

**Section III: General Conditions of Contract**  
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## 1. Definitions

1.1 In this contract the following terms shall be interpreted as indicated:

- (a) “The Contract” means the agreement entered into between the **Purchaser** and the Supplier as recorded in the Contract Form signed by the parties, including all the attachments and appendices thereto and all documents incorporated by reference therein;
- (b) “The Contract Price” means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations;
- (c) “The Software application” means all the Software application platform, and/or other materials which the Supplier is required to supply to the **Purchaser** under the Contract;
- (d) “Services” means services ancillary to the supply of the Software application, such as Software application installation and license , and other incidental services, such as installation, commissioning, provision of technical assistance, training and other obligations of the Supplier covered under the contract;
- (e) “GCC” means the General Conditions of Contract contained in this section.
- (f) “SCC” means the Special Conditions of Contract.
- (g) “The **Purchaser**” means the Organization purchasing the Software application, as named in SCC;
- (h) “The Supplier” means the individual or firm supplying the Software application under this Contract;
- (i) “The Project Site”, where applicable means the place or places named in SCC.
- (j) “Day” means calendar day.
- (k) Delivery period means the period applicable upto completion of supply, installation, testing and commissioning of the Software application platform by the “**Supplier**” at the Project site and accepted by the “**Purchaser**”

## 2. Application

- 2.1 These General Conditions shall apply to the extent that they are not superseded by provisions in other parts of the Contract.

## 3. Standards

- 3.1 The Software application supplied under this Contract shall conform to the standards mentioned in the Technical Specifications, and, when no applicable standard is mentioned, to the authoritative standard appropriate to the Software application license and such standards shall be the latest issued by the concerned institution.

## 4. Use of Contract Documents and Information

- 4.1 The Supplier shall not, without the **Purchaser**’s prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample or information furnished by or on behalf of the **Purchaser** in connection therewith, to any person other than a person employed by the Supplier in performance of the Contract. Disclosure to any such employed person shall be made in confidence and

- shall extend only so far as may be necessary for purposes of such performance.
- 4.2 The Supplier shall not, without the **Purchaser's** prior written consent, make use of any document or information enumerated in GCC Clause 4.1 except for purposes of performing the Contract.
- 4.3 Any document, other than the Contract itself, enumerated in GCC clause 4.1 shall remain the property of the **Purchaser** and shall be returned (in all copies) to the **Purchaser** on completion of the supplier's performance under the Contract if so required by the **Purchaser**.
- 5. Patent Rights**
- 5.1 The Supplier shall indemnify the **Purchaser** against all third-party claims of infringement of patent, trademark or industrial design rights arising from use of the Software application or any part thereof in India.
- 6. Performance Security**
- 6.1 Within 15 days after the Supplier's receipt of notification of award of the Contract, the Supplier shall furnish performance security to the **Purchaser** in the amount specified in the Special Conditions of Contract.
- 6.2 The proceeds of the performance security shall be payable to the **Purchaser** as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 6.3 The Performance Security shall be denominated in Indian Rupees and shall be in one of the following forms:
- (a) A Bank guarantee issued by a nationalized/ scheduled bank located in India and in the form provided in the bidding Documents or any other form acceptable to the **Purchaser**; or
- (b) A demand draft.
- 6.4 The performance security will be discharged by the **Purchaser** and returned to the Supplier not later than 30 days following the date of completion of the Supplier's performance obligations, including any warranty obligations, unless specified otherwise in SCC
- 7. Inspection and Tests**
- 7.1 The **Purchaser** or its representative shall have the right to inspect and/or to test the Software application to confirm their conformity to the Contract at no extra cost of the **Purchaser**. The Special conditions of Contract and/or the Technical Specifications shall specify what inspections and tests the **Purchaser** requires and where they are to be conducted. The **Purchaser** shall notify the Supplier in writing of the identity of any representatives retained for these purposes.
- 7.2 The inspections and test may be conducted on the premises of the Supplier or its subcontractor(s), at point of delivery and/or at the Software application final destination. Where conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance including access to drawings and production data - shall be furnished to the inspectors at no charge to the **Purchaser**.
- 7.3 Should any inspected or tested Software application fail to conform to the specifications, the **Purchaser** may reject them and the Supplier shall either replace the rejected Software application or make all alternations necessary to meet specification requirements free of cost to the **Purchaser**.
- 7.4 The Purchasers right to inspect, test and, where necessary, reject the Software application' installation in at site shall in no way be limited or waived by reason of the

Software application having previously been inspected, tested and passed by the **Purchaser** or its representative prior to the Software application dispatched.

- 7.5 Nothing in GCC Clause 7 shall in any way release the Supplier from any warranty or other obligations under this Contract.

## **8.0 Packing**

- 8.1 The Supplier shall provide such packing of the Software application as is required to prevent their damage or deterioration during transit to their final destination as indicated in the Contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit and open accessibility. Packing case size and weights shall take into consideration, Where appropriate, the remoteness of the Software application final destination and the absence of heavy handling facilities at all points in transit.
- 8.2 The packing, marking and documentation within and outside the packages shall comply strictly with such special requirements as shall be provided for in the Contract including additional requirements, if any, specified in SCC and in any subsequent instructions ordered by the **Purchaser**.

## **9. Delivery and Documents**

- 9.1 Delivery of the Software application shall be made by the Supplier in accordance with the terms specified by the **Purchaser** in the Notification of Award. The details of dispatching and/or other documents to be furnished by the supplier are specified in SCC.

## **10. Insurance**

- 10.1 The Software application Supplied under the Contract shall be fully insured in Indian Rupees against the loss or damage incidental to manufacture or acquisition, Software application installation, accessibility and delivery in the manner specified in the Special Conditions of Contract.

## **11. Software application and installation**

- 11.1 Where the Supplier is required under the Contract to transport the Software application to a specified place of destination within the India defined as Project site, transport to such place of destination in India, as shall be specified in the Contract, shall be arranged by the Supplier, and the related cost shall be included in the Contract Price.

## **12. Incidental Services**

- 12.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) Performance or supervision of the on-site assembly and/or start-up of the supplied Software application;
  - (b) furnishing of tools required for assembly and/or maintenance of the supplied Software application;
  - (c) furnishing of detailed operations and maintenance manual for each appropriate unit of supplied Software application.

- (d) performance or supervision or maintenance and/or repair of the supplied Software application, for a period of time agreed by the parties, provided that this service shall not relieve the Supplier of any warranty obligations under this Contract; and
  - (e) training of the **Purchaser's** Personnel, at the Supplier's plant and/or on-site, in assembly, start-up, operation, maintenance and/or repair of the supplied Software application.
- 12.2 Prices charged by the Supplier for incidental services, if not included in the contract Price of the Software application, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.
- 13. Software application and solutions**
- 13.1 As specified in the Special Conditions of Contract, the Supplier may be required to provide any or all of the following materials and notifications and information pertaining to Software application solutions manufactured or designed by the Supplier:
- (a) Such Software application solutions as the **Purchaser** may elect to purchase from the Supplier, providing that this election shall not relieve the Supplier of any warranty obligations under the Contract; and
  - (b) In the event of termination of production of the Software application solutions:
    - (i) advance notification to the **Purchaser** of the pending termination, in sufficient time to permit the **Purchaser** to procure needed requirements; and
    - (ii) following such termination, furnishing at no cost to the **Purchaser**, the blueprints, drawings and specifications of the Software application solutions, if and when requested.
- 14. Comprehensive Warranty**
- 14.1 The Supplier warrants that the Software application supplied under this Contract are new, unused, of the most recent or current models and incorporate all recent improvements in design and materials unless provided otherwise in the Contract. The supplier further warrants that the Software application supplied under this Contract shall have no defect arising from design, materials or workmanship (except when the design and/or material is required by the **Purchaser's** specifications) or from any act or omission of the Supplier, that may develop under normal use of the supplied Software application in conditions obtaining in the country of final destination.
- 14.2 The comprehensive warranty shall remain **valid for three years** from the date of commissioning of system.
- 14.3 The **Purchaser** shall promptly notify the supplier in writing of any claims arising under this warranty.
- 14.4 Upon receipt of such notice, the Supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective Software application or parts thereof, without cost to the **Purchaser**.
- 14.5 If the Supplier, having been notified, fails to rectify the defect(s) within the period specified in SCC within a reasonable period, the **Purchaser** may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the **Purchaser** may have against the Supplier under the contract.

**15. Payment**

- 15.1 The method and conditions of payment to be made to the Supplier under the Contract shall be specified in the Special Conditions of Contract.
- 15.2 The Suppliers request(s) for payment shall be made to the **Purchaser** in writing, accompanied by an invoice describing, as appropriate, the Software application delivered and after satisfying supply, installing, demonstration & training to staffs, submitted pursuant to GCC Clause 9, and upon fulfillment of other obligations stipulated in the contract.
- 15.3 Payment shall be made promptly by the **Purchaser** but in no case later than sixty (60) days after submission of the invoice / claim by the Supplier from the date of Commissioning of system.
- 15.4 Payment shall be made in Indian Rupees only.

**16. Prices**

- 16.1 Prices charged by the Supplier for Software application delivered and Services performed under the Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any prices adjustments authorized in the special Conditions of Contract or in the **Purchaser's** request for bid validity extensions, as the case may be.

**17. Change Orders**

- 17.1 The **Purchaser** may at any time by written order given to the Supplier pursuant to GCC Clause 30, make changes within the general scope of the Contract in any one or more of the following:
  - (a) drawings, designs or specifications, where Software application to be furnished under the Contract are to be specifically manufactured for the **Purchaser**;
  - (b) the method of shipping or packing
    - i. the place of delivery; or
    - ii. the services to be provided by the Supplier.
- 17.2 If any such changes cause an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or delivery schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this clause must be asserted within thirty (30) days from the date of the Supplier's receipt of the **Purchaser's** change order.

**18. Contract Amendments**

- 18.1 Subject to GCC Clause 17, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

**19. Assignment**

- 19.1 The Supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the **Purchaser's** prior written consent.

**20. Subcontracts**

- 20.1 The supplier shall notify the **Purchaser** in writing of all subcontracts awarded under

the contract if not already specified in his bid. Such notification, in his original bid or later, shall not relieve the Supplier from any liability or obligation under the contract.

## **21. Delays in the Supplier's Performance**

- 21.1 Delivery of the Software application and performance of the Services shall be made by the Supplier in accordance with the time schedule specified by the **Purchaser** in its Schedule of Requirements.
- 21.2 If at any time during the performance of the Contract, the Supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the Software application and performance of the Services, the Supplier shall promptly notify the **Purchaser** in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, the **Purchaser** shall evaluate the situation and may at its discretion extend the Supplier's time for performance with or without liquidated damages, in which case the extension shall be ratified by the parties by amendment of the Contract.
- 21.3 Except as provided under GCC Clause 24, a delay by the Supplier in the performance of its delivery obligation shall render the supplier liable to the imposition of liquidated damages pursuant to GCC Clause 22, unless any extension of time is agreed upon pursuant to GCC clause 21.2 without the application of liquidated damages.

## **22. Liquidated Damages**

- 22.1 Subject to GCC Clause 24, if the Supplier fails to deliver any or all of the Software application or to perform the Services within the period(s) specified in the Contract, the **Purchaser** shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in SCC of the delivered price of the delayed Software application or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in the SCC. Once the maximum is reached, the **Purchaser** may consider termination of the Contract pursuant to GCC Clause 23.

## **23. Termination by Default**

- 23.1 The **Purchaser** may, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, terminate the Contract in whole or part;
  - (a) if the Supplier fails to deliver any or all of the Software application within the time period(s) specified in the Contract, or within any extension thereof granted by the **Purchaser** pursuant to clause 21; or
  - (b) if the Supplier fails to perform any other obligation(s) under the Contract.
- 23.2 In the event the **Purchaser** terminates the Contract in whole or in part, pursuant to GCC Clause 23.1, the **Purchaser** may procure, upon such terms and in such manner as it deems appropriate, Software application or Services similar to those undelivered, and the Supplier shall be liable to the **Purchaser** for any excess costs for such similar Software application. However, the Supplier shall continue the performance of the Contract to the extent not terminated.

## **24. Force Majeure**

- 24.1 Notwithstanding the provisions of GCC Clauses 21,22,23, the Supplier shall not be

liable for forfeiture of its performance security, liquidation damages or termination for default, if and to the extent that, its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

24.2 For purposes of this Clause “Force Majeure” means an event beyond the control of the Supplier and not involving the Supplier’s fault or negligence and not foreseeable. Such events may include, but are not limited to, acts of the **Purchaser** either in its sovereign or contractual capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

24.3 If a Force Majeure situation arises, the Supplier shall promptly notify the **Purchaser** in writing of such conditions and the cause thereof. Unless otherwise directed by the **Purchaser** in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

## **25. Termination for Insolvency**

25.1 The **Purchaser** may at any time terminate the Contract by giving written notice to the Supplier, if the Supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the **Purchaser**.

## **26. Termination for Convenience**

26.1 The **Purchaser**, may by written notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the **Purchaser**’s convenience, the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.

## **27. Resolution of Disputes**

27.1 The **Purchaser** and the supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.

27.2 If, after thirty (30) days from the commencement of such informal negotiations, the **Purchaser** and the Supplier have been unable to resolve amicably a Contract dispute, either party may require that the dispute be referred for resolution to the formal mechanisms specified in the Special Conditions of Contract. These mechanisms may include, but or not limited to, conciliation mediated by a third Party, adjudication in an agreed national forum, and national arbitration.

## **28. Governing Language**

28.1 The contract shall be written in English language. Subject to Clause 29, English language version of the Contract shall govern its interpretation. All correspondence and documents pertaining to the Contract which are exchanged by the parties shall be written in the same language.



**29. Applicable Law**

29.1 The Contract shall be interpreted in accordance with the laws of the Union of India.

**30. Notice**

30.1 Any notice given by one party to the other pursuant to this Contract shall be sent to other party in writing or by cable, telex and confirmed in writing to the other Party's address specified in Special Conditions of Contract.

30.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.

**31. Taxes and Duties**

31.1. Suppliers shall be entirely responsible for all taxes, duties, license fees, octroi, road permits, etc., incurred until delivery of the contracted Software application to the **Purchaser**. However, Sales tax (not surcharge in lieu of Sales tax) in respect of the transaction between the **Purchaser** and the Supplier shall be payable extra, if so stipulated in the Notification of Award.

**32. Training / Capacity Building**

32.1 Suppliers have to provide hands-on-exposure on complete **Enabling and checking the compatibility with Android Mobile Platform and Touch Tablets** installation & functional operation of the Software application platform to at least 3 technical persons working in the scheme.