

## STANDARD PROCUREMENT DOCUMENTS

### Standard Request for Proposals

### Selection of Consultant for HR Outsourcing



RFP No. RFP/HR/2021/003

Department- HR

#### Important Dates:

Date of commencement of RFP	March 10, 2021
Receipt of Queries by email to <a href="mailto:procurement@nsdcindia.org">procurement@nsdcindia.org</a>	March 15, 2021
<b>Pre-Bid meeting</b> Bidders interested in attending pre bid meeting are required to send an email to <a href="mailto:procurement@nsdcindia.org">procurement@nsdcindia.org</a> on or before March 15 <sup>th</sup> 2021, 6pm for receiving MS Teams link.	March 17, 2021
<b>Last Date and Time of Receipts of Technical and Financial Proposals</b>	March 30, 2021; on or before 1500 Hrs. (Local Time)
<b>Date &amp; Time of Opening of Technical Proposals</b>	March 30, 2021 at 1600 Hrs. (Local Time)
<b>Place of Submission and Opening of Technical Proposals*</b>	<a href="https://nsdc.eproc.in/">https://nsdc.eproc.in/</a>

\*Opening of financial proposals will be communicated to the technically qualified agencies

## **INSTRUCTION TO CONSULTANTS (ITC)**

### **A. General Provisions**

#### **1. Definitions**

- (a) "Affiliate(s)" means an individual or an entity that directly or indirectly controls, is controlled by, or is under common control with the Consultant.
- (b) "Applicable Law" means the laws and any other instruments having the force of law in India.
- (c) "Client" means NSDC
- (d) "Consultant" means a legally established professional consulting firm or an entity that may provide or provides the Services to the Client under the Contract.
- (e) "Contract" means a legally binding written agreement signed between the Client and the Consultant.
- (f) "Day" means a calendar day, unless otherwise specified as "Business Day". A Business Day is any day that is an official working day of the Client. It excludes the Client's official public holidays.
- (j) "Experts" means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-consultant or Joint Venture member(s).
- (k) "Government" means the government of India.
- (l) "in writing" means communicated in written form (e.g. by mail, e-mail, including, if distributed or received through the electronic-procurement system used by the Client) with proof of receipt;
- (m) "Joint Venture (JV)" means an association with or without a legal personality distinct from that of its members, of more than one Consultant where one member has the authority to conduct all business for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Client for the performance of the Contract.
- (n) "Key Expert(s)" means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose CV is taken into account in the technical evaluation of the Consultant's proposal.
- (p) "Non-Key Expert(s)" means an individual professional provided by the Consultant or its Sub-consultant and who is assigned to perform the Services or any part thereof under the Contract and whose CVs are not evaluated individually.
- (q) "Proposal" means the Technical Proposal and the Financial Proposal of the Consultant.
- (r) "RFP" means the Request for Proposals to be prepared by the Client for the selection of Consultants, based on the SPD - RFP.
- (s) "SPD - RFP" means the Standard Procurement Document - Request for Proposals, which must be used by the Client as the basis for the preparation of the RFP.
- (t) "Services" means the work to be performed by the Consultant pursuant to the Contract.
- (u) "Sub-consultant" means an entity to whom the Consultant intends to subcontract any part of the Services while the Consultant remains responsible to the Client during the whole performance of the Contract.
- (v) "Terms of Reference (TORs)" means the Terms of Reference that explains the objectives, scope of work, activities, and tasks to be performed, respective responsibilities of the Client

and the Consultant, and expected results and deliverables of the assignment.

## 2. Introduction

- 2.1. *National Skill Development Corporation (NSDC), the client, invites proposals for hiring of a firm for HR Outsourcing* (hereinafter called “Consultants”)
- 2.2. The Consultants are invited to submit a Technical Proposal and a Financial Proposal. The Proposal will be the basis for negotiating and ultimately signing the Contract with the selected Consultant.
- 2.3. The Consultants should familiarize themselves with the local conditions and take them into account in preparing their Proposals.
- 2.4. The Client will timely provide, at no cost to the Consultants, the inputs, relevant project data, and reports required for the preparation of the Consultant’s Proposal.

## 3. Conflict of Interest

- 3.1. The Consultant is required to provide professional, objective, and impartial advice, at all times holding the Client’s interests’ paramount, strictly avoiding conflicts with other assignments or its own corporate interests and acting without any consideration for future work.
- 3.2. The Consultant has an obligation to disclose to the Client any situation of actual or potential conflict that impacts its capacity to serve the best interest of its Client. Failure to disclose such situations may lead to the disqualification of the Consultant or the termination of its Contract and/or sanctions by NSDC.
- 3.3. Without limitation on the generality of the foregoing, the Consultant shall not be hired under the circumstances set forth below:
  - 3.3.1. **Conflicting activities: Conflict between consulting activities and procurement of goods, works or non-consulting services:** a firm that has been engaged by the Client to provide goods, works, or non-consulting services for a project, or any of its Affiliates, shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or non-consulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, or any of its Affiliates, shall be disqualified from subsequently providing goods or works or non-consulting services resulting from or directly related to the consulting services for such preparation or implementation.
  - 3.3.2. **Conflicting assignments Conflict among consulting assignments:** a Consultant (including its Experts and Sub-consultants) or any of its Affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the Consultant for the same or for another Client.
  - 3.3.3. **Conflicting relationships Relationship with the Client’s staff:** a Consultant (including its Experts and Sub-consultants) that has a close business or family relationship with a

professional staff of NSDC who are directly or indirectly involved in any part of (i) the preparation of the Terms of Reference for the assignment, (ii) the selection process for the Contract, or (iii) the supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to NSDC throughout the selection process and the execution of the Contract.

4. **Corrupt and Fraudulent Practices:** The Client requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in Annexure 3. In further pursuance of this policy, Consultants shall permit and shall cause their agents, Experts, Sub-consultants, sub-contractors, services providers, or suppliers to permit NSDC to inspect all accounts, records, and other documents relating to the submission of the Proposal and contract performance (in case of an award), and to have them audited by auditors appointed by NSDC.
5. **Eligibility Criteria: (Mandatory)** Only those consultants who qualify the eligibility criteria will be evaluated technically:

Sl. No.	Eligibility Criteria	Documents to be submitted
1.	The Consultant must be a firm/ company / LLP /sole proprietorship/ partnership/not-for-profit society or trust and must be registered with the appropriate authority in India for the past 7 years.	Incorporation Certificate/ Registration Certificate
2.	The agency must be registered under Income Tax, PAN, GST and/or any other statutory authority required for this purpose;	PAN, GST or details of other statutory authority. In case of GST exemption, please furnish certificates.
3.	The Consultant should have minimum average annual turnover of Rs. 3 Crore from similar activities for the last 3 financial years viz. 2017-18, 2018-19, 2019-20	CA Certificates with UDIN
4.	The agency should have at least 05 years of experience in strategic recruitment and management of professionals including managing pay rolls.	PO/Contracts/letter from Clients are to be submitted mandatorily
5.	The agency must have successfully completed at least three assignments of deploying qualified professionals as desired in this assignment in last 5 years.	Contracts/PO/WO/Letter of completion must be submitted.
6.	The agency should not have been blacklisted by any Government Agency/Public Sector Undertaking/autonomous bodies.	Undertaking on letter head

Sl. No.	Eligibility Criteria	Documents to be submitted
7.	Does not have any pending criminal/ FCRA cases against it in court	Undertaking on letter head
8.	The organization/consultant must not have any negative media coverage, or any other controversy associated with it.	Undertaking on letter head
9.	The organization/consultant should not have any political or religious affiliations.	Undertaking on letter head

## 6. Duration of Assignment

The duration of assignment shall initially be for a period of one year and may be extended for a further period depending upon performance and requirement of the project. However, the quality of services provided by the Consultant and the performance of the Consultant shall be reviewed on yearly basis and in case the performance is unsatisfactory, the Consultant's selection can be terminated at NSDC's discretion. In case, there is a requirement for more consultants based on volume or geographical reach or any other reason, NSDC may hire more consultants for similar purpose. Detailed requirements of the assignment are mentioned in the ToR attached in this RFP.

## B. Preparation of Proposals

7. **General Considerations:** In preparing the Proposal, the Consultant is expected to examine the RFP in detail. Material deficiencies in providing the information requested in the RFP may result in rejection of the Proposal.
8. **Cost of Preparation of Proposal:** The consultant shall bear all costs associated with the preparation and submission of its Proposal, and the Client shall not be responsible or liable for those costs, regardless of the conduct or outcome of the selection process. The Client is not bound to accept any proposal and reserves the right to annul the selection process at any time prior to selection, without thereby incurring any liability to the consultant.
9. **Language:** The Proposal, as well as all correspondence and documents relating to the Proposal exchanged between the Consultant and the Client, shall be written in English.
10. **Documents Comprising the Proposal:** The Proposal shall comprise the documents and forms listed in Annexure 1.
11. **Only One Proposal:** The consultant shall submit only one Proposal. If a consultant, submits or participates in more than one proposal, all such proposals shall be disqualified and rejected.

12. **Proposal Validity:** Consultant's Proposal must remain valid up to 180 days after the Proposal submission deadline. During this period, the consultant shall maintain its original Proposal without any change, including their availability. If it is established that any consultant was not available at the time of Proposal submission or was included in the Proposal without his/her confirmation, such Proposal shall be disqualified and rejected for further evaluation.
- 12.1. **Extension of Validity Period:** The Client will make its best effort to complete the negotiations within the proposal's validity period. However, should the need arise, the Proposals' validity will automatically extend by 180 days more.
- 12.2. Extension of validity of the Proposals shall be done without any change in the original Proposal and with the confirmation of the availability of the Key Experts.
13. **Proposal Security:** The consultant shall furnish as part of its proposal security of Rs. 600,000/- in the form of a Demand Draft or Bank guarantee from scheduled banks (format mentioned in Annexure 5) or in the form of Fixed Deposit or through payment gateway (link to be activated and shared later).
- 13.1. Any Proposal not accompanied by a substantially responsive Proposal Security shall be rejected by the Client as non-responsive.
- 13.2. Proposal Security of unsuccessful consultant shall be returned as promptly as possible upon the successful consultant signing the contract and furnishing the Performance Security.
- 13.3. The Proposal Security of the successful consultant shall be returned as promptly as possible once the successful consultant has signed the contract and furnished the required performance security.
- 13.4. The Proposal Security may be forfeited:
- 13.4.1. if a consultant withdraws its proposal during the period of proposal validity, or any extension thereto provided by the consultant; or
- 13.4.2. if the successful consultant fails to sign the Contract; or
- 13.4.3. fails to furnish a performance security.
- 13.5. Proposal Security is exempted for organizations registered with MSME. The consultant must submit MSME certificate.
14. **Performance Security-** Selected Consultant will be required to submit Performance Security in the form of a bank Guarantee of 5% of contract value within 21 days of confirmation of selection. The performance security will be valid for 60 days beyond the expiration of contract. Performance security amount or its part may be forfeited any performance related issues by the selected consultant. The performance security will be returned within 60 days after expiration of contract. The performance security shall be in the name of NSDC and can be in form of bank guarantee or FD or online payment through payment gateway (link to be activated and shared later).

- 14.1. **Forfeiture of Performance Security-** In case the selected consultant fails to complete the work, NSDC without prejudice to rights and remedies available under contract, shall forfeit and encash the Bank Guarantee amount and credit it to NSDC. In case the Bank goes in liquidation or for any reason and is unable to make payment against the said Bank Guarantee the loss caused thereby shall be borne by the agency forthwith, on demand from NSDC, shall make good the deficit.
- 14.2. **Substitution of Key Experts at Validity Extension:** If any of the Key Experts become unavailable for the extended validity period, the Consultant shall seek to substitute another Key Expert. The Consultant shall provide a written adequate justification and evidence satisfactory to the Client together with the substitution request. In such case, a substitute Key Expert shall have equal or better qualifications and experience than those of the originally proposed Key Expert. The technical evaluation score, however, will remain to be based on the evaluation of the CV of the original Key Expert. If the Consultant fails to provide a substitute Key Expert with equal or better qualifications, or if the provided reasons for the replacement or justification are unacceptable to the Client, such Proposal will be rejected.
15. **Sub-Contracting:** The consultant shall not subcontract any part or the whole of the Services.
16. **Clarification and Amendment of RFP:** The Consultant may request a clarification of any part of the RFP till the date mentioned in the RFP document. Any request for clarification must be sent in writing, by email to the Client's email address: [procurement@nsdcindia.org](mailto:procurement@nsdcindia.org). The Client may respond in writing, by email, or will upload responses (including an explanation of the query but without identifying its source) to all Consultants. Should the Client deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure described below:
- 16.1. At any time before the proposal submission deadline, the Client may amend the RFP by issuing an amendment in writing or by standard electronic means. The amendment shall be uploaded on NSDC website <https://nsdcindia.org/active-tender>.
- 16.2. If the amendment is substantial, or there is technical issue in submission of bids, the Client may extend the proposal submission deadline to give the Consultants reasonable time to take an amendment into account in their Proposals.
- 16.3. The Consultant may submit a modified Proposal or a modification to any part of it at any time prior to the proposal submission deadline. No modifications to the Proposal shall be accepted after the deadline.
17. **Technical Proposal Format and Content:** The Technical Proposal shall not include any financial information. A Technical Proposal containing material financial information shall be declared non-responsive. Only one CV shall be submitted for each expert. Failure to comply with this requirement will make the Proposal non-responsive.

18. **Taxes:** The Consultant is responsible for meeting all tax liabilities arising out of the Contract.

### C. Submission, Opening and Evaluation

#### 19. **Submission of Proposals:**

19.1. The Consultant shall submit a signed and complete Proposal comprising the documents and forms in accordance with Annexure 1. The Consultant shall submit its Proposals only through e-procurement portal of NSDC as per process mentioned in Annexure 4 on or before last date and time of submission.

19.2. An authorized representative of the Consultant shall sign/e-sign the original submission letters in the required format for Technical Proposal and shall initial all pages. The authorization shall be in the form of a written power of attorney attached to the Technical Proposal.

19.3. Any modifications, revisions, interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Proposal.

20. **Confidentiality:** From the time the Proposals are opened to the time the contract is awarded, the Consultant should not contact the Client on any matter related to its Technical Proposal.

20.1. Information relating to the evaluation of Proposals and award recommendations shall not be disclosed to the Consultants who submitted the Proposals or to any other party not officially concerned with the process, until the selection.

20.2. Any attempt by Consultants or anyone on behalf of the Consultant to influence improperly the Client in the evaluation of the Proposals or selection decisions may result in the rejection of its Proposal.

20.3. Notwithstanding the above provisions, from the time of the Proposals' opening to the time of Selection, if a Consultant wishes to contact the Client on any matter related to the selection process, it should do so only in writing.

21. **Opening of Technical Proposals:** The Client's evaluation committee shall conduct the opening of the Technical Proposals through eProcurement Portal as per the opening date, time stated in this RFP.

22. **Proposals Evaluation:** The Consultant is not permitted to alter or modify its Proposal in any way after the proposal submission deadline. While evaluating the Proposals, the Client will conduct the evaluation solely on the basis of the submitted Eligibility Criteria and scoring criteria.

23. **Evaluation of Technical Proposals:** The Client's evaluation committee shall evaluate the Technical Proposals on the basis of their responsiveness to the RFP, applying the eligibility criteria and scoring criteria specified in table below. Each responsive Proposal qualifying all aspects of eligibility criteria and passing minimum marks will be considered for selection. A Proposal shall be rejected at this stage if it does not respond to important aspects of the RFP or if it fails to achieve the eligibility criteria and minimum technical score indicated in table below:



Sl	Parameter	Max Marks	Documents to be submitted
1	No. of years of experience in strategic recruitment and management of professionals including managing payroll 3- 5 years: 10 marks 6-8 years: 15 marks More than 8 years: 20 marks	20	PO/Contracts/ WO
2	No of assignments experience in similar services in Government Department/Public Sector Undertaking /Autonomous bodies especially with state/central government schemes esp. focused on education /skilling /livelihood missions 3- 5 assignments: 10 marks 6-8 assignments: 15 marks More than 8 assignments: 20 marks *Extension of contracts/PO will not be counted as separate assignments.	20	PO/Contracts/ WO
3	Technical approach and methodology	30	Presentation/ Proposal
4	Profiles of Qualified Experts as per TOR a) Position K-1: [Team Leader] – 10 points b) Position K-2: [HR Manager] – 10 points c) Position K-3: [Finance Manager] – 10 points	30	CVs
	Total	100	

**Minimum Qualifying Marks: 70**

**24. Opening of Financial Proposals**

- a) After the technical evaluation is completed and approved by the Committee, the Client shall notify those Consultants whose Proposals were considered non-responsive to the RFP and TOR or did not meet the minimum qualifying technical score (and shall provide information relating to the Consultant's overall technical score) that their proposal cannot be considered further, and their Financial Proposals will remain unopened after completing the selection process and Contract signing. The Client shall simultaneously notify in writing to those who have technically qualified.
- b) The Financial Proposals shall be opened through eProcurement Portal by the Client's evaluation committee of those Consultants whose proposals have passed the minimum

technical score. The Financial Proposals will then be inspected to confirm that they are as per the terms of RFP. These Financial Proposals shall be then opened, and the total prices recorded.

- c) NSDC may use Reverse eAuction process for financial opening for this Procurement. Only technically qualified agencies will get one-time half an hour online training by NSDC's empaneled e Auction vendor C1 India Pvt. Ltd. All qualified agencies will have to submit their financial quotes as pre-bid in eAuction system and same will be verified by NSDC with submitted Financial quote of agencies. E-Auction time slot will be informed to qualified agencies at later stage.
- d) Please note that in both E-Auction and without E-Auction process Least Cost Method (LCS) shall be used.

## 25. Method of Selection:

### **Least Cost Selection (LCS)**

In the case of Least-Cost Selection (LCS), the Client will arrive at the lowest evaluated total price among those consultants and consultant who achieved the minimum technical score, and the lowest evaluated cost will be invited to negotiate the Contract.

### **e) Negotiations and Award**

- a. The prices may be negotiated with selected consultant.
  - b. The draft agreement will be shared with the selected consultant for their review and signatures.
  - c. If the negotiations fail, Client will invite the L2 Consultant to negotiate a Contract. Once the Client commences negotiations with the next-ranked Consultant, the Client shall not reopen the earlier negotiations.
  - d. The negotiations are concluded with a review of the finalized draft Contract, which then shall be initialed by the Client and the Consultant's authorized representative.
- f) NSDC reserves the right to award work to one or more consultants for any specific assignment.
  - g) NSDC may cancel the RFP at any time without assigning any reason for the same.
  - h) The decision of NSDC will be final and binding upon all consultants.

**Annexure -1 (Documents Comprising Technical Proposal)**

**Form TECH-1  
Technical Proposal Submission Form**

{Location, Date}

To: *[Name and address of Client]*

Dear Sir:

We, the undersigned, offer to provide the valuation services for *[Insert title of assignment]* in accordance with your Request for Proposal dated *[Insert Date]* and our Proposal. "We are hereby submitting our Proposal.

We hereby declare that:

(a) All the information and statements made in this Proposal are true and we accept that any misinterpretation or misrepresentation contained in this Proposal may lead to our disqualification by the Client and/or may be sanctioned by the client.

(b) Our Proposal shall be valid and remain binding upon us for the period of 180 days after the last date of submission.

(c) We have no conflict of interest in accordance with ITC 3.

(d) We meet the eligibility requirements as stated in ITC 6, and we confirm our understanding of our obligation to abide by the NSDC's policy in regard to corrupt and fraudulent practices as per Annexure 3.

(e) We, along with any of our sub-Consultants, subcontractors, suppliers, or service providers for any part of the selection, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by a central government/ministry and or any state/s of India.

(f) In competing for (and, if the award is made to us, in executing) the Selection, we undertake to observe the laws against fraud and corruption, including bribery, in force as per Prevention of Corruption Act, 1988

(g) Our Proposal is binding upon us and subject to any modifications.

We undertake, if our Proposal is accepted and the Contract is signed or letter of Selection is issued, to initiate the Services related to the assignment no later than the date indicated in the contract/letter.

We understand that the Client is not bound to accept any Proposal that the Client receives.

We remain,

Yours sincerely,

Authorized Signature {In full and initials}: \_\_\_\_

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

Name of Consultant: \_

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

Contact information (phone and e-mail): \_\_\_\_\_

### I. General Information

S #	Particulars	Details (enclose supporting documents, wherever required)
1.	Name of the Consultant	
2.	Date of Incorporation	
3.	Registered Address	
4.	Concerned person's Name and Designation	
5.	Mobile no	
6.	Email ID	
7.	Annual turnover in FY 2017-18, 2018-19, 2019-20	
8.	No. of Employees	

If proposal security is provided through either bank guarantee or FD, then physical original copy has to be submitted at NSDC office before the last date and time of submission of proposals. Scan copy should be uploaded and submitted along with proposals on eProcurement Portal.

**Form Tech 2**

**A - Consultant's Organization**

1. Provide here a brief description of the background and organization of your company,
2. Include organizational chart, a list of Board of Directors, and beneficial ownership

**B - Consultant's Experience**

1. List only previous similar assignment successfully completed in the previous year.

**ASSIGNMENT SUMMARY**

**<ASSIGNMENT NAME>**

Assignment Duration	
Brief description of main deliverables/outputs	
Name of Client & Country of Assignment	
Approx. Contract value (in INR )/ Amount paid to your firm	
Role on the Assignment	
No of Professionals hired/placed under the Assignment, within the provided qualification types	1.....Doctorates - #s 2.....Masters - #s 3.....Bachelors - #s 4.....Chartered Accountants/Other professional degrees - #s 5.....Other Support Staff - #s

Assignment related to Education/Skill Development/Livelihood (Yes/No)	
Please specify the type of Client (Private/Government Department/Public Sector Undertaking/Autonomous bodies especially with state/central government schemes/others)	

[Add more tables for multiple assignments as required]

### Form Tech -3

- a) **Technical Approach and Methodology.** {Please explain your understanding of the objectives of the assignment as outlined in the Terms of Reference (TORs), the technical approach, and the methodology you would adopt for implementing each of the tasks in TORs, to deliver the expected output(s), and the degree of detail of such output. Please do not repeat/copy the TORs in here.}
  
- b) **Work plan, deliverables, timelines.** Use Gantt chart or other chart to show progress, which activity will be completed when and how many numbers will be trained.

**FORM TECH-4**  
**CURRICULUM VITAE (CV)**

<b>Position Title and No.</b>	{e.g., K-1, PROJECT LEADER}
<b>Name of Professional:</b>	{Insert full name}
<b>Date of Birth:</b>	{day/month/year}

**Education:** {List college/university or other specialized education, giving names of educational institutions, dates attended, degree(s)/diploma(s) obtained}

**Employment record relevant to the assignment:** {Starting with present position, list in reverse order. Please provide dates, name of employing organization, titles of positions held, types of activities performed and location of the assignment, and contact information of previous clients and employing organization(s) who can be contacted for references. Past employment that is not relevant to the assignment does not need to be included.}

<b>Period</b>	<b>Employing organization and your title/position. Contact info for references</b>		<b>Summary of activities performed relevant to the Assignment</b>
[e.g., May 2005-present]			

**Language Skills (indicate only languages in which you can work):** \_\_\_\_\_

**Adequacy for the Assignment:**

<b>Detailed Tasks Assigned on Consultant</b>	<b>Reference to Prior Work/Assignments that Best Illustrates Capability to Handle the Assigned Tasks</b>
{List all deliverables/tasks in which the Consultant will be involved}	

**Consultant's contact information:** (e-mail ....., phone.....)

**Certification:**

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience, and I am available, as and when necessary, to undertake the assignment in case of an award. I understand that any misstatement or misrepresentation described herein may lead to my disqualification or dismissal by the Client.

{day/month/year}

Name of Consultant

Signature

Date



## Annexure 2

### Financial Proposal

1. **Monthly Payroll Fee** as percentage of the monthly Cost to company (CTC) as markup on the total cost of employment of the temporary staff. Please mention fees for both “ pay and collect model” and “collect and pay model”.

2. **Recruitment fee.**

Salary Range	Percentage of the annual CTC offered to the selected Temporary Staff
For all positions of upto Rs. 15 lakhs of Annual CTC	
For all positions from Rs. 15.01 lakhs to Rs. 30 lakhs	
For all positions from Rs. 30.01 lakhs & Above	

3. **Other payments: as additional percentage markup.**

Bonus, incentives, overtime, gratuity, leave encashment, accrued maternity leave, severance pay entitlements, insurance, any advance, welfare payments or any other similar nature of Statutory payment (if applicable), cost of CLRA (if required) and cost of identification cards for Temporary staff will be paid to Temporary staff by Consultant and the same will be payable by NSDC

4. **Reimbursements: as additional percentage markup**

Reimbursements, of any NSDC approved expenses, will be done to Temporary staff once in a month. The duly approved ‘expense claim sheet’ along with original bills if received by consultant shall be reimbursed by consultant. If the ‘expense claim sheet’ is not approved or any bill is missing, then consultant reserves the right to hold the payment of Temporary staff.

5. **Insurance charges** per month per personnel comprising the Temporary staff for Group Mediclaim insurance and Group Personal Accidental Insurance.

6. **Temporary staff verification**

Particulars	Cost in INR per staff
Pre-employment medical check up	
Criminal verification (Through Police or applicable sources)	
Identity Check (PAN card or MRZ Passport)	
Address Check	
Employment Verification	
Education Verification	
Professional Reference Check	

7. Taxes will paid extra as applicable.

### Annexure 3

It should be kept in mind that all actions towards award of Contract and its implementation on the ground have to be fair, consistent, transparent and based on highest standard of ethics. Similarly, bidders/suppliers/contractors/Consultants associated in the procurement of Goods, Works & Consultancy, are expected to observe the highest standard of ethics during procurement and execution of contracts. In pursuance to above:

- a. Proposal for award may be rejected, if it determines that the bidder, recommended for award, and/or its employees, sub-contractors, sub-Consultant, sub-vendors, agents have engaged in corrupt or fraudulent practices in competing for the Contract/selection in question;
- b. Portion of the funds allocated to a contract may be cancelled, in full or in part, if it is determined that corrupt or fraudulent practices were engaged by contractor/Consultant and/or its employees, subcontractors/sub-Consultants, sub-vendors, agents for getting the Contract or during the execution of a Contract;
- c. A firm may be declared as ineligible, either indefinitely or for a stated period of time, to be awarded a Contract, if it, at any time, determines that the firm has been engaged in corrupt or fraudulent practices in competing for or in executing the Contract. For the purpose of above provision, the terms, "Corrupt Practice" and

"Fraudulent Practice", mean following:

**"corrupt practice"** means offering, giving, receiving, or soliciting anything of value to influence the action of NSDC's official(s) in the procurement process or in the contract execution; and

**"fraudulent practice"** means a misrepresentation of facts in order to influence a procurement process or the execution of a contract and includes collusive practices among bidders (prior to or after bid submission) designed to establish bid/proposal prices at artificial, non-competitive levels.

## Annexure 4

### **DEFINITIONS:**

- a. **C1 India Private Limited:** Service provider to provide the e-Tendering Software and facilitate the process of e-tendering on Application Service Provider (ASP) model.
- b. **NSDC e-Procurement Portal:** An e-tendering portal of National Skill Development Corporation (“NSDC”) introduced for the process of e-tendering which can be accessed on <https://nsdc.eproc.in>.

### **Pre-requisites:**

- (i) It is mandatory for all the bidders to have Class-III Digital Signature Certificate (**With Both DSC Components, i.e. Signing & Encryption**) from any of the licensed Certifying Agency under CCA, Ministry of Electronics and Information Technology, Government of India to participate in e-tendering portal of NSDC. Bidders can see the list of licensed CA’s from the link [www.cca.gov.in](http://www.cca.gov.in)  
C1 India Pvt. Ltd. also facilitate Class III Digital Signature Certificate (With Both DSC Components, i.e. Signing & Encryption) to the bidders. Bidder may contact C1 India Pvt. Ltd. at mobile no. +91-7291981138 for DSC related queries or can email at [vikas.kumar@c1india.com](mailto:vikas.kumar@c1india.com).
- (ii) To participate in the online bidding, it is mandatory for the Applicants to get themselves registered with the NSDC e-Tendering Portal (<https://nsdc.eproc.in>)
- (iii) System Requirement/ Registration Manuals/ Bid Submission Manuals are available at the NSDC eTendering Portal (<https://nsdc.eproc.in>)
- (iv) For helpdesk please contact Help Desk Nos. +91-124-4302033 / 36 / 37
- (v) Participant are requested to email their issues to helpdesk at [nsdcsupport@c1india.com](mailto:nsdcsupport@c1india.com)  
This will help serving the participant better
- (vi) The amendments/ clarifications to the tender, if any, will be posted on the NSDC eTendering Portal (<https://nsdc.eproc.in>)
- (vii) The Bidder may modify or withdraw their bid after submission prior to the Bid Due Date. No Bid shall be modified or withdrawn by the Bidder after the Bid Due Date and Time.
- (viii) It is highly recommended that the bidders should not wait till the last date of bid submission to avoid complications like internet connectivity issue, network problems, system crash down, power failure, browser compatibility issue, system compatibility issue, improper digital signature certificate problem etc. In view of this context, neither M/s National Skill Development Corporation nor M/s. C1 India Pvt. Ltd will be responsible for such eventualities.

## Annexure - 5

### Form of Proposal-Security

[Guarantor letterhead]

Beneficiary:

[Insert name and address of the Client]

Invitation for RFP No:

Date: [Insert date of issue]

BANK GUARANTEE No.: [Insert guarantee reference number]

Guarantor: [Insert name and address of place of issue, unless indicated in the letterhead]

We have been informed that [insert name of the Consultant] (hereinafter called "the Applicant") has submitted or will submit to the Beneficiary its proposal (hereinafter called "the proposal") for the execution of [insert description of RFP] under RFP No. . . . . . ("the RFP").

Furthermore, we understand that, according to the Beneficiary's conditions, proposals must be supported by a bank guarantee.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of [insert amount in letters] (insert amount in numbers) upon receipt by us of the Beneficiary's complying supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating either that the Applicant:

- (a) has withdrawn its proposal during the period of proposal validity specified by the Applicant in the Letter of Proposal, or any extension thereto provided by the Applicant; or
- (b) having been notified of the acceptance of its proposal by the Beneficiary during the period of proposal validity, (i) fails to execute the Contract Agreement or (ii) fails to furnish the performance security, in accordance with the Instructions to Consultants ("ITC") of the Beneficiary's bidding document.

The consultant should insert the amount of the guarantee in words and figures denominated in Indian Rupees. This figure should be the same as shown in Clause 13 of the Instructions to Consultants.

This guarantee will expire: (a) if the Applicant is the successful Firm, upon our receipt of copies of the contract agreement signed by the Applicant and the performance security issued to the Beneficiary upon the instruction of the Applicant; and (b) if the Applicant is not the successful Firm, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the bidding process; or (ii) sixty days after the Validity Period, which date shall be established by presentation to us of copies of the Letter of proposal and any extension(s) thereto, accompanied by the bidding document; or (c) three years after the date of issue of this guarantee.

Consequently, any demand for payment under this guarantee must be received by us at the office indicated above on or before that date.

[signature(s)]

## Terms of Reference

### I. About the organization:

National Skill Development Corporation (NSDC) is a Public Private Partnership firm set up by the Ministry of Finance, under Section 25 of the Companies Act 1956 (corresponding to Section 8 of The Companies Act, 2013). It has an equity base of ₹10 Crore, of which the Government of India holds 49%, while the private sector has the balance 51%. It aims to promote skill development by catalyzing the creation of large, high-quality vocational institutions. NSDC functions as the implementation arm of the Ministry of Skill Development & Entrepreneurship (MSDE), Government of India and the relationship is governed by the Investment Management Agreement.

NSDC aims to promote skill development by catalyzing creation of large, quality and for-profit vocational institutions. Further, the organisation provides funding to build scalable and profitable vocational training initiatives. Its mandate is also to enable support system which focuses on quality assurance, information systems and train the trainer academies either directly or through partnerships. NSDC acts as a catalyst in skill development by providing funding to enterprises, companies and organizations that provide skill training. It also develops appropriate models to enhance, support and coordinate private sector initiatives.

### II. Objective(s) of the Assignment:

The National Skill Development Corporation intends to hire a Service Provider for supplying contractual personnel to NSDC as per the eligibility criteria/ terms provided for each position and then deploying them at the location/ premises designated by NSDC on a temporary/ non-permanent basis (hereinafter referred to as “Off rolls”). The Service Provider will deploy fulltime and part-time, onsite/offsite resource(s) for the required purpose.

### III. Period

The duration of the assignment will be for a period of 2 years basis an annual performance review. This duration may further be extended on requirement and performance basis with the mutual consent of NSDC and selected Service Provider.

### IV. Services/ Scope of Work

The Service Provider will be responsible for managing all end to end activities related to all the Temporary Staff hired under various projects. The scope of work would cover, however not be limited to the following:

(a) Sourcing and hiring: The Service Provider will be responsible

- i. For strategic recruitment, timely placement and management of qualified, experienced professionals as per the criteria/ terms provided.

- ii. Hiring for entry level, lower management and middle management positions with experience requirement of less than 20 years.
  - iii. The resources hired via the Service provider shall be contracted for a period of a year and the contract may only be renewed post expiry of a year. A resource shall be deployed for a max. period of 3 years from the date of original employment.
  - iv. The entire activity of sourcing, shortlisting, onboarding should be completed within a period of 45 days from the date of sharing the mandate and the Job Description.
- (b) Pre-joining formalities: The Service Provider will be responsible for activities such as
- i. Pre – employment medical check up
  - ii. Background verification – including: Educational, Identity, Address, Employment, Professional & Criminal
  - iii. Documentation: all necessary joining related documentation.
- (c) Joining onboarding formalities: The Service Provider will be responsible ensuring smooth onboarding and providing all essential support to off rolls employee/s.
- (d) Performance management: The Service Provider will be responsible for providing end to end performance management of off rolls employees. Performance review process should be completed 1 month in advance before Date of Relieving (DOR) by the service provider.
- (e) Reimbursements: The Service Provider will be responsible timely payment of NSDC approved reimbursements of off rolls employees.
- (f) Staff queries and grievances: Service provider shall provide resolution to queries within 7 days
- (g) Payroll & compliances: Service provider will be responsible for timely pay-out of salaries of off rolls employees. Service provider will also be responsible for adherence to all the statutory compliances.
- (h) Leave management & attendance: Service provider will be responsible for end to end attendance management of off rolls employees.
- (i) Exit management including full & final settlement etc.: Service provider will be responsible for timely closure of Full & Final of off rolls employees.



Additional terms will be as follows:

1. The Service Provider should adopt a transparent and competitive process of recruitment for these purely contractual posts with consolidated consultancy charges and no other benefits or social charges.
2. These rolls are not permanent in nature and are liable to be terminated with the end of agreement or earlier at the decision of the NSDC Management.
3. The human resources deployed by the Service Provider will be dedicated full time for the Project assignment unless otherwise as mentioned by client explicitly. To ensure timely placement and quality of human resources, the service provider shall develop a time bound recruitment plan that shall form a part of service level agreement and exclusive HR Policy.
4. The selected Service Provider will ensure deployment of suitable result oriented human resources, who have potential to lead and work in project mode to ensure timely compliance. In case a person leaves, then the replacement should be provided within 30 days from the day of leaving or the notice of leaving, whichever earlier.
5. The Service Provider will ensure making payment to the consultants/professionals on monthly basis and raising monthly invoices for claiming reimbursement of payment made to the individual consultants/professionals together with agreed percentage of service charges of Service Provider.
6. The Service Provider shall provide timely reports to NSDC on the deployments done and resources provided for various Projects as per the mutually agreed timelines.

**V. Consultancy Charges payable to contracted Consultants/Professionals**

- a. The consultancy charges fixed by NSDC will be paid to the contracted consultants/professionals on monthly basis.
- b. The amount so paid to the individual consultants deployed by Service Provider on monthly basis will be reimbursed to Service Provider against invoice raised on monthly basis.
- c. Where one-time or annual costs are involved (like Pre-employment medical checkup, background verification cost, insurance etc.), the amount will be reimbursed against appropriate invoicing.

## VI. Terms of Engagement

- i. **Location:** The Service Provider will be based out of their own office, however an identified senior representative will have to be present for review and other meetings as per NSDC requirements.
- ii. **Reporting:** For the purpose of this assignment, the Agency will be reporting to the Managing Director & Chief Executive Officer, NSDC or any other person assigned by him.
- iii. **Payment Schedule:** The Service Provider will be reimbursed the monthly amount paid to the consultants/professionals along with service charges percentage of Service Provider as agreed under the agreement on monthly basis.
- iv. **Service/Overhead Charges etc.:** The amount to be charged by the Service Provider for the assignment will be expressed in lump sum percentage as service charges or overhead charges on the quantity of consultants/professionals deployed by the agency on monthly basis.

**Tentative format of Agreement**  
**AGREEMENT**  
**BETWEEN**  
**NATIONAL SKILL DEVELOPMENT CORPORATION**  
**AND**  
**[]**

This Agreement (“**Agreement**”) is made on [], between:

1. **National Skill Development Corporation**, a company incorporated under the Companies Act, 1956, and having its registered office at 301, West Wing, World Mark – I, Aerocity, New Delhi - 110037 (hereinafter referred to as “**NSDC**” which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors-in-interest and assigns);and
2. [], a [] incorporated under the [], and having its registered office at [] (hereinafter referred to as “**Service Provider**” whose expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and successors-in-interest and assigns).

NSDC and Service Provider shall hereinafter be individually referred to as “**Party**” and collectively as “**Parties**”.

**WHEREAS**

- (A) NSDC is a non-profit company incorporated under the Companies Act, 1956 (“**Act**”) and has the license under section 25 of the said Act (corresponding to section 8 of the Companies Act 2013) and established as a public private partnership with the object of developing unskilled and semi-skilled labour force into productive and skilled labour and to establish, manage, run and support institutes and polytechnics for achieving this objective (“**Business**”).
- (B) NSDC has through an request for proposal dated [], (“**RFP**”) to be read along with corrigendum issued with the RFP, is any, has called for proposals/bids to provide Services (defined in Schedule I to this Agreement)
- (C) The Services Provider submitted a bid response dated [] (“**Bid Response**”) pursuant to the RFP where the Services Provider has represented to NSDC that it is an experienced, and fully qualified and capable of providing the Services.

**IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS**

1. **Definition and Interpretation**

- 1.1. In this Agreement, including in the Recitals hereof, the following words, expressions and abbreviations shall have the following meanings, unless the context otherwise requires.

- (a) **“Applicable Law”** shall mean any statute, law, regulation, ordinance, rule, judgment, notification, rule of common law, Order, decree, bye-law, government approval, directive, guideline, requirement or other governmental restriction, or any similar form of decision of, or determination by, or any interpretation, policy or administration, having the force of law of any of the foregoing, by any Authority having jurisdiction over the matter in question, whether in effect as of the date of this Agreement or thereafter.
- (b) **“Authority”** shall mean any national, state, provincial, local or similar government, governmental, regulatory or administrative authority, branch, agency, any statutory body or commission or any non-governmental regulatory or administrative authority, body or other organization to the extent that the rules, regulations and standards, requirements, procedures or Orders of such authority, body or other organization that have the force of Applicable Law or any court, tribunal, arbitral or judicial body, or any stock exchange of the India or any other country.
- (c) **“Confidential Information”** includes the contents of this Agreement and all content created pursuant to this Agreement. It also includes, with respect to NSDC and the Service Provider any information or trade secrets, schedules, business plans including, without limitation, commercial information, financial projections, client information, technical data, developments, intellectual property, ideas, know-how, marketing materials, business information, accounting and financial information, credit information, various types of lists and databases, administrative and/or organizational matters of a confidential/secret nature in whatever form which is acquired by, or disclosed to, either Party pursuant to this Agreement, but excluding information which at the time it is so acquired or disclosed, is already in the public domain or becomes so other than by reason of any breach or non-performance by the receiving Party of any of the provisions of this Agreement and includes any tangible or intangible non-public information that is marked or otherwise designated as ‘confidential’, ‘proprietary’, ‘restricted’, or with a similar designation by the disclosing Party at the time of its disclosure to the receiving Party, or is otherwise reasonably understood to be confidential by the circumstances surrounding its disclosure.
- (d) **“Force Majeure”** means an act of God, war, civil disturbance, strike, lockout, act of terrorism, flood, fire, explosion or legislation or restriction by any government or other authority, or any other similar circumstance beyond the control of any Party, which has the effect of wholly or partially suspending the obligations hereunder, of the Party concerned during the continuance and to the extent of such prevention, interruption or hindrance.
- (e) **“Intellectual Property”** or **“Intellectual Property Rights”** shall mean any and all trademarks and services marks (whether or not registered), copyrights, design rights (whether or not registered), moral rights, patents, performance rights, database rights, Internet, WAP and other new media rights, names, logos and codes, publicity rights, and any and all other intellectual property and proprietary rights of any nature whatsoever that subsist, or may subsist, or be capable of registration, in each case in relation to the Services or any part thereof and which exist, or may exist, in any jurisdiction anywhere in the World.
- (f) **“Order”** shall mean any order, injunction, judgment, decree, ruling, writ, assessment or

award of a court, arbitration body or panel or other Authority.

## 1.2. **Interpretation**

- (a) Heading and bold typeface are only for convenience and shall be ignored for the purpose of interpretation.
- (b) Terms may be defined in clause 1 above, or elsewhere in the text of this Agreement and, unless otherwise indicated, shall have such meaning throughout this Agreement.
- (c) Reference to this Agreement shall be deemed to include any amendments or modifications to this Agreement, as the case may be.
- (d) References to the singular will include the plural
- (e) References to the word “include” shall be construed without limitation.

## 2. **Appointment of Service Provider**

- 2.1. Subject to the terms of this Agreement, NSDC appoints the Service Provider to provide the Services as enumerated in Schedule -I.
- 2.2. All services, functions or responsibilities which are reasonably necessary and required for the performance or provision of the Services shall be deemed to be included within the scope of work of the Service Provider.
- 2.3. Except as specifically excluded, all tools, and materials required by the Service Provider to perform its obligations under this Agreement shall be used by the Service Provider, at no extra cost to NSDC

## 3. **Consideration and Payment Terms**

- 3.1. In consideration of the Service Provider providing the Services (as specified in Schedule I) to NSDC, NSDC agrees to pay sufficient and valid consideration (“**Consideration**”) in accordance with the Payment Terms outlined in Schedule II.
- 3.2. The amounts shall be due upon receipt of an invoice by NSDC, and all undisputed invoices and charges shall be paid by NSDC within 30 (thirty) days of receiving such invoice from the Service Provider.
- 3.3. The Service Provider recognizes that payments are linked to, and dependent on the successful completion of Services, within timelines mentioned in this Agreement, and submission of all relevant deliverables sought under this Agreement.
- 3.4. All payments shall be made in INR.
- 3.5. All charges are exclusive of all applicable taxes that may be levied, imposed, charged or incurred. NSDC shall pay the consideration due under this Agreement (including taxes) after deducting any tax deductible at source, at the applicable rate. NSDC shall furnish a tax certificate evidencing payment of the tax deductible at source to the appropriate government entity or Authority on a timely basis.
- 3.6. All payments are inclusive of all out of pocket expenses. Except as provided under the Agreement, the Service Provider shall not be entitled to claim any out of the pocket expenses incurred pursuant to its performance of obligations under the Agreement.

#### 4. **Term**

Notwithstanding the date hereof, this Agreement shall commence on the [] (“**Effective Date**”) and shall be valid for a period of [] years and shall come to an end on []

#### 5. **Termination**

- 5.1. Either Party may terminate this Agreement by giving written notice of 15 (fifteen) days to the other in the event that:
- (a) the other Party has committed a material breach of any of its obligations hereunder which cannot be remedied;
  - (b) the other Party has committed a material or repeated breach of any of its obligations hereunder and has failed to remedy such breach (if the same is capable of remedy) within thirty (30) days of being required by written notice so to do;
  - (c) the other Party goes into liquidation or bankruptcy (whether compulsory or voluntary) or an administrator or receiver is appointed over the whole or any part of that other Party’s assets or if that other Party enters into any arrangement for the benefit of or compounds with its creditors generally or threatens to do any of these things or any judgment is made against that other Party or any similar occurrence under any jurisdiction affects that other Party; or
  - (d) the other Party ceases or threatens to cease to carry on business or is removed from the relevant register of companies, where applicable.
- 5.2. NSDC may terminate this Agreement, without assigning any reason by giving written notice of 30 (thirty) days
- 5.3. NSDC may terminate this Agreement immediately if NSDC determines that the Service Provider and/or its employees, sub-contractors, sub-consultant, sub- vendors, agents have engaged in Corrupt or Fraudulent practices in executing this Agreement. The terms “corrupt” and “fraudulent” are defined in Schedule III to this Agreement
- 5.4. Either Party’s right to terminate this Agreement shall be without prejudice to the other rights and remedies it may have under Applicable Law.

#### 6. **Consequences of Termination**

- 6.1. Upon termination of this Agreement, any rights or authority granted by NSDC to the Service Provider under this Agreement shall terminate with immediate effect.
- 6.2. Within 7 (seven) business days after termination, upon the request of NSDC, Service Provider will return or destroy, at the option of NSDC, all Confidential Information of NSDC and all materials relating to work in progress of the Services.
- 6.3. Except where the Agreement is terminated pursuant to clause 5.3 (*Termination for Corrupt and Fraudulent Actions*), all charges or amounts payable for the completion of milestones already achieved, or services already availed, whether invoiced or not, subject to the Service Provider providing suitable invoices, outstanding upon the date of termination, shall be settled within 30 (thirty) days of such termination;
- 6.4. The accrued rights of the Parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced in any manner.

## **7. Representation and Warranties**

7.1. Each Party represents and warrants to the other Party that:

- (a) It has full power and authority to execute, deliver and perform this Agreement.
- (b) It has taken all necessary action to authorize the execution, delivery and performance of this Agreement; and
- (c) This Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof.

7.2. The Service Provider represents and warrants that

- (a) It possesses the necessary experience, expertise and ability to undertake and fulfil its obligations under all phases involved in the performance of its obligations under the Agreement
- (b) All representations made by the Service Provider in the Bis Response is true and accurate
- (c) The Service Provider has read and understood NSDC Procurement Policy and specifically the policy on Fraud and Corrupt Practices (extracted portion in Schedule -III) and shall abide by the same.

## **8. Performance Guarantee**

Within 21 days from date of signing of the Framework Agreement award, the Firm shall furnish to the Purchaser the performance security of 5% of contract amount. The performance security shall be denominated in Indian Rupees and shall be in the form of an unconditional bank guarantee issued by a nationalized/scheduled bank located in India acceptable to the Purchaser, in the format provided by the Purchaser. The performance security will be returned to the Firm not later than 30 days.

## 9. Personnel

- 9.1. The Service Provider shall deploy personnel for providing the Service only after they have been screened, to ensure that they meet the minimum quality standards. The title, agreed job description, minimum qualification and estimated period of engagement to carry out the Services of each Consultants key employees shall be described in Schedule IV. (“Key Employees”)
- 9.2. The Service Provider shall immediately terminate and replace a Key Employee who has a. breached any terms and conditions of this Agreement b. has committed a data breach c. is in anyway not in compliance with Applicable Law
- 9.3. NSDC shall have the right to interview any of the Key Employees engaged by the Consultant to ensure they are duly qualified to provision the Services.
- 9.4. In the event that any of the Key Employees resign, or cease to provide their services due to reasons beyond the control of the Consultant, the Consultant shall immediately replace such Key Employees, with equally competent resources, and ensure that a complete knowledge transfer, and all other processes required to maintain business continuity.
- 9.5. In the event that any Key Employee fails to meet the reasonable expectations of NSDC, NSDC may request a replacement and the Service Provider shall promptly replace, with a suitable and equivalent replacement.

## 10. Compliance with Laws

Each Party shall at all times and at its own expense (a) strictly comply with all Applicable Laws, now or hereafter in effect, relating to its performance of this Agreement; (b) pay all fees and other charges required by such Applicable Laws; and (c) maintain in full force and effect all licenses, permits, authorizations, registrations and qualification from any Authority to the extent necessary to perform its obligations hereunder.

## 11. Intellectual Property Rights

- 11.1. The Service Provider acknowledges that any Intellectual Property Rights already owned by NSDC shall remain the sole property of NSDC. However, so as to enable the Service Provider to provide the Services and to comply with its obligations under this Agreement, NSDC acknowledges that the Intellectual Property Rights or part thereof owned by NSDC will need to be made available to Service Provider and such property is made available only to enable the Service Provider to provide Services under this Agreement.
- 11.2. The Service Provider also acknowledges and assigns to NSDC in perpetuity and exclusively, Intellectual Property Rights in any deliverables created under this Agreement, in the course of provision of the Services. This includes reports, tables, presentations, handbook developed specifically for NSDC in furtherance of providing Services under this Agreement.
- 11.3. NSDC acknowledges that the Intellectual Property Rights owned by Service Provider, independently as separate from providing Services under this agreement, including tools for provision of Services of this Agreement, including discussion notes, learning tools, format and similar materials developed by the Service Provider in the course of its business, shall belong to the Service Provider only.



## 12. Indemnification

The Service Provider shall indemnify and hold the other Party harmless from third party claims arising from or related to:

- i. A breach of the terms of this Agreement; or
- ii. A violation of any Applicable Law.

The foregoing is, however, conditional upon NSDC notifying the Service Provider in writing and in detail without undue delay

## 13. Limitation of Liability

- 13.1. Neither Party shall be liable for any consequential, incidental, special, indirect, exemplary or punitive damages, or damages for any loss of profits, revenue or business, regardless of the nature of the claim, even if the other Party has been notified of the possibility of such damages.
- 13.2. The Service Provider or any of their employees or vendors shall not be liable to NSDC or any other person or entity for an amount of damages under this Agreement in excess of the amount of Consideration paid or payable for the applicable Services
- 13.3. The above limitations of liability and exclusions from liability set forth in this Clause 13 shall not apply (i) in cases of gross negligence or wilful misconduct; or (ii) to any liability arising out of fraudulent conduct

## 14. Use of Confidential Information

- 14.1. The Service Provider may be given access to Confidential Information from NSDC in order to perform its obligations under this agreement.
- 14.2. The Service Provider shall:
  - (a) use the Confidential Information of NSDC only for purposes of complying with its obligations under this Agreement and, without limiting the generality of the foregoing, shall not, directly or indirectly, deal with, use, exploit or disclose such Confidential Information or any part thereof to any person or entity or for any purpose whatsoever (or in any manner which would benefit any competitor of NSDC) except as expressly permitted hereunder or unless and until expressly authorized in writing to do so by NSDC;
  - (b) use reasonable efforts to treat, and to cause all its officers, agents, servants, employees, professional advisors and contractors and prospective contractors to treat, as strictly confidential all Confidential Information. In no event shall such efforts be less than the degree of care and discretion as the Service Provider exercises in protecting its own valuable confidential information. Any contractors engaged by or prospective contractors to be engaged by the Service Provider in connection with the performance of the Services shall be required to assume obligations of secrecy equal to or greater than the obligations that the Service Provider has assumed in this Agreement with respect to the Confidential Information;
  - (c) not, without the prior written consent of NSDC, disclose or otherwise make available NSDC's Confidential Information or any part thereof to any party other than those who need to know the Confidential Information for the purposes set forth herein;
  - (d) not copy or reproduce in any manner whatsoever the Confidential Information of NSDC or any part thereof without the prior written consent of NSDC, except where required for her own internal use in accordance with this Agreement; and

- (e) promptly upon the request of NSDC, return and confirm in writing the return of all originals, copies, reproductions and summaries of Confidential Information or, at the option of NSDC, destroy and confirm in writing the destruction of the Confidential Information;
- 14.3. The obligations of confidentiality contained in this Agreement are intended to survive the termination of this Agreement.
15. Force Majeure
- 15.1. Neither Party shall be liable for any failure or delay in performance of any obligation, under this Agreement to the extent such failure or delay is due to a Force Majeure event. The Party having any such cause shall promptly notify the other Party in writing of the nature of such cause and the expected delay.
- 15.2. If, however, it is not feasible for a Party to prevent the occurrence of the Force Majeure event as a result of which that Party is prevented from performing its obligation for more than thirty (30) days due to such Force Majeure Event (“Aggrieved Party”), the other Party may decide to release the Aggrieved Party from performing its obligation hereunder or may modify the relevant provisions of this Agreement affected by the Force Majeure event so long as the Force Majeure event continues, in order to enable the Aggrieved Party to perform its other obligations hereunder as so modified.
16. Governing Law and Dispute Resolution
- 16.1. This Agreement shall be governed by the laws of India.
- (a) In the event of any dispute, controversy or claim arising in any way out of or in connection with this Agreement (a “Dispute”), the Parties shall attempt in the first instance to resolve such Dispute through amicable discussion. If the Dispute is not resolved through such amicable discussion within 30 (thirty) days of a notice of Dispute being given or such longer period as the Parties agree to in writing, then any Party may refer the dispute for final resolution by arbitration.
  - (b) Any Dispute shall be settled by arbitration in accordance with the Rules of Arbitration of the Indian Council of Arbitration and the award made in pursuance thereof shall be binding on the Parties. The arbitration proceedings shall be held at New Delhi, India.
  - (c) The Parties to an arbitration shall keep the arbitration confidential and shall not disclose to any person, other than those necessary to the proceedings, the existence of the arbitration, any information submitted during arbitration, any documents submitted in connection with it, any oral submissions or testimony, transcripts or any award unless disclosure is required by law or is necessary for permissible court proceedings such as proceedings to recognise or enforce an award.
- 14.1 Jurisdiction: The Parties hereby agree that courts in New Delhi shall have the exclusive jurisdiction to determine any disputes arising out of, or in relation to, the terms and conditions of this Agreement.

17. Miscellaneous

- 17.1. Entire Agreement: This Agreement, the Annexures and recitals hereto (which are hereby expressly incorporated herein by reference) constitutes the entire understanding between the Parties and supersedes all other discussions and understanding between the Parties.
- 17.2. Assignment: This Agreement and the rights and obligations herein may not be assigned by either Party without the written consent of the other Party.
- 17.3. Amendments and Waivers: This Agreement may be amended only with the written consent of both Parties. Any amendment or waiver effected in accordance with this Clause shall be binding upon both Parties.
- 17.4. Delays or Omissions: No delay or omission to exercise any right, power or remedy accruing to any Party, upon any breach or default of any Party hereto under this Agreement, shall impair any such right, power or remedy of any Party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of any similar breach or default thereafter occurring; nor shall any waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any Party of any breach or default under this Agreement or any waiver on the part of any Party of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this in the Agreement, or by law or otherwise afforded to any Party shall be cumulative and not alternative.
- 17.5. No Partnership: Nothing contained in this Agreement shall be construed or interpreted as constituting a partnership or a joint venture between the Parties. Neither Party shall have any authority to bind the other Party in any manner whatsoever. This Agreement shall be construed to have been entered on a principal-to-principal basis.
- 17.6. Notices: Except as may be otherwise provided herein, all notices, requests, waivers and other communications (“Notices”) shall be deemed to be delivered as provided herein: (a) if delivered to the addressee (“Receiving Party”) by hand: upon the Notice being acknowledged by written receipt by the Receiving Party; (b) if sent by facsimile: upon the receipt of transmission report confirming transmission; (c) if sent via an overnight courier: upon receipt (evidenced by proof of delivery). The Notices shall be addressed to the Parties at the contact details provided below. Each Party shall promptly inform the other Parties of any change to its contact details.

To NSDC:

Address: 301, West Wing, World Mark – I, Aerocity, New Delhi - 110037  
Phone: 01147451600

To Service Provider:

[]

- 17.7. Severability: The invalidity or unenforceability of any provision in this Agreement shall in no way affect the validity or enforceability of any other provision herein. In the event of the invalidity or unenforceability of any provision of this Agreement, the Parties will immediately negotiate in good faith to replace such a provision with another, which is not prohibited or unenforceable and has, as far as possible, the same legal and commercial effect as that which it replaces.

- 17.8. Survival: The provisions of Clauses and such other provisions of this Agreement, which are by their nature, intended to survive the termination of this Agreement, shall survive the termination of this Agreement.
- 17.9. Counterparts: This Agreement may be executed in two (2) counterparts, each of which when executed and delivered shall constitute an original of this Agreement but shall together constitute one and only the Agreement.

**IN WITNESS WHEREOF** the Parties hereto have duly executed this Agreement as of the date and year hereinabove first written.

<b>NSDC</b>  By _____  Name: Title:	[] By _____  Name: Title:
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**SCHEDULE I**

**SERVICE DESCRIPTION**

[SCOPE OF WORK TO BE INSERTED HERE ALONG WITH ANY SPECIFIC DELIVERABLES]

**SCHEDULE -II**

Sr. No	Activity	Timeline	Amount Payable

**[Other relevant terms, including permissible deductions]**

## Schedule -III- Fraudulent or Corrupt Practices

### 18. Section 6. NSDC Policy – Corrupt and Fraudulent Practices

1.2 It should be kept in mind that all actions towards award of Contract and its implementation on the ground have to be fair, consistent, transparent and based on highest standard of ethics. Similarly, bidders/suppliers/contractors/consultants associated in the procurement of Goods, Works & Consultancy, are expected to observe the highest standard of ethics during procurement and execution of contracts. In pursuance to above:

- a. Proposal for award may be rejected, if it determines that the bidder, recommended for award, and/or its employees, sub-contractors, sub-consultant, sub-vendors, agents have engaged in corrupt or fraudulent practices in competing for the Contract in question.
- b. Portion of the funds allocated to a contract may be cancelled, in full or in part, if it is determined that corrupt or fraudulent practices were engaged by contractor/consultant and/or its employees, subcontractors/sub-consultants, sub-vendors, agents for getting the Contract or during the execution of a Contract.
- c. A firm may be declared as ineligible, either indefinitely or for a stated period of time, to be awarded a Contract, if it, at any time, determines that the firm has been engaged in corrupt or fraudulent practices in competing for or in executing the Contract. For the purpose of above provision, the terms, "Corrupt Practice" and "Fraudulent Practice", mean following:

**"corrupt practice"** means offering, giving, receiving, or soliciting anything of value to influence the action of NSDC's official(s) in the procurement process or in the contract execution; and

**"fraudulent practice"** means a misrepresentation of facts in order to influence a procurement process or the execution of a contract and includes collusive practices among bidders (prior to or after bid submission) designed to establish bid/proposal prices at artificial, non-competitive levels.

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