

## Bid Document

| Bid Details   |  |
|---|--|
| <b>Bid End Date/Time</b>                                      | 10-05-2022 16:00:00  |
| <b>Bid Opening Date/Time</b>                                  | 10-05-2022 16:30:00  |
| <b>Bid Life Cycle (From Publish Date)</b>                     | 90 (Days)  |
| <b>Bid Offer Validity (From End Date)</b>                     | 60 (Days)  |
| <b>Ministry/State Name</b>                                    | Ministry Of Health And Family Welfare  |
| <b>Department Name</b>  | Department Of Health And Family Welfare  |
| <b>Organisation Name</b>                                      | Food Licensing And Registration System Of Food Safety And Standards Authority Of India (fssai)   |
| <b>Office Name</b>  | Fda Bhawan   |
| <b>Total Quantity</b>   | 7  |
| <b>Item Category</b>  | UV Visible Spectrophotometer , Nitrogen generator , Hydrogen Generator , Zero Air Generator , GC with FID and ECD , HPLC with PDA and RID , ICPMS with Microwave Digestion System  |
| <b>BOQ Title</b>  | PROCUREMENT OF EQUIPMENT FOR NFL RAXAUL GROUP I  |
| <b>Minimum Average Annual Turnover of the Bidder</b>          | 132 Lakh (s)   |
| <b>OEM Average Turnover (Last 3 Years)</b>                    | 660 Lakh (s)   |
| <b>Years of Past Experience required</b>                      | 3 Year (s)   |
| <b>MSE Exemption for Years Of Experience and Turnover</b>     | Yes  |
| <b>Startup Exemption for Years Of Experience and Turnover</b> | Yes  |
| <b>Document required from seller</b>                          | <p>Experience Criteria,Past Performance,Bidder Turnover,Certificate (Requested in ATC),OEM Authorization Certificate,OEM Annual Turnover,Additional Doc 1 (Requested in ATC),Additional Doc 2 (Requested in ATC),Additional Doc 3 (Requested in ATC),Additional Doc 4 (Requested in ATC),Compliance of BoQ specification and supporting document</p> <p>*In case any bidder is seeking exemption from Experience / Turnover Criteria, the supporting documents to prove his eligibility for exemption must be uploaded for evaluation by the buyer</p> |
| <b>Past Performance</b>                                       | 20 %   |
| <b>Bid to RA enabled</b>                                      | Yes  |
| <b>RA Qualification Rule</b>                                  | 50% Lowest Priced Technically Qualified Bidders  |
| <b>Primary product category</b>                               | ICPMS with Microwave Digestion System  |

| <b>Bid Details</b>   |                             |
|--|-----------------------------|
| <b>Time allowed for Technical Clarifications during technical evaluation</b> | 3 Days                      |
| <b>Estimated Bid Value</b>   | 32925000                    |
| <b>Evaluation Method</b>   | Total value wise evaluation |

#### **EMD Detail**

|                   |                |
|-------------------|----------------|
| Advisory Bank     | Bank Of Baroda |
| EMD Percentage(%) | 3.00           |
| EMD Amount        | 987750         |

#### **ePBG Detail**

|                                     |                |
|-------------------------------------|----------------|
| Advisory Bank                       | Bank Of Baroda |
| ePBG Percentage(%)                  | 3.00           |
| Duration of ePBG required (Months). | 38             |

(a). EMD EXEMPTION: The bidder seeking EMD exemption, must submit the valid supporting document for the relevant category as per GeM GTC with the bid. Under MSE category, only manufacturers for goods and Service Providers for Services are eligible for exemption from EMD. Traders are excluded from the purview of this Policy.

(b). EMD & Performance security should be in favour of Beneficiary, wherever it is applicable.

#### **Beneficiary:**

Senior Accounts Officer

Fda Bhawan, Department of Health and Family Welfare, Food Licensing and Registration System of Food Safety and Standards Authority of India (FSSAI), Ministry of Health and Family Welfare  
(Senior Accounts Officer, Fssai)

#### **Splitting**

Bid splitting not applied.

#### **MII Purchase Preference**

|                         |     |
|-------------------------|-----|
| MII Purchase Preference | Yes |
|-------------------------|-----|

#### **MSE Purchase Preference**

|                         |     |
|-------------------------|-----|
| MSE Purchase Preference | Yes |
|-------------------------|-----|

1. If the bidder is a Micro or Small Enterprise as per latest definitions under MSME rules, the bidder shall be exempted from the requirement of "Bidder Turnover" criteria and "Experience Criteria". If the bidder is OEM of the offered products, it would also be exempted from the "OEM Average Turnover" criteria. In case any bidder is seeking exemption from Turnover / Experience Criteria, the supporting documents to prove his eligibility for exemption must be uploaded for evaluation by the buyer.

2. If the bidder is a Startup, the bidder shall be exempted from the requirement of "Bidder Turnover" criteria and "Experience Criteria". If the bidder is OEM of the offered products, it would also be exempted from the "OEM Average Turnover" criteria. In case any bidder is seeking exemption from Turnover / Experience Criteria, the supporting documents to prove his eligibility for exemption must be uploaded for evaluation by the buyer.
3. The minimum average annual financial turnover of the bidder during the last three years, ending on 31st March of the previous financial year, should be as indicated above in the bid document. Documentary evidence in the form of certified Audited Balance Sheets of relevant periods or a certificate from the Chartered Accountant / Cost Accountant indicating the turnover details for the relevant period shall be uploaded with the bid. In case the date of constitution / incorporation of the bidder is less than 3-year-old, the average turnover in respect of the completed financial years after the date of constitution shall be taken into account for this criteria.
4. Experience Criteria: In respect of the filter applied for experience criteria, the Bidder or its OEM {themselves or through reseller(s)} should have regularly, manufactured and supplied same or similar Category Products to any Central / State Govt Organization / PSU / Public Listed Company for number of Financial years as indicated above in the bid document before the bid opening date. Copies of relevant contracts to be submitted along with bid in support of having supplied some quantity during each of the Financial year. In case of bunch bids, the category of primary product having highest value should meet this criterion.
5. OEM Turn Over Criteria: The minimum average annual financial turnover of the OEM of the offered product during the last three years, ending on 31st March of the previous financial year, should be as indicated in the bid document. Documentary evidence in the form of certified Audited Balance Sheets of relevant periods or a certificate from the Chartered Accountant / Cost Accountant indicating the turnover details for the relevant period shall be uploaded with the bid. In case the date of constitution / incorporation of the OEM is less than 3 year old, the average turnover in respect of the completed financial years after the date of constitution shall be taken into account for this criteria.
6. Preference to Make in India products (For bids < 200 Crore): Preference shall be given to Class 1 local supplier as defined in public procurement (Preference to Make in India), Order 2017 as amended from time to time and its subsequent Orders/Notifications issued by concerned Nodal Ministry for specific Goods/Products. The minimum local content to qualify as a Class 1 local supplier is denoted in the bid document. If the bidder wants to avail the Purchase preference, the bidder must upload a certificate from the OEM regarding the percentage of the local content and the details of locations at which the local value addition is made along with their bid, failing which no purchase preference shall be granted. In case the bid value is more than Rs 10 Crore, the declaration relating to percentage of local content shall be certified by the statutory auditor or cost auditor, if the OEM is a company and by a practicing cost accountant or a chartered accountant for OEMs other than companies as per the Public Procurement (preference to Make-in -India) order 2017 dated 04.06.2020. Only Class-I and Class-II Local suppliers as per MII order dated 4.6.2020 will be eligible to bid. Non - Local suppliers as per MII order dated 04.06.2020 are not eligible to participate. However, eligible micro and small enterprises will be allowed to participate .In case Buyer has selected Purchase preference to Micro and Small Enterprises clause in the bid, the same will get precedence over this clause.
7. Purchase preference to Micro and Small Enterprises (MSEs): Purchase preference will be given to MSEs as defined in Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012 dated 23.03.2012 issued by Ministry of Micro, Small and Medium Enterprises and its subsequent Orders/Notifications issued by concerned Ministry. If the bidder wants to avail the Purchase preference, the bidder must be the manufacturer of the offered product in case of bid for supply of goods. Traders are excluded from the purview of Public Procurement Policy for Micro and Small Enterprises. In respect of bid for Services, the bidder must be the Service provider of the offered Service. Relevant documentary evidence in this regard shall be uploaded along with the bid in respect of the offered product or service. If L-1 is not an MSE and MSE Seller (s) has/have quoted price within L-1+ 15% (Selected by Buyer) of margin of purchase preference /price band defined in relevant policy, such Seller shall be given opportunity to match L-1 price and contract will be awarded for 25%(selected by Buyer) percentage of total QUANTITY.
8. Estimated Bid Value indicated above is being declared solely for the purpose of guidance on EMD amount and for determining the Eligibility Criteria related to Turn Over, Past Performance and Project / Past Experience etc. This has no relevance or bearing on the price to be quoted by the bidders and is also not going to have any impact on bid participation. Also this is not going to be used as a criteria in determining reasonableness of quoted prices which would be determined by the buyer based on its own assessment of reasonableness and based on competitive prices received in Bid / RA process.
9. Past Performance: The Bidder or its OEM {themselves or through re-seller(s)} should have supplied same or similar Category Products for 20% of bid quantity, in at least one of the last three Financial years before the bid opening date to any Central / State Govt Organization / PSU / Public Listed Company. Copies of relevant contracts (proving supply of cumulative order quantity in any one financial year) to be submitted along with bid in support of quantity supplied in the relevant Financial year. In case of bunch bids, the category related to primary product having highest bid value should meet this criterion.
10. Reverse Auction would be conducted amongst first 50% of the technically qualified bidders arranged in the order of prices from lowest to highest. Number of sellers eligible for participating in RA would be rounded off to next higher integer value if number of technically qualified bidders is odd (e.g. if 7 bids are technically qualified,

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

#### Pre Bid Detail(s)

| Pre-Bid Date and Time | Pre-Bid Venue                                      |
|-----------------------|--|
| 29-04-2022 12:00:00   | FSSAI HQ, FDA BHAWAN, KOTLA ROAD, NEW DELHI-110002 |

#### UV Visible Spectrophotometer ( 1 pieces )

**(Minimum 50% and 20% Local Content required for qualifying as Class 1 and Class 2 Local Supplier respectively)**

|            |           |
|------------|-----------|
| Brand Type | Unbranded |
|------------|-----------|

#### Technical Specifications

|                               |                           |
|-------------------------------|---------------------------|
| <b>Specification Document</b> | <a href="#">View File</a> |
| <b>BOQ Detail Document</b>    | <a href="#">View File</a> |

Advisory-Please refer attached BOQ document for detailed consignee list and delivery period.

#### Consignees/Reporting Officer and Quantity

| S.No. | Consignee/Reporting Officer | Address   | Quantity | Delivery Days |
|-------|-----------------------------|---|----------|---------------|
| 1     | Anuj Srivastava             | 845305,National Food Laboratory, Kolkata (Extension Centre, Raxaul) Hardia Kothi, Near Shivam Flour Mills, NH-28A, Raxaul, Distt-East Champaran, PIN-845305 (Bihar) | 1        | 45            |

#### Nitrogen Generator ( 1 pieces )

**(Minimum 50% and 20% Local Content required for qualifying as Class 1 and Class 2 Local Supplier respectively)**

|            |           |
|------------|-----------|
| Brand Type | Unbranded |
|------------|-----------|

### Technical Specifications

|                               |                           |
|-------------------------------|---------------------------|
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|-------|-----------------------------|---|----------|---------------|
| 1     | Anuj Srivastava             | 845305,National Food Laboratory, Kolkata (Extension Centre, Raxaul) Hardia Kothi, Near Shivam Flour Mills, NH-28A, Raxaul, Distt-East Champaran, PIN-845305 (Bihar) | 1        | 45            |

### Hydrogen Generator ( 1 pieces )

**(Minimum 50% and 20% Local Content required for qualifying as Class 1 and Class 2 Local Supplier respectively)**

|            |           |
|------------|-----------|
| Brand Type | Unbranded |
|------------|-----------|

### Technical Specifications

|                               |                           |
|-------------------------------|---------------------------|
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| S.No. | Consignee/Reporting Officer | Address   | Quantity | Delivery Days |
|-------|-----------------------------|---|----------|---------------|
| 1     | Anuj Srivastava             | 845305,National Food Laboratory, Kolkata (Extension Centre, Raxaul) Hardia Kothi, Near Shivam Flour Mills, NH-28A, Raxaul, Distt-East Champaran, PIN-845305 (Bihar) | 1        | 45            |

### Zero Air Generator ( 1 pieces )

**(Minimum 50% and 20% Local Content required for qualifying as Class 1 and Class 2 Local Supplier respectively)**

|            |           |
|------------|-----------|
| Brand Type | Unbranded |
|------------|-----------|

### Technical Specifications

|                        |                           |
|------------------------|---------------------------|
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| BOQ Detail Document    | <a href="#">View File</a> |

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### Consignees/Reporting Officer and Quantity

| S.No. | Consignee/Reporting Officer | Address   | Quantity | Delivery Days |
|-------|-----------------------------|---|----------|---------------|
| 1     | Anuj Srivastava             | 845305,National Food Laboratory, Kolkata (Extension Centre, Raxaul) Hardia Kothi, Near Shivam Flour Mills, NH-28A, Raxaul, Distt-East Champaran, PIN-845305 (Bihar) | 1        | 45            |

### GC With FID And ECD ( 1 pieces )

**(Minimum 50% and 20% Local Content required for qualifying as Class 1 and Class 2 Local Supplier respectively)**

|            |           |
|------------|-----------|
| Brand Type | Unbranded |
|------------|-----------|

### Technical Specifications

|  |  |
|--|--|
|  |  |
|--|--|

|                               |                           |
|-------------------------------|---------------------------|
| <b>Specification Document</b> | <a href="#">View File</a> |
| <b>BOQ Detail Document</b>    | <a href="#">View File</a> |

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**Consignees/Reporting Officer and Quantity**

| S.No. | Consignee/Reporting Officer | Address   | Quantity | Delivery Days |
|-------|-----------------------------|---|----------|---------------|
| 1     | Anuj Srivastava             | 845305,National Food Laboratory, Kolkata (Extension Centre, Raxaul) Hardia Kothi, Near Shivam Flour Mills, NH-28A, Raxaul, Distt-East Champaran, PIN-845305 (Bihar) | 1        | 45            |

**HPLC With PDA And RID ( 1 pieces )**

**(Minimum 50% and 20% Local Content required for qualifying as Class 1 and Class 2 Local Supplier respectively)**

|            |           |
|------------|-----------|
| Brand Type | Unbranded |
|------------|-----------|

**Technical Specifications**

|                               |                           |
|-------------------------------|---------------------------|
| <b>Specification Document</b> | <a href="#">View File</a> |
| <b>BOQ Detail Document</b>    | <a href="#">View File</a> |

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**Consignees/Reporting Officer and Quantity**

| S.No. | Consignee/Reporting Officer | Address | Quantity | Delivery Days |
|-------|-----------------------------|---------|----------|---------------|
|-------|-----------------------------|---------|----------|---------------|

| S.No. | Consignee/Reporting Officer | Address   | Quantity | Delivery Days |
|-------|-----------------------------|---|----------|---------------|
| 1     | Anuj Srivastava             | 845305,National Food Laboratory, Kolkata (Extension Centre, Raxaul) Hardia Kothi, Near Shivam Flour Mills, NH-28A, Raxaul, Distt-East Champaran, PIN-845305 (Bihar) | 1        | 45            |

### ICPMS With Microwave Digestion System ( 1 pieces )

(Minimum 50% and 20% Local Content required for qualifying as Class 1 and Class 2 Local Supplier respectively)

|            |           |
|------------|-----------|
| Brand Type | Unbranded |
|------------|-----------|

### Technical Specifications

|                        |                           |
|------------------------|---------------------------|
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| BOQ Detail Document    | <a href="#">View File</a> |

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### Consignees/Reporting Officer and Quantity

| S.No. | Consignee/Reporting Officer | Address   | Quantity | Delivery Days |
|-------|-----------------------------|---|----------|---------------|
| 1     | Anuj Srivastava             | 845305,National Food Laboratory, Kolkata (Extension Centre, Raxaul) Hardia Kothi, Near Shivam Flour Mills, NH-28A, Raxaul, Distt-East Champaran, PIN-845305 (Bihar) | 1        | 45            |

### Buyer Added Bid Specific Terms and Conditions

1. Experience Certificate for the supply of the same to any Govt/ PSU/ any renowned private organisation along with Supply/ Purchase Order.
2. If the agency is registered under MSME or NSIC, then EMD exemption certificate needs to be enclosed.
3. Make in india specific authorisation certificate needs to be enclosed.
4. **Generic**



OPTION CLAUSE: The Purchaser reserves the right to increase or decrease the quantity to be ordered up to 50 percent of bid quantity at the time of placement of contract. The purchaser also reserves the right to increase the ordered quantity by up to 50% of the contracted quantity during the currency of the contract at the contracted rates. Bidders are bound to accept the orders accordingly.

5. **Generic**

Actual delivery (and Installation & Commissioning (if covered in scope of supply)) is to be done at following address Sh. ANUJ SRIVASTAVA National Food Laboratory, Kolkata (Extension Centre, Raxaul) Hardia Kothi, Near Shivam Flour Mills, NH-28A, Raxaul, Distt-East Champaran, PIN-845305 (Bihar).

6. **Generic**

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

7. **Generic**

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

8. **Generic**

Experience Criteria: The Bidder or its OEM {themselves or through reseller(s)} should have regularly, manufactured and supplied same or similar Category Products to any Central / State Govt Organization / PSU / Public Listed Company for 3 years before the bid opening date. Copies of relevant contracts to be submitted along with bid in support of having supplied some quantity during each of the year. In case of bunch bids, the primary product having highest value should meet this criterion.

9. **Generic**

Installation, Commissioning, Testing, Configuration, Training (if any - which ever is applicable as per scope of supply) is to be carried out by OEM / OEM Certified resource or OEM authorised Reseller.

10. **Generic**

**Non return of Hard Disk:** As per Buyer organization's Security Policy, Faulty Hard Disk of Servers/Desktop Computers/ Laptops etc. will not be returned back to the OEM/supplier against warranty replacement.

11. **Generic**

1. The Seller shall not assign the Contract in whole or part without obtaining the prior written consent of buyer.
2. The Seller shall not sub-contract the Contract in whole or part to any entity without obtaining the prior written consent of buyer.
3. The Seller shall, notwithstanding the consent and assignment/sub-contract, remain jointly and severally liable and responsible to buyer together with the assignee/ sub-contractor, for and in respect of the due performance of the Contract and the Sellers obligations there under.

12. **Generic**

**Upload Manufacturer authorization:** Wherever Authorised Distributors are submitting the bid, Manufacturers Authorisation Form (MAF)/Certificate with OEM details such as name, designation, address, e-mail Id and Phone No. required to be furnished along with the bid.

13. **Generic**

Without prejudice to Buyer's right to price adjustment by way of discount or any other right or remedy available to Buyer, Buyer may terminate the Contract or any part thereof by a written notice to the Seller, if:

- i) The Seller fails to comply with any material term of the Contract.

- ii) The Seller informs Buyer of its inability to deliver the Material(s) or any part thereof within the stipulated Delivery Period or such inability otherwise becomes apparent.
- iii) The Seller fails to deliver the Material(s) or any part thereof within the stipulated Delivery Period and/or to replace/rectify any rejected or defective Material(s) promptly.
- iv) The Seller becomes bankrupt or goes into liquidation.
- v) The Seller makes a general assignment for the benefit of creditors.
- vi) A receiver is appointed for any substantial property owned by the Seller.
- vii) The Seller has misrepresented to Buyer, acting on which misrepresentation Buyer has placed the Purchase Order on the Seller.

#### 14. **Generic**

While generating invoice in GeM portal, the seller must upload scanned copy of GST invoice and the screenshot of GST portal confirming payment of GST.

#### 15. **OEM**

IMPORTED PRODUCTS: In case of imported products, OEM or Authorized Seller of OEM should have a registered office in India to provide after sales service support in India. The certificate to this effect should be submitted.

#### 16. **Forms of EMD and PBG**

Bidders can also submit the EMD with Account Payee Demand Draft in favour of SENIOR ACCOUNTS OFFICER, FSSAI payable at NEW DELHI.  
Bidder has to upload scanned copy / proof of the DD along with bid and has to ensure delivery of hardcopy to the Buyer within 5 days of Bid End date / Bid Opening date.

#### 17. **Forms of EMD and PBG**

Bidders can also submit the EMD with Fixed Deposit Receipt made out or pledged in the name of A/C (Name of the Buyer). The bank should certify on it that the deposit can be withdrawn only on the demand or with the sanction of the pledgee. For release of EMD, the FDR will be released in the favour of the bidder by the Buyer after making endorsement on the back of the FDR duly signed and stamped along with covering letter. Bidder has to upload scanned copy/ proof of the FDR along with bid and has to ensure delivery of hardcopy to the Buyer within 5 days of Bid End date/ Bid Opening date

#### 18. **Forms of EMD and PBG**

Bidders can also submit the EMD with Banker's Cheque in favour of SENIOR ACCOUNTS OFFICER, FSSAI payable at NEW DELHI.  
Bidder has to upload scanned copy / proof of the BC along with bid and has to ensure delivery of hardcopy to the Buyer within 5 days of Bid End date / Bid Opening date.

#### 19. **Forms of EMD and PBG**

Bidders can also submit the EMD with Payment online through RTGS / internet banking in Beneficiary name SENIOR ACCOUNTS OFFICER, FSSAI Account No. 26030100008653 IFSC Code BARB0NIRDEL Bank Name BANK OF BARODA Branch address Maulana Azad Rd, Nirman Bhawan, New Delhi- 110001.  
Bidder to indicate bid number and name of bidding entity in the transaction details field at the time of on-line transfer. Bidder has to upload scanned copy / proof of the Online Payment Transfer along with bid.

#### 20. **Forms of EMD and PBG**

Successful Bidder can submit the Performance Security in the form of Account Payee Demand Draft also (besides PBG which is allowed as per GeM GTC). DD should be made in favour of SENIOR ACCOUNTS OFFICER, FSSAI payable at NEW DELHI. After award of contract, Successful Bidder can upload scanned copy of the DD in place of PBG and has to ensure delivery of hard copy to the original DD to the Buyer within 15 days of award of contract.

#### 21. **Forms of EMD and PBG**

Successful Bidder can submit the Performance Security in the form of Fixed Deposit Receipt also (besides

PBG which is allowed as per GeM GTC). FDR should be made out or pledged in the name of SENIOR ACCOUNTS OFFICER, FSSAI A/C (Name of the Seller). The bank should certify on it that the deposit can be withdrawn only on the demand or with the sanction of the pledgee. For release of Security Deposit, the FDR will be released in favour of bidder by the Buyer after making endorsement on the back of the FDR duly signed and stamped along with covering letter. Successful Bidder has to upload scanned copy of the FDR document in place of PBG and has to ensure delivery of hard copy of Original FDR to the Buyer within 15 days of award of contract.

## 22. **Forms of EMD and PBG**

Successful Bidder can submit the Performance Security in the form of Payment online through RTGS / internet banking also (besides PBG which is allowed as per GeM GTC). On-line payment shall be in Beneficiary name SENIOR ACCOUNTS OFFICER, FSSAI Account No. 26030100008653 IFSC Code BARBONIRDEL Bank Name BANK OF BARODA Branch address Maulana Azad Rd, Nirman Bhawan, New Delhi- 110001. Successful Bidder to indicate Contract number and name of Seller entity in the transaction details field at the time of on-line transfer. Bidder has to upload scanned copy / proof of the Online Payment Transfer in place of PBG within 15 days of award of contract.

## 23. **Financial Criteria**

**NET WORTH:** Net Worth of the OEM should be positive as per the last audited financial statement.

## 24. **Scope of Supply**

Scope of supply (Bid price to include all cost components) : Supply Installation Testing Commissioning of Goods and Training of operators and providing Statutory Clearances required (if any)

## 25. **Purchase Preference (Centre)**

Indian suppliers of this item are not allowed to participate and/ or compete in procurement by some foreign governments. Bidders / products from such countries are not eligible / not allowed to participate in this bid in terms of clause 1 (d) of Public Procurement (Preference to Make in India) Order, 2017

## 26. **Purchase Preference (Centre)**

Purchase preference to Micro and Small Enterprises (MSEs): Purchase preference will be given to MSEs as defined in Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012 dated 23.03.2012 issued by Ministry of Micro, Small and Medium Enterprises and its subsequent Orders/Notifications issued by concerned Ministry. If the bidder wants to avail the Purchase preference, the bidder must be the manufacturer of the offered product in case of bid for supply of goods. Traders are excluded from the purview of Public Procurement Policy for Micro and Small Enterprises. In respect of bid for Services, the bidder must be the Service provider of the offered Service. Relevant documentary evidence in this regard shall be uploaded along with the bid in respect of the offered product or service. If L-1 is not an MSE and MSE Seller (s) has/have quoted price within L-1+ 15% of margin of purchase preference /price band defined in relevant policy, such Seller shall be given opportunity to match L-1 price and contract will be awarded for percentage of 25% of total value.

## 27. **Purchase Preference (Centre)**

Purchase Preference linked with Local Content (PP-LC) Policy:

The bid clause regarding "Preference to Make In India products" stands modified in this bid and shall be governed by the PPLC Policy No. FP-20013/2/2017-FP-PNG dated 17.11.2020 issued by MoP&NG as amended up to date. Accordingly, bidders with Local Content less than or equal to 20% will be treated as "Non Local Supplier". The prescribed LC shall be applicable on the date of Bid opening. Sanctions on the bidders for false / wrong declaration or not fulfilling the Local Content requirement shall be as per the PPLC policy. Further following additional provisions are added in the certification and verification of local content provision of the Preference to Make in India clause:

- i. In case of foreign bidder, certificate from the statutory auditor or cost auditor of their own office or subsidiary in India giving the percentage of local content is also acceptable. In case office or subsidiary in India does not exist or Indian office/subsidiary is not required to appoint statutory auditor or cost auditor, certificate from practicing cost accountant or practicing chartered

accountant giving the percentage of local content is also acceptable.

- ii. Along with Each Invoice: The local content certificate (issued by statutory auditor on behalf of procuring company) shall be submitted along with each invoice raised. However, the % of local content may vary with each invoice while maintaining the overall % of local content for the total work/purchase of the pro-rata local content requirement. In case, it is not satisfied cumulatively in the invoices raised up to that stage, the supplier shall indicate how the local content requirement would be met in the subsequent stages.
- iii. The bidder shall submit an undertaking from the authorized signatory of bidder having the Power of Attorney along with the bid stating the bidder meets the mandatory minimum LC requirement and such undertaking shall become a part of the contract.

## 28. Purchase Preference (Centre)

Purchase Preference linked with Local Content (PP-LC) Policy:

The bid clause regarding "Preference to Make In India products" stands modified in this bid and shall be governed by the PPLC Policy No. FP-20013/2/2017-FP-PNG dated 17.11.2020 issued by MoP&NG as amended up to date. Accordingly, bidders with Local Content less than or equal to 20% will be treated as "Non Local Supplier". The prescribed LC shall be applicable on the date of Bid opening. Sanctions on the bidders for false / wrong declaration or not fulfilling the Local Content requirement shall be as per the PPLC policy. Further following additional provisions are added in the certification and verification of local content provision of the Preference to Make in India clause:

- i. In case of foreign bidder, certificate from the statutory auditor or cost auditor of their own office or subsidiary in India giving the percentage of local content is also acceptable. In case office or subsidiary in India does not exist or Indian office/subsidiary is not required to appoint statutory auditor or cost auditor, certificate from practicing cost accountant or practicing chartered accountant giving the percentage of local content is also acceptable.
- ii. Along with Each Invoice: The local content certificate (issued by statutory auditor on behalf of procuring company) shall be submitted along with each invoice raised. However, the % of local content may vary with each invoice while maintaining the overall % of local content for the total work/purchase of the pro-rata local content requirement. In case, it is not satisfied cumulatively in the invoices raised up to that stage, the supplier shall indicate how the local content requirement would be met in the subsequent stages.
- iii. The bidder shall submit an undertaking from the authorized signatory of bidder having the Power of Attorney along with the bid stating the bidder meets the mandatory minimum LC requirement and such undertaking shall become a part of the contract.

## 29. Certificates

Bidder's offer is liable to be rejected if they don't upload any of the certificates / documents sought in the Bid document, ATC and Corrigendum if any.

## 30. Certificates

ISO 9001: The bidder or the OEM of the offered products must have ISO 9001 certification.

## 31. Certificates

The bidder is required to upload, along with the bid, all relevant certificates such as BIS licence, type test certificate, approval certificates and other certificates as prescribed in the Product Specification given in the bid document.

## 32. Buyer Added Bid Specific ATC

Buyer Added text based ATC clauses

|   |                                |  |
|---|--------------------------------|--|
| 1 | Installation and commissioning | The supplier will have to carry out successful Installation at the laboratory premises and provide on-site comprehensive training for operation. |
|---|--------------------------------|--|

|   |   |  |
|---|---|--|
| 2 | Compliance statement  | The quote should also include a compliance statement vis-à-vis specifications in a “tabular form” clearly stating the compliance and giving justification, if any supported by technical literature. This statement must be signed, with the company seal, for its authenticity and acceptance that any incorrect or ambiguous information found submitted will result in disqualification.  |
| 3 | Withdrawal of bid without reason  | FSSAI reserves the right to cancel the Bid enquiry at any stage without assigning any reason and FSSAI shall not be responsible for any consequence thereof to any bidders.  |
| 4 | Purchase Preference to MSEs   | MSME will be given Purchase Preference as defined in Public Procurement Policy for Micro and Small Enterprises dated 23.03.2012. Further, as per MSME notification dated 09.11.2018, 3% from within 25% (i.e. Maximum Percentage of Bid quantity for MSE Purchase preference) shall be earmarked for enterprises owned by women.   |
| 5 | Verification of Local Content for MII Price Preference  | <p>The ‘Class-I local supplier’/ ‘Class-II local supplier’ at the time of tender, bidding or solicitation shall be required to indicate percentage of local content and provide self-certification that the item offered meets the local content requirement for ‘Class-I local supplier’/ ‘Class-II local supplier’ , as the case may be. They shall also give details of the location(s) at which the local value addition is made.</p> <p>In case of procurement for a value in excess of Rs. 10 Crores, the ‘Class-I local supplier’/ ‘Class-II local supplier’ shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.</p> |
| 6 | <p><b>Arbitration Agreement</b></p> <p><b>6.1 This Agreement</b></p> <p>1) This Arbitration Agreement (hereinafter referred to as this “Agreement”) relating to this Contract (hereinafter called the “Main Agreement” for this agreement) is made under the provisions of The Arbitration and Conciliation Act, 1996 as amended from time to time and the rules there under (hereinafter called The Arbitration Act). This Agreement shall continue to survive termination, completion, or closure of the Main Agreement for 120 days after that.</p> <p>2) Subject to aforesaid provisions, relevant clauses of the contract shall apply to the appointment of arbitrators and arbitration proceedings under this Agreement.</p> <p>3) The Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 provides parties to a dispute (where one of the parties is a Micro or Small Enterprise) to be referred to Micro and Small Enterprises Facilitation Council if the dispute is regarding any amount due under Section 17 of the MSMED Act, 2006. If a Micro or Small Enterprise, being a party to dispute, refers to the provisions in MSMED Act 2006, these provisions shall prevail over this Agreement.</p> |  |

## **6.2 Notice for Arbitration**

- 1) **Authority to Appoint Arbitrator(s):** For this Arbitration Agreement 'The Appointing Authority', to appoint the arbitrator shall be Head of the FSSAI named in the contract and includes if there be no such authority, the officer who is for the time being discharging the functions of that authority, whether in addition to other functions or otherwise.
- 2) In the event of any dispute as per GCC-clause 11.1 above, if the Adjudicator fails to decide within 60 days (as referred in 11.3 above), or the Conciliation is terminated (as referred in sub-clause 11.4 above) then, parties to the contract, after 60 days but within 120 days of 'Notice of Dispute'(clause 11.1 above) shall request the Appointing Authority through a "Notice for Arbitration" in writing requesting that the dispute or difference be referred to arbitration.
- 3) The "Notice for arbitration" shall specify the matters in question or subject of the dispute or difference indicating the relevant contractual clause, as well as the amount of claim item-wise.

## **6.3 Reference to Arbitration**

After appointing Arbitrator(s), the Appointing Authority shall refer the Dispute to them. Only such dispute or difference shall be referred to arbitration regarding which the demand has been made, together with counter-claims or set off. Other matters shall be beyond the jurisdiction of Arbitrator(s)

## **6.4 Appointment of Arbitrator**

### **1) Qualification of Arbitrators:**

In the case of retired officers of The FSSAI, he shall have retired in the rank of Senior administrative grade (or equivalent) and shall have retired at least 1 years prior and must not be over 70 years of age on the date of Notice for arbitration.

He/ they shall not have had an opportunity to deal with the matters to which the contract relates or who, in the course of his/ their duties as officers of the FSSAI, expressed views on any or all of the matters under dispute or differences. A certification to this effect (as per Format 1.4) shall be taken from Arbitrators. The proceedings of the Arbitral tribunal or the award made by such Tribunal shall, however, not be invalid merely for the reason that one or more arbitrators had in the course of his service, an opportunity to deal with the matters to which the contract relates or who in the course of his/ their duties expressed views on all or any of the matters under dispute.

An Arbitrator may be appointed notwithstanding the total no. of arbitration cases in which he has been appointed in the past.

Not be other than the person appointed by The Appointing Authority and that if for any reason that is not possible, the matter shall not be referred to arbitration at all.

### **2) Replacement of Arbitrators**

If one or more of the arbitrators appointed as above refuses to act as arbitrator, withdraws from his office as arbitrator, or in the event of the arbitrator dying, neglecting/ unable or unwilling or refusing to act for any reason, or his award being set aside by the court for any reason, or in the opinion of The Appointing Authority fails to act without undue delay, the Appointing Authority shall appoint new arbitrator/ arbitrators to act in his/ their place in the same manner in which the earlier arbitrator/ arbitrators had been appointed. Such a re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous arbitrator (s).

### **3) Appointment of Arbitrator:**

In cases where the total value of all claims in question added together does not exceed Rs 50,00,000/- (Rupees Fifty Lakh only), the Arbitral Tribunal shall consist of sole Arbitrator. For this purpose, The Appointing Authority shall send to the contractor, within 60 days from the day of receipt of a written and valid notice for arbitration, a panel of at least four (4) names of retired officers, duly indicating their retirement dates.

The contractor shall be asked to nominate at least two names out of the panel for appointment as his nominee within 30 days from the dispatch date of the request by The Appointing Authority. The Appointing Authority shall appoint at least one out of them as the sole arbitrator within 30 days from the receipt of the names of the contractor's nominees.

In cases where the total value of all claims in question added together exceeds Rs 50,00,000/- (Rupees Fifty Lakh only), the Arbitral Tribunal shall consist of three (3) retired Officers of the FSSAI. For this purpose, The Appointing Authority shall send a panel of at least four (4) names of such Officer(s) empanelled to work as Arbitrators duly indicating their retirement date to the contractor within 60 days from the day when a written and The Appointing Authority receives valid demand for arbitration.

The contractor shall be asked to nominate at least 2 names out of the panel for appointment as his nominee within 30 days from the dispatch date of the request by The Appointing Authority. The Appointing Authority shall appoint at least one out of them as the contractor's nominee. It shall also simultaneously appoint the balance number of arbitrators either from the panel or outside the panel, duly indicating the 'Presiding Arbitrator' from amongst the 3 arbitrators so appointed, within 30 days from the receipt of the names of Contractor's nominees.

If the contractor does not suggest his nominees for the arbitral tribunal within the prescribed timeframe, The Appointing Authority shall proceed for appointment of the arbitral tribunal within 30 days of the expiry of such time provided to the contractor.

### **6.5 Failure to appoint Arbitrators.**

If The Appointing Authority fails to appoint an arbitrator within 60 (sixty) days, then subject to the survival of this Arbitration Agreement, in international commercial arbitration, the Supreme Court of India shall designate the arbitral institution for the appointment of arbitrators. In case of national arbitrations, the High Court shall designate arbitral institutions. The Arbitration Council of India must have graded these arbitration institutions. These arbitral institutions must complete the selection process within thirty days of accepting the request for the arbitrator's appointment.

### **6.6 The Arbitral Procedure**

- 1) **Effective Date of Entering Reference:** The arbitral tribunal shall be deemed to have entered the reference on the date on which the arbitrator(s) have received notice of their appointment. All subsequent time limits shall be counted from such date.
- 2) **Seat and Venue of Arbitration:** The seat of arbitration shall be the place from which the Letter of Award or the contract is issued. The venue of arbitration shall be the same as the seat of arbitration. However, in terms of section 20 of The Arbitration Act, the arbitrator, at his discretion, may determine a venue other than the seat of the arbitration without in anyway affecting the legal jurisdictional issues linked to the seat of the arbitration.
- 3) If the Adjudication and/ or Conciliation mechanisms had not been exhausted before such reference to Arbitration, the Arbitrator should ask the aggrieved party to approach designated authority for such mechanisms before the Arbitration proceedings are started.
- 4) The claimant shall submit to the Arbitrator(s) with copies to the respondent his claims stating the facts supporting the claims along with all the relevant documents and the relief or remedy sought against each claim within 30 days from the date of appointment of the Arbitral Tribunal unless otherwise extension has been granted by Arbitral Tribunal.
- 5) On receipt of such claims, the respondent shall submit its defence statement and counter claim(s), if any, within 60 days of receipt of the copy of claims, unless otherwise extension has been granted by Arbitral Tribunal.
- 6) No new claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during arbitration proceedings subject to acceptance by the Tribunal having due regard to the delay in making it.
- 7) Statement of claims, counterclaims and defence shall be completed within six months from the effective reference date.
- 8) **Oral arguments to be held on a day-to-day basis:** Oral arguments as far as possible shall be heard by the arbitral tribunal on a day-to-day basis, and no adjournments shall be granted without sufficient cause. The arbitrator (s) may impose an exemplary cost on the party seeking adjournment without sufficient cause.

- 9) **Award within 12 (twelve) months:** The arbitral tribunal is statutorily bound to deliver an award within 12 (twelve) months from the date when the arbitral tribunal enters reference. The award can be delayed by a maximum of six months only under exceptional circumstances where all parties consent to such extension of time. The court's approval shall be required for further extension if the award is not made out within such an extended period. During the period of an application for extension of time is awaiting before the court, the arbitrator's proceedings shall continue until the disposal of the application.
- 10) **Fast Track Procedure:** The parties to arbitration may choose to opt for a fast-track procedure either before or after the commencement of the arbitration. The award in fast-track arbitration is to be made out within six months, and the arbitral tribunal shall be entitled to additional fees. The salient features of the fast-track arbitration are:  
The dispute is to be decided based on written pleadings only.  
Arbitral Tribunal shall have the power to call for clarifications in addition to the written pleadings where it deems necessary.  
An oral hearing maybe held only if all the parties request or the arbitral tribunal considers it necessary.  
The parties are free to decide the fees of the arbitrator(s) for fast-track procedure.
- 11) **Powers of Arbitral Tribunal to grant Interim Relief:** The parties to arbitration may approach the arbitral tribunal for seeking interim relief on the grounds available under section 9 of the act. The tribunal has the powers of a court while making interim awards in the proceedings before it.
- 12) **Confidentiality:** As provided in Section 42A of The Arbitration Act, all the details and particulars of the arbitration proceedings shall be kept confidential, except in certain situations like if the disclosure is necessary for the implementation or execution of the arbitral award.
- 13) **Obligation During Pendency of Arbitration:** Performance of the contract shall, unless otherwise directed by the Authority, continue during the arbitration proceedings, and no payment due or payable by the Authority shall be withheld on account of such proceedings, provided; however, it shall be open for Arbitral Tribunal to consider and decide whether or not the performance of the contract or payment therein should continue during arbitration proceedings.

#### **6.7 The Arbitral Award**

- 1) In the case of the Tribunal, comprising of three members, any ruling on award shall be made by a majority of members of the Tribunal. In the absence of such a majority, the views of the Presiding Arbitrator shall prevail.
- 2) The arbitral award shall state item-wise the sum and reasons upon which it is based. The analysis and reasons shall be detailed enough so that the award can be inferred from it.
- 3) It is further a term of this arbitration agreement that where the arbitral award is for the payment of money, no interest shall be payable on whole or any part of the money for any period till the date on which the award is made in terms of Section 31 (7) (a) of The Arbitration Act.
- 4) The award of the arbitrator shall be final and binding on the parties to this contract.
- 5) A party may apply for corrections of any computational errors, typographical or clerical errors, or any other error of similar nature occurring in the award or interpretation of a specific point of the award to the Tribunal within 60 days of receipt of the award.
- 6) A party may apply to the Tribunal within 60 days of receiving the award to make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award.

#### **6.8 Savings**

The Arbitral Tribunal shall decide any matter related to Arbitration not covered under this Arbitration Agreement as per the provisions of The Arbitration Act.

#### **6.9 Cost of Arbitration and fees of the Arbitrator(s)**

- 1) The concerned parties shall bear the cost of arbitration in terms of section 31 (A) of The Arbitration Act. The cost shall inter-alia include fees of the Arbitrator.



Further, the fees payable to the Arbitrator shall be governed by instructions issued on the subject by the Authority and/ or the Government from time to time, in line with the Arbitration and Conciliation Act, irrespective of the fact whether the Arbitrator is appointed by the Authority or the Government under this clause or by any court of law unless directed explicitly by Hon'ble court otherwise on the matter. A sole arbitrator shall be entitled to a 25% extra fee over such a prescribed fee.

- 2) The arbitrator shall be entitled to a 50 percent extra fee if the award is made within 6 months in terms of provisions contained in section 29(A) (2) of The Arbitration Act.
- 3) Besides the above, Arbitrator shall also be entitled to this extra fee in cases where Fast Track Procedure in terms of section 29 (B) of The Arbitration Act is followed.

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## **Defaults, Breaches, Termination, and closure of Contract**

### **7.1 Termination due to Breach, Default, and Insolvency**

#### **7.1.1 Defaults and Breach of Contract**

In case the contractor undergoes insolvency or receivership; neglects or defaults, or expresses inability or disinclination to honour his obligations relating to the performance of the contract or ethical standards or any other obligation that substantively affects the Authority's rights and benefits under the contract, it shall be treated as a breach of Contract. Such defaults could include inter-alia:

- 1) **Default in Performance and Obligations:** if the contractor fails to deliver any or all of the Goods or fails to perform any other contractual obligations (including Code of Integrity or obligation to maintain eligibility and Qualifications based on which contract was awarded) within the period stipulated in the contract or within any extension thereof granted by the Authority.
- 2) **Insolvency:** If the contractor being an individual or if a firm, any partner thereof, shall at any time, be adjudged insolvent or shall have a receiving order or order for the administration of his estate made against him or shall take any proceeding for composition under any Insolvency Act for the time being in force or make any conveyance or assignment of his effects or enter into any assignment or composition with his creditors or suspend payment or if the firm be dissolved under the Partnership Act, or
- 3) **Liquidation:** if the contractor is a company being wound up voluntarily or by order of a Court or a Receiver, Liquidator or Manager on behalf of the Debenture-holders is appointed, or circumstances shall have arisen which entitle the Court or Debenture-holders to appoint a Receiver, Liquidator or Manager

#### **7.1.2 Notice for Default:**

As soon as a breach of contract is noticed, a show-cause 'Notice of Default' shall be issued to the contractor, giving two weeks' notice, reserving the right to invoke contractual remedies. After such a show-cause notice, all payments to the contractor would be temporarily withheld to safeguard needed recoveries that may become due on invoking contractual remedies.

#### **7.1.3 Terminations for Default**

- 1) **Notice for Termination for Default:** In the event of unsatisfactory resolution of 'Notice of Default' within two weeks of its issue as per sub-clause above, the Authority, if so decided, shall by written Notice of Termination for Default sent to the contractor, terminate the contract in whole or in part, without compensation to the contractor.
- 2) Such termination shall not prejudice or affect the rights and remedies, including under sub-clause below, which have accrued and/ or shall accrue to the Authority after that.
- 3) Unless otherwise instructed by the Authority, the contractor shall continue to perform the contract to the extent not terminated.
- 4) All warranty obligations, if any, shall continue to survive despite the

termination.

#### **7.1.4 Contractual Remedies for Breaches/Defaults or Termination for Default**

If there is an unsatisfactory resolution within this period, the Authority shall take one; or more of the following contractual remedies.

- 1) Temporary withhold payments due to the contractor till recoveries due to invocation of other contractual remedies are complete.
- 2) Call back any loaned property or advances of payment, if any, with the levy of interest at the prevailing rate(MIBID - Mumbai Interbank Bid Rate).
- 3) Recover liquidated damages and invoke denial clause for delays.
- 4) Encash and/ or Forfeit performance or other contractual securities.
- 5) Prefer claims against insurances, if any.
- 6) Terminate contract for default, fully or partially including its right for Risk-and-Cost Procurement as per following sub-clause.
- 7) **Risk and Cost Procurement:** In addition to termination for default, the Authority shall be entitled, and it shall be lawful on his part, to procure Goods similar to those terminated, with such terms and conditions and in such manner as it deems fit at the "Risk and Cost" of the contractor. Such 'Risk and Cost Procurement' must be contracted within six months from the breach of Contract. The Contractor shall be liable for any loss which the Authority may sustain on that account provided the procurement, or, if there is an agreement to procure, such agreement is made. The Contractor shall not be entitled to any gain on such procurement, and the manner and method of such procurement shall be in the entire discretion of the Authority. It shall not be necessary for the Authority to notify the contractor of such procurement. It shall, however, be at the discretion of the Authority to collect or not the security deposit from the firm/ firms on whom the contract is placed at the risk and cost of the defaulted firm.

Note: Regarding the Goods which are not readily available in the market and where procurement difficulties are experienced, the period for making risk procurement shall be nine months instead of six months provided above.

- 8) Initiate proceedings in a court of law for the transgression of the law, tort, and loss, not addressable by the above means.

#### **7.1.5 Limitation of Liability**

Except in cases of criminal negligence or wilful misconduct, the aggregate liability of the contractor to the Authority, whether under the contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the contractor to indemnify the Authority concerning IPR infringement.

## **7.2 Termination for Default/ Convenience of Authority and Frustration**

### **7.2.1 Notice for Determination of Contract**

- 1) The Authority reserves the right to terminate the contract, in whole or in part for its (the Authority's) convenience or frustration of contract as per sub-clause below, by serving written 'Notice for Determination of Contract' on the contractor at any time during the currency of the contract. The notice shall specify that the termination is for the convenience of the Authority or the frustration of the contract. The notice shall also indicate inter-alia, the extent to which the contractor's performance under the contract is terminated, and the date with effect from which such termination shall become effective.
- 2) Such termination shall not prejudice or affect the rights and remedies accrued and/ or shall accrue after that to the Parties.
- 3) Unless otherwise instructed by the Authority, the contractor shall continue to perform the contract to the extent not terminated.
- 4) All warranty obligations, if any, shall continue to survive despite the termination.
- 5) The Goods and incidental Works/ Services that are complete and ready in terms of the contract for delivery and performance within thirty days after the contractor's receipt of the notice of termination shall be accepted by the Authority as per the contract terms. For the remaining Goods and incidental Works/ Services, the Authority may decide:

To get any portion of the balance completed and delivered at the contract terms, conditions, and prices; and/ or  
 To cancel the remaining portion of the Goods and incidental Works/ Services and compensate the contractor by paying an agreed amount for the cost incurred by the contractor, if any, towards the remaining portion of the Goods and incidental Works/ Services.

**7.2.2 Frustration of Contract**

- 1) **Notice of Frustration Event:** Upon a supervening cause occurring after the effective date of the contract, including a change in law, beyond the control of either party whether as a result of the Force Majeure clause or within the scope of section 56 of the Indian Contract Act, 1872, that makes it impossible to perform the contract within a reasonable timeframe, the affected party shall give a 'Notice of Frustration Event' to the other party giving justification. The parties shall use reasonable efforts to agree to amend the contract, as may be necessary to complete its performance. However, if the parties cannot reach a mutual agreement within 60 days of the initial notice, the Authority shall issue a 'Notice for Determining the contract' and terminate the contract due to its frustration as in the sub-clause above.
- 2) However, the following shall not be considered as such a supervening cause.  
 Lack of commercial feasibility or viability or profitability or availability of funds  
 if caused by either party's breach of its obligations under this Contract or failure to act in good faith or use commercially reasonable due diligence to prevent such an event.

**7.2.3 Closure of Contract**

**No Claim Certificate and Release of Contract Securities**

After mutual reconciliations of outstanding payments and assets on either side, the contractor shall submit a 'No-claim certificate' to the Authority requesting the release of its contractual securities, if any. The Authority shall release the contractual securities without any interest if no outstanding obligation, asset, or payments are due from the contractor. The contractor shall not be entitled to make any claim whatsoever against the Authority under or arising out of this Contract, nor shall the Authority entertain or consider any such claim, if made by the contractor, after he shall have signed a "No Claim" Certificate in favour of the Authority. The Contractor shall be debarred from disputing the correctness of the items covered by the "No Claim" Certificate or demanding a clearance to arbitration in respect thereof.

**7.3 Closure of Contract**

The contract shall stand closed upon

- 3) successful performance of all obligations by both parties, including completion of warranty obligations and final payment.
- 4) termination and settlements after that, if any, as per clause 7.1 or 7.2 above.

|   |                |  |
|---|----------------|--|
| 8 | Financial Loss | Bidder Firm (manufacturer or principal of authorised representative) should not have suffered any financial loss for more than one year during the last three years, ending on 31 <sup>st</sup> March, 2021. |
|---|----------------|--|

|    |                                      |  |
|----|--------------------------------------|--|
| 9. | <b>SERVICE LEVEL AGREEMENT (SLA)</b> |  |
|----|--------------------------------------|--|

(a). **Warranty/Training:** The Seller has to warrant that the Goods supplied under this Contract are new, unused, of the most recent or current models and incorporate all recent improvements in design and materials unless provided otherwise in the Contract.

(b). **Warranty:** Warranty should be provided as mentioned against each equipment after successful installation of the instrument. Service and training during warranty period should be free of cost. This should cover the repair and maintenance with spare parts of the equipment purchased under the Supply Order. This will also include:

(i) **Preventive Maintenance Service:** The Seller will provide a minimum of two Preventive Maintenance Service visits during a year to the operating base to carry out functional check-ups and minor adjustments/tuning as may be required.

(ii) **Breakdown Maintenance Service:** In case of any breakdown of the equipment/system, on receiving a call from the Buyer, the Seller is to provide maintenance service to make the equipment/system serviceable.

(iii) **Response time:** The response time of the Seller should not exceed 48 hours from the time the breakdown intimation is provided by the Buyer.

(iv) Serviceability of 90% per year is to be ensured. This amounts to total maximum downtime of 37 days per year. Also unavailability should not exceed 2 working days at one time. Required spares to attain this serviceability may be stored at site by the Seller at his own cost. Total down time would be calculated at the end of the year. If downtime exceeds permitted downtime, Liquidated Damages would be applicable for the delayed period.

(v) Maximum repair turnaround time for equipment/system would be 3 days. However, the spares should be maintained in a serviceable condition to avoid complete breakdown of the equipment/system.

(vi) **Technical Documentation:** All necessary changes in the documentation (Technical and Operators manual) for changes carried out on hardware and software of the equipment will be provided.

(vii) During the Warranty period, the Seller shall carry out all necessary servicing/repairs to the equipment/system under Warranty at the current location of the equipment/system. Prior permission of the Buyer would be required in case certain components/sub systems are to be shifted out of location. On such occasions, before taking over the goods or components, the Seller will give suitable bank guarantee to the Buyer to cover the estimated current value of item being taken.

(viii) The Buyer reserves its right to terminate the maintenance Supply Order at any time without assigning any reason after giving a notice of 1 month. The Seller will not be entitled to claim any compensation against such termination. However, while terminating the Supply Order, if any payment is due to the Seller for maintenance services already performed in terms of the Supply Order, the same would be paid to it as per the Supply Order terms.

(c). **Training:** Training for the operation of instrument, software, data evaluation, trouble shooting and development of analytical methods will be provided free of cost during the warranty period.

(d). **Uptime.** The successful bidder will guarantee to provide 90% uptime of all the systems during warranty and subsequent AMC.

In case of failure to do so, proportionate payment will be deducted from the bank guarantee/payment due to the successful bidder.

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**PAYMENT TERMS**

The payment will be made as per the following terms on production of the requisite documents:

| S.N. | Amount to be paid, INR               | Condition(s) for release  |
|------|--------------------------------------|---|
| 1    | 80 % of the cost of equipment        | On satisfactory Providing, Installing, Commissioning and Testing of the Equipment alongwith all accessories, consumables etc. |
| 2    | Balance 20% of the cost of equipment | On successful demonstration of the equipment and facility, training and validation.   |

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**PENALTIES**

**(a).** In the event of delay in “Providing, Installing, Commissioning and Testing of the Equipment alongwith all accessories etc. to the satisfaction of the **FSSAI** beyond the stipulated date:

- i. The Bidder will inform **FSSAI** well in advance in writing the reasons for delay in supply and/or installation of the equipment.
- ii. **FSSAI** shall have the right to recover liquidated damages at the rate of 0.25% of the Value of the equipment per day, by which the supplies or their satisfactory installation and commissioning is delayed subject to a maximum of 10%. Once the maximum is reached **FSSAI** may consider termination of the supply order.
- iii. **Penalty:** The successful bidder shall pay a penalty equivalent to **0.5 %** of the order value of the equipment for every week or part thereof delay **in rectifying the defect.**

**Note: The right to accept the reason(s) for delay and consider reduction or waive off the penalty for the same shall be at the sole discretion of FSSAI.**

33. **Warranty**

Warranty period of the supplied products shall be 3 years from the date of final acceptance of goods or after completion of installation, commissioning & testing of goods (if included in the scope of supply), at consignee location. OEM Warranty certificates must be submitted by Successful Bidder at the time of delivery of Goods. The seller should guarantee the rectification of goods in case of any break down during the guarantee period. Seller should have well established Installation, Commissioning, Training, Troubleshooting and Maintenance Service group in INDIA for attending the after sales service. Details of Service Centres near consignee destinations are to be uploaded along with the bid.

34. **Generic**

Data Sheet of the product(s) offered in the bid, are to be uploaded along with the bid documents. Buyers can match and verify the Data Sheet with the product specifications offered. In case of any unexplained mismatch of technical parameters, the bid is liable for rejection.

35. **Past Project Experience**

For fulfilling the experience criteria any one of the following documents may be considered as valid proof for meeting the experience criteria:

- a. Purchase Order copy along with Invoice(s) with self-certification by the bidder that supplies against the invoices have been executed.
- b. Execution certificate by client with order value.
- c. Any other document in support of order execution like Third Party Inspection release note, etc.

36. **Turnover**

OEM Turn Over Criteria: The minimum average annual financial turnover of the OEM of the offered product during the last three years, ending on 31st March of the previous financial year, should be as indicated in the bid document. Documentary evidence in the form of certified Audited Balance Sheets of relevant periods or a certificate from the Chartered Accountant / Cost Accountant indicating the turnover details for the relevant period shall be uploaded with the bid. In case the date of constitution / incorporation of the OEM is less than 3 year old, the average turnover in respect of the completed financial years after the date of constitution shall be taken into account for this criteria. In case of bunch bids, the OEM of CATEGORY RELATED TO primary product having highest bid value should meet this criterion.

37. **Past Project Experience**

The Bidder / OEM {themselves or through reseller(s)}, should have executed project for supply and installation / commissioning of same or similar Category Products during preceding 3 financial years (i.e. current year and three previous financial years) as on opening of bid, as per following criteria:

- (i) Single order of at least 35% of estimated bid value; or
- (ii) Two orders of at least 20% each of estimated bid value; or
- (iii) Three orders of at least 15% each of estimated bid value.

Satisfactory Performance certificate issued by respective Buyer Organization for the above Orders should be uploaded with bid. In case of bunch bids, the Category related to primary product having highest bid value should meet this criterion

38. **Generic**

The successful bidder has to supply all essential accessories required for the successful installation and commissioning of the goods supplied. Besides standard accessories as per normal industry practice, following accessories must be part of supply and cost should be included in bid price: The cost of the bid is inclusive of all spares, accessories, installation, training, commissioning, demonstration etc. .

39. **Turnover**

Bidder Turn Over Criteria: The minimum average annual financial turnover of the bidder during the last three years, ending on 31st March of the previous financial year, should be as indicated in the bid document. Documentary evidence in the form of certified Audited Balance Sheets of relevant periods or a

certificate from the Chartered Accountant / Cost Accountant indicating the turnover details for the relevant period shall be uploaded with the bid. In case the date of constitution / incorporation of the bidder is less than 3 year old, the average turnover in respect of the completed financial years after the date of constitution shall be taken into account for this criteria.

#### 40. **Purchase Preference (State)**

Purchase preference to Micro and Small Enterprises (MSEs) from the State of Bid Inviting Authority : Purchase preference will be given to MSEs as Micro and Small Enterprises from the State of Bid inviting Authority whose credentials are validated online through Udyog Aadhaar for that product category. If the bidder wants to avail the Purchase preference, the bidder must be the manufacturer of the offered product in case of bid for supply of goods. Traders are excluded from the purview of Public Procurement Policy for Micro and Small Enterprises. In respect of bid for Services, the bidder must be the Service provider of the offered Service. Relevant documentary evidence in this regard shall be uploaded along with the bid in respect of the offered product or service. If L-1 is not an MSE and MSE Seller (s) has/have quoted price within L-1+ 15 % of margin of purchase preference /price band defined in relevant policy, such Seller shall be given opportunity to match L-1 price and contract will be awarded for percentage of 25% of total value as defined/ decided in relevant policy.

## **Disclaimer**

The additional terms and conditions have been incorporated by the Buyer after approval of the Competent Authority in Buyer Organization. Buyer organization is solely responsible for the impact of these clauses on the bidding process, its outcome and consequences thereof including any eccentricity / restriction arising in the bidding process due to these ATCs and due to modification of technical specification and / or terms and conditions governing the bid. Any clause incorporated by the Buyer such as demanding Tender Sample, incorporating any clause against the MSME policy and Preference to make in India Policy, mandating any Brand names or Foreign Certification, changing the default time period for Acceptance of material or payment timeline governed by OM of Department of Expenditure shall be null and void and would not be considered part of bid. Further any reference of conditions published on any external site or reference to external documents / clauses shall also be null and void. If any seller has any objection / grievance against these additional clauses or otherwise on any aspect of this bid, they can raise their representation against the same by using the Representation window provided in the bid details field in Seller dashboard after logging in as a seller within 4 days of bid publication on GeM. Buyer is duty bound to reply to all such representations and would not be allowed to open bids if he fails to reply to such representations.

[This Bid is also governed by the General Terms and Conditions](#)

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

**---Thank You---**