



## **Request for Proposal (RFP)**

**Selection of Co- Location Service Provider  
for  
Data Centre and Disaster Recovery Site Co - location Services  
for  
Bank Of Baroda's sponsored RRB DC - DR**



Bank of Baroda,  
Baroda Corporate Centre,  
C-26, G-Block, Bandra Kurla Complex  
Bandra (East), Mumbai - 400 051.

Date: 28.06.2016

**RFP Reference No. BCC:IT:RRB-DC:INFRA:108:150**



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**[A] Important Dates:**

#	Particulars	Timeline
1	RFP Issuance Date	28 <sup>th</sup> June 2016
2	Last Date of Receiving Clarifications Before the Pre-bid Meeting	5:00 PM on 7 <sup>th</sup> July 2016
3	Pre-bid Meeting	3:00 PM on 12 <sup>th</sup> July 2016
4	Last Date of Submission of RFP Response (Closing Date)	3:00 PM on 28 <sup>th</sup> July 2016
5	Bid Opening Date	3:30 PM on 28 <sup>th</sup> July 2016

**[B] Important Clarifications:**

Following terms are used in the document interchangeably to mean:

1. Bank means Bank of Baroda sponsored Regional Rural Banks
  2. RRBs mean 'Regional Rural Banks sponsored by Bank of Baroda
  3. Recipient, Respondent, Bidder and Service Provider means the respondent to the RFP document
  4. SP means the Service Provider
  5. SI means System Integrator
  6. RFP means the Request For Proposal document
  7. DC means Data center, DR / DRC/ DRS means Disaster Recovery Site
  8. Tender means RFP response documents prepared by the service provider and submitted to Bank of Baroda
- The word bank and RRB are used interchangeably as the Bank is issuing the RFP on behalf of its sponsored RRBs.

**Confidentiality:**

*This document is meant for the specific use by the Company / person/s interested to participate in the current tendering process. This document in its entirety is subject to Copyright Laws. Bank of Baroda expects the service providers or any person acting on behalf of the service providers strictly adhere to the instructions given in the document and maintain confidentiality of information. The service providers will be held responsible for any misuse of information contained in the document, and liable to be prosecuted by the Bank In the event that such a circumstance is brought to the notice of the Bank. By downloading the document, the interested party is subject to confidentiality clauses.*



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## **1. Introduction**

### **1.1 Introduction and Disclaimer**

- 1.1.1 Bank of Baroda is one of the largest Public Sector Bank (PSU) in India with a branch network of over 5000+ branches in India and 104 branches/offices overseas including branches of our subsidiaries, distributed in 25 countries.
- 1.1.2 Bank of Baroda has sponsored three (3) RRBs in states viz. (1) Uttar Pradesh (2) Rajasthan and (3) Gujarat with aggregate number of more than 1900 branches.
- 1.1.3 On behalf of its sponsored RRBs, Bank of Baroda has implemented Core Banking Solution along with other associated applications and DC / DR IT Infrastructure. A separate dedicated common DC, DR, NDR infrastructure have been implemented in a co-location model which caters to all branches of Bank's three sponsored RRBs together under the common infrastructure setup. Bank of Baroda being a sponsor bank to the RRBs takes care of the centralized DC/DR Infrastructure and services.
- 1.1.4 Bank intends to engage service provider for DC – DR co-location services for its three sponsored RRB's. At present RRB's existing DC and DR are co-located at Mumbai and Hyderabad respectively.
- 1.1.5 This Request for Proposal (RFP) document has been prepared by Bank of Baroda (on-behalf of its sponsored RRBs) solely for the purpose of enabling Bank of Baroda ("the Bank") to select a service provider for Data Centre and Disaster Recovery Site co-location services for Bank of Baroda sponsored three RRBs for the period of seven years.
- 1.1.6 The RFP document is not recommendation, offer or invitation to enter into a contract, agreement or any other arrangement, in respect of the services. The provision of the services is subject to observance of selection process and appropriate documentation being agreed between the Bank and any successful service provider as identified by the Bank, after completion of the selection process as detailed in this document.

### **1.2 Information Provided**

The RFP document contains statements derived from information that is believed to be true and reliable at the date obtained but does not purport to provide all of the information that may be necessary or desirable to enable an intending contracting party to determine whether or not to enter into a contract or arrangement with the Bank in relation to the provision of services. Neither the Bank nor any of its directors, officers, employees, agents, representative, contractors, or advisers gives any



representation or warranty (whether oral or written), express or implied as to the accuracy, updating or completeness of any writings, information or statement given or made in this RFP document. Neither the Bank nor any of its directors, officers, employees, agents, representative, contractors, or advisers has carried out or will carry out an independent audit or verification or investigation or due diligence exercise in relation to the contents of any part of the RFP document.

### **1.3 For Respondent Only**

The RFP document is intended solely for the information of the party to whom it is issued (“the Recipient” or “the Respondent”) and no other person or organization.

### **1.4 Confidentiality**

- 1.4.1 The RFP document is confidential and is not to be disclosed, reproduced, transmitted, or made available by the Recipient to any other person. The RFP document is provided to the Recipient on the basis of the undertaking of confidentiality given by the Recipient to the Bank. The Bank may update or revise the RFP document or any part of it. The Recipient accepts that any such revised or amended document will be subject to the same confidentiality undertaking.
- 1.4.2 The Recipient will not disclose or discuss the contents of the RFP document with any officer, employee, consultant, director, agent, or other person associated or affiliated in any way with the Bank or any of its customers or suppliers without the prior written consent of the Bank.

### **1.5 Disclaimer**

Subject to any law to the contrary, and to the maximum extent permitted by law, the Bank and its directors, officers, employees, contractors, representatives, agents, and advisers disclaim all liability from any loss, claim, expense (including, without limitation, any legal fees, costs, charges, demands, actions, liabilities, expenses or disbursements incurred therein or incidental thereto) or damage, (whether foreseeable or not) (“Losses”) suffered by any person acting on or refraining from acting because of any presumptions or information (whether oral or written and whether express or implied), including forecasts, statements, estimates, or projections contained in this RFP document or conduct ancillary to it whether or not the Losses arises in connection with any ignorance, negligence, inattention, casualness, disregard, omission, default, lack of care, immature information, falsification or





misrepresentation on the part of the Bank or any of its directors, officers, employees, contractors, representatives, agents, or advisers.

### **1.6 Costs Borne by Respondents**

All costs and expenses (whether in terms of time or money) incurred by the Recipient/Respondent in any way associated with the development, preparation and submission of responses, including but not limited to attendance at meetings, discussions, demonstrations, etc. and providing any additional information required by the Bank, will be borne entirely and exclusively by the Recipient / Respondent.

### **1.7 No Legal Relationship**

No binding legal relationship will exist between any of the Recipients / Respondents and the Bank until execution of a contractual agreement to the full satisfaction of the Bank.

### **1.8 Recipient Obligation to Inform Itself**

The Recipient must apply its own care and conduct its own investigation and analysis regarding any information contained in the RFP document and the meaning and impact of that information.

### **1.9 Evaluation of Offers**

- 1.9.1 Each Recipient acknowledges and accepts that the Bank may, in its sole and absolute discretion, apply whatever criteria it deems appropriate in the selection of organizations, not limited to those selection criteria set out in this RFP document.
- 1.9.2 The issuance of RFP document is merely an invitation to offer and must not be construed as any agreement or contract or arrangement nor would it be construed as any investigation or review carried out by a Recipient. The Recipient unconditionally acknowledges by submitting its response to this RFP document that it has not relied on any idea, information, statement, representation, or warranty given in this RFP document.

### **1.10 Errors and Omissions**

Each Recipient should notify the Bank of any error, fault, omission, or discrepancy found in this RFP document but not later than last date of receiving clarifications as specified in subsequent **Section 2.12** under Timeframe clause.



### **1.11 Acceptance of Terms**

A Recipient will, by responding to the Bank's RFP document, be deemed to have accepted the terms as stated in this RFP document.

## **2. RFP Response terms**

### **2.1 Lodgment of RFP Response**

#### **2.1.1 Application Money**

Application Money of Rs. 25,000/- (Twenty Five Thousand Only) by way of Bankers Cheque / Demand Draft / Pay Order favoring Bank of Baroda, payable at Mumbai, which is non refundable, must be submitted separately along with RFP response. The Bank may, at its discretion, reject any service provider where application money has not been furnished with RFP response.

#### **2.1.2 RFP Closing Date**

RFP Response should be received by the officials as per the timelines mentioned in **2.12 Timeframe clause** at Bank of Baroda as per the details given in this Section.

### **2.2 Registration of RFP Response**

2.2.1 Registration of RFP response will be affected by the Bank by making an entry in a separate register kept for the purpose upon the Bank receiving the RFP response in the above manner. The registration must contain all documents, information, and details required by this RFP. If the submission to this RFP does not include all the documents and information required or is incomplete or submission is through Fax mode, the RFP is liable to be summarily rejected.

2.2.2 All submissions, including any accompanying documents, will become the property of the Bank. The Recipient shall be deemed to have licensed, and granted all rights to, the Bank to reproduce the whole or any portion of their submission for the purpose of evaluation, to disclose the contents of the submission to other Recipients who have registered a submission and to disclose and/or use the contents of the submission as the basis for any resulting RFP process, notwithstanding any copyright or other intellectual property right of the Recipient that may subsist in the submission or accompanying documents.

### **2.3 Late RFP Policy**

RFP responses received after the deadline for lodgment of RFPs may be registered by the Bank and may be considered and evaluated by the evaluation team at the absolute discretion of the Bank. Respondents are to provide detailed evidence to substantiate the reasons for a late RFP submission. It should be clearly noted that the Bank has no obligation to



accept or act on any reason for a late submitted response to RFP. The Bank has no liability to any Respondent who lodges a late RFP response for any reason whatsoever, including RFP responses taken to be late only because of another condition of responding.

## **2.4 RFP Validity period**

RFP responses must remain valid and open for evaluation according to their terms for a period of at least six months from the RFP closing date. The Bank shall have the right at its sole and absolute discretion to continue the assignment/contract on the selected service provider for future requirement for various items/activities as described in the RFP after expiry of current assignment period.

## **2.5 Contract period**

The contract for providing DC – DR co-location services will be for a total period of -07- Years. The service provider shall have to agree for the extension of the contract (from the date of expiry of the contract) for a period not less than one year and such extension can be done maximum of two times. In case of extension of contract, the same terms and conditions of this RFP shall follow. However, the Bank will have the right to renegotiate these prices at the end of the contract period and extend the said contract with the agreed revised commercials for a further period of contract.

## **2.6 Requests for Information**

- 2.6.1 Recipients are required to direct all communications for any clarification related to this RFP to RFP Coordinator.
- 2.6.2 All questions relating to the RFP, technical or otherwise, must be in writing and addressed to the addresses specified in section 2.14
- 2.6.3 Interpersonal communications will not be entered into and a Respondent will be disqualified if attempting to enter into such communications. All queries / clarifications requested must be addressed in the format as per Appendix 4 only.
- 2.6.4 The Respondent must communicate the same in writing in -2- (two) days prior to the pre-bid meeting scheduled date. The Bank will try to reply, without any obligation in respect thereof, every reasonable query raised by the Respondents in the manner specified. Any changes to the RFP will be communicated as Addendum to the RFP and will be published on Banks website under tenders section only. However, the Bank will not answer any communication initiated by the Respondents later than 5:00 PM of Pre Bid Meeting date.
- 2.6.5 However, the Bank may in its absolute discretion seek, but under no obligation to seek, additional information or material from any



Respondents after the RFP closes and all such information and material provided must be taken to form part of that Respondent's response.

2.6.6 Respondents should invariably provide details of their email address (es) as responses to queries will only be provided to the Respondent via email. If Bank in its sole and absolute discretion deems that the originator of the query will gain an advantage by a response to a question, then Bank reserves the right to communicate such response to all Respondents.

2.6.7 The Bank may in its absolute discretion engage in discussion or negotiation with any Respondent (or simultaneously with more than one Respondent) after the RFP closes to improve or clarify any response.

## **2.7 Notification**

The Bank will notify the Respondents in writing as soon as practicable after the RFP Evaluation Complete date, about the outcome of the RFP evaluation process, including whether the Respondent's RFP response has been accepted or rejected. The Bank is not obliged to provide any reasons for any such acceptance or rejection.

## **2.8 Disqualification**

Any form of canvassing/lobbying/influence/query regarding short listing, status etc will be a disqualification.

## **2.9 Related Parties**

In the following circumstances bank reserves the right to reject the entire bid or accept the bid with some conditions stipulated by bank.

2.9.1 Bid submitted by holding company and its subsidiary

2.9.2 Bids submitted by one or more companies having common director/s

2.9.3 Bids submitted by one or more partnership firms / LLPs having common partners

2.9.4 Bids submitted by one or more companies in the same group of promoters / management

2.9.5 Any other bid in the sole discretion of the bank is in the nature of multiple bids.

## **2.10 Language of Tender**

The Tender prepared by the service provider, as well as all correspondence and documents relating to the Tender exchanged by



the service provider and the Bank and supporting documents and printed literature shall be in English language only.

## 2.11 Formats of Bids

The service providers should use the formats prescribed by the Bank in the TENDER for submitting both technical and commercial bids. The Bank reserves the right to ascertain information from the banks and other institutions to which the service providers have rendered their services for execution of similar projects.

## 2.12 Timeframe

The following is the timeframe for the overall selection process. The Bank reserves the right to vary this timeframe at its absolute and sole discretion and without providing any notice/intimation or reasons thereof. Changes to the timeframe will be relayed to the affected Respondents during the process.

#	Particulars	Timeline
1	RFP Issuance Date	28 <sup>th</sup> June 2016
2	Last Date of Receiving Clarifications Before the Pre-bid Meeting	5:00 PM on 7 <sup>th</sup> July 2016
3	Pre-bid Meeting	3:00 PM on 12 <sup>th</sup> July 2016
4	Last Date of Submission of RFP Response (Closing Date)	3:00 PM on 28 <sup>th</sup> July 2016
5	Bid Opening Date	3:30 PM on 28 <sup>th</sup> July 2016

The time schedule will be strictly followed. Interested parties are expected to adhere to these timelines. However, the Bank reserves the right to change the aforementioned timelines.

## 2.13 RFP Response Submission Details

2.13.1 Eligibility, Technical and Commercial Bids shall be submitted in separate sealed sub-envelopes super scribing:

- a) **“ELIGIBILITY BID FOR SELECTION OF SERVICE PROVIDER FOR DATA CENTRE AND DISASTER RECOVERY SITE CO – LOCATION SERVICES FOR BANK OF BARODA’S THREE SPONSORED RRBs BY ..... ON ..... AT MUMBAI, DUE DATE .....”** on the top of the sub-envelope containing the Eligibility Bid. First sub envelope should also have the Application Money Demand Draft / Banker’s Cheque as per 2.1.1 and the Earnest Money Deposit as per 2.17.



- b) **“TECHNICAL BID FOR SELECTION OF SERVICE PROVIDER FOR DATA CENTRE AND DISASTER RECOVERY SITE CO – LOCATION SERVICES FOR BANK OF BARODA’S THREE SPONSORED RRBs BY ..... ON ..... AT MUMBAI, DUE DATE .....”** on the top of the sub-envelope containing the Technical Bid. This sub-envelope should have the hard copy and CD for Technical Bid (Annexure 1). A masked copy of the entire price bid and Bill of Materials after masking the prices should accompany the Technical Bid.
- c) **“COMMERCIAL BID FOR SELECTION OF SERVICE PROVIDER FOR DATA CENTRE AND DISASTER RECOVERY SITE CO – LOCATION SERVICES FOR BANK OF BARODA’S THREE SPONSORED RRBs BY ..... ON ..... AT MUMBAI, DUE DATE .....”** on the top of the sub-envelope containing the Commercial Bid. The envelope should be sealed containing the hard copy and CD for Commercial Bid (Appendix 1).

These three separate sealed sub-envelopes should be put together in another sealed master envelope super scribing **“BID FOR SELECTION OF SERVICE PROVIDER FOR DATA CENTRE AND DISASTER RECOVERY SITE CO – LOCATION SERVICES FOR BANK OF BARODA’S THREE SPONSORED RRBs - TENDER REFERENCE NO. .... SUBMITTED BY ..... ON ..... AT MUMBAI, DUE DATE .....”**

**2.13.2 The response should be organized and submitted in the following manner:**

#### **2.13.2.1 Eligibility Bid**

- 2.13.2.1.1 Application Money, Bid Security money (Earnest Money deposit) and Bid Security Letter as per Appendix 7. The RFP response without accompanying the Demand Draft / Banker’s Cheque / Bank Guarantee towards Application Money / Bid Security is liable to be rejected.
- 2.13.2.1.2 Covering letter certifying eligibility criteria compliance (eligibility criteria as defined in Annexure 2) – Appendix 3
- 2.13.2.1.3 Duly filled up Annexure 2 – Eligibility Criteria Compliance.
- 2.13.2.1.4 Supporting credential letters or copies of documentation from clients or purchase order copies certifying compliance.



### **2.13.2.2 Technical Bid**

- 2.13.2.2.1 Table of Contents (list of document enclosed) – Appendix 5
- 2.13.2.2.2 One copy of the Technical Bid with pages properly numbered, each page signed and stamped. The Technical Bid should be bound in such a way that the sections of the Bid cannot be removed and separated easily.
- 2.13.2.2.3 One copy of the masked price bid (masked price bid is a copy of the price bid **without any prices**. Please note that the masked price bid should be **exact reflection of the commercial bid** which would be submitted by the Service provider as part of the commercial offer except that the masked price bid **should not contain any financial information**. Refer Appendix 2 – Masked Commercial Bid Details for format)
- 2.13.2.2.4 One Compact Disk (CD) containing the soft copy of Technical Bid should be provided and
- 2.13.2.2.5 Annexure 6 – Conformity with Hardcopy letter (The Respondent should certify that the contents of the CDs are the same as that provided by way of hard copy)

### **2.13.2.3 Commercial Bid**

- 2.13.2.3.1 One hard copy of the Commercial Bid (Refer Appendix 1 – Commercial Bid Details for format).
- 2.13.2.3.2 One Compact Disk (CD) containing the soft copy of Commercial Bid should be provided (Refer Appendix 1 – Commercial Bid Details, for format) and Annexure 6 – Conformity with Hardcopy letter.

#### **Please note:**

- 2.13.2.3.3 If any envelope is found to contain eligibility, technical and commercial bid in a single envelope or commercials are provided along with the technical or eligibility bid, then that offer will be rejected outright.
- 2.13.2.3.4 The SP should certify that the contents of the CD's are the same as that provided by way of hard copy. In the event of a discrepancy, details provided in the hard copy will be true.



- 2.13.2.3.5 Service provider has to mandatorily quote for all the requirements failing which the bids may get rejected.
- 2.13.2.3.6 Service provider will submit separate Demand Draft / Banker's Cheque drawn in favour of Bank of Baroda payable at BKC Mumbai towards Application Money for Rs. 25,000/- and Demand Draft / Banker's Cheque / Bank Guarantee towards Earnest Money Deposit for Rs. 51,00,000/- respectively. The RFP response without accompanying the Demand Draft / Banker's Cheque / Bank Guarantee towards Application Money and Earnest Money Deposit are liable to be rejected.
- 2.13.2.4 The Respondent should certify that the contents of the CDs are the same as that provided by way of hard copy as per letter format given in Annexure 6 – Conformity with Hardcopy letter.
- 2.13.2.5 All the pages of the proposal including annexure, appendices and documentary proofs should be numbered and be signed by the authorized signatory.
- 2.13.2.6 Copy of the tender document duly putting the seal and signature on all the pages of the document for having noted contents and testifying conformance of the terms and conditions set out therein should also be enclosed in the envelope.
- 2.13.2.7 The RFP response documents should be submitted to the Bank in duplicate in paper copies i.e. two sets of envelope (One containing original and the other having the duplicate set).
- 2.13.2.8 The proposal should be prepared in English in MS Word / Excel / Power Point format.
- 2.13.2.9 The email address and phone/fax numbers of the service provider shall also be indicated on sealed envelopes. All envelopes must be super scribed with the following information as well:
- Name of the service provider with contact number and email ID.
- 2.13.2.10 The above mentioned envelopes as indicated must be addressed to the following:
- The General Manager  
Information Technology, Bank of Baroda
- 2.13.2.11 Submission will be valid only if:
- 2.13.2.11.1 Copies of the RFP response documents are submitted as per defined clauses in Section 2 and before the mentioned RFP closing date and time.





- 2.13.2.11.2 Submission by Fax transmission is not accepted.
- 2.13.2.12 The sealed bid envelopes should be delivered to Mr. Binod Agrawal, Chief Manager IT / Mrs Payal Bagade., Manager IT at 2nd Floor, UTI Tower, RRB CBS Operations Centre, Bandra Kurla Complex, Mumbai 400 051.
- 2.13.2.13 Only one submission of response to RFP by each Respondent will be permitted.
- 2.13.2.14 All responses would be deemed to be irrevocable offers / proposals from the Respondent and may if accepted by the Bank form part of the final contract between the Bank and selected Respondent. The Respondent is requested to attach a letter from an authorized signatory attesting the veracity of information provided in the responses (Appendix 3 – Covering Letter). Unsigned responses would be treated as incomplete and are liable to be rejected.
- 2.13.2.15 All envelopes should be securely sealed and stamped. The authorized signatories of the Respondent should initial on all pages of Technical and Commercial Bids. Unsigned documents shall be rejected.

Appendix 5 – Table of Contents can be used as checklist. The bid response should be submitted in 3 envelopes as suggested in Appendix 5.

## **2.14 Contact Details for Responding to RFP**

### **2.14.1 Postal Address**

The Chief Manager (Infrastructure)  
RRB CBS Operations Centre, Bank of Baroda,  
UTI Tower, 2nd Floor,  
Bandra Kurla Complex, Mumbai, 400 051  
Tel – 022-67892831

### **2.14.2 RFP Coordinator**

The Bank has established a RFP coordinator to provide a venue for managing Service Provider relationship and other requirements through the Bank's decision making body for contract clarification. All the queries and communication must be addressed to the following RFP coordinator/ contact personnel from the Bank:



1. Name: Mr. Binod Agarwal, Chief Manager IT  
Address: Bank of Baroda, UTI Tower,  
2nd Floor, RRB CBS Operations Centre  
Bandra Kurla Complex, Mumbai, 400 051  
Tel No. 022 - 67892831  
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## **2.15 Eligibility Bid**

Eligibility criterion for the service providers to qualify this stage is clearly mentioned in Annexure 2 – Eligibility criterion compliance to this document. Service providers who meet these criteria would only qualify for the second stage of evaluation.

- 2.15.1 Covering letter as per Appendix 3 certifying eligibility criteria compliance (eligibility criteria as defined in Annexure 2).
- 2.15.2 Duly filled up Annexure 2 – Eligibility Criteria Compliance.
- 2.15.3 Supporting credential letters or copies of documentation from clients or purchase order copies certifying compliance.
- 2.15.4 Application Money and Bid Security.
- 2.15.5 Bid Security Undertaking (if Earnest Money deposit in the form of a bank guarantee) as per Appendix 6.

All the credentials of the service provider necessarily need to be relevant to the Indian market.

The decision of the Bank or RRBs shall be final and binding on all the service providers to this document. The Bank may accept or reject an offer without assigning any reason whatsoever.

## **2.16 Technical Proposal Format**

The Service provider's proposal must effectively communicate their solution and be formatted in the specified formats in order for the Bank to assess the alternatives. Therefore, proposals must be submitted with the following sections.



The technical bid should be structured in the following sequence,

- 2.16.1 Appendix 5 - Table of Contents
- 2.16.2 Covering letter as per Appendix 3
- 2.16.3 Executive Summary: The Executive Summary should be limited to a maximum of five pages and should summarize the content of the response. The Executive Summary should initially provide an overview of Service provider's organization and position with regards to DC – DR co-location services for Banking Sector. A summary of the Service provider's facilities and services that will be provided as a part of this procurement should follow. A brief description of the unique qualifications of the service provider should then be provided followed by a summary on capabilities such as resources and past experience of providing such services. Information provided in the Executive Summary is to be presented in a clear and concise manner.
- 2.16.4 Technical Requirements Compliance: The proposed services of the Service provider's proposal must consist of a response to the technical requirements in Annexure 1. The Service provider's response must explain the technical specifications wherever required.
- 2.16.5 Copy of Price Bid without commercials as per Appendix 2 – Masked Commercial Bid Details;
- 2.16.6 Comments in the format as given in Appendix 4.
- 2.16.7 Annexure 5 Undertaking on Ownership or Leased Status
- 2.16.8 Annexure 6 Conformity with Hardcopy Letter
- 2.16.9 Annexure 7 Conformity Letter

The technical proposal should contain all the above mentioned details.

## **2.17 Earnest Money Deposit**

The service providers will have to submit the Earnest Money Deposit (EMD) while submitting the technical bid at the rate stipulated by the bank.

- 2.17.1 The service provider shall furnish, as part of its technical bid, earnest money deposit of an amount of Rs. 51, 00,000/- (fifty one lakhs only). The earnest money deposit is required to protect the Bank against the risk of Service provider's conduct.
- 2.17.2 The Earnest Money Deposit shall be denominated in the Indian Rupees only and shall be in the form of a Demand Draft favoring "Bank of Baroda" payable at BKC, Mumbai or a bank guarantee of an equal amount issued by a Commercial Bank located in India, which is valid for 6 months, in the form provided in the RFP (Appendix 6 - Bid



Security Form). Any commercial bid not secured in accordance with the above will be rejected by Bank as non-responsive.

- 2.17.3 Unsuccessful Service provider's earnest money deposit or bank guarantee will be returned by the Bank. No interest shall be paid on earnest money deposit to unsuccessful service provider.
- 2.17.4 The successful Service provider's earnest money deposit will be adjusted upon the Service provider signing the Contract and furnishing the performance guarantee.
- 2.17.5 In case bank guarantee was provided initially in lieu of the earnest money deposit, then the same will be discharged upon the Service provider signing the contract.
- 2.17.6 The earnest money deposit may be forfeited or the bank guarantee in lieu of EMD may be invoked by the Bank:
  - 2.17.6.1 If the service provider withdraws its bid during the period of bid validity specified by the Service provider on the Bid Form; or
  - 2.17.6.2 In case of the successful Service provider, if the service provider fails to:
    - 2.17.6.2.1 Sign the Contract within 1 month of issue of purchase order / letter of intent.
    - 2.17.6.2.2 Furnish performance security within 15 days from the date of placing the order by the Bank or signing of the contract whichever is earlier for any reason whatsoever.
- 2.17.7 Earnest Money Deposit will be refunded for the unsuccessful service providers within two weeks from the date of issue of letter of intent to the successful service provider without any interest.

## **2.18 Commercial Bid**

The Commercial Offer should give all relevant price information and should not contradict the Technical Offer in any manner. There should be no hidden costs for items quoted. The offer must be made in Indian Rupees only. The prices quoted by the service provider shall be all inclusive, that is, inclusive of all taxes, duties; levies etc. except Service Tax, VAT / CST & Octroi /entry tax (wherever applicable) will be paid extra. VAT / CST & Octroi /entry tax will be paid on actual on production of original receipt. The suggested format for submission of Commercial offer is mentioned in Appendix 1. The Bank is not responsible for the arithmetical accuracy of the bid. The service providers will have to ensure all calculations are accurate. The Bank at any point in time for reasons whatsoever is not responsible for any



assumptions made by the Service Provider. The Bank at a later date will not accept any plea of the Service Provider or changes in the commercial offer for any such assumptions.

### **2.19 MSE**

MSEs are exempted from paying the application money and Earnest Money deposit amount for which the concerned enterprise needs to provide necessary documentary evidence. For MSEs Government of India provisions shall be considered while evaluating the tender.

## **3. Project Details and Detailed Requirements**

### **3.1 Introduction and Project Overview**

- 3.1.1 Bank of Baroda has sponsored three (3) RRBs in states viz. (1) Uttar Pradesh (2) Rajasthan and (3) Gujarat with aggregate number of more than 1900 branches. A separate dedicated common DC, DR, NDR Infrastructure have been implemented in a co-location model which caters to all branches of Bank's three sponsored RRBs together under the common infrastructure setup. Bank of Baroda being a sponsor bank to the RRBs takes care of the Centralized DC/DR Infrastructure and services.
- 3.1.2 Bank intends to engage service provider for DC – DR co-location services for its three sponsored RRB's on expiry of current contract period with existing Service Provider. The detailed Project scope is as defined in Annexure 1 under – Detailed Project Scope and Technical requirement.

### **3.2 Purpose**

- 3.2.1 Bank of Baroda, a body corporate constituted under the Banking Companies (Acquisition & Transfer of Undertakings) Act 1970, having its Corporate Office at C-26, G-Block, Bandra Kurla Complex, Bandra East, Mumbai - 400051 which expression unless repugnant to the context or meaning thereof shall mean and include its successors and assigns, intends to issue this RFP document, hereinafter called RFP, to eligible Service Providers, hereafter called as 'SPs' or 'SP', to participate in the competitive bidding for appointment of SP for selection of SP's for DC and DR co – location services for its sponsored three RRB's. The Bank, for this purpose, invites proposal from Service providers (SP's) for primarily undertaking inter-alia activities for the Bank in respect of co-location services. The detailed requirement is as covered in Annexure 1
- 3.2.2 The Bank (on behalf of its three sponsored RRBs), for this purpose, invites proposal from Service Providers. SP who is interested in



participating in this RFP must fulfill the eligibility criteria mentioned under Annexure 2 and also in a position to comply with the technical specification mentioned in Annexure 1 and provide the services required.

3.2.3 Apart from the above the SP must also agree to all our terms & conditions mentioned under this RFP.

### 3.3 Project Scope and Detailed Requirements

The broad Project Scope along with the detailed requirements is as defined in Annexure 1

### 3.4 Project Timelines

The timelines of project completion is as under:

#	Activity	Time Period for Completion
I.	For Data center Site – Mumbai / Navi Mumbai	
1.	Making the Server area ready and available for setting up the Bank's IT infrastructure in Server cage area (Site should be ready with server Caging, electrical cabling and other facilities like access control system, etc should be complete)	4 weeks from date of issuing the purchase order to the SP
2.	Site completely ready for inspection	5 weeks from date of issuing the purchase order to the SP
II.	For Disaster Recovery Site - Hyderabad	
1	Making the Server area ready and available for setting up the Bank's IT infrastructure in server cage area (Site should be ready with server caging, electrical cabling and other facilities like access control system, etc.)	4 weeks from the date of issuing the purchase order to the SP
2.	Site completely ready for Inspection	5 weeks from the date of issuing the purchase order to the SP

### 3.5 Service Levels and Uptime Guarantee

The facilities like power, cooling, CCTV monitoring, security (biometric, physical, access card) provided by the service provider to co-locate Bank's DC and DR equipments should have high



availability. For details, please refer to Annexure 3 that details the service levels.

#### **4. Evaluation Process**

The competitive bids shall be submitted in three stages:

- Stage 1 – Eligibility Bid
- Stage 2 - Technical Bid
- Stage 3 – Commercial Bid

##### **4.1 Eligibility Bid Evaluation**

- 4.1.1 Eligibility criterion for the Service Provider to qualify this stage is clearly mentioned in Annexure 2 – Eligibility Criterion Compliance to this document. The Service Provider would also need to provide supporting documents for eligibility proof. All the credentials of the Service Provider necessarily need to be relevant to the INDIAN market. During evaluation of the Tenders, the Bank, at its discretion, may ask the Service provider for clarification in respect of its tender. The request for clarification and the response shall be in writing, and no change in the substance of the tender shall be sought, offered or permitted.
- 4.1.2 The Bank’s reserves the right to accept or reject any tender in whole or in parts without assigning any reason thereof. The decision of the Bank shall be final and binding on all the service providers to this document and bank will not entertain any correspondence in this regard.
- 4.1.3 Service Providers who meet these criteria would only qualify for the technical evaluation.

##### **4.2 Technical Bid Evaluation**

The Technical Proposal will be evaluated for technical suitability as specified in Annexure 4 – service provider scoring and evaluation chart. The evaluation will be done on a total score of 500. The technical evaluation criterion would broadly involve the following major areas:

- 4.2.1 **Technical Requirement Compliance:** Compliance to Technical specifications / requirements as given in Annexure 1 – section 3 - Technical requirement – total 250 marks i.e. 125 each for DC and DR. The SP’s response to the technical requirements listed in the DC and DR section of the Annexure shall have equal weightage for evaluation. However the bank reserves the right to change these



scores / compliance confirmations given by the service provider, in case of any specific contradictory observations during the site visits or during the verification exercise. SP must score a minimum of 80% compliance to the technical specifications.

- 4.2.2 **Site visit Scoring:** As a part of technical evaluation, site visit will be carried out by Bank officials. This shall have a maximum score of 150 marks i.e. 75 each for DC and DR.
- 4.2.3 SP is expected to facilitate the Banks team's site visits to the sites proposed by the SP. The items mentioned in the technical specifications, that can be demonstrated and validated will be evaluated/verified during the site visits and any other specifications that bank deems fit or observes during the visit.
- 4.2.4 Overall marks towards various parameters related to DC/DR setup shall be awarded to SP. The details of parameters are as attached in Annexure 4 that shall be verified during onsite visit. SP will be required to submit all the details towards each of the parameters mentioned as a part of technical bid submission. All relevant documents/credentials/certifications should be submitted along with the compliance sheet. These submitted documentary proofs shall be used by Bank officials to verify and confirm the awarding of total marks under this category.
- 4.2.5 SP scoring and evaluation chart - Annexure 4, complete in all respects has to be submitted by SP during the bidding process. The information under this Annexure 4 has to be made available as a part of technical bidding process which will be taken into contemplation for onsite verification.
- 4.2.6 **Overall proposal evaluation:** This shall have a maximum scoring of 100 marks and will include the evaluation of the following:
- 4.2.6.1 SP's detailed work plan along with timelines, proposed solution, and facilities, past experience, etc.
  - 4.2.6.2 Short listed SPs presentation and demonstration of the solution proposed, if required.
  - 4.2.6.3 Implementation Methodology described by the SP in Technical Bid response.
- 4.2.7 The list of requirements for the technical Bid has been mentioned in Annexure 1
- 4.2.7.1 The SP needs to achieve a cut – off score of 350 marks in the Stage two evaluations to be qualified for commercial bid opening. Only those SPs who achieve the specified cut – off scores would be short-listed for Stage three - commercial bid evaluation.





- 4.2.7.2 In case none of the SPs score a minimum of 350 marks then the SPs who have achieved the top 2 scores will qualify for the commercial evaluation stage.
- 4.2.7.3 In case only one SP scores 350 points or above, only this SP will be considered for the commercial bid. However, the Bank may at its discretion consider the next highest technical score. The break-up of the scoring is mentioned below and in the SP scoring chart – Annexure 4

Section	Description	Maximum Score	Credentials
1	Compliance to Technical requirement / specifications DC/DR	250	Compliance to Annexure 1
2	Site visit DC/DR	150	Site visit
3	Overall proposal, description of the facilities provided at proposed site - Technical bid DC/DR	100	Documents submitted in Technical Bid
Total		500	

- 4.2.7.4 The SP must score a minimum of 80% compliance in Section 1 – Technical requirements / specifications. Even if the SP meets the 350 mark cut-off and does not meet this criterion of 80% compliance to section 1, the SP would have deemed not to be meeting the RFP Technical requirements.

### 4.3 Commercial Bid Evaluation

The commercial bids of only those vendors who qualify in the technical evaluation will be opened. The date for opening of the commercial bid would be communicated separately to the technically eligible vendors.

The commercial bids submitted by vendors will be evaluated based on discounted total cost of ownership. The discount rate will be used @ 10%. The key considerations of the TCO would be the total payouts for entire project through the contract period, discounted at 10% to arrive at the present value of the future cash outflows. Accordingly the L1 (Lowest Vendor) would be arrived at.

The formulae for NPV calculation along with example is as under:

$$NPV(i, N) = \sum_{t=0}^N \frac{R_t}{(1+i)^t}$$



where

- $R_t$  – the net cash flow
- $t$  – the time of the cash flow
- $i$  – the discount rate
- $N$  – total number of periods

The example for NPV analysis is stated below. Please Note that even in the case where TCO for five years are same for two bidders, The NPV is different as the cash flow for the given period is dissimilar. Hence Bidder 1 is L1 as its NPV for five years is Rs.4773.7 which less than NPV cost of Bidder 2 i.e.Rs.4900.38, although TCO quoted by both the bidders are of same value.

NPV Analysis of Commercials of Bidder 1							
Sr. No	Service/product (TCO)	Year 1	Year 2	Year 3	Year 4	Year 5	Total bid cost - five years (Rs.)
A	Product 1	100	120	140	160	180	700
B	Product 2	200	220	240	260	280	1200
C	Service 1	300	320	340	360	380	1700
D	Service 2	400	420	440	460	480	2200
TCO for Five Years (Rs) (A+B+C+D)							5800
Sr. No	Service/product (NPV)	Year 1	Year 2	Year 3	Year 4	Year 5	Total NPV cost - five years (Rs.)
A	Product 1	100	109.1	115.7	120.2	122.9	567.95
B	Product 2	200	200	198.4	195.3	191.2	984.93
C	Service 1	300	290.9	281	270.5	259.6	1401.92
D	Service 2	400	381.8	363.6	345.6	327.9	1818.91
NPV for Five years (Rs) (A+B+C+D)							4773.7 (L1)
NPV Analysis of Commercials of Bidder 2							
Sr. No	Service/product (TCO)	Year 1	Year 2	Year 3	Year 4	Year 5	Total bid cost - five years (Rs.)
A	Product 1	180	160	140	120	100	700
B	Product 2	280	260	240	220	200	1200
C	Service 1	380	360	340	320	300	1700
D	Service 2	480	460	440	420	400	2200
TCO for Five Years (Rs) (A+B+C+D)							5800



Sr. No	Service/product (NPV)	Year 1	Year 2	Year 3	Year 4	Year 5	Total bid cost - five years (Rs.)
A	Product 1	180	145.5	115.7	90.16	68.3	599.62
B	Product 2	280	236.4	198.4	165.3	136.6	1016.6
C	Service 1	380	327.3	281	240.4	204.9	1433.59
D	Service 2	480	418.2	363.6	315.6	273.2	1850.58
NPV for Five years (Rs) (A+B+C+D)							4900.38

Please note that bidder is required to submit the NPV cost evaluated through above mentioned formula along with commercial sheet on the same format of commercials (Total Summary). NPV calculation sheet is enclosed in Commercial sheet with set NPV formula and commercials values populated in summary sheet will automatically be calculated and populated in NPV sheet. Bidders are required to submit this sheet along with all commercial sheets while commercial bid submission. L1 will be evaluated on the basis of NPV cost. However, payment to the successful L1 bidder will be released as per TCO cost.

The decision of the Bank shall be final and binding on all the vendors to this document. The Bank reserves the right to accept or reject an offer without assigning any reason whatsoever.

## 5. Terms and conditions

### 5.1.1 General Terms

- 5.1.1.1 The Bank expects the Service provider to adhere to the terms of this tender document and would not accept any deviations to the same. If the service provider has absolutely genuine issues only then should they provide their nature of non-compliance to the same in the format provided in Appendix 4 - Comments Format. The Bank reserves its right to not accept such deviations to the tender terms.
- 5.1.1.2 The Bank expects that the service provider appointed under the tender document shall have the single point responsibility for fulfilling all obligations and providing all deliverables and services required by Bank to co-locate its DC and DR infrastructure at SP's proposed site.
- 5.1.1.3 Unless agreed to specifically by the Bank in writing for any changes to the tender document issued the service provider responses would not be incorporated automatically in the tender document.
- 5.1.1.4 Unless expressly overridden by the specific agreement to be entered into between the Bank and the service provider, the tender



document shall be the governing document for arrangement between the Bank and the service provider.

#### **5.1.2 Rules for Responding to this RFP**

- 5.1.2.1 Last date for submission of bids is mentioned in **2.12 Timeframe clause**.
- 5.1.2.2 All responses received after the due date / time would be considered late and would be liable to be rejected.
- 5.1.2.3 All responses should be in English language. All responses by the service provider to this tender document shall be binding on such service provider for a period of 180 days after opening of the commercial bids
- 5.1.2.4 All responses including commercial and technical bids would be deemed to be irrevocable offers/proposals from the service providers and may be accepted by the Bank form part of final contract between the Bank and the selected service provider. Service providers are requested to attach a letter from an authorized signatory attesting the veracity of information provided in the responses. Unsigned responses would be treated as incomplete and are liable to be rejected.
- 5.1.2.5 The technical and commercial bid, submitted cannot be withdrawn / modified after the last date for submission of the bids unless specifically permitted by the Bank. In case, due to unavoidable circumstances, the Bank does not award the contract within six months from the last date of the submission of the commercial bids, and there is a possibility to award the same within a short duration, the service provider would have the choice to maintain the EMD or bank guarantee in lieu of EMD with the Bank or to withdraw the bid and obtain the security provided.
- 5.1.2.6 The service provider may modify or withdraw its offer after submission, provided that, the Bank, prior to the closing date and time, and receives a written notice of the modification or withdrawal prescribed for submission of offers. No offer can be modified or withdrawn by the service provider subsequent to the closing date and time for submission of the offers.
- 5.1.2.7 The service provider is required to quote for all the components/services mentioned in the Annexure – 1 “Detailed Scope and Technical Requirement” and all other requirements of this RFP. In case the service provider does not quote for any of the components/services, the response would be deemed to include the quote for such unquoted components/service. It is mandatory to submit the details in the formats provided along with this document duly filled in, along with the offer. The Bank



reserves the right not to allow / permit changes in the technical specifications and not to evaluate the offer in case of non-submission of the technical details in the required format or partial submission of technical details.

- 5.1.2.8 Based on the Bank's requirements as listed in this document, the service provider should identify the best-suited site that would meet the Bank's requirements and quote for the same. In case the service provider quotes for more than one site (for example one quote for site x and site y for DR) and they have not specified which particular site quoted by them needs to be considered, then the response would be considered as improper and the whole tender submitted by the service provider is liable to be rejected. The SP should not give options to the Bank to select from. The SP is expected to provide the best suitable solution and quote for the same.
- 5.1.2.9 In the event of any changes observed by the Bank in the payment schedules as suggested by the Bank, the price bid of the service provider would be loaded with 10% of the total cost of that particular item / service. However, this additional loaded amount is only for evaluation purposes and will not be actually payable to the Service provider. The Bank will conform to its payment schedule as specified in the tender document.
- 5.1.2.10 Service provider must furnish requirements as per the formats provided in the RFP document. In the event the SP is not furnishing any requirements or any changes are observed by the Bank in any of the line item of the financial bid, with respect to any costs, the price bid of the SP would be loaded with 10% of the total cost of that item as mentioned by it. However, this additional loaded amount is only for evaluation purposes and will not be actually payable to the SP.
- 5.1.2.11 In the event the service provider has not quoted for any mandatory items as required by the Bank and forming a part of the tender document circulated to the Service provider's and responded to by the service provider, the same will be deemed to be provided by the service provider at no extra cost to the Bank.
- 5.1.2.12 The Bank is not responsible for any assumptions or judgments made by the service provider for the scope defined in the RFP. The Bank's interpretation will be final.
- 5.1.2.13 The Bank ascertains and concludes that everything as mentioned in the tender documents circulated to the Service provider and responded by the service providers have been quoted for by the service provider, and there will be no extra cost associated with the same in case the service provider has not quoted for the same.



- 5.1.2.14 In the event the Bank has not asked for any quotes for alternative prices, and the service provider furnishes the alternative price in the service provider's financial bid, the higher of the prices will be taken for calculating and arriving at the Total Cost of Ownership. However payment by the Bank will be made at the lower price. The Bank in this case may also reject the offer outright.
- 5.1.2.15 In the event optional prices are not quoted by the service provider, for items where such prices are a must and required to be quoted for, the 25% more than the highest price quoted by any of the participating service provider will be taken as the costs, for such alternatives and also for arriving at the Total Cost of Ownership for the purpose of evaluation of the Service Provider. The same item has to be supplied by the Service Provider free of cost.
- 5.1.2.16 All out of pocket expenses, traveling, boarding and lodging expenses for the entire life of the contract should be a part of the financial bid submitted by the service provider to the Bank. No extra costs on account of any items or services or by way of any out of pocket expenses, including travel, boarding and lodging etc. will be payable by the Bank. The service provider cannot take the plea of omitting any charges or costs and later lodge a claim on the Bank for the same.
- 5.1.2.17 The service provider at no point in time can excuse themselves from any claims by the Bank whatsoever for their deviations in conforming to the terms and conditions, payments schedules, time frame for site readiness and availability etc. as mentioned in the tender document circulated by the Bank. Service provider shall be fully responsible for deviations to the terms & conditions, site readiness etc. as proposed in the tender document.

### **5.1.3 Price Bids**

- 5.1.3.1 The service provider is requested to quote in Indian Rupee (INR). Bids in currencies other than INR would not be considered. The date for opening of price bids would be communicated separately to the successful Service Provider post the completion of the technical evaluation.
- 5.1.3.2 The commercial quotation and other terms offered by service providers must be firm for an acceptance period of 180 days from the opening of the commercial bid.
- 5.1.3.3 The prices quoted by the service provider shall be all inclusive, that is, inclusive of all taxes, duties, levies etc. except Service Tax, VAT / CST & Octroi /entry tax (wherever applicable) will be paid



extra. VAT / CST & Octroi /entry tax will be paid on actual on production of original receipt. There will be no price escalation for during the contract period and any extension thereof. Bid submitted with an adjustable price quotation will be treated as non-responsive and will be rejected.

- 5.1.3.4 In case of any variation (upward or down ward) in Government levies / taxes / cess / excise / custom duty etc. which has been included as part of the price will be borne by the Service Provider. Variation would also include the introduction of any new tax / cess/ excise, etc provided that the benefit or burden of other taxes quoted separately as part of the commercial bid like VAT, service tax and any taxes introduced instead of Service tax, VAT and levies associated to Service Tax, VAT or any new taxes (other than excise, custom duties, other duties and associated government levies) introduced after the submission of Service Provider's proposal shall be passed on or adjusted to the Bank. Local entry tax and octroi will be paid on actuals based on receipt provided. If the Service Provider makes any conditional or vague offers, without conforming to these guidelines, the Bank will treat the prices quoted as in conformity with these guidelines and proceed accordingly. Local entry taxes / octroi whichever is applicable, if any, will be paid by the Bank on production of relative invoices / payment receipts / documents. Necessary documentary evidence should be produced for having paid the customs / excise duty, sales tax, if applicable, and or other applicable levies.
- 5.1.3.5 If any Tax authorities of any state, including, Local authorities like Corporation, Municipality etc. or any Government authority or Statutory or autonomous or such other authority imposes any tax, charge or levy or any cess / charge other than VAT or CST & entry tax or octroi and if the Bank has to pay the same for any of the items or supplies made here under by the Service Provider, for any reason including the delay or failure or inability of the Service Provider to make payment for the same, the Bank has to be reimbursed such amounts paid, on being intimated to the Service Provider along with the documentary evidence. If the Service Provider does not reimburse the amount within a fortnight, the Bank shall adjust the amount out of the payments due to the Service Provider from the Bank along with the interest calculated at commercial rate.
- 5.1.3.6 Terms of payment as indicated in the Purchase Contract that will be issued by the Bank on the selected service provider will be final and binding on the service provider and no interest will be payable by the Bank on outstanding amounts under any circumstances. If there are any clauses in the Invoice contrary to the terms of the



Purchase Contract, the service provider should give a declaration on the face of the Invoice or by a separate letter explicitly stating as follows “Clauses, if any contained in the Invoice which are contrary to the terms contained in the Purchase Contract will not hold good against the Bank and that the Invoice would be governed by the terms contained in the Contract concluded between the Bank and the service provider”. Service provider should ensure that the project should not suffer for any reason.

#### **5.1.4 Price Comparisons**

- 5.1.4.1 The Bank will consider the Total Cost of Ownership (TCO) mentioned in the commercial.
- 5.1.4.2 Comprehensive DC & DRC co-location charges must be quoted, on yearly basis, after taking due consideration for the requirements and support period and providing the adequate benefit to the Bank.
- 5.1.4.3 The Bank, may decide to choose to avail the optional items at any point during the contract on the same cost.
- 5.1.4.4 For comparison purposes the Bank will consider the Optional Items as well, if any.
- 5.1.4.5 The Price offer shall be on a fixed price basis and should be inclusive of all taxes, duties, levies etc. except Service Tax, VAT / CST & Octroi /entry tax (wherever applicable) will be paid extra. VAT / CST & Octroi /entry tax will be paid on actual on production of original receipt. There will be no price escalation for during the period of assignment and any extension thereof. Bid submitted with an adjustable price quotation will be treated as non-responsive and will be rejected.
- 5.1.4.6 While the Bank will summarily reject the solution of a lower configuration than those mentioned in the Technical specifications, the Bank would accept the higher configuration after a price evaluation of such higher configuration to ensure that there is no adverse price impact and any advantage of a lower price in such cases is passed on to the Bank. The Service Provider is not entitled to a longer period for delivery on the pretext of seeking approval from the Bank for a higher configuration or enhancement.
- 5.1.4.7 Normalization of bids: The Bank will go through a process of technical evaluation and normalization of the bids to the extent possible and feasible to ensure that Service Providers are more or less on the same technical ground. After the normalization process, if the Bank feels that any of the bids needs to be





normalized and that such normalization has a bearing on the price bids; the Bank may at its discretion ask all the technically short-listed Service Providers to resubmit the technical and commercial bids once again for scrutiny. The Bank can repeat this normalization process at every stage of technical submission or till the Bank is satisfied. The Service Providers agree that they have no reservation or objection to the normalization process and all the technically short listed Service Providers will, by responding to this RFP, agree to participate in the normalization process and extend their co-operation to the Bank during this process. The Service Providers, by submitting the response to this RFP, agree to the process and conditions of the normalization process.

- 5.1.4.8 The Price offer shall be on a fixed price basis. Bid submitted with an adjustable price quotation will be treated as non-responsive and will be liable to be rejected. The rate quoted by the Service Provider should necessarily include the following:
- 5.1.4.9 The Service Provider is expected to provide for services which are required to be extended by the Service Provider in accordance with the terms and conditions of the contract.
- 5.1.4.10 The Service Provider must provide and quote for all the services as desired by the Bank as mentioned in this RFP. Any services not proposed to be provided by the Service Provider will result in the proposal being incomplete, which may lead to disqualification of the Service Provider.

## **5.2 Bid Security and Performance Guarantee**

### **5.2.1 Bid Security / Earnest Money Deposit**

- 5.2.1.1 SPs are required to give a earnest money deposit of an amount of Rs. 51,00,000/- (fifty one lakhs only) by way of Demand Draft / Pay Order drawn on BKC, Mumbai payable to “Bank of Baroda” or a Bank Guarantee of an equal amount issued by a Commercial Bank located in India, valid for 6 months in the form provided in the RFP (Appendix 6 – Bid Security Form). The Demand Draft should be of a Commercial Bank only and will be accepted subject to the discretion of the Bank.
- 5.2.1.2 Offers made without the Earnest money deposit will be rejected.
- 5.2.1.3 The amount of Earnest money deposit would be forfeited in the following scenarios:
  - 5.2.1.3.1 In case the Service provider withdraws the bid prior to validity period of the bid for any reason whatsoever;



5.2.1.3.2 In case the service provider refuses to accept and sign the contract as specified in this document within 1 month of issue of Purchase Order / letter of intent for any reason whatsoever; or

5.2.1.3.3 In case the Service provider fails to provide the performance guarantee within 15 days from the date of placing the order by the Bank or signing of the contract, whichever is earlier, for any reason whatsoever.

## **5.2.2 Performance Guarantee**

5.2.2.1 The successful Service Provider shall provide a Performance Guarantee (PBG) within 15 days from the date of receipt of the rate contract order or signing of the contract whichever is earlier in the format as provided in Appendix 8 to the extent of 10% of the total contract value for the entire period of the assignment plus 6 months and such other extended period as the Bank may decide for due performance of the project obligations. The guarantee should be of that of a nationalized Bank only, other than Bank of Baroda. The successful service provider will have a provision at the end of the rate contract to provide an amendment to the submitted PBG in case the order placed is less than the total rate contract value.

5.2.2.2 In the event of non-performance of obligation or failure to meet terms of this Tender the Bank shall be entitled to invoke the performance guarantee without notice or right of demur to the Service Provider. Any amount pending for payment due to non achieving of milestone/s set under the agreement or any other reason solely attributable to the Service Provider should be included in the remaining amount of the contract value.

5.2.2.3 The Bank reserves the right to recover any dues payable by the selected Service Provider from any amount outstanding to the credit of the selected Service Provider, including the pending bills and/or invoking Performance Guarantee, if any, under this contract.

5.2.2.4 If the Performance guarantee is not submitted within the stipulated time, the Bank reserves the right to cancel the order / contract and the earnest money deposit taken from the Service Provider, will be forfeited.



### 5.2.3 Others

- 5.2.3.1 The site will be deemed accepted only when all the facilities are in place and in working condition as per Bank's requirement.
- 5.2.3.2 Responses to this RFP should not be construed as an obligation on the part of the Bank to award a purchase contract for any services or combination of services. Failure of the Bank to select a service provider shall not result in any claim whatsoever against the Bank. The Bank reserves the right to reject any or all bids in part or in full, without assigning any reason whatsoever.
- 5.2.3.3 By submitting a proposal, the service provider agrees to promptly contract with the Bank for any work awarded to the service provider. Failure on the part of the awarded service provider to execute a valid contract with the Bank will relieve the Bank of any obligation to the service provider, and a different service provider may be selected based on the selection process.
- 5.2.3.4 The terms and conditions as specified in the RFP and addendums thereafter are final and binding on the Service providers. In the event the Service provider is not willing to accept the terms and conditions of the Bank, the Service provider may be disqualified. Any additional or different terms and conditions proposed by the service provider would be rejected unless expressly assented to in writing by the Bank and accepted by the Bank in writing.
- 5.2.3.5 The Service provider shall represent and acknowledge to the Bank that it possesses necessary experience, expertise and ability to undertake and fulfill its obligations, involved in the performance of the provisions of this RFP. If any services, functions or responsibilities not specifically described in this RFP are an inherent, necessary or customary part of the deliverables or services and are required for proper performance or provision of the deliverables or services in accordance with this RFP, they shall be deemed to be included within the scope of the deliverables or services, as if such services, functions or responsibilities were specifically required and described in this RFP and shall be provided by the Service provider at no additional cost to the Bank. The Service provider also acknowledges that the Bank relies on this statement of fact, therefore neither accepting responsibility for, nor relieving the Service provider of responsibility for the performance of all provisions and terms and conditions of this RFP, the Bank expects the Service provider to fulfill all the terms and conditions



of this RFP. The modifications, which are accepted by the Bank, shall form a part of the final contract.

- 5.2.3.6 The service provider must strictly adhere to the delivery dates or lead times identified in their proposal. Failure to meet these delivery dates, unless it is due to reasons entirely attributable to the Bank, may constitute a material breach of the Service provider's performance. In the event that the Bank is forced to cancel an awarded contract (relative to this tender document) due to the Service provider's inability to meet the established delivery dates, that Service provider will be responsible for any re-procurement costs suffered by the Bank. The liability in such an event could be limited to the differential excess amount spent by the Bank for procuring similar deliverables and services or is limited to 10% on the total purchase order value whichever is higher.
- 5.2.3.7 The Service provider shall represent that the proposed site infrastructure (hardware / software) and its documentation, if any, provided towards the proposed solution / services and/or use of the same by the Bank shall not violate or infringe the rights of any third party or the laws or regulations under any governmental or judicial authority. The Service provider further represents that the documentation to be provided to the Bank shall contain a complete and accurate description of the hardware, software and services (as applicable), and shall be prepared and maintained in accordance with the highest industry standards. The Service provider represents and agrees to obtain and maintain validity throughout the specified term, of all appropriate registrations permissions and approvals, which are statutorily required to be obtained by the service provider for performance of the obligations of the service provider. The service provider further agrees to inform and assist the Bank for procuring any registrations, permissions or approvals, which may at any time during the period of assignment be statutorily required to be obtained by the Bank for availing services from the service provider.
- 5.2.3.8 All terms and conditions, payments schedules, time frame for expected service levels as per this tender will remain unchanged unless explicitly communicated by the Bank in writing to the service provider. The Bank shall not be responsible for any judgments made by the service provider with respect to any aspect of the Service. The service provider shall at no point be entitled to excuse themselves from any claims by the Bank whatsoever for their deviations in confirming to the terms and conditions, payments schedules, expected service levels, time frame for site availability etc. as mentioned in this tender document.



5.2.3.9 The Bank and the service provider covenants and represents to the other Party the following:

5.2.3.9.1 It is duly incorporated, validly existing and in good standing under as per the laws of the state in which such Party is incorporated.

5.2.3.9.2 It has the corporate power and authority to enter into Agreements and perform its obligations there under. The execution, delivery and performance of terms and conditions under Agreements by such Party and the performance of its obligations there under are duly authorized and approved by all necessary action and no other action on the part of such Party is necessary to authorize the execution, delivery and performance under an Agreement.

5.2.3.10 The execution, delivery and performance under an Agreement by such Party:

5.2.3.10.1 Will not violate or contravene any provision of its documents of incorporation;

5.2.3.10.2 Will not violate or contravene any law, statute, rule, regulation, licensing requirement, order, writ, injunction or decree of any court, governmental instrumentality or other regulatory, governmental or public body, agency or authority by which it is bound or by which any of its properties or assets are bound;

5.2.3.10.3 Except to the extent that the same have been duly and properly completed or obtained, will not require any filing with, or permit, consent or approval of or license from, or the giving of any notice to, any court, governmental instrumentality or other regulatory, governmental or public body, agency or authority, joint venture party, or any other entity or person whatsoever;

5.2.3.10.4 To the best of its knowledge, after reasonable investigation, no representation or warranty by such Party in this Agreement, and no document furnished or to be furnished to the other Party to this Agreement, or in connection herewith or with the transactions contemplated hereby, contains or will contain any untrue or misleading statement or omits or will omit any fact necessary to make the statements contained herein or therein, in light of the circumstances under which made, not misleading. There have been no events or



transactions, or facts or information which has come to, or upon reasonable diligence, should have come to the attention of such Party and which have not been disclosed herein or in a schedule hereto, having a direct impact on the transactions contemplated hereunder.

5.2.3.10.5 The service provider shall undertake to provide appropriate human as well as other resources required, to execute the various tasks assigned as part of the project, from time to time.

5.2.3.10.6 The Bank would not assume any expenses incurred by the service provider in preparation of the response to this RFP and also would not return the bid documents to the Service Providers

5.2.3.10.7 The Bank will not bear any costs incurred by the service provider for any discussion, presentation, demonstrations etc. on proposals or proposed contract or for any work performed in connection therewith.

#### **5.2.4 Other RFP Requirements**

5.2.4.1 This tender document may undergo change by either additions or deletions or modifications before the actual award of the contract by the Bank. The Bank also reserves the right to change any terms and conditions including eligibility criteria of the tender document and its subsequent addendums as it deems necessary at its sole discretion. The Bank will inform all service providers about changes, if any.

5.2.4.2 The Bank may revise any part of the tender document, by providing a written addendum at stage till the award of the contract. The Bank reserves the right to issue revisions to this tender document at any time before the award date.

5.2.4.3 The Bank reserves the right to extend the dates for submission of responses to this document.

5.2.4.4 Service providers shall have the opportunity to clarify doubts pertaining to the tender document in order to clarify any issues they may have, prior to finalizing their responses. All questions are to be submitted to the General Manager (Information Technology), Bank of Baroda at the address mentioned earlier, and should be received by the nominated point of contact in writing through email before the scheduled date as indicated in the schedule of timeframe. Responses to inquiries and any other corrections and



amendments will be distributed to all the Service providers in the form of electronic mail or hardcopy or newspaper journals; the preference for distribution would be with the Bank. The service provider, who posed the question, will remain anonymous.

- 5.2.4.5 Preliminary Scrutiny – The Bank will scrutinize the offers to determine whether they are complete, whether any errors have been made in the offer, whether required technical documentation has been furnished, whether the documents have been properly signed, and whether items are quoted as per the schedule. The Bank may, at its discretion, waive any minor non-conformity or any minor deficiency in an offer. This shall be binding on all service providers and the Bank reserves the right for such waivers and the Bank's decision in the matter will be final.
- 5.2.4.6 Clarification of Offers – To assist in the scrutiny, evaluation and comparison of offers, the Bank may, at its discretion, ask some or all service providers for clarification of their offer. The Bank has the right to disqualify the service provider whose clarification is found not suitable to the proposed project.
- 5.2.4.7 No Commitment to Accept Lowest bid or Any Tender – The Bank shall be under no obligation to accept the lowest price bid or any other offer received in response to this Tender notice and shall be entitled to reject any or all offers including those received late or incomplete offers without assigning any reason whatsoever. The Bank reserves the right to make any changes in the terms and conditions of purchase. The Bank will not be obliged to meet and have discussions with any Service Provider, and / or to listen to any representations unless there is change in the terms and conditions of purchase
- 5.2.4.8 Erasures or Alterations – The offers containing erasures or alterations will not be considered. There should be no hand-written material, corrections or alterations in the offer. Technical details must be completely filled up. Correct technical information of the product being offered must be filled in. Filling up of the information using terms such as “OK”, “accepted”, “noted”, “as given in brochure / manual” is not acceptable. The Bank may treat the offers not adhering to these guidelines as unacceptable.
- 5.2.4.9 Price Discussion – It is absolutely essential for the Service Providers to quote the lowest price at the time of making the offer in their own interest. The Bank reserves the right to do price discovery and engage the successful service provider in discussions on the prices quoted.
- 5.2.4.10 SP presentation – SPs are requested to be prepared to make presentations and arrange for site visits, as part of the final



evaluation in accordance with the responses given for the identified requirements, any time after the last date for submissions of bids. The Bank will communicate a date and time to the SP any time after the last date for submission of bids. The service providers / respondents are expected to make the necessary travel, boarding and lodging arrangements for the bank team for making the site visits. With respect to DR Site that are proposed out of Mumbai, the service provider must provide for such boarding and lodging arrangements for 2 representatives in total from the bank and shall bear such costs.

- 5.2.4.11 Right to Alter Quantities – The Bank reserves the right to alter the requirements specified in the Tender. The Bank will inform all Service Providers about changes, if any. The Service Provider agrees that the Bank has no limit on the additions or deletions on the items for the period of the contract. Further the Service Provider agrees that the prices quoted by the Service Provider would be proportionately adjusted with such additions or deletions in quantities
- 5.2.4.12 Details of Sub-contracts, as applicable – If required by the Bank, Service Provider should provide complete details of any subcontractor/s used for the purpose of this engagement and should take prior permission from Bank before subcontracting. It is clarified that notwithstanding the use of sub contractors by the service provider, the service provider shall be solely responsible for performance of all obligations under the tender document irrespective of the failure or inability of the subcontractor chosen by the service provider to perform its obligations. The service provider shall also have the responsibility for payment of all dues and contributions, as applicable, towards statutory benefits for its employees and sub-contractors.
- 5.2.4.13 If the Bank is not satisfied with the technical specifications as specified in the tender document and observes major deviations, the technical bids of such Service Providers will not be short-listed for further evaluation. No further discussions shall be entertained with such Service Providers in respect of the subject technical bid.
- 5.2.4.14 There will be an acceptance test by the Bank or its nominated consultants after installation of the systems.
- 5.2.4.15 The site will not be accepted as complete if any facility/service as required is not available or not up to the standards projected by SP in their response and the requirement of this RFP.
- 5.2.4.16 There will be an acceptance inspection by the Bank or its nominated consultants for the site. In case of discrepancy in facilities provided, the Bank reserves the right to cancel the entire





purchase contract. The inspection will be arranged by the SP at the sites in the presence of the officials of the Bank. The contract tenure for the site will commence after acceptance of the site by the Bank. The inspection will involve checking of the facilities – like access control, caging, electrical cabling, precision AC, power supply systems, electrical system, no. of points, BMS components and tools etc. There shall not be any additional charges for carrying out this inspection. The Bank will take over the site on satisfactory completion of the above inspection. The Installation cum Acceptance Test & Check certificates jointly signed by SP's representative and Bank's official or any consultant / auditor appointed by the Bank should be received at our Office along with invoice etc. for scrutiny before taking up the request for consideration of payment.

5.2.4.17 The SP is responsible for managing the activities of its personnel or the personnel of its subcontractors/franchisees and will be accountable for both. The SP shall be vicariously liable for any acts, deeds or things done by their employees, agents, contractors, subcontractors etc. which is outside the scope of power vested or instructions issued by the Bank. SP shall be the principal employer of the employees, agents, contractors, subcontractors etc. engaged by SP and shall be vicariously liable for all the acts, deeds or things, whether the same is within the scope of power or outside the scope of power, vested under the purchase contract to be issued for this RFP. No right of any employment shall accrue or arise, by virtue of engagement of employees, agents, contractors, subcontractors etc. by the SP, for any assignment under the purchase contract to be issued for this RFP. All remuneration, claims, wages, dues etc. of such employees, agents, contractors, subcontractors etc. of SP shall be paid by SP alone and the Bank shall not have any direct or indirect liability or obligation, to pay any charges, claims or wages of any of SP's employee, agents, contractors, and subcontractors. The SP shall hold the Bank, its successors, Assignees and Administrators fully indemnified and harmless against loss or liability, claims actions or proceedings, if any, that may arise from whatsoever nature caused to the Bank through the action of its employees, agents, contractors, subcontractors etc. However, the SP would be given an opportunity to be heard by the Bank prior to making of a decision in respect of such loss or damage.

5.2.4.18 The Bank will scrutinize the technical bill of material and conformity to the requirements as specified in the RFP. As part of this process the Bank will try and normalize to the extent possible technical requirements and comparisons to the extent possible



between SPs. In the event of major deviations in the technical bids submitted by the SP, Bank may choose to provide for a re-pricing option to all the technically short-listed SP's. The SP agrees that it has no reservations with this process.

- 5.2.4.19 Service Provider shall indemnify, protect and save the Bank against all claims, losses, costs, damages, expenses, action, suits and other proceedings, resulting from infringement of any patent, trademarks, copyrights etc or such other statutory infringements under any laws including the Copyright Act, 1987 or Data Protection Act 2010 from whatsoever source, provided the Bank notifies the Service Provider in writing as soon as practicable when the Bank becomes aware of the claim. However, (i) the Service Provider has sole control of the defense and all related settlement negotiations (ii) the Bank provides the Service Provider with the assistance, information and authority reasonably necessary to perform the above and (iii) the Bank does not make any statements or comments or representations about the claim without the prior written consent of the Service Provider, except where the Bank is required by any authority/regulator to make a comment/statement/representation. Indemnity would cover damages, loss or liabilities suffered by the Bank arising out of claims made by its customers and/or regulatory authorities due to the failure of the Service Provider to perform its obligations
- 5.2.4.20 The Service Provider shall perform its obligations under this Tender as an independent contractor, and may engage subcontractors to perform any of the Deliverables or Services. Neither this Tender nor the Service Provider's performance of obligations under this Tender shall create an association, partnership, joint venture, or relationship of principal and agent, master and servant, or employer and employee, between the Bank and the Service Provider or its employees, subcontractor; and neither Party shall have the right, power or authority (whether expressed or implied) to enter into or assume any duty or obligation on behalf of the other Party.
- 5.2.4.21 The Service Provider shall solely be responsible for all payments (including any statutory payments) to its employees and / or sub contractors and shall ensure that at no time shall its employees, personnel or agents hold themselves out as employees or agents of the Bank, nor seek to be treated as employees of the Bank for any purpose, including claims of entitlement to fringe benefits provided by the Bank, or for any kind of income or benefits. The Service Provider alone shall file all applicable tax returns for all of its personnel assigned hereunder in a manner consistent with its status as an independent contractor of services; and the Service



Provider will make all required payments and deposits of taxes in a timely manner.

## **6. Terms of Reference**

### **6.1 Contract Commitment**

The Bank intends that the contract, which is contemplated herein with the successful service provider, shall be for a period as specified in section 2.5 from the date of site acceptance. The Bank at its sole discretion may enter into the contract for availing DC/DR co-location services with a single service provider.

### **6.2 Payment Terms**

6.2.1 The Service provider must accept the payment terms proposed by the Bank. The commercial bid submitted by the Service Providers must be in conformity with the payment terms proposed by the Bank. Any deviation from the proposed payment terms would not be accepted. The Bank shall have the right to withhold any payment due to the service provider, in case of delays or defaults on the part of the service provider. Such withholding of payment shall not amount to a default on the part of the Bank. If any of the items / activities as mentioned in the price bid is not taken up by the bank during the course of the assignment, the bank will not pay the professional fees quoted by the SP in the price bid against such activity / item.

6.2.2 The payment for co-location of the Data centre and Disaster Recovery Centre will be divided into 4 equal installments for the year and paid quarterly in arrears post the acceptance of all the relevant requirements under this RFP.

### **6.3 Acceptance of the site**

6.3.1 The Bank will carry out the inspection of the DC & DRC site prior to accepting the site/s. The SP shall assist the Bank in the inspection of various services provided to the Bank. For e.g. inspection of the cage area, cooling effect, power equipments, BMS equipments/tools etc.

6.3.2 The site will be deemed to be fully and finally accepted by the Bank in the event the Bank has not completed and communicated the results of the inspection to the SP within 60 days from the date of inspection.

### **6.4 Compliance with All Applicable Laws**

6.4.1 The Service provider shall undertake to observe, adhere to, abide by, comply with and notify the Bank about all laws in force or as are or as made applicable in future, pertaining to or applicable to them, their



business, their employees or their obligations towards them and all purposes of this tender and shall indemnify, keep indemnified, hold harmless, defend and protect the Bank and its employees / officers / staff / personnel / representatives / agents from any failure or omission on its part to do so and against all claims or demands of liability and all consequences that may occur or arise for any default or failure on its part to conform or comply with the above and all other statutory obligations arising there from.

- 6.4.2 Compliance in obtaining approvals/permissions/licenses: The service provider shall promptly and timely obtain all such consents, permissions, approvals, licenses, etc., as may be necessary or required for any of the purposes of this project or for the conduct of their own business under any applicable Law, Government Regulation/Guidelines and shall keep the same valid and in force during the term of the project, and in the event of any failure or omission to do so, shall indemnify, keep indemnified, hold harmless, defend, protect and fully compensate the Bank and its employees/officers/ staff/ personnel/ representatives/agents from and against all claims or demands of liability and all consequences that may occur or arise for any default or failure on its part to conform or comply with the above and all other statutory obligations arising there from and the Bank will give notice of any such claim or demand of liability within reasonable time to the service provider.
- 6.4.3 This indemnification is only a remedy for the Bank. The service provider is not absolved from its responsibility of complying with the statutory obligations as specified above. Indemnity shall exclude indirect, consequential and incidental damages. However indemnity would cover damages, loss or liabilities suffered by the Bank arising out of claims made by its customers and/or regulatory authorities.

## **6.5 Assignment**

The service provider agrees that the service provider shall not be entitled to assign any or all of its rights and or obligations under this Tender and subsequent Agreement to any entity including service provider's affiliate without the prior written consent of the Bank. If the RRB undergoes a merger, amalgamation, takeover, consolidation, reconstruction, change of ownership, etc., this RFP shall be considered to be assigned to the new entity and such an act shall not affect the rights of the service provider under this RFP.



## **6.6 Order Cancellation**

- 6.6.1 The Bank reserves its right to cancel the order in the event of one or more of the following situations, that are not occasioned due to reasons solely and directly attributable to the Bank alone:
- 6.6.1.1 Serious discrepancy in the quality of service / facility / security.
  - 6.6.1.2 Delay in site readiness as per the specifications and handing over the site to the Bank.
  - 6.6.1.3 The selected Service provider commits a breach of any of the terms and conditions of the tender/contract.
  - 6.6.1.4 The selected Service provider becomes insolvent or goes into liquidation voluntarily or otherwise.
  - 6.6.1.5 The progress regarding execution of the contract, made by the selected Service provider is found to be unsatisfactory.
  - 6.6.1.6 If the selected Service provider fails to complete the due performance of the contract in accordance with the agreed terms and conditions
- 6.6.2 In case of order cancellation, any payments made by Bank to the SP would necessarily have to be returned to the Bank with interest @ 15% per annum from the date of each such payment. Further the Service Provider would be required to compensate the Bank for direct loss incurred by the Bank due to the cancellation of the order and any additional expenditure to be incurred by the Bank to appoint any other service provider. This is after repaying original amount paid.

## **6.7 Law and jurisdiction**

The provisions of this RFP and subsequent agreement shall be governed by and, construed in accordance with the Indian law and the courts in Mumbai shall have the exclusive jurisdiction to deal with any issue arising out of this Agreement.

## **6.8 Arbitration**

- 6.8.1 Bank and the service provider shall make every effort to resolve amicably, by direct informal negotiation, any disagreement or dispute arising between them under or in connection with this RFP and subsequent agreement. If after 30 days from the commencement of such informal negotiations, Bank and the Service Provider have been unable to resolve amicably a contract dispute, either party may require that the dispute be referred for resolution by formal arbitration.



- 6.8.2 The dispute, controversy or claims arising out of or in connection with the Agreement shall be referred to sole arbitrator to be appointed by mutual consent.
- 6.8.3 The place of arbitration shall be at Mumbai.
- 6.8.4 The arbitral procedure shall be conducted in the English language and any award or awards shall be rendered in English. The procedural law of the arbitration shall be the Indian law.
- 6.8.5 The award of the arbitrator shall be final and conclusive and binding upon the Parties, and the Parties shall be entitled (but not obliged) to enter judgment thereon in any one or more of the highest courts having jurisdiction. The Parties further agree that such enforcement shall be subject to the provisions of the Indian Arbitration and Conciliation Act, 1996 and neither Party shall seek to resist the enforcement of any award in India on the basis that award is not subject to such provisions.
- 6.8.6 The rights and obligations of the Parties under or pursuant to this Clause, including the arbitration agreement in this Clause, shall be under the exclusive jurisdiction of the courts located at Mumbai.

## **6.9 Indemnity**

- 6.9.1 The Service Provider shall indemnify the Bank, and shall always keep indemnified and hold the Bank, its employees, personnel, officers, directors, (hereinafter collectively referred to as "Personnel") harmless from and against any and all losses, liabilities, claims, actions, costs and expenses (including attorneys' fees) relating to, resulting directly or indirectly from or in any way arising out of any claim, suit or proceeding brought against the Bank as a result of:
- 6.9.1.1 an act or omission of the Service Provider and/or its employees, agents, sub contractors in performance of the obligations under this RFP and subsequent contract; and / or
- 6.9.1.2 claims made by employees or subcontractors or subcontractors' employees, who are deployed by the Service Provider, against the Bank; and/or
- 6.9.1.3 claims arising out of employment, non-payment of remuneration and non-provision of statutory benefits by the Service Provider to its employees, its agents, contractors and sub contractors.
- 6.9.1.4 breach of any of the term of this RFP or breach of any representation or false representation or inaccurate statement or



- assurance or covenant or warranty of the Service Provider under this RFP and subsequent contract; and/or
- 6.9.1.5 breach of confidentiality obligations of the Service Provider contained in this RFP and subsequent contract; and/or
- 6.9.1.6 negligence or gross misconduct attributable to the Service Provider or its employees or sub-contractors.
- 6.9.1.7 loss of data due to Service Provider provided facility.
- 6.9.2 The Service Provider shall at its own cost and expenses defend or settle at all point of time any claim against the Bank that the Deliverables and Services delivered or provided under this RFP infringe a patent, utility model, industrial design, copyright, trade secret, mask work or trade mark in the country where the Deliverables and Services are used, sold or received, provided the Bank:
- 6.9.2.1 notifies the Service Provider in writing as soon as practicable when the Bank becomes aware of the claim; and
- 6.9.2.2 cooperates with the Service Provider in the defense and settlement of the claims.
- 6.9.3 However, (i) the Service Provider has sole control of the defense and all related settlement negotiations (ii) the Bank provides the Service Provider with the assistance, information and authority reasonably necessary to perform the above and (iii) the Bank does not make any statements or comments or representations about the claim without the prior written consent of the Service Provider, except where the Bank is required by any authority/regulator to make a comment/statement/representation.
- 6.9.4 If use of deliverables is prevented by injunction or court order because of any such claim or deliverables is likely to become subject of any such claim then the Service Provider, after due inspection and testing and at no additional cost to the Bank, shall forthwith either 1) replace or modify the software / equipment with software / equipment which is functionally equivalent and without affecting the functionality in any manner so as to avoid the infringement; or 2) obtain a license for the Bank to continue the use of the software / equipment, as required by the Bank as per the terms and conditions of this Tender and subsequent Agreement and to meet the service levels; or 3) refund to the Bank the amount paid for the infringing software / equipment and bear the incremental costs of procuring a functionally equivalent software / equipment from a third party, provided the option under the sub clause (3) shall be exercised by the Bank in the event of the failure of the Service Provider to provide effective remedy under options (1) to (2) within a reasonable period which



would not affect the normal functioning of the Bank. The Service Provider shall not be liable for defects or non-conformance resulting from:

- 6.9.4.1 Indemnity would cover damages, loss or liabilities suffered by the Bank arising out of claims made by customer and / or regulatory authorities for reasons attributable to breach of obligations under this RFP and subsequent agreement by the Service Provider.

## **6.10 Inspection of Records and Audit**

- 6.10.1 All Service Provider records with respect to any matters covered by this Tender for eg. CCTV footage, video, security register, access control of Banks, hardware movement, helpdesk tickets, escalations etc for the allocated server room, NOC room and any other area provided to the Bank shall be made available to the Bank or its designees, at any time during normal business hours, as often as the Bank deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Said records are subject to examination. The auditors would be permitted to submit their findings to the Bank, which would be used by the Bank. The cost of the audit will be borne by the Bank. The scope of such audit would be limited to Service Levels being covered under the contract, and financial information would be excluded from such inspection, which will be subject to the requirements of statutory and regulatory authorities.
- 6.10.2 Service Provider shall allow RBI or person authorized by it to access Bank/RRB documents, records or transactions or any other information, given to, stored or processed by Service Provider in relations to the services hereunder within reasonable time failing which SP will be liable to pay any charges/ penalty levied by RBI.
- 6.10.3 SP should allow the Reserve Bank of India (RBI) to conduct audits or inspection of its Books and accounts with regard to Bank documents by one or more RBI officials or employees or other persons duly authorized by RBI.

## **6.11 Publicity**

Any publicity by the service provider in which the name of the Bank or its RRBs is to be used should be done only with the explicit written permission of the Bank.

## **6.12 Compliance to bank's all terms and conditions:**

- 6.12.1 The SP shall undertake to observe, adhere to, abide by, comply with and notify the Bank about all laws in force or as are or as made applicable in future, pertaining to or applicable to them, their





business, their employees or their obligations towards them and all purposes of this RFP and shall indemnify, keep indemnified, hold harmless, defend and protect the Bank and its employees/officers/staff/personnel/representatives/agents from any failure or omission on its part to do so and against all claims or demands of liability and all consequences that may occur or arise for any default or failure on its part to conform or comply with the above and all other statutory obligations arising there from.

6.12.2 Compliance in obtaining approvals/permissions/licenses: The SP shall promptly and timely obtain all such consents, permissions, approvals, licenses, etc., as may be necessary or required for any of the purposes of this project or for the conduct of their own business under any applicable Law, Government Regulation/Guidelines and shall keep the same valid and in force during the term of the project, and in the event of any failure or omission to do so, shall indemnify, keep indemnified, hold harmless, defend, protect and fully compensate the Bank and its employees/ officers/ staff/ personnel/ representatives/agents from and against all claims or demands of liability and all consequences that may occur or arise for any default or failure on its part to conform or comply with the above and all other statutory obligations arising there from and the Bank will give notice of any such claim or demand of liability within reasonable time to the SP.

6.12.3 This indemnification is only a remedy for the Bank. The SP is not absolved from its responsibility of complying with the statutory obligations as specified above. Indemnity shall exclude indirect, consequential and incidental damages. However indemnity would cover damages, loss or liabilities suffered by the Bank arising out of claims made by its customers and/or regulatory authorities.

### **6.13 Solicitation of Employees**

The Service Provider, during the term of the contract shall not without the express written consent of the Bank, directly or indirectly: a) recruit, hire, appoint or engage or attempt to recruit, hire, appoint or engage or discuss employment with or otherwise utilize the services of any person who has been an employee or associate or engaged in any capacity, by the Bank in rendering services in relation to the contract; or b) induce any person who shall have been an employee or associate of the Bank at any time to terminate his/ her relationship with the Bank.

### **6.14 Confidentiality**

6.14.1 The RFP document is confidential and is not to be disclosed, reproduced, transmitted, or made available by the Recipient to any other person. The RFP document is provided to the Recipient on the basis of the undertaking of confidentiality given by the Recipient to



Bank. Bank may update or revise the RFP document or any part of it. The Recipient acknowledges that any such revised or amended document is received subject to the same confidentiality undertaking. The Recipient will not disclose or discuss the contents of the RFP document with any officer, employee, consultant, director, agent, or other person associated or affiliated in any way with Bank or any of its customers or suppliers without the prior written consent of Bank.

6.14.2 This tender document contains information proprietary to the Bank. Each recipient is entrusted to maintain its confidentiality. It should be disclosed only to those employees involved in preparing the requested responses. The information contained in the tender document may not be reproduced in whole or in part without the express permission of the Bank. Disclosure of any such sensitive information to parties not involved in the supply of contracted services will be treated as breach of trust and could invite legal action. This will also mean termination of the contract and disqualification of the said Service provider.

6.14.3 Responses received become the property of the Bank and cannot be returned. Information provided by each Service provider will be held in confidence, and will be used for the sole purpose of evaluating a potential business relationship with the Service provider.

6.14.3.1 “Confidential Information” means any and all information that is or has been received by the Service provider (“Receiving Party”) from the Bank (“Disclosing Party”) and that:

6.14.3.1.1 Relates to the Disclosing Party; and

6.14.3.1.2 is designated by the Disclosing Party as being confidential or is disclosed in circumstances where the Receiving Party would reasonably understand that the disclosed information would be confidential or

6.14.3.1.3 is prepared or performed by or on behalf of the Disclosing Party by its employees, officers, directors, agents, representatives or consultants.

6.14.3.1.4 Without limiting the generality of the foregoing, Confidential Information shall mean and include any information, data, analysis, compilations, notes, extracts, materials, reports, specifications or other documents or materials that may be shared by the Bank with the Service provider.



6.14.3.1.5 “Confidential Materials” shall mean all tangible materials containing Confidential Information, including, without limitation, written or printed documents whether machine or user readable.

6.14.4 The Receiving Party shall, at all times regard, preserve, maintain and keep as secret and confidential all Confidential Information and Confidential Materials of the Disclosing Party howsoever obtained and agrees that it shall not, without obtaining the written consent of the Disclosing Party:

6.14.5 Unless otherwise agreed herein, use any such Confidential Information and materials for its own benefit or the benefit of others or do anything prejudicial to the interests of the Disclosing Party or its customers or their projects.

6.14.6 In maintaining confidentiality hereunder the Receiving Party on receiving the confidential information and materials agrees and warrants that it shall:

6.14.6.1 Take at least the same degree of care in safeguarding such Confidential Information and materials as it takes for its own confidential information of like importance and such degree of care shall be at least, that which is reasonably calculated to prevent such inadvertent disclosure;

6.14.6.2 Keep the Confidential Information and Confidential Materials and any copies thereof secure and in such a way so as to prevent unauthorized access by any third party;

6.14.6.3 Limit access to such Confidential Information and materials to those of its directors, partners, advisers, agents or employees, sub contractors and contractors who are directly involved in the consideration/evaluation of the Confidential Information and bind each of its directors, partners, advisers, agents or employees, sub contractors and contractors so involved to protect the Confidential Information and materials in the manner prescribed in this document; and

6.14.6.4 Upon discovery of any unauthorized disclosure or suspected unauthorized disclosure of Confidential Information, promptly inform the Disclosing Party of such disclosure in writing and immediately return to the Disclosing Party all such Information and materials, in whatsoever form, including any and all copies thereof.



6.14.7 The Receiving Party who receives the confidential information and materials agrees that on receipt of a written demand from the Disclosing Party:

6.14.7.1 Immediately return all written Confidential Information, Confidential materials and all copies thereof provided to, or produced by it or its advisers, as the case may be, which is in Receiving Party's possession or under its custody and control;

6.14.7.2 To the extent practicable, immediately destroy all analyses, compilations, notes, studies, memoranda or other documents prepared by it or its advisers to the extent that the same contain, reflect or derive from Confidential Information relating to the Disclosing Party;

6.14.7.3 So far as it is practicable to do so immediately expunge any Confidential Information relating to the Disclosing Party or its projects from any device in its possession or under its custody and control; and

6.14.7.4 To the extent practicable, immediately furnish a certificate signed by its director or other responsible representative confirming that to the best of his/her knowledge, information and belief, having made all proper enquiries the requirements of this paragraph have been fully complied with.

6.14.8 The restrictions in the preceding clause shall not apply to:

6.14.8.1 Any information that is publicly available at the time of its disclosure or becomes publicly available following disclosure (other than as a result of disclosure by the Disclosing Party contrary to the terms of this document); or any information which is independently developed by the Receiving Party or acquired from a third party to the extent it is acquired with the valid right to disclose the same.

6.14.8.2 Any disclosure required by law or by any court of competent jurisdiction, the rules and regulations of any recognized stock exchange or any enquiry or investigation by any governmental, statutory or regulatory body which is lawfully entitled to require any such disclosure provided that, so far as it is lawful and practical to do so prior to such disclosure, the Receiving Party shall promptly notify the Disclosing Party of such requirement with a view to providing the Disclosing Party an opportunity to obtain a protective order or to contest the disclosure or otherwise agree to the timing and content of such disclosure.

6.14.8.3 The Confidential Information and materials and all copies thereof, in whatsoever form shall at all times remain the property of the Disclosing Party and its disclosure hereunder shall not confer on



the Receiving Party any rights whatsoever beyond those contained in this document.

6.14.8.4 The confidentiality obligations shall survive the expiry or termination of the agreement between the Service provider and the Bank.

## **6.15 Force Majeure**

6.15.1 The Service provider shall not be liable for forfeiture of its performance security, liquidated damages or termination for default, if any 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.

6.15.2 For purposes of this Clause, "Force Majeure" means an event explicitly beyond the reasonable control of the Service provider and not involving the Service provider's fault or negligence and not foreseeable. Such events may include, Acts of God or of public enemy, acts of Government of India in their sovereign capacity and acts of war.

6.15.3 If a Force Majeure situation arises, the Service provider shall promptly notify the Bank in writing of such conditions and the cause thereof within fifteen calendar days. Unless otherwise directed by the Bank in writing, the Service provider shall continue to perform Service provider's 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.

6.15.4 In such a case the time for performance shall be extended by a period (s) not less than duration of such delay. If the duration of delay continues beyond a period of three months, the Bank and the Service provider shall hold consultations in an endeavor to find a solution to the problem.

## **6.16 Variation**

Bank/RRB may at any time during the contract require the Service provider to revise the Services including Completion Date. In an event of such nature, Bank/RRB will request the Service provider to state in writing the effect such variation will have on the work schedule. The Service provider shall furnish these details, in writing, in two weeks from the receipt of such request.



## **6.17 Exit Option and Contract Re-negotiation**

6.17.1 The Bank reserves the right to cancel the contract in the event of happening one or more of the following Conditions:

6.17.1.1 Failure of the successful SP to accept the contract and furnish the Performance Guarantee within 15 days of receipt of purchase contract;

6.17.1.2 Delay in providing the site with complete readiness;

6.17.1.3 Serious discrepancy in functionality of any facility, which have an impact on the Bank's equipments at the co-locating site;

6.17.2 In addition to the cancellation of purchase contract, Bank reserves the right to appropriate the damages through encashment of Earnest Money deposit / Performance Guarantee given by the SP.

6.17.3 The Bank will reserve a right to re-negotiate the price and terms of the entire contract with the SP at more favorable terms in case such terms are offered in the industry at that time.

6.17.4 Notwithstanding the existence of a dispute, and/or the commencement of arbitration proceedings, the SP will be expected to continue to provide the facilities to the Bank at the site.

6.17.5 Reverse transition mechanism would be activated in the event of cancellation of the contract or exit by the parties or 6 months prior to expiry of the contract. The SP will be expected to perform a reverse transition mechanism to the Bank or its selected service provider. The reverse transition mechanism would be over a period of 6 months post the completion of the 90 day notice period to facilitate an orderly transfer of services to the Bank or to an alternative 3rd party / service provider nominated by the Bank. Where the Bank elects to transfer the responsibility for service delivery to a number of service providers Bank will nominate a service provider who will be responsible for all dealings with the SP regarding the delivery of the reverse transition services.

6.17.6 The reverse transition services to be provided by the SP shall include the following:

6.17.6.1 The SP shall suitably and adequately train the Bank's or its designated team for fully and effectively manning, operating and maintaining the DC/DR Site.

6.17.6.2 The SP shall provide adequate documentation thereof.

6.17.6.3 The SP shall jointly manage the DC/DR Site with the Bank or designated team for a reasonable period of time

6.17.6.4 The SP shall assist the Bank in relocation of DC/DR Site facility, if desired by the Bank.



6.17.7 Knowledge transfer: The SP shall provide such necessary information, documentation to the Bank or its designee, for the effective management and maintenance of the Deliverables under this Agreement. The SP shall provide documentation (in English) in electronic form where available or otherwise a single hardcopy of all existing procedures, policies and programs required to support the Services. Such documentation will be subject to the limitations imposed by SP's Intellectual Property Rights of this Agreement.

6.17.8 Warranties:

6.17.8.1 All the warranties held by or in the name of the SP shall be assigned or transferred as-is, in the name of the Bank. The SP shall execute any and all such documents as may be necessary in this regard.

6.17.8.2 The parties shall return confidential information and will sign off and acknowledge the return of such confidential information.

6.17.8.3 The SP shall provide all other services as may be agreed by the parties in connection with the reverse transition services. However, in case any other services, in addition to the above are needed, the same shall be scoped and priced.

6.17.8.4 The SP recognizes that considering the enormity of the assignment, the transition services listed herein are only indicative in nature and the SP agrees to provide all assistance and services required for fully and effectively transitioning the services provided by the SP under the scope, upon termination or expiration thereof, for any reason whatsoever.

6.17.8.5 The cost for reverse transition if any should be part of the commercial offer.

6.17.9 During reverse transition, the existing SP would transfer all knowledge, knowhow and other things necessary for the Bank or new service provider to take over and continue to manage the services. The SP agrees that the reverse transition mechanism and support during reverse transition will not be compromised or affected for reasons whatsoever it may be for cancellation or exist of the parties.

6.17.10 The Bank shall have the sole and absolute discretion to decide whether proper reverse transition mechanism over a period of 6 months, has been complied with. In the event of the conflict not being resolved, the conflict will be resolved through Arbitration.

6.17.11 The Bank and the SP shall together prepare the Reverse Transition Plan. However, the Bank shall have the sole decision to ascertain whether such Plan has been complied with.



6.17.12 The SP agrees that in the event of cancellation or exit or expiry of the contract it would extend all necessary support to the Bank or its selected service providers as would be required in the event of the shifting of the site.

6.17.13 The Bank reserves the right to terminate the co location services at any of the site viz DC or DR as per the requirement of the Bank by giving 90 days notice to the service provider. Payments for the terminated co-location site will be discontinued after the date of exit/decommissioning/non usage.

**6.18 Bank reserves the right to:**

6.18.1 Reject any and all responses received in response to the RFP

6.18.2 Waive or Change any formalities, irregularities, or inconsistencies in proposal format delivery

6.18.3 Extend the time for submission of the tender

6.18.4 Select the most responsive Service provider (in case no Service provider satisfies the eligibility criteria in totality)

6.18.5 Share the information/ clarifications provided in response to tender by any Service provider, with any other Service provider(s) /others, in any form.

6.18.6 Re-negotiate the price and terms of the entire contract with the service provider at more favorable terms in case such terms are offered in the industry at that time.

6.18.7 Cancel the tender at any stage, without assigning any reason whatsoever.

**6.19 Corrupt and Fraudulent Practices**

6.19.1 It is required that Service providers / Suppliers / Contractors observe the highest standard of ethics during the procurement and execution of such contracts in pursuance of this policy:

6.19.1.1 “Corrupt Practice” means the offering, giving, receiving or soliciting of anything of values to influence the action of an official in the procurement process or in contract execution AND

6.19.1.2 “Fraudulent Practice” means a misrepresentation of facts in order to influence a procurement process or the execution of contract to the detriment of the Bank and includes collusive practice among Service providers (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to





deprive the Bank of the benefits of free and open competition.

6.19.1.3 The Bank reserves the right to reject a proposal for award if it determines that the Service provider recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.

6.19.2 The Bank reserves the right to declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract if at any time it determines that the firm has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

## **6.20 Waiver**

No failure or delay on the part of either party relating to the exercise of any right power privilege or remedy provided under this tender document or subsequent agreement with the other party shall operate as a waiver of such right power privilege or remedy or as a waiver of any preceding or succeeding breach by the other party nor shall any single or partial exercise of any right power privilege or remedy preclude any other or further exercise of such or any other right power privilege or remedy provided in this tender document all of which are several and cumulative and are not exclusive of each other or of any other rights or remedies otherwise available to either party at law or in equity.

## **6.21 Violation of Terms**

The Bank clarifies that the Bank shall be entitled to an injunction, restraining order, right for recovery, suit for specific performance or such other equitable relief as a court of competent jurisdiction may deem necessary or appropriate to restrain the Service provider from committing any violation or enforce the performance of the covenants, obligations and representations contained in this tender document. These injunctive remedies are cumulative and are in addition to any other rights and remedies the Bank may have at law or in equity, including without limitation a right for recovery of any amounts and related costs and a right for damages.

## **6.22 Visitorial rights**

The Bank reserves the right to visit any of the SP's premises without prior notice to ensure that the Bank's equipments hosted at the site are safe and no scope of alteration exists.



## **6.23 Termination**

6.23.1 Bank shall have the option to terminate this RFP and / or any subsequent agreement and / or any particular order, in whole or in part by giving Vendor at least 90 days prior notice in writing. It is clarified that the Vendor shall not terminate this RFP & the subsequent Agreement for convenience.

6.23.2 However the Bank will be entitled to terminate this RFP and any subsequent agreement, if Vendor breaches any of its obligations set forth in this RFP and any subsequent agreement and

6.23.2.1 Such breach is not cured within thirty (30) Working Days after Bank gives written notice; or

6.23.2.2 if such breach is not of the type that could be cured within thirty (30) Working Days, failure by Vendor to provide Bank, within thirty (30) Working Days, with a reasonable plan to cure such breach, which is acceptable to the Bank. Or

6.23.2.3 An attachment is levied or continues to be levied for a period of 7 days upon effects of the contract.

6.23.2.4 The progress regarding execution of the contract/ services rendered by the successful bidder is found to be unsatisfactory.

6.23.2.5 Delay in delivery / installation / commissioning of equipment.

6.23.2.6 If deductions of penalty exceeds more than 5% of the total contract price.

6.23.3 This Tender and subsequent Agreement shall be deemed to have been terminated by either Party one day prior to the happening of the following events of default:

6.23.3.1 The other Party becomes unable to pay its debt as they fall due or otherwise enters into any composition or arrangement with or for the benefit of its creditors or any class thereof;

6.23.3.2 A liquidator or a receiver is appointed over all or a substantial part of the undertaking, assets or revenues of the other Party and such appointment continues for a period of twenty one (21) days;

6.23.3.3 The other Party is subject of an effective resolution for its winding up other than a voluntary winding up for the purpose of reconstruction or amalgamation upon terms previously approved in writing by the other Party; or



6.23.3.4 The other Party becomes the subject of a court order for its winding up.

6.23.4 The Vendor understands the largeness of this Project and that it would require tremendous commitment of financial and technical resources for the same from the Vendor for the tenure of this Tender and subsequent Agreement. The Parties therefore agree and undertake that an exit at any point in time resulting due to expiry or termination of this Tender and subsequent Agreement for any reason whatsoever would be a slow process over a period of six (6) months, after the completion of the notice period of six (6) months. During this period, the Vendor shall continue to provide the Deliverables and the Services in accordance with this Tender and subsequent Agreement and shall maintain the agreed Service levels.

6.23.5 Immediately upon the date of expiration or termination of the Tender and subsequent Agreement, Bank shall have no further obligation to pay any fees for any periods commencing on or after such date.

6.23.5.1 Without prejudice to the rights of the Parties, upon termination or expiry of this Tender and subsequent Agreement, Bank shall pay to Vendor, within thirty (30) days of such termination or expiry, of the following:

6.23.5.2 All the undisputed fees outstanding till the date of termination;

6.23.5.3 The Reverse Transition Fees payable as per reverse transition plan; and

6.23.5.4 Provided the Payment is made only after Reverse Transition Services are provided.

6.23.5.5 Upon the termination or expiry of this Tender and subsequent Agreement:

6.23.5.6 The rights granted to Vendor shall immediately terminate.

6.23.5.7 Upon Bank's request, with respect to (a) any agreements for maintenance, disaster recovery services or other third-party services, and any Deliverables not owned by the Vendor, being used by Vendor to provide the Services and (b) the assignable agreements, Vendor shall, use its reasonable commercial endeavors to transfer or assign such agreements and Vendor Equipment to Bank and its designee(s) on commercially reasonable terms mutually acceptable to both Parties.

6.23.5.8 Upon Bank's request in writing, Vendor shall be under an obligation to transfer to Bank or its designee(s) the Deliverables being used by Vendor to perform the Services free and clear of all liens, security interests, or other encumbrances at a value calculated as stated.



## **6.24 Contract review and Effect of Termination**

- 6.24.1 The Bank desires to select Service Provider for a total period 7 years, considering the effort and investments required in the arrangement. However, understanding the complexities of the entire arrangement would like to safe guard the interests of all the entities involved in the arrangement. Therefore, the Bank would like to have options to revisit the arrangements and terms of contract as well as to re-price the same after the contract term on mutually agreed terms if necessary.
- 6.24.2 The Bank expects the benefits from any un-anticipated decrease in technology infrastructure costs, over the term of the contract due to reduction of prices, efficient use of IT infrastructure / reduction of statutory charges, etc. and operations management methods that yield more efficient operations, to be passed on through re-negotiation. No conflict between the Service Provider and the Bank will cause cessation of services. Only by mutual consent the services can be withdrawn. This would include a well-defined reverse transition mechanism, which would normally require 3 to 6 months and will contain
- 6.24.2.1 Procedures for transition and migrating to the new Service Provider
  - 6.24.2.2 Time frame for parallel run
  - 6.24.2.3 Skill transfer mechanism and in specific cases the human resources requirement
- 6.24.3 The SP agrees that it shall not be relieved of its obligations under the reverse transition mechanism notwithstanding the termination of the assignment.
- 6.24.4 Same terms (including payment terms) which were applicable during the term of the contract should be applicable for reverse transition services
- 6.24.5 The SP agrees that after completion of the Term or upon earlier termination of the assignment the SP shall, if required by the Bank, continue to provide facility to the Bank at no less favorable terms than those contained in this RFP document. In case the Bank wants to continue with the SP's facility after the completion of this contract then the SP shall offer the same or better terms to the Bank. Unless mutually agreed, the rates shall remain unchanged.
- 6.24.6 The Bank shall make such prorated payment for services rendered by the SP and accepted by the Bank at the sole discretion of the Bank in the event of termination, provided that the SP is in compliance with its obligations till such date. However, no payment for "costs incurred, or irrevocably committed to, up to the effective date of such termination"



will be admissible. There shall be no termination compensation payable to the SP.

6.24.7 Termination shall not absolve the liability of the Bank to make payments of undisputed amounts to the SP for services rendered till the effective date of termination. Termination shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities or either party nor the coming into force or continuation in force of any provision hereof which is expressly intended to come into force or continue in force on or after such termination.

### **6.25 Insurance**

The entire infrastructure in the DC/DR Site premises offered to the Bank should be fully insured against all losses by the Service Provider. The Bank will ensure that the hardware and other items kept by the Bank in the DC/DR Site premises are adequately insured.

### **6.26 No Employer Employee Relationship**

The service provider or any of its holding / subsidiary / joint venture / affiliate / group / client companies / or any of their employees / officers / staff / personnel / representatives / agents / shall not under any circumstances be deemed to have any employer – employee relationship with the Bank or any of its employees / officers / staff / representatives / personnel / agents.

### **6.27 Authorized Signatory**

The selected Service provider shall indicate the authorized signatories who can discuss and correspond with the Bank, with regard to the obligations under the contract. The selected service provider shall submit at the time of signing the contract, a certified copy of the resolution of their Board, authenticated by Company Secretary/Director, authorizing an official or officials of the company or a Power of Attorney copy to discuss, sign agreements/contracts with the Bank. The service provider shall furnish proof of signature identification for above purposes as required by the Bank.

### **6.28 Service Level Agreement and Non Disclosure Agreement**

The service provider shall execute a) Service Level Agreement (SLA), which must include all the services and terms and conditions of the services to be extended as detailed herein, and as may be prescribed or recommended by the Bank and b) Non Disclosure Agreement (NDA). The service provider shall execute the SLA and NDA within one



month from the date of acceptance of letter of appointment. For detailed service level please refer to Annexure 3

### **6.29 Right to Reject Bids**

Bank reserves the absolute and unconditional right to reject the response to this RFP if it is not in accordance with its requirements and no correspondence will be entertained by the Bank in the matter. The bid is liable to be rejected if:

- 6.29.1 It is not in conformity with the instructions mentioned in the RFP document.
- 6.29.2 It is not accompanied by the requisite Application Money and Earnest Money Deposit (EMD).
- 6.29.3 It is not properly or duly signed.
- 6.29.4 It is received through fax / email.
- 6.29.5 It is received after expiry of the due date and time.
- 6.29.6 It is incomplete including non- furnishing the required documents.
- 6.29.7 It is evasive or contains incorrect information.
- 6.29.8 There is canvassing of any kind.
- 6.29.9 It is submitted anywhere other than the place mentioned in the RFP

### **6.30 Limitation of Liability**

- 6.30.1 Service Provider's aggregate liability in connection with obligations undertaken as a part of the RFP regardless of the form or nature of the action giving rise to such liability (whether in contract, tort or otherwise), shall be at actual and limited to the value of contract.
- 6.30.2 Service Provider's liability in case of claims against the Bank resulting from Willful Misconduct or Gross Negligence of Service Provider, its employees and Subcontractors or from infringement of patents, trademarks, copyrights or such other Intellectual Property Rights or breach of confidentiality obligations shall be unlimited.
- 6.30.3 Bank shall not be held liable for and is absolved of any responsibility or claim/litigation arising out of the use of any third party software or modules supplied by the Service Provider as part of this Agreement.
- 6.30.4 Under no circumstances Bank shall be liable to the Service Provider for direct, indirect, incidental, consequential, special or exemplary damages arising from termination of this Agreement, even if Bank



has been advised of the possibility of such damages, such as, but not limited to, loss of revenue or anticipated profits or lost business.

### **6.31 Penalties and Delays in Service Provider's Performance**

- 6.31.1 The Bank expects the SP to provide uninterrupted facility to the Banks DC/DR Site equipments as per the requirements of this RFP. Inability of the SP to either ensure readiness of the site as per specifications within defined timelines or to meet the service levels as specified in Annexure 3 shall be treated as breach of contract and would invoke the Charges clause.
- 6.31.2 In case of non-readiness of the Site as per specifications within the defined timelines, the Bank shall levy a charge @ 0.5% of the total contract value per week of delay subject to 10% of the total contract value being the overall cap for charges. Thereafter the contract will be cancelled. The total contract value in this context will be Sites co-location charges (in total) as defined and calculated in Appendix 1 Commercial Bid Details.
- 6.31.3 The proposed rate of SLA charge with respect to non-adherence to service levels is mentioned in Service level – Annexure 3. Overall cap for charges will be 10% of the contract value. Thereafter, the contract may be cancelled. The Bank also has the right to invoke the performance guarantee. Charges on delay will be applicable when the delay is not attributable to the Bank.
- 6.31.4 Notwithstanding anything contained above, no such charge will be chargeable on the SP for the inability occasioned, if such inability is due to reasons entirely attributable to the Bank.
- 6.31.5 Delivery of the Goods and performance of the Services shall be made by the SP in accordance with the time schedule specified by the Bank.
- 6.31.6 If at any time during performance of the Contract, the SP should encounter conditions impeding timely delivery of the Goods and performance of the Services, the SP shall promptly notify the Bank in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the SP's notice, the Bank shall evaluate the situation and may at its discretion extend the SP'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.
- 6.31.7 Any delay by the SP in the performance of its delivery obligations shall render the SP liable to the imposition of liquidated damages



unless and extension of time is agreed upon without the application of liquidated damages.

## **6.32 Liquidated Damages**

- 6.32.1 The Bank will consider the inability of the SP to deliver or install the equipment within the specified time limit, as a breach of contract and would entail the payment of Liquidation Damages on the part of the SP. The liquidation damages represent an estimate of the loss or damage that the Bank may have suffered due to delay in performance of the obligations (relating to delivery, installation, Operationalization, implementation, training, acceptance, warranty, maintenance etc. of the DC/DR Site Co-location proposal) by the SP.
- 6.32.2 Installation will be treated as incomplete in one/all of the following situations:
- 6.32.2.1 Non-delivery of any component or other services mentioned in the order
  - 6.32.2.2 Non-delivery of supporting documentation
  - 6.32.2.3 Delivery/Availability, but no installation of the components and/or software
  - 6.32.2.4 Tier III-integration
  - 6.32.2.5 System operational, but unsatisfactory to the Bank
- 6.32.3 If the SP fails to deliver any or all of the Goods or perform the Services within the time period(s) specified in the Contract, the Bank shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to 0.5% of the complete contract amount until actual delivery or performance, per week or part thereof; and the maximum deduction is 10% of the contract price. Once the maximum is reached, the Bank may consider termination of the contract.
- 6.32.4 Service provider shall be liable to pay respective penalty and Liquidated Damages as mentioned in this RFP document.
- 6.32.5 Both the Penalty and Liquidated Damages can be levied separately and concurrently.
- 6.32.6 The Penalty and Liquidated Damages are not applicable in case the delay is for reasons attributable to the Bank and Force Majeure. However it is the responsibility of the Service Provider to prove that the delay is attributed to Bank and Force Majeure. The decision taken by Bank in this regard shall be final and Service Provider shall not dispute the same.





6.32.7 If the Service Provider fails to perform its obligation as per this Agreement then Bank reserves the right to get the balance work executed by another service provider as per choice of Bank and Service Provider shall be liable to bear the expenditure which Bank may incur for the execution of balance work and its completion.

### **6.33 Information and Secrecy**

The SP must provide a written undertaking to the bank to comply with the secrecy provision pursuant to provision of Banking Regulation Act, 1949 and other applicable laws. The SP will follow professional ethics and conduct in performing their duties. The Bank has right to terminate the services of the SP if it fails to comply with the conditions imposed. The external and internal auditors of the bank will be given right to review the books and internal controls of the SP. Any weaknesses highlighted during the audit must be promptly rectified especially where such weaknesses may affect the integrity of the internal controls of the bank.

## **7. Disclaimer**

The scope of work document is not an offer made by Bank but an invitation for response based on which the Bank may further evaluate the response or call for alternate or more responses from other Service providers. The Bank has the right to ask for other competitive quotations and can award any part or complete work to another Service provider whom so ever they feel eligible for the same taking into consideration the price and quality.