

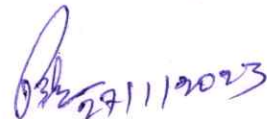
# Modifications to RFB and CLARIFICATION document

RFB No [IN-WBSEDCL-299327-CW-RFB]

Supply, Installation and Maintenance of Smart Meter with Communication System and Cloud Based Head End System for AMI Solution on TOTEX Model

e-Tender Notice No: WBSEDCL/IT&C/33.10(XVII-B)-World Bank-II / 452 Date: 29.08.2022

PRE-PROPOSAL MEETING HELD ON: 14.09.2022



(Partha Bhattacharjee)

Chief Engineer, IT Cell, WBSEDCL

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### A. Modifications to RFB and Clarification document clauses

Sl. No.	RFB clause No.	Page No.	Existing description of clause	Stands modified as
1.	ITB 33.2	30	The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 15. The determination shall not take into consideration the qualifications of other firms such as the Bidder's subsidiaries, parent entities, affiliates, subcontractors (other than Specialized Subcontractors if permitted in the bidding document), or any other firm different from the Bidder.	Modification to clause added under BDS section of the RFB shall be as follows – BDS 33.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 15. The determination shall not take into consideration the qualifications of other firms such as the Bidder's subsidiaries (except for wholly owned subsidiaries created as SPVs - Special Purpose Vehicles), parent entities, affiliates, subcontractors (except for Specialized Subcontractors if permitted in the bidding document), or any other firm different from the Bidder.
2.	Section-III 1.6 (a)	47	Sub-factor 3.5 (Net Worth) – Each Partner must individually have a Net Worth at least INR 56 Crores of the estimated project cost in the last three financial years	Please see the amended qualifying requirements in the Annexure A
3.	Section-III 1.6 (a)	47	Sub-factor 3.6 (Bid Capacity) Each Partner must individually meet at least 50% of the bid capacity requirement	Please see the modified clause in the attached Annexure A.
4.	Section-III 1.6 (a)	47	Sub-factor 3.7 (Credit ratings for Bidders) Latest long-term issuer rating, not older than 4 months from the date of bid opening, as issued by a credit rating agency registered with Securities Exchange Board of India should be BBB+ or above.	This clause has been removed. Please see the attached Annexure A.
5.	Section-III 1.6 (i)	54	The proposed Communication solution and NIC provider must have following deployment capabilities in Utilities: i. Must have been implemented AMI / AMR projects in at least 2 Power utilities in the last 5 years. ii. Each project must have a minimum deployment of 2,00,000 meters	Please see the amended qualifying requirements in the Annexure A.

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6.	ITB 4.3 of Clarification	3	BDS 4.3 A firm that is a Bidder (either individually or as a JV member) shall not participate as a Bidder or as JV member in more than one Bid except for permitted alternative Bids. Firms that qualify as Meter Manufacturers shall not be allowed to participate as a Subcontractor in other Bids. Such participation shall result in the disqualification of all Bids in which the firm is involved. A firm that is not a Bidder or a JV member or a Meter Manufacturer may participate as a subcontractor in more than one Bid.	The modification shall be revoked. The original clause as mentioned in the RFB (Reference: Page No 11; Clause 4.3) shall be retained
7.	BDS 4.1	38	Bids from Joint ventures are accepted. Maximum number of members in the Joint Venture (JV) shall be: Two Place where the agreement to form JV to be registered is India Contract Agreement to be signed in Kolkata, India.	The clause shall be modified as – Bids from Joint ventures are accepted. Maximum number of members in the Joint Venture (JV) shall be: Three Place where the agreement to form JV to be registered is India. Contract Agreement to be signed in Kolkata, India.
8.	4.6.5 of Clarification	4	Work Orders / letter of Award; and experience/completion certificate. The confidential contents in the work order / certificate (such as Price etc.) may be masked (If there any NDC) before submitting. The relevant information can also be provided by the Bidder under their own signatures However, WBSEDCL will have the liberty to ask for client verification.	A Bidder unable to provide Work Orders/ LoA/ Completion certificate owing to existing Non-Disclosure Agreements with customers shall be able to submit a performance certificate issued by the client on client's letterhead indicating the details of work including, but not limited to, number of operational end-points, installed meters, scope of work for the Bidder, date of Go-Live (if applicable). The certificate must include client details for contact and verification by WBSEDCL.
9.	Section-III 1.6 (a) 4.6.5	52	The Bidder must have manufacturing facility in India for Static and Smart Energy Meters. AND It must be in Metering Business for at least 10 years as on date of Bid Submission.	Please see the amended qualifying requirements in the Annexure A.
10.	Section-III 1.6 (i) I	54	The proposed Meter Manufacturer should have manufactured and supplied Static electricity meters/ Smart electricity meters. Minimum 20 Lacs static electricity meters (cumulative) in last 7 years in India/Global power distribution utility	Please see the amended qualifying requirements in the Annexure A.

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			AND Minimum 1 Lac Smart Electricity Meters (cumulative) in last 7 years in India/Global power distribution utility	
11.	Section-III 1.6 (i) II	55	The proposed Communication solution and NIC provider must have following deployment capabilities in Utilities: i. Must have been implemented AMI / AMR projects in at least 2 Power utilities in the last 7 years. ii. Total cumulative deployment shall cover 2,00,000 meters. All such projects must be in operation successfully for a minimum of 1 year prior to the date of publication of this RFB.	Please see the amended qualifying requirements in the Annexure A.
12.			The Communication solution or NIC provider must provide an undertaking that the proposed solution has been implemented with at least 3 different makes of smart meters in India and HES.	Please see the amended qualifying requirements in the Annexure A.
13.	GTP of Clarification (Sl. No. 28)	25	Relay required in Phase as well as Neutral in Single Phase Meters. Relay required for all three phases as well as neutral in Three Phase Meters. This means 2 relays required in 1-ph meters and 4 relays required in 3-Ph Meters.	Clarification has been withdrawn. Please refer to the original clause (Reference: Page 198; SL. No. 13)
14.	Section-III 1.6 (i) III	55	The proposed HES must have following deployment capabilities in Utilities: i. Successfully Commissioned cumulative 10 Lacs meters in AMI project ii. Single Large AMI deployment experience of at least 30,000 Smart meters iii. Successful integration of HES with at least 2 COTS MDMS products (COTS MDMS products shall be such MDMS products that are listed in Gartner's Market Guide for MDM 2021).	Please see the amended requirement in Annexure A.

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15.	GTP 3.3, Section-IV 1.15 8) A.2	215, 71	GTP for Meter Box of Single Phase 4 (b) Minimum clearance from meter on all 4 sides: Clearance from all sides of the meter should be 30+2 mm 15 mm ± 2 except the bottom side which should be 75+5 mm 75 ± 2 mm from the lower edge of terminal block.	Please refer to the relevant section in the RFB.
16.	Section-IV 1.15 8) C	81	<ul style="list-style-type: none"> <li>• Network should have proper cyber security system and that shall also be subjected to Annual Security Audit from CERT-In listed auditors.</li> </ul>	<ul style="list-style-type: none"> <li>• Bidder shall ensure cyber security of Communication Network should have proper cyber security system via audits during SAT and Annually by CERT-In listed auditors. Bidder shall document and implement Cyber Security Policy/Plan in association with the Employer to secure the system.</li> <li>• Bidder shall refer to the latest Cyber Security Guidelines issued by CERT-In specified at <a href="http://www.cert-in.org.in/">http://www.cert-in.org.in/</a>, Ministry of Power (including "Testing of all equipment, components, and parts imported for use in the power Supply System and Network in the country to check for any kind of embedded malware /trojans/ cyber threat and for adherence to Indian Standards – Regarding" vide Order No. No.9/16/2016- Trans-Part(2) published by Ministry of Power, Government of India dated 18 November 2020 and amended from time to time) or any other competent authority shall be followed.</li> </ul>
17.	Section-IV 1.15 8) E	85	CSP specification & Compliance	<p>Additional clause</p> <ul style="list-style-type: none"> <li>• Bidder shall ensure security controls and compliance to various standards (Including ISO 27001, ISO 27017, and ISO 27018) should be verified by third party auditors. Third-party certifications and evaluations provide assurance that effective physical and logical security controls are in place. Bidder needs to review and validate the security configurations, review the notifications and patches released by the CSP and validate that the same is being taken into consideration during operations, confirm that the audit trails (e.g., who is accessing the services, changes to the configurations, etc.) are captured for supporting any downstream audits of the projects by the finance or audit organization such as STQC.</li> </ul>

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18.	Section-IV 1.15 8) E	85	Security	<p>Additional clause</p> <ul style="list-style-type: none"> <li>• Bidder shall ensure the following mandatory security features should be ensured by the Cloud Service Provider –</li> <li>a) Strong encryption capabilities for data in transit or at rest</li> <li>b) Firewalls – instance and subnet levels</li> <li>c) Identity and Access Management (IAM): Control users' access to cloud services. Create and manage users and groups, and grant or deny access</li> <li>d) Managed Threat Detection: Managed threat detection service that provides you with a more accurate and easy way to continuously monitor and protect your cloud accounts and workloads</li> <li>e) Managed DDoS Protection: Managed Distributed Denial of Service (DDoS) protection service that safeguards web applications running on cloud.</li> <li>f) Web Application Firewall: Helps protect your web applications from common web exploits that could affect application availability, compromise security, or consume excessive resources.</li> <li>g) Key Management Service (KMS): Managed service that makes it easy for you to create and control the encryption keys used to encrypt your data</li> <li>h) Certificate Manager: Easily provision, manage, and deploy Secure Sockets Layer/Transport Layer Security (SSL/TLS) certificates.</li> <li>i) Cloud HSM: Meet regulatory compliance requirements for data security by using dedicated Hardware Security Module (HSM) appliances within the Cloud.</li> <li>j) Inspector: Automated security assessment service that helps improve the security and compliance of applications deployed on Cloud.</li> </ul>
19.	Section-IV 1.15 8) E	86	Disaster Recovery Management- RPO should be 30 mins and RTO shall be than 4 hours	The clause shall be modified as – Disaster Recovery Management- RPO should be 2 hours and RTO shall be than 4 hours
20.	Section-VII 2.7.2	137		<p>Additional scope:</p> <p>t. All meters unless otherwise specified shall be installed as pre-paid meters with Payment Mode set as Prepaid. The meters shall receive prepayment information such as</p>

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				recharge amount, current balance, etc. as per IS standards from the HES which shall obtain the information via its integration with the MDM as described in 2.10.4.5
21.	Section-VII 2.10.4	144	IX. The Cyber security system shall also be subjected to Annual Security Audit from CERT-In listed auditors at the cost of the Vendor during contract period. Bidder shall implement the recommendations/remedial actions suggested by the Auditor after audit.	IX. As a part of the scope of work, the Bidder shall ensure Cyber security system auditing by third party by CERT-In listed auditors during SAT and Annually after completion of Go-Live Acceptance and start of O&M period. Bidder shall implement the recommendations/remedial actions suggested by the Auditor after audit. Bidder shall document and implement Cyber Security Policy/Plan in association with the Employer to secure the system. Latest Cyber Security Guidelines issued by CERT-In specified at <a href="http://www.cert-in.org.in/">http://www.cert-in.org.in/</a> , Ministry of Power (including "Testing of all equipment, components, and parts imported for use in the power Supply System and Network in the country to check for any kind of embedded malware /trojans/ cyber threat and for adherence to Indian Standards – Regarding" vide Order No. No.9/16/2016-Trans-Part(2) published by Ministry of Power, Government of India dated 18 November 2020 and amended from time to time) shall be followed. Bidder shall adhere with the appropriate security algorithm for encryption and decryption as per established cyber security guidelines. For smooth functioning of the entire system, it is essential that the Bidder shall provide in the form of a document enough details of such algorithm including the mechanism of security key generation to the Employer.
22.	Section-VII 2.20	179	6.8 Load Upgradation From 1 Phase to 3 Phase- Single phase meter removed and replaced with Three phase meter <i>Bidder: Accountable, WBSEDCL: Support</i>	6.8 Load Upgradation From 1 Phase to 3 Phase- Single phase meter removed and replaced with Three phase meter <i>Bidder: Accountable, WBSEDCL: Support for installation and payment for new meter as per below payment mechanism</i>  Payment mechanism: Change of meter from single phase to three phase due to load enhancement after Go-Live Acceptance (during O&M period) shall be borne by WBSEDCL. From the date of the

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				change in meter, the Contractor shall be paid one-time and monthly charges. - The one-time charge shall be equal to 40% of the difference in the price of single-phase and three-phase meter; and - The monthly charges shall be equal to the remaining 60% price of the three-phase meter amortized over remaining months). - The old single-phase meter shall be taken away by the Contractor.
23.	GTP	199,233	Till 10-60A rating UC1 may be used. For 100A, UC2 or better	The original clause of RfB shall be retained.
24.	GTP 3.2	214	Single Wire Occurrence: $I_x > 20\%$ of $I_b$ (Maximum) $V_x < 40\%$ of $V_{ref}$ Restoration: $I_x > 1\%$ of $I_b$ $V_x > 50\%$ of $V_{ref}$ Ptime: 3 Minutes	The clause shall be modified as – $I_x > 10\%$ of $I_b$ : $V_x < 50\%$ $V_{ref}$ for occurrence $I_x > 10\%$ of $I_b$ : $V_x > 50\%$ $V_{ref}$ for restoration
25.	GTP		Over Current: Occurrence and Restoration: 150% 100% of $I_{basic}$	The clause shall be modified as – Occ: $>100\%$ $I_b$ Res: $<100\%$ $I_b$
26.	Section-IX PCC 26.3	412	<b>PCC 12.5 Payment Security:</b> A stand by LC (Letter of Credit) of two months monthly bill amount will be provided against OPEX part of the project. Details terms and conditions of the standby LC included in Contract Forms O. <b>Terms and Condition of Standby LC:</b> Standby LC will be provided to vendor against OPEX cost of the project, as per following terms and conditions: a. Value of the Letter of Credit (LC) will be 2 months of monthly payment bill considering total number of Consumer meter under scope of this project. The exact amount will be decided after placement of LOA. b. LC will be issued only after completion time of installation phase i.e. 2 years of project Line T1 (IB.25.1) and would remain valid upto end of contract period.	<b>PCC 12.5 Payment Security:</b> A. The Employer shall, as a condition precedent to the award of the contract to the Contractor, establish a Direct Debit Facility for the entire online consumer payments to ensure recovery of the amount due to be paid to the Contractor including amount due to be paid towards supplementary invoice. In this regard, the Employer shall create a separate facility compatible with all online payment options such as Net Banking, Credit/ Debit Card, Mobile Wallets, UPIs, etc. This facility shall be configurable for direct debit of Hundred percent (100%) of the monthly payment due to the Contractor from all recharges and bill payments by Consumers. For the avoidance of doubt, it is expressly acknowledged that the Direct Debit Facility shall not be restricted to the area where the Contractor is providing services but for the entire area of supply of the Utility. B. The Direct Debit Facility would include a bucket filling approach whereby all consumer recharges and bill

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		<p>c. The Letter of Credit is confirmed, conditional, standby &amp; irrevocable.</p> <p>d. If The Employer fails to pay the payable amount against any bill within &amp; including the thirtieth working day after due date (i.e., 60th Day from the successful acceptance of the Bill) then vendor may draw upon the Letter of Credit and accordingly the Bank shall release the amount equal to the payable amount.</p> <p>e. All claims should pertain to the period after LC issuing date.</p> <p>f. This SBLC covers only the undisputed bills. No other charges can be claimed under this SBLC.</p> <p>g. Documents which are required to be submitted by the vendor to the issuing Bank while invoking the SBLC are:</p> <ol style="list-style-type: none"> <li>Original invoice</li> <li>Non-payment certificate (as mentioned in clause no. 3)</li> <li>Sight Draft to the extent of bill(s) in default.</li> </ol> <p>h. In case the total value against outstanding bills exceed the LC limit the bank shall release the amount equal to the letter of credit limit.</p> <p>i. The Letter of Credit can be negotiated subsequent to reinstatement of Letter of Credit. However maximum limit of amount to be</p>	<p>payments from the Eleventh (11<sup>th</sup>) working day of every month up to Tenth (10<sup>th</sup>) working day of the immediately succeeding month will be routed directly to the Contractor's bank account till such time the undisputed amount of the payment due including amount due towards supplementary invoice issued by the Contractor as per PCC clause 12.6 is recovered in its entirety. Once the entire undisputed amount of the payment due including amount due towards supplementary invoice is recovered, the Direct Debit Facility shall no longer transfer any money to the Contractor. In the event the overall monthly amount due to the Contractor (i.e., 100% of undisputed amount due to be paid including any amount due to be paid towards supplementary invoice issued by the Contractor) as the sum of the consumer payments is not reached till 10<sup>th</sup> working day of the next month, the shortfall/ deficit amount shall be paid along with the undisputed amount due to be paid including any amount to be paid towards supplementary invoice issued by the Contractor for the immediately succeeding month. In case the Employer fails to clear any payment (including disputed amount) of the Contractor within Sixty (60) days after the date of approval of submitted invoice with all supporting documents by the Contractor except under Force Majeure Situation, interest on the delayed payment shall be applicable as mentioned in GCC 12.3 of the Contract.</p> <p>C. While establishing the direct debit facility and to ensure adequate funds for timely payment to the Contractor, the Employer shall ensure the direct debit facility so created, has an average monthly inflow of at least Five (5) times the estimated monthly payment to the Contractor. Average monthly inflow shall be calculated for</p>
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			<p>negotiated at each time shall not exceed the total Letter of Credit value.</p> <p>j. The Letter of Credit has to be negotiated at the Bank Branches at Kolkata.</p> <p>k. All documents enclosed must conform to the terms &amp; conditions of Letter of Credit.</p>	<p>the last Six (6) calendar months from the Effective Date.</p> <p>Wherever applicable in the RfB document, scope of Letter of Credit shall be replaced by Direct Debit Facility as implemented by the Employer.</p>
27.	Section-IX PCC 26.3	412	No bonus will be given for earlier Completion of the Facilities or part thereof.	<p>If the Contractor achieves milestone of "Go-Live Acceptance" (as provided in GCC 8) at least One (1) month in advance than the timelines specified in the Contract, the Employer shall provide an incentive. <b>"Maximum Incentive amount"</b> shall be equivalent to One [1]% of the Contract Price.</p>
28.	Section-IX PCC 26	412	NA	<p><b>Additional clause</b> PCC 26.4 Upon achieving Completion of Facilities, in accordance with GCC 26.3, and on being notified by the Employer, the Contractor shall be entitled to raise a supplementary invoice for the amount indicated therein.</p>
29.	Section-X Form N	451	Form-N Proforma of Irrevocable Standby Letter of Credit	<p>Form-N Direct Debit Account Quadripartite Agreement for Monthly Contractor Payments Amended Form-N shall be as attached in Annexure B.</p>

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## B. Annexure A – Updated and consolidated QR

### 1.6 (a) Qualification requirements for Bidders

Factor	1. Eligibility					
Sub-Factor	Requirement	Single Entity	Bidder			Documentation Required
			JV (existing or intended) where permitted			
			All members combined	Each Partner	At least one Partner	
1.1. Nationality	Nationality in accordance with ITB 4.4.	Must meet requirement	NA	Must meet requirement	NA	Form ELI –1.1 and 1.2, with attachments
1.2. Conflict of Interest	No- conflicts of interests as described in ITB 4.2.	Must meet requirement	NA	Must meet requirement	NA	Letter of Bid
1.3. Bank Ineligibility	Not having been declared ineligible by the Bank as described in 4.5.	Must meet requirement	NA	Must meet requirement	NA	Letter of Bid
1.4. State Owned Enterprise or Institution	Compliance with conditions of ITB 4.6	Must meet requirement	NA	Must meet requirement	NA	Form CON – 2
1.5. Ineligibility based on a United Nations resolution or Borrower's country law	Not having been excluded as a result of the Borrower's country laws or official regulations, or by an act of compliance with UN Security Council resolution, in accordance with ITB 4.8 and Section V.	Must meet requirement	NA	Must meet requirement	NA	Letter of Bid

Factor	2. Historical Contract Non-performance					
Sub-Factor	Requirement	Single Entity	Bidder			Documentation Required
			JV (existing or intended) where permitted			
			All members combined	Each Partner	At least one Partner	
2.1. History of non-performing contracts	Non-performance of a contract did not occur within the last Five (5) years prior to the deadline for application submission, based on all information on fully settled disputes or litigation. A fully	Must meet requirement by itself or as member to past or existing JV.	NA	Must meet requirement by itself or as member to past or existing JV	NA	Form CON – 2

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Factor	2. Historical Contract Non-performance					
Sub-Factor	Requirement	Single Entity	Bidder			Documentation Required
			JV (existing or intended) where permitted			
			All members combined	Each Partner	At least one Partner	
	settled dispute or litigation is one that has been resolved in accordance with the Dispute Resolution Mechanism under the respective contract, and where all appeal instances available to the Bidder have been exhausted.					
2.2. Suspension	Not under suspension based on execution of a Bid Securing Declaration or Proposal Securing Declaration pursuant to ITB 4.7 and ITB 20.9	Must meet requirement	NA	Must meet requirement	NA	Letter of Bid
2.3. Pending Litigation	Bid's financial position and prospective long-term profitability still sound according to criteria established in 3.1 below and assuming that all pending litigation will be resolved against the Bidder	Must meet requirement	NA	Must meet requirement	NA	Form CON – 2
2.4. State Owned Enterprise or Institution	No consistent history of court/arbitral award decisions against the Bidder since 1st January 2015	Must meet requirement	NA	Must meet requirement	NA	Form CON – 2 (#)
[# - The Bidder shall provide accurate information on the related Bid Form about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the last five years. A consistent history of awards against the Bidder or any member of a joint venture may result in failure of the Bid.]						
2.5. Declaration: Environmental and Social (ES) past performance	Declare any civil work contracts that have been suspended or terminated and/or performance security called by an employer for reasons of breach of environmental, or	Must make the declaration. Where there are Specialized Sub-contractor/s, the	NA	Must make the declaration. Where there are Specialized Sub-contractor/s, the	NA	Form CON-3 ES Performance Declaration  The Employer may use this information to seek further information or clarifications in carrying out its due diligence.

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Factor	2. Historical Contract Non-performance					
Sub-Factor	Requirement	Bidder				Documentation Required
		Single Entity	JV (existing or intended) where permitted			
			All members combined	Each Partner	At least one Partner	
	social (including Sexual Exploitation, and Abuse) contractual obligations in the past five years.	Specialized Sub-contractor/s must also make the declaration.		Specialized Sub-contractor/s must also make the declaration.		

Factor	3. Financial situation					
Sub-Factor	Requirement	Bidder				Documentation Required
		Single Entity	JV (existing or intended) where permitted			
			All members combined	Each Partner	At least one Partner	
3.1. Financial Capabilities*	Submission of audited balance sheets or if not required by the law of the Bidder's Country, other financial statements acceptable to the Employer, for the last Three [3] financial years ending on 31-Mar-2022 to demonstrate the current soundness of the Bidders financial position and its prospective long-term profitability.	Must meet requirement	NA	Must meet requirement	NA	Form FIN – 3.1 with attachments
3.2. Average Annual Turnover*	The bidder should have minimum average annual turnover of Rs. 500 Crores during last three financial years ending on 31- Mar-2022.	Must meet requirement	Must meet full requirement	Each Partner must individually meet at least 25% of the annual turnover	At least one Partner must meet 70% of the annual turnover	Form FIN –3.2

**NOTE:**

Liquid assets would include cash (and equivalents), bank deposits, securities that can be freely traded and receivables which has general certainty of getting received or Current Assets minus Inventories that are easily tradeable.  
Certificate from banker (as per format) indicating various fund based/non fund-based limits sanctioned to the bidder and the extent of utilization as on date for supplementary information towards Liquid Assets

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Factor	3. Financial situation					
Sub-Factor	Requirement	Single Entity	Bidder JV (existing or intended) where permitted			Documentation Required
			All members combined	Each Partner	At least one Partner	
3.3. Financial Resources*	The Bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet the following cash-flow requirement: INR 140 Cr	Must meet requirement	Must meet full requirement	Each Partner must individually meet at least 25% of the cash-flow requirement	At least one Partner must meet 70% of the cash-flow requirement	Form FIN -3.3
3.4. Positive Net Worth *	Bidder shall have positive Net Worth for the each of the last three Financial Years ending on 31-Mar-2022.	Must meet requirement	NA	Must meet requirement	NA	Form FIN -3.3
3.5. Net Worth *	Net Worth should be at least INR 84 Crores in the last three financial years <i>[Net Worth means sum total of the paid up capital and free reserves (excluding reserves created out of revaluation) reduced by aggregate value of accumulated losses (including debit balance in profit and loss account for current year) and intangible assets.]</i>	Must meet requirement	Must meet requirement	Each Partner must individually have a Net Worth of at least INR 56 Crores in the last three financial years	Must meet requirement	Form FIN -3.3
3.6. Bid Capacity*	The bid capacity of the contractor should be equal to or more than the estimated cost of the work put to Tender. The bidding capacity shall be worked out by the following formula:	Must meet requirement	Must meet requirement	Each Partner must individually meet at least 50% of the bid capacity requirement	Must meet at least 70% of the bid capacity requirement	Form FIN -3.3

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Factor	3. Financial situation					
Sub-Factor	Requirement	Bidder				Documentation Required
		Single Entity	JV (existing or intended) where permitted			
			All members combined	Each Partner	At least one Partner	
	<p>Bidding Capacity = <math>[A \times N \times 2] - B</math> Where, i) A = Maximum turnover in any one year during the last three years (in case of bidders having multiple lines of businesses, turnover only against, which shall be duly certified by a Chartered Accountant) ending on 31- Mar-2022. ii) N = Number of years prescribed for completion of work (till go-live) for which bids have been invited iii) B = Value of existing commitments and ongoing works (this will include works against which notification of intention of award/ notification of award has been issued). Further, before opening of financial bids, Employer will update the value of B with any additional contracts for which notification of intention to award has been issued by Employer. If the bid submitted by the same bidder is being considered as Lowest Responsive Bid in any other forth coming contract/bid, then their Bid Capacity shall be evaluated by</p>					

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Factor	3. Financial situation					
Sub-Factor	Requirement	Bidder				Documentation Required
		Single Entity	JV (existing or intended) where permitted			
			All members combined	Each Partner	At least one Partner	
	considering Contract award decision under current contract commitment before opening of the financial bids for any subsequent package.					

\* In case of joint venture between a foreign bidder and its 100% owned Indian subsidiary, the clauses from 3.1 to 3.7 may be met by any one of the JV members.

Factor	4. Experience					
Sub-Factor	Requirement	Single Entity	Bidder			Documentation Required
			JV (existing or intended) where permitted			
			All members combined	Each Partner	At least one Partner	
4.1. Bidder Identity	The bidder shall be a private/public Company registered under Companies Act 1956 / 2013 proprietary firm / partnership firm.	Must meet requirement	NA	NA	Must meet requirement [Authorized Representative for JV must comply]	Certificate of Incorporation and registration.
4.2. Quality Certification	The Bidder must have the following certifications – ISO 9001:2008 (or latest) OR CMMI Level 3 (or higher) AND ISO 27001:2013 (or latest)	Must meet requirement	NA	NA	Must meet requirement	A valid ISO/CMMI certificate on or before the date of publication of the tender.
4.3. Disqualification	Even though the bidders may meet the above qualifying criteria, they are subject to be disqualified if they have: a. made misleading or false representations in the forms, statements, affidavits, and attachments submitted in proof of the qualification requirement; b. record of poor performance such as abandoning the works, not properly completion or financial failures etc. c. consistent history of litigation or arbitration awards against the bidder or any member or the joint venture. d. participated in the previous bidding (if this is a re-bidding) for the same plant and installation work and had quoted unreasonably high bid price and could not furnish any rational justification for the same to the employer.					
4.4. Office Location	Bidder shall have a registered office and	Must meet requirement	NA	NA	Must meet requirement	Certificate of Incorporation/Registr

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Factor	4. Experience					
Sub-Factor	Requirement	Bidder				Documentation Required
		Single Entity	JV (existing or intended) where permitted			
			All members combined	Each Partner	At least one Partner	
	operations in India for at least one year prior to submission of the bid.					ation Documents should be submitted as proof of the same.

Three sets of eligibility and qualification criteria are defined in table below - for Contractors/Developers/Others, for Distribution licensee and for Meter Manufacturers. Bidders are required to meet *in totality* the eligibility and qualification criteria set out for any one type, either as Single Entity or as JV. The bidders must indicate the full details (including under which type the bidders propose to meet the eligibility and qualification criteria) in their letter of bid. In absence of this information, the Employer will evaluate the technical offer against the eligibility and qualification criteria as set-out in the Table below which they consider suitable as per their best professional judgement.

For the purposes of the clause 4.6 the following definitions shall be used:

*AMI Projects* shall be defined as "installation, testing, and commissioning of smart energy meters, communication infrastructure and its related components, and Head End System and its integration with Meter Data Management System."

*Eligible Projects* shall be defined as

- "i. Power sector projects relating to generation or transmission or distribution of electricity;
- ii. Water sector projects relating to water treatment including desalination or water supply (rural or urban) or wastewater / sewerage or drainage or water pipelines;
- iii. Natural gas sector projects relating to natural gas transmission or distribution; and
- iv. Telecom sector projects relating to infrastructure cabling or communication systems for setting up Wide Area Network (WAN) or Local Area Network (LAN) or Internet Services or VOIP solutions."

Sub factor	Requirement	Single Entity	JV			Documentation Required
			All members combined	Each partner	At least one partner	
4.6 For bidders who wish to qualify as Contractors/Developers/Others						
4.6.1 Specific Experience	The Bidder must have, implemented Eligible project(s) in the last Seven (7) Financial Years with aggregate value of at least INR 140 Crores in not	Must meet requirement	Must meet requirement	NA	Must meet requirement	Form 4.2 (a)

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	more than two contracts					
4.6.2 Specific Experience	The Bidder must have experience of integration of Headend System with MDM for at least 2,50,000 consumers/ end-points (cumulatively) in Electricity Distribution Utility in the last Seven (7) years which are in operation for at least One (1) year.	Must meet requirement	Must meet requirement	NA	Must meet requirement	
<p>a) References along with requisite contract/ Purchase Order (PO)/ Work Order (WO). The references should indicate client name, scope of work, Project start date – as per the format prescribed in Form 4.2 (a);</p> <p>b) Documentary evidence of completion of the Project or completion of Go-live status (i.e., Go-live certificate, UAT testing certificate etc.) of the respective project as per the definition of Go-Live/ UAT specified therein or other documentary evidence indicating completion (e.g., proof of payment received/ proof of asset capitalized in books of accounts (as applicable) and client certificate for supply of material or similar proofs) along with contact details of the client;</p> <p>c) Client certificate and other documentation for implementation performance/ operation</p>						
<b>For bidders who wish to qualify as Distribution Licensee</b>						
4.6.3 Authentication (valid only for Electricity Distribution Licensees)	The Bidder must be an Electricity Distribution licensee in India for last 5 consecutive years immediately preceding the date of submission of the bid.	Must meet requirement	NA	NA	Distribution Licensee must meet this requirement	Self-attested copy of the license document as per the act
4.6.4 Specific Experience (for Distribution Licensee)	The Bidder must have executed (as employer of contract) and operated an AMI Project for a minimum of 2,00,000 smart electricity meters. All such meters should be in successful operation successfully for a minimum of 1 year from the date of publication of this RFB.	Must meet requirement	NA	NA	Distribution Licensee must meet this requirement	Form 4.2 (a)
<b>For bidders who wish to qualify as Meter Manufacturers</b>						
4.6.5 Manufacturing experience (for Meter Manufacturer)	The Bidder must have manufacturing facility in India for Static and/or Smart Energy Meters.	Must meet requirement	NA	NA	Must meet requirement	Factory License Certificate/ MoA mentioning nature of Business.

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	AND It must be in Metering Business for at least Seven (7) years as on date of Bid Submission.					Purchase orders / Framework agreements for this duration or other documents that prove to this aspect.
4.6.6 Manufacturing experience for Static/Smart electricity meters (for Meter Manufacturer)	The Bidder should have manufactured and supplied Static electricity meters/ Smart electricity meters. Minimum 10 Lacs static electricity meters (cumulative) in last 7 years in power distribution utility AND Minimum 1 Lac Smart Electricity Meters (cumulative) in last 7 years in power distribution utility	Must meet requirement	NA	NA	Must meet requirement	Proof of Work order & performance certificate/ work order completion certificate to be submitted.
4.6.7 BIS Certification (for Meter Manufacturer)	The smart meters must have valid BIS test certification and be compliant to IS16444 and its latest amendments.	Must meet requirement	NA	NA	Must meet requirement	Copy of valid BIS and type test certificates to be submitted
4.6.8 Availability of in-house Meter testing facility (for Meter Manufacturer)	The Bidder must have an in-house NABL or ISO/IEC- 17025 accredited laboratory	Must meet requirement	NA	NA	Must meet requirement	Copy of valid registration certificate mentioning the issue/renewal/expira tion date.
A Bidder unable to provide Work Orders/ LoA/ Completion certificate owing to existing Non-Disclosure Agreements with customers shall be able to submit a performance certificate on client's letterhead indicating the details of work including, but not limited to, number of operational end-points, installed meters, scope of work for the Bidder, date of Go-Live (if applicable). The certificate must include client details for contact and verification by WBSEDCL.						

**(i) Subcontractors**

Subcontractors/manufacturers for the following major items of supply or services ('Specialized Subcontractors') must meet the following minimum criteria, herein listed for that item: As listed under Section III - Qualification requirements for Sub-contractors/Vendors/OEMs

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**1.6 (i) Qualification requirements for Sub-contractors/Vendors/OEMs**

Sl.	Description	Qualification Criteria	Evaluation/ Document Required
<b>I. Pre-qualification Requirement for Proposed Meter Manufacturer</b>			
1	Manufacturing experience in India	The proposed Meter manufacturer must have manufacturing facility in India for Static and/or Smart Energy Meters.  AND  It must be in Metering Business for at least Seven (7) years as on date of Bid Submission.	Factory License Certificate/ MoA mentioning nature of Business.  Purchase orders / Framework agreements for this duration or other documents that prove to this aspect.
2	Manufacturing experience for Static/Smart electricity meters	The proposed Meter Manufacturer should have manufactured and supplied Static electricity meters/ Smart electricity meters.  Minimum 10 Lacs static electricity meters (cumulative) in last 7 years in India/Global power distribution utility  AND  Minimum 1 Lac Smart Electricity Meters (cumulative) in last 7 years in power distribution utility	Proof of Work order & performance certificate/ work order completion certificate to be submitted.
3	BIS Certification	The smart meters must have valid BIS test certification and be compliant to IS16444 and its latest amendments.	Copy of valid BIS and type test certificates to be submitted
4	Availability of in-house Meter testing facility	The proposed Meter Manufacturer must have an in-house NABL or ISO/IEC-17025 accredited laboratory	Copy of valid registration certificate mentioning the issue/renewal/expiration date.
<b>II. Pre-qualification Requirement for Proposed Communication provider (other than cellular technologies 2G/4G or NB-IoT)</b>			
1	Technical experience	The proposed Communication solution provider must have following deployment capabilities in Utilities:  i. Must have been implemented AMI / AMR projects in at least 2 Power utilities in the last Seven (7) years.  ii. Implemented projects must have a cumulative deployment of at least 2,00,000 meters.	Purchase order/Completion/ Go-live certification from client. Client certification with name, contact number and email with all required information (WBSEDCL may contact the client for verification purpose only)

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		All such projects must be in operation successfully for a minimum of 1 year prior to the date of publication of this RFB.	
2	Interoperability	The Communication solution provider must provide an undertaking that the proposed solution has been implemented with at least Three (3) different makes of smart meters.	Required Undertakings on the Company Letterhead of the different smart meter manufacturers.
3	Quality Certifications	The solution provider must have the following certifications: I. ISO 9001 II. ISO 14001	Valid ISO certificate on or before the date of submission of the bid.
<b>III. Pre-qualification Requirement for Proposed Head End System</b>			
1.	Experience	The proposed HES must have following deployment capabilities in Utilities:  i. Successfully Commissioned cumulative 10 Lacs meters in AMI projects. ii. Successful integration of HES with any COTS MDM products (COTS MDMS products shall be such MDMS products that are listed in Gartner's Market Guide for MDM 2021).  All such projects must be in operation successfully for a minimum of One (1) year prior to the date of publication of this RFB.	Purchase order/Completion/ Go-live certification from client. Client certification with name, contact number and email with all required information (WBSEDCL may contact the client for verification purpose only)
<b>IV. Pre-qualification Requirement for Proposed Cloud Service Provider</b>			
1	Certification	Proposed CSP should be Tier-3 MeitY empanelled Data Centre within INDIA.	Valid Letter of Award of Empanelment from MeitY.
2	DC DR Criteria	i. Proposed CSP must be operating Data Centre facilities in India at time of submission of the bid. ii. CSP must be operating a separate DC and DR (Disaster Recovery) facilities in India at physically different locations.	Self-certificate from the CSP mentioning the location details signed by authorised signatory of the CSP for this bid.
A Sub-contractor unable to provide Work Orders/ LoA/ Completion certificate owing to existing Non-Disclosure Agreements with customers shall be able to submit a performance certificate on client's letterhead indicating the details of work including, but not limited to, number of operational end-points, installed meters, scope of work for the Bidder, date of Go-Live (if applicable). The certificate must include client details for contact and verification by WBSEDCL.			

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### **C. Annexure B – Direct Debit Account Quadripartite Agreement for Monthly**

#### **Contractor Payments**

This Quadripartite Agreement is made on this \_\_\_\_\_ day of \_\_\_\_\_ 2022 at [Location]

#### **AMONGST**

[Name of the Employer], a Company registered under the Companies Act, 1956/2013, and having its Registered Office at [Address of the Employer] (hereinafter referred as 'Employer', which expression shall unless it be repugnant to the context or meaning thereof be deemed to include its successors, assigns and permitted substitutes);

#### **AND**

[Name of the Lead JV Partner/ sole bidder (in case CPSE/PSU or any subsidiary/ Joint venture of a CPSE/ PSU is the sole/lead member)], a Company registered under the Companies Act, 1956/2013 and having its registered office at [Name (hereinafter referred to as "Contractor", which expression shall unless repugnant to the context or meaning thereof include its successors, assigns and permitted substitutes);

#### **AND**

[Name of the Direct Debit Account Bank], a Bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 having its Head Office at [Address of the Bank] and several branches throughout the country and abroad and having branch at [Address of the branch] (hereinafter referred to as the "Direct Debit Account Agent" which expression shall unless it be repugnant to the subject or context thereof, be deemed to include its successors and permitted assigns).

#### **AND**

[Name of the Payment Gateway service provider], a Company authorized under the Payment and Settlements Act, 2007, and having its Registered Office at [Address of the Payment Gateway service provider] (hereinafter referred as 'Payment Gateway service provider', which expression shall unless it be repugnant to the context or meaning thereof be deemed to include its successors, assigns and permitted substitutes); The utility, the Contractor, the Payment Gateway service provider and the Direct Debit Account Agent are collectively referred to as "Parties" and individually as a "Party".

#### **WHEREAS:**

- A. The Employer and the Contractor have entered into an agreement for Implementation of Supply & Installation of Smart Meter with Communication System and Cloud Based Head End System for AMI Solution in Totex Model for a consumer base of approximately 4,80,000 nos. in the [areas of XX] (hereinafter referred to as the "Contract Agreement" which expression shall include all amendments thereto), as presented in Schedule II of this Agreement.
- B. In terms of the said Contract Agreement enclosed at Schedule II, the utility is required to provide Payment Security Mechanism and duly secure the Contractor by establishing a separate facility for securing the payment obligations outlined in the Contract Agreement. For the said purpose and as per the Contract Agreement, Employer shall enter into a Quadripartite Agreement with the Contractor, Payment Gateway service provider and the designated bank

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("Direct Debit Account Agent") for ensuring prompt payment to the Contractor of amounts due under the Contract Agreement.

- C. The Parties have decided to reduce the terms and conditions agreed upon, into writing, through these presents.

**NOW THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:**

**ARTICLE – I**

**1. DEFINITIONS:**

In this Agreement, unless there is anything repugnant to the subject or context thereof, the expressions listed below shall have the following meanings viz.:

"Contractor's Bank Account" shall mean the Account Number [A/c No.] held by the Contractor with [Name of the Bank with Address] and denominated in Rupees or any other account and bank as may thereafter be notified by the Contractor to the other parties to this agreement in writing.

"Contractor Monthly Charges" shall have the meaning ascribed to such term in the Contract Agreement

"Business Day" means any day on which the Office of the Direct Debit Account Agent is open for normal business transaction in terms of the Negotiable Instruments Act 1881 or such other office as may be notified by the Direct Debit Account Agent are open for normal business transactions.

"Business Hours" Shall mean 10 AM to 5 PM on any Business Day.

"Effective Date" means the date on which this Agreement is executed.

"Default Interest" means interest on the overdue amount from the due date.

"Fees" shall have the meaning as set forth in Section 8.1 hereof due and payable to the Direct Debit Account Agent.

"Force Majeure" shall mean as ascribed in AMISP Contract

"Payment Due Date" shall have the meaning as set forth in Section 5.2.5 hereof.

"Direct Debit Account" means a current bank account opened in terms of this agreement and Account Number [A/c No.] denominated in Rupees established and maintained by the Employer, with the Direct Debit Account Agent at its branch situated at [location].

"SLA" shall have the meaning as set forth in Section 4.2.1 hereof.

"Employer's Bank Accounts" shall mean the accounts as mentioned in the Schedule-I where all online consumer payments for sale of power by the Employer are deposited - Collectively called as Employer's Bank Accounts.

"Chosen Payment Gateway" shall mean the Payment Gateway chosen by the Employer for the purpose of this agreement

**ARTICLE - II**

**2. APPOINTMENT OF DIRECT DEBIT ACCOUNT AGENT:**

- 2.1. The [Name of the Direct Debit Account Bank] is hereby appointed and [Name of the Direct Debit Account Bank] accepts appointment as the Direct Debit Account Agent under this Agreement and undertakes to carry out its obligations in accordance with the terms and conditions contained herein.

- 2.2. Any Fees and expenses of the Direct Debit Account Agent in connection with its duties hereunder shall be paid by Employer.

**3. CHOOSING THE PAYMENT GATEWAY:**



- 3.1. Employer shall choose the Payment Gateway ('Chosen Payment Gateway') which has the maximum average monthly inflow of monies, which maybe at least 5 (Five) times the estimated monthly payment to the Contractor, calculated on the total contract award quantity. Average monthly inflow shall be calculated for the last six calendar months from the date of letter of award.

#### **ARTICLE - III**

#### **4. ESTABLISHMENT OF DIRECT DEBIT ACCOUNT**

- 4.1. Employer shall enter into a Quadripartite Agreement, with the Contractor, Payment Gateway service provider and Direct Debit Account Agent as designated Bank, at the time of contract signing, to establish a separate current Direct Debit Account (hereinafter referred to as "Direct Debit Account").
- 4.2. This Direct Debit Account shall be linked to the Employer's Chosen Payment Gateway (where online consumer payments from sale of power by the Employer are routed through), Employer's Bank Accounts (where all online consumer payments from sale of power by the Employer are deposited) as well as the Contractor's Bank Account (where the Contractor Monthly Charges shall be credited to).
- 4.3. The Direct Debit Account Agent would act as the sole authorizing agency for any transaction related to the Direct Debit Account in line with the agreed terms and conditions of this Agreement.
- 4.4. The Employer hereby authorize the Direct Debit Account Agent and has issued standing and irrevocable instructions to automatically make payments to the Contractor Bank Account for the purpose of this Agreement.
- 4.5. As soon as practicable but in no event later than 14 (fourteen) days from the execution of this Agreement, Employer, Contractor and Payment Gateway service provider shall deliver to each other and to the Direct Debit Account Agent, specimen signatures of their respective authorized officers duly attested by their banks for the purposes of this Agreement. Employer, Contractor and Payment Gateway service provider shall have the right to change their respective authorized officers by delivering specimen signatures of their respective new authorized officers. All the instruction should be provided by the authorized officers of the Parties.
- 4.6. The Employer, Contractor and the Payment Gateway service provider shall be bound by the acts done by the Direct Debit Account Agent in accordance with such instructions as per the terms of this Agreement.

#### **ARTICLE - IV**

#### **5. OPERATION OF THE DIRECT DEBIT ACCOUNT**

##### **5.1. Deposits**

- 5.1.1. The Employer shall ensure that a daily inflow of at least 1/10th of the approved invoice amount is transferred from the Chosen Payment Gateway to the Direct Debit Bank account from the 11th working day of the month of invoice submission during the term of this Agreement till the due approved payment to the Contractor is cleared in its entirety as per clause 5.2.5.
- 5.1.2. The Direct Debit Account Agent shall monitor the inflow into the Direct Debit Account during the Contract Agreement period. In case the daily inflow is less than 1/10th of the approved invoice amount, Direct Debit Account Agent shall pass on necessary instructions in writing within 1 (one) working day of such default to the Employer and

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Contractor. Employer shall be responsible to address the non-adherence within 2 working days of receiving such intimation from the Direct Debit Account Agent.

#### 5.2. Withdrawals

5.2.1. As per the covenants of the Contract Agreement, the Contractor will raise the invoice for Contractor Monthly Charges along with the service level agreement ("SLA") performance report and deliver a copy of the invoice to the Direct Debit Account Agent for the monthly payments within first 5 (five) working days of the month.

5.2.2. The Direct Debit Account Agent will duly notify the Employer upon receipt of any invoice for the Contractor Monthly Charges from the Contractor to the Employer within 1 (one) working day.

5.2.3. The Employer will review/examine/verify the invoice and the SLA performance report raised by the Contractor, within Five (5) working days from the date of invoice submission and shall prepare an approved amount report along with deductions (if any) in form of penalties, liquidated damages and taxes. The approved amount report of the invoice shall be notified to the Contractor and Direct Debit Account Agent within Five (5) working days from the date of invoice submission.

5.2.4. In case the Employer doesn't provide the approved amount report to Contractor, and Direct Debit Account Agent as mentioned above, it shall be deemed that the entire invoice amount as raised by the Contractor is undisputed and shall be deemed approved.

5.2.5. The Direct Debit Account Agent shall pay the approved amount of the Contractor Monthly Charges starting from the 11<sup>th</sup> working day of the month and shall ensure that all payments are made in full to the Contractor within 45 (forty-five) days (the "Payment Due Date") of receipt of invoices in which the concerned invoice has been raised and inform Employer of the due payments made to Contractor. At the end of each day during the Contract Agreement period, any amount remaining in the Direct Debit Account after paying any pending approved amount to the Contractor shall automatically be transferred to the Employer's Bank Accounts.

5.2.6. In the event Employer fails to clear any payment to the Contractor (including disputed payment) within the Payment Due Date, Employer shall pay interest on the delayed payment to the Contractor from the Payment Due Date till the date of release of payment. Employer shall pass on necessary instructions to the Direct Debit Account Agent on this regard for clearing any delayed payment along with the interest. Direct Debit Account Agent shall transfer the notified amount (delayed payment plus interest) to the Contractor within 1 (one) working day from such notification from the Employer.

5.2.7. In case the Employer fails to make any interest payment on the delayed amount, Contractor may raise a separate invoice on a quarterly basis within 5 (five) working day of the first month of the quarter and deliver two copies of the invoices for interest payment to Employer and the Direct Debit Account agent. The Employer will review/examine/verify the invoice on the due interest amount, within Five (5) working days from the date of invoice submission and shall prepare an approved interest amount report. Same shall be notified to Contractor and Direct Debit Account Agent by the 10<sup>th</sup> working day of the first month of the quarter in which the concerned invoice is raised.

5.2.8. In case of any difference in the due Contractor invoice amount and approved amount report provided by Employer, the disputed portion of the Contractor Monthly Charges shall be dealt with in accordance with the terms and conditions of the Contract

*[Handwritten signature]*

Agreement and post dispute resolution, the disputed portion shall be paid with the subsequent month's invoice of the Contractor.

**ARTICLE - V**

**6. REPRESENTATIONS AND WARRANTIES**

The Parties hereby represent and warrant:

- 6.1. That they are fully authorized to enter into this agreement and that this agreement is not in violation of any terms and conditions or covenant of any agreement to which the Employer, Contractor, Payment Gateway service provider and Direct Debit Account Agent is a party.
- 6.2. That this Agreement constitutes a valid, legal and binding legal obligation and is enforceable against the Employer, Contractor, Payment Gateway service provider and Direct Debit Account Agent in accordance with the terms hereof.
- 6.3. That neither the execution and delivery of this Agreement nor the fulfillment of or compliance with the terms and conditions thereof conflict with or result in a breach of or a default under any of the terms, conditions or provisions of any legal restriction (including, without limitation, any judgment, order, injunction, decree or ruling of any court or governmental authority, or any federal, state, local or other law, statute, rule or regulation) or any covenant or agreement or instrument to which the Employer, Contractor, Payment Gateway service provider and Direct Debit Account Agent are a party.

**ARTICLE - VI**

**7. RIGHTS AND DUTIES OF THE DIRECT DEBIT ACCOUNT AGENT**

- 7.1. The Direct Debit Account Agent:
  - a) may, in good faith, rely as to any matters of fact, which might reasonably be expected to be within the knowledge of Employer and Contractor; and
  - b) may, in good faith, rely upon the authenticity of any communication or documents believed by it to be authentic.
- 7.2. The duties and responsibilities of the Direct Debit Account Agent shall be restricted to the terms of this Agreement only and the Direct Debit Account Agent shall not be responsible for the performance or non-performance and the observance or nonobservance of any contractual or any legal obligations by any other party.
- 7.3. The Direct Debit Account Agent shall provide to the Employer and Contractor no later than fifteen (15) Business Days from the end of each month, a statement of account detailing all deposits, transfers, disbursements or payments into and from the Direct Debit Account during the previous month.
- 7.4. Monies received by the Direct Debit Account Agent under this Agreement shall, until used or applied in accordance with this Agreement, be held by the Direct Debit Account Agent for the purposes for which they were received.
- 7.5. The Direct Debit Account Agent shall have no liability to either the Employer or Contractor for any loss or damage that either or any may claim to have suffered or incurred either directly or indirectly, by reason of this Agreement or any transaction or service contemplated by the provisions of this Agreement unless caused by the gross negligence or willful misconduct or fraud or breach of obligations of the Direct Debit Account Agent. The Employer and Contractor agree to indemnify the Direct Debit Account Agent and hold it harmless from and against any and all claims, other than those ultimately determined to be founded on gross negligence or willful misconduct or fraud of the Direct Debit Account Agent or as a result of breach of its obligations and from and against any damages, penalties, judgements,

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liabilities, losses or expenses (including reasonable attorney's fees and disbursements) incurred as a result of the assertion of any claim by any person or entity, arising out of or otherwise related to any transaction conducted or service provided by the Direct Debit Account Agent through the use of any account at the Direct Debit Account Agent pursuant to the procedures provided for or contemplated by this Agreement. All indemnities in favour of the Direct Debit Account Agent in terms of this Agreement shall survive the termination of Agreement.

7.6. Notwithstanding anything contained to the contrary, the Parties agree that the liability of Direct Debit Account Agent to Employer and Contractor (in contract or tort or under statute or otherwise) under this Agreement, shall be limited to the Fees agreed by the Direct Debit Account Agent for such services other than on account of its gross negligence or willful misconduct or fraud or breach of obligations of the Direct Debit Account Agent.

7.7. The Direct Debit Account Agent is not expected or required to be familiar with the provisions of any other agreement or documents and shall not be charged with any responsibility or liability in connection with the observance of the provisions of any such other agreement.

7.8. The Direct Debit Account Agent shall in no event be liable for any direct, indirect, consequential, exemplary or other damages, claims or suits in any action brought by any Party, for any reason whatsoever, even if the Direct Debit Account Agent is advised of such claims or damages.

7.9. None of the provisions of this Agreement shall require the Direct Debit Account Agent to expend or risk its own funds or otherwise incur financial liability or expense in the performance of any of its duties hereunder.

7.10. The Direct Debit Account Agent is hereby authorized to comply with and obey all orders, judgments, decrees or writs entered or issued by any court, and in the event the Direct Debit Account Agent obeys or complies with any such order, judgement, decree or writ of any court, in whole or in part, it shall not be liable to Employer and Contractor, nor to any other person or entity, by reason of such compliance, notwithstanding that it shall be determined that any such order, judgement, decree or writ be entered without jurisdiction or be invalid for any reason or be subsequently reversed, modified, annulled or vacated.

7.11. The Direct Debit Account Agent may rely upon any notice or certificate believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person and not on its face contrary to any provision of this Agreement and the Direct Debit Account Agent shall not be bound in any such case to call for further evidence or be responsible for any losses, liabilities, costs, damages, expenses or inconvenience that may be occasioned by its failure to do so. The Direct Debit Account Agent neither makes any representation or warranty whatsoever nor be required to check, ensure or determine the validity, authenticity or genuineness of any documents/ instructions/confirmations/ certifications received by it pursuant to this Agreement and shall be entitled to rely and act upon them.

7.12. No Party shall raise any dispute, objection or raise any question on any act, deed or thing done by Direct Debit Account Agent pursuant to acting or relying upon any documents/ instructions/confirmations/ certifications received by it in accordance with this Agreement.

7.13. The Direct Debit Account agent is not acting nor shall be required to act in its capacity as the security trustee or agent on behalf of the Employer and Contractor or any third party and no security or encumbrance is being created by the Direct Debit Account Agent or shall

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be required to be created by the Direct Debit Account Agent or in favour of the Direct Debit Account Agent or in favour of any third Party with respect to the amounts in the Direct Debit Account and the Direct Debit Account Agent shall not responsible to ensure or keep track of the fact whether any encumbrance is created or has been created or may be created by any person or entity with respect to the amounts in the Direct Debit Account.

7.14. The Direct Debit Account Agent does not have any interest in the deposited amount hereunder but is serving as escrow holder only and only has possession hereof.

7.15. The Direct Debit Account Agent makes no representation and assumes no responsibility as to the validity, value, genuineness or the enforceability of any security or any other document or instrument held by or delivered to it.

7.16. This Agreement expressly sets forth all the duties of the Direct Debit Account Agent with respect to any and all matters pertinent hereto. No implied duties or obligations shall be read into this Agreement against the Direct Debit Account Agent, charges and expenses arising out of or resulting from this Direct Debit Account Agreement (including without limitation, enforcement of the Direct Debit Account Agreement but excluding any such claims, losses or liabilities resulting from the Direct Debit Account Agents' gross negligence or willful misconduct).

7.17. It is hereby specifically agreed and confirmed by the Parties hereto that any act performed by the Direct Debit Account Agent pursuant to the due instructions received by the Direct Debit Account Agent from Employer and Contractor, shall be considered to be performed by the Direct Debit Account Agent in Good Faith under the instructions of Employer and Contractor and shall not be contested/ questioned by Employer and the Contractor unless the act so done by the Direct Debit Account Agent was due to its own negligence or willful default or fraud.

7.18. The Direct Debit Account Agent is authorized to rely on any document believed by it to authentic in making delivery of the Direct Debit Account. It shall have no responsibility for the genuineness or the validity of any document or any other item deposited with it and it shall be fully protected in acting in accordance with this agreement or instructions received.

#### ARTICLE - VII

#### 8. UTILITY, PAYMENT GATEWAY SERVICE PROVIDER AND CONTRACTOR COVENANTS:

8.1. The Employer hereby unconditionally and irrevocably agrees that the Employer's Bank Accounts are its only accounts wherein all online consumer payments from sale of power by the Employer is being accumulated.

8.1.1. The Employer shall ensure that during the tenure of this Agreement under any circumstances, Employer's Bank Accounts will not change. In case of any such event, a prior written consent from the Contractor will be required.

8.1.2. The Employer shall ensure submission of acknowledgement to Contractor from the new Employer Bank Account of the Letter in Schedule I within 7 working days from the Contractor's written consent.

8.2. In no event and under no circumstances, the Chosen Payment Gateway shall deny to adhere to withdrawal requests from Direct Debit Account Agent for transferring the monies from the Payment Gateway into the Direct Debit Account therefore ensuring the terms and conditions of this agreement are adhered to. For the said purpose Employer shall provide the letter of authorization to Direct Debit Account Agent duly acknowledged and agreed by Employer

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Bank Account and as per the format provided in Schedule I on the date of executing this Agreement.

8.3. The Direct Debit Account shall not be discontinued / closed without the prior written consent from both Contractor and the Employer. The Employer's Bank Accounts shall not be discontinued / closed without the prior written Consent from Contractor and with a written intimation to Direct Debit Account Agent. Contractor's Account shall not be discontinued / closed without the prior written consent from the Employer and with a written intimation to Direct Debit Account Agent. The Chosen Payment Gateway shall not be discontinued / closed without the prior written consent from the Employer.

8.4. The Employer and Contractor represent and warrant that they have the necessary power, authority and legal right to agree to these terms and have taken all necessary actions required for the validity, enforceability and performance of their respective obligations/duties in terms hereof.

#### ARTICLE - VIII

##### 9. FEES

9.1. The Employer shall pay, on demand, all the usual and customary service charges, transfer fees, account maintenance, account acceptance, statement, investigation, funds transfer and any other charges as are levied by the Direct Debit Account Agent as mutually agreed and such other out of pocket expenses as are claimed by the Direct Debit Account Agent (collectively, the "Fees") in connection with the Account.

9.2. Notwithstanding anything contained in this Agreement, in the event that the Direct Debit Account Agent is not paid its undisputed fees within 28 days of the same becoming due then penal interest shall be payable for the defaulted amounts. The applicable penal interest rate will be equal to the marginal cost of funds-based lending rate (MCLR) for one year of the State Bank of India (MCLR shall be as applicable on the 1st April of the financial year in which the date of release of delayed payment lies)

#### ARTICLE - IX

##### 10. SEGREGATION

10.1. The Direct Debit Account Agent shall, if by the terms of this Agreement, be required to perform any act / take any action on or within a period ending on a day which is not a Business Day, and then such action will be performed / taken by the Direct Debit Account Agent on the immediately succeeding Business Day.

10.2. Monies received by the Direct Debit Account Agent under this Agreement shall, until transferred in accordance with this agreement, be held for the purposes for which they were received and shall be segregated from other accounts of the constituents of the Direct Debit Account Agent and from the funds of the Direct Debit Account Agent, in accordance with the Banking law and practice and the Direct Debit Account Agent shall not exercise any right of set off or lien on any such monies.

#### ARTICLE - X

##### 11. INDEMNITY

11.1. The duties and obligations of the Direct Debit Account Agent shall be determined solely by this Agreement, and the Direct Debit Account Agent shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement. The Direct Debit Account Agent shall not be liable for any error of judgment, or any action taken, suffered or omitted to be taken, hereunder.

- 11.2. The Employer and Contractor severally for their respective breaches shall reimburse and indemnify the Direct Debit Account Agent, its directors, employees and agents, and hold them harmless from and against, any damages, loss, liability or expenses, including, without limitation, reasonable attorneys' fees, incurred arising out of, or connection with the acceptance of, or the performance of, its duties and obligations under this Agreement (other than on account of gross negligence, willful misconduct or fraud of the Direct Debit Account Agent).

**ARTICLE - XI**

**12. CONFIDENTIALITY**

- 12.1. The Parties will maintain the utmost confidentiality regarding the contents of this agreement at all times and they shall not make any announcement to the public or to any third party regarding the arrangements contemplated by this agreement without the consent of the Parties involved, such consent not to be unreasonably withheld, provided that the Parties to this Agreement shall not be liable for disclosure or use of any confidential information if the same is required to be disclosed by law or regulation (including Stock Exchange regulations).

**ARTICLE - XII**

**13. TERM AND TERMINATION**

- 13.1. This Agreement shall be effective from the date of opening of the Direct Debit Account and shall remain in full force and effect until the Employer and Contractor issues an unconditional written notice to the Direct Debit Account Agent directing the Direct Debit Account Agent to close the Direct Debit Account.
- 13.2. The Direct Debit Account Agent may at any time resign by giving ninety (90) Business Days prior written notice of resignation to the other Parties, provided that the resignation shall be effective only after a successor Direct Debit Account Agent has been appointed to the satisfaction of the Employer and Contractor.
- 13.3. The Payment Gateway service provider may at any time resign, or the Employer may choose to change the Payment Gateway service provider at any time, by giving ninety (90) Business Days prior written notice of resignation/ change to the other Parties, provided that the resignation/ change shall be effective only after a successor Payment Gateway service provider has been chosen by the Employer to the satisfaction of the Contractor.
- 13.4. This Agreement shall be considered terminated if the Contract Agreement is terminated in entirety.

**ARTICLE - XIII**

**14. MISCELLANEOUS**

**14.1. ASSIGNMENT**

Contractor shall be free to assign, only after due intimation to and approval of the Employer, all or any of the rights and interest of this Agreement in favour of its lenders (including their agents and trustees) as per the terms and conditions of the Contract Agreement. Such approval shall be granted within the shortest time possible and shall not be withheld except on causes to be recorded in writing by the Employer or the Direct Debit Account Agent and communicated to Contractor.

**14.2. FORCE MAJEURE**

The Direct Debit Account Agent shall not be held liable for any failure to perform its obligations hereunder, or for any delay in the performance thereof, due to Force Majeure.

*Para*

14.3. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with laws of India.

14.4. JURISDICTION

The Courts in Kolkata shall have exclusive jurisdiction in respect of all matters arising out of or relating to this Agreement. Notwithstanding anything contained in this Agreement, the Direct Debit Account Agent shall be entitled to restrain from taking actions that are determined by it as being in contravention of any applicable laws or regulations or mala-fide.

14.5. NOTICES

All Notices, request and other communications to any party hereunder shall be in writing (including facsimile and email transmission) and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by telecopy, by courier or by registered or certified mail (Postage prepaid, return receipt requested) or by facsimile (with correct answerback) or email (without a delivery failure message) to the respective Parties at the following address and details (or at such other address and details as maybe intimated to the Parties)

If to the Employer:

Attn:

Address:

Tel:

Fax:

Email:

If to the Contractor:

Attn:

Address:

Tel:

Fax:

Email:

If to the Direct Debit Account Agent:

Attn:

Address:

Tel:

Fax:

Email:

If to the Payment Gateway Service Provider:

Attn:

Address:

Tel:

Fax:

Email:

*Para*

14.6. AMENDMENTS

Any amendments of any provision of this Agreement shall be in writing and signed by the Parties hereto.

This Agreement is binding upon and will insure to the benefit of the Parties.

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be executed on the day, month and year first hereinabove written as hereinafter appearing.

For Employer

[Signature of Authorized Representative]

For Contractor

[Signature of Authorized Representative]

For Direct Debit Account Agent

[Signature of Authorized Representative]

For Payment Gateway Service Provider

[Signature of Authorized Representative]

WITNESS:

For Employer:

For Contractor:

For Direct Debit Account Agent:

For Payment Gateway Service Provider:

**SCHEDULE-I**

Letter from Employer to Chosen Payment Gateway and Direct Debit Account Agent granting permission to withdraw amounts from the Chosen Payment Gateway to deposit in the Direct Debit Account

**SCHEDULE-II**

Executed copy of the Contract Agreement

