

LEGAL CLAUSES

1. DISCLAIMER

All information contained in this document, subsequently provided/clarified are in good interest and faith. This is not an agreement¹ and is not an offer or invitation to enter into an agreement of any kind with any party. NSDC reserves the right to cancel this document, and/or invite afresh proposals with or without amendments to this document without liability or any obligation for such document, and without assigning any reason. NSDC reserves the right to take final decision regarding award of contract.

The Applicant shall bear all costs associated with the preparation and submission of its proposal, and NSDC shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the proposal process.

Submission of proposal under RFP mode does not guarantee allocation of target under PMKVY 3.0 Special Projects Scheme. Thus, this RFP does not encourage creation of any new training infrastructure specifically for imparting training under PMKVY 3.0 Special Projects Scheme.

Under no circumstances will NSDC be held responsible or liable in any way for any claims, damages, losses, expenses, costs or liabilities whatsoever (including, without limitation, any direct or indirect damages for loss of profits, business interruption or loss of information) resulting or arising directly or indirectly by application or non – application to this RFP.

Applicants are advised to go through the Guidelines for PMKVY 3.0 (2020-21) and with particular attention to chapter 2 and 4 before applying

([https://www.msde.gov.in/sites/default/files/2021-01/PMKVY%20Guideline%20report_\(06-01-2021\)_V5.pdf](https://www.msde.gov.in/sites/default/files/2021-01/PMKVY%20Guideline%20report_(06-01-2021)_V5.pdf)).

2. PROPOSAL OWNERSHIP

2.1 All proposals submitted to NSDC shall become the property of NSDC, which shall not be liable to be returned to the proposer. NSDC shall, however, maintain confidentiality of the information contained within the proposals. NSDC shall be entitled to share the proposals and the information contained therein with the agencies and individuals involved in the process of evaluation and also its advisors, consultants, lawyers, etc. and as may otherwise be required to be disclosed under law.

3. RIGHT TO TERMINATION/CANCELLATION/REVISION/AMENDMENT

3.1 Notwithstanding anything contained in this document, NSDC, reserves the right to cancel/terminate the proposal process herein without assigning any reason whatsoever, at any time prior to signing of the agreement/term sheet/indemnity bond and NSDC shall have no liability for above-mentioned actions.

¹Agreement (if mentioned without any prefix) in this document refers to the MoU/contract/indemnity bond/project sanction email/project sanction acknowledgment to be signed by the applicant for the training of candidates allocated under PMKVY 3.0 Special Projects Scheme post proposal evaluation and subsequent selection of the applicant.

3.2 Further, NSDC reserves its right to revise or amend this document any time for any reason by issuance of addendum.

4 CORRUPT OR FRAUDULENT PRACTICE

- 4.1 In the event of applicant engaging in any corrupt or fraudulent practices during the proposal process, as per the judgment of NSDC, the proposal shall be rejected. Any decision of NSDC in this regard shall be final and binding on the Applicant.
- 4.2 For the purpose of this clause: “Corrupt Practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of NSDC in the selection process. It also includes bringing undue influence through any quarter or interfering directly or indirectly in the selection process to affect its outcome.
- 4.3 “Fraudulent Practice” means a misrepresentation of facts in order to influence selection process to the detriment of NSDC.

5 TERMS OF REFERENCE

- 5.1 All Organizations allocated targets should be familiar with PMKVY 3.0 Guidelines, (*inclusive of Monitoring and Branding Guidelines, Accreditation & Affiliation Guidelines*) as amended from time to time. SPIA center inspection is required to be as per Accreditation & Affiliation Guidelines etc. In addition, eligibility conditions mentioned in this document shall be binding on all applicants. In case of any inconsistency, the interpretation taken by NSDC shall be final.

6 TERMS & CONDITIONS

- 6.1 **Interpretation** - In case of any ambiguity in the interpretation of any of the clauses in this document, the interpretation of the clauses by Authorized Representative of NSDC shall be final and binding on all the parties.
- 6.2 **Language** - The proposal and all correspondence and documents related to the proposal exchanged by the Applicant and NSDC must be in English. Supporting documents and printed literature furnished by the Applicant may be in any language other than English provided they are accompanied by a notary certified translation of the relevant passages in English language. Supporting material, which is not translated into English, may not be considered for evaluation. For the purpose of evaluation and interpretation of the proposal, the English language translation shall prevail.
- 6.3 **Change in Laws and Regulations** - If after the date of proposal submission, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated or changed which shall be deemed to include any change in interpretation or application by the competent authorities, that subsequently affects the costs and expenses of the Applicant and/or the Time for Completion, the terms and conditions shall be reasonably adjusted.
- 6.4 **Compliance with Laws**

- 6.4.1 The Applicant shall undertake to observe, adhere to, comply with all laws in force or as are made applicable in future, pertaining to or applicable to the Applicant, their business, their employees or their obligations towards employees and all purposes of this document and shall indemnify, keep indemnified, hold harmless, defend and protect NSDC and its directors/employees/officers/staff/personnel/representatives/agents from any failure or omission on its part to do so and against all claims or demands of liability and all consequences that may occur or arise for any default or failure on its part to conform or comply with the above and all other statutory obligations arising there from.
- 6.4.2 The Applicant shall promptly and timely obtain all such consents, permissions, approvals, licenses, etc. as may be necessary or required for any of the purposes of this PMKVY 3.0 Special Projects or for the conduct of their own business under any applicable Law, Government Regulation/Guidelines and shall keep the same valid and in force during the term of the PMKVY 3.0 Special Projects, and in the event of any failure or omission to do so, shall indemnify, keep indemnified, hold harmless, defend, protect and fully compensate NSDC and its directors/employees/ officers/ staff/ personnel/ representatives/agents from and against all claims or demands of liability and all consequences that may occur or arise for any default or failure on its part to conform or comply with the above and all other statutory obligations arising there from.
- 6.4.3 The Applicant agrees that the Applicant shall not be entitled to assign / sub lease any or all of its rights and or obligations under this document and subsequent agreement to any entity including Applicant's affiliate without the prior written consent of NSDC.
- 6.4.4 The Applicant shall follow the guidelines issued by Ministry of Health and Family Welfare ("MoHFW"), the Ministry of Skill Development and Entrepreneurship ("MSDE"), and applicable central, state and local authorities, during the tenure of the Scheme on preventive measures to contain spread of COVID-19 in training centres.

7 DISPUTES AND ARBITRATION

- 7.1 **Arbitration** -Any controversy or claim arising out of or relating to this RFP document, the interpretation hereof, or its breach shall, if not resolved by mutual discussions between the parties, be settled by binding arbitration in accordance with the Arbitration and Conciliation Act, 1996. Arbitration shall be conducted in New Delhi in English language.
- 7.2 **Jurisdiction** -Subject to clause 14.1 above, all disputes and controversies relating to this RFP document shall be subject to the exclusive jurisdiction of the Courts at New Delhi. The parties agree to submit themselves to the jurisdiction of such court. This document shall be governed by the laws of India.

8 REPRESENTATIONS AND WARRANTIES

- 8.1 The Applicant further warrants that they are under no obligation or restriction, nor shall they assume any such obligation or restriction, that would in any way interfere or conflict with, or that would present a conflict of interest concerning, any obligations under this scheme.

- 8.2 The Applicant represents that it is duly incorporated, validly exists under applicable Law.
- 8.3 The Applicant represents that it has the right and authority to enter into this collaboration and perform its obligations hereunder. The execution, delivery and performance of terms and conditions hereunder by such Party and the performance of its obligations herein are duly authorized and approved by all necessary action and no other action on the part of such Party is necessary to authorize the execution, delivery and performance under agreements.
- 8.4 The Applicant represents that the submission of responses to this document, execution, delivery and performance under an Agreement entered in case the Applicant is selected:
- 8.4.1 Shall not violate or contravene any provision of its documents of incorporation.
 - 8.4.2 Shall not violate or contravene any law, statute, rule, regulation, licensing requirement, order, injunction or decree of any court, governmental instrumentality or other regulatory, governmental or public body, entity or authority by which it is bound or by which any of its properties or assets are bound;
 - 8.4.3 To the best of its knowledge, after reasonable investigation, no representation or warranty by the Applicant, and no document furnished or to be furnished to NSDC, or in connection herewith or with the transactions contemplated hereby, contains or shall contain any untrue or misleading statement or omits or shall omit any fact necessary to make the statements contained herein or therein, in light of the circumstances under which it is made. There have been no events or transactions, or facts or information which has come to, or upon reasonable diligence, should have come to the Applicant and which have not been disclosed, having a direct impact on the transactions contemplated hereunder.

9 RIGHT TO CHANGE

NSDC reserves its right to change the above stated terms & conditions at any point of time without any prior notice.