

Bid Document/ बिड दस्तावेज़

Bid Details/बिड विवरण	
Bid End Date/Time/बिड बंद होने की तारीख/समय	04-06-2025 15:00:00
Bid Opening Date/Time/बिड खुलने की तारीख/समय	04-06-2025 15:30:00
Bid Offer Validity (From End Date)/बिड पेशकश वैधता (बंद होने की तारीख से)	120 (Days)
Ministry/State Name/मंत्रालय/राज्य का नाम	Ministry Of Power
Department Name/विभाग का नाम	Na
Organisation Name/संगठन का नाम	Nhpc Limited
Office Name/कार्यालय का नाम	Contracts Enm Corporate Office Nhpc Ltd Sec33 Fbd
क्रेता ईमेल/Buyer Email	buyer136.nl.hp@gembuyer.in
Total Quantity/कुल मात्रा	60000
Item Category/मद केटेगरी	Portland - Pozzolana Cement (Fly Ash Based) for Bulk Buying as per IS 1489 (Part 1) (Q2)
MSE Exemption for Years of Experience and Turnover/ अनुभव के वर्षों से एमएसई छूट	No
Startup Exemption for Years of Experience and Turnover/ अनुभव के वर्षों से स्टार्टअप छूट	No
Document required from seller/विक्रेता से मांगे गए दस्तावेज़	Certificate (Requested in ATC),Additional Doc 1 (Requested in ATC),Additional Doc 2 (Requested in ATC),Additional Doc 3 (Requested in ATC),Compliance of BoQ specification and supporting document *In case any bidder is seeking exemption from Experience / Turnover Criteria, the supporting documents to prove his eligibility for exemption must be uploaded for evaluation by the buyer
Do you want to show documents uploaded by bidders to all bidders participated in bid?/	No
Bid to RA enabled/बिड से रिवर्स नीलामी सक्रिय किया	Yes
RA Qualification Rule	H1-Highest Priced Bid Elimination
Type of Bid/बिड का प्रकार	Two Packet Bid

Bid Details/बिड विवरण	
Time allowed for Technical Clarifications during technical evaluation/तकनीकी मूल्यांकन के दौरान तकनीकी स्पष्टीकरण हेतु अनुमत समय	3 Days
Inspection Required (By Empanelled Inspection Authority / Agencies pre-registered with GeM)	No
Estimated Bid Value/अनुमानित बिड मूल्य	440940000
Evaluation Method/मूल्यांकन पद्धति	Total value wise evaluation
Arbitration Clause	No
Mediation Clause	No

EMD Detail/ईएमडी विवरण

Advisory Bank/एडवाइजरी बैंक	State Bank of India
EMD Amount/ईएमडी राशि	6600000

ePBG Detail/ईपीबीजी विवरण

Advisory Bank/एडवाइजरी बैंक	State Bank of India
ePBG Percentage(%) / ईपीबीजी प्रतिशत (%)	5.00
Duration of ePBG required (Months) / ईपीबीजी की अपेक्षित अवधि (महीने).	15

(a). EMD EXEMPTION: The bidder seeking EMD exemption, must submit the valid supporting document for the relevant category as per GeM GTC with the bid. Under MSE category, only manufacturers for goods and Service Providers for Services are eligible for exemption from EMD. Traders are excluded from the purview of this Policy./जेम की शर्तों के अनुसार ईएमडी छूट के इच्छुक बिडर को संबंधित कैटेगरी के लिए बिड के साथ वैध समर्थित दस्तावेज प्रस्तुत करने हैं। एमएसई कैटेगरी के अंतर्गत केवल वस्तुओं के लिए विनिर्माता तथा सेवाओं के लिए सेवा प्रदाता ईएमडी से छूट के पात्र हैं। व्यापारियों को इस नीति के दायरे से बाहर रखा गया है।

(b). EMD & Performance security should be in favour of Beneficiary, wherever it is applicable./ईएमडी और संपादन जमानत राशि, जहां यह लागू होती है, लाभार्थी के पक्ष में होनी चाहिए।

Beneficiary/लाभार्थी :

NHPC Limited

NHPC Limited, NHPC Office Complex, Sector-33, Faridabad, Haryana-121003; Bank Account No.: 00000010813608692, Credit Bank: State Bank of India, IFSC Code: SBIN00017313, Branch: CAG-II New Delhi (Branch Code :17313) SWIFT Code: SBININBB824 Note: 1). EMD shall be delivered at the following Address: Sh. Anand Kumar, General Manager (E), Contracts (E&M)-IV, 2nd Floor, Jyoti Sadan, NHPC Office Complex, Sector-33, Faridabad (Nhpc Limited)

Reserved for Make In India products

Reserved for Make In India products	Yes
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MSE Purchase Preference/एमएसई खरीद वरीयता

MSE Purchase Preference/एमएसई खरीद वरीयता	Yes
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1. Bid reserved for Make In India products: : Procurement under this bid is reserved for purchase from Class 1 local supplier as defined in public procurement (Preference to Make in India), Order 2017 as amended from time to time and its subsequent Orders/Notifications issued by concerned Nodal Ministry for specific Goods/Products. However, eligible micro and small enterprises will be allowed to participate. The minimum local content to qualify as a class 1 local supplier is denoted in the bid document. All bidders must upload a certificate from the OEM regarding the percentage of the local content and the details of locations at which the local value addition is made along with their bid, failing which the bid is liable to be rejected. In case the bid value is more than Rs 10 Crore, the declaration relating to percentage of local content shall be certified by the statutory auditor or cost auditor, if the OEM is a company and by a practicing cost accountant or a chartered accountant for OEMs other than companies as per the Public Procurement (preference to Make-in -India) order 2017 dated 04.06.2020 . In case Buyer has selected Purchase preference to Micro and Small Enterprises clause in the bid, the same will get precedence over this clause.

2. Purchase preference will be given to MSEs having valid Udyam Registration and whose credentials are validated online through Udyam Registration portal as defined in Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012 dated 23.03.2012 issued by Ministry of Micro, Small and Medium Enterprises and its subsequent Orders/Notifications issued by concerned Ministry. If the bidder wants to avail themselves of the Purchase preference, the bidder must be the manufacturer / OEM of the offered product on GeM. Traders are excluded from the purview of Public Procurement Policy for Micro and Small Enterprises and hence resellers offering products manufactured by some other OEM are not eligible for any purchase preference. In respect of bid for Services, the bidder must be the Service provider of the offered Service. Relevant documentary evidence in this regard shall be uploaded along with the bid in respect of the offered product or service and Buyer will decide eligibility for purchase preference based on documentary evidence submitted, while evaluating the bid. If L-1 is not an MSE and MSE Seller (s) has / have quoted price within L-1+ 15% (Selected by Buyer) of margin of purchase preference /price band defined in relevant policy, such MSE Seller shall be given opportunity to match L-1 price and contract will be awarded for 25% (selected by Buyer) percentage of total quantity. The buyers are advised to refer the OM No. F.1/4/2021-PPD dated 18.05.2023 [OM No.1 4 2021 PPD dated 18.05.2023](#) for compliance of Concurrent application of Public Procurement Policy for Micro and Small Enterprises Order, 2012 and Public Procurement (Preference to Make in India) Order, 2017. Benefits of MSE will be allowed only if seller is validated on-line in GeM profile as well as validated and approved by Buyer after evaluation of documents submitted.

3. Estimated Bid Value indicated above is being declared solely for the purpose of guidance on EMD amount and for determining the Eligibility Criteria related to Turn Over, Past Performance and Project / Past Experience etc. This has no relevance or bearing on the price to be quoted by the bidders and is also not going to have any impact on bid participation. Also this is not going to be used as a criteria in determining reasonableness of quoted prices which would be determined by the buyer based on its own assessment of reasonableness and based on competitive prices received in Bid / RA process.

4. Reverse Auction would be conducted amongst all the technically qualified bidders except the Highest quoting bidder. The technically qualified Highest Quoting bidder will not be allowed to participate in RA. However, H-1 will also be allowed to participate in RA in following cases:

- If number of technically qualified bidders are only 2 or 3.
- If Buyer has chosen to split the bid amongst N sellers, and H1 bid is coming within N.
- In case Primary product of only one OEM is left in contention for participation in RA on elimination of H-1.
- If L-1 is non-MSE and H-1 is eligible MSE and H-1 price is coming within price band of 15% of Non-MSE L-1
- If L-1 is non-MII and H-1 is eligible MII and H-1 price is coming within price band of 20% of Non-MII L-1

Portland - Pozzolana Cement (Fly Ash Based) For Bulk Buying As Per IS 1489 (Part 1) (60000 metric tonne)

(Minimum 70% Local Content required for qualifying as Class 1 Local Supplier)

Technical Specifications/तकनीकी विशिष्टियाँ

* जेम केटेगरी विशिष्टि के अनुसार / As per GeM Category Specification

Specification	Specification Name/विशिष्टि का नाम	Bid Requirement/बिड के लिए आवश्यक (Allowed Values)/अनुमत मूल्य
General Requirements	Content of fly ash ,in percent	16, 17, 24, 26, 33, 30, 34, 35
Packing and Marking	Packing Material	HDPE/PP woven sacks conforming to IS 11652

Additional Specification Parameters - Portland - Pozzolana Cement (Fly Ash Based) For Bulk Buying As Per IS 1489 (Part 1) (60000 metric tonne)

Specification Parameter Name	Bid Requirement (Allowed Values)
Technical Specification of PPC 53 Grade Cement mentioned herein i.e. "Additional Specification Parameters" and enclosed with bid document shall supersede the above-mentioned specifications including golden parameters.	Portland Pozzolana Cement (PPC) Conforming to IS:1489-Part-I, The strength criteria will be 27 Mpa at 03 days, 37 Mpa at 07 days & 53 Mpa at 28 days (The strength criteria shall be same as OPC 53 Grade of Table 3 of IS:269-2015), packed in HDPE/PP Bags containing 50 Kg in each Bags.

* Bidders offering must also comply with the additional specification parameters mentioned above.

Consignees/Reporting Officer/परेषिती/रिपोर्टिंग अधिकारी and/ तथा Quantity/मात्रा

S.No./क्र. सं.	Consignee Reporting/Officer/ परेषिती/रिपोर्टिंग अधिकारी	Address/पता	Quantity/मात्रा	Delivery Days/डिलीवरी के दिन
1	Bhagamat Marndi	787035,Subansiri Lower H.E. Project, Kolaptukar, Dollungmukh Circle, Arunachal Pradesh, Correspondence address: Gerukamukh, via Gogamukh, Dist.-Dhemaji, Assam	60000	365

Buyer Added Bid Specific Terms and Conditions/क्रेता द्वारा जोड़ी गई बिड की विशेष शर्तें

1. Generic

OPTION CLAUSE: The Purchaser reserves the right to increase or decrease the quantity to be ordered up to 25 percent of bid quantity at the time of placement of contract. The purchaser also reserves the right to increase the ordered quantity up to 25% of the contracted quantity during the currency of the contract at the contracted rates. The delivery period of quantity shall commence from the last date of original

delivery order and in cases where option clause is exercised during the extended delivery period the additional time shall commence from the last date of extended delivery period. The additional delivery time shall be $(\text{Increased quantity} \div \text{Original quantity}) \times \text{Original delivery period (in days)}$, subject to minimum of 30 days. If the original delivery period is less than 30 days, the additional time equals the original delivery period. The Purchaser may extend this calculated delivery duration up to the original delivery period while exercising the option clause. Bidders must comply with these terms.

2. **Generic**

Bidder financial standing: The bidder should not be under liquidation, court receivership or similar proceedings, should not be bankrupt. Bidder to upload undertaking to this effect with bid.

3. **Generic**

Actual delivery (and Installation & Commissioning (if covered in scope of supply)) is to be done at following address

Central Store
NHPC Limited
Subansiri Lower HE Project
Gerukamukh
District Dhemaji, Assam
.

4. **Generic**

Bidders are advised to check applicable GST on their own before quoting. Buyer will not take any responsibility in this regards. GST reimbursement will be as per actuals or as per applicable rates (whichever is lower), subject to the maximum of quoted GST %.

5. **Generic**

Buyer Organization specific Integrity Pact shall have to be complied by all bidders. Bidders shall have to upload scanned copy of signed integrity pact as per Buyer organizations policy along with bid. [Click here to view the file](#)

6. **Generic**

Bidder shall submit the following documents along with their bid for Vendor Code Creation:

- a. Copy of PAN Card.
- b. Copy of GSTIN.
- c. Copy of Cancelled Cheque.
- d. Copy of EFT Mandate duly certified by Bank.

7. **Inspection**

Nominated Inspection Agency: On behalf of the Buyer organization, any one of the following Inspection Agency would be conducting inspection of stores before acceptance:
Pre-dispatch Inspection at Seller Premises (applicable only if pre-dispatch inspection clause has been selected in ATC):

NO

Post Receipt Inspection at consignee site before acceptance of stores:
YES, As per Special Terms & Conditions (STC) enclosed with bid document.

8. **Certificates**

Bidder's offer is liable to be rejected if they don't upload any of the certificates / documents sought in the

Bid document, ATC and Corrigendum if any.

9. **Buyer Added Bid Specific ATC**

Buyer Added text based ATC clauses

(i) Bidders are advised to submit EMD related documents like DD/BG/ Insurance Surety Bond to Sh. Anand Kumar, General Manager (Elect.) Contracts (E&M) –IV, 2nd Floor, Jyoti Sadan, NHPC Limited, Sector-33, Faridabad (Haryana)- 121003 **and** PBG to Engineer-In Charge, Subansiri Lower HE Project, Gerukamukh, via Gogamukh, Distt.-Dhemaj i, Assam-787035

(ii) **Bid security/ Earnest Money Deposit (EMD):** Bidder shall submit along with the bid, the requisite Bid Security for an amount of Rs. 66,00,000/- (Rupees Sixty Six Lakh Only) as mentioned in the Bid document except in case of exemption in submission of Bid Security/EMD as per provision of GEM GTC Cl. No. 4 (xiii)(m).

Bid security may be deposited either in the form of a Crossed Bank Draft in favour of NHPC Ltd., payable at Faridabad **or** Bank Guarantee (as per Format at Annexure-VIII of STC) from an Indian Nationalized Bank/any Scheduled Bank in India **or** Insurance Surety Bond (as per Format at Annexure-IX of STC) valid for a period not less than 90 days beyond the Bid offer validity **or** submission of relevant supporting document as per GEM GTC Cl. No. 4 (xiii)(m) towards exemption in submission of Bid Security/EMD. Failure to do so may prevent a tender from being considered. Bidder has to upload scanned copy of Bank draft/BG/ Insurance Surety Bond as proof along with the bid and has to ensure delivery of hardcopy within 5 days of Bid end date/ Bid opening date.

(iii) **Section-0: ‘Qualifying Requirement (QR) for Bidders’, Section-I: ‘Special Terms & Conditions (STC)’ and Section-II: ‘Technical Specifications (TS)’ applicable for this bid document is enclosed hereunder in Buyer uploaded ATC document (at Sl. No. 10 below).**

The above documents enclosed herewith (at Sl. No. 10 below) shall be read and construed along with the General Terms & Conditions (GTC) of GeM and in case of any conflict or inconsistency, between these documents and General Terms & Conditions (GTC) of GeM, provisions contained herein in these document shall prevail.

10. **Buyer Added Bid Specific ATC**

Buyer uploaded ATC document [Click here to view the file.](#)

Disclaimer/अस्वीकरण

The additional terms and conditions have been incorporated by the Buyer after approval of the Competent Authority in Buyer Organization, whereby Buyer organization is solely responsible for the impact of these clauses on the bidding process, its outcome, and consequences thereof including any eccentricity / restriction arising in the bidding process due to these ATCs and due to modification of technical specifications and / or terms and conditions governing the bid. If any clause(s) is / are incorporated by the Buyer regarding following, the bid and resultant contracts shall be treated as null and void and such bids may be cancelled by GeM at any stage of bidding process without any notice:-

1. Definition of Class I and Class II suppliers in the bid not in line with the extant Order / Office Memorandum issued by DPIIT in this regard.
2. Seeking EMD submission from bidder(s), including via Additional Terms & Conditions, in contravention to exemption provided to such sellers under GeM GTC.
3. Publishing Custom / BOQ bids for items for which regular GeM categories are available without any Category item bunched with it.
4. Creating BoQ bid for single item.
5. Mentioning specific Brand or Make or Model or Manufacturer or Dealer name.
6. Mandating submission of documents in physical form as a pre-requisite to qualify bidders.
7. Floating / creation of work contracts as Custom Bids in Services.
8. Seeking sample with bid or approval of samples during bid evaluation process. (However, in bids for [attached categories](#), trials are allowed as per approved procurement policy of the buyer nodal Ministries)
9. Mandating foreign / international certifications even in case of existence of Indian Standards without specifying equivalent Indian Certification / standards.
10. Seeking experience from specific organization / department / institute only or from foreign / export experience.
11. Creating bid for items from irrelevant categories.
12. Incorporating any clause against the MSME policy and Preference to Make in India Policy.
13. Reference of conditions published on any external site or reference to external documents/clauses.
14. Asking for any Tender fee / Bid Participation fee / Auction fee in case of Bids / Forward Auction, as the case may be.
15. Buyer added ATC Clauses which are in contravention of clauses defined by buyer in system generated bid template as indicated above in the Bid Details section, EMD Detail, ePBG Detail and MII and MSE Purchase Preference sections of the bid, unless otherwise allowed by GeM GTC.
16. In a category based bid, adding additional items, through buyer added additional scope of work/ additional terms and conditions/or any other document. If buyer needs more items along with the main item, the same must be added through bunching category based items or by bunching custom catalogs or bunching a BoQ with the main category based item, the same must not be done through ATC or Scope of Work.

Further, if any seller has any objection/grievance against these additional clauses or otherwise on any aspect of this bid, they can raise their representation against the same by using the Representation window provided in the bid details field in Seller dashboard after logging in as a seller within 4 days of bid publication on GeM. Buyer is duty bound to reply to all such representations and would not be allowed to open bids if he fails to reply to such representations.

All GeM Sellers / Service Providers are mandated to ensure compliance with all the applicable laws / acts / rules including but not limited to all Labour Laws such as The Minimum Wages Act, 1948, The Payment of Wages Act, 1936, The Payment of Bonus Act, 1965, The Equal Remuneration Act, 1976, The Payment of Gratuity Act, 1972 etc. Any non-compliance will be treated as breach of contract and Buyer may take suitable actions as per GeM Contract.

[This Bid is also governed by the General Terms and Conditions/ यह बिड सामान्य शर्तों के अंतर्गत भी शासित है](#)

In terms of GeM GTC clause 26 regarding Restrictions on procurement from a bidder of a country which shares a land border with India, any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority. While participating in bid, Bidder has to undertake compliance of this and any false declaration and non-compliance of this would be a ground for immediate termination of the contract and further legal action

in accordance with the laws./जेम की सामान्य शर्तों के खंड 26 के संदर्भ में भारत के साथ भूमि सीमा साझा करने वाले देश के बिडर से खरीद पर प्रतिबंध के संबंध में भारत के साथ भूमि सीमा साझा करने वाले देश का कोई भी बिडर इस निविदा में बिड देने के लिए तभी पात्र होगा जब वह बिड देने वाला सक्षम प्राधिकारी के पास पंजीकृत हो। बिड में भाग लेते समय बिडर को इसका अनुपालन करना होगा और कोई भी गलत घोषणा किए जाने व इसका अनुपालन न करने पर अनुबंध को तत्काल समाप्त करने और कानून के अनुसार आगे की कानूनी कार्यवाई का आधार होगा।

---Thank You/धन्यवाद---

(To be submitted offline as well as uploaded online (scanned copy))

(Format of Integrity Pact)

(To be executed on plain paper at the time of submission of bid and on Non-Judicial Stamp Paper of appropriate value by successful Bidder (Contractor) prior to signing of Contract Agreement)

PRE-CONTRACT INTEGRITY PACT

Between

NHPC Limited, a company incorporated under the Companies Act 1956 and having its registered office at NHPC Office Complex, Sector-33, Faridabad-121003 (Haryana), hereinafter referred to as "The Employer" which expression shall mean and include, unless the context otherwise requires, his successors in office and assigns of the **First Part**.

And

M/s _____, a company/
firm/ individual (status of the company) and having its registered
office at _____

Represented by Sh. _____, hereinafter referred to as "The Bidder/Contractor" which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns of the **Second Part**.

WHEREAS the Employer proposes to procure under laid down organizational procedures, contract/s for _____ (Name of the work/ goods/ services) and the Bidder/Contractor is willing to offer against NIT No. _____.

WHEREAS the Bidder/Contractor is a private company / public company/Government undertaking/partnership/consortium/joint venture constituted in accordance with the relevant law in the matter and the Employer is a Public Sector Enterprise.

NOW, THEREFORE,

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:-

Enabling the Employer to obtain the desired said (work/ goods/ services) at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on public procurement, and

Enabling the Bidder(s)/Contractor(s) to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the Employer will commit to prevent corruption, in any form, by its officials by following transparent procedures.

1.0 COMMITMENTS OF THE EMPLOYER:

1.1 The Employer undertakes that no official of the Employer, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder/Contractor, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the contract.

1.2 The Employer will, during the pre-contract stage, treat all the Bidders/Contractors alike, and will provide to all the Bidders/Contractors the same information and will not provide any such information to any particular Bidder/Contractor which could afford an advantage to that particular Bidder/Contractor in comparison to other Bidders/Contractors.

1.3 All the officials of the Employer will report to the appropriate Authority any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.

2.0 In case any such preceding misconduct on the part of such official(s) is reported by the Bidder to the Employer with full and verifiable facts and the same is prima facie found to be correct by the Employer, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the Employer or Independent External Monitor and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the Employer the proceedings under the contract would not be stalled.

3.0 COMMITMENTS OF THE BIDDER(S)/ CONTRACTOR(S):

The Bidder(s)/Contractor(s) commits themselves to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commit themselves to observe the following principles during participation in the tender process and during contract execution:-

- 3.1. The Bidder(s)/Contractor(s) will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Employer, connected directly or indirectly with the bidding process, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
- 3.2 The Bidder/Contractor further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Employer or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the contract or any other contract with Employer for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with Employer.
- 3.3 The Bidder(s)/Contractor(s) shall disclose the name and address of agents and representatives and Indian Bidder(s)/Contractor(s) shall disclose their foreign principals or associates.
- 3.4 The Bidder(s)/Contractor(s) shall, when presenting their bid, disclose any / all payments made, is committed to or intends to make to agents, brokers or any other intermediaries, in connection with this bid/award of the contract
- 3.5 Deleted.
- 3.6 The Bidder, either while presenting their bid or during pre-contract negotiations or before signing the contract, shall disclose any payments made, is committed to or intends to make to officials of the Employer or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.
- 3.7 The Bidder/Contractor will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract.
- 3.8 The Bidder/Contractor will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
- 3.9 The Bidder/Contractor shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the Employer as part of the business relationship, regarding plans, technical proposals and business details, including information contained in electronic data carrier. The Bidder/Contractor also undertakes to exercise due and adequate care lest any such information is divulged.
- 3.10 The Bidder(s)/Contractor(s) commits to refrain from giving any complaint directly or

through any other manner without supporting it with full and verifiable facts.

- 3.11 The Bidder(s)/Contractor(s) shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.

If the Bidder/Contractor or any employee of the Bidder/Contractor or any person acting on behalf of the Bidder/Contractor, either directly or indirectly, is a relative of any of the officers of the Employer, or alternatively, if any relative of an officer of the Employer has financial interest/stake in the Bidder(s)/Contractor(s) firm(excluding Public Limited Company listed on Stock Exchange), the same shall be disclosed by the Bidder/Contractor at the time of filling of tender.

The term 'relative' for this purpose would be as defined in Section 2(77) of the Companies Act 2013.

- 3.12 The Bidder(s)/Contractor(s) shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the Employer.
- 3.13 The representative of the Bidder(s)/ Contractor(s) signing Integrity Pact shall not approach the Courts while representing the matters to IEMs and he/she will wait their decision in the matter.
- 3.14 In case of sub-contracting, the bidder/principal contractor shall take the responsibility of the adoption of IP by the sub-contractor.

4.0 PREVIOUS TRANSGRESSION:

- 4.1 The Bidder(s)/Contractor(s) declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect on any corrupt practices envisaged hereunder or with any Public Sector Enterprise in India or any Government Department in India.

5.0 EARNEST MONEY (SECURITY DEPOSIT):

The provision regarding Earnest Money/Security Deposit as detailed in the Notice Inviting Tender (NIT) and Instruction to Bidders (ITB) section of the Bid Document is to be referred.

6.0 SANCTIONS FOR VIOLATIONS:

- 6.1 Any breach of the aforesaid provisions, before award or during execution by the Bidder/Contractor or any one employed by it or acting on its behalf such as to put their reliability or credibility in question shall entitle the Employer to take action as per the

procedure mentioned in the “**Guidelines on Banning of Business Dealings**” attached as **Annex-A** and initiate all or any one of the following actions, wherever required:-

- (i) To immediately call off the pre contract negotiations without assigning any reason or giving any compensation to the Bidder/Contractor. However, the proceedings with the other Bidder(s)/Contractor(s) would continue.
- (ii) The Earnest Money Deposit (in pre-contract stage) and/or Security Deposit/ Performance Bond (after the contract is Signed) shall stand forfeited either fully or partially, as decided by the Employer and the Employer shall not be required to assign any reason thereof.
- (iii) To immediately cancel the contract, if already signed, without giving any compensation to the Contractor. The Bidder/Contractor shall be liable to pay compensation for any loss or damage to the Employer resulting from such cancellation/rescission and the Employer shall be entitled to deduct the amount so payable from the money(s) due to the Bidder/Contractor.
- (iv) Deleted.
- (v) To encash the Bank Guarantee, in order to recover the dues if any by the Employer, along with interest as per the provision of contract.
- (vi) Deleted.
- (vii) To debar the Bidder/Contractor from participating in future bidding processes of NHPC Ltd., as per provisions of “Guidelines on Banning of Business Dealings” of NHPC Limited (**Annex-A**), which may be further extended at the discretion of the Employer.
- (viii) To recover all sums paid in violation of this Pact by Bidder(s)/Contractor(s) to any middleman or agent or broker with a view to securing the contract.
- (ix) In cases where irrevocable Letters of Credit have been received in respect of any contract signed by the Employer with the Bidder/ Contractor, the same shall not be opened/operated.
- (x) Forfeiture of Performance Security in case of a decision by the Employer to forfeit the same without assigning any reason for imposing sanction for violation of this Pact.

6.2 The Employer will be entitled to take all or any of the actions mentioned at para 6.1 (i) to (x) of this Pact also on the Commission by the Bidder/Contractor or any one employed by it or acting on its behalf (whether with or without the knowledge of the Bidder/Contractor), of an offence as defined in Chapter IX of the Indian Penal Code, 1860 or Prevention of Corruption Act, 1988 or any other statute enacted for prevention of corruption.

6.3 The decision of the Employer to the effect that a breach of the provisions of this Pact has been committed by the Bidder/Contractor shall be final and conclusive on the Bidder/Contractor. However, the Bidder/Contractor can approach the Independent External Monitor(s) appointed for the purposes of this Pact.

7.0 INDEPENDENT EXTERNAL MONITOR(S):

7.1 The Employer has appointed Independent External Monitors (hereinafter referred to as

Monitors) for this Pact after approval by the Central Vigilance Commission.

- 7.2** The task of the Monitors shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this Pact.
- 7.3** The Monitors shall not be subject to instructions by the representatives of the parties and perform their functions neutrally and independently. The Monitors report to CMD, NHPC.
- 7.4** Both the parties accept that the Monitors have the right to access all the Contract documents relating to the project/procurement, including minutes of meetings, whenever required. The right to access records should only be limited to the extent absolutely necessary to investigate the issue related to the subject tender/contract.
- 7.5** As soon as the Monitor notices, or has reason to believe, a violation of this Pact, he/she will so inform CMD, NHPC and request NHPC Ltd. to discontinue or take corrective action, or to take other relevant action. The Monitor can in this regard submit non-binding recommendations. 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.
- 7.6** The Bidder(s)/Contractor(s) accepts that the Monitor has the right to access without restriction, to all Project documentation of the Employer including that provided by the Bidder/Contractor. The Bidder/Contractor will also grant the Monitor, upon his/ her request and demonstration of a valid interest, unrestricted and unconditional access to their project documentation. The same is applicable to Subcontractor(s). The Monitor shall be under contractual obligation to treat the information and documents of the Bidder/Contractor/Subcontractor(s) with confidentiality. The Monitor has also signed declaration on 'Non-Disclosure Agreement' and of 'Absence of Conflict of Interest'. In case of any conflict of interest arising at a later date, the IEM shall inform CMD, NHPC and recuse himself/ herself from that case.
- 7.7** The Employer 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 parties. The parties will offer to the Monitor the option to participate in such meetings as and when required.
- 7.8** The Monitor will submit a written report to the CMD, NHPC Ltd. within 8 to 10 weeks from the date of reference or intimation to him by the Employer/Bidder and should the occasion arise, submit proposals for correcting problematic situations.
- 7.9** The word 'Monitor' would include both singular and plural.

8.0 FACILITATION OF INVESTIGATION:

In case of any allegation of violation of any provisions of this Pact or payment of commission, the Employer or its agencies shall be entitled to examine all the documents including the Books of Accounts of the Bidder/Contractor and the Bidder/Contractor shall provide necessary information and documents in English and shall extend all possible help for the purpose of such examination.

9.0 LAW AND PLACE OF JURISDICTION:

This Pact is subject to Indian Law. The place of performance and jurisdiction is the Registered Office of the Employer, i.e. Faridabad (Haryana). The arbitration clause provided in the tender document/ contract shall not be applicable for any issue/ dispute arising under Integrity Pact.

10.0 OTHER LEGAL ACTIONS:

- 10.1** The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.
- 10.2** Changes and supplements as well as termination notice need to be made in writing.
- 10.3** If the Contractor is a partnership or a consortium or a joint venture, this pact must be signed by all partners of the consortium/joint venture.

11.0 VALIDITY:

- 11.1** The validity of this Integrity Pact shall be from date of its signing and expires for the Contractor 12 months after the last payment under the contract, and for all other Bidders 6 months after the contract has been awarded. Any violation of the same would entail disqualification of the bidders and exclusion from business dealings.
- 11.2** Should one or several provisions of this Pact turn out to be invalid, the remainder of this Pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intention.
- 11.3** Issues like Warranty/ Guarantee etc. shall be outside the purview of IEMs.
- 11.4** In the event of any contradiction between Integrity Pact and its Annexure, the clause in the Integrity Pact will prevail.

For & On behalf of the Employer

For & On behalf of the Bidder/ Contractor

(Official Seal) Place-----

(Official Seal)

Date-----

Place-----
Date-----

Witness: 1. _____
(Name and address)

2. _____
(Name and address)

Witness: 1. _____
(Name and address)

2. _____
(Name and address)

Guidelines on Banning of Business Dealings

1. Introduction

NHPC Limited (NHPC) deals with Agencies viz. parties/ contractors/ suppliers/ bidders, who are expected to adopt ethics of highest standards and a very high degree of integrity, commitments and sincerity towards the work undertaken. It is not in the interest of NHPC to deal with Agencies who commit deception, fraud or other misconduct in the tendering process and/or during execution of work undertaken. NHPC is committed for timely completion of the Projects within the awarded value without compromising on quality.

- 1.2 Since ~~suspension~~/ 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.

2.0 Scope

- 2.1 NHPC reserves its rights to remove from list of approved suppliers / contractors (if such list exists) or to Suspend/Ban Business Dealings if any Agency has been found to be non / poor performing or have committed misconduct or fraud or anything unethical or any of its action(s) which falls into any such grounds as laid down in this policy.
- 2.2 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.
- 2.3 These guidelines shall apply to all the units of NHPC.
- 2.4 These guidelines shall not be applicable in Joint Venture, Subsidiary Companies of NHPC unless they are assignees, successors or executor.
- 2.5 The suspension/banning except suspension/banning under Integrity Pact shall be with prospective effect, i.e. future business dealings.

3.0 Definitions

In these Guidelines, unless the context otherwise requires:

- i) ***“Agency /Party / Contractor / Supplier / Bidders/Vendors”*** shall mean and include a public limited company or a private limited company, a joint Venture, Consortium, HUF, a firm whether registered or not, an individual, cooperative society or an association or a group of persons engaged in any commerce, trade, industry, etc. ***“Party / Contractor/ Supplier / Bidder/Vendor”*** in the context of these guidelines is indicated as ‘Agency’.
- ii) ***“Unit”*** shall mean the Corporate Office, Project/ Power Station/ Regional Office/ Liaison Office or any other office of NHPC.
- iii) ***“Competent Authority”*** and ***‘Appellate Authority’*** shall mean the following:

- a) For works awarded/under Tendering from corporate office (falling in the competency of CMD /Board of Directors)
 - Competent Authority: CMD
 - Appellate Authority : Board of Directors

- b) For works awarded/under Tendering from Corporate Office/Projects/ Power Stations/ Regional Offices/Liaison Offices (falling in the competency of Director /Executive Director)
 - Competent Authority: Concerned Director/Executive Director as the case may be

 - Appellate Authority: CMD /Concerned Director as the case may be

- c) For works awarded/under Tendering from Corporate Office / Regional Offices / Projects/ Power Stations/ Liaison Offices (falling in the competency of CGM and below)
 - Competent Authority in case of works awarded/under Tendering from Corporate Office/Regional office shall be CGM or GM of the concerned division as the case may be.

 - Competent Authority: Head of the Unit not below the rank of General Manager
 - Appellate Authority: Next higher authority

- iv) **“Investigating Committee”** shall mean a Committee appointed by Competent Authority to conduct investigation.

4.0 Initiation of Suspension /Banning

Action for Suspension / Banning Business Dealings with any Agency shall be initiated by the department responsible for invitation of Bids/Engineer-in-charge after noticing the irregularities or misconduct on the part of Agency concerned. Besides the concerned department, Vigilance Department of each Unit/ Corporate Vigilance may also be competent to initiate such action.

5.0 Suspension of Business Dealings.

- 5.1** If the conduct of any Agency dealing with NHPC is under investigation, 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, 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 of suspension would operate for a period not more than six months and may be communicated to the Agency as also to the Investigating Committee. The Investigating Committee may ensure that their investigation is completed and whole process of final order is over within such

period. However if the investigations are not completed within six months ,the investigation committee shall put up the proposal to the competent authority for approval of extension of time maximum up to further three months with in which the committee shall conclude the proceedings .

- 5.2** The order of suspension shall be effective throughout NHPC in case of work falling in the Competency of CMD/ Board of Directors/Directors, in case of work falling in the competency of Executive Director suspension shall be effective throughout Region /Corporate office (in case the works awarded/under Tendering from Corporate office) .In case of work falling in the competency of HOP or below suspension shall be effective throughout the Project/Power Station and attached liaison offices/units and in case of work falling under the competency of CGM and below at Corporate office suspension shall be effective at Corporate office. During the period of suspension, no business dealing shall be held with the Agency.
- 5.3** 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.
- 5.4** It is not necessary to give any show-cause notice or personal hearing to the Agency before issuing the order of suspension.
- 5.5** The format for intimation of suspension of business dealing is placed at **Appendix– I**

6.0 Ground on which Banning of Business Dealings can be initiated

- 6.1** If the security consideration, including questions of loyalty of the Agency to NHPC 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, during the last five years;
- 6.3** If the Agency has resorted to Corrupt, Fraudulent, Collusive, Coercive practices including misrepresentation of facts and violation of the any provisions of the Integrity Pact provided in the Contract.
- 6.4** If the Agency uses intimidation / threatening or brings undue outside pressure on NHPC or its official for acceptance / performances of the job under the contract;
- 6.5** If the Agency misuses the premises or facilities of NHPC, forcefully occupies or damages the NHPC's properties including land, water resources, forests / trees or tampers with documents/records etc.
- 6.6** If the Agency does not fulfil the obligations as required under the Contract and Violates terms & conditions of the contract which has serious affect for continuation of the Contract.
- 6.7** If the work awarded to the agency has been terminated by NHPC due to poor performance of the contract in the preceding 5 years.
- 6.8** If the Central Vigilance Commission, Central Bureau of Investigation or any other Central Government investigation Agency recommends such a course in respect of a case under investigation or improper conduct on agency's part

in matters relating to the Company (NHPC) or even otherwise;

- 6.9** On any other ground upon which business dealings with the Agency is not in the public interest.
- 6.10** If business dealings with the Agency have been banned by the Ministry of Power, Government of India OR any PSU/ any other authority under the MOP if intimated to NHPC or available on MOP Website, the business dealing with such agencies shall be banned with immediate effect for future business dealing except banning under Integrity Pact without any further investigation.

(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).

7.0 Procedure for Banning of Business Dealings

- 7.1** An Investigating Committee shall be constituted by the authority competent to Ban the dealing comprising members from Engineering/Indenting department (convener), Finance, Law and Contract. The level of the committee members shall be CGM and above for works falling in the competency of CMD/Board of Directors, General Manager and above for the works falling in the competency of Director/ Executive Director and DGM/SM with at least one member of the level of General Manager for works falling in the competency of CGM and below.
- 7.2** The order of Banning of Business Dealings shall be effective throughout the NHPC. During the period of Banning of Business Dealings, no Business Dealing shall be held with the Agency.
- 7.3** The functions of Investigating Committee in each Unit to be appointed by the competent authority in line with para 3 (iii) shall, inter-alia include:
- a) To study the report of the department responsible for invitation of bids and decide if a prima-facie case for banning exists, if not, send back the case to the Competent Authority.
 - b) To recommend for issue of show-cause notice (after vetting by legal deptt.) to the Agency by the concerned department as per clause 7.4 "Show Cause Notice".
 - c) To examine the reply to show-cause notice and call the Agency for personal hearing, if required.
 - d) To submit final recommendations to the Competent Authority for banning or otherwise including the period for which the ban would be operative considering the implications for NHPC on account of the act/omission on the part of the agency, intention of the agency as established from the circumstances of the case etc.

7.4 Show Cause Notice

Once the proposal for issuance of Show Cause Notice is approved by the Competent Authority, a 'Show Cause Notice' (as per format at **Appendix-II** of these guidelines) shall be issued to the delinquent Agency by the

Competent Authority or by a person authorized by the Competent Authority for the said purpose. The Agency shall be asked to submit the reply to the Show Cause Notice within 15 days of its issuance. Further, the Agency shall be given an opportunity for Oral hearing to present its case in person, if it so desires, and the date for Oral Hearing shall necessarily be indicated in the Show Cause Notice.

The purpose of issuing the Show Cause Notice is only that the Agency concerned shall be given an opportunity to explain their stand before any action is taken. The grounds on which action is proposed to be taken shall be disclosed to the Agency inviting representation and after considering that representation, orders may be passed. Such orders require only the satisfaction of the authority that passed the final orders.

If the Agency requests for inspection of any relevant document in possession of NHPC, necessary facility for inspection of documents may be provided.

During the conductance of oral hearing, only the regular duly authorized employees of Agency will be permitted to represent the Agency and no outsider shall be allowed to represent the Agency on its behalf.

Reply to the Show Cause Notice given by the Agency and their submissions in oral hearing, if any, will be processed by the Committee for obtaining final decision of the Competent Authority in the matter.

In case, no reply to Show Cause Notice is received from the Agency within stipulated time, further reminder shall be given with further period of 10 days thereafter if no reply is received action for processing ex- parte against the concerned Agency shall be initiated.

7.5 Speaking Order

The speaking order (reasoned order) for banning the business dealing with the Agency shall be issued by the Competent Authority or by a person authorized for the said purpose.

The decision regarding banning of business dealings taken after the issue of a Show Cause Notice and consideration of representation, if any, in reply thereto, shall be communicated to the Agency concerned along with a reasoned order. The fact that the representation has been considered shall invariably be mentioned in the communication. Also the fact that if no reply was received to the Show Cause Notice shall invariably be indicated in the final communication to the Agency. The format for intimation of banning of business dealing is placed at **Appendix– III**.

7.6 Period of banning

In case banning is processed for violation of provisions of Integrity pact or due to corrupt or fraudulent practices, the Competent Authority shall decide on the period of banning on case to case basis depending on the gravity of the case and considering the implications for NHPC on account of the act/omission on the part of the Agency, intention of the Agency as established from the

circumstances of the case etc. The period of banning shall not be less than 6 months and shall not exceed 2 years and in case termination of contract due to poor performance the period of banning shall be for 5 years. For contracts awarded to JV/Consortium, a constituent of the JV shall be permitted to participate in the bidding process if it has not been banned on grounds of its role and responsibility in the tendering process for which the Joint Venture has been banned in Past. In case if the Joint Venture which has been banned does not indicate the roles and responsibility of individual Partner(s) then, the partner of the banned Joint Venture shall only be allowed to participate in the bidding process if its participation share is less than 35%.

In case the information/documents submitted by Agency in competing for the tender found to be false/forged then NHPC, without prejudice to any other rights or remedies it may possess, shall recover from Agency the cost incurred in carrying out physical assessment for establishing veracity of such information/documents. In case Agency refuses to reimburse such cost to NHPC then banning period of Agency shall be extended by another one year.

7.7 Effect of Banning

As far as possible, the existing ongoing contract(s) with the Agency may continue unless the Competent Authority, having regard to the circumstances of the case, decides otherwise, keeping in view contractual and legal issues which may arise thereof. In case the existing Contracts are allowed to continue, the suspension/Banning of Business Dealing along with default of the Contractor shall be recorded in the experience certificate issued for the work.

The Agency, (after issue of the order of banning of business dealings) would not be allowed to participate in any future tender enquiry and if the Agency has already participated in tender process as stand-alone OR constituent of joint venture and the price bids are not opened, his techno-commercial bid will be rejected and price bid will be returned unopened. However, where the price bids of Agency have been opened prior to order of banning, bids of Agency shall not be rejected and tendering process shall be continued unless Competent Authority having regard to the circumstances of the case decides otherwise keeping in view the Contractual, Legal issues which may arise thereafter. However, in case the suspension /Banning is due to default of an Agency for the provisions under Integrity Pact and the Agency happens to be Lowest Bidder (L1), the tendering process shall be annulled and fresh tenders shall be invited.

During the Suspension/ Banning period, if it is found at any stage that Agency has participated in tender enquiry under a different name then such Agency would immediately be debarred from the tender/contract and its Bid Security/Performance Security would be forfeited. Payment, if any, made shall also be recovered.

After Suspension/ Banning order, the Suspended/ Banned Agency shall not be allowed to participate as Sub-Vendor/Sub-Contractor in the tenders.

Further, if the Suspended/ Banned agency is an approved Sub-Vendor under any Contract for such equipment/component/service, the Main Contractor shall not be permitted to place work order/Purchase order/Contract on the Suspended/ Banned agency as a Sub-Vendor /Sub-Contractor after the date of Suspension/ Banning even though the name of the party has been approved as a Sub-Vendor /Sub-Contractor earlier.

There would be no bar on procuring the spares and awarding Contracts towards Annual Maintenance (AMC)/ O&M/ Repair works on Agencies pertaining to the packages for which they have been banned provided the Equipment has been supplied by such Agency.

Banning of business dealing shall not be applicable to the Subsidiary Company of the Banned agency provided subsidiary company has not participated on the strength of the Banned agency. However, in case of a default by a Sub-Contractor, the banning shall be applicable to the Sub-Contractor as well as the Lead Partner of the concerned JV or the Sole bidder as the case may be.

7.8 Hosting at NHPC website

The concerned unit shall forward the name and details of the Agency (ies) banned along with period and reasons of banning to IT&C Division of Corporate Office for displaying the same on the NHPC website.

8.0 Appeal against the Decision of the Competent Authority.

The Agency may file an appeal against the order of the Competent Authority banning of business dealing before Appellate Authority. Such an appeal shall be preferred within 30 (Thirty) Days from the date of receipt of the order of banning of business dealing. Appellate Authority would consider the appeal if convinced may constitute another committee for further investigation. The investigation Committee constituted by the Appellate Authority shall study the report of the previous investigating committee and reply submitted by the Agency while filing its case for appeal and call the Agency for personal hearing , if requested by the Agency. Based on the recommendation of the committee Appellate Authority shall pass appropriate Speaking (Reasoned) order in line with Sub-Para 7.5 above which shall be communicated to the Agency as well as the Competent Authority (as per format enclosed as **Appendix-IV** with these guidelines).

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

The name of the concerned banned agency shall also be shared with MOP and other PSU in the sector and all the units of NHPC.

The provisions of this policy supersede and will have overriding effect on all earlier guidelines, procedures & system issued for the similar purpose.

(Format for Intimation of Suspension of business dealing)

BY REGD. POST/SPEED POST/COURIER

No.....

Date.....

To

M/s

Attn.: Shri

Sub: Intimation of Suspension of Business Dealings

Dear Sir,

Whereas the work of..... was awarded to your firm vide letter of award no ...dt.... amounting to Rs. OR In response to NHPC NIT (e-tender / physical tender) nodt. you have submitted your bid . (strike out whichever is not applicable)

Whereas the conduct of your firm in respect of the following is under investigation:

Brief of the default

“Whereas the Competent Authority prima facie considered the allegations (under investigation) are of a serious nature and decided pending investigation, it is not in the interest of the corporation to continue business dealing with your firm

This order shall have the following effects:

- (i) Further business dealings with your firm is Suspended within Region/Project/Unit/wide NHPC. The order of Suspension is effective with immediate effect and would operate for a period of six months or till the investigation is completed and whole process of final order is over within such period. However, if investigations are not completed in six months’ time, the Competent Authority may extend the period of Suspension. During the period of Suspension, no business dealing shall be held with your firm. No enquiry / bid / tender shall be issued to your firm nor will the bids submitted by your firm be entertained.
- (ii) In cases where tenders have already been issued to you and price bids are yet to be opened, the Price Bid submitted by you shall not be opened and BG/EMD, if any, submitted by you shall be returned.
- (iii) In cases where tenders have already been issued to you and Price Bids have already been opened , the tendering process shall be continued
- (iv) In case of ongoing contracts between you & NHPC, (including cases where contract has already

been awarded before the issue of Suspension order) you will be required to continue with the execution and perform as per terms of the contract.

(vi)(a) In case the Firm is in Joint Venture the following would also be applicable:

i) Participation of Agency in Joint Venture

Tenders in which your firm has been proposed as Joint Venture Partner by any of the bidders and price bids have been opened prior to Suspension of your firm in such cases the tendering process shall not be annulled on this ground and the Agency shall be permitted to continue as Partner in the Joint Venture for such bidding. However where event of Price Bid opening has not taken place prior to Suspension/Banning of Agency then in such case Agency shall not be permitted to participate as Partner in the Joint Venture.

ii) Banning of joint Venture:

As the Joint Venture is Banned, your firm intends to bid as Partner(s) of Joint Venture in bidding process then it shall be permitted to participate in the bidding process if it has not been Banned on grounds of its role and responsibility in the tendering process for which the Joint Venture has been Banned in Past. In case if the Joint Venture which has been Banned does not indicate the roles and responsibility of individual Partner(s) then, the partner of the Banned Joint Venture shall only be allowed to participate in the bidding process if its participation share is less than 35%.

- (b) Your firm shall not be allowed to participate as Sub-Vendor/Sub- Contractor in the tenders.
- (c) Further if your firm is an approved Sub-vendor under any Contract for such equipment/component/service, the Main Contractor shall not be permitted to place work order/Purchase order/Contract on your agency as a Sub-Vendor/Sub-Contractor after the date of Suspension/ Banning even though the name of the party has been approved as a Sub-Vendor/Sub-Contractor earlier. There would be no bar on procuring the spares and awarding Contracts towards Annual Maintenance (AMC)/ O&M/ Repair works on Agencies pertaining to the packages for which they have been Banned provided the Equipment has been supplied by such Agency.
- (d) Banning of business dealing shall not be applicable to the Subsidiary company of the Banned agency provided subsidiary company has not participated on the strength of the Banned agency.

On expiry of the above period of Suspension/Banning, you may approach..... (Indicate the concerned procurement department), with request for revocation of the order mentioning inter-alia the steps taken by you to avoid recurrence of misconduct which has led to Suspension.

Yours faithfully,

For & On behalf of NHPC.

Note: Strike out whichever is not applicable

(Format of Show Cause Notice)

____ BY REGD. POST/SPEED POST/COURIER

No.....

Date.....

To

M/s

..... Attn.: Shri

.....

Sub: Show Cause Notice

Ref :

Dear Sir,

You are hereby required to Show Cause in writing within 15 days from the date hereof why Business Dealing with your firm should not be banned / your firm is placed in the Banning List (as the case may be) and be debarred from entering into any contracts with NHPC for the following reasons:

(Give Reasons)

Your reply (if any) should be supported by documents and documentary evidence which you wish to rely in support of your reply. In case you desire to present your case in person to NHPC, a personal hearing shall be conducted on _____ at _____ hrs. for which prior intimation be furnished to this office. Should you fail to reply to this Show Cause Notice within the time and manner aforesaid, it will be presumed that you have nothing to say and we shall proceed accordingly.

Your reply, if any, and the documents / documentary evidence given in support shall be taken into consideration prior to arriving at a decision.

Yours faithfully,

For & On behalf of NHPC.

(Format for Intimation of Banning of Business Dealing)

BY REGD. POST/SPEED POST/COURIER

No.....

Date.....

To

M/s

Attn.: Shri

Sub: Intimation of Suspension of Business Dealings Dear

Sir,

Whereas the work of..... was awarded to your firm vide letter of award no ...dtd..... amounting to Rs. OR In response to NHPC NIT (e-tender / physical tender) nodt. you have submitted your bid .(strike whichever is not applicable)

Whereas the Competent Authority had prima facie considered the allegations as detailed below are of a serious nature and decided to conduct investigation.

“ Brief of the Default may be mentioned”

Whereas show cause notice vide no ... dtd.....was served upon you. (whereas in spite of the opportunity given to you, you failed to submit the reply to the show cause notice within the time period mentioned there upon or further extended period, if any). Whereas you submitted the reply along with documents vide your letter no. _dt._____and presented your case in the personal hearing dated (if any) . After considering the allegations made in the show cause notice, your reply to the show cause notice documents/documentary evidence in support thereof and personal hearing dated(if any), it has been decided to Ban the Business Dealing with you and you are hereby debarred from entering into contracts with NHPC.

(In order to make the Intimation of Banning of Business Dealing Speaking Order (reasoned order), the issue of a Show Cause Notice and consideration of representation in reply to show cause notice , opportunity of personal hearing, if any, shall be communicated to the Agency concerned along with a reasoned order. The order for Banning should also contain the reasons with detailed justification for conclusion of decision to Ban the Agency. Also the fact that if no reply to the Show Cause Notice was received or request for personal hearing was not made shall invariably be indicated in the communication to the Agency. The above order shall mention the grounds considering violation of any provision of Integrity Pact, any ground mentioned in Guidelines of Banning of Business Dealings, default by the agency under fraudulent practice / or any unethical practice and/or violation of any provision of Tender/Contract Condition having serious implications.)

This order shall have the following effects : Further business dealings with your firm is banned with immediate effect . The order of Banning would operate for a period ofyears/month Competent Authority may extend the period of Banning.

- i) During the period of Banning, no Business Dealing shall be held with your firm. No Enquiry / Bid / Tender shall be issued to your firm nor will the bids submitted by your firm be entertained.
- ii) In cases where tenders have already been issued to you and Price Bids are yet to be opened, the Price Bid submitted by you shall not be opened and BG/EMD, if any, submitted by you shall be returned.
- iii) In cases where tenders have already been issued to you and price bids have already been opened, the Tendering Process shall be continued.
- iv) In case of ongoing contracts between you & NHPC, (including cases where contract has already been awarded before the issue of Banning order) you will be required to continue with the execution and perform as per terms of the contract.
- (v) (a) In case the Firm is in Joint Venture the following would also be applicable:

i) Participation of Agency in Joint Venture

Tenders in which your firm has been proposed as Joint Venture Partner by any of the bidders and price bids have been opened prior to Banning of your firm in such cases the tendering process shall not be annulled on this ground and the Agency shall be permitted to continue as Partner in the Joint Venture for such bidding. However where event of price bid opening has not taken place prior to Banning of Agency then in such case Agency shall not be permitted to participate as Partner in the Joint Venture.

ii) Banning of joint Venture:

As the Joint Venture is banned, your firm intends to bid as Partner(s) of Joint Venture in bidding process then it shall be permitted to participate in the bidding process if it has not been banned on grounds of its role and responsibility in the tendering process for which the Joint Venture has been banned in Past. In case if the Joint Venture which has been banned does not indicate the roles and responsibility of individual Partner(s) then, the partner of the banned Joint Venture shall only be allowed to participate in the bidding process if its participation share is less than 35%.

- (b) Your firm shall not be allowed to participate as Sub-Vendor/Sub-Contractor in the tenders.
Further if your firm is an approved Sub-vendor under any Contract for such equipment/component/service, the Main Contractor shall not be permitted to place work Order/Purchase Order/Contract on your agency as a Sub-

Vendor/Sub-Contractor after the date of Banning even though the name of the party has been approved as a Sub- Vendor/Sub-Contractor earlier.

(c) There would be no bar on procuring the spares and awarding Contracts towards Annual Maintenance (AMC)/ O&M/ Repair works on Agencies pertaining to the packages for which they have been banned provided the Equipment has been supplied by such Agency.

(d) Banning of Business Dealing shall not be applicable to the Subsidiary company of the Banned Agency provided subsidiary company has not participated on the strength of the Banned Agency. However, in case of a default by a Sub-Contractor, the banning shall be applicable to the Sub-Contractor as well as the Lead Partner of the concerned JV or the Sole bidder as the case may be.

On expiry of the above period of Banning, you may approach..... (Indicate the concerned procurement department), with request for revocation of the order mentioning inter-alia the steps taken by you to avoid recurrence of misconduct which has led to Banning.

Further if you desire to appeal against this order you may do so within 30 days from the date of issue of this order to the appellate authority as here under:

Appellate Authority :

Designation:

Address:.....

Ph . no.

e-mail :

Yours faithfully,

Note: Strikeout whichever is not applicable

For & On behalf of NHPC.

endix –IV

(Format for communication of Appellate Decision on
Suspension/Banning Order)

BY REGD. POST/SPEED POST/COURIER

No.....

Date.....

To

M/s

Attn.: Shri

Sub: Suspension Banning of Business Dealings - Intimation of decision of Appellate Authority

Ref: 1. Order dated Placing M/s on Suspension/Banning List by NHPC;
2. Your Appeal
reference Dt.....

Dear

Sir,

This has reference to the order dt..... placing you on Suspension/Banning List and your appeal petition reference dt.... on the same.

After considering the findings of the Original Authority in order and submissions made by you in your appeal , and the documents/documentary evidences available on record, it has been decided finally that :

* There is no infirmity in the order of the Original Authority, and the allegations stand substantiated and the Suspension/Banning for the period of years/month from the date of order, as ordered by the original Authority is upheld,

* Considering your submissions, the order of Suspension/Banning passed by the original authority is upheld , but with a reduction in period of

Suspension/Banning for years/months from the date of order of original authority;

* Considering your submissions and the evidence available on record, there is enough justification to annul the order of the original authority.

(*** Incorporate any one of the above as applicable

##In order to make the Communication of Appellate Authority on Banning of Business Dealing Speaking Order (reasoned order), the fact that the representation of the agency has been considered and reference of grounds brought forward by the Agency in his defense and if any opportunity of personal hearing has been given to the Agency as a part of principle of natural justice shall invariably be mentioned in the communication, The order for Banning should also contain the reasons with detailed justification for conclusion of decision to Ban the Agency. Also the fact that if no sufficient ground has been furnished shall invariably be indicated in the final communication to the Agency. In case the option for Banning of Agency or reduction of Time Period for Banning of Agency is exercised then the above order shall mention the grounds considering violation of any

provision of Integrity Pact, any ground mentioned in Guidelines of Banning of Business Dealings, default by the agency under fraudulent or any unethical practices and/or violation of any provision of Tender/Contract Condition having serious implications.)

Yours faithfully,

For & On behalf of NHPC

Procurement of 60,000 MT Portland Pozzolona Cement (PPC) as per Technical Specifications for Subansiri Lower HE Project

Section- 0

QUALIFICATION REQUIREMENTS (QR) FOR BIDDERS:

- i) The Bidder should be manufacturer of Cement. The Cement should conform to following IS standard:

Description	IS Standard
Cement PPC Grade	IS:1489-Part-I

Bidder should submit a valid BIS license in support of the same.

- ii) The bidder should have minimum production capacity of 1000 MT Per Day. The production capacity should be authenticated through a valid certificate from the concerned department of Central Govt./ State Govt.
- iii) The average annual cement production from manufacturing unit(s) of the bidder in the preceding three (3) financial years (i.e. FY 2021-22, FY 2022-23 & FY 2023-24) should not be less than 18,000 MT. In support, the bidder shall submit documentary evidence such as duly printed Annual report mentioning Annual cement production of the Company etc. The bidder may also submit necessary certification duly certified by Chartered Accountant / Cost Accountant with UDIN.
- iv) A valid ISO certification of manufacturer for manufacturing the specified good should be submitted with the bid.
- v) "Local Supplier" falling under Class-I category only as per Public Procurement (Preference to Make to India) Order 2017 shall be eligible to bid. An undertaking shall be furnished by the bidder with the bid as per **Annexure-1**. 'Class-I local supplier' shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.
- vi) The bidders against whom proceeding for insolvency under the Insolvency and Bankruptcy Code 2016 have been started shall not be eligible for bidding. An undertaking as per **Annexure-2** shall be submitted on letterhead duly signed by the authorized representative of bidder.
- vii) Purchase preference to MSME: Purchase preference shall be given to MSEs Firms subject to meeting of **quality, minimum Production capacity and technical specifications** and other terms & conditions as mentioned above at Sl. No. (i) to (vi) as per GeM bid conditions.

ANNEXURE-1

Name of Work: Supply of 60,000 MT Portland Pozzolona Cement (PPC) as per Technical Specifications for Subansiri Lower HE Project.

GeM Bid No.:

Declaration regarding Class-I local supplier (local content equal to or more than 70%) under Public Procurement (Preference to Make in India) Order:

Item Description	Country of Origin	% of Local Content
Portland Pozzolona Cement (PPC) Conforming to IS:1489-Part-I:2015, The strength criteria will be 27 Mpa at 3 days, 37 Mpa at 7 days & 53 Mpa at 28 days (The strength criteria shall be same as OPC 53 Grade of Table 3 of IS:269-2015), packed in HDPE/PP Bags containing 50 Kg in each Bags.	India	

Note: In cases of procurement for a value in excess of INR 10.00 Crores, the 'Class-I local supplier' shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.

**Signature and Seal of statutory auditor or cost auditor*

Note: This 'Declaration' should be on the letter head of Bidder.

*Strike out if not applicable

ANNEXURE – 2

Declaration regarding insolvency proceedings under Insolvency and Bankruptcy Code 2016

It is declared that no proceeding for insolvency has been started against
(name of the bidder) under Insolvency and Bankruptcy Code 2016.

(Seal & Signature of Bidder)

Note: To be submitted on letter head duly signed by the authorized representative of bidder.

Section-I

SPECIAL TERMS & CONDITIONS (STC)

These Special Terms & Conditions (STC) shall be read and construed along with the General Terms and Conditions (GTC) of GEM and in case of any conflict or inconsistency arises between these two; the provisions of these Conditions shall prevail.

1. SCOPE OF SUPPLY OF CEMENT:

Supply of Cement including packing, handling, forwarding, loading, unloading, stacking and transportation up to Central Store, NHPC Ltd., Subansiri Lower HE Project, Gerukamukh, Distt. Dhemaji (Assam) as per followings:

60,000 MT (12,00,000 bags) Portland Pozzolona Cement (PPC) conforming to IS:1489-Part-I:2015 (as per Technical Specification), The strength criteria will be 27 Mpa at 3 days, 37 Mpa at 7 days & 53 Mpa at 28 days (The strength Criteria shall be same as OPC 53 Grade of Table 3 of IS:269-2015), Packed in HDPE/PP Bags containing 50 Kg in each bags.

The intended Cement is for consumption of Subansiri Lower HE Project, Assam/Arunachal Pradesh. However, consumption of Cement in Assam or Arunachal Pradesh shall be intimated at the time of delivery of Cement for accounting of GST.

2. PRICES:

- 2.1 Prices shall be in INR and on F.O.R destination basis i.e. up to Central Store, NHPC Ltd., Subansiri Lower HE Project, Gerukamukh, Distt. Dhemaji (Assam) inclusive of all charges for packing, handling, forwarding, Loading, unloading, stacking, transportation, insurance and all applicable Taxes & Duties.

Prices payable to the Supplier, in accordance with the Contract, shall be subject to adjustment during the performance of the Contract in accordance with **Appendix-I** appended herewith.

- 2.2 GST as applicable 28 days prior to dead line for submission of bids shall be included in the quoted price.
- 2.3 Statutory variations, after the date 28 days prior to last date of submission of price bid, only in GST or levy of any other new Government Taxes/Duties will be adjusted/ reimbursed against documentary proof. However, wherever supplies get delayed due to the reasons attributable to the contractor, no additional liability on account of any increase in the GST or any other Taxes and Duties shall be payable by NHPC. On the other hand, in case, the rate of GST or any other Taxes and Duties decreases during the extended delivery period, due benefit in this regard shall accrue to NHPC.
- 2.4 TDS on GST, if applicable for the said items shall be deducted at source as per GST rules.
- 2.5 The transportation charges shall include Transit Insurance, loading & Unloading Charges, and Shunting charges (if any) en route up to destination
- 2.6 Unloading and stacking of cement at NHPC Store, Gerukamukh, Distt. Dhemaji, Assam shall be done by the supplier and no charges on account of this shall be borne by NHPC.

- 2.7 Issuance of E-way bill if applicable shall be dealt as per GST rules.
- 2.8 The GST No. of NHPC Limited for Assam is **18AAACN0149C1ZY** and for Arunachal Pradesh is **12AAACN0149C2Z9**.
- 2.9 The B2B GST invoice, in favour of NHPC Limited with GST number and address of respective state shall be issued by supplier. The invoice shall be uploaded in monthly GSTR1 of respective month by supplier.
- 2.10 In case the invoice is not automatically populated in GSTR2 of NHPC Limited, amount equal to the GST amount of not populated invoice shall be liable to be deducted from the payable amount/Performance Security Amount.
- 2.11 The difference of GST rate for transportation of cement shall be available to bidder as input credit, which bidder may utilize in reducing the quoted base price.
- 2.12 Amount of any input tax credit, tax exemptions, reductions, allowances or privileges etc., if any, as available prior to 28 days of the bid submission date, the same shall be duly accounted for in the bid prices by the bidder while bidding. However, if any such benefit becomes available to the selected bidder subsequently, the same should be intimated by the bidder as and when available and passed to NHPC.**

3. TERMS OF PAYMENT:

95% payment shall be made within 15 days after receipt of material in good condition at NHPC Store, Gerukamukh, Distt. Dhemaji, Assam against each consignment, upon submission of original RR/LR along with invoice, test certificate of manufacturer (except 28 days compressive strength test), successfully completion of the 03 days and 07 days strength tests in project laboratory after due verification by the consignee and upon acceptance of Indemnity Bond (**Annexure-I**) by Engineer-In-Charge. If there is delay in delivery of consignment (refer Delivery Schedule Cl. No. 8 of STC) attributable on the part of Supplier, this 95% payment shall be released after deducting amount for such delay as per Clause No. 10 of STC. Price adjustment, if any shall be made at this stage.

The balance 5% payment shall be released as per provision mentioned under Clause No. 11 of Special Terms & Conditions (STC). Payment shall be made through ECS. Bank charges, if any shall be borne by the supplier.

In case of MSE

All the payments (i.e. payments which are measured and accepted) for the supplies and / or services [as applicable] rendered by MSEs (Micro & Small Enterprises) Supplier/ Contractor under the Contract shall be released within forty five (45) days from the day of acceptance.*

*Day of Acceptance means - day of the actual delivery of goods or the rendering of services; or where any objection is made in writing by the buyer regarding acceptance of goods or services within fifteen (15) days from the date of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier.

In case, payment are not released as mentioned above, Employer shall pay the principal amount plus compound interest with monthly rests from the date immediately following the date agreed upon @ three times of bank rates as notified by Reserve bank of India from time to time.

Other than normal payment through NEFT/RTGS directly from NHPC Ltd, the MSME Vendors has an option to avail the TReDS facility. NHPC has registered itself on TReDS platform with M/s A. TREDIS Limited, CIN – U74999MH2016PLC281452, Registration no: (Account no): 1000005783, Communication address: A.TREDIS Ltd, Ashar IT Park, 11th Floor, Road No: 16Z, Wagle, Industrial Estate, Thane (West) – 400604.. The TReDS facilitates financing of Invoices of MSMEs by way of discounting by financiers. MSMEs can upload the invoices in the system and NHPC Limited can accept the invoices in the system. Upon acceptance of NHPC Limited, the Banks / NBFCs can discount the invoices and can release the payment directly to the MSMEs. In this regard; MSME Vendors can refer to RBI guidelines available on website of RBI.

In case of non-MSE

All the payments (i.e. payments which are measured and accepted) for the supplies and / or services [as applicable] rendered by non-MSEs (non-Micro & Small Enterprises) Supplier/Contractor under the Contract shall be released within forty five (45) days from the receipt of invoice /bills from the contractor/supplier complete in all respect.

In case, payments are not released as mentioned above, NHPC shall pay the principal amount plus simple interest from the date immediately following the date agreed upon @ 6% p.a.”

4. PAYING AUTHORITY

General Manager (Fin.), Subansiri Lower H.E. Project, Kolaptukar, Dollungmukh Circle, Arunachal Pradesh, Correspondence address: Gerukamukh, via Gogamukh, Dist.-Dhemaji, Assam-787035.

5. CONSIGNEE:

General Manager (Store), Subansiri Lower H.E. Project, Kolaptukar, Dollungmukh Circle, Arunachal Pradesh, Correspondence address: Gerukamukh, via Gogamukh, Dist.-Dhemaji, Assam-787035

The consignee shall provide the delivery schedule to the supplier at the time of delivery. (Refer Clause No.8).

6. BANK DETAILS

Details of Bank Account as per ECS format (Enclosed at **Annexure-II**), to be submitted by the bidder for processing payments.

7. TEST AT SITE & TEST CERTIFICATES:

- a) Upon receipt of consignment at Project stores, test samples of cement shall be drawn by the representative of Engineer-in-Charge at the project for conducting 03 days, 07 days and 28 days tests and other physical tests at Project Laboratory. Purchaser has the option of sending

the sample at a “Govt. Laboratory/ NCCBM or any other Govt. Approved laboratory” for conducting Physical and Chemical analysis tests as per BIS codes and contract specifications. The supplier will have right to depute an authorized representative to be present during sampling of cement. However, the cost of deputation of representative for joint sampling by supplier shall be borne by supplier.

If cement fails to achieve standards for strength / soundness/ fineness or any other criteria at Project Laboratory or “Govt. Laboratory/ NCCBM or any other Govt. Approved laboratory” then cement of that ‘Consignment’ shall be rejected in whole or in part and the supplier shall, upon intimation take back the rejected consignment from the project store within seven (07) days from the date of such intimation at their risk and cost. In case the supplier fails to take back the rejected consignment within the stipulated time, NHPC shall be absolved from its responsibility for its safe custody. The supplier shall deliver another ‘Consignment’ within 20 days from the date of intimation of rejection. All above tests shall be repeated for replaced supplies as per BIS code and Contract Specification.

In case sample of cement tested at “Project test laboratory” fails as stated above, an additional sample shall be drawn & send to “Govt. Laboratory / NCCBM or any other Govt. Approved laboratory”, if not sent already, and if the sample meets the standards as per BIS codes and contract specifications at testing in “Govt. Laboratory / NCCBM or any other Govt. Approved laboratory”, then cost of transportation of rejected cement consignment or part thereof to NHPC stores shall be reimbursed to Supplier at rates of transportation as per schedule of rates of supply order.

If cement samples tested at “Govt. Laboratory / NCCBM or any other Govt. Approved laboratory” pass the standards as per BIS codes and contract specifications, cost of testing of samples shall be borne by NHPC. If cement samples tested at “Govt. Laboratory / NCCBM or any other Govt. Approved laboratory” fails to meet the standards as per BIS codes and contract specifications, cost of testing of samples shall be recovered from Supplier. However all cost of deputation of the representative of the supplier for joint sampling shall be borne by the supplier.

The provision of rejection of the consignment as above, on failure of samples during testing at “Govt. Laboratory / NCCBM or any other Govt. Approved laboratory” shall be applicable maximum upto two times for entire quantity of cement under procurement. Third time failure of samples in the test during the entire delivery period, shall entitle the corporation right to terminate the Supply Order apart from encashing Performance Bank Guarantee and arrange the supply of balance cement through any other source, at the risk and cost of the contractor.

- b) The supplier shall furnish legally enforceable Indemnity Bond (**Annexure-I**) to the Engineer-in-Charge within 10 days from the date of issue of supply order. This bond is to ensure that if any consignment of supplied cement fails in test conducted at “Project Laboratory” or “Govt. Laboratory / NCCBM or any other Govt. Approved laboratory” the supplier shall upon intimation take back the rejected consignment from the project store within seven (07) days from the date of such intimation at their risk & cost and the amount paid against this lot shall be recovered from any payment due to the supplier. In case of delayed supplies not attributable

to NHPC, the statutory variation payment shall be restricted to the amount calculated as per the delivery schedule for each month.

- c) Test certificates: The supplier will be fully responsible for the quality of cement supplied and will provide manufacturers test certificates as per IS & contract specification for each consignment within 35 days from the date of dispatch from their works.

8. DELIVERY SCHEDULE:

The delivery of cement shall be completed in **Twelve (12) months** from the date of issue of Supply Order/ GEM Contract. This shall be “Essence” of the contract. The exact delivery schedule for deliveries in a month shall be intimated by project authorities by 15th of previous month to facilitate the timely dispatches for coming month. However, Project may take the delivery of whole quantity of cement within a period less than the stipulated delivery period mentioned above.

In case the project desires to reschedule the supplies, the total supply period of cement may be extended up to 18 months from the date of issue of Supply Order/ GEM Contract.

± 5% of the total quantity may be adjusted to facilitate the dispatch of each consignment.

(In case the intimation by NHPC for delivery exceeds 15th of previous month then in such circumstance, the delivery period for the subsequent/ coming month shall be shifted by that many days of delay beyond 15th of the previous month of intimation. (e.g. NHPC intimates on 20th December, then delivery period for the subsequent/ coming month shall be treated up to 5th of February instead of 31st January.)

No Goods shall be dispatched until dispatch instructions have been given to the Supplier by the Engineer-in-charge or his duly authorized representative.

In case of any damage or loss occurred in transit up to destination, it shall be the liability of the Supplier to initiate or pursue the claim with Insurance Company. He should also take immediate steps for replacement thereto. Any extension of time limit required in such contingency will be considered by the Purchaser on merits.

9. PACKING:

The material i.e. cement shall be securely packed in net 50 kg in HDPE / PP bags to ensure safe transportation up to destination and further storage in NHPC stores without any damages/ deterioration in quality, loss of material etc.

10. DELAY IN DELIVERY:

If the Supplier fails to complete the delivery within the period specified in the delivery schedule (refer Cl. 8.0) and as intimated by Project Authorities from time to time, the purchaser will have right to deduct for such delay @ ½% (Half Percent) of the Contract price of the undelivered portion of the given schedule for the particular month per week or part thereof as liquidated damage subject to maximum of 10% of Contract price of that particular given schedule for the month.

11. SECURITY DEPOSIT

Balance 5% payment of each consignment shall be retained as security. This accumulated amount which shall become equivalent to 5% of the total value of supply order till completion of delivery, shall be released within 40 days after completion of entire supply.

This 5% deducted amount for each consignment may also be released to the supplier during the supply of Cement against the submission of the Bank Guarantee (BG) as per **Annexure-III**. The BG shall be issued by an Indian Nationalized/any scheduled Bank or Foreign Bank notified as a schedule Bank under the provision of 'Reserve Bank Act' through any branches of India. The validity period of Bank Guarantee shall be sixty (60) days beyond the date of completion of entire supply order. The Contractor, at the written request of Engineer-in-Charge may extend the BG for period upto Eight (08) months from the date of issue of Supply Order in pursuant to STC Clause No. 8. The validity of the Bank Guarantee shall be got extended at least one month before the date of expiry.

12. PERFORMANCE GUARANTEE

- 12.1 Within 28 days of receipt of Letter of Acceptance, the Contractor shall furnish to the Engineer-in-Charge a Performance Guarantee in the form of Demand Draft or Bank Guarantee (as per Format at **Annexure-IV**) from an Indian Nationalized Bank/any Scheduled Bank in India or Insurance Surety Bond (as per Format at Annexure-X) for an amount equal to (05) five percent of the Contract Price by way of guarantee valid till three (03) months after completion of entire supply for the due and faithful performance of the Contract. The Performance Guarantee shall be released after successful completion of entire supply.

The Insurance Surety Bond issued by an Insurance Company registered in India under Insurance Act 1938 or as amended from time to time and approved by the Insurance Regulatory Development Authority of India (IRDAI) in Indian Currency (INR) shall only be acceptable.

- 12.2 If the Contractor does not submit the Performance Security within the stipulated period due to any valid reason, Tender Inviting Authority may grant time extension for submission of performance security based on the request of Contractor.

In case, the Contractor does not submit performance security without a valid reason, the Employer shall impose simple interest @12% per annum on the full amount of applicable performance security (along with applicable taxes, if any) for the period of delay in submission of performance security. The interest on delayed period shall be calculated on pro rata basis for number of delayed days.

The interest accrued shall be payable by the Contractor within 14 days from the date of intimation by Tender Inviting Authority in form of Bank Demand Draft/ Banker Cheque in favour of 'NHPC Ltd', otherwise the same shall be recovered from any payment due or become due against bills / any other amount lying with NHPC.

The delayed submission of Performance Security by the Contractor shall be recorded in substantial completion and final completion certificates. Further, no claim for extension of time for completion period or any other type of claim on account of delayed submission of performance security shall be entertained.

- 12.3 If contractor fails to submit the Performance Security within 45 days from the date of issue of Letter of Award (LOA)/ GeM Contract, then following actions shall be taken against such Contractor:
- (i) Award shall summarily be terminated.
 - (ii) EMD/ Bid security shall be forfeited.
 - (iii) The bidder shall be debarred/ banned to participate in the business dealings with NHPC for a period of one year.
 - (iv) The name of the Contractor shall be hosted on the NHPC website etc. as per existing norms of NHPC/ Govt. of India.
 - (v) Such defaulted contractor shall not be eligible to participate in the bidding process of re-tender of this procurement.
- 12.4 The performance security shall not be released till liquidated damages, if any, is pending for recovery.

13. ENGINEER – IN – CHARGE

General Manager (Stores), Subansiri Lower H.E. Project, Kolaptukar, Dollungmukh Circle, Arunachal Pradesh, Correspondence address: Gerukamukh, via Gogamukh, Distt.-Dhemaji, Assam-787035 or his duly authorized representative who shall act and represent NHPC at all time during the currency of the Contract.

14. TRANSIT INSURANCE:

Goods supplied under the Contract shall be fully insured against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery under Transit Insurance Policy. Transit Insurance shall be borne by the supplier.

15. **HSN/SA Code** against the items under scope of work to be duly filled in and signed as per the **Annexure-V** for each items mentioned in ‘Schedule of Quantities and Prices’ which shall prevail throughout the entire contract and no alteration thereof is permissible during pendency of the Contract for any reason whatsoever, unless otherwise specified in any other provisions of this contract or required due to change in tax law. The HSN / SA Code as mentioned by bidders shall be final and binding. Bidder shall be liable to be assessed and accountable to tax authorities and the Employer shall in no way responsible for any kinds of errors / omissions / mistakes of bidders in this regard. No other taxes and duties shall be payable / reimbursable by Employer.

16. EXTENSION OF TIME:

- 16.1 Unless extended pursuant to Sub-clause 16.2 below, the Time for Completion shall be essence of Contract.
- 16.2 If at any time during performance of the Contract, the Supplier should encounter conditions impeding timely delivery of the Goods pursuant to Clause 8, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable

after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract such extended Time for Completion shall be made essence of Contract.

- 16.3 Except in case of Force Majeure, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to Clause 10, unless an extension of time is agreed upon, pursuant to Sub-Clause 16.2. The delivery of Goods and Related Services during extended Time for Completion shall be accepted only with prior written approval of the Purchaser failing which the Contract shall become void at the option of Purchaser.

17. CHANGE IN LAWS AND REGULATIONS

Unless otherwise specified in the Contract, if after the date of 28 days prior to last date of Bid submission, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated, or changed in India that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Further, the change in the rates of corresponding HSN/SA Codes shall only be considered for reimbursement / adjustment under the clause.

18. INTEGRITY PACT

To improve transparency and fairness in tendering process and/or during execution of work undertaken, the Employer is to implement a transparency pact.

The Pre-contract integrity pact, signed by all the prospective Bidders and the Employer shall commit the persons/ officials of both the parties, not to exercise any corrupt/ fraudulent/ collusive/ coercive practices in the tendering process and also during implementation of the contract. Only those Bidders who have entered into Integrity Pact with the Employer shall be eligible to participate in the bidding process. Entering into Integrity Pact as per Performa (enclosed at Sl. No. 5 of buyer added bid specific Terms & conditions of GEM Bid document) provided in the tender is a basic qualifying requirement.

Pre-contract Integrity pact is to be executed on plain paper with NHPC Ltd. at the time of submission of Bids. The successful bidder (Contractor) shall submit duly executed Integrity Pact on Non-Judicial Stamp Paper of appropriate value prior to Contract Signing.

To oversee the compliance under the Integrity Pact, Dr. Vinod Agrawal, IAS (Retd.), Shri Prabhask Singh and Shri Upendra Malik, CSE (Retd.) have been appointed as an Independent External Monitor (IEM) by the Purchaser/ Employer. The Contact Address of IEM is as under:

Name of IEM	Address
Sh. Vinod Agarwal, IAS (Retd.)	B-103, Sarvodaya Enclave, 2nd Floor, New Delhi-110017; Email: arsv50@gmail.com
Sh. Prabhash Singh, ITS (Retd.)	E7, M702, Housing Board Colony, Arera Colony, Bhopal, M.P. 462016; Email : srgmhrbpl@gmail .com
Shri Upendra Malik	B-108, NSG Society, Plot-2, Pocket-6, Builders Area, Greater Noida – 201315 (UP); Email: upendra.malik@gmail.com

19. The parties shall sign the Contract Agreement (three sets in Original) within 30 days from the date of issue of Letter of Award/ GeM Contract. The Contractor shall be provided with one signed original Contract Agreement. The expenses of completing and stamping the agreement shall be borne by the Contractor. Subsequent to signing of the Contract, the Contractor at his own cost shall provide the Employer with five (05) true copies of Contract agreement within fifteen (15) days after signing of Contract. Contract Agreement Form is enclosed at **Annexure-VI**. Above agreement shall be signed only after submission of Performance Bank Guarantee (PBG).

In the event of any ambiguity or conflict between the conditions/ sections of Contract Document, the order of preference shall be the order in which the conditions/ sections listed below:

- This Contract Agreement and the Appendices hereto
- Notification of Award/ Letter of Award/ GeM Contract
- Schedule of Quantity & Prices
- Special Terms & Conditions (STC)
- Technical Specifications
- General Terms & Conditions (GTC) of GeM

ANNEXURE -I

**PROFORMA OF INDEMNITY BOND TO BE EXECUTED BY THE CONTRACTOR
FOR PASSING OF 3 DAYS, 7 DAYS & 28 DAYS TEST AT “Project Test Laboratory” and
“Mutually Agreed Govt. Approved lab / NCCBM”
(For Every Consignment of Cement received at Site)
(On non-Judicial stamp paper of appropriate Value)**

INDEMNITY BOND

THIS INDEMNITY BOND is made this.....day of20bya Company registered under the Companies Act, 1956/Partnership Firm/Proprietary Concern having its Registered Office at(hereinafter called as ‘Contractor’ or “Obligor” which expression shall include its successors and permitted assignees) in favour of NHPC Limited, a Company incorporated under the Companies Act, 1956 having its Registered Office at NHPC Office Complex, Sector-33, Faridabad-121003 and its project at(hereinafter called “Purchaser” Which expression shall include its successors and assignees):

WHEREAS Purchaser has awarded to the Contractor a Supply Order for..... vide its Supply Order No datedand its Amendment No.(applicable when amendments have been issued) (hereinafter called the “Contract”) in terms of which Purchaser has to release 95% payment for each consignment on availability of 3 and 7 days successful test report issued by Project test laboratory.

And WHEREAS by virtue of Clause No..... of the said Supply Order, the Contractor is required to execute an Indemnity Bond in favour of Purchaser that if any consignment of supplied cement failed in 3 days, 7 days or 28 days test conducted at “Project Test Laboratory” or “Mutually Agreed Govt. Approved lab / NCCBM”, the Contractor will take back whole consignment within 7 days from the date of intimation at their risk and cost and the amount paid against this consignment shall be recovered from any payment due to the Contractor.

NOW THEREFORE, This Indemnity Bond witnessed as follows:

1.0 That in consideration of total Consignments of cement valued at Rs.(Rupees.....) against Supply Order/ GEM Contract No.received by Purchaser against various R/R & L/R in different lots for its Project at....., the Contractor hereby binds itself and undertakes that if the samples of any above supplied Consignment of cement failed in 03 days, 07 days or 28 days test conducted at “Project Test Laboratory” or “Mutually Agreed Govt. Approved lab / NCCBM”, the Contractor will take back whole failed consignment within 07 days from the date of intimation at their risk and cost and the amount paid against failed consignment shall be recovered from any payment due to the Contractor. This indemnity Bond is irrevocable. This is without prejudice to any other right or remedy that may be available to Purchaser against the Contractor under the Contract and under this Indemnity Bond.

2.0 NOW THE CONDITION of this Bond is that if the Contractor shall duly and punctually comply with terms and conditions of this Bond to the satisfaction of Purchaser, THEN, the above Bond shall be void, but otherwise, it shall remain in full force and virtue.

IN WITNESS WHEREOF, the Contractor has hereunto set its hand through its authorised representative under the common seal of the Company, the day, month and year first above mentioned at (Name of Place).

For and on behalf of

.....

(Contractor's Name)

WITNESS

Authorised representative*

1. 1. Signature.....
2. Name
3. Address

- Signature.....
- Name
- Designation

(Common Seal in case of Company)

2. 1. Signature
2. Name
3. Address

* Indemnity Bonds are to be executed by the authorised person and (i) in case of Contracting Company under common seal of the Company or (ii) having the Power of Attorney issued under common seal of the company with authority to execute Indemnity Bonds, (iii) In case of (ii), the original Power of Attorney if it is specifically for this Contract or a photostat copy of the Power of Attorney if it is General Power of Attorney and such documents should be attached to Indemnity Bond.

ANNEXURE-II

ECS - Form

NHPC Limited

**ELECTRONIC CLEARING SERVICE (CREDIT CLEARING)
(PAYMENT TO PARTIES THROUGH CREDIT CLEARING MECHANISM)**

No. :

1. BIDDER'S NAME : _____

a) ADDRESS : _____

b) Phone/ Mobile No. :

2. PARTICULARS OF BANK ACCOUNT :

a) BANK NAME : _____

b) BRANCH NAME : _____

c) ADDRESS : _____

Telephone No. : _____

d) IFSC CODE OF THE BANK :
(For payment through RTGS)

e) ACCOUNT TYPE :
(S.B. Account/ Current Account or/
Cash Credit with code 10/11/13)

f) ACCOUNT NUMBER : _____
(As appearing on the Cheque Book)

I hereby declare that the particulars given above are correct and complete. If the transaction is delayed or not effected at all for reasons of incomplete or incorrect Information, I would not hold the user Company responsible.

Date : _____
Signature of the Bidder

Certified that the particulars furnished above are correct as per our records.

(Bank's Stamp)

Date: _____
Signature of the Authorized
Official from the Bank

Annexure-III

BANK GUARANTEE FORM FOR RELEASE / PAYMENT OF RETENTION MONEY

(To be stamped in accordance with Stamp Act if any, of the Country of the Issuing Bank)

Bank Guarantee No.....

Date.....

To,

[Employer's Name & Address]

1. We.....*[Name and address of the Bank]* having our Registered/Head Office at..... (hereinafter referred to as the 'Bank', which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby undertake and agree to indemnify and keep indemnified the.....*[Employer's Name]* (hereinafter referred to as "the Employer " which expression shall, unless repugnant to the subject or context, include its administrators, successors and assigns), to the extent of*[amount]*..... on behalf of M/s.....*[Contractor's Name]*..... with its Registered/Head Office at (hereinafter referred to as "the Contractor) in lieu of an equal cash amount of Retention Money deposited by the Contractor and/or deducted by the Employer from the bills of the Contractor and which the Employer has agreed to substitute with a bank guarantee as hereunder, under the provisions of Contract No.....dt.which the Contractor has entered into with the Employer in connection with the supply of..... (Name of Work) at a total cost of..... (Contract Sum) (hereinafter called the `Contract').
2. We, the Bank also do hereby agree to pay unequivocally and unconditionally within 48 hours on demand, in writing, from the Employer, of any amount upto and not exceeding.....*[amount]*..... to the Employer for any purpose or cause or on any account whatsoever under the provisions of the Contract in which respect the decision of the Employer shall be final and binding on us.
3. Provided that it shall not be necessary for the Employer to proceed against the Contractor before proceeding against us and the guarantee herein contained shall be enforceable against us, notwithstanding any security which the Employer may have obtained or obtain from the Contractor shall, at the time when proceedings are taken against us as hereunder, be outstanding or unrealised.
4. We, the Bank, further agree that this guarantee shall be valid and binding on us upto and including(@).....and shall not be terminable by notice or any change in the constitution of the said Bank or the Contractor or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations made, given conceded, or agreed with or without our knowledge or consent, by or between the parties to the Contract.
5. The Bank declares that this Bank Guarantee is issued by the Bank, utilizing the credit limit of M/s(name of contractor) and also agrees that the Employer at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first

instance without proceeding against the Contractor and notwithstanding any security or other guarantee that the Employer may have in relation to the Contractor's liabilities.

6. We also undertake not to revoke this guarantee during its currency except with the previous consent, in writing, of the Employer.
7. Our liability under this guarantee is restricted to[amount]..... Our guarantee shall remain in force until(@)unless a suit or action to enforce a claim under the guarantee is filed against us within 90 days from that date, all your rights under this guarantee shall be forfeited and we shall be relieved and discharged from all liabilities thereunder:

In the presence of

Witness

For and on behalf of the Bank

.....

Bank's common seal

Dated this.....day of(month).....(year)

The above Guarantee is accepted by the Corporation

For and on behalf of the Corporation

Signature.....

Name and designation.....

Name of Project/Unit.....

Date.....

Notes:

1. (@) Sixty (60) days beyond the date of completion of entire supply order.
2. Bank Guarantee should be executed on appropriate stamp paper of requisite value, such stamp paper should be purchased in the name of Issuing Bank, not more than six (6) months prior to execution / issuance of Bank Guarantee. The name of the purchaser should appear at the back side of stamp paper in the Vendors Stamp. Bank guarantee should contain rubber stamp of the authorized signatory of the bank indicating the name, designation and signature/ power of attorney number as well as telephone/ fax numbers with full correspondence address of the Bank.
3. Bank Guarantee is required to be submitted directly to the Engineer-in-Charge by the issuing bank (on behalf of Contractor) under registered post (A.D.). The Contractor can submit an advance copy of Bank Guarantee to the Engineer-in-Charge.

The issuing bank shall write the name of bank's controlling branch/ Head Office along with contact details like telephone/ fax and full correspondence address in order to get the confirmation of BG from that branch/ Head office, if so required.

Annexure-IV

PERFORMANCE GUARANTEE FORM

Bank Guarantee

(To be stamped in accordance with Stamp Act
if any, of the Country of the issuing Bank)

Bank Guarantee No.

Date

To,

[Employer's Name & Address]

Dear Sirs,

In consideration of the*[Employer's Name]* (hereinafter referred to as the 'Employer' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) having awarded to M/s *[Contractor's Name]* with its Registered/Head Office at (hereinafter referred to as the 'Contractor', which expression shall unless repugnant to the context or meaning thereof, include its successors administrators, executors and assigns), a Contract by issue of Employer's Letter of Acceptance No. dated and the same having been acknowledged by the Contractor, for *[Contract sum in figures and words]* for *[Name of the work]* and the Contractor having agreed to provide a Contract Performance Guarantee for the faithful performance of the entire Contract equivalent to(*)..... of the said value of the aforesaid work under the Contract to the Employer.

We*[Name & Address of the Bank]* having its Head Office at (hereinafter referred to as the 'Bank', which expression shall, unless repugnant to the context of meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee and undertake to pay the Employer, on demand any and all monies payable by the Contractor to the extent of (*) as aforesaid at any time upto (@) *[days/month/year]* without any demur, reservation, contest, recourse or protest and/or without any reference to the Contractor. Any such demand made by the Employer on the Bank shall be conclusive and binding notwithstanding any difference between the Employer and the Contractor or any dispute pending before any Court, Tribunal, Arbitrator or any other authority. The Bank undertakes not to revoke this guarantee during its currency without previous consent of the Employer and further agrees that the guarantees herein contained shall continue to be enforceable till the Employer discharges this guarantee or till*[days/month/year]* whichever is earlier.

The Employer shall have the fullest liberty, without affecting in any way the liability of the Bank under this guarantee, from time to time to extend the time for performance of the Contract by the Contractor. The Employer shall have the fullest liberty, without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the Contractor, and to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the Contract between the Employer and the Contractor or any other course or remedy or security available to the Employer. The Bank shall not be released of its obligations under these presents by any exercise by the Employer of its liberty with reference to the matters aforesaid or any of them or by reason of any other act or forbearance or other acts of omission or commission on the part of the Employer or any other indulgence shown by the Employer or by any other matter or thing whatsoever which under law would, but for this provision have the effect of relieving the Bank.

The Bank declares that this Bank Guarantee is issued by the Bank, utilizing the credit limit of M/s(Name of Contractor) and also agrees that the Employer at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance without proceeding against the Contractor and notwithstanding any security or other guarantee the Employer may have in relation to the Contractor's liabilities.

- i) Our liability under this Bank Guarantee shall not exceed
- ii) This Bank Guarantee shall be valid up to
- iii) We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only and only if Employer serve upon Bank a written claim or demand on or before@.....

Dated thisday of 20..... at

WITNESS

Signed for and on behalf of the Bank

1.
(Signature)

.....
(Signature)

.....
(Name)

.....
(Name)

.....
(Official Address)

.....
(Designation with Bank Stamp) Staff No.
Full Address of Bank with Tel., Fax. No.

2.
(Signature)

.....
(Name)

.....
(Official Address)

Communication address of the Bank

Name of the contact person

Tel. No.

Fax No.

Email:

Notes: 1. (*) This sum shall be Five percent (5%) of the Contract Price denominated in the types and proportions of currencies.

(@) This date will be three (3) months beyond the Contract period as specified in the Contract. The Bank Guarantee shall be released after completion of job and upon certification by Engineer/ Officer -in-charge.

2. The stamp papers of appropriate value shall be purchased in the name of guarantee issuing Bank.

3. Vendor's stamp with full details i.e. name of the Employer in whose favour for which this stamp paper has been purchased, should be invariable mentioned on the back side of the stamp paper.
4. Bank Guarantee is required to be submitted directly to the Employer by the issuing bank (on Behalf of the Contractor) under the registered post (A.D.). The Contractor can submit an advance copy of Bank Guarantee to the Employer. However, in case of exceptional circumstances where efficient postal services are not in force, the Bank Guarantee may be submitted by the Contractor directly to the Employer and the issuing Bank shall submit an unstamped duplicate copy of Bank Guarantee directly under the registered post (A.D.) to the Employer, with a forwarding letter.
5. Beneficiary's (NHPC's) Bank Account detail:

Bank Account No.	00000010813608692
Beneficiary Name	NHPC Limited
Credit Bank	State Bank of India
IFSC	SBIN0017313
Branch Address	Corporate Accounts Group II Branch, 5th Floor, Red Fort Capital Parsvanath Towers, Bhai Veer Singh Marg, Gole Market, New Delhi-110001
GSTIN Number of NHPC limited, Corporate Office, Faridabad, Haryana.	06AAACN0149C1Z3

ANNEXURE-V

Name of Work: Supply of 60,000 MT Portland Pozzolona Cement (PPC) as per Technical Specifications for Subansiri Lower HE Project.

GeM Bid No.:.....

Bidder Name :		
Proforma for HSN / SA code		
Sl. No.	Item Descriptions	HSN/SA Code

For & on behalf of M/s _____

Station:
(Office Seal)

Signature:
Name:

ANNEXURE-VI

AGREEMENT

(To be executed on non-judicial stamp paper of appropriate value)

This AGREEMENT is made on the day of BETWEEN

- (1) NHPC Ltd., a corporation incorporated under the laws of INDIA and having its principle place of business at NHPC OFFICE COMPLEX, SECTOR-33, FARIDABAD-121003, HARYANA (hereinafter called “the Purchaser”), and which expression shall include its permitted successors and assignees.

and

- (2) M/s and having registered office at (herein after referred to as ‘The Supplier’) which expression shall include the permitted successors and assignees.

“WHEREAS the Purchaser is desirous of **Purchase of 60,000 MT (12,00,000 bags) Portland Pozzolona Cement (PPC) conforming to IS:1489-Part-I:2015 (as per Technical Specification), The strength criteria will be 27 Mpa at 03 days, 37 Mpa at 07 days & 53 Mpa at 28 days (The strength Criteria shall be same as OPC 53 Grade of Table 3 of IS:269-2015), Packed in HDPE/PP Bags containing 50 Kg in each bags for Subansiri Lower HE Project Arunachal Pradesh** and have invited enquiry vide for the purpose of the said supply.

AND WHEREAS the Supplier has submitted its tender AND WHEREAS the Purchaser has accepted the tender of the Supplier for execution of the said supply upon the terms and subject to the conditions herein after mentioned below in the agreement.

This Contract comprises of the following component / parts, all of which shall form an integral part of this contract as if herein set out verbatim or if not attached as if here to attached.

i)	Section-I	:	<ul style="list-style-type: none"> Agreement & Contract Generated on GeM portal Correspondences with Contractor
ii)	Section-II	:	<ul style="list-style-type: none"> Special Terms & Conditions (STC)
iii)	Section-III	:	<ul style="list-style-type: none"> Technical Specifications
ii)	Section-IV	:	<ul style="list-style-type: none"> General Terms & Condition (GTC) of GeM

AND WHEREAS the Purchaser has accepted the tender of the Supplier and the execution of the said supply for the sums as per the **Contract Generated on GeM portal** enclosed at Section-I upon the terms and subject to the conditions hereinafter mentioned and more particularly described in Section I to IV respectively which shall form integral part of this Contract (hereinafter to be collectively referred to as ‘Contract Documents’).

NOW THESE PRESENT WITNESS AND the parties hereto hereby agree and declare as follows:

That is to say, in consideration of the payments to be made to the Supplier by the Purchaser as hereinafter mentioned, the Supplier shall duly provide the said supply and shall do and perform all other works and things in the contract mentioned or described which are implied there from or herein

respectively or may be reasonably necessary for the completion of the said supply within and at the times and in the manner and subject to the terms & conditions and stipulations mentioned in the said contract document.

AND in consideration of the due provision and satisfactory Supply and Completion of the said supply thereof as aforesaid, the Purchaser will pay to the Supplier the sums as per the **Contract Generated on GeM portal** enclosed at Section-I or such other as may become payable to the Supplier under the provisions of this Contract, such payment to be made in time and in such manner as is provided by the Contract.

IN WITNESS WHEREOF the Parties hereto have signed this deed hereunder on the date respectively mentioned against the signature of each.

(For and on behalf of
the Supplier)

(For and on behalf of
the Purchaser)

In the presence of

1.

In the presence of

1.

ANNEXURE – VII

Declaration regarding Bidder Financial Standing as per Sl. No. 2 of Buyer added Bid Specific Terms and Conditions

It is declared that I/ We (*name of the bidder*) are not under liquidation, court receivership or similar proceedings and also not bankrupt.

(Seal & Signature of Bidder)

Note: To be submitted on letter head duly signed by the authorized representative of bidder.

ANNEXURE – VIII

BANK GUARANTEE IN LIEU OF EARNEST MONEY DEPOSIT

BANK GUARANTEE

(to be executed on Non –judicial stamp paper of appropriate value)

Date: _____

[Name of Contract]

To: [Name and address of Employer]

WHEREAS [name of Bidder] (hereinafter called “the Bidder”) has submitted its Bid dated [date of bid] for the performance of the above-named Contract (hereinafter called “the Bid”)

KNOW ALL PERSONS by these present that WE [name of bank] of [address of bank] (hereinafter called “the Bank”), are bound unto NHPC Limited (a Govt. of India Enterprises) (hereinafter called “the Employer”) for the sum of: [amount], for which payment well and truly to be made to the said Employer, the Bank binds itself, its successors and assigns by these presents.

Sealed with the Common Seal of the said Bank this ____ day of ____ 20 ____

THE CONDITIONS of this obligation are the following:

- a) If the Bidder withdraws its bid or varies any terms & conditions, without the consent of the Employer, in regard thereto during the period of bid validity. **Or**
- b) If the bidder indulges in Corrupt or Fraudulent or Collusive or Coercive practice(s) or defaults committed under Integrity Pact. **Or**
- (c) If the successful bidder fails to enter into a Contract Agreement when required. **Or**
- (d) In the case of a successful Bidder, if the Bidder fails within the specified time limit to furnish the required Performance Security, in accordance with Special Terms & Conditions (STC).

WE undertake to pay to the Employer up to the above amount upon receipt of its first written demand, without the Employer having to substantiate its demand, provided that in its demand the Employer will note that the amount claimed by it is due to it, owing to the occurrence of any of the above-named CONDITIONS, and specifying the occurred condition or conditions.

The Bank declares that this Bank Guarantee is issued by the Bank, utilizing the credit limit of M/s - ----- (name of the contractor).

Notwithstanding anything contained herein above our liability under this Guarantee is limited to..... (Rupees only) and our Guarantee shall remain in force until..... day of

....., 20 unless a claim or demand under this Guarantee is made on us in writing, on or before, we shall be discharged of all liabilities under this Guarantee thereafter.

WITNESS

1.
(Signature)

.....
(Name)

.....
(Official Address)

2.
(Signature)

.....
(Name)

.....
(Official Address)

Signed for and on behalf of the Bank

.....
(Signature)

.....
(Name)

.....
(Designation with Bank Stamp)

Including Staff Authority No. with complete
Bank Address with Tel. Fax
Nos.....
Dated.....

Communication address of the Bank

Name of the contact person

Tel. No.

Fax No.

Email:

1.0 Bank Guarantee for Bid Security in original shall be submitted alongwith the bid. However, the issuing bank shall submit an unstamped duplicate copy of bank guarantees directly by registered post (AD) to Employer (authority inviting tenders) alongwith a forwarding letter.

2.0 The following information should be invariably mentioned on the back side of the bank Guarantee:

Vendor's stamp with full details i.e. name of the Employer in whose favour this stamp paper has been purchased.

3.0 The BG should be valid upto 90 days beyond Bid validity period of offer.

Note: The stamp papers of appropriate value shall be purchased in the name of Bank issuing guarantee.

ANNEXURE – IX

Format of Insurance Surety Bond for Earnest Money Deposit

(To be executed on Non-Judicial Stamp Paper of Appropriate value)

Insurance Surety Bond No.....

Date:_____

(Name of Contract)

To: (Name and address of Employer)

WHEREAS (name of Bidder) (hereinafter called “the Bidder”) has submitted its Bid dated (date of bid) for the performance of the above named Contract (hereinafter called “the Bid”)

KNOW ALL PERSONS by these present that We (name of Insurance Company) of (address of Insurance Company) (hereinafter called “the Surety”), are bound unto NHPC Limited (a Govt. of India Enterprises) (hereinafter called “the Employer”) for the sum of (amount), for which payment well and truly to be made to the said Employer, the Surety binds itself, its successors and assigns by these presents.

THE CONDITIONS of this obligation are as follows:

1. If the Bidder (a) withdraws or modifies its Bid during the period of bid validity, or (b) adopts corrupt or collusive or coercive or fraudulent practices or defaults under Integrity Pact.
2. If the Bidder, having been notified of the acceptance of its Bid by the Employer during the period of bid validity.
 - a) fails or refuses to sign the Contract Agreement when required, or
 - b) fails or refuses to submit the performance security in accordance with the Tender Documents.

We undertake to pay to the Employer up to the above amount upon receipt of its first written demand, without the Employer having to substantiate its demand, provided that in its demand the Employer will mention that the amount claimed by it is due, owing to the occurrence of one or both of the two above-named CONDITIONS, and specifying the occurred condition or conditions.

The Surety declares that this Insurance Surety Bond is issued by the (name of Insurance Company) as per the applicable rules and regulations of Insurance Regulatory Development Authority of India (IRDAI).

This Insurance Surety Bond will remain in force up to and including (date 90 days after the period of bid validity), and any demand in respect thereof must reach the Surety not later than the above date.

For and on behalf of the Insurance Company

in the capacity of

Common Seal of the Insurance Company with complete address including Tel. Nos. / e-Mail Id.
Staff Authority No. of the officer of the Insurance Company /Signatory

INSTRUCTIONS FOR EXECUTION OF INSURANCE SURETY BOND FOR EARNST MONEY DEPOSIT

1. Insurance Surety Bond for Earnest Money Deposit should be executed on non-judicial Stamp papers of requisite value in accordance with the stamp Act if applicable to that particular state of Indian Union country of executing Insurance Company, where executed. In case the same is issued by an International Insurance Company (it should be registered under Insurance Act 1938 or as amended from time to time and approved by the Insurance Regulatory Development Authority of India (IRDAI)) the law prevalent in the country of execution shall prevail for the purpose of Stamp Duty on the Insurance Surety Bond. However, in such a case, the Insurance Surety Bond for Earnest Money Deposit shall be got confirmed by the Bidder through any Indian Scheduled/Nationalized Insurance Company.
2. The executing officers of the Insurance Surety Bond for Earnest Money/Bid Security shall clearly indicate in (block letters) his name, designation, Power of Attorney No. / Signing Power No. as well as telephone/ fax numbers with full correspondence address of the issuing Guarantee etc.
3. Each page of the Insurance Surety Bond for Earnest Money Deposit shall be duly signed/initialed by the executing officers and the last page shall be signed in full, indicating the particulars as aforesaid (sub-para 2) under the seal of the Insurance Company.
4. Stamp paper shall be purchased in the name of Insurance Company issuing the Insurance Surety Bond, after the date 'Notice Inviting Tender', not more than six (6) months prior to execution/ issuance of the Insurance Surety Bond. The name of the purchaser should appear at the back side of stamp paper in the Vendors Stamp. The issuing Insurance Company shall be requested independently for verification/confirmation of the Insurance Surety Bond issued, non-confirmation of which may lead to rejection of 'Insurance Surety Bond'.
5. Irrevocable, valid and fully enforceable Insurance Surety Bond in favor of the Employer (Name of Employer) issued by any Insurance Company registered under Insurance Act 1938 or as amended from time to time and approved by the Insurance Regulatory Development Authority of India (IRDAI) in Indian currency (INR) only is acceptable to the Employer.
6. Insurance Surety Bond for Bid security in original shall be submitted along with the Bid. However, the issuing Insurance Company shall submit an unstamped duplicate copy of Insurance Surety Bond directly by registered post (A.D.) to the Employer (authority inviting tenders) with a forwarding letter.

ANNEXURE-X

FORMAT OF INSURANCE SURETY BOND FOR PERFORMANCE SECURITY

(To be executed on Non-Judicial Stamp Paper of Appropriate value)

Insurance Surety Bond No.....

Date.....

To,
[Employer's Name & Address]

Dear Sirs,

In consideration of the ... [Employer's Name]..... (hereinafter referred to as the 'Employer' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) having awarded to M/s[Contractor's Name]..... with its Registered/Head Office at (hereinafter referred to as the 'Contractor', which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), a Contract by issue of Employer's Letter of Acceptance No..... dated..... and the same having been acknowledged by the contractor, for ----- --[Contract sum in figures and words] for[Name of the work] and the Contractor having agreed to provide a Contract Performance Guarantee for the faithful performance of the entire Contract equivalent to(*).....of the said value of the aforesaid work under the Contract to the Employer.

We[Name & Address of the Insurance Company].....having its Head Office at.....(hereinafter referred to as the 'Surety, which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee and undertake to pay the Employer, on demand any and all monies payable by the Contractor to the extent of(*)..... as aforesaid at any time upto(@)..... [days/month/year] without any demur, reservation, contest, recourse or protest and/or without any reference to the Contractor. Any such demand made by the Employer on the Insurance Company shall be conclusive and binding notwithstanding any difference between the Employer and the Contractor or any dispute pending before any Court, Tribunal, Arbitrator or any other authority. The Surety undertakes not to revoke this guarantee during its currency without previous consent of the Employer and further agrees that the guarantees herein contained shall continue to be enforceable till the Employer discharges this guarantee or till(+). [days/month/year] whichever is earlier.

The Employer shall have the fullest liberty, without affecting in any way the liability of the Insurance Company under this guarantee, from time to time to extend the time for performance of the Contract by the Contractor. The Employer shall have the fullest liberty, without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the Contractor, and to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the Contract between the Employer and the Contractor or any other course or remedy or security available to the Employer. The Insurance Company shall not be released of its obligations under these presents by any exercise by the Employer of its liberty with reference to the matters aforesaid or any of them or by reason of any other act or forbearance or other acts of omission or commission on the part of the Employer or any other indulgence shown by the Employer or by any other matter or thing whatsoever which under the law would, but for this provision have the effect of relieving the Insurance Company.

The Surety declares that this Insurance Surety Bond is issued by the(Name of Insurance Company) as per the applicable rules and regulations of Insurance Regulatory Development Authority of India (IRDAI) and also agrees that the Employer at its option shall be entitled to enforce this Guarantee against the Insurance Company as a principal debtor, in the first instance without

proceeding against the Contractor and notwithstanding any security or other guarantee the Employer may have in relation to the Contractor's liabilities.

- i) Our liability under this Insurance Surety Bond shall not exceed _____(*)_____.
- ii) This Insurance Surety Bond shall be valid upto _____(+)______.
- iii) We are liable to pay the guaranteed amount or any part thereof under this Insurance Surety Bond only and only if Employer serves upon Surety a written claim or demand on or before _____(@)______.

Dated thisday of20_.....at.....

WITNESS

.....	(Signature).....
(Signature)	
.....	(Name).....
(Name)	

.....
(Official Address)	(Designation with Stamp of Insurance Company)/with staff Authority no.
Complete Address of the Insurance Company with Telephone No. and e-Mail Id.	

Notes :

1. (*) This sum shall be Five percent (5%) of the accepted contract amount.
(@) This date will be three (3) months beyond the Contract period as specified in the Contract.
2. Insurance Surety Bond should be executed on appropriate stamp paper of requisite value, such stamp paper should be purchased in the name of Issuing Insurance Company, not more than six (6) months prior to execution / issuance of Insurance Surety Bond. The name of the purchaser should appear at the back side of stamp paper in the Vendors Stamp. Insurance Surety Bond should contain rubber stamp of the authorized signatory of the Insurance Company indicating the name, designation and signature/ power of attorney number as well as telephone numbers / e-Mail Id with full correspondence address of the Insurance Company.

In case the same is issued by an International Insurance Company (it should be registered under Insurance Act 1938 or as amended from time to time and approved by the Insurance Regulatory Development Authority of India (IRDAI)), the law prevalent in the country of execution shall prevail for the purpose of Stamp Duty on the Insurance Surety Bond. However, in such a case, the Insurance Surety Bond shall be got confirmed through any Indian Scheduled/Nationalized Insurance Company.
3. Insurance Surety Bond is required to be submitted directly to the Employer by the issuing Insurance Company (on behalf of Contractor) under registered post (A.D.). The Contractor can submit an advance copy of Insurance Surety Bond to the Engineer.
4. The issuing Insurance Company shall write the name of Insurance Company's controlling branch/ Head Office along with contact details like telephone no., e-Mail Id and full correspondence address in order to get the confirmation of BG from that branch/ Head office, if so required.

CHECK LIST

This Check List duly tick marked shall be submitted online.

Sl. No.	Document Required	Clause Reference	Action required	Submitted Please tick (√)
1.	EMD/Bid Security			
	(i) DD/Bankers cheque/ BG / Insurance Surety Bond for an amount of INR 66,00,000/-	GeM EMD details as per NIT/ ATC Clause no. 10	To be submitted in hard copy and uploaded online.	
	Or			
	(ii) Copy of valid relevant certificate/ documents for exemption of EMD/ Bid Security	GeM GTC clause 4(xiii)(m)	To be uploaded online.	
2.	Qualification Requirements			
i)	Copy of valid BIS license for manufacturer of Pozzolona Portland Cement confirming to IS:1489-Part-I	Sl. No. (i) of Section-0 (Qualifying Requirements (QR))	To be uploaded online.	
ii)	Copy of valid certificate from the concerned department of Central Govt. /State Govt. for production capacity of the manufacturer.	Sl. No. 2 of Section-0 (Qualifying Requirements (QR))	To be uploaded online.	
iii)	<i>Documentary evidence such as duly printed Annual report mentioning Annual cement production of the Company etc. or Copy of necessary certification duly certified by Chartered Accountant / Cost Accountant bearing UDIN</i>	Sl. No. (ii) of Section-0 (Qualifying Requirements (QR))	To be uploaded online.	
iv)	Copy of valid ISO certification of manufacturer for manufacturing the specified goods	Sl. No. (iv) of Section-0 (Qualifying Requirements (QR))	To be uploaded online.	
v)	Declaration/ undertaking as per Annexure-1 related to percentage of local content in compliance to Public Procurement (Preference to Make to India) Order 2017 duly certified by statutory auditor or cost auditor of the company bearing UDIN.	As per Annexure-1 and Sl. No.(v) of Section 0 (Qualifying Requirements (QR))	To be uploaded online.	
vi)	Declaration regarding insolvency proceedings under Insolvency and Bankruptcy Code 2016	As per Annexure-2 and Sl. No. (vi) of Section 0 (Qualifying Requirements (QR))	To be uploaded online.	
3.	SPECIAL TERMS & CONDITIONS (STC)			
i)	ECS Form	Annexure-II of STC	To be uploaded online	

ii)	Proforma for HSN / SA code	Annexure-V of STC	To be uploaded online	
iii)	Declaration regarding Bidder Financial Standing as per Sl. No. 2 of Buyer added Bid Specific Terms and Conditions	Annexure-VII of STC and Sl. No. 2 of buyer added bid specific Terms & conditions	To be uploaded online	
4.	Buyer added bid specific Terms & conditions			
i)	Undertaking for bidder financial standing	Sl. No. 2 of buyer added bid specific Terms & conditions	To be uploaded online	
ii)	Copy of PAN, GSTIN, Cancelled Cheque & EFT mandate duly certified by bank.	Sl. No. 6 of buyer added bid specific Terms & conditions	To be uploaded online	
iii)	Integrity Pact as per Performa duly signed & Stamped at each page.	Sl. No. 5 of buyer added bid specific Terms & conditions	To be uploaded online.	

Appendix-I

Price Adjustment

Prices shall be in INR and on F.O.R destination basis i.e. up to Central Store, NHPC Ltd., Subansiri Lower HE Project, Gerukamukh, Distt. Dhemaji (Assam) inclusive of all charges for packing, handling, forwarding, Loading, unloading, stacking, transportation, insurance and all applicable Taxes & Duties.

Prices payable to the Supplier, in accordance with the Contract, shall be subject to adjustment in accordance with following Price Adjustment formula:

$$P1 = P0 \times \left(0.20 + 0.8 \frac{C1}{C0} \right) - P0$$

in which:

- P1 = adjustment amount payable to the Supplier
P0 = Hundred percent (100%) of Contract price
C0 = The wholesale Price Index (WPI) for 'Pozzolana Cement' (base year 2011-12 = 100) published by Office of Economic Advisor, Ministry of Commerce and industry on base date.
C1 = The wholesale Price Index (WPI) for 'Pozzolana Cement' (base year 2011-12 = 100) published by Office of Economic Advisor, Ministry of Commerce and industry on the date of adjustment.

The base date shall be the month previous to the month of end date of submission of online Bid.

The date of adjustment shall be the month falling the date of dispatch.

The following conditions shall apply:

- (a) Price adjustment will be applied only if the resulting increase or decrease is more than two percent (2%) of monthly invoice value of dispatch month.
- (b) No price increase will be allowed beyond the original delivery date unless covered by an extension of time awarded by the Employer under the terms of the Contract. No price increase will be allowed for periods of delay for which the Contractor is responsible. The Employer will, however, be entitled to any price decrease occurring during such periods of delay.
- (c) In case, Government of India stops publishing any of the price indices at any time and announces a new series with a linking factor for conversion of index of new series to the old series, regulation of price variation will be done using the indices of new series along with linking factor from the period the indices of old series becomes unavailable. However, if the new series released by the relevant source /Authority does not have the linking factor and has indices for base date, the new series shall be used without use of Linking Factor and current as well as base indices of new series shall be used from the date, indices of old series becomes unavailable. However, if the new series released by relevant source/Authority does not have linking factor and does not have indices for the base date of Contract, the linking factor between old and new series shall be derived using Arithmetic conversion method i.e. considering the Arithmetic mean of the monthly indices of the old series for the twelve month period of base year

of new series and dividing it by 100. This linking factor shall be used with the indices of new series and the same/most nearest commodity item used in the Price Adjustment Formulae.

- (d) Price adjustment payment against supply shall be made upon delivery to site against invoice duly verified by Engineer-In Charge.
- (e) The total adjustment (plus or minus) shall be subject to a ceiling amount of 10% of the total contract price during contractual delivery period.

Section-II

TECHNICAL SPECIFICATION

Sl. No.	Grade of Cement	Specification
1	PPC 53 Grade Cement	Portland Pozzolona Cement (PPC) Conforming to IS:1489-Part-I, The strength criteria will be 27 Mpa at 03 days, 37 Mpa at 07 days & 53 Mpa at 28 days (The strength criteria shall be same as OPC 53 Grade of Table 3 of IS:269-2015), packed in HDPE/PP Bags containing 50 Kg in each Bags.

1. Introduction

This document is an electronic record published by GeM under the provisions of the Information Technology Act, 2000 and the rules made there under (as applicable) and shall act as valid agreement between Seller / Service Provider and Buyer. Further the use of GeM Portal for Sale / Purchase of Goods / Services and the **resulting Contracts shall be governed by the following General Terms and Conditions (GTC) (unless otherwise superseded by Product / Service specific Special Terms and Conditions (STC), Product / Track / Domain Specific STC of Particular Service including its SLA (Service Level Agreement) and BID/Reverse Auction Specific Additional Terms and Conditions (ATC) as applicable).**

Government EMarketplace (GeM) is the National Public Procurement Portal; an end-to-end online Marketplace for Central and State Government Ministries / Departments, Central & State Public Sector Undertakings (CPSUs & SPSUs), Autonomous institutions and Local bodies, for procurement of common use goods & services. The portal is owned and managed by GeM SPV which is a Section 8 (Non- Profit) Company registered under the Companies Act, 2013. GeM SPV operates, monitors and supervises all the business transactions on the portal through the Managed Service Provider as per defined roles and responsibilities.

2. General Terms and Definitions:

- a. **“APPLICABLE LAWS”** shall mean any statute, law, ordinance, notification, rule, regulation, judgment, order, decree, bye-law, approval, directive, guideline, policy or other governmental restriction as may be in effect.
- b. **“GOODS”** shall mean an Article / product or an intangible product like software, technology transfer, licenses, patents or other intellectual properties being offered for sale on the GeM portal by Seller(s) on GeM. The term ‘Goods’ shall also include works and services which are incidental or consequential to the supply of such goods, such as, transportation, insurance, installation, commissioning, training and guarantee / warranty obligations as defined in the scope of supply given in the contract.

Note: If nothing contrary is specified in the contract and in the detailed specification of products given in contract, the scope of contract shall be supply of Goods on free delivery to consignee basis.

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- c. **“SERVICES”** shall mean the services offered or provided by the Seller such as IT Professional Services, Manpower Services, Security Services, Transport Services, etc. listed as Services on GeM. The term ‘Service’ shall also include supply of goods / articles which are incidental or consequential to the provisioning of such Services as defined in the scope of supply given in the contract.
- d. **“SERVICE LEVEL AGREEMENT (SLA)”** shall mean the Contractual Commitment that prevails between the Buyer and the Service Provider with regard to type of service to be provided, deliverables, desired performance level, reliability and responsiveness, monitoring process and service level reporting, response and issue resolution time-frame, repercussions / penalties / remedies for service provider not meeting its commitment. The SLA of a particular contract may carry the matrix regarding the delivery of the goods and/or services and the corresponding penalties or remedies and liquidated damages as applicable.
- e. **“CATEGORY SPECIFICATION”** shall mean the framework of technical features, functional capabilities, technical properties, certifications of the items etc. in a particular category. The Specifications shall identify the key parameters defining the products with all necessary validations related to configuration, type of data, restrictions, range / allowed values, allowed units etc. Sellers as well as Buyers while offering / buying the Goods / services shall have to comply with the validation rules / restrictions provided for in the Category Specification. Buyers / Sellers cannot add parameters and / or drop down values not provided for in category Specification. If any Buyer / Seller desire to add new parameter, value, validation etc. against any category specification, they have to raise request for the same to GeM for incorporation in Category Specification.
- f. **“BUYER”** is the Contract placing authority, which includes Central/State Government Ministries/Departments including its attached/subordinate offices, Central/State Public Sector Units (PSUs) and Autonomous Bodies acting through its authorized officer(s) for and on behalf of President of India/Governor of the State/PSU/Autonomous Bodies, as the case may be, for purchase of Goods/Services offered by Sellers on GeM.
- g. **“SELLER / SERVICE PROVIDER”** on GeM shall mean any legal entity such as firm(s) of Proprietorship / Partnership Firm / Limited Liability Partnership / Private Limited / Limited company / Society registered under Society’s Act / Statutory Bodies etc., registered on GeM to sell its Good(s) / Service(s) to the Buyers registered on GeM.

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The “Seller on GeM” will be either OEM (Original Equipment Manufacturer*) or Seller having authorization to sell products manufactured by the OEM in open market or Licensed manufacturer under Drugs & Cosmetics Act, 1940 or Seller without OEM authorization inline with Quadrant policy of GeM.

* OEM is the owner of the Brand / Trademark of the product being offered or in case of un-registered brand's products / products with own brand, the actual manufacturer of the final product. To be recognized as an OEM on GeM, seller has to get Vendor Assessment Report from designated agency (unless exempted as per GeM VA policy) as per due process of vendor assessment notified on GeM portal (which would include production of documentary evidences and demonstration of manufacturing facilities and / or capabilities as required).

In case of Services related to Goods, Service Provider on GeM will be either OEM or Service Provider having authorization to Service products manufactured by that OEM in open market. In respect of other Services, Service Provider on GeM will be any legal entity offering its services.

By registering on GeM portal, Seller / Service Provider hereby agrees to be bound by these General Terms and Conditions for Sale / Purchase of Goods and / or Services (GTC); Product / Service Specific Special Terms and Conditions (STC) and Service Level Agreements (SLAs) for various Services; and Additional (Bid Specific) Terms and Conditions (ATC) as applicable. For the purpose of this document and transactions on GeM, Seller as well as Service Provider will be referred to as “Seller”.

- h. **“USER ID and PASSWORD”** All users including Buyers and Sellers (primary as well as secondary) will get User ID and Password created on GeM following due registration process defined on GeM. It is the responsibility of the user to keep their User ID and Password secure and confidential. Individual user shall be solely and completely responsible for all transactions taking place on GeM portal using his / her User Id and Password and GeM shall not be responsible in any manner.
- i. **“LICENSE”** shall mean by registering the Seller and by offering Product / Service details on GeM and by participating in Bids floated on GeM, the Seller grants GeM a non-exclusive, royalty-free, irrevocable, perpetual and fully sub-licensable right to use, reproduce, modify, adapt, publish, translate, distribute, and/or display publicly the content / materials / documents which has been submitted to GeM and / or GeM Buyer(s) during registration / bid participation excluding Aadhaar Number. In case of registration of Primary user and creation of secondary user(s) by the Buyer/Seller, their Aadhaar (UID) details collected by GeM are solely for user verification and to apply e- signing on the documents. The e-sign is at par with digital signatures as per Information Technology Act Amendment 2008 and it works based on details available

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in Aadhaar database of UIDAI and there is no interference / intrusion in their personal details.

- j. **“CONTRACT”** shall mean the purchase order created / issued by the Buyer on GeM for supply of Goods / Services in electronic form which includes scope of supply, delivery instructions and specifications, etc. as ordered by Buyer against such Contract besides the subject GTC, STC/ATC, as the case may be.
- k. **“BID SECURITY”** (also known as Earnest Money Deposit) shall mean Insurance Surety Bond, Account Payee Demand Draft, Fixed Deposit Receipt, Banker’s Cheque or Bank Guarantee (including e-Bank Guarantee) from any of the Commercial Banks or payment online in an acceptable form as defined in the bid document, safeguarding the purchaser’s interest in all respects.
- l. **“PERFORMANCE SECURITY”** shall mean Insurance Surety Bonds, Account Payee Demand Draft, Fixed Deposit Receipt from a Commercial bank, Bank Guarantee (including e-Bank Guarantee) from a Commercial Bank or online payment in an acceptable form as defined in the bid document safeguarding the purchaser’s interest in all respects.

3. Role, Responsibilities and Obligations of Buyer / Seller / Service Provider:

A. Role and Responsibilities of Sellers / Service Providers on GeM are as under:

- i. Only Director (s) / Partner (s) / Proprietor (as applicable) are authorized to become Primary User and register any legal entity on GeM as Seller.
- ii. Once Seller/Service Provider is registered and account is created on GeM, the Primary user of the Seller/Service Provider can create Secondary User Accounts within Seller/Service Provider Organization with different Roles and Responsibilities. However, the Primary User creating Secondary User accounts shall continue to be fully responsible and accountable for all actions / transactions done by Secondary Users on GeM Portal.
- iii. Since GeM is a trust based Portal, the complete accuracy and integrity of data submitted in respect of the Seller and also in respect of the Goods / Services offered on GeM will be the sole responsibility of the Seller/Service Provider. Seller will be liable for administrative action as per GeM terms and conditions in case of any discrepancy / infirmity in any data / information submitted on GeM.
- iv. The Primary / Secondary Users of Sellers, offering Goods/Services and/or participating in e-Bidding / Reverse Auction on GeM, must ensure that they have the requisite authorization to enter into contract with Buyer(s) in GeM for and on behalf of the Seller, failing which such Seller as well as the individual(s) shall be vicariously liable for its

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actions and also for any liability arising out of such actions.

- v. Seller can offer any number of products. However, it will be the sole responsibility of the seller to satisfy themselves regarding possessing the requisites for doing business for the offered product(s). The Sellers are solely responsible for ensuring that there is no violation of any Intellectual Property Rights in their offer for sell / providing service on GeM.
- vi. The Seller should not exercise any corrupt influence on any aspect of contract and commit to take all measures necessary to prevent corruption maintaining complete transparency, integrity and fairness in all activities related to GeM.
- vii. The seller would represent its business on the GeM portal and is mandated to comply with all the terms and conditions of the platform. Sellers would be solely and absolutely responsible for the information provided about their organization, business, products and services on the portal and would be required to produce proof of such information, if requested at any point in time by the Buyer and / or GeM.
- viii. GeM would not allow creation of any fresh data related to Seller identity on GeM portal. All details provided by the Seller at the time of registration would be counter checked / verified through other data bases of Government such as PAN, MCA 21, Udyam Registration, etc. For Financial details, PAN / Income tax Database shall be primary validating database and will override any conflicting data in any other database. If the data / details entered by the seller while registering on GeM is not verified with validating databases, registration will not be allowed. Further, in case of any conflict in details after registration, Seller's registration would be automatically suspended. It is the Seller's responsibility to keep all their information on GeM updated with the latest change(s). Non- updating of details on GeM within 7 days of such occurrence would make Seller liable for administrative actions.
- ix. Eligibility of Sellers in terms of Turn Over / Past Performance / Profitability etc. and also their eligibility for availing various benefits / advantages in terms of various Govt. Policies / Guidelines / Acts / Laws etc. shall be determined solely on the basis of data fetched / validated or verified through external agency / owner of that set of database such as Income Tax / PAN Data Base, MCA 21, Udyam Registration, GSTN, Certifying Agencies such as BIS, BEE etc. In case of any discrepancy in data available in these databases, Seller has to get the same updated in the corresponding validating database before updating the same on GeM. Till such time only the existing validated information shall be used to decide seller's eligibility on GeM. Any default in sellers updating their data on partner sites / validating databases and any fall out of the same impacting adversely any transaction on GeM, shall entirely and exclusively be Seller's responsibility. GeM shall not be responsible for any consequential impact on any GeM transaction due to data discrepancy and / or suspension of seller account due to data

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discrepancy. Seller will be solely responsible for the same.

- x. The Seller shall be solely responsible for the Goods / Services including, without limitation, the applicable guarantee / warranty, shelf-life, quantity, quality and the title and for giving the correct and accurate details of the offer their Goods and / or /Services indicating product specifications, quantity which can be supplied over the specified time period, etc. as per catalogue or catalogue based template prescribed in GeM. Seller would ensure that the Goods or /Services offered are latest, new and complete in all respects. Where Seller is selling any Goods which needs spare parts, Seller should ensure and make available such spare parts for a minimum period of three years from the date of expiry of warrantee period (unless otherwise specified). The individual Sellers shall ensure that the products offered in e-Bidding and/or ordered shall remain available on GeM during the bid / contract validity period.
- xi. Sellers shall offer minimum discount of 10% on the Maximum Retail Price (MRP) mandatorily on GeM Marketplace (unless otherwise specified). Sellers are free to offer higher discounts. The Seller must offer its best possible lowest price on GeM Marketplace and undertake that it would not sell or offer to sell the same product outside GeM in comparable quantity on similar terms and conditions at a price lower than Offer Price on GeM Marketplace. In case any such infringement by Seller is noticed, the Seller shall be liable to be removed / debarred from the GeM.
- xii. By offering their product on GeM, the Seller agrees for sharing price details of the offered Goods / Service by GeM authorities with other Government agencies including Department of Excise & Customs, Income tax, GST, etc.
- xiii. Sellers shall ensure uploading of their product / service in the correct category in all respects. Any offering of wrong and misleading product(s) or service(s) in any of the category will be removed by GeM from the portal when noticed without making any reference to the seller(s). The seller(s) will also be liable for any other Administrative action as deemed fit by GeM for uploading wrong product(s) or service(s) in any category.

If any such infringement made by Seller leads to placement of a contract by any Buyer for such inappropriately offered product(s) / service(s) by the Seller, such contract shall be treated as null and void.

No claim whatsoever against such contract shall be admissible and entertained.

- xiv. The Seller(s) shall pass on all the benefits associated with any scheme / offer / freebies provided by the OEM on any product from time to time on an "as-is basis" to the Buyer. This obligation will also apply to OEM's directly supplying the goods. Holding back any such offer or accounting such freebies in quantity supplied shall make such consignments

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liable to be rejected by the consignee and shall also be considered as inappropriate and against the GeM policies for which GeM reserves all rights to take necessary action against such Seller/OEM as deemed fit.

By registering on GeM and by participating in any bid on GeM, Seller undertakes that presently it is not “Debarred from Bidding” on the grounds mentioned in Rule 151 of GFR 2017.

- xv. In case of drug manufacturer licensed under Drugs & Cosmetics Act 1940, drug manufacturers have to submit a notarized undertaking that the license for the product submitted by them has been issued under Drugs & Cosmetics Act, 1940 and is authentic and that the data of the same has been uploaded by the manufacturer on the SUGAM Portal under rule 84AB of Drugs Rules, 1945.

Only such manufacturers who have given the said undertaking as above will be considered as authentic for registration on GeM.

The said undertaking / affidavit to be submitted by the Drug Manufacturer, in prescribed form, would enable / empower Buyer / Ministry / Central Drugs Standard Control Organization (CDSCO) to initiate criminal proceedings in case of false declarations.

- xvi. By offering their product and fulfilling the basic need of regular updating of the stock on GeM as stipulated on the portal, the Seller agrees for the acceptance of the order placed through the Direct purchase and L1 purchase without any need for any acceptance or confirmation. The seller commits to hold the price and offer as valid till the date seller itself removes the product offer from GeM or changes the price in compliance with online price change guidelines / rule engines applicable in that category. The action as deemed fit may be initiated for the declining of the such orders as incident policy of the GeM.
- xvii. Bidders while participating in a bid should submit price element(s) in Financial bid only. Accordingly, all bidders are advised not to mention any price element(s) in the technical bid, else the offer shall be rejected as nonresponsive, except in case of Single Packet Bidding.
- xviii. All GeM Sellers / Service Providers are mandated to ensure compliance with all the applicable laws / acts / rules, including but not limited to, all Labour Laws such as The Minimum Wages Act, 1948, The Payment of Wages Act, 1936, The Payment of Bonus Act, 1965, The Equal Remuneration Act, 1976, The Payment of Gratuity Act, 1972, etc. Any non-compliance will be treated as breach of contract and Buyer may take suitable actions as per GeM Contract.
- xix. Seller / Service Provider, in line with Public Procurement (Preference to Make in India), Order 2017 dated 19th July, 2024 (as amended from time to time), shall provide self-certification for local content in the quoted item (goods / services) at the time of bidding. However, at the time of execution of the contract, for all contracts above ₹ 10 Crore, the seller / service provider shall be required to give local content certification duly certified

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by cost / chartered accountant in practice. For cases where it is not possible to provide certification by cost / chartered accountant at the time of execution of contract, the seller / service provider shall be permitted to provide the certificate for local content from cost / chartered accountant after completion of the contract, within time limit acceptable to the Buyer.

In case Seller / Service Provider does not meet the stipulated local content requirement and the category of the Seller/ Service Provider changes from Class-I to Class-II / Non-local supplier or from Class-II to Non-local supplier, a penalty upto 10% of the contract value may be imposed. However, contract once awarded shall not be terminated on this account.

- xx. False declaration(s) regarding percentage of local content in line with Public Procurement (Preference to Make in India), Order 2017 dated 19th July, 2024 (as amended from time to time) by Sellers/ Service Providers will be treated as breach of the Code of Integrity under Rule 175(1)(i)(h) of General Financial Rules for which the Sellers /Service Providers or its successors can be debarred for up to two years as per Rule 151(iii) of General Financial Rules along with such actions as may be permissible under law.

B. Role and Responsibilities of Buyer on GeM:

Buyer Registration on GeM is divided in two categories:

a. Primary User: In GeM, the Primary User is as under:

- i. Any officer of Central / State Government / PSU / Autonomous Bodies / Local Bodies / Constitutional Bodies / Statuary Bodies at the level of Deputy Secretary of the Government of India or equivalent
- ii. Head of the Office at Sub Centre / Unit / Branch, can Register his / her organization / unit on GeM portal as Primary User.

Primary User shall be responsible for registering the organization on GeM, for creating User accounts for Secondary Users, assigning them roles and responsibilities on GeM and for supervision of all transactions performed by Secondary Users under him / her.

Primary User shall also be vicariously responsible for ensuring compliance of General Financial Rules and / or Rules Governing Public Procurement in respect of their organization, all GeM terms and conditions and other Procurement Policies / Guidelines notified by the government from time to time, by all the secondary users including timely payments and for dispute resolutions as per GeM terms and conditions.

Primary user cannot perform any Procurement related transactions on GeM portal.

- #### **b. Secondary Users:** Secondary Users are officials responsible for procurement transactions on GeM including Placement of Contracts, Receipt of Stores, and Payments to the Sellers etc. The access rights permissible to registered Secondary users would be

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decided by the Primary User of the Department. Secondary Users may be given the roles of Buyer / Consignee / Drawing and Disbursement Office (DDO) / Paying Authority / Indentor / Technical Evaluator, etc. For transaction on GeM portal, Buyer is the official who is responsible for processing procurement transaction up to Order Placement stage. Consignee is the Secondary User in Buyer Organization responsible for certifying receipt and acceptance of the goods procured.

Buyer's responsibilities on GeM portal are as under:

- i. The Buyers are responsible to ensure that the procurement done by them are in compliance of General Financial Rules and / or Rules Governing Public Procurement in respect of their organization, all GeM terms and conditions and other procurement Policies / Guidelines notified by the government fromtime to time, including timely payments as per GeM terms and conditions.
- ii. The Buyers (in all capacities i.e. as Buyer, Consignee, DDO, Paying Authority, etc.) are responsible to ensure that the procurement done by them are in compliance with GeM Terms and Conditions / Guidelines and all contract related transactions are completed within time lines prescribed in GeM Contract.
- iii. The Buyers must ensure that they have the requisite authorization to enter into contract with Seller(s) on GeM for and on behalf of the organization, failing which such individual(s) shall be individually liable for its actions and also for any liability arising out of such actions.
- iv. While making procurement on GeM, the Buyers shall judiciously search andshortlist items using filters such as quantity, technical parameters, delivery period, warranty period, consignee location(s), Seller's eligibility etc. as per their approved requirements. Placement of contract for a product / service uploaded by the Seller in any wrong/inappropriate product category is strictlyprohibited and such contracts shall be treated as null and void and such Buying shall adversely affect Buyer Rating on GeM.
- v. The Buyers shall satisfy themselves that the price of the selected offer is reasonable. Buyer is at liberty to utilize all the data / information and BusinessAnalytics made available in GeM including e-bidding and reverse auction.
- vi. The Buyers, before placing the order on GeM, should have the required mandatory approval with prior sanction and approval of the competent authorities and shall be in compliance with and as per procedures outlined inGFR and other procurement guidelines issued by the Government from time to time.
- vii. On award of the Contract(s), it would be construed that the Buyer has obtained all necessary Administrative & Financial sanctions of the competent authority and

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adequate funds are available indicating the relevant Head of accounts in the awarded Contract(s).

- viii. The Buyers should not exercise any corrupt influence on any aspect of contract and commit to take all measures necessary to prevent corruption maintaining complete transparency and fairness in all activities related to GeM.
- ix. Buyers are not allowed to place any order at GeM prices outside of GeM portal. The prices on GeM or discovered through GeM are only applicable if the procurement is made through GeM portal and online order is placed on GeM. Using GeM portal prices for placement of order outside GeM portal is strictly prohibited. Further, Buyers are not allowed to place any off-line contract to the Seller based on the outcome of e-Bidding / RA conducted on GeM. All such contracts shall be treated as invalid and GeM reserves the right to delete all data related to such transactions from GeM database besides taking suitable actions against such Buyers as well as sellers including suspension from GeM and / or reduction of Buyer / seller rating, etc. In case offline order is required to be placed due to some difficulty faced while awarding online contract on GeM due to any technical issue and / or lack of any functionality on the portal, offline order may be released. However, in all such cases, Buyers are obligated to promptly inform GeM, in writing, about any such issue(s) for generating and / or awarding of the contract through GeM portal and must get the order regularized by placement of an online order on GeM for the offline order to be treated as valid contract.
- x. The Additional Terms and Conditions (ATC) are to be incorporated by the Buyer after approval of its Competent Authority in the Buyer Organization, whereby the Buyer Organization is solely responsible for the impact of these additional clauses on the bidding process. Such impact may include restricting competition, enabling cartel formation, leading to higher procurement cost and lack of transparency. It is to be noted that if any clause(s) is / are incorporated by the Buyer in ATC as mentioned in the Disclaimer being published along with the bid document (either reported or discovered on suo-moto basis), then GeM reserves the right to:
 - a) Give due opportunity to the Buyer to remove any such clause(s) through official corrigendum within a reasonable timeline and thereafter cancel the bid in case of non-adherence by the Buyer
 - or
 - b) Directly cancel the bid.
- xi. Verification and / or validation of document(s) being submitted by bidder(s) during

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bid participation process lies solely with the buyer and GeM neither certifies the claim of the bidder(s) nor participate in the decision making process of buyer in any manner whatsoever.

C. Role and Responsibilities of Buyer / Seller / Service Provider on GeM:

a) Buyers / Sellers / Service Providers are solely responsible to keep themselves updated by visiting and logging-in & checking all notifications on their dashboard on a regular basis with respect to any information / event, including but not limited to, bid / reverse auction participation, price match, clarification request, Auto PRC, Auto CRAC, etc. and GeM shall not be responsible for any delay / failure of Buyer / Sellers / Service Provider to act upon the same, if desired, in a timely manner.

Note: Email / SMS alerts are in-built in GeM system only as an additional feature to keep procuring entities as well as bidders informed. However, delivery of any such alerts to respective stakeholder is dependent upon, including but not limited to, configuration of stakeholders' account in the portal, receiver's Email / SMS server, Mail-box / Mobile capacity, etc.

b) Buyers / Sellers / Service Providers who wish to avail the e-BG facility available at GeM portal integrated through National E-Governance Services Limited (NeSL), hereby authorise GeM to receive, exchange, share, disseminate or part with any and / or all information relating to e-BG submitted by the Seller / Service Provider in favour of the Buyer, through NeSL portal and shall not hold GeM liable for receiving / sharing / exchanging / disseminating of such information as stated above.

c) The Buyer(s) further authorise GeM to initiate requests pertaining to e-BGs on behalf of the Buyers through NeSL portal and shall not hold GeM liable for initiation of such requests.

d) The Buyers / Sellers / Service Providers registered on GeM portal hereby give their explicit consent for the receipt / sharing / disseminating / exchanging of any and all information available with the NeSL regarding e-BG submitted by Seller / Service Provider issued by various banks in favour of the Buyer, with the Government EMarketplace (GeM) portal.

e) This consent shall remain in effect for the duration of the Buyer's / Seller's / Service Provider's registration on the GeM portal. In the event, the Buyer / Seller / Service Provider wishes to revoke its consent, they shall not use the NeSL facility available at the GeM portal for any transactions.

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f) The Buyer / Seller / Service Provider confirms that they have read, understood, and agreed to the terms mentioned hereinabove, and that this consent / authorization is given voluntarily and without coercion.

4. Enabling provisions of Rule 149 of General Financial Rules- 2017

Enabling provisions of Rule 149 of General Financial Rules- 2017 as amended vide Ministry of Finance OM dated 10.07.2024 regarding procurement through GeM and necessary guidelines and terms and conditions thereon:

GeM portal may be utilized by the Government buyers for on-line purchases as under:-

- i. Up to ₹ 50,000/- through any of the available suppliers on the GeM, meeting the requisite quality, specification and delivery period.

Note: In case of automobiles, procurement under this sub-rule is permitted without any ceiling limit.

- ii. Above ₹50,000/- and up to ₹10,00,000/- through the GeM Seller having lowest price amongst the available sellers, of at least three different manufacturers, on GeM, meeting the requisite quality, specification and delivery period. The tools for online bidding and online reverse auction available on GeM can be used by Buyer even for procurements less than ₹10,00,000/-, if decided by the competent authority.
- iii. Above ₹10,00,000/- through the supplier having lowest price meeting the requisite quality, specification and delivery period after mandatorily obtaining bids, using online bidding or reverse auction tool provided on GeM.
- iv. The Government Buyers may ascertain the reasonableness of prices before placement of order using the Business Analytics (BA) tools available on GeM including the Last Purchase Price on GeM, Department's own Last Purchase Price etc.
- v. GFR rule 149 allows direct on-line purchases on GeM up to ₹50,000/- through any of the available suppliers on the GeM, meeting the requisite quality, specification and delivery period. However, this is subject to procuring authorities certifying the reasonability of rates. While making such direct on-line purchase below ₹50,000/-, the buyer should have approval of competent authority and should also record reasons for selecting the specific product in case lowest priced products are not being accepted / ordered.
- vi. Tools have been deployed on GeM portal to show the price of compared products on other e-commerce sites (wherever available) and also the rates at

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which orders have been placed on GeM for such items in recent past. While taking decision on reasonableness of price, the buyers may also take into account the discount over MRP; Last Purchase Price (LPP) on GeM, Department's own Last Purchase Price; rates on other e-commerce websites, etc. The prices on e-commerce site give a broad idea and its terms and conditions may be different. If it is found that the price available on GeM marketplace is not reasonable or is substantially higher than e-commerce sites or LPP, the GeM Portal provides tools for online bidding or reverse auction which can be used by the Buyers to get better competitive rates and then satisfy themselves about reasonableness of the price as per GFR -2017 before placement of contract. Bidding should be considered as the preferred mode of procurement above ₹50,000/-.

- vii. In case of Direct Purchase, during carting period, rates for carted quantity, for that buyer, are frozen for carting period as notified from time to time on GeM against any upward revision by seller. However, advantage of any downward revision in the offer price of carted item shall be automatically provided to the buyer.
- viii. According to the provisions of Rule 149 (ii) of GFR, 2017, GeM shall be utilized by Government buyers for direct on-line purchases above ₹50,000/- and up to ₹10,00,000/- however such purchase has to be through the Seller having the lowest price (L-1) amongst the available Sellers on the GeM. In order to ensure that buyers select only L-1 available offer, the GeM portal enables buyer to first compare all the product options available on GeM to ensure that it meets its requirements/ specifications. While comparing, care should be taken by the Buyer that comparison has to be done between products of at least three different Manufacturers / OEMs. For L-1 buying, comparison has to be made between products of at least three different OEMs, as per GFR. If Buyer wants to buy any specific OEM's product then he has to go for Proprietary Article Certificate (PAC) buying after obtaining necessary approvals of competent authorities for PAC buying as per GFR-2017, as amended from time to time or the Procurement Guidelines of the respective Organisation as the case may be.
- ix. **Proprietary Article Certificate (PAC) Buying:** While making procurement under PAC Buying on GeM, it is the responsibility of the Buyer to ensure that compliances with the conditions / rules as laid down under GFR, 2017, as amended from time to time or the Procurement Guidelines of the respective Organisation, as the case may be, is met before initiating procurement under PAC:

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(a) In case a Govt. Buyer on GeM wants to make procurement on proprietary basis on the GeM Portal after obtaining the requisite approvals / PAC certificate from their competent authority as per Rule 166 of GFR-2017 or the Procurement Guidelines of the respective Organisation, as the case may be, the Buyer can use PAC filter provided on GeM for selecting a specific model/ make available from a particular GeM Seller. The Buyer should ensure before procuring the goods under PAC Buying that the Proprietary Article Certificate as per the conditions laid down in GFR or the Procurement Guidelines of the respective Organisation, as the case may be, is available with the Buyer. It is the responsibility of the Buyer to ensure compliance with GFR or the Procurement Guidelines of the respective Organisation while procuring goods on proprietary basis through the GeM Portal including ensuring the certificate to be in proper format as per GFR or the Procurement Guidelines of the respective Organisation, as the case may be.

(b) The Buyer should note that the Seller's price on the Portal is just their offer prices and the proper discovery of price generally happens through bidding/RA. Moreover, in PAC procurement irrespective of multiple listing by authorized sellers, the important issue of price control remaining with the OEM should not be overlooked. Therefore, in case of all the PAC procurements, the Buyers are advised to carry out extra due diligence in establishing the reasonableness of prices before placement of contract as per Para (vii) of Rule -149 of GFR- 2017 or the Procurement Guidelines of the respective Organisation, as the case may be.

(c) Except for direct buying up to ₹50,000/- subject to establishing the reasonableness of price, the bidding is mandatory for procurements above ₹50,000/- as per GFR. As result of bidding, the response could be as under:

- i. Only OEM is available or only single authorised seller is available.
- ii. OEM as well as multiple authorised Sellers are available.
- iii. Multiple authorised Sellers of the OEM are available.

(d) After bidding, under PAC buying, the Buyer may take decision with the approval of the competent authority to process the procurement subject to establishing the reasonableness of prices before placement of contract as per Para (vii) of Rule - 149 of GFR-2017 or the Procurement

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Guidelines of the respective Organisation, as the case may be.

- x. In order to give flexibility to the buyers in sourcing their requirements through GeM, provision has been made in e-bid and RA modules for indicating delivery period in terms of “number of days from date of placement of contract”. While stipulating delivery period in their bid documents, Buyers are advised to be careful since un-realistic delivery period stipulations may result in elimination of some genuine sellers, lack of competition and may ultimately have impact on cost of procurement. While fixing delivery period in e-bid/ RA bid, buyers should not only take into consideration the quantity required and the essentiality of requirement of that quantity within stipulated time period but also the possible impact of shorter delivery period on competition in e-bidding / RA.
- xi. Splitting of demands by creating multiple Bids / RAs of same goods / services or making repeated procurements of same Goods / Services through L-1 buying as per rule 149(i) and 149(ii) of GFR-2017 are strictly prohibited on GeM. Splitting of demand deprives the organizations from achieving the best competitive prices leveraging economies of scale. It also implies avoiding the necessity of obtaining the sanction of higher authority required with reference to the estimated value of the total demand. It is a violation of Para Rule 149 (viii) of GFR -2017 and terms and conditions of GeM Portal and Buyer including the Primary Buyer shall be entirely responsible for the same. If any such splitting of demand is noticed, GeM shall have the right to take necessary action such as blocking of such Bids/RAs and / or cancelling such contracts.
- xii. GeM is a dynamic online marketplace. The product/service listings across the existing categories are dynamic. Moreover, new categories of products/services are continuously being added on GeM. In situations where there is only one offer available in a product/ service category and/or there is offer from only one Seller after filter based search, the buyer should not select such offer for buying. Efforts should be made by Buyer to get their past suppliers and prospective Sellers on-boarded on GeM so as to ensure availability of sufficient Sellers on GeM. This however will not apply for PAC procurement.

xiii. e-Bidding and Reverse Auction (RA) on GeM

- (a) The e-Bidding / RA module of GeM is a tool provided to the Buyer(s) for organizing bidding / RA from GeM Sellers of the particular product category for a pre-defined requirement i.e. quantity, technical parameters for Goods/ Services of the particular product category required for one or more Buyers / Consignees.
- (b) Prior to initiating e-Bidding / RA, the Buyer shall judiciously search and shortlist item among the items offered on GeM using filters such as quantity, technical

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parameters, warranty period, consignee location(s) etc.as per the requirement. In case the search made using actual quantityrequired, fails to identify sufficient offers, the Buyer may use an indicative quantity for initial search and selection of product and quantitymay be amended to match the actual requirement at the time of finalizing e-Bidding / RA.

- (c) The technical parameters and warranty of the item identified by the Buyer shall be base parameters of the item for conducting e- Bidding / RA for the required Goods/Services.
- (d) The e-Bidding / RA document will be finalized by the Buyer(s) by stipulating requirements such as Quantity, Consignee Details, Terms of Delivery, Delivery Period, Bid Security, Performance Security, Time & Date for Start and End of Bid Submission and for Opening of Bids and required Bid Validity period etc. GeM system shall decide Start / Reference Price and Step Value of Decrement in case of RA based on product selection and / or outcome of bidding process.
- (e) The e-Bidding / RA invitation / Notice shall be published on GEM, stipulating the last date for bid submission / opening of bids giving at least clear 10 days time after the publication. Any change in last date forbid submission will be intimated to eligible bidders through e-mail / GeM. The e-Bidding invitation shall be extended to all the registered Sellers on GeM who have Goods / Services for that particular category listed on GeM, at least 2 hours prior to closing time of e-Bidding / RA. The GeM normally requires 48 hrs for approval / rejection of the product / service offered by Sellers before it is listed on the portal. Considering these timelines, the Sellers are required to offer their Goods / Services onGeM well in advance before bid closure. The decision of the Buyer / GeM regarding technical/commercial eligibility of the individual Seller to be invited for e-Bidding / RA shall be final.
- (f) The Seller participating in the e-bidding / RA may offer any one of their product(s) already listed on GeM. The bid submitted under:
 - i) e-Bidding shall remain valid for 15 days (or as stipulated by the Buyer in the bid document) from the Bid Opening Date (till 24.00 Hrs IST).
 - ii) RA in Bid to RA case, where the bid offer validity is less than 30 days, will be extended to 30 days including the RA initiation date.

Bid Validity can be further extended with mutual consent between Buyer and Seller. The products offered in e-Bidding / RA cannot be withdrawn by the Sellers from GeM during the bid validity period. However, in case there has

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been some technical issues in extending bid validity online on GeM portal and the buyer has in compliance with Clause 3(B)(b)(ix) communicated its intention to award the contract or awarded the contract to the successful bidder in writing, through any means and mode, outside GeM portal before the expiry of the bid validity, then in such circumstances, for the purposes of resolution of any such technical issues and /or necessary regularization, the bid validity shall be deemed to be extended until such issue is resolved / regularized by GeM.

The Buyer reserves the right to postpone/cancel the e-bidding and intimation thereof will be sent by e-mail / GeM to the Bidders. Any amendment / corrigendum to the e-bid invitation issued by the Buyer will be made online and shall be uploaded on the GeM. The participation by the Seller in e-bidding shall be construed as his / her acceptance for all the Terms and Conditions as outlined in the e-bidding including GTC, STC and ATC. However, the Buyer shall have right to decide the technical and commercial acceptability of the individual bids based on eligibility criteria and compliances as stipulated in the bid document. The technical parameters shown in the bid are from a particular catalogue as selected by the buyer while applying initial filters in selection of the product. The sellers are free to bid for same, equivalent or superior specifications catalogue / products. In the public interest, buyers will evaluate such bids based on their requirements / end use and bid parameters and will accordingly technically accept or reject the bids on merits.

- (g) In bid documents, Buyers can incorporate suitable eligibility criteria and additional terms and conditions only using various filters and ATC module available in e-bidding / RA modules of GeM. Buyers are not allowed to incorporate eligibility criteria and / or additional / special terms and conditions exterior to the GeM portal by making reference to any other website / documents etc.
- (h) In case, two or more acceptable bidders are found to have quoted identical lowest bid price, forced Reverse Auction shall be conducted for the required Goods among all technically qualified bidders with 50% elimination rule as per clause 13 (u) (1) in case of bids for Goods.

Whereas in case of Service bids, if the multiple L-1 bidders have quoted the lowest allowed price for that service, Buyer shall place the Contract by selection of a bidder amongst the L-1 bidders through a Random Algorithm executed by GeM system.

- (i) The Buyer reserves the right to accept/reject any bid including the lowest bid received through e-bid and/or annul the e- bidding process.

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- (j) The participating bidders shall not disclose details of their bids or other details of their e-bids to other bidders or indulge in any anti-competitive behaviour including price manipulation in violation of Competition Act, 2002, as amended from time to time.
- (k) The Buyer/GeM will not be held responsible for consequential damages such as no internet connection, no power supply, system problems, loss of electronic information, power interruption etc.
- (l) Against any bidding or RA conducted on GeM, if a bidder quotes Nil Charges/consideration, the bid shall be treated as non-responsive and will not be considered.
- (m) There shall be no Bid Security for Bids / RA having estimated value less than ₹5 lakh. For bids / RA having estimated value more than ₹5 Lakh, while finalizing e-Bid / RA, Buyer shall indicate the exact amount of Bid Security required to be submitted by bidders. Scanned copy of the same shall be uploaded by Seller in the online bid and hard copy of the same will have to be submitted directly to the Buyer within 5 working days of bid opening, failing which the bid may be treated as incomplete & may lead to rejection of the bid by buyer without making any reference to the seller.

GeM recommends quantum of Bid Security @ 1% of estimated value of procurement. The Buyer also has the option to select Bid Security between 0.5% to 5%. The same should be valid for 45 days beyond the bid validity. No interest shall be payable upon the Bid Security / EMD or any other amounts payable by the Seller to the Buyer under the Contract. Following categories of Sellers shall however, be exempted from furnishing Bid Security:

- i. Micro and Small Enterprises (MSEs) who are holding valid Udyam Registration and are manufacturer of the offered Product or Service (Primary Product / Service - in case of bunch bid with total value wise evaluation) and give specific confirmation to this effect at the time of bid submission and claim EMD exemption and whose credentials are validated online through Udyam Registration website of Ministry of MSME and also through supporting document uploaded during bidding process and validated by the Buyer. State Government Buyers may, however, choose to exempt only MSEs from the State of Bid Inviting Authority by specifying the same in ATC of the Bid. In case no such ATC is included, eligible MSEs of all states are exempted.
- ii. Start-ups as recognized by Department for Promotion of Industry and Internal Trade (DPIIT), holding valid Startup Recognition Certificate which is to be uploaded while bidding and claiming EMD exemption and

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to be validated by the Buyer. Bidder to ensure that turnover for any of the financial years has not exceeded beyond limits prescribed in the certificate / Start Up scheme of DPIIT.

- iii. KVIC, ACASH, WDO, Coir Board, TRIFED and Kendriya Bhandar.
- iv. Sellers who have got their credentials verified through the process of Vendor Assessment by Vendor Assessment Agencies for the Primary Product / Primary Service for which Bid / RA has been invited and holding valid Vendor Assessment or Vendor Assessment Exemption Report / confirmation (Seller to upload VA report / VAE confirmation to be validated by the Buyer).
- v. Sellers / Service Provider having annual turnover of ₹ 500 Crore or more, at least in one of the past three completed financial year(s)
- vi. Sellers / Service Providers holding valid BIS License for the Primary Product Category whose credentials are validated through BIS database and through uploaded supporting documents to be validated by the buyer.
- vii. Central / State PSUs.
- viii. Seller / Service Provider registered with designated Agency / Authority as specified in the bid document by the Buyer – such bidder shall have to upload scanned copy of relevant valid registration document in place of Bid Security document while bidding.

Note:

1) No EMD to be taken from exempt category of sellers even by way of specific clauses mentioned in ATC / STC. Such clauses which are against the GeM GTC, will be treated as null and void.

2) However, State Government / State Autonomous / State Local Bodies / State PSU / Cooperatives may choose to seek EMD from MSE bidders by specifying the same in ATC / STC of the Bid. In case no such clause is included in ATC / STC, EMD exemption as per para (m) above shall prevail.

(n) Bid Security submitted by the bidder shall be forfeited, if the bidder:

- i. Withdraws or modify or impairs or derogates from the bid in any respect within the period of validity of its bid; or
- ii. If it comes to notice that the information / documents furnished in its bid is false, misleading or forged; or
- iii. Fails to furnish requisite performance security within stipulated time

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required as per e-bid / RA conditions.

- (o) Notwithstanding above, GeM SPV / GeM Admin also reserve the right to debar such seller from GeM portal. Such debarment shall be for minimum 3 months initially on first such offence and on repeat offence, the debarment period can be increased suitably by GeM SPV / GeM Admin. By submitting a bid on GeM, the Bidder explicitly undertakes to abide by the above clause.
- (p) Earnest money of unsuccessful bidders shall be returned within 15 days after the award of contract or expiry of bid validity, whichever is earlier. However, in case of two packet or two stage bidding, Bid securities of unsuccessful bidders during first stage i.e. technical evaluation should be returned within 15 days of declaration of result of first stage itself i.e. technical evaluation. Earnest money of successful bidder shall be returned within 15 days after receipt of Performance Security / e-PBG.
- (q) In case of RA, Start / Reference Price and Step Value of Decrement shall be indicated to the Bidders at the start of the auction. Any participating bidder can bid one or multiple Step Decrement lower than the prevailing Lowest Bid at that time.
- (r) The Bidder shall be able to view Bid Start Price, Bid Decrement Value, Prevailing Lowest Bid value and last Bid Placed by him. Whenever a lower price bid is received in the closing moment i.e. within 15 minutes of existing end time of Reverse Auction, the end time of reverse auction shall be extended automatically by another 15 minutes. All participant sellers of that RA shall be allowed to submit revised bid under the RA. The same process shall be repeated, if there is another lower bid received in the RA during last 15 minutes of RA.
- (s) GeM / Buyer shall not have any liability to bidders for any interruption or delay in access to the GeM site / Reverse Auction link etc, irrespective of the cause.
- (t) By creating a bid on GeM, the Buyer undertakes as under:

"I confirm that this tender document complies with the "Public Procurement (Preference to Make in India) Order, 2017, as amended from time to time" issued by DIPP and "Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012, as amended from time to time" issued by MoSME".

Note:

However, State Government / State Autonomous / State Local Bodies / State PSU / Cooperatives may choose to follow Make in India and MSE policy in line with State's own Procurement Policy by specifying the same in ATC / STC of the Bid.

(u) Bid to RA:

While creating bid on GeM, Buyer shall have the provision to select Bid to RA option. If this option is selected by the Buyer at the time of bid creation, Sellers would be required to submit their Technical and Commercial bids before bid closure. After completion of technical evaluation by the Buyer, Reverse Auction would be conducted as per Bid to RA qualification rule selected by the buyer, which have been stated below:

1) Bid to RA with 50% elimination rule:

Reverse Auction would be conducted amongst first 50% of the technically qualified bidders arranged in the order of prices from lowest to highest. Number of sellers eligible for participating in RA would be rounded off to next higher integer value if number of technically qualified bidders is odd (e.g. if 7 bids are technically qualified, then RA will be conducted amongst L-1 to L-4). In case number of technically qualified bidders are 2 or 3, RA will be between all without any elimination. If Buyer has chosen to split the bid amongst N sellers, then minimum N sellers would be taken to RA round. In case Primary products of only one OEM are left in contention for participation in RA based on lowest 50% bidders qualifying for RA, the number of sellers qualifying for RA would be increased to get at least products of one more OEM (directly participated or through its reseller) if available. Further, if bid(s) of any seller(s) eligible for MSE preference is / are coming within price band of 15% of Non MSE L-1 or if bid of any seller(s) eligible for Make in India preference is / are coming within price band of 20% of non MII L-1, then such MSE / Make in India seller shall also be allowed to participate in the RA process.

2) Bid to RA with H-1 elimination rule:

Reverse Auction would be conducted amongst all the technically qualified bidders except the Highest quoting bidder. The technically qualified Highest Quoting bidder will not be allowed to participate in RA. However, H-1 will be allowed to participate in RA in following cases:

(a) If number of technically qualified bidders are only 2 or 3.

(b) If Buyer has chosen to split the bid amongst N sellers, and H1 bid is coming within N.

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(c) In case Primary product of only one OEM is left in contention for participation in RA on elimination of H-1.

(d) If L-1 is non-MSE and H-1 is eligible MSE and H-1 price is coming within price band of 15% of Non-MSE L-1.

(e) If L-1 is non-MII and H-1 is eligible MII and H-1 price is coming within price band of 20% of Non-MII L-1

After the RA process, the award of contract(s) shall be made by the buyer keeping in view the Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012 and Public Procurement (Preference to Make-in-India) Order, 2017 as amended from time to time.

- (v) In case of a service disruption at GeMs' end during the Reverse Auction (RA), the RA process shall start all over again, with the last recorded lowest price of prematurely ended RA Process as the 'Start bid' price. The prices quoted in the prematurely ended RA process shall be binding on all the bidders for consideration even if the restarted process does not trigger within the time stipulated by GeM. GeM's decision regarding restarting RA shall be binding on all stakeholders.
- (w) GeM is an end to end on-line procurement portal and not a tender publishing portal. GeM has detailed GTC, product / service specific STC and a rich ATC library in-built in the portal which can be used to create a comprehensive bid document. Based on the available terms and conditions, there is hardly any need to add any additional conditions to be attached with any GeM bid. However, for inclusion of some clause which is considered absolutely necessary for that particular bid for reasons to be explained in detail, a provision for inclusion of additional conditions in the bid through corrigendum is available in Request Management System. Only indispensable conditions that are not covered in and are not in conflict with GeM GTC, Product / Service STC and the standard ATC library, and which are in compliance with the Govt. orders on Public Procurement and are not restrictive and not against the core principals of transparency, fairness and efficiency enshrined in GeM, can be requested through RMS ATC request for making part of GeM bid through corrigendum. Each such request has to be made only after due approval of the Competent Authority in Buyer Organization confirming that the request has been made with the approval of the Competent Authority. Buyer organization shall be solely responsible for the impact of the requested clauses on the bidding process and its outcome. The clauses which are already covered in standard ATC library available on GeM

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Portal, will not be allowed through RMS.

- (x) Determination of eligibility in case of products requiring BIS License: In case the bid requires availability of BIS License, bidder has to upload currently valid and operative BIS License copy (Valid on the date of bid opening) to be considered eligible. Submitted BIS License may be in the name of Bidder / OEM or in the name of the Manufacturer to whom the OEM has outsourced manufacturing of his brand of product. The name of the Brand of the offered product should be mentioned in the BIS License. BIS certificate issued under Compulsory registration Scheme for electronic products to OEM/Brand owners for the products marketed under their brand name wherein their products are manufactured at third-party manufacturing unit is valid and is allowed for participation in the bids floated on GeM. The Manufacturer's Authorization in all such cases wherein the manufacturing is done by a third party shall be issued by the Brand owner / OEM and not by the third-party manufacturing unit mentioned in the BIS certificate.
- (y) Bid Splitting: In case of critical / vital / safety / security nature of the item, and / or large quantity under procurement and / or urgent delivery requirements and / or inadequate vendor capacity, Buyer may decide to have more than one source of supply. In such cases Buyer may opt for Bid Splitting while creating the bid on GeM, clearly indicating the Bid Splitting ratio in which order will be split among L-1, L-2, L-3, etc. as per ratio of splitting pre-disclosed in the bid. After technical and financial evaluation, before splitting the quantity, it should be ensured by the Buyer that the L1 price is reasonable. After deciding the acceptable reasonable price, L1 would be awarded contract for at least the first / highest percentage indicated in the bid splitting ratio. For the rest of the bid quantity, the L-1 rates / lowest accepted rate will be counter offered to the next higher quoting bidder(s) for price matching. On acceptance of the counter offer, the order will be placed on next higher quoting bidder(s) for the respective percentage. In case of non- acceptance of the counter offer by the next higher quoting bidder(s), a similar offer shall be made to L3 and L4, and so on. In case counter offered rates are not accepted for ratio of splitting quantity as per bid document by any of the subsequent bidders, the left over quantity will be divided between bidders who have accepted the rates in the ratio of their originally allocated quantities subject to their confirmation and after getting consent on mutually agreed delivery schedule for the additional quantity.

5. Contract(s):

Following documents shall be construed to be part of the contract generated through GeM:

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- i. Scope of supply including price as enumerated in the Contract Document.
- ii. General Terms and Conditions (GTC).
- iii. Product / Service specific Special Terms and Conditions (STC).
- iv. Product / Track / Domain Specific STC of Particular Service including its SLA (Service Level Agreement)
- v. Bid / RA specific Additional Terms and Conditions (ATC).

The Terms and Conditions stipulated in STC & SLA will supersede those in GTC and Terms and Conditions stipulated in ATC will supersede those in GTC and STC in case of any conflicting provisions.

6. Prices:

- i. **Offer price on GeM portal:** The prices of the offered Goods or Services shall be firm and fixed at any point of time and shall be indicated in INR (₹) for each accounting unit. The Seller can choose to offer Goods or Services with uniform all inclusive unit price for deliveries at locations across India on All India basis or for specified locations selected at the time of product listing. As such, for supply of Goods contract, no additional charges such as local levies / transportation / loading unloading charges etc., shall be payable over and above the contract price. For selected freight intensive products, as notified on GeM, the Seller may quote unit price inclusive of GST with delivery charge(s) (including transportation, loading unloading and local levies) payable extra as defined in the relevant categories. In respect of items requiring installation and / or commissioning and other services (as indicated in technical details of the item), the charges for the same shall also be included in the offered price on GeM.

Once a Buyer carts a particular quantity of offered Goods / Service, during carting period as notified from time to time on GeM, rates for carted quantity, for that buyer, are frozen for the period as specified on the portal against any upward revision by seller. However, advantage of any downward revision in the offer price of carted item shall be automatically provided to the buyer.

By offering their product and fulfilling the basic need of regular updating of the stock on GeM as stipulated on the portal, the Seller agrees for the acceptance of the order placed through the Direct purchase and L1 purchase without any need for any acceptance or confirmation. The seller commits to hold the price and

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offer as valid till the date seller itself removes the product offer from GeM or changes the price in compliance with online price change guidelines / rule engines applicable in that category. The action as deemed fit may be initiated for the declining of the such orders as incident policy of the GeM.

- ii. **Offer price in e-bidding:** Bidder is required to indicate offer price in the price schedule as provided in the bidding document. Complete breakup of price as required must be indicated. However, evaluation of the bid shall be on the basis of total all inclusive, landed price at consignee destination (unless otherwise specified in the ATC).
- iii. **Offer price in RA:** Bidder is required to indicate total offer price. Evaluation of the bid shall be on the basis of total all inclusive, landed price at consignee destination (unless otherwise specified in the ATC). Successful bidder shall have to provide complete breakup of the quoted price in the required price bid format before award of contract.
- iv. **Transaction / Annual Milestone Charge:** Sellers / Buyers will have to pay Transaction Charge and / or Annual Milestone Charge, wherever applicable, as per extant Revenue Policy of GeM.

7. Performance Security and Performance:

- i. There shall be no Performance security requirement for contracts Placed under Direct Purchase / L-1 Purchase Option under Para (i) and (ii) of GFR rule 149.
- ii. In case of contracts placed following e-Bidding / RA, Performance Security valid for 2 months beyond the date of completion of all contractual obligations including warrantee obligations, will be obtained from the successful Bidder, for ensuring due performance of the contract. The Buyer has the option to select Performance Security up to 5% of the value of contract (as per GFR quantum of Performance Security should be between 3 % to 5 % of the value of contract). While finalizing e- Bid / RA, Buyer shall indicate the percentage (%) of Performance Security required to be submitted by successful bidders. In case of any extension of contract obligation period, the seller shall be liable to suitably extend the validity of the Performance Security.

Such Performance Security must be submitted by Seller to the Buyer within 15 days of award of contract on GeM. The payments to the seller shall become due only after receipt of Performance Security by the Buyer and verification of its

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genuineness. No interest shall be payable upon the Performance Security / PBG or any other amounts payable by the Seller to the Buyer under the Contract.

If the Seller fails or neglects to observe or perform any of his obligations under the contract it shall be lawful for the Buyer to forfeit either in whole or in part, the Performance Security furnished by the Seller. If the Seller duly performs and completes the contract in all respects the Buyer shall, refund the Performance Security, as the case may be, to the Seller within 30 days of completion of all contractual obligations by the Seller.

8. Duties & Taxes:

- i. Offer Prices on GeM shall be on all inclusive basis i.e. including all taxes, duties, local levies / transportation / loading-unloading charges etc. In the case of Bid / RA, complete break-up of the quoted price in the required price bid format shall be furnished by the Bidder, before award of contract.
- ii. Any Statutory variation in the rate of GST, taking place between the Bid Submission by seller and Bid End Date, shall be to the Seller's account. Hence, Seller must ensure that any Statutory variation in the rate of GST till Bid End Date is duly incorporated in the bid submitted by the seller. In case seller fails to incorporate the same in bid, the seller will not be eligible for claiming any change in price due to such Statutory variation.
- iii. Statutory variation in the rate of GST, taking place between the Bid end date and the original / re-fixed delivery period, shall be to the Buyer's account. For claiming any change in price due to such Statutory variation, the seller shall have to lodge claim before the Buyer providing documentary evidence of change in rate of GST taking place after Bid end date and the date of supply within the original / re-fixed delivery period along with an undertaking that the provisions of anti-profiteering clause under GST Act have been complied with.

In respect of contracts awarded under Direct Purchase and L-1 purchase, Statutory variation taking place after date of award of contract shall only be admissible subject to submission of documentary evidence and anti-profiteering compliance certificate to the Buyer. Changing Seller's offered price on GeM portal immediately after any such change in GST rates is seller's responsibility and in case of failure on part of seller, no increase shall be admissible for such changes taking place before award of contract under Direct Purchase and L-1 purchase.
- iv. No increase in price on account of statutory increase in the rate of GST taking place during the period of delivery period extension with liquidated Damages shall

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be admissible. Nevertheless, the Buyer shall be entitled to the benefit of any decrease in price on account of reduction in GST taking place during extended delivery period.

- v. The Bill Form / On-line invoice shall be generated by the Seller which may inter-alia include the following confirmations from the Seller:
 - a. Certified that the Goods and Services Tax (GST) charged on this Bill is not more than what is payable under the provision of the relevant Act or the Rules made there under.
 - b. Certified that the goods on which GST has been charged have not been exempted under the GST Act or the rules made there under and the charges on account of GST on these goods are correct under the provisions of that Act or the Rules made there under.
 - c. Certified that the Seller is registered with above indicated GSTIN as dealer in the State where in their Billing address is located for the purpose of GST.
 - d. The seller shall provide an undertaking that the provisions of anti-profiteering clause under GST Act have been complied with.
- vi. The on-line bill form / invoice generated on GeM is not a replacement for the GST invoice. The proper GST invoice as per requirements of GST rules shall be sent by the seller to the buyer / consignee directly along with the Goods / Services as and when deliveries are made to the consignee.
- vii. Seller shall comply with all the necessary statutory compliances, including but not limited to, GST registration in line with the extant provisions of GST Act, providing GST invoices or other documentation as per GST Law relating to the supply of Goods or Services, uploading the details of the invoices, payment of taxes, timely filing of valid statutory returns for the tax period in the GST portal, etc.

In case the Input Tax Credit of GST is denied or demand is recovered from Buyer on account of any act/ omission of the Seller in this regard, the Seller shall be liable in respect of all claims of tax, penalty and / or interest, loss, damages, costs, expenses and liability that may arise due to such non-compliance. Buyer shall have the right to recover such amount from any payments due to the Seller or from Performance Security, or any other legal recourse from the said Seller. If any tax is required to be paid by the Seller in pursuance of any demand from tax authorities, on account of Seller's suppression of facts, fraud or willful misstatement of facts while offering the products or submitting the bids, then the same shall not be passed on to Buyer through debit notes or Invoices or Supplementary Invoices and the seller shall be solely liable

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for payment of the same.

9. Integrity Pact:

All the Users in GeM i.e. Seller as well as Buyer agree not to indulge in any corrupt practices including without limitation any activity or action to influence the transaction on any aspect of contract and commit to take all measures necessary to prevent corruption maintaining complete transparency and fairness in all activities related to GeM. Users agree to follow and adhere with the Integrity Pact guidelines provided on GeM Portal.

10. Guarantee and Warrantee:

- i. The Goods/Services supplied under the Contract(s) shall be in accordance with the contract specifications & quality and the Goods shall be brand new and have standard Guarantee/Warrantee for one year period from the date of final acceptance by the consignee unless otherwise specified in category specifications, specific Bid / RA. Seller, at the time of listing their product on GeM portal or offering their products against any Bid / RA, may accordingly provide longer Guarantee/Warrantee period (i.e. more than 1 year) and in such case, Guarantee/Warrantee period stipulation made in category specifications / Bid / RA document, shall prevail over standard Guarantee / Warrantee period of 1 year stipulated in these General Terms and Conditions.
- ii. Notwithstanding the fact that the Buyer or its Quality Assurance Officer may have inspected and/or approved / accepted the said Goods, it is further guaranteed that if during the said guarantee / warrantee period, the Goods be discovered not to conform to the requisite description and quality and/or not giving satisfactory performance or have deteriorated, and the decision of the Buyer in that behalf shall be final and binding on the Seller and the Buyer shall be entitled to call upon the Seller to rectify and/or replace the Goods or such portion thereof as is found to be defective by the Buyer within 7 days. Otherwise, the Seller shall pay to the Buyer such compensations that may arise by reasons of the warranty therein contained. In cases requiring Spares, the Seller guarantees that they will supply Spare Parts, if and when required on agreed basis for an agreed price for a minimum period of three years from the date of expiry of warrantee period (unless otherwise specified in STC / ATC). The agreed basis could be, including but without any limitation, an agreed discount on the published catalogue or an agreed percentage of profit on the landed cost. The aforesaid provisions made specifically for Goods, shall also be applicable for Services to the extent the same are practically possible.

11. Buyer / Consignee's Right of Rejection (Return Policy):

- i. The Goods delivered shall bear the self-certified Manufacturer's/Seller's Warranty/Guaranty. Buyer / Consignee shall have the right to inspect the supplied Goods themselves and/or through their appointed agency at consignee's own cost, at Consignee's site(s) after receipt and accept or reject on proper justification any consignment of the Goods received within a period of 10 days (unless otherwise specified in STC or ATC) of receipt of consignment of goods. The date of receipt shall be reckoned from the date of receipt of the Goods as notified in the Provisional Receipt Certificate (PRC) which will be issued online by consignee immediately after receipt of Goods.
- ii. In case of Service contract, the Buyer reserves right to reject the same in conformance with the terms and conditions of the agreed Service Level Agreement (SLA). However, such right to reject services offered by the Seller under the contract shall be exercised by the Buyer within 10 days (unless otherwise specified in STC or ATC) of the date of receipt of the Service. The date & time of start and completion of the Service, shall be indicated by the Seller while raising on-line invoice for a specified period of Service as per Service Level Agreement (SLA). The date of such invoice or the date of completion of the service, whichever is later shall be reckoned as date of receipt of the Service.
- iii. On Acceptance / Part Acceptance or Rejection of Goods / Services, Consignee will issue an online 'Consignee's Receipt cum Acceptance Certificate' (CRAC), which will form the basis of Payments to the Seller.
- iv. No payment shall be made for rejected goods or services. After intimation of the rejection / part rejection by the Buyer/ Consignee, the Seller shall be liable to remove / lift back such rejected Goods within 10 days without any extra charge/cost to the Buyer / Consignee failing which suitable ground rent / warehousing charges would be payable by the Seller to the Buyer/Consignee. If the Seller fails to remove / lift back such rejected Goods within reasonable time period, the Buyer / Consignee shall have the right to dispose off such rejected goods at the risk and cost of the seller.

12. Payment Authority and Payment Terms:

Payments shall be made to the Seller in the manner below:

i. For Goods:

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In case of goods, 100% payment will be released within ten (10) days of issue of consignee receipt-cum-acceptance certificate (CRAC) and on-line submission of bills unless otherwise specified in STC / ATC.

ii. For Services:

In case of services, 100% payments on the basis of monthly (unless otherwise specified) bills will be paid within ten (10) days of issue of consignee receipt- cum-acceptance certificate (CRAC) and on-line submission of bills unless otherwise specified in STC / ATC.

13. Terms of Delivery:

All the Goods or Services in the GeM shall be offered on Free Delivery at Site basis including loading/unloading. In respect of items requiring installation, commissioning and other services in the scope of supply (as indicated in respective product category specification / STC / ATC), the cost of the same shall also be included in the offer price.

14. Delivery Period

Seller shall indicate the quantity which can be supplied over the specified time period(s). The Seller would offer these details, which would constitute the part of the awarded Contract(s) in the GeM and would make a binding Contract between the Seller & the Buyer. Any modification thereto shall be mutually agreed and incorporated in the Contract. This Delivery Period/Time shall be deemed to be essence of the Contract and delivery must be completed not later than such date(s).

15. Extension of Delivery Period and Liquidated Damages:

Buyer may, on the request of the Seller or otherwise, extend the delivery date suitably subject to the following conditions:

- i. The original Delivery Period may be re-fixed by the Buyer without any Liquidated damages subject to Force Majeure conditions mentioned below and also on the ground/reasons of delay attributable to the Buyer / Consignee.
- ii. For other cases, provided the price trend is not lower, the Delivery Period may be suitably extended for which an amount equal to the Liquidated Damages for the extended period(s) for delay in the supply of the Goods/Services after the expiry of contract delivery period /re-fixed delivery period, shall be recovered from the Seller as mentioned hereinafter for the extended period. No increase in price on any

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ground after the original/re-fixed delivery date shall be admissible during such extended period(s). Nevertheless, the Buyer shall be entitled to the benefit of any decrease in price on account of reduction in GST taking place during extended delivery period.

- iii. **Liquidated Damages:** If the Seller/Service Provider fails to deliver any or all of the Goods/Services within the original/re-fixed delivery period(s) specified in the contract, the Buyer will be entitled to deduct/recover the Liquidated Damages for the delay, unless covered under Force Majeure conditions aforesaid, @ 0.5% of the contract value of delayed quantity per week or part of the week of delayed period, until actual delivery or performance, as pre-estimated damages not exceeding 5% of the total contract value without any controversy/dispute of any sort whatsoever. However, in case of inordinate delay maximum deduction shall be 10% of the total contract value.

Note: Inexcusable delays of more than one-fourth (25%) of the completion period specified in the contract shall be treated as inordinate delay(s).

iv. **Force Majeure Conditions:**

If at any time during the continuance of the Contract, the performance in whole or in part by either party of any obligation under this Contract shall be prevented or delayed by the reasons of any war, hostility, acts of the public enemy, epidemics, civil commotion, sabotage, fires, floods, explosion, quarantine restrictions, strikes, lockouts or act of God (but not including negligence or wrongdoing, predictable/seasonal rain) provided notice of happening of such event duly evidenced with documents is given by one party to the other within 10 days from the date of occurrence thereof, neither party shall be by reasons of such event, be entitled to terminate the Contract nor shall either party have any claim for damages against the other in respect of such non-performance or the delay in performance, and deliveries under the contract shall be resumed as soon as practicable after such event has come to an end or ceased to exist, and the decision of the Buyer as to whether the deliveries have been so resumed or not, shall be final and conclusive, Provided further that if the performance in whole or part of any obligation under this contract is prevented or delayed by reason of any such event for a period exceeding 90 days, either party may at its option terminate the contract provided also that the Buyer shall be at liberty to take over from the Seller at a price to be fixed by Buyer, which shall be final, all unused, undamaged and accepted material, bought out components and Goods in course of manufacture in the possession of the Seller at the time of such termination or such portion thereof as the Buyer may deem fit excepting such materials, bought out components and Goods as the Seller

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may with the concurrence of the Buyer elect to retain.

16. Dispute resolution between the buyer and the seller / service provider

a) In case of order/ contracts placed without Bid / Reverse Auction (i.e. Direct Purchase, L1 Purchase, Push Button Procurement, etc.):

- i. In the event of any conflict or dispute arising out of or in connection with the Contract placed through GeM, the Parties shall endeavor to settle such disputes amicably. If a dispute is not resolved within 30 (thirty) days after a written notice of any dispute by one Party to the other, the same shall then be resolved through the mechanism of a Dispute Resolution Committee. This Dispute Resolution Committee shall comprise of representatives of both the Buyer and the Seller / Service Provider and shall be chaired by the Primary User of the Buyer organization/department or any other person as authorized by the Primary User.
- ii. If the Dispute Resolution Committee is not able to resolve the matter within 30(thirty) days of its formation, the dispute shall be dealt with in accordance to **“Guidelines for Arbitration and Mediation in Contracts of Domestic Public Procurement”** issued by Department of Expenditure via OM No. F.1/2/2024-PPD dated 03.06.2024, as amended from time to time.

b) In case of contracts placed through Bid / Reverse Auction:

Method of dispute resolution will be as per the option(s) selected by buyer while creation of the bid itself in line with **“Guidelines for Arbitration and Mediation in Contracts of Domestic Public Procurement”** issued by Department of Expenditure via OM No. F.1/2/2024-PPD dated 03.06.2024, as amended from time to time.

- c) The Contract shall be interpreted and governed in all respects in accordance with the laws of India. All disputes in connection with or arising out of the Contract, shall be subject to the exclusive jurisdiction of the Court within the local limits of whose jurisdiction principal place of business of the Buyer department / organization is located.
- d) Both the Parties understand and agree that GeM being an Intermediary cannot be made a party to any dispute in connection with or arising out of the Contract and/or mediation / arbitration /Court proceedings between the Parties.

17. Laws Governing the Contract:

- i. The contract shall be governed by the laws of India for the time being in force.
- ii. Irrespective of the place of delivery, the place of performance or the place of payment under the contract, the contract shall be deemed to have been made at the registered address of the Buyer and / or Primary Buyer.
- iii. Jurisdiction of Courts: The courts of the place from where the contract has been made shall alone have jurisdiction to decide any dispute arising out of or in respect of the contract.
- iv. GeM SPV would not be a party to any such litigation.
- v. In case any Seller / Service provider makes GeM a party / respondent in any case involving any dispute between Buyer and Seller arising out of a concluded contract or arising out of bidding process initiated / concluded by the Buyer on GeM, it would be obligatory on the part of the Buyer to represent GeM also through their Counsel / Lawyer in the proceedings before the legal authority and ensure timely filing of replies / affidavits, etc. provided by GeM also through their Counsel / Lawyer before the concerned legal authority during the course of litigation. A standard reply on behalf of GeM, covering following aspects shall be incorporated in all replies / affidavits filed by the Buyer in such cases:

“Government EMarketplace is a National Public Procurement Portal; an end-to-end online Marketplace for Central and State Government Ministries / Departments, Central & State Public Sector Undertakings (CPSUs & SPSUs), Autonomous institutions and Local bodies, for procurement of common use goods & services. Prima facie, the dispute in the present case appears to be between the Buyer and Seller arising out of a contract placed / bid created by the Buyer on Government EMarketplace. As per Clause 16, Clause 17 and Clause 22 of the General Terms and Conditions of Government EMarketplace (duly accepted by the Buyer and Seller), GeM is not to be made a party to any dispute between the Buyer and the Seller. As such Government EMarketplace is liable to be deleted from the array of parties.

In light of the above, we request your goodself to kindly delete Government EMarketplace from the array of parties.”

18. Limitation of Liability:

In any event, neither party shall be liable for any special, incidental, punitive, exemplary or consequential damages arising out of or in connection with the Contract entered between the parties. The aggregate liability of either party, whether under the

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contract, in tort or otherwise, shall not exceed the total contract value, provided that this limitation shall not apply to:

- (i) Any obligation or claim arising out of or in connection with any third party claim of IPR infringement,
- (ii) In the event of any gross negligence or willful misconduct on part of either party, as finally judicially determined by a court of competent jurisdiction.

19. Termination for Default:

If the seller does not perform its obligations within the Delivery Period / Date mentioned in the Contract, the same would constitute the breach of the Contract and the Buyer shall have the right to Cancel or Withdraw the Contract for the unsupplied portion after the expiry of the original, extended or re-fixed delivery date or period stipulated in the Contract. Such cancellation of contract on account of non-performance by the Seller would entitle the Buyer to forfeit the performance security besides other actions such as downgrading the Seller's rating or debarment from the GeM for specified period as decided by GeM on merits.

20. Closure of Transaction:

After satisfactory completion of all the obligations under the Contract and release of payments for the goods / services, the transaction shall be treated as closed.

21. Grounds for Administrative Action

- i) Administrative actions may be taken by GeM against the Buyer or the Seller either suo-moto on the basis of the platform mechanisms identified through analytics or on the basis of a complaint or report made to GeM by any stakeholders or any third party information or upon Court order, inter alia, for non-adherence to the GeM Website Policies including Terms and Conditions and the Incident Management Policy published on the GeM Website.
- ii) The Seller would be liable for administrative actions such as suspension / debarment / removal from GeM, if they fail to abide by any of the Website Policies including the terms & conditions stipulated in this document and/or on anyone or more of the following grounds:
 - (a) Listing the products/services not in the relevant categories and/or listing the same with vague/conflicting product specifications/details and irrelevant product photographs.
 - (b) Offering Goods / Services without having proper authorization

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- (c) Supplies goods of inferior/ substandard quality
- (d) Supplies or offers to supply refurbished or counterfeit or fake products
- (e) Withdraws or modify or impairs or derogates from the bid in any respect within the period of validity of its bid;
- (f) Seller furnishes inaccurate, false, misleading or forged or fails to furnish any information / documents, within the prescribed time limits, to GeM or to a Buyer, including during e-Bidding / RA process;
- (g) Fails to furnish requisite performance security within stipulated time required as per e-bid / RA conditions;
- (h) Fails to update GeM about any change in information furnished within the prescribed time limits;
- (i) Executes services without conforming to requirement given in Service Level Agreement (SLA);
- (j) Fails to execute an order/ contract or fail to execute it satisfactorily
- (k) Is declared bankrupt or insolvent;
- (l) Fails to produce the requisite documents/ information during the course of inspection / assessment at any stage;
- (m) Performs any activity which is listed as prohibited activities on GeM.
- (n) On any other ground for which, in the opinion of GeM, the retention of the seller or any of its offered product in GeM is not in Public Interest.

Note: The grounds mentioned above are illustrative only. Users are also advised to read the list of prohibited activities published on the website.

- iii) Notwithstanding anything contained in the GTC, GeM reserves the right to cancel or annul the registration of any Seller or remove any of the Goods/Services listed by a Seller on the GeM Website to comply with any provision of the Applicable Laws and / or Court Orders.
- iv) GeM may take an administrative action in terms of the GeM Website Policies against a Buyer which may include reporting of any breach or misconduct to the Buyer Primary User and/or to the competent authority and GeM reserves the right to review the rating of such Buyer, and / or block Buyer's account for such time as considered appropriate by GeM.
- v) The Seller and the Buyer understands that the grounds for administrative action as

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provided under the Contract are only indicative and additional grounds may be provided under the GeM Website Policies including the Incident Management policy. The Seller/ Buyer warrants to abide by all additional grounds as may be specified by GeM in the GeM Website Policies from time to time.

22. Role of Government EMarketplace - Gem SPV

Government EMarketplace – GeM SPV is the owner of the GeM portal which monitors and supervises all the business transactions on the portal. The role and responsibilities of the company are as under:

- 22.1** To develop, operate and maintain technology driven e-marketplace, through a Managed Service Provider (MSP), to be used by government agencies for procurement of various goods and services in a transparent and efficient manner.
- 22.2** Overall supervision and monitoring of GeM portal operations, policy management, finalization and implementation of various business processes and work flows in adherence with the applicable law and executive orders issued from time to time. To provide tools for on- line Bidding, on-line Reverse Auction and Business Analytics Tools on GeM.
- 22.3** To work continuously for improvements in the Business Processes and Work Flows for various activities / functions on GeM based on feedback from various stakeholders to enhance transparency, efficiency, competitiveness, equality, economy in procurement of goods and services by government agencies.
- 22.4** To finalize General Terms and Conditions for sale and purchase of Goods and Services on GeM, Product / Service Specific Special Terms and Conditions, Special Terms and Conditions for Bunching of Goods / Services, Bid Specific Special Conditions, Project Specific Special Conditions etc.
- 22.5** To finalize, upload and approve Technical Specification Frameworks for various item / service categories on GeM and to monitor conformity of offered products to the larger framework so finalized and uploaded.
- 22.6** To decide addition / deletion of any of the offered product(s)/Product category (ies) and their framework of technical parameters on GeM.
- 22.7** To work and co-ordinate with different Organizations/Departments / Agencies for integration of their Databases with the GeM portal on real time basis for the purpose of verification/authentication of data entries made by stakeholders.
- 22.8** To offer and manage Demand Aggregation services for identified categories

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across buyers with assured reasonability of price, recommending for placement of orders by individual buyers

- 22.9** To co-ordinate with MSP for conducting workshops for the various Stakeholders in capacity building and in change management associated with the implementation of technology enabled procurement process.
- 22.10** To monitor MSP that the Buyers, Sellers and Service Providers are being assisted properly by them to onboard their goods and services on the GeM platform.
- 22.11** To identify and offer services of 3rd parties for Vendor Assessment relating to technical, financial capacity, past experience of sellers including manufacturing / testing facilities / quality control arrangement(s) of manufacturing premises and/or any of the premises related to manufacturing process of products / services offered by the seller / service provider on GeM.
- 22.12** To identify and offer services of 3rd parties for testing and certifying the quality of the product offered/ supplied, through documents, test reports/ certificates, testing at any independent lab or through inspection/testing by its authorized representative/s at firm's premises or at user's premises, that buyer choose to use.
- 22.13** Overall monitoring and management of Call Centre/Help desk operations being provided by the MSP.
- 22.14** Removal / debarring the Sellers/Buyers and Goods / services in GeM.
- 22.15** Management of complaints and their redressal mechanism in GeM (not disputes related to concluded contracts).
- 22.16** To identify, integrate and manage MoUs with verifying, certifying and validating entities across government(s) and also professional agencies to reinforce the online paperless, contactless and cashless system on GeM.
- 22.17** To issue Notices, Circulars, News, Flashes, Updates, etc. in GeM
- 22.18** Reporting and MIS mechanism in GeM
- 22.19** Any other related activities in the GeM
- 22.20** In exceptional circumstances, for ensuring propriety of procurement processes or to obviate possible misuse of GeM functionalities, GeM SPV as GeM Admin may keep any Bidding / RA process on hold for some time as considered appropriate.
- 22.21** To take approved User Charges from Buyers and Sellers for the various

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transactions on the GeM portal as decided and notified on the GeM portal.

23. Miscellaneous Provisions

23.1 Assignment: Users understand and agree that the GTC, STC and ATC provisions, rights and obligations granted by GeM are non- transferrable or assignable by the User to any third party, without the prior written consent of GeM.

If same is permitted by GeM, all the conditions, rights and obligations of the GTC or any on-going STC/ATC shall also be binding upon such third party assignee besides the User.

23.2 Indemnification: The Seller shall at all time indemnify Buyer against all suits and claims which may be made in respect of the goods/services for infringement of any right protected by patent, registration of designs or trade mark. Provided always that in the event of any claim and suit in respect of alleged breach of patent, registered designs or trade-mark being made against the Buyer, the Buyer shall notify the Seller/ Service Provider of the same who shall at its own expense either settle any such dispute or conduct and litigation that may arise there from.

Buyers and Sellers agree to indemnify, defend and hold harmless GeM, its officials, Managed Service Provider (herein after individually and collectively referred to as "indemnified parties") from and against any and all losses, liabilities, claims, suits, proceedings, penalties, interests, damages, demands, costs and expenses (including legal and other statutory fees and disbursements in connection therewith and interest chargeable thereon) asserted against or incurred by the indemnified parties that arise out of, result from, or in connection with

23.2.1 Breach of the contract(s); or

23.2.2 Any claims made by any third party due to, or arising out of, or in connection with, use of the Website; or

23.2.3 Any claim made by any third party regarding content/ information or materials provided by Seller cause any damage to a third party; or arising out of, or in connection with, use of the Website.

23.2.4 Violation of any intellectual property rights or any other rights.

Once GeM notifies the Buyer/ Seller of such claims, they shall defend and indemnify GeM for the same. Further, in no case they shall compromise or settle any claim or admit any liability on the part of GeM without the express

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or prior written consent of GeM which can be withheld or denied or modified by GeM in its sole discretion or as per the Applicable Laws.

23.3 Severability: If due to any change in Applicable laws, certain part of the GTC or any applicable STC or any provisions of the GeM policies or portions thereof, becomes unenforceable, the remaining provisions shall continue in full force and effect so as to give effect to the intent of the parties.

23.4 Website Terms and Policies Update: Buyers and Sellers are advised to check the website terms and conditions as well as policies such as Privacy Policy and the Website Disclaimer at all times, as GeM may update the Website and such terms from time to time.

23.5 List of Prohibitive Activities (Suggestive and Non-Exhaustive):

LIST OF PROHIBITIVE ACTIVITIES: The following is an indicative list of prohibitive activities which the Buyers and the Sellers registered on GeM platform shall not perform on the GeM platform. A breach of any of the prohibited activities shall give the right to GeM under the Applicable Laws or in terms of these GTC or the GeM Website Policies to take administrative action which may include partial or permanent disabling of account on GeM Website, debarment etc. Additionally, GeM may remove any non-compliant information and reserves the right to preserve and share with the appropriate authority such information and associated records for investigation purposes. The Buyer and the Seller understand that this list is only indicative and additional activities may be prohibited under the GeM Website Policies. The Buyers and the Sellers shall undertake to provide their full support that may be required by GeM for removal and disabling of the non-compliant information. The prohibited activities include:

- (i) Indulging in cyber-crime or other criminal activities which can become a threat to GeM, GeM Website, to the Government of India or to any State Government or Government Agency.
- (ii) Advertising, exhibiting, representing, publishing, pronouncing, listing, delivering, offering to sell or selling any kind of Goods/Services which can cause any kind of infringement or disparagement of intellectual property rights.
- (iii) Selling refurbished, counterfeit and/or fake Goods / Services under a brand or misusing others brand name.
- (iv) Offering to sell or selling above the MRP any Goods or misrepresenting the MRP.

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- (v) Delivering some other Goods or Services instead of the Goods or Services Contracted for or delivering empty parcels or used Goods in breach of the terms of the Contract.
- (vi) Offering to sell or selling freebies which are 'Not for sale' Goods.
- (vii) Listing of the Goods on GeM Website without authorization to sell Goods manufactured by the OEM in open market or without proper authorization, if any required, for providing the Service.
- (viii) Listing of the Goods or Services is done on GeM Website without guarantee/warranty or without a genuine guarantee/warranty.
- (ix) Listing of the Goods or Services in irrelevant or inappropriate categories or with vague or conflicting specifications or description (including descriptive or pictorial description).
- (x) The Buyer /Seller registering on GeM and/or offering or buying the Goods and/or Services and/or participating in e-bidding/reverse auction on GeM, without the requisite authorization to enter into contract on behalf of the concerned legal entity. Failing which such individual(s) shall be individually liable for its actions and also for any liability arising out of such actions.
- (xi) If any Seller has been debarred from GeM then such Seller or their authorized sellers shall also not be permitted to register and offer/sell their products on GeM and / or participate in Bids / RA on GeM.
- (xii) Using GeM prices for making procurement outside GeM Portal.
- (xiii) Splitting of demands by creating multiple Bids/RAs of same goods / services or making repeated procurements of same goods/services through Direct Purchase / L-1 buying as per rule 149(i) and 9(ii) of GFR- 2017.
- (xiv) Uploading goods / services containing information that —
 - (a) Belongs to another person and to which the user does not have any right to;
 - (b) Is grossly harmful, harassing, blasphemous, defamatory, obscene, pornographic, paedophilic, libellous, invasive of another's privacy, hateful, or racially, ethnically objectionable, disparaging, relating or encouraging money laundering or gambling, or otherwise unlawful in any manner whatever;
 - (c) Harm minors in any way;

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- (d) Infringes any patent, trademark, copyright or other proprietary rights;
- (e) Violates any law for the time being in force;
- (f) Deceives or misleads the addressee about the origin of such messages or communicates any information which is grossly offensive or menacing in nature;
- (g) Impersonate another person;
- (h) Contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer resource;
- (xv) Threatens the unity, integrity, defence, security or sovereignty of India, friendly relations with foreign states, or public order or causes incitement to the commission of any cognizable offence or prevents investigation of any offence or is insulting any other nation.
- (xvi) Achieving or trying to achieve illegal access to features on GeM Website not specifically authorized or exceeding the scope of authorized access to or other features of the GeM Website;
- (xvii) Obstructing or causing GeM to lose (in whole or in part) the services provided by any internet service provider ("ISPs") or carrying out any cyber security incident;
- (xviii) Sending unsolicited emails, bulk messaging, auto messaging, junk email, spam and like.

24. Incident Management Policy on GeM:

GeM is a trust based system and self- declaration is the key, along with a strong automated process to penalize any deviant behaviour on part of Sellers / Buyers. For this purpose, deviations from the terms and conditions of procurement on GeM, including general terms and conditions, special and additional terms and conditions and any other relevant Government rules and guidelines, are termed as “deviation”. A deviation can occur while listing the products on GeM, at pre-contract stage, during bidding or at post contract stage on GeM. The mechanism for reporting and initiating action on such deviation has been detailed in the Incident Management Policy available on GeM portal under Resources. All stakeholders of GeM shall be bound by the actions as detailed in the Incident Management Policy.

All administrative actions under this Incident management Policy, taken by GeM against any of the stakeholders shall not cause any limitation on the legal and/or

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contractual remedies including any financial recoveries, available to Buyers/Sellers under the Terms and Conditions of contract and / or GeM policies. In case the Buyer / Seller choose to pursue any of these remedies, GeM shall not be made party to such proceedings / remedial actions taken by Buyer/Seller under the contractual provisions.

If any individual has registered multiple proprietorship concerns as separate seller entities on GeM under different business names (with same PAN), all such Seller entities would be equally impacted by the action taken against any one of such entities for his default / deviation under incident management policy.

All the allied firms will be equally impacted by the action taken against any one of such entities for the default / deviation under Incident Management Policy.

Following is the definition of allied firms:

“Allied firm” (‘affiliates’/ ‘affiliated firm’, ‘sister concern’, ‘associated firm’, or ‘related party’) of a bidder is a firm / concern that comes within the sphere of effective control / influence of the principal firm, wherein the Principal Firm –

- i. being a proprietary firm, owns the Allied Firm,
- ii. being a partnership firm, has common (all or majority of) partners, or any one of its partners has profit share of 20% or more, in the Allied Firm
- iii. has common Management (say majority of director) with the Allied firm;
- iv. its partners or directors have a majority interest in the management of the Allied Firm;
- v. has a controlling voice by owning substantial (20% or more) shares in the Allied Firm;
- vi. directly or indirectly controls or is controlled by or is under common control, by way of any agreement/ MoU or otherwise with the Allied Firm,
- vii. has the Allied Firm as its successor/ subsidiary or vice-a-versa;
- viii. has common offices/ manufacturing facilities with the Allied Firm.

25. Use of Aadhaar Number in GeM:

Purpose of the Aadhaar authentication in GeM is to identify the user using eKYC. GeM has provisioned the option for Sellers and Buyers to provide virtual Aadhaar ID instead Aadhaar number. GeM receives First Name, Last Name, Mobile Number, Email ID, DOB and Gender details. It is used to link the mobile number with the user who is registering on GeM; on which subsequently OTP is sent for achieving the property of non-repudiation in different artefacts / documents generated on GeM. GeM has provisioned an alternative Identity Information option through PAN based verification to Sellers.

26. Compliance of Restrictions under Rule 144 (xi) of GFR 2017 as per DOE Order (Public Procurement No.4) dated 23.02.2023 (as amended from time to time)

Restrictions on procurement from a bidder of a country which shares a land border with India

- I. a) Any bidder from a country which shares a land border with India will be eligible to bid in this tender, whether of goods or services (including consultancy services and non-consultancy services), only if the bidder is registered with the Competent Authority.

b) Further, any bidder (including an Indian bidder) who has a Specified Transfer of Technology (ToT) arrangement with an entity from a country which shares a land border with India will be eligible to bid in any procurement whether of goods or services (including consultancy services and non-consultancy services) only if the bidder is registered with the Competent Authority.
- II. The requirement of registration for bidders covered by I (b) above will be applicable for all procurements where bids are issued / published after 01.04.2023.
- III. "Bidder" (Seller / Service Provider) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
- IV. "Bidder (or entity) from a country which shares a land border with India" for the purpose of the Order means:
 - a. An entity incorporated, established, or registered in such a country; or
 - b. A subsidiary of an entity incorporated, established, or registered in such a country; or
 - c. An entity substantially controlled through entities incorporated, established, or registered in such a country; or
 - d. An entity whose beneficial owner is situated in such a country; or
 - e. An Indian (or other) agent of such an entity; or
 - f. A natural person who is a citizen of such a country; or

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- g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above
- v. The beneficial owner for the purpose of (iv) above will be as under
 - 1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means. Explanation—
 - a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five per cent. of shares or capital or profits of the company;
 - b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
 - 2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
 - 3. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
 - 4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
 - 5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.
- vi. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.
- vii. The registration shall be valid at the time of submission of bid and at the time of acceptance of bid.
- viii. If the bidder was validly registered at the time of acceptance / placement of

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order, registration shall not be a relevant consideration during contract execution.

- IX. “Transfer of Technology” means dissemination and transfer of all forms of commercially usable knowledge such as transfer of know-how, skills, technical expertise, designs, processes and procedures, trade secrets, which enables the acquirer of such technology to perform activities using the transferred technology independently.

Any false declaration and non-compliance of the above would be a ground for debarment and further legal action in accordance with law.

27: Caution Money Deposit:

- (i) All sellers on GeM are required to deposit a one-time amount as under as caution money:
1. Seller Turnover less than 1 Crore: ₹2,000/-
 2. Seller Turn over > 1 Crore but < 10 Crore: ₹10,000/-
 3. Seller Turn over > 10 Crore: ₹25,000/-
- (ii) The above caution money shall remain at the disposal of GeM SPV. This can be forfeited in part or in full (as per approval of CEO (GeM)) in following circumstances:
- (a) Failure of the seller in executing any GeM contract or if the Seller fails or neglects to observe or perform any of his obligations under the contract (applicable only in respect of contracts that did not have provision of Performance Security).
 - (b) Withdraws any bid submitted on GeM within the period of validity of the bid.
 - (c) Fails to furnish requisite performance security as per GeM e-bid / RA conditions.
- (iii) In case the Caution Money of any seller is forfeited in full or part and his caution money deposit goes below the threshold indicated in para 1 above, the seller account shall be put on hold till the seller re-coups the caution Money account to required value. Seller's stock will become zero for all categories and seller will not be allowed to update anything till the caution money is topped up to minimum required amount.

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- (iv) Forfeiture of caution money as per above shall be over and above any other actions taken against such sellers as per GeM Incident Management Policy and shall be without any prejudice to the rights and remedies available to GeM and / or Buyer as per provisions of the relevant contracts.

28: CMS 3.0 and OEM - Reseller responsibility matrix:

GeM has implemented enhanced Catalogue Management System (CMS 3.0) on GeM Portal. The Primary Objective of CMS 3.0 is to offer higher level of ownership & accountability to OEMs & its approved Resellers while maintaining Efficiency, Transparency & Inclusiveness of GeM. Complete and detailed Obligations and Privileges matrix of the different stakeholders in different quadrants is given in CMS document available on GeM Portal and OEMs and Resellers are bound to operate on GeM in compliance with the CMS document as updated from time to time.

- 1. CMS Quadrant 1 (CMS Q1):** Product offers in categories under Q1 will be solely offered by GeM validated OEMs. OEM shall be exclusively responsible for maintaining currency and sanity of catalogue and its offer in the Market Place. OEM shall be absolutely and exclusively responsible and be legally liable for sanity and quality of offers including Warranty and After Sales Service obligations.
- 2. CMS Quadrant 2 (CMS Q2):** OEMs as well as pre-Authorized Resellers can offer products in Q2. OEMs shall operate Market Place subject to providing its complete list of Open market authorized sellers along with formal commitment to list and maintain all appropriate and current Product Catalogue for pairing by its Resellers. OEM shall be absolutely and exclusively responsible and be legally liable for sanity and quality of catalogues including Warranty and After Sales Service obligations. Authorize Resellers shall be responsible for Pairing their offer with the already existing Product Catalogue created by the OEM. However, resellers can Update their Offer Price, Stock and Delivery Locations solely at their own discretion and shall be solely responsible for the same.
- 3. CMS Quadrant 3 (CMS Q3):** Catalogue creation in categories under Q3 can be from OEMs and/or their Resellers concurrently. In case OEM has not created Product Catalogue, Resellers of OEMs are also permitted to do the same. However, OEM can manage resellers and catalogues (when registered on GeM and taken OEM Dashboard). Further, OEM shall be responsible for

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the following:

- Maintain the Catalogue by adding / updating the Products / Services, Specifications, MRP & Offers specific to Product / Service
- Provide list of all its resellers and shall respond as per Service Level commitments to queries relating to Product Specifications /Services and / or verification of a Reseller, failing which they shall own responsibility of all and every fall out, by any act of such Resellers and / or offer of an insane catalogue.
- Validating & verifying the Catalogue uploaded by Reseller
- Assume all responsibility and legal liability for sanity and quality of offers including Warranty and After Sales Service obligations

However, resellers can update their Offer Price, Stock and Delivery Locations solely at their own discretion and shall be solely responsible for the same.

- 4. CMS Quadrant 4 (CMS Q4):** Catalogue creation in categories under Q4 can be done by OEMs as well as by any Reseller also. However, OEM (when registered on GeM and taken OEM Dashboard) shall be responsible for Validating & verifying the Catalogue uploaded by Reseller, Maintaining the Catalogue by adding/updating the Specifications, MRP etc. specific to catalogue. However, there is no requirement of any endorsement or authorization of the reseller by the OEM. Resellers can Update their Offer Price, Stock and Delivery Locations solely at their own discretion and shall be solely responsible for the same. Reseller will also be responsible for providing Replacement Warranty in case of Q4 products and Buyer shall not be required to take up with OEM for any warranty claims.
- 5. CMS (Special Category):** The Special Category is a specialized segment outside the four quadrants for select few categories that require a customized behavior such as Self-Help Groups (SHG) categories.

In Q3 and Q4, in case of re-sellers, if the reseller has not been approved as an authorized re-seller by the OEM on GeM, the re-seller is required to give an undertaking as under while uploading the product, while accepting any order and while participating in any bid:

“I hereby undertake that I have made arrangements for getting the stores from authorized distributor / dealer / channel partner of the OEM of the offered product.

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At the time of delivery of goods, I will provide necessary chain documents to prove that the supplied goods are genuine and are being sourced from authorized distributor / dealer / channel partner of the OEM. In case of any complaint from the Buyer / Consignee about genuineness of the supplied products, I shall be responsible for providing genuine replacement supplies.”

By uploading any product on GeM or accepting any order on GeM or by participating in any bid on GeM, the re-seller is deemed to have given above undertaking and is liable for compliance of the same.

Further in view of the on-line verification of Seller credentials by the OEM on GeM platform, there is no need for Buyer to ask for or insist on furnishing of OEM authorization in bids in respect of “OEM verified Catalogue” offered by "OEM Verified Reseller". OEM authorization is also not required to be sought and checked by Buyers in case of bids for products in Q1 or Q2.

29: One Bid per Bidder

A Bidder shall submit only one bid in a particular bidding process (unless otherwise allowed in the bid STC / ATC conditions). In case of a holding company having more than one independent manufacturing units or more than one unit having common business ownership / management, only one unit should quote. Similar restrictions shall apply to closely related sister companies. Bidder's sister/ Associated/ Allied concern(s) participating or applying against the same tender, shall lead to disqualification of Bidders. Sister / Associated / Allied concern means a company, society, partnership firm or proprietorship firm having one or more common persons as Director / Partner/ Member/ Owner. A Bidder who submits more than one bid will cause all the proposals submitted in the particular bid to be disqualified. In relation to the above, a person will include firm(s) of Proprietorship / Partnership Firm / Limited Liability Partnership / Private Limited / Limited company / Society registered under Society's Act / Statutory Bodies / any other legal entity, as the case may be, & will be deemed to have submitted multiple bids in a particular bid if a person bids in any of the two formats given below:

- i. individual or proprietorship format and/or
- ii. a partnership or association of persons format and/or
- iii. a company format

Whereby,

- A company shall for this purpose include any artificial person whether constituted under the Indian laws or of any other country.

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- A person shall be deemed to have bid in a partnership format or in association of persons format if he is a partner of the firm which has submitted the bid or is a member of any association of persons which has submitted a bid.
- A person shall be deemed to have bid in a company format if the person holds:
 - i. More than 10% (ten percent) of the voting share capital of the company which has submitted a bid, or
 - ii. Is a director and / or Key Managerial Personnel of the company which has submitted a bid, or
 - iii. Holds more than 10% (ten percent) of voting share capital in and/or is a director and / or Key Managerial Personnel of a holding company of that company which has submitted the bid.

By making a bid pursuant to the Tender Documents, the bidder / tenderer shall be deemed to have declared that the bidder / tenderer has not made anyother bid or multiple bids as understood or deemed in terms of this clause.

All the bids of a bidder who has submitted multiple bids, as per the clause, shall be rejected and Bid Security for all such bids shall be forfeited, not by way of penalty or liquidated damages but by way of reimbursement of the pre-estimated costs likely to be incurred by the buyer towards bidding process and in the scrutiny & evaluation of bids.

In addition to the above, bidders found to be in contravention to the said clause will be liable for administrative actions.

30: Push Button Procurement (PBP)

In line with Department of Expenditure OM No. F.6/7/2022-PPD dated 6th September, 2022, "Push Button Procurement (PBP)" for small value procurements will be available on GeM with the following conditions:

- a. PBP will be made only through bidding (PBP through Direct Purchase,L-1, Custom bid, etc. are not permitted).
- b. The total procurement value of the specific case is not to exceed ₹ 5,00,000 /- (inclusive of all taxes).
- c. PBP will be additional method of procurement and procuring entities are free to use or not to use this additional method of procurement.
- d. PBP method can be used only in case at least five bids are received. In case of less than five bids are received, the procurement is to restart using usual procurement method.
- e. Buyer is to ensure that no splitting of requirement is being done so as to bring

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procurement under PBP method.

- f. Once PBP bid is invited, contract will be placed directly without any human intervention (provided condition (d) above is complied).
- g. PBP will be permitted only for such categories, where at least ten sources are listed.

Push button procurement process is very simple and user friendly and mostly automated.

A) Buyer PB procurement:

- i. Buyer will select a product from marketplace, do product comparison, etc.
- ii. Thereafter instead of directly placing order on the L-1, the buyer will create a Push Button Procurement Notice by selecting the L-1 product which is otherwise eligible for L-1 purchase.
- iii. Clicking on “Create PBP Notice” will give an option to Buyer to decrease the quantity and delivery period at consignee level. This is enabled for Buyers to seek quotations for lower delivery periods and quantity lower than Minimum Order Quantity (MOQ) otherwise offered by the sellers in marketplace.
- iv. Per unit L-1 price will be set as ceiling price for that PBP Notice.

B) PBP Notice content and validations:

- i. The PBP Notice will contain all biddable specification parameters as per GeM category definition [excluding the text input parameters of the product chosen by Buyer, Consignee-wise Quantity and Consignee-wise Delivery Period.
- ii. Bunching of items is not allowed in PBP Notices.
- iii. The estimated all-inclusive bid value should be less than or equal to ₹5,00,000 based on the system identified L-1 price estimation for the quantity to be procured.
- iv. PBP Notice will include ONLY GeM GTC and category specific

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Special Terms and Conditions (STC), integrity pact, land border sharing countries declaration etc. Buyer is not allowed to push any new specification parameter or any Additional T&C.

- v. PBP Notice have participation time of 3 days and offer validity of 10 days.

C) Seller participation:

- i. PBP notices is published on GeM portal under a separate tab for anyone to see.
- ii. All sellers/service providers can view the PBP Notices created for their category in their dashboard.
- iii. By participating in PBP, Sellers unconditionally accept the GTC and STC, integrity pact, price declaration and other conditions part of the PBP Notice floated before participation.
- iv. Sellers will offer their matching product and price against the PBP Notice by clicking on “Offer Price” and submission of price and compliance of T&C. This offer price will be applicable only for that PBP Notice.
- v. Seller/Service Provider can participate in a PBP Process only once and there is no option to withdraw.
- vi. PBP participation will be without EMD and against Bid Securing Declaration only.
- vii. Per unit price to be entered by the seller will have to be less than the L-1 price set as ceiling price in PBP Notice.

D) Procurement Decision:

- i. System/Buyer will open offers after PBP end date and time.
- ii. System will check if offers are received from at least 5 sellers offering products of at least two (2) different OEMs and total L1 value is less than or equal to ₹5,00,000/-.

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- iii. Buyer will not get any access to see list of participating bidders or Seller details.
- iv. If all conditions as defined above are satisfied, system will automatically prompt Buyer to create order on L1 by providing details related to financial approval, paying authority and payment mode etc. as applicable to buyer.
- v. In case of multiple L1 System would place order on seller with maximum Seller Rating on GeM
- vi. If adequate number of offers are not received or total L1 value is more than ₹5,00,000/- system will cancel the PBP Notice. A message will be displayed to the buyer stating - Due to insufficient participation in the PBP, you cannot create an order against this PBP. You may go ahead and procure L1 in marketplace through L-1 Purchase after Comparing and verifying price reasonableness or create a regular bid / RA to get better response.
- vii. System will not allow same buyer to use PBP to BUY SAME ITEM in case of failure of the PBP for next 30 days.
- viii. System generated contract will have complete specification of the product offered by seller, Consignee-wise Quantity, Consignee- wise Delivery Period and GeM GTC and category specific STC etc.

*******END OF DOCUMENT*******