

<b>NITI Aayog</b>			
<b>NDAP Project : Response to Queries of Bidders</b>			
S.No.	Clause Number	Query	Response
1	Disclaimer	The Consultant wishes to clarify that the Consultant will rely on the information provided in the RFP document and it will not separately conduct any due diligence to verify accuracy of such information for creating deliverables or performing of services by the Consultant. Accordingly, in the event any information provided in the RFP, which is false, untrue or incorrect, the Consultant will not be liable for the deliverables if such deliverables don't yield expected results, when put into use.	Please refer to RFP. No change is contemplated.
2	1.1.1	As this project is supposed to be on DBOT basis, We request you to kindly clarify what would be the procedure for transfer of the project from bidder to NITI Aayog. Also, kindly clarify, when would be the title of the project would pass on to NITI Aayog. We assume clause relating to transfer of ownership of assets under the project. All Hardware / software will be transferred to customer on delivery? Kindly clarify. We request the DBOT Clause may not be insisted upon and title should rest with NITI Aayog.	Please refer to Addendum.
3	1.1.2	We request that a Clause needs to include reference to selected bidder's Proposal too.	Please refer to RFP. No change is contemplated.
4	1.1.2	As a bidder request complete development phase payments (i.e. 60% of Agreement Value) to be released with Go live of the project , so pls. modify the payment schedule for development phase	Please refer to RFP. No change is contemplated.
5	1.1	The "Background" section of the RFP states that the NDAP project will be undertaken through Public Private Partnership (PPP). Kindly let us know the specifics of proposed PPP model for this project.	Please refer to RFP. No change is contemplated.
6	1.1.2	The Consultant wishes to clarify that if the RFP is awarded to Consultant, then the TOR and the Consultancy and Service Agreement executed between the parties will be subject to the negotiation of the deviations proposed by the Consultant along with its proposal document. Consultant wishes to clarify that as part of the DBOT Model proposed in the RFP, the Consultant will not be procuring any third-party software and hardware on behalf of the Authority. Consultant proposes the following arrangement for any kind of Hardware and Software: Consultant has alliance relationships with third party product and services vendors. As part of many such relationships, Consultant is able to resell certain products and services and/or may receive compensation from vendors in the form of fees or other benefits in connection with the marketing, technical and other assistance provided by Consultant. Authority acknowledges that such relationships may be beneficial to Consultant and assist in its performance of the Services. With respect to third party software or material to be procured by Consultant, Consultant will only pass through or	Please refer to RFP. No change is contemplated.

		<p>assign to Authority the rights Consultant obtains from such third parties (including warranty and indemnification rights), to the extent that such rights are assignable. Consultant will not indemnify Authority against any third-party IP infringement claims for the materials not proprietary to Applicant.</p> <p>In addition, Consultant will not be responsible or liable for any third party product failure or defect or for delays or non-performance of the scope which needs to be performed by the third party OEMs, however Consultant shall help Authority in raising issues with the third party OEM's which are identified by Authority in the hardware supplied or software licensed by third party OEMs, however ultimate responsibility to resolve the issue raised by Consultant solely remains with the OEM's directly basis the EULA and/or other agreements executed between OEM and Authority, without any contractual or penal implications on Consultant.</p> <p>Any supply of Consultant owned software, application, platform or AIP/cloud provisioning shall be done for Authority, for Authority's internal business use only or for Authority access, as per Consultant licensing terms only. These licensing or use terms shall be executed separately with Authority. Authority's access to and use of Consultant's pre-existing assets, including Consultant software, tools and/or platforms, are subject to terms and conditions separate from terms of this Agreement. Such terms shall be set forth in Consultant's Agreement for such pre-existing assets. Authority will execute such agreement. The terms will be for a non-exclusive, limited-in-time and non-transferable right to access and use the Consultant software, tools and/or platforms for internal purposes (i.e. Authority's business) on a subscription basis.</p>	
7	1.3	In addition to payment obligations, Authority also needs to be comply with its corresponding obligations.	Please refer to RFP. No change is contemplated.
8	1.7	We request to accept current INR rate per US \$.	Please refer to RFP. No change is contemplated.
9	1.7	The said clause should be deleted as this is INR bid.	Please refer to RFP. No change is contemplated.
10	1.8	We request that the proposal due date should be at least one month after issuance of clarification.	Please refer to RFP. No change is contemplated.
11	1.8	Request to please extend the bid submission deadline by at least two weeks, to 15 June 2018.	Please refer to RFP. No change is contemplated.
12	1.9	Request to enable the site visit in this regards to gain sufficient data points to work out the proposition accordingly.	Please refer to RFP. No change is contemplated.
13	2.1.1	Kindly specify the no. of permissible members of consortium.	Please refer to RFP. No change is contemplated.
14	2.2 -B	<p>We request to include following clauses.</p> <ol style="list-style-type: none"> <li>1. Bidding entity should have been listed in Indian stock exchange.</li> <li>2. Company should have CMMi Level 5 certified.</li> <li>3. Turn over of the company should be more than 500 crores in last 3 financial years.</li> </ol>	Please refer to RFP. No change is contemplated.

15	2.2.2(B)	We request that the financial capacity should be considered as minimum income of Rs. 20-25 Crores in place of Rs. 5 Crores. 5 Crores is a very low pre-qualification criteria.	Please refer to RFP. No change is contemplated.
16	2.2.2 (A)	There are not so many large analytics based implementations in India in last few years, request you to please relax the requirement to 2 assignments and the handled data volumes to 200GB and number of active users to 50+.	Please refer to RFP. No change is contemplated.
17	2.2.2	While the bidder responds with eligible assignments, do the proposed Key Resources need to have worked on the same eligible assignments that the bidder/applicant quotes for eligibility/technical evaluation? If Yes, request you to please relax this condition, and allow the Key Resources and the Bidder, to quote different but eligible projects. This is being requested as all Key Resources are Senior Resources with 5+ Years' experience, and eligible project experience prior to their respective association with the bidding firm. Also, as the project includes cyber security and BCP related requirements we request you to add two profiles respectively viz; Cyber Security Lead - He/she should have worked as Cyber security Lead for 2 (two) Eligible Assignments. BCP Lead - He/she should have worked as BCP Lead for 2 (two) Eligible Assignments.	Please refer to RFP. No change is contemplated.
18	2.2	Kindly clarify if the eligibility and Technical criteria can be addressed jointly by the consortium partners.	Please refer to RFP. No change is contemplated.
19	2.2	Kindly clarify if the OEM's reference cases can be considered as eligible assignments for Eligibility/technical criteria.	Please refer to RFP. No change is contemplated.
20	2.2.3	We request that Certificate from Company Secretary should be allowed. As due to NDA clause certain document cannot be shared.	Please refer to RFP. No change is contemplated.
21	2.2.4	We request you that in place of specific Power of Attorney (for which the format has been given in the RFP) as asked in the RFP, bidder may be allowed to submit a copy of general power of attorney issued in the name of authorized signatory which is the standard practice.	Please refer to RFP. No change is contemplated.
22	2.2.6	It is requested that the condition of this clause be deleted OR in the alternative this be applicable only if as per the Bidder such condition may adversely affect bidder's performance of obligations under the engagement resulting from this RFP.	Please refer to RFP. No change is contemplated.
23	2.3	Provision should be applicable only if the failure is for reasons solely attributable to the Consultant.	Please refer to RFP. No change is contemplated.
24	2.3.1	Please clarify this clause.	Please refer to RFP. No change is contemplated.
25	2.3.3 (d)	What is considered a legal representative by NITI Aayog? Since Company 1 is not aware who are the other applicants to the RFP then how can Company 1 assure NITI Aayog that it does not have the same legal representative as any other applicant?	Please refer to RFP. No change is contemplated.
26	2.3.4	It is requested that the condition of this clause be deleted OR expectation be clearly clarified for bidders to understand the requirement.	Please refer to RFP. No change is contemplated.
27	2.5	We suggest that RFP reference mentioned in clause be deleted.	Please refer to RFP. No change is contemplated.

28	2.7	As a bidder request provision for submission of deviations. We see there are terms which require mutual discussion before agreeing on the final structure, to such extent deviation should be allowed.	Please refer to RFP. No change is contemplated.
29	2.7 (a to f) & 2.7.2	Please note that we are in principle agreement with this clause. Having said that, we believe that a project of this scale and complexity it is never easy to confirm that we have gathered all the information. Accordingly, we hope both the parties will work together to gather additional information and address any issue that may crop up at the time of project implementation.	Please refer to RFP. No change is contemplated.
30	2.7	The Consultant wishes to clarify that the Consultant will rely on the information provided in the RFP document and it will not separately conduct any due diligence to verify accuracy of such information for creating deliverables or performing of services by the Consultant. Accordingly, in the event any information provided in the RFP, which is false, untrue or incorrect, the Consultant will not be liable for the deliverables, if such deliverables don't yield expected results, when put into use.	Please refer to RFP. No change is contemplated.
31	2.11.3	If NITI Aayog amends any clause or requirement for the RFP after we have submitted our proposal, then does Company 1 get additional time as mentioned in the foot note to amend/update its proposal?	Please refer to RFP. No change is contemplated.
32	2.13.2	Both the 'ORIGINAL' and two sets of 'COPY' documents are to be submitted together in a single sealed envelope as instructed in clause # 2.16.2 on # 20 or separately?	Please refer to RFP. No change is contemplated.
33	2.14.2 (f), (g), (h)	We request that the bidder may be allowed to propose alternative CVs for the key positions and countersigning of the same by the candidate in blue ink may not be insisted upon. Also, Undertaking from the Key Personnel about his/her availability should not be insisted upon in case the candidate parts away from the organization or as the case maybe.	Please refer to RFP. No change is contemplated.
34	2.14	The RFP (Section 2.1.4) lists the Key Resources and the minimum effort for such resources. However, the stated effort for Key Resources would not suffice an implementation of such complexities. Additional resources would be required across all the project phases for IT Infrastructure, Security, etc. Is the bidder allowed to propose its resources and their involvement/efforts, (other than the category of sub-consultants), for the execution of the project? The RFP specifies partial deployment for the Key Resources through the Implementation and Support phases. Request to please share the expectations regarding the nature of involvement for such resources – would an onsite/offshore mix model be supported for their deployment, is partial deployment on the project permissible?	Please refer to RFP. No change is contemplated.
35	2.14.7	Is there any limit to the number of consultants that can be used?	Please refer to RFP. No change is contemplated.
36	2.14.7	The RFP (Section 2.1.4) lists the Key Resources and the minimum effort for such resources. However, the stated effort for Key Resources would not suffice an implementation of such complexities. Is the bidder allowed to propose additional resources and their involvement/efforts, (other than the category of sub-consultants), for the execution of the project.	Please refer to RFP. No change is contemplated.
37	2.16.2	What is the RFP notification number for this RFP document? Is it RFP.NDAP.110418?	Yes
38	2.15.2 (ii),	We request that Bid evaluation should be based on tax exclusive price.	Please refer to RFP. No change is contemplated.

39	2.15 (ii)	We request that price be account without GST. Taxes prevailing at the time of invoicing shall be charged to customer.	Please refer to the RFP. No change is contemplated
40	2.15.2(ii)	We request that the bidder should be allowed to quote without taxes and the taxes should be paid by NITI Aayog on actual basis at the time of Billing. Any changes in taxes from Prospective or Retrospective aspect shall be borne by NITI Aayog.	Please refer to RFP. No change is contemplated.
41	2.15.2	Bidder should be allowed to submit commercial deviations which require mutual discussion and agreement.	Please refer to RFP. No change is contemplated.
42	2.20	Bidder request bid security in the form of bank guarantee.	Please refer to RFP. No change is contemplated.
43	2.2	It is requested that Bid Security be allowed to be submitted in the form of Bank Guarantee and the format for the same may be shared. Please clarify validity period for same.	Please refer to RFP. No change is contemplated.
44	2.20.4, 2.28 (LOA), 2.30	We believe upon being selected both the parties should have a right to negotiate and agree upon the final contractual terms. Accordingly, if both the parties are not able to reach an agreement then either parties should be allowed to walk away from the negotiations without any repercussions. Accordingly, request you to kindly remove reference to these two clauses.	Please refer to RFP. No change is contemplated.
45	2.2	Can Company 8 Provide Bid Security in the form of Bank Guarantee since a demand draft validity is only for a period of 3 months ? If Yes then we request NITI Aayog to accept the same in Company 8 Standard format of Bid Security. Also, please confirm the validity period of the bid security.	Please refer to RFP. No change is contemplated.
46	2.21.2	As per NITI Aayog what is deemed as 'Agreement Value' only the project related costs or also includes 'additional costs'?	Please refer to RFP. No change is contemplated.
47	2.21.2	We seek clarification whether consultant is required to submit either 5% performance BG or 5% of amount shall be retained from the amount payable to consultant or Both. We request that instead of deducting 5% amount for performance of the contract, NITI Aayog may take performance Bank Guarantee in lieu of that and payment be released to bidder as per contract payment terms.	Please refer to RFP. No change is contemplated.
48	2.21	While we are in principle agreement with this clause we hope will be provided with an opportunity to cure/remedy any breach within a reasonable period beyond which the PBG may be forfeited. Separately, we presume that forfeiture of PBG will only be invoked after the customer has exhausted all other rights provided under the Contract and to the extend there are any specific penalties already available in case of a breach PBG will not be invoked over and above such penalties. Kindly confirm.	Please refer to RFP. No change is contemplated.
49	2.21	Standard PBG provided by Company 8 is for 36 months extendable per requirement of client on completion of 3 years, Company 8 shall extend the guarantee within 30 days of the expiry of the bank guarantee for the period as required. Please confirm.	Please refer to RFP. No change is contemplated.
50	2.24.1	For applicants who have not purchased the RFP, the clarifications asked by NITI Aayog will be sent by email to	Please refer to RFP. No

		the designated person from Company 1?	change is contemplated.
51	2.23	Consultant presumes that upon being shortlisted both the Parties will sign a mutual non-disclosure agreement.	Please refer to RFP. No change is contemplated.
52	2.25	We presume this will also include any negotiations with respect to the contractual terms (final contract) as well. Please confirm.	Please refer to RFP. No change is contemplated.
53	2.26.1	Will NITI Aayog allow change of personnel due to reasons other than incapacity or health such as due to voluntary or involuntary resignation of the key personnel? Will the above-mentioned personnel changes due to resignation also attract the penalty as proposed in clause # 2.26.2 on # 26?	Please refer to RFP. No change is contemplated.
54	2.26.1	Provisions of 2.26 can be considered only if the engagement is on time and material and not otherwise. Further, grounds such as termination also needs to be included.	Please refer to RFP. No change is contemplated.
55	2.26.2 2.26.3	It is request that this provision be deleted and also, the associated penalties as mentioned in the clause.	Please refer to RFP. No change is contemplated.
56	2.26.2 2.26.3	While we are in principle agreement with this clause, we will kindly request you to do away with the penalty and termination provisions mentioned herein. Please note that it is our absolute intent to retain any Key Personnel/Project Director/Team Lead. However, to the extend such personnel were to be removed for health reasons or any other such compelling reasons we will request you to not hold the Consultant responsible for such scenarios. Instead, we propose that the penalties be made applicable if the Consultant is unable to provide a replacement with similar qualifications within a mutually agreed timeframe.	Please refer to RFP. No change is contemplated.
57	2.26.3	Will NITI Aayog allow change of Project Director & Team Leader due to incapacity or health issues or voluntary/involuntary resignation? Will the above-mentioned personnel changes due to incapacity, health issues, resignation also attract the penalty as proposed in clause # 2.26.2 on # 26?	Please refer to RFP. No change is contemplated.
58	2.27	Request you to kindly specify under what instances/situations will the indemnity clause apply i.e. what will be deemed to have caused any direct loss or damage to NITI Aayog? Also, please define the terms of deficiency of services.	Please refer to RFP. No change is contemplated.
59	2.27	We request that this provision be entirely deleted.	Please refer to RFP. No change is contemplated.
60	2.27	We will request you to limit applicability of indemnity only for any third-party claims with respect to IP breach, death and damage to tangible properties given that such third parties are barred by privity of contract from accessing the dispute resolution mechanism. However, as contracting parties both Authority and Consultant have access to contractually defined dispute resolution process and any claim of direct damages could be addressed via such dispute resolution process. Accordingly, we seek deletion of this clause as both the parties have contractual and legal rights to claim direct damages.	Please refer to RFP. No change is contemplated.

61	2.29	Request you to allow to raise deviations. Suggested clauses: The Purchase Committee would evaluate and classify them as “material deviation” or “nonmaterial deviation“. In case of material deviation, the committee may decide to “monetize” the value of the deviations, which will be added to the price bid submitted by the Bidder OR declare the bid as non-responsive. In case of non-material deviations, the deviations would form a part of the proposal & subsequent agreement. The Bidders would be informed in writing on the committee’s decision on the deviation, prior to the announcement of technical scores. The Bidders would not be allowed to withdraw the deviations submitted without the prior consent of the Purchaser.	Please refer to RFP. No change is contemplated.
62	2.29	Agreement needs to be based on mutually agreed terms and further, cannot be onerous and one sided.	Please refer to RFP. No change is contemplated.
63	2.31	Provisions needs to be subject to IPR provisions. This clause be entirely deleted and replaced with the Intellectual Property Rights provision as suggested in Additional Clauses (Point 2) below. (refer comments against clause 3.4)	Please refer to RFP. No change is contemplated.
64	2.31	Any data shared by the consultant for this RFP is Consultant’s confidential and proprietary data. Request you to kindly treat such information as Consultant information and return the information to the Consultant after the RFP process or contract expiry/termination whichever is later.	Please refer to RFP. No change is contemplated.
65	3.1.3	What is the distribution of the balance 70% score for both applicant and key personnel i.e. how much weightage is given to each sub-criterion?	Please refer to RFP. No change is contemplated.
66	3.1.3	We suggest to add segregation of marks for overall turnover, experience of the firm etc.	Please refer to RFP. No change is contemplated.
67	3.1.3	The marking for eligible projects is very subjective and relative to the bidder with highest number of assignments. No clear marking given on how many assignments will fetch how many marks, what turnover will fetch how many marks etc.	Please refer to RFP. No change is contemplated.
68	3.1.3	Request to please elaborate on the approach for awarding the remaining 70% marks for the eligible projects: How would the comparative size, quality and complexity of eligible assignments be interpreted? Does the clause “other relevant assignments or similar work in IT sector” allow the applicant to cite “non-eligible” projects? How would be such projects evaluated on a quantitative basis? Is there a cap on the number on noneligible projects that may be cited?	Please refer to RFP. No change is contemplated.
69	3.1.3	There is a very important clause in the RFP – the evaluation marks would be based on the profile of resources shared in the proposal. Hope named CVs are not expected reference CVs are mapped to NDAP requirements?	Please refer to RFP. No change is contemplated.
70	3	We suggest to add segregation of marks for clause (i), (ii).	Please refer to RFP. No change is contemplated.
71	2.14.9	Request to remove the forfeiture of the Bid Security amount provided under this clause.	Please refer to RFP. No change is contemplated.
72	3.1.6	1 TB of data is inclusive of structured and unstructured data? 500+ active users and 10,000 daily hits, is this only for the end user portal? Can this combination be split across multiple engagements?	Please refer to RFP. No change is contemplated.

73	3.1.6	Would the applicant be allowed to cite projects that are not executed for State/Central Government/PSUs in India? Would the applicant be allowed to cite projects that are not executed for State/Central Government/PSUs outside India? · Would the applicant be allowed to cite projects that have been executed by the bidding entity or its sister firms, outside India?	Please refer to RFP. No change is contemplated.
74	3.3.2	We request that Bid evaluation should be based on tax exclusive price.	Please refer to RFP. No change is contemplated.
75	2.16.7	The consultant wishes to clarify that any change in the scope of work as agreed in the RFP shall be subject to a change order mechanism and the parties will decide upon the rate for the additional piece of work under a relevant change order. Unless a Change request order has not been agreed between the Parties, the Consultant shall have no obligations to provide such additional services/scope.	Please refer to RFP. No change is contemplated.
76	4.2	While we are in principle agreement with this clause we will kindly request you to let an independent authority such as a court of law to determine any corrupt activities before initiating any actions. Request amendment of the clause accordingly.	Please refer to RFP. No change is contemplated.
77	2.20.4	Request to remove the forfeiture of Bid Security amount as provided under this clause.	Please refer to RFP. No change is contemplated.
78	5.2	We request that minimum of 4 person per organization be allowed which would cover associates from different domains.	Please refer to RFP. No change is contemplated.
79	6.3	Provision needs to be deleted and replaced with the Limitation of Liability provision as suggested in Additional Clauses below. Appendix 1 ,Form 1 ( 113-115) refer comments against clause - Appendix 1, Form 1.	Please refer to RFP. No change is contemplated.
80	6.2 & 6.4	As mentioned previously, any information shared by the Consultant needs to be treated as Consultant confidential or proprietary data and should be returned on request by the Consultant.	Please refer to RFP. No change is contemplated.
81	2.25.1	The Consultant wishes to clarify that, if the bid is awarded to Consultant, then during the negotiation the parties will discuss the deviations proposed by the Consultant along with its proposal document. The T&Cs of the RFP will not become applicable on the Consultant by default.	Please refer to RFP. No change is contemplated.
82	2.25.3	Request to remove the subjective satisfaction of Authority. The Parties will decide on the parameters for the appointment of Sub-Consultants during the contracting stage. For the appointment of Sub-Consultants, the Consultant will not seek the prior approval of Authority.	Please refer to RFP. No change is contemplated.
83	2.26	Request to remove the clause in its entirety. These are output based services and not capacity based services. The Consultant remains responsible for performance of Services under the contract and adheres to the specifications and SLAs agreed between the parties. The right to appoint, retain or replace shall at all times remain with the Consultant.	Please refer to RFP. No change is contemplated.
84	2.27	Request to remove this clause. Consultant has proposed a separate liability cap of the parties under clause 3.4 of 78 of RFP.	Please refer to RFP. No change is contemplated.
85	2.28	Request to remove the clause in entirety. Parties need to negotiate and mutually agree to the terms of the contract	Please refer to RFP.



		governing the required services. Parties need to negotiate and agree to the terms of LOA and once the terms are agreed, both parties shall within reasonable time, execute the required documents.	No change is contemplated.
86	2.29	Request to remove the clause in entirety, as it may not be administratively possible to execute the Contract within the limited 10 days' time period. Further, the Applicant wishes to clarify that at the time of negotiation for the definitive contract, the Applicant will have the right to negotiate on the deviations that will be submitted along with the Bid proposal document.	Please refer to RFP. No change is contemplated.
87	2.3	Request to remove the last two sentences of this clause. The Applicant wishes to clarify that the Parties would require adequate time to negotiate and agree on the terms of the definitive contract. It may not be administratively feasible to commence the services or execute the Agreement within the stringent timeline suggested under this RFP. Also, the forfeiture of Bid Security would be harsh punishment on Applicant for failing to meet the stringent timeline.	Please refer to RFP. No change is contemplated.
88	2.31	Applicant wishes to clarify that any document submitted by it in pursuance to this Bidding process will remain Applicant's property as they are Applicant's work product. Applicant has proposed a separate IP provision in regard to the ownership of deliverables created while providing the actual services under clause 3.9 of 81 of RFP. Further, the Authority will also maintain confidentiality of all the information that is submitted by Applicant as part of the bidding process.	Please refer to RFP. No change is contemplated.
89	6.3	Request to remove this clause. Applicant cannot agree to waive any of its rights which are available under applicable law.	Please refer to RFP. No change is contemplated.
90	6.4	Applicant wishes to clarify that any document submitted by it in pursuance to this Bidding process will remain Applicant's property as they are Applicant's work product. Further, the Authority will also maintain confidentiality of all the information that is submitted by Applicant as part of the bidding process.	Please refer to RFP. No change is contemplated.
91	7.1	Qualifications of consultant personnel - you refer to B.Tech or equivalent. What is considered equivalent? For instance we have some data scientists with an MSc in Statistics. Would that be OK?	Please refer to RFP. No change is contemplated.
92	7.2	You refer to - The Consultant shall establish a Project Office at a suitable location in the National Capital Region, for efficient and coordinated performance of its Services. The authorised officials of the Authority may visit the Consultant's Project Office any time during office hours for inspection and interaction with the Consultant's Personnel. It is not expected of the Consultant to carry out the operations from the Head/Home Office. - can consultant work out of their offices in NCR not specifically set up for this?	Please refer to RFP. No change is contemplated.
93	3.5	We need clarity on this clause ? Insurance is required for what components ? We request this clause be deleted.	Please refer to RFP. No change is contemplated.
94	1.1.1 (d) , 3.1.4	It is our understanding that for the purpose of this clause, either Party's obligation will only be with respect to their individual stream of business and no further. For instance, Consultant will e required to be bound by all laws applicable to it by the virtue of being a IT Service provider and no further.	Please refer to RFP. No change is contemplated.

95	Schedule - 2	The Consultant wishes to clarify that if the RFP is awarded to Consultant, then the TOR and the Consultancy and Service Agreement to be executed between the parties will be subject to negotiation of the deviations proposed by the Consultant along with its proposal document.	Please refer to RFP. No change is contemplated.
96	1.1.2	While we are in principle agreement with this clause we will kindly request you to also add our Proposal to be part of the contracting document.	Please refer to RFP. No change is contemplated.
97	1.4	We presume the Authority's HQ is New Delhi and for the same reasons for Courts of New Delhi will have the exclusive jurisdiction.	Please refer to RFP. No change is contemplated.
98	1.1.2	Request to remove the reference of RFP and LOA from the list. The parties will include the entire understanding of the services to be provided and the relevant terms and conditions in the definitive agreement that will be executed by the parties.	Please refer to RFP. No change is contemplated.
99	1.4	Consultant proposes Arbitration instead of litigation as provided in the Clause 9.4 of 89 of RFP.	Please refer to RFP. No change is contemplated.
100	1.11	The Consultant's pricing is exclusive of taxes. Authority needs to be responsible for such taxes.	Please refer to RFP. No change is contemplated.
101	Expiry of Agreement	Please clarify this point, is the overall engagement 5yrs or 6 years? What is the 90 days period after completion of agreement?	Please refer to RFP. No change is contemplated.
102	2.5.2	Request to kindly add Consultant Proposal as well.	Please refer to RFP. No change is contemplated.
103	2.3	Request to remove the clause, as it may not be administratively possible to commence the services within the stringent time line proposed. Request to remove the clause, as it may not be administratively possible to commence the services within the stringent time line proposed.	Please refer to RFP. No change is contemplated.
104	2.5	Request to remove the provision clause of 2.5.1 and clause 2.5.2 in entirety. The parties will include the entire understanding of the services to be provided and the relevant terms and conditions in the definitive agreement executed by the Parties.	Please refer to RFP. No change is contemplated.
105	2.8	We suggest to have at least of 60 days to cure any breach before suspension.	Please refer to RFP. No change is contemplated.
106	2.8	We suggest that Suspension of payments needs to be restricted with respect to unperformed obligations only and not otherwise.	Please refer to RFP. No change is contemplated.
107	2.8	Bidder request any suspension of payment shall be mutually discussed and suspension amount should be limited to area of dispute.	Please refer to RFP. No change is contemplated.
108	2.8	Request deletion of this clause. Instead, we would request you to refer to the dispute resolution forum to settle the dispute. However, if Suspension clause were to persist, we would request you to kindly apply suspension based on the following principles: a) Suspension will be applicable only in case of any defaults solely and directly attributable to the Consultant	Please refer to RFP. No change is contemplated.

		b) Suspension shall be applicable only for a fixed period from the date of failure of the Consultant to cure the default c) Suspension of payment would mean holding back only 5% of the payables and not further.	
109	2.8	Request to remove the clause as it's vague.	Please refer to RFP. No change is contemplated.
110	2.9.1	We request this clause to applied for material breach.	Please refer to RFP. No change is contemplated.
111	2.9	Bidder requests 90 days notice for termination for convenience, refer point (g).	Please refer to RFP. No change is contemplated.
112	2.9	Request to remove the clause 2.91 in entirety and replace it with the following understanding: Any termination for cause by either Party will (a) be based on material non-compliance (b) be based on a written notice which provides reasons for the termination and(c) a cure period of not less than 120 days during which the defaulting Party may remedy the material non-compliance. In the event of a Force Majeure event, the affected party may terminate the Agreement if the Force Majeure event continues for more than 30 days.	Please refer to RFP. No change is contemplated.
113	2.9.1	Request you to kindly provide more clarity on Sub clause (d) provided herein. IF this is pertaining to any false statements issued by the Consultant then the same has been captured in sub clause (e ). As for sub clause (g), this is a case of termination for convenience and we would request you to provide a notice of not less than 120 days along with any termination fees as may be agreed between the Parties.	Please refer to RFP. No change is contemplated.
114	2.9.1(g)	2.9.1(g) should be deleted. This clause is one sided.	Please refer to RFP. No change is contemplated.
115	2.9.3	Request to remove point (iii) from the clause 2.9.3. Also, Consultant wishes to clarify that the confidentiality obligation will survive the termination or expiration of the Agreement for a period of two years.	Please refer to RFP. No change is contemplated.
116	2.9.5	"Offsetting if any needs to be with respect to undisputed amounts and not otherwise. Words like 'satisfactory' are vague and needs to be deleted."	Please refer to RFP. No change is contemplated.
117	2.9.5	Bidder request termination charges should include all work performed up to the date of termination, balance sheet exposure due to DBOT model, and winding down charges. If termination happens pre-go live, payment should be prorate basis work performed for development phase, post go live, full payment for development phase. Formula towards termination payment should be mutually agreed.	Please refer to RFP. No change is contemplated.
118	2.9.5	Request removal of reference to the term "satisfactorily" from the clause. The term satisfactorily is very subjective. All services are to be rendered as per the terms of the agreement.	Please refer to RFP. No change is contemplated.
119	2.9.5	Request to remove the clause 2.9.5 in entirety. Upon termination Consultant shall be paid for following: a) deliverables in progress,	Please refer to RFP. No change is contemplated.

		<p>b) expenses incurred by Consultant prior to the date of termination and</p> <p>c) for any out-of-pocket demobilization or other direct costs resulting from such early termination (not applicable when Authority terminated for Consultant's material breach).</p> <p>(d) termination fees to cover the investments already made by the Consultant (not applicable when Authority terminated for Consultant's material breach).</p>	
120	3.1.1	<p>Consultant proposes the alternate standard for performance of services which is easy to track: Services will be performed in a good and workmanlike manner with reasonable skill and care. Request for deletion of the clause and replace with the language provided above.</p>	Please refer to RFP. No change is contemplated.
121	3.2.2	This provision needs to be deleted. In any case this cannot extend to Affiliated.	Please refer to RFP. No change is contemplated.
122	3.3	This provision on confidential information needs to be mutual. Further, in addition to other exceptions it also needs to be include exception on independent development.	Please refer to RFP. No change is contemplated.
123	3.2.2	Request you to kindly provide more clarity on this clause. Is the intent of this clause to prevent the Consultant, its Sub-Consultant and Sub-Consultant's Sub consultant from participating in any future opportunities arising from this opportunity? IF yes, how will that be an incident of conflict of interest? Also, why is the applicability extended to post termination period as well.	Please refer to RFP. No change is contemplated.
124	3.2.3	Kindly confirm the reasons for extending applicability of this clause beyond termination. Request deletion of the same. Also the said clause in its present form is too generic and could prevent a company of Consultants size and reach in the market to take up similar assignments with other entities.	Please refer to RFP. No change is contemplated.
125	3.1.2	The Consultant wishes to clarify that if the RFP is awarded to Consultant, then the TOR and the Consultancy and Service Agreement executed between the parties will be subject to the negotiation of the deviations proposed by the Consultant along with its proposal document. Further, subject to Authority or any 3rd party appointed by the Authority fulfilling its obligations under the definitive agreement, the Consultant shall provide the Deliverables specified therein in conformity with the time schedule mutually agreed between the Parties under the Definitive Agreement.	Please refer to RFP. No change is contemplated.

126	3.1.3	<p>Consultant requests to remove the SLAs. The parties will decide upon the SLA terms at the time of contracting if the RFP is awarded to Consultant. However, at a minimum, the SLA provision should address the following issues:</p> <p>Parties will also agree upon a baselining period during which no service levels will be applicable.</p> <p>Authority's rights to any penalties agreed to be paid or payable by Consultant for default of agreed service levels under relevant Statement of Work shall be counted towards overall liability limits of Consultant under this Agreement. Also such penalties, if any, agreed under an applicable Statement of Work for default of agreed service levels will be sole and exclusive liability of Authority. Parties will also agree on a mechanism for earn-back of the service level credits or penalties under each such applicable Statement of Work. Any change or new service level will be mutually agreed by the Parties, not more than once under an applicable Statement of Work, as part of change request. For any changed or new service level there will be a minimum of 3 months of baselining during which such changed or new service levels will not be applicable. Parties agree that there will be an overall cap on the service level credits or penalties [not to be greater than 5% of] the quarterly fees payable to Consultant. Service levels will be measured on quarterly basis. If a single incident results in the failure of Consultant to meet more than one service level, Authority shall select only one of such service level defaults for which Authority shall receive a service level credit, and the resulting multiple service level defaults shall only be considered as a single service level default for purposes of calculation of penalty.</p>	Please refer to RFP. No change is contemplated.
127	3.1.3	Consultant wishes to clarify that it will be liable to abide by only those laws which are applicable on it as a provider of services.	Please refer to RFP. No change is contemplated.
128	3.2.2	Request to remove this clause as it will restrict Consultant's ability to continue with the business.	Please refer to RFP. No change is contemplated.
129	3.2.3	Request to remove this clause in entirety.	Please refer to RFP. No change is contemplated.
130	3.2.4	While we were in principle agreement with this clause, we will kindly request you to amend the clause to suggest that any determination of prohibited practices needs to be made by an arbitrator or court of competent jurisdiction.	Please refer to RFP. No change is contemplated.
131	3.2.4	Consultant has alliance relationships with third party product and services vendors. As part of many such relationships, Consultant is able to resell certain products and services and/or may receive compensation from vendors in the form of fees or other benefits in connection with the marketing, technical and other assistance provided by Consultant.	Please refer to RFP. No change is contemplated.
132	3.2.5	<p>Consultant wishes to clarify that the termination of the Agreement for indulging in prohibited Practices, will not be subject to unilateral determination of Authority. Consultant will have the right to dispute such determination and until such dispute is resolved in accordance with the Disputes resolution mechanism provided under the definitive agreement, the Agreement will not be terminated.</p> <p>Request to remove the forfeiture of Performance security in the last sentence of the clause.</p>	Please refer to RFP. No change is contemplated.
133	3.3	Request you to kindly make this clause mutual as Consultant's confidential information are also required to be	Please refer to RFP. No

		protected.	change is contemplated.
134	3.3	Request to make this clause mutual as Consultant will also be disclosing confidential information while providing the services.	Please refer to RFP. No change is contemplated.
135	3.4	<p>This clause be entirely deleted and replaced with the Limitation of Liability provision as suggested in Additional Clauses below.</p> <p>1. Limitations of Liability</p> <p>(A) Neither party shall be liable to the other for any special, indirect, incidental, consequential (including loss of profit or revenue), exemplary or punitive damages whether in contract, tort or other theories of law, even if such party has been advised of the possibility of such damages.</p> <p>(B) The total cumulative liability of either party arising from or relating to the Agreement shall not exceed the amount paid to the Consultant by the Authority under the Agreement in the six (6) months period immediately preceding the date such liability arose.</p> <p>(C) The Consultant shall be excused and not be liable or responsible for any delay or failure to perform the services or failure of the services or a deliverable or plant under the Agreement to the extent that such delay or failure has arisen as a result of any delay or failure by the Authority or its employees or agents or third party service providers to perform any of its duties and obligations. In the event that the Consultant is delayed or prevented from performing its obligations due to such failure or delay on the part of or on behalf of the Authority, then the Consultant shall be allowed an additional period of time to perform its obligations and unless otherwise agreed the additional period shall be equal to the amount of time for which the Consultant is delayed or prevented from performing its obligations due to such failure or delay on the part of or on behalf of the Authority. Such failures or delays shall be brought to the notice of the Authority and subject to mutual agreement (including on commercials) with the Authority, the Consultant shall take such actions as may be necessary to correct or remedy the failures or delays."</p>	Please refer to RFP. No change is contemplated.
136	3.4	<p>Request to make the following amendments:</p> <p>a) For clause. 3.4.2 request to limit liability only for any direct damages accrued and not extend the same to any likely damages.</p> <p>b) Kindly confirm if the purpose of clause. 3.4.3 is only meant for limiting Consultants liability with respect to damages arising from damage to Authority's property.</p> <p>c) Request you to kindly clarify sub clause 3.4.3 (ii) &gt; Would it be safe to assume that this clause is suggesting that Consultant is not liable to the Authority for any direct loss or damage caused that exceeds contract value or the proceeds that Consultant may be entitled to from any insurance maintained by the Consultant whichever is higher.</p> <p>d) clause. 3.4.4 : Request you to kindly amend the clause to limit all of Consultants liability under this agreement including third party claims to the total contract value. As per the current clause liability is limited only for third party claims and that too 3 times the contract value and as for Consultants liability towards the Authority against any claims arising under this agreement is concerned there currently is no liability cap. Please confirm.</p>	Please refer to RFP. No change is contemplated.

		<p>e) Separately, while we are in principle agreement to be liable for third party claims we would request to identify such third party claims . Accordingly, we would like to propose the following instances when Consultant will be liable for third party claims:</p> <p>(i) Third party claims against any IP breaches</p> <p>(ii) Third party claims arising from death</p> <p>(iii) Third party claims arising from damage to tangible properties.</p>	
137	3.4	Request client to cap the overall liability arising of the contract to 10% of the TCV.	Please refer to RFP. No change is contemplated.
138	3.4	Request you to amend the clause as: 3.4.4 This limitation of liability specified in Clause 3.4.3 shall not affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services subject, however, to a limit equal to the Agreement Value.	Please refer to RFP. No change is contemplated.
144	3.4	<p>Request to remove the liability clause proposed in the RFP in entirety. Consultant proposes the alternate liability arrangement for both the parties:</p> <p>Consultant's aggregate liability (whether in contract, tort (including, without limitation, negligence or breach of statutory duty), under an indemnity or otherwise howsoever arising to Authority concerning performance or non-performance by Consultant, or in any manner related to this Agreement, for any and all claims, shall be limited to an amount equal to 100% of the charges paid to Consultant under this Agreement during the two (2) month period immediately preceding the first event giving rise to the claim.</p> <p>In no event shall either party be liable (whether in contract, tort (including, without limitation, negligence or breach of statutory duty), under an indemnity or otherwise howsoever arising) for loss of revenues, loss of goodwill or reputation, loss of anticipated savings, loss of competitive advantage, or for any special, indirect, incidental, punitive or consequential loss, damage, cost or expense</p>	Please refer to RFP. No change is contemplated.
145	3.4.4	We suggest to cap on LOL should be reduce to 10% of the total contract value. This limitation of liability specified in Clause 3.4.3 shall not affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services subject, however, to a limit equal to maximum of 10% of contract value. Kindly revise the consultant's liability, to be limited to the Agreement value.	Please refer to RFP. No change is contemplated
146	3.5	This provision should to be entirely deleted.	Please refer to RFP. No change is contemplated.
147	3.5	Please note that Consultant has a global insurance policy. Kindly confirm if it would be sufficient if were to provide an undertaking to suggest that Consultant has requisite insurance policies to undertake Services required to be performed under this Agreement.	Please refer to RFP. No change is contemplated.
148	3.5	Request to remove the insurance clause proposed in the RFP in entirety. Each party will determine the types and amounts of insurance coverage it requires in connection with this	Please refer to RFP. No change is contemplated.

		Agreement. Neither party is required to obtain insurance for the benefit of the other party, nor each party shall pay all costs and receive all benefits under policies arranged by it. Each party waives rights of subrogation it may otherwise have regarding the other party's insurance policies, including but not limited to property insurance, business interruption insurance, and other first-party insurance.	
149	3.6	This provision needs to include the following: Inspection/ audit, if any, needs to be conducted during normal working hours and upon reasonable advance written notice to the selected bidder. The Authority and its representatives will: (I) comply with Consultant's reasonable security and confidentiality requirements when accessing locations, facilities or other resources owned or controlled by selected bidder; and (ii) cooperate with selected bidder to minimize any disruption to Consultant's business activities. In no case shall selected Consultant be required to disclose any internal commercial information or data of Consultant including profit margins, mark ups etc. Note: Reference to basis of Consultant's charges and costs needs to be removed.	Please refer to RFP. No change is contemplated.
150	3.7	Subcontracting will be with prior approval, which approval shall not be unreasonably delayed or withheld. All other provisions should be deleted from this section.	Please refer to RFP. No change is contemplated.
151	3.6	Bidder seeks deviations to this clause to exclude internal cost and price information being shared, which are confidential from bidders perspective.	Please refer to RFP. No change is contemplated.
152	3.6	While we are in principle agreement with this clause, it is our understanding that Consultant's pricing details, proprietary and confidential information and Consultants' other Customer's information are out of scope of such audit. Separately, audit shall be limited to once a calendar year and will be conducted pursuant to sufficient notice without hampering Consultants business and subject to confidentiality agreement being signed by the Authority or its representatives.	Please refer to RFP. No change is contemplated.
153	3.7	Please note that it may be difficult to run past the terms of the sub-contract agreement with the Authority due to confidentiality as we as for instances where sub-consultants would already be having an agreement with the Consultants. Additionally, Authority is already protected by the fact that Consultant is taking the responsibility for the services rendered by any of the sub—consultants.	Please refer to RFP. No change is contemplated.
154	3.6	Consultant wishes to clarify that any audit and inspection will be subject to the guidelines proposed below against Clause 3.11 of 82 of RFP.	Please refer to RFP. No change is contemplated.
155	3.7	Request to remove the prior approval obligation as proposed under this clause. Consultant is willing to share the identity of personnel and Sub-Consultants with the Authority.	Please refer to RFP. No change is contemplated.
156	3.9	This clause be entirely deleted and replaced with the Intellectual Property Rights provision as suggested in Additional Clauses below. 2. Intellectual Property Rights Subject to the other provisions contained in this Clause, the Consultant agrees that all deliverables created or developed by the Consultant specifically for the Authority, together with any associated copyright and other	Please refer to Addendum.



		<p>intellectual property rights, shall be the sole and exclusive property of the Authority provided all the payments due to the Consultant for the deliverables rendered under this Agreement have already been paid by the Authority to the Consultant.</p> <p>The Authority acknowledges that in performing services under this Agreement, the Consultant may use Consultant’s proprietary materials including without limitation any software (or any part or component thereof), tools, methodology, processes, ideas, know-how and technology that are or were developed or owned by the Consultant prior to or independent of the services performed hereunder or any improvements, enhancements, modifications or customization made thereto as part of or in the course of performing the services hereunder, (“the Consultant Pre-Existing IP”). Notwithstanding anything to the contrary contained in this Agreement, the Consultant shall continue to retain all the ownership, the rights title and interests to all the Consultant Pre-Existing IP and nothing contained herein shall be construed as preventing or restricting the Consultant from using the Consultant Pre-Existing IP in any manner. To the extent that any the Consultant Pre-Existing IP or a portion thereof is incorporated or contained in a deliverable under this Agreement, the Consultant hereby grants to the Authority a non-exclusive, perpetual, royalty free, fully paid up, irrevocable license, with the right to sublicense through multiple tiers, to use, copy, install, perform, display, modify and create derivative works of any such Consultant Pre-Existing IP in connection with the deliverables and only as part of the deliverables in which they are incorporated or embedded. The foregoing license does not authorizes the Authority to (a) separate Consultant Pre-Existing IP from the deliverable in which they are incorporated for creating a standalone product for marketing to others; (b) independently sell, lease, exchange, license, sub license, assign or in any other way convey, transfer or alienate the Consultant Pre-Existing IP in favour of any person, and/or (c) reverse compile or in any other way arrive at or attempt to arrive at the source code of the Supplier Pre-Existing IP.</p> <p>All the intellectual property rights in the third party software used in providing services including those forming part of or incorporated into the deliverables shall remain with the respective third party the Authority’s/ the Consultant’s licensor and to the extent required for the purposes specified in the Agreement the Authority shall have user rights in accordance with license agreement (EULA) as applicable for use of such software.</p> <p>Each Party shall be entitled to use in the normal course of its business and in providing same or similar services or development of similar deliverables for its other clients, the general knowledge and experience gained and retained in the unaided human memory of its personnel in the performance of the Agreement. For the purposes of clarity the Consultant’s shall be free to provide any services or design any deliverable(s) that perform functions same or similar to the deliverables provided under the Agreement for the Authority, for any other client of the Consultant. Nothing contained herein shall relieve either party of its confidentiality obligations with respect to the proprietary and confidential information or material of the other party.</p> <p>The Authority warrants that the materials provided by the Authority to Consultant are duly owned or licensed by the Authority.</p>	
157	3.9	<p>Request to remove the Clause 3.9 in entirety</p> <p>Consultant proposes the following alternate arrangement for the ownership and license of IP:</p>	<p>Please refer to Addendum.</p>

As between the parties, Authority will own the Intellectual Property owned by Authority or its Affiliates before the Effective Date or acquired by the Authority or its Affiliates after the Effective Date (“Authority-Owned Intellectual Property”). Any derivatives, modifications, enhancements or improvements to the Authority-Owned Intellectual Property developed by Consultant in connection with this Agreement (“Consultant Enhancements”) will be owned by Authority.

As between the parties, Consultant will own the Intellectual Property (i) owned by Consultant or its Affiliates before the Effective Date or (ii) developed by Consultant or its Affiliates other than pursuant to this Agreement or any other agreement with Authority (collectively the “Consultant-Owned Intellectual Property”). Any derivatives, modifications, enhancements or improvements to the Consultant-Owned Intellectual Property developed by Consultant will be owned by Consultant.

To the extent Consultant incorporates or embeds Consultant-Owned Intellectual Property into any Work Product, then the following provisions will apply:

Consultant will grant to Authority a non-exclusive, non-transferable, worldwide, royalty-free, perpetual license to use, maintain, modify, enhance and create derivative works of such embedded Consultant-Owned Intellectual Property to the extent necessary to use or maintain such Work Product for Authority’s internal business purposes and solely as used in such Work Product and not as a “stand-alone” product or separately from such Work Product in which it is embedded. Consultant will not be deemed to have transferred or assigned any other rights to Authority with respect to any such embedded Consultant-Owned Intellectual Property.

Notwithstanding such license, Consultant will be the sole and exclusive owner of any modifications, enhancements and improvements to, or derivatives of, any such embedded Consultant-Owned Intellectual Property made by Authority or its contractors pursuant to the above license. Authority hereby assigns to Consultant without further consideration Authority’s rights in and to any such modifications, enhancements and improvements and the same will be deemed part of the license granted to Authority pursuant above.

The Parties shall cooperate with each other and execute such other documents as may be necessary or appropriate to achieve the objectives of this Clause

In the course of performance hereunder, Consultant may use or develop products, materials, tools, formats, templates and methodologies that are proprietary to Consultant or to third parties (“Proprietary Items”). As between Authority and Consultant, Proprietary Items will be deemed Confidential Information of Consultant. Proprietary items, if any, shall be designated as such by mutual agreement between the parties before their use. Authority shall have or obtain no rights in any Proprietary Items (or in any modifications or enhancements to them) other than (i) to use them as authorised by Consultant in writing from time to time solely for purposes of performing Authority Responsibilities, (ii) to the extent the Proprietary Items are incorporated into a Deliverable, to use them as part of the Deliverable for purposes of Authority’s internal business only, or (iii) pursuant to Consultant's standard license for such Proprietary Items or, in the case of Proprietary Items owned by third parties, pursuant to terms acceptable to the applicable third party

If Proprietary Items are made available to Authority as above, they will be made available on the basis of “sold as

seen” and all express or implied warranties of any kind in relation to those Proprietary Items are hereby excluded to the fullest extent permitted by law

If Proprietary Items are made available as per above, those Proprietary Items shall be subject only to applicable terms of the applicable licence and all other warranties whether express or implied are hereby excluded to the fullest extent permitted by law.

Consultant proposes the following Indemnity for IP infringement.

Consultant shall indemnify for events mentioned above, provided Authority complies with the following:

- (i) notifies the Consultant in writing as soon as practicable when Authority becomes aware of the claim; and
- (ii) Cooperates with the Consultant in the defense and settlement of the claims.

However, (i) the Consultant has sole control of the defense and all related settlement negotiations (ii) Authority provides the Consultant with the assistance, information and authority reasonably necessary to perform the above and (iii) Authority does not make any statements or comments or representations about the claim without the prior written consent of the Consultant, except where Authority is required by any authority/regulator to make a comment / statement / representation.

If any item provided by a party is, or in the Indemnifying Party's reasonable opinion is likely to be, held to be infringing, the Indemnifying Party shall at its expense and option either (a) procure the right for the Indemnified Party to continue using it, (b) replace it with a non-infringing equivalent, (c) modify it to make it non-infringing provided that such replacement or modification does not result in a degradation of the performance or quality of the Services or Deliverable. If such option is not available on commercially reasonable terms, the Indemnifying Party will so notify the Indemnified Party who will cease use of such item and return it to the Indemnifying Party, and the parties will equitably adjust the charges to reflect the added expenses or discontinuation of Services. In such event the parties will seek to establish mutually acceptable alternative arrangements and to make any appropriate adjustments to their respective obligations under this Agreement though the execution of a Change Request.

The Indemnifying Party will not indemnify the Indemnified Party, however, to the extent the claim of infringement is caused by (i) the Indemnified Party 's misuse or modification of the item; (ii) a party's failure to use corrections or enhancements made available by the other party; (iii) use of the item in combination with any product or information not owned or developed by the Indemnifying Party and where such combination was not within the reasonable contemplation of the parties given the intended use of the item (iv) the Indemnified Party 's distribution, marketing or use for the benefit of third parties (other than to provide Services to the Client hereunder) of an item; (v) information, direction, specification, software or materials provided by the Indemnified Party or any third party not under the Indemnifying Party’s direction; or (vi) use of an item other than in accordance with the applicable license.”

Consultant will not be procuring any hardware and software on behalf of Authority. Procurement of Hardware and Software will be on the basis of resale model, as outlined in clause 1.1.2 of 3 of RFP response, wherein Authority will execute EULA directly with the OEMs for the procurement of required software and hardware.

158	3.1	Insurance provision be deleted from this section.	Please refer to RFP. No change is contemplated.
159	3.1	Request deletion of the highlighted part marked in bold. Please refer to the our comment in the insurance section.	Please refer to RFP. No change is contemplated.
160	3.1	Request to remove the insurance requirement in the last sentence. As the equipment is owned by the Authority, Authority shall take appropriate insurance against any damage to the equipment.	Please refer to RFP. No change is contemplated.
161	3.11	Request to remove the insurance requirement in the last sentence. As the equipment is owned by the Authority, Authority shall take appropriate insurance against any damage to the equipment.	Please refer to RFP. No change is contemplated.
162	4.2.3	Is there to be no payment under this criterion? or the payment under this criterion should just be less than 'Agreement Value'?	Please refer to RFP. No change is contemplated.
163	3.11	Any inspection and verification under this provisions needs to be subject to provisions in 3.6 above.	Please refer to RFP. No change is contemplated.
164	3.12	Words like inaccuracy are vague and needs to be avoided. This provision be entirely deleted.	Please refer to RFP. No change is contemplated.
165	3.12	While we are in principle agreement with clause we will not be in a position to indemnify the Authority for reasons specified herein. Authority already has the right to seek direct damages under the Contract and we are in absolute agreement with the same. Additionally, Authority also has the right to refer the matter to dispute in case of any such incident. For the same reasons we will kindly request you to remove reference to indemnity as provided under this clause. Separately, please also note that there is high amount of reliance on Authority for the Consultant to provided services envisaged under this agreement including relying on any data provided by the Authority. While the RFP clearly suggests that Authority will not be responsible for the veracity of the data shared with the Consultant then consultant should be having an obligation to indemnify the customer in case of any situation where the due diligence has gone wrong.	Please refer to RFP. No change is contemplated.
166	3.11	Consultant wishes to clarify that audit and inspection will be subject to the following guidelines: The physical copy of records pertaining and maintained by the Consultant relating to this Contract only shall be available to the Authority for conducting audit during validity of this Contract. Authority will provide fourteen (14) days' prior written notice of its intention to conduct such an audit. Authority will conduct such audits in a manner that will result in minimal disruption to Consultant's business operations and subject to confidential obligations agreed at that stage. Audits shall be conducted only during normal business hours and working days of Consultant and that too once annually. Audit shall be conducted by Authority employees only and such third parties, which are mutually agreed (except for Consultant's competitors), subject to agreeing confidentiality provisions with us and will not involve intrusive testing of Consultant systems or IT environment. Authority will not be entitled to audit (i) data or information of other customers of Consultant; (ii) any cost information unless such is the basis of a reimbursable expense; (iii) Consultant quality assurance reviews and contract management reports; or (iv) any other Confidential Information of Consultant that is not directly relevant for the authorized	Please refer to RFP. No change is contemplated.

		purposes of the	
167	3.12	Request to remove the indemnity included in this clause. Consultant wishes to clarify that it will not be responsible for any error caused due to Consultant or Consultant appointed vendors/agencies, hardware and software OEMS.	Please refer to RFP. No change is contemplated.
168	4.2	Request to remove this clause in entirety. This is an output based service and not a service of personal capacity. Consultant will be responsible to adhere to the specifications and SLAs agreed between the parties. Consultant should have the flexibility to employ personnel of its choice.	Please refer to RFP. No change is contemplated.
169	4.3	This provision be applied only if the engagement is on time and material basis and not otherwise.	Please refer to RFP. No change is contemplated.
170	4.4	Substitution of key personnel be allowed to cater to situations such as illness, disability, death, resignation, termination etc. Further, provision on reduction needs to be deleted.	Please refer to RFP. No change is contemplated.
171	4.4	There is no specific payment for the key personnel. Bidder requests removing the penalties on the resource substitution since the contract is for 5 years and resources can move out of the project for various reasons. The bidder must have flexibility on this count, to the extent that the new resource is of similar caliber and experience as the outgoing resource.	Please refer to RFP. No change is contemplated.
172	4.4	Request to remove the clause in its entirety. These are output based services and not capacity based services. The Consultant remains responsible for performance of Services under the contract and adheres to the specifications and SLAs agreed between the parties. The right to appoint, retain or replace shall at all times remain with the Consultant.	Please refer to RFP. No change is contemplated.
173	4.7	Approval referred shall not be unreasonably delayed or withheld.	Please refer to RFP. No change is contemplated.
174	5.3	2% reference be deleted. Any increase or decrease in taxes shall be the Authority's responsibility.	Please refer to RFP. No change is contemplated.
175	5	It is our understanding that Authority will promptly obtain and provide to Consultant all required consents necessary for Consultant to provide the Services described in this RFP including any consents or approvals required to give Consultant the right or license to access, use and/or modify (including creating derivative works) the hardware, software, firmware and other products Authority uses, without infringing the ownership or license rights (including patent and copyright) of the providers or owners of such products. Please confirm. Separately, we will kindly request you to defend and hold the Consultant harmless from and against any and all claims, losses, liabilities and damages directly arising from or in connection with any claims (including patent and copyright infringement) made against the Consultant as a result of Authority's failure to provide any consents as mentioned above to the Consultant. We will also kindly request to relieve the Consultant of the performance of any obligations that may be affected by Authority's failure to promptly provide any such consents.	Please refer to RFP. No change is contemplated.
176	5.3	Any change in statutory levies /taxed rate will be borne by NITI Aayog.	Please refer to RFP. No change is contemplated.

177	5.3	If tax rate change is less than 2 % then will Finalised bidder be reimbursed the increased cost?	Please refer to RFP. No change is contemplated.
178	4.7	The Consultant wishes to clarify that as it will be liable for the acts of its subcontractors, therefore, the appointment of Sub-Consultants shouldn't be dependent on the consent of Authority. However, Consultant is willing to inform the Authority of the identity of the subcontractor before they are engaged in the project.	Please refer to RFP. No change is contemplated.
179	6.3	As a bidder request complete development phase payments (i.e. 60% of Agreement Value) to be released with Go live of the project , so pls. modify the payment schedule for development phase.	Please refer to RFP. No change is contemplated.
180	7.1.1	Is performance security in form of withheld payment OR is it to be deposited explicitly by the consultant?	Please refer to RFP. No change is contemplated.
181	7	<p>Clause. 7.1: Performance Security: Request deletion of this clause. This clause defeats the purpose of a dispute resolution clause if the Authority already decides to retain 5% of the PBG. Invocation of the PBG should be the last step after Customer has exhausted all its remedies under the contract including dispute resolution process. The clause in its present form makes the Authority a judge of its own cause and is therefore against the principles of equity and natural justice. Additionally, the clause also suggest appropriation of additional amounts from the payables which is again in breach of principles of natural justice as mentioned above.</p> <p>Clause. 7.2.1: LF for variations. Request deletion of this clause. As mentioned previously for a project of this scale there is absolute reliance on the Authority and information shared by the Authority. For the same reason if there were to be any error or lack of due diligence on part of the Consultant then such burden should be shared by the Authority as well. Having said that, Consultant is willing to be responsible if it can established that Consultant was solely and directly responsible for such error. Even then LD is not the appropriate relief as it goes against the basic principle of LD itself. Request deletion.</p> <p>Clause. 7.2.2: We are in principle agreement with this clause. We presume this will be applicable only in case where the delay was attributable solely and directly to the Consultant. It is also our understanding that in such a scenario this will be Authority's sole and exclusive remedy. Please confirm. Kindly confirm as to how is this different from SLA breaches provided Annexure 8.</p>	Please refer to RFP. No change is contemplated.
182	7.2.1	We suggest to reduce LD to maximum of 10% of the agreement value.	Please refer to RFP. No change is contemplated.
183	7.2.1	7.2.1 needs to be entirely deleted.	Please refer to RFP. No change is contemplated.
184	7.2.2	Liquidated damages shall apply only if the delay is for reasons solely attributable to the Consultant. Percentage and cap of LD needs to be linked to Agreement value of the delayed Services.	Please refer to RFP. No change is contemplated.
185	7.2.3	Invocation needs to be with prior written notice. Further, adjustment needs to be towards undisputed liquidated damages.	Please refer to RFP. No change is contemplated.
186	7.3	This provision be entirely deleted.	Please refer to RFP. No change is contemplated.

187	7.4	We request that this clause be deleted .	Please refer to RFP. No change is contemplated.
188	7.2.2	Bidder request LD should be on development phase value only and should exclude value of SW or HW upfront resale if any.	Please refer to RFP. No change is contemplated.
189	7.2.3	Bidder requests any appropriation of security should be mutually agreed basis.	Please refer to RFP. No change is contemplated.
190	7.2	Request to remove the clause in entirety. LDs, are to be finalized be agreed upon at the time of contracting. The LD provision should cover the following at a minimum: (i) Liquidated damages to be the sole and exclusive remedy of Authority against all delays; (ii) Such liquidated damages shall only be imposed if the delays can be solely attributable to the acts of the Consultant; (iii) the maximum liability of Consultant with respect to all LD or Penalty mentioned under this Agreement in aggregate to be [not greater than 5%] of the cost of activity delayed; (iv) Liquidated damages shall be counted towards the overall liability of Consultant while computing the overall liability of Consultant during each phase; (v) we should have an earn back provision in case we are able to meet the overall timelines, in which event we shall be paid back the Liquidated Damages which has been levied on us till that time; (vi) we also like to have a provision for incentives where we are paid incentive payments in case we are able to complete the work ahead of the timelines scheduled. (vii) Consultant shall not be responsible for any delays or non-performance of OEM's, other parties or Consultant.	Please refer to RFP. No change is contemplated.
191	9.4.2	What is the eligibility criteria for being appointed as an arbitrator?	Please refer to RFP. No change is contemplated.
192	9.4.5	Rights and obligations which are not subject matter of dispute shall remain in force and effect.	Please refer to RFP. No change is contemplated.
193	Annex 6	We request that the 10% advance given, should be interest free and the advance should be adjusted in the first three instalments.	Please refer to RFP. No change is contemplated.
194	Annex 7	Following provision be included: “Notwithstanding anything contained hereinabove: 1. Our liability under this bank guarantee shall not exceed Rs. _____ (Rupees _____); 2. This bank guarantee shall be valid until _____; and 3. We are liable to pay the guaranteed amount or any part thereof under this bank guarantee only and only if you serve upon us a written claim of demand on or before 2PM on _____, where after all the rights under this guarantee shall be forfeited and we shall be released and discharged from all liabilities there under whether or not the original guarantee is returned.”	Please refer to RFP. No change is contemplated.

195	Annex 7	<p>Request NITI Aayog to accept the following two clauses in the performance Security format available in the RFP.</p> <p>Not withholding Clause</p> <p>Not withstanding anything contained herein :</p> <p>I. Our Liability under this bank guarantee shall not exceed Rs xxxxxxxx (Rupees xxxxxxxxxxxxxxxx only).</p> <p>II.This Bank Guarantee shall be valid up to xxxxxxxxxxxx (expiry date).</p> <p>III. It is condition of our liability for payment of this guaranteed amount or any part thereof arising under this bank guarantee that we receive a valid written claim or demand for payment under this bank gurantee on or before xxxxxxxx (expiry date) failing which our liability under the guarantee will automatically cease.</p> <p>Sanction clause</p> <p>Presentation of Documents that are not in compliance with the applicable antiboycott, anti-money laundering, anti-terrorism, anti-drug trafficking, export denial or economic sanctions laws, regulations or orders is not acceptable. Applicable laws vary depending on the transaction and may include United Nations, United States and/ or Local Laws.</p>	Please refer to RFP. No change is contemplated.
196	Annex 8	<p>The Consultant shall not be responsible for a failure to meet any Service Level in accordance with the Contract if such failure is caused due to reasons attributable to or failure of the Authority or its other service providers to perform its or their obligations.</p> <p>Time lost due to any of the following reasons shall be considered within uptime: (1) the scheduled outages planned in advance for the Authority and the link failures within SLA limits agreed with network service providers, (2) time lost due to power or environment failures, (3) time taken to recover the system because of power or environment failures, (4) time lost due to damage or malfunction of the equipment or any of the unites thereof due to causes attributable to the Authority, such as attachment of additional devices, making alteration to the system, participate in maintenance of the system, etc., without selected bidder's consent, (5) time taken for booting the systems, (6) time taken for the Authority to approve the work around or fix, or (7) time taken by the third party vendors and service providers for fixing a product related fault/ defect, replacement of part(s), or responding to clarifications.</p>	Please refer to RFP. No change is contemplated.
197	Annex 8	3 sec response time for an analytics platform may not be achievable. No details given whether these are simple queries or complex queries. The response time should be measured within the DC	Please refer to RFP. No change is contemplated.
198	Annex 8	Contradictory requirements related to RTO. Is it 15 min or 8 hours?	Please refer to RFP. No change is contemplated.
199	Annex 8	Please elaborate the definition of monthly service level default.	Please refer to RFP. No change is contemplated.
200	Annex 8	Resolution and availability SLAs are there in RFP. What about Response SLAs & other SLA if any.	Please refer to RFP. No change is contemplated.
201	Annex 8	Request to remove the Annexure. The parties will finalize the SLA at the time of contracting,	Please refer to RFP. No change is contemplated.



202	Appendix 1	<p>Provisions mentioned in point no. 6, 12, 18 and 21 be entirely deleted. Also in addition the following additional clause be added :</p> <p>Additional Clauses:  Following additional clauses be added:</p> <p>1. Limitations of Liability</p> <p>(A) Neither party shall be liable to the other for any special, indirect, incidental, consequential (including loss of profit or revenue), exemplary or punitive damages whether in contract, tort or other theories of law, even if such party has been advised of the possibility of such damages.</p> <p>(B) The total cumulative liability of either party arising from or relating to the Agreement shall not exceed the amount paid to the Consultant by the Authority under the Agreement in the six (6) months period immediately preceding the date such liability arose.</p> <p>(C) The Consultant shall be excused and not be liable or responsible for any delay or failure to perform the services or failure of the services or a deliverable or plant under the Agreement to the extent that such delay or failure has arisen as a result of any delay or failure by the Authority or its employees or agents or third party service providers to perform any of its duties and obligations. In the event that the Consultant is delayed or prevented from performing its obligations due to such failure or delay on the part of or on behalf of the Authority, then the Consultant shall be allowed an additional period of time to perform its obligations and unless otherwise agreed the additional period shall be equal to the amount of time for which the Consultant is delayed or prevented from performing its obligations due to such failure or delay on the part of or on behalf of the Authority. Such failures or delays shall be brought to the notice of the Authority and subject to mutual agreement (including on commercials) with the Authority, the Consultant shall take such actions as may be necessary to correct or remedy the failures or delays.</p> <p>2. Intellectual Property Rights</p> <p>Subject to the other provisions contained in this Clause, the Consultant agrees that all deliverables created or developed by the Consultant specifically for the Authority, together with any associated copyright and other intellectual property rights, shall be the sole and exclusive property of the Authority provided all the payments due to the Consultant for the deliverables rendered under this Agreement have already been paid by the Authority to the Consultant.</p> <p>The Authority acknowledges that in performing services under this Agreement, the Consultant may use Consultant’s proprietary materials including without limitation any software (or any part or component thereof), tools, methodology, processes, ideas, know-how and technology that are or were developed or owned by the Consultant prior to or independent of the services performed hereunder or any improvements, enhancements, modifications or customization made thereto as part of or in the course of performing the services hereunder, (“the Consultant Pre-Existing IP”). Notwithstanding anything to the contrary contained in this Agreement, the Consultant shall continue to retain all the ownership, the rights title and interests to all the Consultant Pre-Existing IP and nothing contained herein shall be construed as preventing or restricting the Consultant from using the</p>	Please refer to Addendum.
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Consultant Pre-Existing IP in any manner. To the extent that any the Consultant Pre-Existing IP or a portion thereof is incorporated or contained in a deliverable under this Agreement, the Consultant hereby grants to the Authority a non-exclusive, perpetual, royalty free, fully paid up, irrevocable license, with the right to sublicense through multiple tiers, to use, copy, install, perform, display, modify and create derivative works of any such Consultant Pre-Existing IP in connection with the deliverables and only as part of the deliverables in which they are incorporated or embedded. The foregoing license does not authorizes the Authority to (a) separate Consultant Pre-Existing IP from the deliverable in which they are incorporated for creating a standalone product for marketing to others; (b) independently sell, lease, exchange, license, sub license, assign or in any other way convey, transfer or alienate the Consultant Pre-Existing IP in favour of any person, and/or (c) reverse compile or in any other way arrive at or attempt to arrive at the source code of the Supplier Pre-Existing IP.

All the intellectual property rights in the third party software used in providing services including those forming part of or incorporated into the deliverables shall remain with the respective third party the Authority's/ the Consultant's licensor and to the extent required for the purposes specified in the Agreement the Authority shall have user rights in accordance with license agreement (EULA) as applicable for use of such software.

Each Party shall be entitled to use in the normal course of its business and in providing same or similar services or development of similar deliverables for its other clients, the general knowledge and experience gained and retained in the unaided human memory of its personnel in the performance of the Agreement. For the purposes of clarity the Consultant's shall be free to provide any services or design any deliverable(s) that perform functions same or similar to the deliverables provided under the Agreement for the Authority, for any other client of the Consultant. Nothing contained herein shall relieve either party of its confidentiality obligations with respect to the proprietary and confidential information or material of the other party.

The Authority warrants that the materials provided by the Authority to Consultant are duly owned or licensed by the Authority.

3. Acceptance

The Authority will carry out acceptance testing of deliverables (for the deliverables which are subject to acceptance procedure) as per schedule presented by the Consultant in its Bid/Proposal or otherwise as per mutually agreed schedule. The Authority will prepare the Acceptance Test data along with the expected test results (consistent with the detailed specifications of the system and any change-request agreed in the documents) and keep it ready at least four (4) weeks in advance before the scheduled commencement of Acceptance Testing(s). The acceptance testing will be based on the test cases provided by the Authority. The Consultant will provide support for any clarifications during the Acceptance Testing of the system. Defects if any, observed by the Authority, will be notified to the Consultant in writing not later than five (5) days of delivery. The Consultant will correct the defects that are a deviation from the baseline immediately following the acceptance. The Authority will confirm acceptance in writing to the Consultant. the Authority shall not withhold or delay the issuance of sign off or taking over certificate, if the deliverables substantially meet the specifications or on account of any minor defects which have no material effect on the functionality of the deliverables. Notwithstanding the foregoing

		<p>sentence, a deliverable shall be treated as accepted by the Authority if the Authority (a) fails to provide the list of non conformities within five (5) days of delivery, (b) fails to notify the acceptance of the deliverables in terms of this clause within the period of five (5) days from delivery, or (c) starts using the deliverable in a live production environment.</p> <p>4. In the event of termination, the Authority shall however, be liable to pay Consultant for the services rendered till the effective date of termination and reasonable termination compensation towards unrecovered investments.</p> <p>5. Payment Terms</p> <p>All fees payable to the Consultant are exclusive of any GST, sales, use, value added tax, service taxes or taxes of a similar nature (including any changes to the existing taxes or incorporation of new taxes) and where such taxes are applicable, the Authority shall be responsible to pay or reimburse the Consultant the amount of such taxes.</p> <p>Without prejudice to the other rights available, the Consultant also reserves the right to withhold the provision of services till such time all the payments due to it have been made by the Authority and any such withholding by the Consultant shall not be treated as breach by it of the provisions of the Agreement.</p> <p>6. Employee non-solicitation</p> <p>The Consultant and the Authority each agree that during the term a Consultant personnel or the Authority employee is associated with the services under the Agreement and for a period of twelve months after such person ceases to be so associated, neither the Consultant nor the Authority shall, directly or indirectly, solicit for hire or knowingly hire or retain such personnel of the other party as an employee or independent contractor, except with prior written consent of the other party.</p> <p>7. Acts or omissions of Other Party</p> <p>Neither Party shall be liable for any delay or failure in the performance of its obligations under this Agreement, if and to the extent such delay or failure is caused by the actions or omissions of the other Party or other Party's agents or due to a breach of this Agreement by the other Party.</p> <p>8. Entire Agreement</p> <p>This Agreement set forth the entire understanding of the parties with respect to the subject matter hereof and thereof. This Agreement supersedes all prior or simultaneous representations, discussions, negotiations, letters, proposals, agreements and understandings between the parties hereto with respect to the subject matter hereof, whether written or oral. Each party acknowledges that it has not relied on or been induced to enter into this Agreement by a representation or warranty other than those expressly set out in this Agreement. To the extent permitted by applicable law, a party is not liable to another party in contract or tort or in any other way for a representation or warranty that is not set out in this Agreement.</p>	
203	Appendix I	Company 8 will provide Board Resolution Copy of the Authorized Signatory.	Please refer to RFP. No change is contemplated.
204	Appendix I	Please let us know the significance of this clause and would there be any separate project(s) as part of NDAP?	Please refer to RFP. No change is contemplated.
205	Eligible	Please clarify if this can be modified as some of the data aspects like sharing Revenue etc may violate with the	Please refer to RFP. No

	assignments	NDA signed with the clients.	change is contemplated.
206	Appendix I	For projects under NDA, It will not be feasible to declare the name, payment or cost related details. Anonymised citations should be acceptable.	Please refer to RFP. No change is contemplated.
207	Appendix 1	Consultant wishes to clarify that its bid will be subject to the deviations that will be provided while the proposal is submitted.	Please refer to RFP. No change is contemplated.
208	Appendix 1	Are we supposed to provide man days only for "on -site" days?	Please refer to RFP. No change is contemplated.
209	Appendix	Company pre-emptly that some of the milestones (KDs) across different use cases will run in parallel. Also, demand of consultants will have to be adjusted per use cases. How would such demand forecasting & fulfilment planned? Also related payment terms will need to be adjusted / set in accordance to above. Please comment.	Please refer to RFP. No change is contemplated.
210	Appendix	Company is assuming that they will not be penalized / payments are delayed due to accomplishment of NDAP dependencies on-time.	Please refer to RFP. No change is contemplated.
211	N/A	We request 1% interest on delayed payments to be provisioned.	Please refer to RFP. No change is contemplated.
212	N/A	Bid evaluation should be based on tax exclusive price.	Please refer to RFP. No change is contemplated.
213	N/A	We suggest Payment to be made within 30days of submission of invoice.	Please refer to RFP. No change is contemplated.
214	N/A	Bidder should be allowed to work from its premises so as to rip the benefit of best practices, talent pool from rest of the organization.	Please refer to RFP. No change is contemplated.
215	General	We request that LD/Performance security be limited 5% of contract value under any provision of the contract. Consultant must be given cure period of 2 weeks to rectify the error/variation/delay before imposing any penalty by the customer.	Please refer to RFP. No change is contemplated.
216	General	We request that LD/Performance security be limited 5% of contract value under any provision of the contract.	Please refer to RFP. No change is contemplated.
217	General	We request the DBOT clause may kindly be deleted and title of the relating to transfer of ownership of asset under the project shall Pass on to NITI Aayog on delivery.	Please refer to RFP. No change is contemplated.
218	General	Company assumes that that overall ownership & outcomes of the project will stay with NITI Aayog/NDAP. Please confirm.	Please refer to RFP. No change is contemplated.

**NOTE: Schedule 1:Terms of Reference has been substituted by a revised version which has been uploaded. Hence, responses to queries on the original TOR are not being provided.**