI No.: RailTel/EOI/NRMKTG/EB/DEF/2021-22/DC

Dated 9th March 2022

Expression of Interest for Selection of Partner from Empanelled Business Associate for EXCLUSIVE PRE-BID TEAMING ARRANGEMENT For Supply, Installation & Commissioning of for Enhancement of Data Centre and its Networking infrastructure for end Customer Organization for agreed Scope of Work.

Issued by:

RailTel Corporation of India Ltd
(A Mini-Ratna PSU under Ministry of Railways)
Northern Region

RailTel Corporation of India Limited,

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Disclaimer

RailTel Corporation of India Ltd. (herein after called the RailTel) has prepared this Expression of Interest (EOI) document solely to assist prospective bidders in making their decision of whether or not to bid.

While the RailTel has taken due care in the preparation of information contained herein and believes it to be accurate, neither the RailTel or any of its Authorities or Agencies nor any of their respective officers, employees, agents or advisors give any warranty or make any representations, express or implied as to the completeness or accuracy of the information contained in this document or any information which may be provided in association with it. This information is not intended to be exhaustive and interested parties are required to make their own inquiries and do site visits that it may require in order to submit the EOI. The information is provided on the basis that it is non-binding on RailTel, any of its authorities or agencies or any of their respective officers, employees, agents or advisors. The RailTel reserves the right not to proceed with the bidding/EOI process at any stage without assigning any reasons thereof, or to alter the timetable reflected in this document or to change the process or procedure to be applied. It also reserves the right to decline to discuss the EOI further with any party submitting an EOI. No reimbursement of cost of any type will be paid to persons or entities submitting the EOI.

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EOI NOTICE

RailTel Corporation of India Limited,

Northern Region, 6th Floor, 3rd Block,

Delhi IT Park, Shastri Park, New Delhi-110053

EOI Notice No: EOI No: RailTel/EOI/NRMKTG/EB/DEF/2021-22/DC dated 9th March 2022

RailTel Corporation of India Ltd., (here after referred to as "RailTel") invites EOIs from RailTel's Empanelled Partners for the selection of suitable partner as Exclusive pre bid teaming arrangement for Supply, Installation & Commissioning of for Enhancement of Data Centre and its Networking infrastructure for end Customer Organization for agreed Scope of Work.

The details are as under:

SCHEDULE OF EVENTS

1	Date of EOI Floating	09 th March, 2022 at 20:00 Hours
2	Availability of Technical Documents for Specification on Technical Requirement (Physical Copy from Northern Region Office)	March 10, 2022 at 09:30 Hours
3	Last date of availability of Technical Documents	March 12, 2022 at 16:00 Hours
4	Last date for submission of Bids against EOI	March 14, 2022 at 10:30 Hours
5	Opening of Bids received against EOI	March 14, 2022 at 11:00 Hours
6	Number of copies to be submitted	Two (Two Packet System)
7	EOI document cost inclusive tax (Non- refundable)	Rs. 5,000/-
8	EOI processing fee inclusive tax (Non- refundable)	Rs. 8,850/-
9	EMD for Pre-Bid Arrangement	Against Bid Security Declaration

Note : RailTel reserves the right to change the above dates at its discretion.

The EMD should be in the favor of RailTel Corporation of India Limited payable at Delhi through online bank transfer. Partner need to share the online payment transfer details like UTR No. date and Bank along with the proposal.

RailTel Bank Details for Submission of EMD / PBG: Union Bank of India, Account no. 307801010917906, IFSC Code: UBIN0530786. Demand Draft should be submitted in favour of RailTel Corporation of India Limited payable at New Delhi..

Eligible Business Associates are required to direct all communications related to this Invitation for EoI document, through the following Nominated Point of Contact persons:

Contact Details for this EOI :

Level:1 Contact: Abhishek Kumar Position: Sr. Manager / Marketing
Email:abhishek.kumar@railtelindia.com Contact: +91-9717644075

Level:2 Contact: Sh. Arya Vrat Sharma Position: DGM / Marketing
Email: aryavrat@railtelindia.com Contact: +91-9717644155

Level:3 Contact: Sh. Dipu Shyam Position: GM / Marketing
Email : d.shyam1998@railtelindia.com Contact: +91-7007831841

Note:

1. The EOI response is invited from eligible Empanelled Partners of RailTel only.
2. All the document must be submitted with proper indexing and page no.
3. This is an exclusive pre-RFP partnership arrangement with empanelled business associate of RailTel for participating in the end customer RFP. Selected partner's authorised signatory has to give an undertaking they will not submit directly or indirectly their bids and techno-commercial solution/association with any other Organization once selected in this EOI for pre-bid teaming arrangement (before and after submission of bid to prospective customer Organization by RailTel). This undertaking has to be given with this EOI Response.
4. Transfer and Sub-letting. The Business Associate has no right to give, bargain, sell, assignor sublet or otherwise dispose of the Contract or any part thereof, as well as to give or to let a third party take benefit or advantage of the present Contract or any part thereof.
5. Relevant technical specification of this EOI documents of end Customer Organization can be shared to the authorized person of Business Associate on submission of following: -

- (i) proof of EOI document cost for Rs. 5000/- in the form of DD in favour of RailTel Corporation of India Limited, payable at Delhi,
 - (ii) EMD against bid security declaration as per annexure-03,
 - (iii) Non-Disclosure Undertaking (NDU) Document as per (Annexure-7 of this EOI) to RailTel,
 - (iv) Authorised signatory authorisation from the Business Associate to collect Hardcopies of CoR Documents. The Person have to give acknowledgement of the documents received and has to submit his Valid Aadhar Card/Pan Card ID with his authorisation from authorised signatory of his Organisation. Please carry the stamp of the organisation for acknowledgment signing.
6. Bidder has to agree to comply with all OEM technical & Financial documentation including MAF, Technical certificates/others as per end-to-end requirement mentioned in the end customer's RFP(physically handed over as per point 5 above procedure above). Bidder also undertake to submit MAF of major items of the proposed solution and other documents required in the end Customer Organization tender in favour of RailTel against the proposed products. The selected BA has to provide MAF from the OEM in the name of RailTel for bidding in the concerned tender of CoR, if their proposed solution is quoted to the customer.
- 7. The Selected Bidder will have to be accept all terms and conditions of CoR RFP's on back to back basis.**

1. About RailTel

RailTel Corporation of India Ltd (RailTel) is one of the largest neutral telecom infrastructure providers in the country owning a Pan-India optic fibre network on exclusive Right of Way (ROW) along Railway track. The OFC network presently reaches to over 4500 towns & cities of the country including several rural areas. With its Pan India high-capacity network, RailTel is working towards creating a knowledge society at various fronts. The portfolio of services provided by RailTel includes Data Centre & DR services, Tele-presence as a service, NLD services, IP-1 services, Internet and Broadband services on a pan-India basis.

Equipped with an ISO 9001, 20000-1:2011 & 27000 certification, RailTel offers a wide gamut of managed telecom services to Indian Telecom market including Managed lease lines, Tower colocation, MPLS based IP-VPN, Internet, Data Centre services, NGN based voice carriage services to Telecom Operators, Dark fibre leasing to MSOs/LCOs. The major customer segment for RailTel comprises of Enterprises, Banks, Government Institutions/Department, Educational Institutions/Universities, Telecom Service Providers, Internet Service Providers, MSOs, etc. RailTel being a "Mini Ratna (Category-I)" PSU is steaming ahead in the enterprise segment with the launch of various services coupled with capacity augmentation in its Core network.

2. Background of EOI

RailTel Corporation of India Ltd (hereafter referred to as 'RailTel') an ICT arm of Indian Railways has been in the forefront of building innovative platforms and solutions and vision to build range of Information and Communication Technology (ICT) Services for its customers.

In this regard, RailTel intends to participate in the tender floated by Defence Organisation (hereafter referred to as 'CoR') and accordingly seeks to select a suitable partner for pre-bid arrangement.

RailTel intends to participate in RFP floated by Indian Defence Organization For Supply, Installation & Commissioning of for Enhancement of Data Centre and its Networking infrastructure for end Customer Organization for agreed Scope of Work.

RailTel invites EOIs from RailTel's Empanelled Partners for the selection of suitable partner for participating in above mentioned work for the agreed scope work. The empanelled partner is expected to have excellent execution capability and good understanding customer local environment.

Bidder has to agree to comply with all OEM technical & Financial documentation including MAF, Technical certificates/others as per end-to-end requirement mentioned in the end customer's RFP. Bidder also undertake to submit MAF of major items of the proposed solution and other documents required in the end Customer Organization tender in favour of RailTel against the proposed products. The selected BA has to provide MAF from the OEM in the name of RailTel for bidding in the concerned tender of CoR, if their proposed solution is quoted to the customer.

The details of pertinent tender are as below:

Tender Title: RFP for Supply, installation and Commissioning for Enhancement of Data Centre and its Networking infrastructure against CoR RFP dated 24.02.22

3. Scope of Work & Partner Selection

3.1. Scope of Work

The scope of work will be as mentioned in the end Customer Organization RFP for Supply, installation and Commissioning for Enhancement of Data Centre and its Networking infrastructure at CoR premises.

INTRODUCTION:

- a) Customer of RailTel (CoR) consists of more than 110 work centers across India and is interconnected by means of point-to-point leased lines. The IT wing of CoR i.e., DIT&CS has been developing large number of applications, indigenously developed ERP modules. which allows CoR users to carryout day to day IT activities
- b) The present proposal seeks the turnkey solution for carrying out an Enhancement of Data Center and its Networking infrastructure for CoR community for various needful IT service.
- c) It is proposed to provide and maintain DX based Inrack cooling, Network & server racks, UPS, DCIM and BMS, Network Monitoring Software, Fire Detector & Suppression System, Network Switches, IP CCTV with DVR Solution for CoR Intranet across CoR.

- d) Solution provider need to offer solution with no single point of failure in hardware and without any downtime in accessing Intranet applications and services hosted on offered IT infrastructure.
- e) Detail technical specifications will be provided to bidder after signing of NDA (Non-Disclosure Agreement) document.

3.2. Interested partners need to Buy the Technical Documents of this EoI from Office of RailTel Corporation of India Limited, Northern Region at Delhi as per schedule mentioned above. Bidder may submit their response in form of duly signed and stamped and submit techno-commercial bid at the E-nivida portal through Online mode, within the stipulated date and time, as mentioned in this EOI document. Address of the RailTel office from where Physical Technical Document may be bought is:

RailTel Corporation of India Limited, Northern Region, 6th Floor, 3rd Block, Delhi IT Park, Shastri Park, New Delhi-110053

3.3. Interested partners may note that this is a Two Packet Bid.

3.4. Only those bids shall be opened, which have been submitted within the stipulated time as mentioned in this EOI document.

3.5. Stage -I : Technical Bid contains following :-

- i. The Technical Compliance of the Scope of Work (sample Annexure attached at 10). However, format may be modified by bidder as per their choice, but item must be marked with OEM Name, MAF provided or not and Data Sheet attached.
- ii. The Technical Compliance sheet provided with Hard Copy of Technical Specs
- iii. **BOQ/BOM without Price quote.**
- iv. Compliance of OEM with their MAF's and all mandatory documents asked by CoR from OEM.
- v. Unconditional Acceptance of the Tender document of CoR and General Document of CoR dated 24.02.22
- vi. This EOI acceptance.
- vii. Annexure Formats as mentioned in this EOI.
- viii. Make in India Purchase Preference certification as per clause of CoR.

- ix. Bid Security Declaration.
- x. All documents mentioned in checklist and annexures of this EOI.
- xi. Undertaking for "The seller agrees to provide product support for the stores, assemblies/subassemblies, fitment items, spares and consumables, Special Maintenance tool(STM)/Special Test Equipment (STE) for a minimum period of 7 years including 3 years of warranty period after the delivery and acceptance".**
- xii. The Seller agrees to undertake a Maintenance contract for a minimum period of 4years.**
- xiii. Delivery Period Undertaking – 03 Months from effective date (date of issuance of PO to the selected partner) of the contract.**

3.6. In stage-I technical bid evaluation will be done based on above mentioned documents. Technical Document without OEM Name, Make and Model, technical Compliance, and unconditional acceptance of the CoR hard Copies and this EOI, the bids may be summarily rejected.

3.7. Based on evaluation of 3.6 outcome, the Qualified Bidders Financial Bids will be opened up.

3.8 Stage-II: Financial Bid:

- i. The Annexure 05 of EOI for financial quote
- ii. BOM/BOQ with Unit Price
- iii. The seller is required to quote the price for both comprehensive and Non-Comprehensive maintenance of the equipment after the expiry of the warranty period in the price bid. However, a separate order will be placed post satisfactory completion of all contractual obligations including 3 year warranty.**

3.9 For the opened bid, the bidder will be selected on the lowest quote (L-1) basis for complete 'Scope of Work' as mentioned in the EOI document and Physical documents of technical specifications of CoR, subject to the respective overall bid is in compliance to the requirements of this EOI. The so selected partner will be termed as 'Commercially Suitable

Partner (hereafter referred to as 'CSP'). It is re-mentioned, that the final selection of CSP will be on the L-1 basis only. Further, RailTel reserves the right to have negotiation with the CSP.

3.7. As of now, EoI response from interested partners is invited considering that the selected partner will be responsible for delivering of complete 'Scope of Work' as mentioned in the CoR's tender document and subsequent corrigenda. However, RailTel at its discern, may take-up a certain portion / percentage of 'Scope of Work' by communicating to the CSP at any point of time during the engagement period. (*The day at which 'CSP' is declared, will mark the start of engagement period. The period will be valid till final outcome of this tender is announced by CoR. In case, RailTel comes out to be winner of the CoR tender, then the engagement period will get auto-extended to the period RailTel serves CoR for the Cloud tender, unless terminated earlier by RailTel as per terms and conditions mentioned in this EoI document*). In this scenario, commercial engagement with the CSP will be for that portion / percentage only, which has not been taken by RailTel. Accordingly, resultant value of work will be derived on the basis of negotiated (*in case*) commercial bid of the CSP.

3.8. RailTel on the basis of inputs / factors available to it from various resources, past experiences of its ICT projects and on the basis of negotiated (*in case*) commercial bid of the CSP, will endeavour to place best techno-commercial bid in response to the pertinent CoR's tender. Further relationship with CSP will be based on the outcome pertinent CoR's tender.

3.9. Validity of the submitted bid (technical and commercial) should be of 210 days from the last date of submission of EOI response as mentioned in this EOI document.

4. Compliance Requirements for Interested Bidders

4.1. The interested bidder should be an Empanelled Partner with RailTel on the last date of bid submission of EOI.

4.2. The interested bidder should submit Bid Security Declaration In lieu of Earnest Money Deposit (EMD) in the format as mentioned in this EOI document. EoI response without 'Bid Security Declaration' is liable for rejection without assigning any further notice.

4.3. The interested bidder should be in compliance to insertion of Rule 144(xi) in the GFR, 2017 vide office OM no. 6/18/2019-PPD dated 23-July-2020 issued by Ministry of Finance, Government of India, including revisions.

4.4. The interested bidder should submit an undertaking for maintaining of 'Local Content Compliance' and shall submit a certificate mentioning the 'Local Content Percentage' duly signed and stamped by statutory auditor or cost auditor or authorised signatory of the interested partner.

4.5. The interested bidder should not be backlisted by any State / Central Government Ministry / Department / Corporation / Autonomous Body on the last date of submission of EOI.

4.6. There should not be any ongoing or past, arbitration case(s) between 'RailTel or Organizations under Indian Railways' and 'Interested Bidder' on the last date of submission of EOI.

4.7. The interested bidder shall not have a conflict of interest with one or more bidding parties. Participation of interested bidder(s) with a conflict-of-interest situation will result in the disqualification of all bids in which it is involved. A bidder may be in a conflict of interest with one or more parties if including but not limited to :

a. Have controlling shareholders as his/her family members viz. spouse, son, daughter, father, mother or brother etc. in common or ;

b. Have a relationship with each other directly or through common third parties that puts them in a position to have access to information about or influence on the bid of another interested partner.

4.8. The interested bidder should not be seeking / extending / exploring similar arrangements / engagements with any other organization except RailTel, for the CoR tender.

4.9. The interested partner should have a valid Goods and Service Tax Identification Number (GSTIN), as on the last date of submission of EOI.

4.10. In addition to above clauses, bid of interested bidder should be in compliance to terms and conditions and technical requirements of the pertinent CoR Cloud tender.

Note : The interested bidder should submit duly signed and stamped EOI cover letter as per the format mentioned at Annexure-01 of this EOI document, as unconditional submission of meeting the clauses mentioned above, from Clause 4.1. to Clause 4.10.

5. Proposal Preparation and Submission Cost

5.1. The interested partner is responsible for all costs incurred in connection with participation in this EOI process, including, but not limited to, cost incurred in conduct of informative and other diligence activities, participation in meetings/discussions/presentations, preparation of proposal, in providing any additional information required by RailTel to facilitate the evaluation process or all such activities related to the bid process. RailTel will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process. This EOI document does not commit to award a contract or to engage in negotiations.

6. Amendment to EOI Document

6.1. At any time prior to the deadline for submission of bids, RailTel, may, for any reason can modify the EOI document by an amendment. All the amendments made in the document would be informed by displaying on RailTel's (www.railtelindia.com) website only. The interested bidders are advised to visit the RailTel website on regular basis for checking necessary updates. RailTel also reserves the rights to amend the dates mentioned in this EOI for bid process. RailTel may, at its discretion, extend the last date for receipt of EoI response.

7. Bid Validity Period

7.1. Bid of Interested partners shall remain valid for the period of 210 days from the date of submission of EOI, as mentioned in this EOI document.

7.2. RailTel may request for an extension of the period of validity. The validity of the 'Bid Security Declaration', should also be suitably extended if called upon to do so by RailTel. The request and the responses thereto shall be made in writing through e-mail communication only. Further, whenever the bid validity extension is submitted by the interested partner, it should be

ensured by interested partner that their PBG related to the empanelment should have minimum validity of 90 days from the last date of extended bid validity period.

8. Right to Terminate the Process

8.1. RailTel may terminate the EOI process at any time without assigning any reason. RailTel makes no commitments, express or implied, that this process will result in a business transaction with anyone. This EOI does not constitute an offer by RailTel. The interested bidder's participation in this process may result in RailTel selecting the CSP to engage in further discussions and negotiations toward execution of a contract. The commencement of such negotiations does not, however, signify a commitment by RailTel to execute a contract or to continue negotiations. RailTel may terminate negotiations at any time without assigning any reason.

9. Language of Bid

9.1. The bid prepared by the interested partner and all correspondence and documents relating to the bids exchanged by the bidder and RailTel, shall be written in English Language, provided that any printed literature furnished by the Bidder in another language shall be accompanied by an English translation in which case, for purposes of interpretation of the bid, the English translation shall govern. If any supporting documents submitted are in any language other than English, translation of the same in English language is to be duly attested by the Authorised Signatory of the interested partner.

10. Submission of Bid

10.1. The interested bidder should take into account any Corrigendum to this EOI document that may have been published before submitting their EOI response. The bid is to be submitted in the mode as mentioned in this EOI document. EOI response submitted in any other mode will not be entertained.

10.2. Interested bidders in their own interest are advised to submit the EOI response well in time before the last date and hence to avoid any inconvenience at the last moment.

10.3. An Organization / Interested Bidder can submit only 'One EOI Response'. Submission of multiple EOI Response by interested bidder(s) may lead to rejection of all of its bid.

11. Rights to Accept / Reject any or all EOI Response

11.1. RailTel reserves the right to accept or reject any EOI Response, and to annul the bidding process and reject all Bids at any time prior to award of the Contract, without thereby incurring any liability to the affected interested bidder(s), or any obligation to inform the affected Bidders of the ground for RailTel's action.

12. Payment Terms

12.1. Payment will be on '**back-to-back**' basis and as per the payment terms mentioned in the pertinent CoR's Enhancement of Data Centre and its Networking infrastructure tender.

12.2. Payment will be released after receiving the invoice for the work / services and after RailTel has received the payment from CoR for the same work / services. Any deduction / penalties levied by CoR on invoices of RailTel will be carried **back-to-back** and will be deducted from CSP's invoices, subject to the cause to deduction / penalty is due to deviation in terms and conditions of service standards by the CSP.

13. Performance Bank Guarantee (PBG)

13.1. In case of successful participation by RailTel in the pertinent CoR's tender and subsequent engagements with CSP, The CSP shall at its own expense, deposit with department, within twenty-one (21) days of the notification of award (done through issuance of the Purchase Order / Work Order etc.) and communicated through email, an unconditional and irrevocable Performance Bank Guarantee (PBG) from a Scheduled Commercial Bank as per the format enclosed in this EOI, payable on demand, for the due performance and fulfilment of the contract by the CSP. This PBG will be for an amount of 'certain percentage (%)' of the contract value. The quantum of this 'certain percentage (%)' will be equal to the PBG % as asked by CoR from RailTel. All charges whatsoever such as premium, commission, etc. with respect to the PBG shall be borne by the CSP. Besides, if the total BG amount comes upto ₹ 05 Lakhs, then same may be deposited through DD/RTGS/NEFT. Along with submission of PBG, CSP needs to submit PBG issuing bank's SFMS report. The SFMS report is also to be submitted in case of renewal / extension of PBG.

13.2. The PBG should have validity for a period of 120 days from the date of validity of the contract. The PBG may be discharged / returned by RailTel upon being satisfied that there has been due performance of the obligations of the CSP under the contract. However, no interest shall be payable on the PBG. In the event, CSP being unable to service the contract for whatsoever reason, RailTel would invoke the PBG at its discern. Notwithstanding and without prejudice to any rights whatsoever of RailTel under the contract in the matter, the proceeds of the PBG shall be payable to RailTel as compensation for any loss resulting from the CSP's failure to complete its obligations under the contract. RailTel shall notify the CSP in writing of the exercise of its right to receive such compensation within 14 days, indicating the contractual obligation(s) for which the CSP is in default.

13.3. RailTel shall also be entitled to make recoveries from the CSP's bills, PBG or from any other amount due to him, the equivalent value of any payment made to him due to inadvertence, error, collusion, misconstruction or misstatement.

13.4. If the service period gets extended by virtue of extension of same by CoR, PBG should also be extended accordingly.

13.5. During the contract period, RailTel may issue Purchase Order(s) for the additional services ordered by CoR (*in case*) to RailTel. In such scenario(s) also, Clause No. 13.1. to Clause No. 13.4. are to be followed by the CSP.

13.6 In case the CoR has sought PBG of the contract in the terms of Indemnity Bond from RailTel, the selected bidder has to provide the equivalent value PBG from scheduled Bank to RailTel. No Indemnity Bond from Selected Bidder will be accepted in lieu of PBG from Scheduled Bank.

13.7. In case CoR has sought any other types of PBG in this contract at present or in future or else Integrity Pact PBG(presently or in future), same remain applicable on selected Bidder. The Said PBG will be issued by Selected Bidder from Scheduled Bank favouring RailTel Corporation of India Limited. No Indemnity Bond in lieu of such PBG will be accepted by RailTel.

13.8 If, **CoR ask for submission for value more than 3%, same also needs to be submitted by the selected BA.**

14. Details of Commercial Bid / Financial Bid

14.1. Interested partner should submit commercial bid strictly as per the format mentioned by CoR in the pertinent tender document or subsequent corrigendum (if any).

14.2. The commercial bid should clearly bring out the cost of the services with detailed break-up of taxes.

14.3. The rates mentioned in the commercial bid of the CSP will form basis of commercial transaction between RailTel and bidder.

14.4. The quantity of 'Line Items' may vary at the time of placing of Purchase Order or during the Contract Period, as communicated by CoR (*in case*) to RailTel. In such scenarios, the 'Per Unit' cost will be considered to arrive on contractual amount between RailTel and CSP.

14.5. It is also possible that CoR may surrender / increase, some or all of the quantities of service items ordered to RailTel during the contract period and accordingly the contractual amount between RailTel and CSP shall be considered, at sole discern of RailTel.

14.6. It is also possible that during the contract period, CoR may raise Purchase Order to RailTel for the line items (*and respective quantities*) which are not mentioned in the pertinent tender of CoR. In such scenario, RailTel at its sole discretion, may extend the scope of the contract with CSP by placing order to CoR, on back-to-back basis.

14.7. In addition to the Payment Terms, all other Contractual Terms will also be on '**back-to-back**' basis between RailTel and CSP, as mentioned in the pertinent CoR's tender. MAF (Manufacturer's Authorisation Form) in the name of RailTel from the OEMs, whose product is mentioned in commercial bid format, should also be ensured by the partner. The MAF format and required content should be in-line with CoR's tender, if specifically asked by CoR in a particular format.

15. Duration of the Contract Period

15.1. The contract duration shall be same as of CoR's contract duration with RailTel until otherwise terminated earlier. Indicative contract duration is Thirty-Six (36) Months, unless

otherwise terminated earlier, as mentioned in this EOI document and subject to successful participation of RailTel in the pertinent CoR's tender. The contract duration can be renewed / extended by RailTel at its discern, in case CoR extends / renews services with RailTel by virtue of extending / renewing / new issuance of one or more Purchase Order(s) placed by CoR to RailTel.

16. Restrictions on 'Transfer of Agreement'

16.1. The CSP shall not assign or transfer its right in any manner whatsoever under the contract / agreement to a third party or enter into any agreement for sub-contracting and/or partnership relating to any subject matter of the contract / agreement to any third party either in whole or in any part i.e. no sub-contracting / partnership / third party interest shall be created.

17. Suspension, Revocation or Termination of Contract / Agreement

17.1. RailTel reserves the right to suspend the operation of the contract / agreement, at any time, due to change in its own license conditions or upon directions from the competent government authorities, in such a situation, RailTel shall not be responsible for any damage or loss caused or arisen out of aforesaid action. Further, the suspension of the contract / agreement will not be a cause or ground for extension of the period of the contract / agreement and suspension period will be taken as period spent. During this period, no charges for the use of the facility of the CSP shall be payable by RailTel.

17.2. RailTel may, without prejudice to any other remedy available for the breach of any conditions of agreements, by a written notice of Three (03) month or as per CoR tender condition whichever is earlier issued to the CSP, terminate/or suspend the contract / agreement under any of the following circumstances:

- a) The CSP failing to perform any obligation(s) under the contract / agreement.
- b) The CSP failing to rectify, within the time prescribed, any defect as may be pointed out by RailTel.
- c) Non adherence to Service Level Agreements (SLA) which RailTel has committed to CoR for the pertinent tender.

- d) The CSP going into liquidation or ordered to be wound up by competent authority.
- e) If the CSP is wound up or goes into liquidation, it shall immediately (and not more than a week) inform about occurrence of such event to RailTel in writing. In that case, the written notice can be modified by RailTel as deemed fit under the circumstances. RailTel may either decide to issue a termination notice or to continue the agreement by suitably modifying the conditions, as deemed fit under the circumstances.
- f) It shall be the responsibility of the CSP to maintain the agreed Quality of Service, even during the period when the notice for surrender/termination of contract / agreement is pending and if the Quality of Performance of Solution is not maintained, during the said notice period, it shall be treated as material breach liable for termination at risk and consequent of which CSP's PBG related to contract / agreement along with PBG related to the Empanelment Agreement with RailTel shall be forfeited, without any further notice.
- g) Breach of non-fulfillment of contract / agreement conditions may come to the notice of RailTel through complaints or as a result of the regular monitoring. Wherever considered appropriate RailTel may conduct an inquiry either suo-moto or on complaint to determine whether there has been any breach in compliance of the terms and conditions of the agreement by the successful bidder or not. The CSP shall extend all reasonable facilities and shall endeavor to remove the hindrance of every type upon such inquiry. In case of default by the CSP in successful implementation and thereafter maintenance of services / works as per the conditions mentioned in this EOI document, the PBG(s) of CSP available with RailTel can be forfeited.

18. Dispute Settlement

18.1. In case of any dispute concerning the contract / agreement, both the CSP and RailTel shall try to settle the same amicably through mutual discussion / negotiations. Any

unsettled dispute shall be settled in terms of Indian Act of Arbitration and Conciliation 1996 or any amendment thereof. Place of Arbitration shall be New Delhi.

18.2. The arbitral tribunal shall consist of the Sole Arbitrator. The arbitrator shall be appointed by the Chairman & Managing Director (CMD) of RailTel Corporation of India Ltd.

18.3. All arbitration proceedings shall be conducted in English.

19. Governing Laws

19.1. The contract shall be interpreted in accordance with the laws of India. The courts at New Delhi shall have exclusive jurisdiction to entertain and try all matters arising out of this contract.

20. Statutory Compliance

20.1. During the tenure of this Contract nothing shall be done by CSP in contravention of any law, act and/ or rules/regulations, there under or any amendment thereof and shall keep RailTel indemnified in this regard.

20.2. The Bidder shall comply and ensure strict compliance by his/her employees and agents of all applicable Central, State, Municipal and Local laws and Regulations and undertake to indemnify RailTel, from and against all levies, damages, penalties and payments whatsoever as may be imposed by reason of any breach or violation of any law, rule, including but not limited to the claims against RailTel or its Customer under Employees Compensation Act, 1923, The Employees Provident Fund and Miscellaneous Provisions Act, 1952, The Contract Labour (Abolition and Regulation) Act 1970, Factories Act, 1948, Minimum Wages Act and Regulations, Shop and Establishment Act and Labour Laws which would be amended/modified or any new act if it comes in force whatsoever, and all actions claim and demand arising therefrom and/or related thereto.

21. Intellectual Property Rights

21.1. Each party i.e. RailTel and CSP, acknowledges and agree that the other party retains exclusive ownership and rights in its trade secrets, inventions, copyrights, and other intellectual property and any hardware provided by such party in relation to this contract / agreement.

21.2. Neither party shall remove or misuse or modify any copyright, trade mark or any other proprietary right of the other party which is known by virtue of this EoI and subsequent contract in any circumstances.

22. Severability

22.1. In the event any provision of this EOI and subsequent contract with CSP is held invalid or not enforceable by a court of competent jurisdiction, such provision shall be considered separately and such determination shall not invalidate the other provisions of the contract and Annexure/s which will be in full force and effect.

23. Force Majeure

23.1. If during the contract period, the performance in whole or in part, by other party, of any obligation under this is prevented or delayed by reason beyond the control of the parties including war, hostility, acts of the public enemy, civic commotion, sabotage, Act of State or direction from Statutory Authority, explosion, epidemic, quarantine restriction, strikes and lockouts (as are not limited to the establishments and facilities of the parties), fire, floods, earthquakes, natural calamities or any act of GOD (hereinafter referred to as EVENT) , provided notice of happenings of any such event is given by the affected party to the other, within twenty one (21) days from the date of occurrence thereof, neither party shall have any such claims for damages against the other, in respect of such non-performance or delay in performance. Provided service under this contract shall be resumed as soon as practicable, after such EVENT comes to an end or ceases to exist.

23.2. In the event of a Force Majeure, the affected party will be excused from performance during the existence of the force Majeure. When a Force Majeure occurs, the affected party after notifying the other party will attempt to mitigate the effect of the Force

Majeure as much as possible. If such delaying cause shall continue for more than sixty (60) days from the date of the notice stated above, the party injured by the inability of the other to perform shall have the right, upon written notice of thirty (30) days to the other party, to terminate this contract. Neither party shall be liable for any breach, claims, and damages against the other, in respect of non-performance or delay in performance as a result of Force Majeure leading to such termination.

24. Indemnity

24.1. The CSP agrees to indemnify and hold harmless RailTel, its officers, employees and agents (each an "Indemnified Party") promptly upon demand at any time and from time to time, from and against any and all losses, claims, damages, liabilities, costs (including reasonable attorney's fees and disbursements) and expenses (collectively, "Losses") to which the Indemnified party may become subject, in so far as such losses directly arise out of, in any way relate to, or result from :

- a) Any mis-statement or any breach of any representation or warranty made by CSP or
- b) The failure by the CSP to fulfill any covenant or condition contained in this contract by any employee or agent of the Bidder. Against all losses or damages arising from claims by third Parties that any Deliverables (or the access, use or other rights thereto), created by CSP pursuant to this contract, or any equipment, software, information, methods of operation or other intellectual property created by CSP pursuant to this contract, or the SLAs (i) infringes a copyright, trade mark, trade design enforceable in India, (ii) infringes a patent issues in India, or (iii) constitutes misappropriation or unlawful disclosure or used of another Party's trade secrets under the laws of India (collectively, "Infringement Claims"); or
- c) Any compensation / claim or proceeding by any third party against RailTel arising out of any act, deed or omission by the CSP or

- d) Claim filed by a workman or employee engaged by the CSP for carrying out work related to this agreement. For the avoidance of doubt, indemnification of Losses pursuant to this section shall be made in an amount or amounts sufficient to restore each of the Indemnified Party to the financial position it would have been in had the losses not occurred.

24.2. Any payment made under this contract to an indemnity or claim for breach of any provision of this contract shall include applicable taxes.

25. Limitation of Liability towards RailTel

25.1. The CSP liability under the contract shall be determined as per the Law in force for the time being. The CSP shall be liable to RailTel for loss or damage occurred or caused or likely to occur on account of any act of omission on the part of the CSP and its employees (*direct or indirect*), including loss caused to RailTel on account of defect in goods or deficiency in services on the part of CSP or his agents or any person / persons claiming through under said CSP, However, such liability of the CSP shall not exceed the total value of the contract.

25.2. This limit shall not apply to damages for bodily injury (including death) and damage to real estate property and tangible personal property for which the CSP is legally liable.

26. Confidentiality cum Non-disclosure

26.1. The Receiving Party agrees that it will not disclose to third party/parties any information belonging to the Disclosing Party which is provided to it by the Disclosing Party before, during and after the execution of this contract. All such information belonging to the Disclosing Party and provided to the Receiving Party shall be considered Confidential Information. Confidential Information includes prices, quotations, negotiated issues made before the execution of the contract, design and other related information. All information provided by Disclosing Party to the Receiving Party shall be considered confidential even if it is not conspicuously marked as confidential.

26.2. Notwithstanding the foregoing, neither Party shall have any obligations regarding non-use or non-disclosure of any confidential information which:

- a) Is already known to the receiving Party at the time of disclosure:
- b) Is or becomes part of the public domain without violation of the terms hereof;
- c) Is shown by conclusive documentary evidence to have been developed independently by the Receiving Party without violation of the terms hereof:
- d) Is received from a third party without similar restrictions and without violation of this or a similar contract.

26.3. The terms and conditions of this contract, and all annexes, attachments and amendments hereto and thereto shall be considered Confidential Information. No news release, public announcement, advertisement or publicity concerning this contract and/or its contents herein shall be made by either Party without the prior written approval of the other Party unless such disclosure or public announcement is required by applicable law.

26.4. Notwithstanding the above, information may be transmitted to governmental, judicial, regulatory authorities, if so, required by law. In such an event, the Disclosing Party shall inform the other party about the same within 30 (thirty) Days of such disclosure.

26.5. This Confidentiality and Non- Disclosure clause shall survive even after the expiry or termination of this contract.

27. Assignment

27.1. Neither this contract nor any of the rights, interests or obligations under this contract shall be assigned, in whole or in part, by operation of law or otherwise by any of the Parties without the prior written consent of each of the other Parties. Any purported assignment without such consent shall be void. Subject to the preceding sentences, this contract will be binding upon, inure to the benefit of, and be enforceable by, the Parties and their respective successors and assigns.

28. Insurance

The CSP agrees to take insurances to cover all the elements of the project under this EOI including but not limited to Manpower, Hardware, Software etc. as per CoR tender specified terms.

29. Exit Management

29.1. Exit Management Purpose

- a) This clause sets out the provision, which will apply during Exit Management period. The parties shall ensure that their respective associated entities carry out their respective obligation set out in this Exit Management Clause.
- b) The exit management period starts, in case of expiry of contract, at least 03 months prior to the date when the contract comes to an end or in case of termination contract, on the date when the notice of termination is sent to the CSP. The exit management period ends on the date agreed upon by RailTel or Three (03) months after the beginning of the exit management period, whichever is earlier.

29.2. Confidential Information, Security and Data : CSP will promptly, on the commencement of the exit management period, supply to RailTel or its nominated agencies the following *(if asked by RailTel in writing)* :

- a) Information relating to the current services rendered and performance data relating to the performance of the services; documentation relating to the project, project's customized source code *(if any)* ; any other data and confidential information created as part of or is related to this contract;
- b) All other information (including but not limited to documents, records and agreements) relating to the services reasonably necessary to enable RailTel and its nominated agencies, or its replacing vendor to carry out due diligence in order to transition the provision of the services to RailTel or its nominated agencies, or its replacing vendor (as the case may be).

29.3. Employees : Promptly on reasonable request at any time during the exit management period, the CSP shall, subject to applicable laws, restraints and regulations (including in particular those relating to privacy) provide RailTel a list of all employees (with job titles and communication address), dedicated to providing the services at the commencement of the exit management period; To the extent that any Transfer Regulation does not apply to any employee of the CSP, RailTel or the replacing vendor may make an offer of contract for services to such employees of the CSP and the CSP shall not enforce or impose any contractual provision that would prevent any such employee from being hired by RailTel or any replacing vendor.

29.4. Rights of Access to Information : Besides during the contract period, during the exit management period also, if asked by RailTel in writing, the CSP shall be obliged to provide an access of information to RailTel and / or any Replacing Vendor in order to make an inventory of the Assets (including hardware / software / active / passive), documentations, manuals, catalogues, archive data, Live data, policy documents or any other related material.

Note : RailTel at its sole discern may not enforce any or all clauses / sub-clauses under the 'Exit Management' clause due to administrative convenience or any other reasons as deemed fit.

30. Waiver

30.1. Except as otherwise specifically provided in the contract, no failure to exercise or delay in exercising, any right, power or privilege set forth in the contract will operate as a waiver of any right, power or privilege.

31. Changes in Contract Agreement

31.1. No modification of the terms and conditions of the Contract Agreement shall be made except by written amendments signed by the both CSP and RailTel.

Annexure - 01

EOI COVER LETTER

(On Organization Letter Head)

Bid Ref No. :

Date:

To,
General Manager (Mktg),
RailTel Corporation of India Limited,
Northern Region, 6th Floor, 3rd Block,
Delhi IT Park, Shastri Park, New Delhi-110053

Ref : EOI No. RailTel/EOI/NRMKTG/EB/DEF/2021-22/DC **Dt. 09th March 2022**

Dear Sir/Madam,

1. I, the undersigned, on behalf of M/s, having carefully examined the referred EOI offer to participate in the same, in full conformity with the said EOI and all the terms and conditions thereof, including corrigendum issued till last date of submission of EOI. It is also undertaken and submitted that we are in abidance of Clause 4 (from Clause 4.1 to Clause 4.10) of EOI.
2. I agree to abide by this Proposal, consisting of this letter, our Pre-qualification, Technical and Commercial Proposals, for a period of 210 days from the date fixed for submission of Proposals as stipulated in the EOI and modifications resulting from contract negotiations, and it shall remain binding upon us and may be accepted by you at any time before the expiration of that period.
3. I acknowledge that the Authority will be relying on the information provided in the Proposal and the documents accompanying the Proposal for selection of the Commercially Suitable Partner (CSP) for the aforesaid Service, and we certify that all information provided therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Proposal are true copies of their respective originals.

4. I undertake, if our Bid is accepted, to commence our services as per scope of work as specified in the contract document.
5. Until a formal Purchase Order or Contract is prepared and executed, this Bid and supplement / additional documents submitted (if any), together with your written acceptance thereof in your notification of award shall constitute a binding contract between us.

Signature of Authorised Signatory

Name

Designation

Annexure - 02

Local Content Compliance
(On Organization Letter Head)

Bid Ref No. :

Date:

To,

General Manager (Mktg),
RailTel Corporation of India Limited,
Northern Region, 6th Floor, 3rd Block,
Delhi IT Park, Shastri Park, New Delhi-110053

Ref : EOI No. RailTel/EOI/NRMKTG/EB/DEF/2021-22/DC **Dt. 09th March 2022**

Dear Sir/Ma'm,

I, the undersigned, on behalf of M/s , hereby submits that our technical solution for the 'Scope of Work' mentioned under the EoI document is in compliance of local content requirement and makes us equivalent to 'Class-I local supplier' / 'Class-II local supplier' (*mention whichever is applicable*) for the EoI under reference, as defined under the order No. P-45021/2/2017-PP(BE-II) dt. 04-June-2020 issued by Ministry of Commerce and Industry, Govt. of India.

I hereby certify that M/s fulfills all requirements in this regard and is eligible to be considered and for the submitted bid Local Content Percentage is % (*write in figures as well as in words*).

I hereby acknowledge that in the event of acceptance of bid of M/s on above certificate and if the certificate is found to be false at any stage, the false certificate would be a ground for immediate termination of contract and further legal action in accordance with the Law, including but not limited to the encashment of Bank Guarantee related to Empanelment and Performance Bank Guarantee (PBG), as available with RailTel, related to this EoI.

Signature of Authorised Signatory

Name

Designation

Annexure - 03

Bid Security Declaration

(On Organization Letter Head)

Bid Ref No. :

Date:

General Manager (Mktg),
RailTel Corporation of India Limited,
Northern Region, 6th Floor, 3rd Block,
Delhi IT Park, Shastri Park, New Delhi-110053

Ref : EOI No. RailTel/EOI/NRMKTG/EB/DEF/2021-22/DC **Dt. 09th March 2022**

Dear Sir,

I, the undersigned, on behalf of M/s , am aware that we have been exempted from submission of Bid Security / Earnest Money Deposit in lieu of this Bid Security Declaration. We understand and accept that if we withdraw our bid within bid validity period or if awarded the contract and being called upon to submit the Performance Guarantee / Performance Security and fail to submit the same within the stipulated time period mentioned in the EoI document or on being called upon to sign the contract agreement, fail to sign the same within the stipulated period mentioned in the EoI document, We the interested partner shall be banned from submission of bids in any Works / Service Tender issued by RailTel Corporation of India Ltd. for a period of 24 months from the date of such banning notification.

Signature of Authorised Signatory

Name
Designation

Annexure – 04**CHECKLIST OF DOCUMENTS FOR BID SUBMISSION**

S. No.	Document
1	EOI Cover Letter (<i>Annexure-01</i>)
2	Local Content Compliance & Percentage Amount (<i>Annexure-02</i>)
3	Bid Security Declaration (<i>Annexure-03</i>)
4	This EOI copy duly Signed and Stamped by the Authorised Signatory of Bidder

Note :

1. The technical bid should have a 'Index' at the starting and all pages of bid should be serially numbered and should be traceable as per the 'Index'.
2. All the submitted documents should be duly stamped and signed by the Authorized Signatory at each page.
3. The above checklist is indicative only. RailTel may ask for additional documents from the bidders, as per the requirement.

Annexure – 05**Commercial Bid***(On Organization Letter Head)*

Bid Ref No. :

Date:

To,

General Manager (Mktg),
 RailTel Corporation of India Limited,
 Northern Region, 6th Floor, 3rd Block,
 Delhi IT Park, Shastri Park, New Delhi-110053

Ref : EOI No. RailTel/EOI/NRMKTG/EB/DEF/2021-22/DC Dt. 09th March 2022

Name of the Bidder/ Bidding Firm / Company :								
PRICE SCHEDULE (DOMESTIC TENDERS – RATES ARE TO GIVEN IN RUPEES (INR) ONLY) (This BOQ template must not be modified/replaced by the bidder and the same should be uploaded after filling the relevant columns, else the bidder is liable to be rejected for this tender. Bidders are allowed to enter the Bidder Name and Values only)								
NUMBER #	TEXT #	NUMBER	TEXT #	NUMBER #	NUMBER	NUMBER #	NUMBER #	TEXT #
Sl. No.	Item Description	Quantity	Units	BASIC RATE In Figures To be entered by the Bidder in Rs. P	GST Amount in INR Rs. P	TOTAL AMOUNT Without Taxes col (13) = (4) x (7)	TOTAL AMOUNT With Taxes col (14) = sum (8) to (13) in	TOTAL AMOUNT In Words
1	2	3	4	5	6	7	8	9
1	Items:							
1.01	Supply, Installation and Commissioning for Enhancement of Data Centre & its networking infrastructure	1.00	Lot		0.00	0.00	0.00	INR Zero Only
Total in Figures						0.00	0.00	INR Zero Only
Quoted Rate in Words		INR Zero Only						

Signature of Authorised Signatory

Name

Designation

Note :

1. All prices should be mentioned in INR (₹).
2. The commercial bid should be neatly typed and any cutting, overwriting or manual entry may lead to rejection of bid.
3. The L-1 (CSP) will be decided based on lowest grand total price (Inclusive of All Taxes, Levies etc.).
4. In case of any calculation error, Grand Total Price (Inclusive of All Taxes, Levies etc.) mentioned in words will be considered for further reference purposes.
5. Each and every page of this commercial bid should be duly signed and stamped.
6. Commercial bid should be submitted in a sealed envelope other than containing technical bid. At the outer side of envelope, the envelope should be labelled as 'Commercial Bid'.
7. CSP needs to provide detailed Tax break-up of all line items and their corresponding HSN/SAC codes.

Annexure - 06

PROFORMA FOR PERFORMANCE BANK GUARANTEE

(On Stamp Paper of ₹ One Hundred)

To,

To,
General Manager (Mktg),
RailTel Corporation of India Limited,
Northern Region, 6th Floor, 3rd Block,
Delhi IT Park, Shastri Park, New Delhi-110053

Ref : EOI No. RailTel/EOI/NRMKTG/EB/DEF/2021-22/DC **Dt. 09th March 2022**

1. In consideration of the RailTel Corporation of India Limited (CIN : L64202DL2000GOI107905), having its registered office at Plate-A, 6th Floor, Office Block Tower-2, East Kidwai Nagar, New Delhi – 110023 (herein after called "RailTel") having agreed to exempt (CIN :) having its registered office at (hereinafter called "the said Contractor") from the demand, under the terms and conditions of Purchase Order No. dated made between RailTel and for (hereinafter called "the said Agreement") of security deposit for the due fulfilment by the said Contractor of the terms and condition contained in the said Agreement, or production of a Bank Guarantee for Rs. (Rs. Only). We (indicate the name and address and other particulars of the Bank) (hereinafter referred to as 'the Bank') at the request of contractor do hereby undertake to pay RailTel an amount not exceeding Rs. (Rs Only) against any loss or damage caused to or suffered or would be caused to or suffered by the RailTel by reason of any breach by the said Contractor of any of the terms or conditions contained in the said Agreement.

2. We, the Bank do hereby undertake to pay the amounts due and payable under this Guarantee without any demur, merely on demand from the RailTel stating that the amount is claimed is due by way of loss or damage by the said Contractor of any of terms or conditions contained in the said Agreement by reason of the Contractor's failure to perform the said Agreement. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs (Rs. Only).

3. We, the Bank undertake to pay the RailTel any money so demanded notwithstanding any dispute or disputes raised by the Contractor in any suit or proceedings pending before any court or Tribunal relating thereto our liability under this present being, absolute and unequivocal. The payment so made by us under this Bond shall be a valid discharge of our liability for payment there under and the Contractor shall have no claim against us for making such payment.

4. We, the Bank further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the RailTel under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till RailTel certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said contractor and accordingly discharges this Guarantee. Unless a demand or claim under the Guarantee is made on us in writing on or before We shall be discharged from all liability under this Guarantee thereafter.

5. We, the Bank further agree with the RailTel that the RailTel shall have fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the Agreement or to extend time of to postpone for any time or from time to time any of the powers exercisable by the RailTel against the said Contractor and to forbear or enforce any of the terms and conditions relating to the said Agreement and

we shall not be relieved from our liability by reason of any such variation, or extension to the said Contractor or for any forbearance, act or omission on the part of RailTel or any indulgence by the RailTel to the said Contractor or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have affect of so relieving us.

This Guarantee will not be discharge due to the change in the constitution of the Bank or the Contractor.

(..... indicate the name of Bank) lastly undertake not to revoke this Guarantee during its currency except with the previous consent of RailTel in writing.

Dated the Day of 2021 for (Name of Bank)

In the presence of Witnesses:

1. Signature With Date

Name

2. Signature With Date

Name

Encl : SFMS PBG Report

Annexure-7:

Non-Disclosure Undertaking (NDU) Format (On Rs. 100 Stamp Paper)

NON-DISCLOSURE UNDERTAKING

To,
General Manager (Mktg),
RailTel Corporation of India Limited,
Northern Region, 6th Floor, 3rd Block,
Delhi IT Park, Shastri Park, New Delhi-110053

Ref : EOI No. RailTel/EOI/NRMKTG/EB/DEF/2021-22/DC Dt. 09th March 2022

(Hereinafter referred to as "RailTel" or "Disclosing Party" "Tender Floating Agency")

We, _____ (CIN:), a company duly incorporated under the Companies Act, 1956 and having its registered office at _____ (hereinafter referred to as the "Bidder/Receiving Party", which expression shall, unless repugnant to or inconsistent with the context or meaning thereof mean and include its successors and permitted assigns), do here by solemnly declare and state as follows:-

1. We are the Bidders/Prospective Bidders for the EOI floated by RailTel for Implementation of Enhancement of Data Centre and its Networking infrastructure for end Customer Organization (CoR).
2. We are well aware that the said tender relates to for procurement of services and equipment for defence/high security installations. Hence, being a prospective bidder, we agree and acknowledge that it becomes imperative on our part to maintain utmost confidentiality in relation to said tender.
3. We undertake that any information relating to said tender (hereinafter referred to as the Confidential Information) which is or will be disclosed/ divulged by RailTel as a Disclosing Party to us, will be received and treated by us as strictly confidential and we shall not, without the prior written consent of the RailTel or as expressly permitted herein, disclose or make available to any other person such information.
4. We agree and undertake that we shall use any such information relating to said tender only for the purpose of bidding in the tender and will not use for any other purpose whatsoever.
5. We further undertake that we will disclose such Confidential Information to our employees or Representatives only on a strict "need to know" basis, for the sole purpose of preparation and submission of our Bid subject to such employee or representative being bound by the confidentiality obligation hereunder. We shall be responsible for any breach of the terms of this Undertaking by us or by any of our employees or Representatives.
6. We undertake that we shall exercise no lesser security or degree of care than we apply to our own Confidential Information of an equivalent nature, but in any event not less than the degree of care which a reasonable person with knowledge of the confidential nature of the information would exercise.

7. We shall ensure that all such Confidential Information is kept safe and secured at all times and is protected from unauthorised access, use, dissemination, copying, theft or leakage.
8. We undertake that we shall at no time, discuss with any person, other than as permitted under this Undertaking, the Confidential Information, or any other matter in connection with, or arising out of, the discussions or negotiations in relation to the Bid Process.
9. Without prejudice to any other rights or remedies that RailTel may have, we agree and acknowledge that in the event of a breach or threatened breach of the provisions of this Undertaking, money or damages may not be an adequate remedy for a breach of any of the provisions of this Undertaking and it is reasonable that the RailTel, in addition to any other relief or remedy that it may have, shall also be entitled to the injunctive relief, specific performance and other equitable relief for any threatened or actual breach of the provisions of this Undertaking.
10. In case any loss or damages are incurred by RailTel owing to any breach or threatened breach by us, we undertake to hold RailTel harmless and indemnify in full to RailTel for any such loss.
11. We hereby represents and warrants that we have the requisite power and authority to execute, deliver and perform its obligations under this Undertaking.
12. The terms and conditions of this Undertaking shall inure to the benefit of and be binding upon the successors and permitted assigns of the Parties. The obligations under this Undertaking shall not be assigned or otherwise transferred in whole or in part by either party without the prior written consent of the other parties.
13. The obligation relating to confidentiality under this undertaking shall survive even after award of the project and successful completion of project.

For and on behalf of Authorised Signatory

Annexure-8:

Non-Disclosure Agreement (NDA) Format

NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (this "Agreement") is made and entered into on this ____ day of ____, 2021 (the "Effective Date") at ____.

By and between

RailTel Corporation of India Limited, (CIN: L64202DL2000GOI107905), a Public Sector Undertaking under Ministry of Railways, Govt. of India, having its registered and corporate office at Plate-A, 6th Floor, Office Block, Tower -2, East Kidwai Nagar, New Delhi-110023 & Northern Region office at 6th Floor, 3rd Block, Delhi IT Park, Shastri Park, New Delhi - 110053, (hereinafter referred to as 'RailTel'), which expression shall unless repugnant to the context or meaning thereof, deem to mean and include its successors and its permitted assignees of the ONE PART,

And

_____) (CIN:____), a company duly incorporated under _____ the provisions of Companies Act, having its registered office at _____, (hereinafter referred to as '_____'), which expression shall unless repugnant to the context or meaning thereof, deem to mean and include its successors and its permitted assignees of OTHER PART

RailTel and _____ shall be individually referred to as "Party" and jointly as "Parties"

WHEREAS, RailTel and _____, each possesses confidential and proprietary information related to its business activities, including, but not limited to, that information designated as confidential or proprietary under Section 2 of this Agreement, as well as technical and non-technical information, patents, copyrights, trade secrets, know-how, financial data, design

details and specifications, engineering, business and marketing strategies and plans, forecasts or plans, pricing strategies, formulas, procurement requirements, vendor and customer lists, inventions, techniques, sketches, drawings, models, processes, apparatus, equipment, algorithms, software programs, software source documents, product designs and the like, and third party confidential information (collectively, the "Information");

WHEREAS, the Parties have initiated discussions regarding a possible business relationship for

WHEREAS, each Party accordingly desires to disclose certain Information (each Party, in such disclosing capacity, the "Disclosing Party") to the other Party (each Party, in such receiving capacity, the "Receiving Party") subject to the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the receipt of certain Information, and the mutual promises made in this Agreement, the Parties, intending to be legally bound, hereby agree as follows:

1. Permitted Use.

(a) Receiving Party shall:

- (i) hold all Information received from Disclosing Party in confidence;

- (ii) use such Information for the purpose of evaluating the possibility of entering into a commercial arrangement between the Parties concerning such Information; and
- (iii) restrict disclosure of such Information to those of Receiving Party's officers, directors, employees, affiliates, advisors, agents and consultants (collectively, the "Representatives") who the Receiving Party, in its reasonable discretion, deems need to know such Information, and are bound by the terms and conditions of (1) this Agreement, or (2) an agreement with terms and conditions substantially similar to those set forth in this Agreement.

(b) The restrictions on Receiving Party's use and disclosure of Information as set forth above shall not apply to any Information that Receiving Party can demonstrate:

- (i) is wholly and independently developed by Receiving Party without the use of Information of Disclosing Party;
- (ii) at the time of disclosure to Receiving Party, was either (A) in the public domain, or (B) known to Receiving Party;
- (iii) is approved for release by written authorization of Disclosing Party; or
- (iv) is disclosed in response to a valid order of a court or other governmental body in the India or any political subdivision thereof, but only to the extent of, and for the purposes set forth in, such order; provided, however, that Receiving Party shall first and immediately notify Disclosing Party in writing of the order and permit Disclosing Party to seek an appropriate protective order.

(c)Both parties further agree to exercise the same degree of care that it exercises to protect its own Confidential Information of a like nature from unauthorised disclosure, but in no event shall a less than reasonable degree of care be exercised by either party.

2. Designation.

- (a) Information shall be deemed confidential and proprietary and subject to the restrictions of this Agreement if, when provided in:

- (i) written or other tangible form, such Information is clearly marked as proprietary or confidential when disclosed to Receiving Party; or
 - (ii) oral or other intangible form, such Information is identified as confidential or proprietary at the time of disclosure.
- 3. **Cooperation.** Receiving Party will immediately give notice to Disclosing Party of any unauthorized use or disclosure of the Information of Disclosing Party.
- 4. **Ownership of Information.** All Information remains the property of Disclosing Party and no license or other rights to such Information is granted or implied hereby. Notwithstanding the foregoing, Disclosing Party understands that Receiving Party may currently or in the future be developing information internally, or receiving information from other parties that may be similar to Information of the Disclosing Party. Notwithstanding anything to the contrary, nothing in this Agreement will be construed as a representation or inference that Receiving Party will not develop products, or have products developed for it, that, without violation of this Agreement, compete with the products or systems contemplated by Disclosing Party's Information.

5. **No Obligation.** Neither this Agreement nor the disclosure or receipt of Information hereunder shall be construed as creating any obligation of a Party to furnish Information to the other Party or to enter into any agreement, venture or relationship with the other Party.

6. **Return or Destruction of Information.**

(a) All Information shall remain the sole property of Disclosing Party and all materials containing any such Information (including all copies made by Receiving Party) and its Representatives shall be returned or destroyed by Receiving Party immediately upon the earlier of:

- (i) termination of this Agreement;
- (ii) expiration of this Agreement; or
- (iii) Receiving Party's determination that it no longer has a need for such Information.

(b) Upon request of Disclosing Party, Receiving Party shall certify in writing that all Information received by Receiving Party (including all copies thereof) and all materials containing such Information (including all copies thereof) have been destroyed.

7. **Injunctive Relief:** Without prejudice to any other rights or remedies that a party may have, each party acknowledges and agrees that damages alone may not be an adequate remedy for any breach of this Agreement, and that a party shall be entitled to seek the remedies of injunction, specific performance and/or any other equitable relief for any threatened or actual breach of this Agreement

8. **Notice.**

(a) Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows, with notice deemed given as indicated:

- (i) by personal delivery, when delivered personally;
- (ii) by overnight courier, upon written verification of receipt; or
- (iii) by certified or registered mail with return receipt requested, upon verification of receipt.

(b) Notice shall be sent to the following addresses or such other address as either Party specifies in writing.

RailTel Corporation of India limited:

Attn:

Address:

Phone:

Email.:

Attn:

Address:

Phone:

Email

9. Term, Termination and Survivability.

- (a) Unless terminated earlier in accordance with the provisions of this agreement, this Agreement shall be in full force and effect for a period of years from the effective date hereof.
- (b) Each party reserves the right in its sole and absolute discretion to terminate this Agreement by giving the other party not less than 30 days' written notice of such termination.
- (c) Notwithstanding the foregoing clause 9(a) and 9 (b) , Receiving Party agrees that its obligations, shall:
 - (i) In respect to Information provided to it during the Term of this agreement, shall survive and continue even after the expiry of the term or termination of this agreement; and
 - (ii) not apply to any materials or information disclosed to it thereafter.

10. Governing Law and Jurisdiction. This Agreement shall be governed in all respects solely and exclusively by the laws of India without regard to its conflicts of law principles. The Parties hereto expressly consent and submit themselves to the jurisdiction of the courts of New Delhi.

11. Counterparts. This agreement is executed in duplicate, each of which shall be deemed to be the original and both when taken together shall be deemed to form a single agreement

12. No Definitive Transaction. The Parties hereto understand and agree that no contract or agreement with respect to any aspect of a potential transaction between the Parties shall be deemed to exist unless and until a definitive written agreement providing for such aspect of the transaction has been executed by a duly authorized representative of each Party and duly delivered to the other Party (a "Final Agreement"), and the Parties hereby waive, in advance, any claims in connection with a possible transaction unless and until the Parties have entered into a Final Agreement.

13. Settlement of Disputes:

- (a) The parties shall, at the first instance, attempt to resolve through good faith negotiation and consultation, any difference, conflict or question arising between the parties hereto relating to or concerning or arising out of or in connection with this agreement, and such negotiation or

consultation shall begin promptly after a Party has delivered to another Party a written request for such consultation.

(b) In the event of any dispute, difference, conflict or question arising between the parties hereto, relating to or concerning or arising out of or in connection with this agreement, is not settled through good faith negotiation or consultation, the same shall be referred to arbitration by a sole arbitrator.

14. The sole arbitrator shall be appointed by CMD/RailTel out of the panel of independent arbitrators maintained by RailTel, having expertise in their respective domains. The seat and the venue of arbitration shall be New Delhi. The arbitration proceedings shall be in accordance with the provision of the Arbitration and Conciliation Act 1996 and any other statutory amendments or modifications thereof. The decision of arbitrator shall be final and binding on both parties. The arbitration proceedings shall be conducted in English Language. The fees and cost of arbitration shall be borne equally between the part

15. CONFIDENTIALITY OF NEGOTIATIONS

Without the Disclosing Party's prior written consent, the Receiving Party shall not disclose to any Person who is not a Representative of the Receiving Party the fact that Confidential Information has been made available to the Receiving Party or that it has inspected any portion of the Confidential Information or that discussions between the Parties may be taking place.

16. REPRESENTATION

The Receiving Party acknowledges that the Disclosing Party makes no representation or warranty as to the accuracy or completeness of any of the Confidential Information furnished by or on its behalf. Nothing in this clause operates to limit or exclude any liability for fraudulent misrepresentation.

17. ASSIGNMENT

Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned, in whole or in part, by operation of law or otherwise by any of the Parties without the prior written consent of each of the other Parties. Any purported assignment without such consent shall be

void. Subject to the preceding sentences, this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the Parties and their respective successors and assigns.

18. EMPLOYEES AND OTHERS

Each Party shall advise its Representatives, contractors, subcontractors and licensees, and shall require its Affiliates to advise their Representatives, contractors, subcontractors and licensees, of the obligations of confidentiality and non-use under this Agreement, and shall be responsible for ensuring compliance by its and its Affiliates' Representatives, contractors, subcontractors and licensees with such obligations. In addition, each Party shall require all persons and entities who are not employees of a Party and who are provided access to the Confidential Information, to execute confidentiality or non-disclosure agreements containing provisions no less stringent than those set forth in this Agreement. Each Party shall promptly notify the other Party in writing upon learning of any unauthorized disclosure or use of the Confidential Information by such persons or entities.

19. NO LICENSE

Nothing in this Agreement is intended to grant any rights to under any patent, copyright, or other intellectual property right of the Disclosing Party, nor will this Agreement grant the Receiving Party any rights in or to the Confidential Information of the Disclosing Party, except as expressly set forth in this Agreement.

20. RELATIONSHIP BETWEEN PARTIES:

Nothing in this Agreement or in any matter or any arrangement contemplated by it is intended to constitute a partnership, association, joint venture, fiduciary relationship or other cooperative entity between the parties for any purpose whatsoever. Neither party has any power or authority to bind the other party or impose any obligations on it and neither party shall purport to do so or hold itself out as capable of doing so.

21. UNPULISHED PRICE SENSITIVE INFORMATION (UPSI)

_____ agrees and acknowledges that _____, its Partners, employees, representatives etc., by virtue of being associated with RailTel and being in frequent communication with RailTel and its

employees, shall be deemed to be "Connected Persons" within the meaning of SEBI (Prohibition of Insider Trading) Regulations, 2015 and shall be bound by the said regulations while dealing with any confidential and/ or price sensitive information of RailTel._____ shall always and at all times comply with the obligations and restrictions contained in the said regulations. In terms of the said regulations,_____shall abide by the restriction on communication, providing or allowing access to any Unpublished Price Sensitive Information (UPSI) relating to RailTel as well as restriction on trading of its stock while holding such Unpublished Price Sensitive Information relating to RailTel

22. MISCELLANEOUS.

This Agreement constitutes the entire understanding among the Parties as to the Information and supersedes all prior discussions between them relating thereto. No amendment or modification of this Agreement shall be valid or binding on the Parties unless made in writing and signed on behalf of each Party by its authorized representative. The failure or delay of any Party to enforce at any time any provision of this Agreement shall not constitute a waiver of such Party's right thereafter to enforce each and every provision of this Agreement. In the event that any of the terms, conditions or provisions of this Agreement are held to be illegal, unenforceable or invalid by any court of competent jurisdiction, the remaining terms, conditions or provisions hereof shall remain in full force and effect. The rights, remedies and obligations set forth herein are in addition to, and not in substitution of, any rights, remedies or obligations which may be granted or imposed under law or in equity.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date set forth above.

: By — Name:	RailTel Corporation of India Limited: By — Name:
---------------------------------------	--

Title:

Title:

Witnesses:

Annexure 9**Technical Compliance**

Business Associates are requested to mention the details of compliance of technical solution proposed.

S. No	Scope Item	Specification as per technical Document	Proposed OEM Name	MAF Provided (Yes/No)	Compliance sheet
A	B	C	D	E	F
1	To be filled by Bidder As per Technical Document Physical Copy	To be filled by Bidder As per Technical Document Physical Copy	To be filled by Bidder	To be filled by Bidder	To be filled by Bidder
2	To be filled by Bidder	To be filled by Bidder	To be filled by Bidder	To be filled by Bidder	To be filled by Bidder

Annexure 10**Pre Bid Agreement**

(To be executed in presence of Public notary on non-judicial stamp paper of the value of Rs. 100/-. The stamp paper has to be in the name of the BA)

This Pre-Bid Agreement (the "**Agreement**") is made at New Delhi on this _____ Day of _____ (month) 2022.

BETWEEN

M/s. RailTel Corporation Of India Limited, (CIN: L64202DL2000GOI107905) a company registered under the Companies Act 1956, having its registered and corporate office at Plate-A, 6th Floor, Office Block, Tower-2, East Kidwai Nagar, New Delhi India – 110 023 and Northern Regional office at 6th Floor, 3rd Block, Delhi IT Park, Shashtri Park, New Delhi - 110053 (hereinafter referred to as "**RailTel**" which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assigns) of the **FIRST PART.**

AND

M/s. XXXX, (CIN: _____) a company registered under the Companies Act 1956, having its registered office at _____ and its Corporate Office located at _____, (hereinafter referred to as "**XXXX**" which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assigns) of the **SECOND PART.**

RailTel and _____ shall be hereinafter individually referred to as "**Party**" and collectively as "**Parties.**"

WHEREAS,

- A) RailTel is a "Mini Ratna (Category-I)" CPSU of Ministry of Railways, having exclusive right of way along Indian Railways and has created an OFC backbone and associated transport and network infrastructure to provide carrier class telecom services. RailTel has Unified License issued by DoT to provide a range of telecom services. RailTel also has two tier III certified data centres at Secundrabad and Gurugram. RailTel has created a slew of digital services like cloud, hosting, hosted Video Conferencing service, Aadhar Services, Content delivery platform, WiFi

as a service etc. RailTel has strong capabilities in managing telecom infrastructure, MPLS network infrastructure, data centre services like IaaS (Infrastructure as a Service) and PaaS (Platform as a Service).

B) _____ (DETAILS OF SECOND PART)

C) RailTel had floated an **EOI No:** _____
dated _____ **pursuant to the RFP floated by End Customer for**
" _____
for End Customer Organization for agreed Scope of Work"(hereinafter referred as "The
said work/project/tender"), and subsequently, based on the offer submitted by M/s XXXX
 towards the RailTel's EOI, M/s XXXX has been selected by RailTel as Business Associate for the
 said Project.

D) RailTel is in the process of participating in the tender issued by end customer, complete details of which have deliberately not been shared with XXXX and XXXX has waived its right to get the RFP document of end customer owing to confidentiality concern raised by the end customer. However, a limited scope of work on 'need to know basis' and as detailed in clause 1.7 below, which will be carried out by XXXX has been shared with XXXX and based on the representation of "XXXX" that "XXXX" has read the said limited Scope of Work and has understood the contents thereof and that "XXXX" has sufficient experience to execute the said limited and defined scope of work, the Parties have mutually decided to form a " Business association" wherein RailTel shall act as the "Bidder" and "XXXX" shall act as the "business associate" in terms of the said Tender and in accordance to the terms agreed hereunder;

E) RailTel shall submit Rupees YYYY as BG against pre integrity pact at the time of submission of bid as an Integrity Pact bank guarantee to end customer and accordingly "XXXX" shall submit Rupees ZZZZ as BG of pre integrity pact on back to back

basis to RailTel before final submission of the said bid to end customer. ***(This is applicable on cases to case basis as per CoR requirement. May please read in conjunction of the current RFP.)***

F) Party hereby acknowledges that RailTel has received Rs. _____ /- (Rs. _____) from M/s XXXX as per the Terms and conditions of EOI no. _____ dated _____.

G) The Parties are thus entering into this Agreement to record the terms and conditions of their understanding and the matters connected therewith.

RailTel has agreed to extend all the necessary and required support to "XXXX" during the entire contract period.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein it is hereby agreed by and between the Parties hereto as under:

1. SCOPE OF CO-OPERATION

- 1.1. Parties have agreed to form a "business association" to co-operate with each other on an exclusive basis with respect to execution of the said Project.
- 1.2. It has been further agreed between the Parties that Parties shall not bid individually for the said Project nor shall they enter into any arrangement with other parties for the purpose of bidding for the said Project during the validity of this Agreement.
- 1.3. The Parties also agree that the terms of the said EOI for limited and defined scope of work along with the Corrigendum's issued thereafter shall apply mutatis-mutandis to this Agreement.
- 1.4. The Parties further agree that they shall, enter into a 'Definitive Agreement' containing elaborate terms and conditions, role and responsibilities and respective scope of work of this Agreement after declaration of RailTel as the successful bidder of the said Project.
- 1.5. RailTel shall submit the PBG amounting Rs. XXXXX, earnest money deposit / EMD declaration (whichever is applicable) and performance bank guarantee to **End customer** and accordingly

"XXXX" shall submit to RailTel, BG amounting to Rs._____ as the earnest money deposit. Further, XXXX shall also pay the performance bank guarantee in proportionate to the extent of its defined scope of work.

- 1.6. RailTel may further retain some portion of the work mentioned in the end organization's RFP, where RailTel has competence so that overall proposal becomes most winnable proposal.

XXXX agrees, undertakes and acknowledges that following shall be Scope of Work of XXXX out of the total project work.:

2. Technical Terms – As per CoR document

3. **TERM AND TERMINATION**

- 3.1. This Agreement shall come into force as of the date of signing and shall continue to be in full force and effect till the complete discharge of all obligations, concerning the carrying out of the said Project, except terminated earlier by the Parties in terms of this Agreement or in terms of the said project, whichever is applicable.
- 3.2. This Agreement can be terminated by either Parties forthwith in the event of happening of the following events:
 - (a) End customer announces or notifies the cancellation of the said Project and / or withdrawing the said RFP.
 - (b) The receipt of an official communication that End customer chooses not to proceed with RailTel for the said Project or RailTel is not short listed by End customer.
 - (c) Material breach of any of the terms and conditions of this Agreement by either of the Parties and the same is not rectified by the defaulting Party beyond 15 (fifteen) days (or a reasonable time period as mentioned under the notice issued by the other Party) from the date of receipt of notice from the other Party to cure the said breach.
- 3.3. Parties agree and understand that as of the execution of this Agreement they are contractually bound and obligated to perform the services, obligations and the scope of work entrusted, should RailTel be declared as the successful bidder of the said Project. Any Party shall not withdraw its participation subsequent to execution of this Agreement, at any point in time except in case of material breach of any of the terms of the Agreement.
- 3.4. In case "XXXX" breach the terms of Agreement i.e. defaulting party in such case the balance unsupplied quantity or service shall be completed by RailTel i.e. non-defaulting party and cost for completion of that balance unsupplied quantity or service of such defaulting party shall be executed by RailTel at the risk and cost of such defaulting party.

4. **Liability:**

It is understood that the parties are entering into this pre-bid teaming agreement for requirement of submission of bid against the RFP floated by end customer for Implementation of Network Security System and Integration for end Customer Organization. Parties acknowledge and agree that "XXXX" shall be completely liable for the successful execution of this project, in relation to its defined scope of work (as detailed in clause 1.7 above), fully complying the end customer requirements. Accordingly, it is agreed that notwithstanding anything contained in the RFP document, "XXXX" shall be liable to RailTel with regard to its obligations and liability to complete the agreed and defined scope of work as detailed in clause 1.7 above..

5. **EXCLUSIVITY**

Parties agree to co-operate with each other for the purpose of the said Project on an exclusive basis with respect to applying for, submitting and execution of the said Project including providing of technical demo, proof of concept for the agreed and defined scope of work.

6. **PAYMENT TERMS**

The payment terms between the parties shall be only on receipt of payment from end customer.

7. **TAXES**

Parties agrees that they will comply with the Indian Income Tax Act in force from time to time and pay Indian Income Tax, as may be imposed / levied on them by the Indian Income Tax Authorities, for the payments received by them for the Project under this agreement and any other taxes, cess, surcharge, etc. for their respective scope of works;

8. **INDEMNIFICATION**

8.1 Parties agree to and undertake to indemnify and hold each other, its officers, directors, agents and employees harmless, from and against any and all claims, demands, causes of action, losses, damages, costs and expenses (including attorney's reasonable fees, costs of investigation and defence) arising out of or resulting from any claim, action or other proceeding (including any proceeding by any of the indemnifying party's employees, agents or contractors) based upon:

- i. any breach or contravention of any of the terms, conditions, covenants of this Agreement by the Party;
- ii. Unethical business practices;
- iii. any acts or omission of the Party and/ or any of its employees, agents or contractors, and the liability for damages to property arising from or out of party operations in connection with the performance of this agreement;
- iv. any claim for taxes that might arise or be imposed due to this performance of Services hereunder;
- v. any representation or warranty or information furnished by the Party being found to be false;

- vi. Parties failure to pay all applicable compensation to its respective personnel;
- vii. death or personal injury to any person;
- viii. destruction or damage to any property by acts or omissions of either Party, its representatives or personnel;
- ix. any violation/non-compliance by the Party with any applicable laws governmental regulations or orders;
- x. any third party liability;
- xi improper handling or misuse of the Confidential Information of the Party(ies) by the Party

8.2 XXXX shall be liable to all risks and consequences (including the risk of payments) suffered in the performance of services under the Project and undertakes to indemnify RailTel from and against any non payments (of RailTel's share payable to RailTel), recoveries and claim from End Customer or any other cost or losses incurred due to default/non performance on part of XXXX.

9. **COMPLIANCES TO STATUTORY OBLIGATIONS**

- 9.1. Parties shall also obtain and keep in place necessary insurance policies, mediclaim policies, group insurance schemes of adequate value to cover their workmen, supervisors, etc. with regard to any accidents, injury or the liability under the Employee Compensation Act.
- 9.2. Parties shall observe and be responsible for the compliance of all labour laws (including labour cess) as per government notifications and shall maintain necessary records for the same and shall submit the same to RailTel when so required.
- 9.3. Parties shall duly maintain all records / registers required to be maintained by them under various labour laws mentioned above and shall produce the same before the concerned Statutory Authorities whenever required and called upon to do so.

10. **LEGAL STATUS**

This Agreement constitutes a contractual relationship and shall relate solely to the Project and shall not extend to other activities or be construed to create a corporation, body corporate, partnership or any other form of legal entity.

11. **REPRESENTATIONS AND COVENANTS**

- 11.1. Each Party represents and warrants to the other Party as follows:
 - 11.1.1. That it has full capacity, power and authority and has obtained all requisite consents and approvals to, enter into and to observe and perform this Agreement and to consummate the transactions contemplated hereunder. Each of the Persons / personnel executing this Agreement on behalf of the each of the Parties have full capacity and authority to sign and execute this Agreement on behalf of the respective Parties;

- 11.1.2. The execution, delivery and consummation of, and the performance by it, of this Agreement shall not conflict with, violate, result in or constitute a breach of or a default under, (a) any contract by which it or any of its assets or properties, are bound or affected, and/or (b) its constitutional documents;
- 11.1.3. This Agreement constitutes its legal, valid and binding obligations, enforceable against it, in accordance with their terms under Applicable Statutory Law(s);
- 11.1.4. It has the right, authority and title to execute this Agreement;

12. **SUBCONTRACTING BETWEEN PARTIES**

If a Party subcontracts certain supplies or services pertaining to its scope of work to the other party, then the resulting relationship between such parties shall be governed by a separate subcontract. This Agreement shall not in any way be affected thereby except as stated otherwise in this Agreement

13. **GOVERNING LAW AND JURISDICTION**

The construction, validity and performance of this Agreement shall be governed in all respects by the Laws of India. The Parties hereby submit to the exclusive jurisdiction of the Indian courts at Delhi only.

1. GOOD FAITH NEGOTIATION AND DISPUTE RESOLUTION

The parties shall, at the first instance, attempt to resolve through good faith negotiation and consultation, any difference, conflict or question arising between the parties hereto relating to or concerning or arising out of or in connection with this agreement, and such negotiation or consultation shall begin promptly after a Party has delivered to another Party a written request for such consultation.

In the event of any dispute, difference, conflict or question arising between the parties hereto, relating to or concerning or arising out of or in connection with this agreement, is not settled through good faith negotiation or consultation, the same shall be referred to arbitration by a sole arbitrator.

The sole arbitrator shall be appointed by CMD/RailTel out of the panel of independent arbitrators maintained by RailTel, having expertise in their respective domains. The seat and the venue of arbitration shall be New Delhi. The arbitration proceedings shall be in accordance with the provision of the Arbitration and Conciliation Act 1996 and any other statutory amendments or modifications thereof. The decision of arbitrator shall be final and binding on both parties. The arbitration proceedings shall be conducted in English Language. The fees and cost of arbitration shall be borne equally between the parties.

15. **FORCE MAJEURE**

"Force Majeure Event" shall mean any event beyond the reasonable control of the affected Party including acts of God, fires, earthquakes, strikes, pandemic, epidemics, lock down, and labor disputes, acts of war or terrorism, civil unrest, economic and financial sanctions, or acts or omissions of any Governmental Authority occurring on or after the Signature Date.

No Party shall be liable to the other if, and to the extent, that the performance or delay in performance of any of its obligations under this Agreement is prevented, restricted, delayed or interfered with, due to a Force Majeure Event.

The Party affected by Force Majeure Event shall promptly inform the other Party in writing and shall furnish within 30 (thirty) days thereafter, sufficient proof of the occurrence and expected duration of such Force Majeure Event. The Party affected by Force Majeure Event shall also use all reasonable endeavours to mitigate the negative effects of such Force Majeure Event on such Party's ability to perform its contractual obligations. In the event of a Force Majeure Event, the Parties shall immediately consult with each other in order to find an equitable solution and shall use all reasonable endeavours to minimise the consequences of such Force Majeure Event.

The occurrence of a Force Majeure Event shall however, not relieve a Party of any obligation to pay any sum due under this Agreement prior to the occurrence of the Force Majeure Event.

If the Force Majeure lasts for more than 6 (six) months, the Parties may mutually decide in writing on the future course of action with respect to this Agreement.

16. **INTELLECTUAL PROPERTY RIGHTS**

16.1. Each Party shall remain the sole owner of all industrial or intellectual property rights, Technical Data, Know-How, designs, specifications and the like, generated or acquired before the signature, or beyond the scope of this agreement.

16.2. Each Party shall remain the sole owner of all industrial or intellectual property rights, technical data, know-how, design specifications and the like generated solely by that Party during the course of the performance of this agreement and shall not be free to use it by the other party and if the other party uses that intellectual property rights prior permission shall be taken with paying necessary fees for such rights.

16.3. In case of joint development, the work-share and associated ownership of intellectual property of each Party shall be mutually agreed upon and defined in advance in the definitive agreement for the specific program. However, should any invention be jointly made by the Parties in the performance of this agreement, without neither Party being in a position to reasonably claim the ownership of said intellectual property right, the said right shall be jointly owned by the Parties and the corresponding measures of protection for both Parties of the said right as may be practicable shall be mutually agreed by both Parties and cost for such registration of such right shall be borne by the parties proportionately as per the ownership of the rights.

16.4 As on date, Parties confirm that there are no infringements of any Intellectual Property Rights of the products contemplated under this agreement, in accordance with the laws prevailing in the country.

16.5. The Parties undertake and confirm that the Technology / Knowhow / Design owned by each of them and intended to be put into use for execution of various Projects pursuant to this agreement has been originally developed by each of such Parties. The Parties are entitled to all the Intellectual Property Rights in Technology / Knowhow / Design intended to be put into use for execution of various Projects and no third-party Intellectual Property Rights have been put into use either in their original or modified form without proper authorisation of such third party. The Parties further vouchsafes that the foregoing undertaking is actuated by truth and accuracy and no misrepresentation is being put into use for inducing each other to enter into this agreement.

17. **CONFIDENTIALITY**

17.1. During the term of this agreement, either party may receive or have access to technical information, as well as information about product plans and strategies, promotions, customers and related non-technical business information which the disclosing party considers to be confidential ("Confidential Information as per RFP tender document"). In the event Confidential Information is to be disclosed, the Confidential Information must be marked as confidential at the time of disclosure, or if disclosed orally but stated to be confidential, and be designated as confidential in writing by the disclosing party summarizing the Confidential Information disclosed and sent to the receiving party within thirty (30) days after such oral disclosure.

17.2. Confidential Information may be used by the receiving party only with respect to the performance of its obligations under this Agreement, and only by those employees of the receiving party and its subcontractors who have a need to know such information for purposes related to this Agreement, provided that such subcontractors have signed separate agreements containing substantially similar confidentiality provisions. The receiving party must protect the Confidential Information of the disclosing party by using the same degree of care to prevent the unauthorized use, dissemination or publication of such Confidential Information, as the receiving party uses to protect its own confidential information of like nature.

17.3. The obligations is not applicable to any information which is:

17.3.1. Already known by the receiving party prior to disclosure;

17.3.2. Publicly available through no fault of the receiving party;

17.3.3. Rightfully received from a third party without being responsible for its confidentiality;

17.3.4. Disclosed by the disclosing party to a third party without being responsible for its Confidentiality on such third party;

17.3.5. Independently developed by the receiving party prior to or independent of the disclosure;

17.3.6. Disclosed under operation of law;

17.3.7. Disclosed by the receiving party with the disclosing party's prior written approval.

17.4 XXXX agrees and acknowledges that XXXX, its Partners, employees, representatives etc., by virtue of being associated with RailTel and being in frequent communication with RailTel and its employees, shall be deemed to be "Connected Persons" within the meaning of SEBI

(Prohibition of Insider Trading) Regulations, 2015 and shall be bound by the said regulations while dealing with any confidential and/ or price sensitive information of RailTel. XXXX shall always and at all times comply with the obligations and restrictions contained in the said regulations. In terms of the said regulations, XXXX shall abide by the restriction on communication, providing or allowing access to any Unpublished Price Sensitive Information (UPSI) relating to RailTel as well as restriction on trading of its stock while holding such Unpublished Price Sensitive Information relating to RailTel

17.5 Notwithstanding anything contained in this agreement, XXXX undertakes, agrees and acknowledges that being RailTel's Business Associate, XXXX shall maintain utmost confidentiality in relation to said Project. XXXX further, undertakes that any information relating to said Project which is or will be disclosed/ divulged by RailTel on need to know basis, will be received and treated by XXXX as strictly confidential and XXXX shall not, without the prior written consent of the RailTel or as expressly permitted herein, disclose or make available to any other person such information.

18. **NOTICES**

Notices, writings and other communications under this Agreement may be delivered by hand, by registered mail, by courier services or facsimile to the addresses as set out below:

To RailTel Corporation Of India Limited

To: RailTel Corporation of India Ltd
 Kind Attn: Executive Director / Northern Region
 Address: 6th Floor, 3rd Block, Delhi IT Park, New Delhi - 110053
 Tel No.: +91-11-22185933/22185934
 Email: ednr@railtelindia.com

To XXXX

To: XXXX
 Kind Attn: _____
 Address: _____
 Mob. No.: _____
 Email: _____

19. **AMENDMENT**

No amendment or modification or waiver of any provision of these presents, nor consent to any departure from the performance of any obligations contained herein, by any of the Parties hereto, shall in any event be valid and effective unless the same is in writing and signed by the Parties or their duly authorized representative especially empowered in this behalf and the

same shall be effective only in respect of the specific instance and for the specific purpose for which it is given.

20. **PRIOR UNDERSTANDING**

This Agreement contains the entire Agreement between the Parties to this Agreement with respect to the subject matter of the Agreement, is intended as a final expression of such Parties' agreement with respect to such terms as are included in this Agreement is intended as a complete and exclusive statement of the terms of such agreement, and supersedes all negotiations, stipulations, understanding, Agreements, representations and warranties if any, with respect to such subject matter, which precede or accompany the execution of this Agreement.

21. **GENERAL**

21.1. **Binding Effect:**

This Agreement shall be binding upon and inure to the benefit of the Parties here to and their respective legal successors.

21.2. **Counterparts:**

This Agreement may be executed simultaneously in 2 (two) counterparts, each of which shall be deemed to be original and all of which together shall constitute the same Agreement.

21.3. **Non-Partnership:**

21.3.1. This Agreement shall be on a principal-to-principal basis and shall not create any principal-agent relationship between the Parties.

21.3.2. Nothing in this Agreement shall be deemed to constitute a partnership or joint venture between the Parties or otherwise entitle either Party to have an authority to bind the other Party for any purpose.

21.4. **Severability:**

In the event any provision of this agreement is held invalid or un-enforceable by a court of competent jurisdiction, such provision shall be considered separately and such determination shall not invalidate the other provisions of this agreement and annexure/s which will be in full force and effect.

21.5. **Waiver:**

A failure by any Party to exercise or enforce any rights conferred upon it by this Agreement shall not be deemed to be a waiver of any such rights or operate so as to bar the exercise or enforcement thereof at any subsequent time.

21.6. **Time is of essence:**

Time is the essence of this agreement and the Parties herein agree and acknowledge to abide by the same.

22. **Miscellaneous**

22.1. No Party to this agreement will have any rights or obligations arising from or in relation to this agreement in excess of those rights and obligations expressly declared herein.

22.2. No Party to this agreement is entitled to sell, assign or otherwise transfer any of its rights and/or obligations arising from or in relation to this agreement to any third party, without the prior written consent of the other Party of this agreement.

22.3. Each Party shall be solely responsible for its own actions or failures to act and for its own commitments and undertakings. Neither Party shall present itself as the representative or agent of the other Party, nor shall it have the power or the authority to commit the other Party, unless it receives the other Party's prior written consent.

22.4. No release shall be made by any Party to the news media or the general public relating to this agreement and/or the subject matter thereof without prior written approval of the other Party..

22.5. During the term of this agreement, each party shall refrain from taking any action or attempt to take any action with the intent of impairing or causing prejudice to the business relationship, whether existing or prospective that subsists between the other party and its customers and business partners. Each party shall also desist from inducing or influencing or attempting to induce or influence any customer or business partner, whether existing or prospective of the other party, resulting into prejudice or detriment to business prospects of the other party.

Furthermore, Parties shall not compete with or cause detriment to the business prospects of each other by making use of confidential information, whether in its embodied or disembodied form, shared pursuant to this agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

For RailTel Corporation Of India Limited
Authorised Signatory

For XXXX Limited
Authorised Signatory

Name:
Designation:

Name:
Designation:

In Presence of witness:

Signature:

Signature:

Name:

Name:

Address:

Address

The following eminent personalities have been appointed as Independent External Monitors(IEMs) by RailTel for effective implementation & monitoring of Integrity Pact:

Name	Contact
Smt. Vijaya Kanth, IRAS (Retd)	Add: Sterling Manor, Flat F, No. 5/6, Flat F, Sterling Manor, 3 rd Cross Street, Sterling Road, Nungambakkam, Chennai-600034 E-Mail: vkanthmrl2003@yahoo.com M.No. +91-9445868314
Shri. Vinayaka Rao Turaga, IOFS (Retd)	Add: TURAGA House, Anne Baburao Colony, Penamaluru Vijaywada, Andhra Pradesh-521139 E-Mail: tvrao56@gmail.com M.No. +91-9007723424

Date: 02.12.2019

Annexure-A

GUIDELINES FOR INDIAN AGENTS OF FOREIGN SUPPLIERS

- 1.0 There shall be compulsory registration of agents for all global (Open) Tender and Limited Tender. An agent who is not registered with RailTel Units shall apply for registration in the prescribed Application -Form.
- 1.1 Registered agents will file an authenticated Photostat copy duly attested by a Notary Public/ Original certificate of the principal confirming the agency agreement and giving the status being enjoyed by the agent and the commission/ remuneration/ retainer-ship being paid by the principal to the agent before the placement of order by RailTel.
- 1.2 Wherever the Indian representatives have communicated on behalf of their principals and the foreign parties have stated that they are not paying any commission to the Indian agents, and the Indian representative is working on the basis of salary or as retainer, a written declaration to this effect should be submitted by the party (i.e. Principal) before finalizing the order.
- 2.0 DISCLOSURE OF PARTICULARS OF AGENTS/ REPRESENTATIVES IN INDIA, IF ANY.
- 2.1 Tenderers of Foreign nationality shall furnish the following details in their offer:
 - 2.1.1 The name and address of the agents/representatives in India, if any and the extent of authorization and authority given to commit the Principals. In case the agent/representative be a foreign Company, it shall be confirmed whether it is real substantial Company and details of the same shall be furnished.
 - 2.1.2 The amount of commission/ remuneration included in the quoted price(s) for such agents/representatives in India.
 - 2.1.3 Confirmation of the Tenderer that the commission/ remuneration if any, payable to his agents/ representatives in India, may be paid by RAILTEL in Indian Rupees only.
- 2.2 Tenderers of Indian Nationality shall furnish the following details in their offers:
 - 2.2.1 The name and address of the foreign principals indicating their nationality as well as their status, i.e, whether manufacturer or agents of manufacturer holding the Letter of Authority of the Principal specifically authorizing the agent to make an offer in India in response to tender either directly or through

the agents/representatives.

- 2.2.2 The amount of commission /remuneration included in the price(s) quoted by the tenderer for himself.
- 2.2.3 Confirmation of the foreign principals of the Tenderer that the commission/ remuneration, if any, reserved for the Tenderer in the quoted price(s), may be paid by RAILTEL in India in equivalent Indian Rupees on satisfactory completion of the Project or supplies of Stores and Spares in case of operation items.
- 2.3 In either case, in the event of contract materializing, the terms of payment will provide for payment of the commission/ remuneration, if any payable to the agents/representatives in India in Indian Rupees on expiry of 90 days after the discharge of the obligations under the contract.
- 2.4 Failure to furnish correct and detailed information as called for in paragraph 2.0 above will render the concerned tender liable to rejection or in the event of a contract materializing, the same liable to termination by RAILTEL. Besides this there would be a penalty of banning business dealings with RAILTEL or damage or payment of a named sum.

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Annexure -B

GUIDELINES ON BANNING OF BUSINESS DEALINGS

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1. Introduction

- 1.1 RailTel Corporation of India Ltd (RAILTEL), being a Public Sector Enterprise, under the administrative control of the Ministry of Railways and therefore being an authority deemed to be the state within the meaning of Article 12 of Constitution of India, has to ensure preservation of rights enshrined in Chapter III of the Constitution. RAILTEL has also to safeguard its commercial interests. RAILTEL deals with Agencies, who have a very high degree of integrity, commitments and sincerity towards the work undertaken. It is not in the interest of RAILTEL to deal with Agencies who commit deception, fraud or other misconduct in the execution of contracts awarded / orders issued to them. In order to ensure compliance with the constitutional mandate, it is incumbent on RAILTEL to observe principles of natural justice before banning the business dealings with any Agency.
- 1.2 Since banning of business dealings involves civil consequences for an Agency concerned, it is incumbent that adequate opportunity of hearing is provided and the explanation, if tendered, is considered before passing any order in this regard keeping in view the facts and circumstances of the case.

2. Scope

- 2.1 The General Conditions of Contract (GCC) of RAILTEL generally provide that RAILTEL reserves its rights to remove from list of approved suppliers/ contractors or to ban business dealings if any Agency has been found to have committed misconduct and also to suspend business dealings pending investigation. If such provision does not exist in any GCC, the same may be incorporated.
- 2.2 Similarly, in case of sale of material there is a clause to deal with the Agencies/ customers/ buyers, who indulge in lifting of material in unauthorized manner. If such a stipulation does not exist in any Sale Order, the same may be incorporated.
- 2.3 However, absence of such a clause does not in any way restrict the right of Company (RAILTEL) to take action / decision under these guidelines in appropriate cases.
- 2.4 The procedure of (i) Removal of Agency from the List of approved suppliers/ contractors; (ii) Suspension and (iii) Banning of Business Dealing with Agencies, has been laid down in these guidelines.
- 2.5 These guidelines apply to Corporate Office, all Regions and Subsidiaries of RAILTEL.
- 2.6 It is clarified that these guidelines do not deal with the decision of the Management to avoid entertaining any particular Agency due to its poor / inadequate performance or for any other reason.
- 2.7 The banning shall be with prospective effect, i.e., future business dealings.

3. Definitions

In these Guidelines, unless the context otherwise requires:

- i) Party / Contractor / Supplier / Purchaser / Customer shall mean and include a public limited company or a private limited company, a firm whether registered or not, an individual, a cooperative society or an association or a group of persons engaged in any commerce, trade, industry, etc. Party / Contractor / Supplier / Purchaser / Customer in the context of these guidelines is indicated as Agency .
- ii) Interconnected Agency shall mean two or more companies having any of the following features:
 - a) If one is a subsidiary of the other;
 - b) If the Director(s), Partner(s), Manager(s) or Representative(s) are common;
 - c) If management is common;
 - d) If one owns or controls the other in any manner;
- iii) Competent Authority and Appellate Authority shall mean the following:
 - a) For Company (entire RAILTEL) wide Banning: The Director shall be the Competent Authority for the purpose of these guidelines. CMD, RAILTEL shall be the Appellate Authority in respect of such cases except banning of business dealings with Foreign Suppliers of imported items.
 - b) For banning of business dealings with Foreign Suppliers of imported items, RAILTEL Directors Committee (RDC) shall be the Competent Authority. The Appeal against the Order passed by RDC, shall lie with CMD, as First Appellate Authority.
 - c) In case the foreign supplier is not satisfied by the decision of the First Appellate Authority, it may approach Railway Board as Second Appellate Authority.
 - d) For RailTel Regions only: Any officer not below the rank of General Manager appointed or nominated by the Executive Director of concerned Region shall be the Competent Authority for the purpose of these guidelines. The Executive Director of the concerned Region shall be the Appellate Authority in all such cases.
 - e) For Corporate Office only: For procurement of items / award of contracts, to meet the requirement of Corporate Office only, Concerned Group General Manager / General Manager shall be the Competent Authority and concerned Director shall be the Appellate Authority.
 - f) CMD, RAILTEL shall have overall power to take suo-moto action on any information

available or received by him and pass such order(s) as he may think appropriate, including modifying the order(s) passed by any authority under these guidelines.

- iv) Investigating Department shall mean any Department Unit investigating into the conduct of the Agency and shall include the Vigilance Department, Central Bureau of Investigation, the State Police or any other department set up by the Central or State Government having powers to investigate.
- v) List of approved Agencies - Parties / Contractors / Suppliers/ Purchaser/ Customers shall mean and include list of approved /registered Agencies- Parties/ Contractors / Suppliers / Purchasers / Customers, etc.

4. Initiation of Banning / Suspension

Action for banning / suspension of business dealings with any Agency should be initiated by the department having business dealings with them after noticing the irregularities or misconduct on their part. Besides the concerned department, Vigilance Department of each Region / Unit/ Corporate Office may also be competent to initiate such action.

5. Suspension of Business Dealings

- 5.1 If the conduct of any Agency dealing with RAILTEL is under investigation by any department (except Foreign Suppliers of imported items), the Competent Authority may consider whether the allegations under investigation are of a serious nature and whether pending investigation, it would be advisable to continue business dealing with the Agency. If the Competent Authority, after consideration of the matter including the recommendation of the Investigating Department, if any, decides that it would not be in the interest to continue business dealings pending investigation, it may suspend business dealings with the Agency. The order to this effect may indicate a brief of the charges under investigation. If it is decided that inter-connected Agencies would also come within the ambit of the order of suspension, the same should be specifically stated in the order. The order of suspension would operate for a period not more than six months and may be communicated to the Agency as also to Investigating Department. The Investigating Department may ensure that their investigation is completed and whole process of final order is over within such period.
- 5.2 The order of suspension shall be communicated to all the departmental heads within the unit/ region/ Corporate Office as the case may be. During the period of suspension, no business dealing may be held with the agency. As far as possible, the existing contract(s) with the Agency may continue unless the Competent Authority, having regard to the circumstances of the case, decides otherwise.

5.3 If the gravity of the misconduct under investigation is very serious and it would not be in the interest of RAILTEL, as a whole, to deal with such an Agency pending investigation, the Competent Authority may send his recommendation to Chief Vigilance Officer (CVO), RAILTEL Corporate Office alongwith the material available. If Corporate Office considers that depending upon the gravity of the misconduct, it would not be desirable for all the units/ regions of RAILTEL to have any dealings with the Agency concerned, an order suspending business dealings may be issued to all the units/ Regions / Corporate Office by the Competent Authority of the Corporate Office, copy of which may be endorsed to the Agency and all concerned. Such an order would operate for a period of six months from the date of issue.

5.4 for suspension of business dealings with Foreign Suppliers of imported items, following shall be the procedure:

- i) Suspension of the foreign suppliers shall apply throughout the Company/ Regions including Subsidiaries.
- ii) Based on the complaint forwarded by ED / GGM / GM or received directly by Corporate Vigilance, if gravity of the misconduct under investigation is found serious and it is felt that it would not be in the interest of RAILTEL to continue to deal with such agency, pending investigation, Corporate Vigilance may send such recommendation on the matter to Executive Director / GGM / GM, to place it before a Committee consisting of the following:
 1. ED / GGM/ GM (viz. Representative of Corporate Finance).
 2. ED / GGM/ GM (viz. Representative of Department concerned with procurement of imported items)- Convener of the Committee.
 3. ED / GGM/ GM (to be nominated on case to case basis).
 4. ED / GGM/ GM ((viz. Representative of Corporate Law).

The committee shall expeditiously examine the report and give its comments /recommendations within twenty one days of receipt of the reference by ED/ GGM/ GM.

- iii) The comments / recommendations of the Committee shall then be placed by ED/GGM/GM, before RAILTEL Directors Committee (RDC) constituted for import of items. If RDC opines that it is a fit case for suspension, RDC may pass necessary orders which shall be communicated to the foreign supplier by the ED/GGM/GM.

5.5 If the Agency concerned asks for detailed reasons of suspension, the Agency may be informed that its conduct is under investigation. It is not necessary to enter into correspondence or argument with the Agency at this stage.

- 5.6 It is not necessary to give any show-cause notice or personal hearing to the Agency before issuing the order of suspension. However, if investigations are not complete in six months time, the Competent Authority may extend the period of suspension by another three months, during which period the investigations must be completed.
6. Ground on which Banning of Business Dealings can be initiated
 - 6.1 If the security consideration, including questions of loyalty of the Agency to the State, so warrants;
 - 6.2 If the Director / Owner of the Agency, proprietor or partner of the firm, is convicted by a Court of Law for offences involving moral turpitude in relation to its business dealings with the Government or any other public sector enterprises or RAILTEL, during the last five years;
 - 6.3 If there is strong justification for believing that the Directors, Proprietors, Partners, owner of the Agency have been guilty of malpractices such as bribery, corruption, fraud, substitution of tenders, interpolations, etc;
 - 6.4 If the Agency continuously refuses to return / refund the dues of RAILTEL without showing adequate reason and this is not due to any reasonable dispute which would attract proceedings in arbitration or Court of Law;
 - 6.5 If the Agency employs a public servant dismissed / removed or employs a person convicted for an offence involving corruption or abetment of such offence;
 - 6.6 If business dealings with the Agency have been banned by the Govt. or any other public sector enterprise;
 - 6.7 If the Agency has resorted to Corrupt, fraudulent practices including misrepresentation of facts;
 - 6.8 If the Agency uses intimidation/ threatening or brings undue outside pressure on the Company (RAILTEL) or its official in acceptance/ performances of the job under the contract;
 - 6.9 If the Agency indulges in repeated and / or deliberate use of delay tactics in complying with contractual stipulations;
 - 6.10 Willful indulgence by the Agency in supplying sub-standard material irrespective of whether pre-dispatch inspection was carried out by Company (RAILTEL) or not;

- 6.11 Based on the findings of title investigation report of CBI / Police against the Agency for malafide/ unlawful acts or improper conduct on his part in matters relating to the Company (RAILTEL) or even otherwise;
- 6.12 Established litigant nature of the Agency to derive undue benefit;
- 6.13 Continued poor performance of the Agency in several contracts;
- 6.14 If the Agency misuses the premises or facilities of the Company (RAILTEL), forcefully occupies tampers or damages the Company's properties including land, water resources, etc.

(Note: The examples given above are only illustrative and not exhaustive. The Competent Authority may decide to ban business dealing for any good and sufficient reason).

7. Banning of Business Dealings

- 7.1 Normally, a decision to ban business dealings with any Agency should apply throughout the Company including subsidiaries. However, the Competent Authority of the Region/ Unit except Corporate Office can impose such ban Region-wise only ifin the particular case banning of business dealings by respective Region/ Unit will serve the purpose and achieve its objective and banning throughout the Company is not required in view of the local conditions and impact of the misconduct/ default to beyond the Region/ Unit. Any ban imposed by Corporate Office shall be applicable across all Regions/ Units of the Company including Subsidiaries.
- 7.2 For Company-wide banning, the proposal should be sent by ED of the Region/ Unit to the CVO/RailTel setting out the facts of the case and the justification of the action proposed alongwith all the relevant papers and documents except for banging of business dealings with Foreign Suppliers of imported items.

The Corporate Vigilance shall process the proposal of the concerned Region/ Unit fora prima-facie view in the matter by the Competent Authority nominated for Company-wide banning.

The CVO shall get feedback about that agency from all other Regions/ Units. Based on this feedback, a prima-facie decision for banning / or otherwise shall be taken by the Competent Authority.

If the prima-facie decision for Company-wide banning has been taken, the Corporate Vigilance shall issue a show-cause notice to the agency conveying why it should not be banned throughout RAILTEL.

After considering the reply of the Agency and other circumstances and facts of the case, a final decision for Company-wide banning shall be taken by the competent Authority.

7.3 There will be a Standing Committee in each Region/ Unit to be appointed by Chief Executive Officer for processing the cases of "Banning of Business Dealings" except for banning of business dealings with foreign suppliers. However, for procurement of items/ award of contracts, to meet the requirement of Corporate Office only, the committee shall be consisting of General Manager/ Dy. General Manager each from Operations, Finance, Law & Project. Member from Project shall be the convener of the committee. The functions of the committee shall, inter-alia include:

- i) To study the report of the investigating Agency and decide if a prima-facie case for Company-wide / Region wise banning exists, if not, send back the case to the Competent Authority.
- ii) To recommend for issue of show-cause notice to the Agency by the concerned department.
- iii) To examine the reply to show-cause notice and call the Agency for personal hearing, if required.
- iv) To submit final recommendation to the Competent Authority for banning or otherwise.

7.4 If the Competent Authority is prima-facie of view that action for banning business dealings with the Agency is called for, a show- cause notice may be issued to the Agency and an enquiry held accordingly.

7.5 Procedure for Banning of Business Dealings with Foreign Suppliers of imported items.

- i) Banning of the agencies, shall apply throughout the Company including subsidiaries.
- ii) Based on the complaint forwarded by Executive Director or received directly by Corporate Vigilance, an investigation shall be carried out by Corporate Vigilance. After investigation, depending upon the gravity of the misconduct, Corporate Vigilance may send their report to Executive Director/ GGM/ GM, to be placed before a Committee consisting of the following:

- 1. ED / GGM/ GM (viz. Representative of Corporate Finance).
- 2. ED / GGM/ GM (viz. Representative of Department concerned with procurement of imported items)- Convener of the Committee.
- 3. ED / GGM/ GM (to be nominated on case to case basis).
- 4. ED / GGM/ GM ((viz. Representative of Corporate Law).

The Committee shall examine the report and give its comments/ recommendations within 21 days of receipt of the reference by ED.

- iii) The comments/recommendations of the Committee shall be placed by ED/ GGM/GM before RAILTEL Directors' Committee (RDC) constituted for import of foreign items. If RDC opines that it is a fit case

for initiating banning action, it will direct

ED/ GGM/ GM to issue show-cause notice to the agency for replying within areasonable period.

- iv) On receipt of the reply or on expiry of the stipulated period, the case shall besubmitted by ED to RDC for consideration & decision.
- v) The decision of the RDC shall be communicated to the agency by ED/GGM/GMconcerned.

8. Removal from List of Approved Agencies Suppliers/ Contractors, etc.

- 8.1 If the Competent Authority decides that the charge against the Agency is of a minor nature, it may issue a show-cause notice as to why the name of the Agency should notbe removed from the list of approved Agencies - Suppliers / Contractors, etc.
- 8.2 The effect of such an order would be that the Agency would not be disqualified from competing in Open Tender Enquiries but LTE (Limited Tender Enquiry) may not be given to the Agency concerned.
- 8.3 Past performance of the Agency may be taken into account while processing for approval of the Competent Authority for awarding the contract.

9. Show-cause Notice

- 9.1 In case where the Competent Authority decides that action against an Agency is called for, a show-cause notice has to be issued to the Agency. Statement containing the imputation of misconduct or misbehavior may be appended to the show-cause notice and the Agency should be asked to submit within 15 days a written statementin its defence.
- 9.2 If the Agency requests for inspection of any relevant document in possession of RAILTEL, necessary facility for inspection of documents may he provided.
- 9.3 The Competent Authority may consider and pass all appropriate speaking order:
 - a) For exonerating the Agency if the charges are not established.
 - b) For removing the Agency from the list of approved Suppliers/ Contactors, etc.
 - c) For banning the business dealing with the Agency.

- 9.4 If it decides to ban business dealings, the period for which the ban would be operative may be mentioned. The order may also mention that the ban would extend to the interconnected Agencies of the Agency.

10. Appeal against the Decision of the Competent Authority

- 10.1 The agency may file an appeal against the order of the Competent Authority banning business dealing, etc. The appeal shall lie to Appellate Authority. Such an appeal shall be preferred within one month from the date of receipt of the order banning business dealing, etc.
- 10.2 Appellate Authority would consider the appeal and pass appropriate order which shall be communicated to the Agency as well as the Competent Authority.

11. Review of the Decision by the Competent Authority

Any petition / application filed by the Agency concerning the review of the banning order passed originally by Chief Executive / Competent Authority under the existing guidelines either before or after filing of appeal before the Appellate Authority or after disposal of appeal by the Appellate Authority, the review petition can be decided by the Chief Executive / Competent Authority upon disclosure of new facts

/ circumstances or subsequent development necessitating such review. The Competent Authority may refer the same petition to the Standing Committee for examination and recommendation.

12. Circulation of the names of Agencies with whom Business Dealings have been banned

- 12.1 Depending upon the gravity of misconduct established, the Competent Authority of the Corporate Office may circulate the names of Agency with whom business dealings have been banned, to the Government Departments, other Public Sector Enterprises, etc. for such action as they deem appropriate.
- 12.2 If Government Departments or a Public Sector Enterprise requests for more information about the Agency with whom business dealings have been banned, a copy of the report of the Inquiring authority together with a copy of the order of the Competent Authority / Appellate Authority may be supplied.
- 12.3 If business dealings with any Agency have been banned by the Central or State Government or any other Public Sector Enterprise, RAILTEL may, without any further enquiry or investigation, issue an order banning business dealing with the Agency and its interconnected Agencies.
- 12.4 Based on the above, Regions / Units may formulate their own procedure for implementation of the guidelines.

* * * * *

RailTel Corporation of India Limited, hereinafter referred to as “The Principal”.

And

....., hereinafter referred to as “The Bidder/ Contractor”

1. Preamble

The Principal intends to award, under laid down organizational procedures, contract/s for

.....The Principal values full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness/transparency in its relations with its Bidder(s) and /or Contractor(s).

In order to achieve these goals, the Principal will appoint an Independent External Monitor (IEM), who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

2. Section 1- Commitments of the Principal

1. The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-

a. No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.

b. The Principal will during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/additional information through which the Bidder(s) could obtain an advantage in relation to the process or the contract execution.

c. The Principal will exclude from the process all known prejudiced persons.

2. If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC/PC Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiatedisciplinary actions.

3. Section 2- Commitments of the Bidder(s) / Contractor(s)

1 The Bidder(s)/Contractor(s) commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.

a. The Bidder(s)/contractor(s) will not, directly or through any other persons or firm, offer promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage during tender process or during the execution of the contract.

b. The Bidder(s)/Contractor(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.

c. The Bidder(s)/Contractor(s) will not commit any offence under the relevant IPC/PC Act; further the Bidder(s) /Contractors will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

d. The Bidder(s)/Contractor(s) of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly, the bidder(s)/contractor(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the "Guidelines on Indian Agents of Foreign Suppliers" shall be disclosed by the Bidder(s)/Contractor(s). Further, as mentioned in the Guidelines all the payments made to the Indian agent/representative have to be in Indian Rupees only. Copy of the "Guidelines on Indian Agents of Foreign Suppliers" as annexed and marked as Annexure A.

e. The Bidder(s)/Contractor(s) will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.

2. The Bidder(s)/Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

4. Section 3: Disqualification from tender process and exclusion from future contracts

If the Bidder(s)/Contractor(s), before award or during execution has committed a transgression through a violation of Section 2, above or in any other form such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/Contractor(s) from the tender process & exclude him from future business dealings as per the existing provisions of GFR,2017,PC ACT 1988) or take action as per the procedure mentioned in the “Guidelines on Banning of business dealings” and any other Financial Rules/Guidelines applicable to the Principal. Copy of the “Guidelines on Banning of business dealings” is annexed and marked as Annexure “B”.

5. Section 4: Compensation for Damages

1. If the Principal has disqualified the Bidder(s) from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/Bid Security.

2. If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to be terminated the contract according to Section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages of the Contract value or the amount equivalent to Performance Bank Guarantee.

6. Section 5: Previous Transgression

1. The Bidder declares that no previous transgressions occurred in the last three years with any other company in any country conforming to the anti corruption approach or with any other public sector enterprise in India that could justify his exclusion from the tender process.

2. If the bidder makes incorrect statement on this subject, he can be disqualified from the tender process for action can be taken as per the procedure mentioned in “Guidelines on Banning of business dealings”.

7. Section 6: Equal treatment of all Bidders / Contractors/Subcontractors.

1. The Bidder(s)/Contractor(s) undertake(s) to demand from all subcontractors a signed commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.

2. The Principal Contractor shall take the responsibility of the adoption of IP by the subcontractors. It is to be ensured that all sub-contractors also sign the IP.

3. In case of a Joint Venture, all the partners of the Joint Venture should sign the Integrity

pact.

4. The Principal will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions

8. Section 7: Criminal charges against violation by Bidder(s) / Contractor(s) / Subcontractor(s)

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the same to the Chief Vigilance Officer.

9. Section 8: Independent External Monitor / Monitors

1. The Principal appoints competent & credible Independent External Monitors for this pact as nominated by the Central Vigilance Commission(CVC) Government of India, from the panel of IEMs maintained by it. The task of the Monitors is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.

2. The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the CMD, RailTel.

3. The Bidder(s)/Contractor(s) accepts that the Monitor has the right to access without restriction to all project documentation of the Principal including that provided by the Contractor.

4. The Contractor will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/Contractor(s)/Subcontractor(s) with confidentiality.

5. The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.

Note : However, the documents /records/information having National Security implications and those documents which have been classified as Secret/Top Secret are not to be disclosed.

6. For ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process or during execution of contract, the matter should be examined by the full panel of IEMs jointly, who would look into the records, conduct an investigation, and submit their joint recommendations to the Management. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.

The advice of the IEM panel is restricted to resolving issues raised by a bidder regarding any aspect of the tender which allegedly restricts competition or bias towards some bidders.

7. The panel of IEMs are expected to submit a joint written report to the CMD, RailTel within 30 days from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.

8. Monitor shall be entitled to compensation on the same terms as being extended to / provided to Independent Directors on the RailTel Board.

9. The IEMs would examine all complaints received by them and give their recommendations/views to the CMD, RailTel at the earliest. They may also send their report directly to the CVO in case of suspicion of serious irregularities requiring legal/administrative action. Only in case of very serious issue having a specific, verifiable vigilance angle, the matter should be reported directly to the Chief Vigilance Commission.

10. The word 'Monitor' would include both singular and plural.

11. In the event of any dispute between the management and the contractor relating to those contracts where Integrity Pact is applicable, in case, both the parties are agreeable, they may try to settle dispute through mediation before the panel of IEMs in a time bound manner. If required, the organizations may adopt any mediation rules for this purpose. In case, the dispute remains unresolved even after mediation by the panel of IEMs, the organization may take further action as per the terms & conditions of the contract. However, not more than five meetings shall be held for a particular dispute resolution. The fees/expenses on dispute resolution shall be equally shared by both the parties.

10. Section 9: Pact Duration

Integrity Pact, in respect of a particular contract, shall be operative from the date IP is signed by both the parties till the completion of contract. After award of work, the IEMs shall look into any issue relating to execution of contract, if specifically raised before them. However, the IEMs may suggest systemic improvements to the management of the organization concerned, if considered necessary, to bring about transparency, equity and fairness in the system of procurement.

In case BIDDER is unsuccessful, this Integrity Pact shall expire after six months from the contract has been awarded.

If any claim is made / lodged by either party during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged / determined by CMD of RailTel.

11. Section 10: Other Provisions

1. This agreement is subject to Indian Law, Place of performance and jurisdiction is the

Registered Office of the Principal, i.e. New Delhi.

2. Changes and supplements as well as termination notices need to be made in writing.
3. If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
4. Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
5. The parties signing the IP shall not approach the Courts while representing the matters to the IEMs and he/she will await the decision in the matter.
6. Principal contractor shall take the responsibility of the adoption of IP by the sub-contractor
7. The Integrity pact shall be deemed to form a part of contract and parties shall be bound by it's provision.
8. Issues like warranty/guarantee etc. should be outside the purview of IEMs.

(For & on behalf of the Principal)
(Office Seal)

(For & On behalf of Bidder/Contractor)
(Office Seal)

Place _____

Date _____

Witness 1:

(Name & Address)

Witness 2:

(Name & Address)

Integrity Pact Program

Bringing the practices in Railtel Corporation of India Limited up to the internationally acclaimed best practices for raising integrity levels in procurement of works and services, RailTel is implementing the Integrity Pact Program in line with the recommendation of Central Vigilance Commission (CVC).

The Integrity Pact Program envisages an 'Integrity Pact', an agreement between the prospective Bidders & Contractors and RailTel, committing the persons/officials of both parties, not to exercise any influence on any aspect of the contract.

Coverage:

The Integrity Pact Program will cover the following tenders/procurements:

All tenders relating to procurement of OFC, quad cable, pre-fab shelters, electronic equipments and its installations and/or commissioning etc and other item(s) or activity/activities proposed to be carried out or required by the Company for the value exceeding Rs. 15 crores at a time including for repair and maintenance of cable /network and any other items required for special works assigned to RailTel

Implementation:

The accompanying 'Integrity Pact' will be issued along with the bidding documents and will also be uploaded on the website.

Bidder of Indian origin shall submit the Integrity Pact (in 2 copies) on a non judicial stamp paper of Rs. 100/- duly signed by the person signing the bid. Bidder of foreign origin may submit the Integrity Pact on its company's letterhead, duly signed by the person signing the bid.

If the bidder is a partnership or a consortium, the Integrity Pact shall be signed by all the partners or consortium members.

The 'Integrity Pact' shall be returned by the Bidder duly signed along with the Bid in a separate envelope, duly superscripted with 'Integrity Pact'.

On behalf of RailTel, the Integrity pact will be signed by the concerned representative of the Projects department in the Bid Opening Committee immediately on receipt of Integrity Pact signed by the Bidder at the time of Bid opening. One copy of the Integrity Pact shall be retained by RailTel and the 2nd copy will be issued to the representative of the bidders during bid opening. If the Bidders representative is not present during the Bid opening, the 2nd copy shall be sent to the bidder by post/courier.

Bidder's failure to submit the Integrity Pact duly signed along with the Bid shall lead to outright rejection of the Bid.

The bidder shall not change the contents of the Integrity pact.

All the pages of the Integrity Pact are to be signed by both RailTel and the Bidder.

12.Independent External Monitors (IEMs):

1. CMD of RailTel is the authority to appoint Independent External Monitor(s) to oversee Integrity Pact Program's implementation and effectiveness with respect to the tenders/procurements to which Integrity Pact Program applies. For this purpose, CVC would nominate IEMs for RailTel from the panel of IEMs maintained by it. The Terms and Conditions of their appointment would be decided by CMD, RailTel in line with CVC guidelines in the matter.
2. In all tenders covered under the Integrity Pact, particulars of all IEMs, including their email IDs should be mentioned.
3. A copy of such Tender Document shall be forwarded to both IEM's promptly after publishing of the same, Information regarding the contracts awarded against the said Tender shall be provided to the concerned IEM at regular intervals as decided in consultation with CVO. Additional details/documents, if any, shall be furnished to the concerned IEM/IEMs, as and when sought by them.
4. IEM/IEMs shall provide their opinion on the complaints received by them to CMD RailTel at the earliest. They may however send their report directly to the CVO in case of suspicion of serious irregularities.

requiring legal/administrative action.