Tender Document Part 2/2:

Annexure & Formats

PROCUREMENT OF GOODS THROUGH REQUEST FOR QUOTATION (RFQ)

Proposal Due Date: up to 14:00hours 19.07.2019

PRE-QUALIFICATION EVALUATION:

Sr No	Information	Details		
1	Name of Organization/ Company/ Bidder			
2	Registered Address			
3	Contact Details			
4	a) Contact Name/Designation			
5	b) Office Address			
6	c) Postal Address			
7	d) Email ID			
8	e) Telephone /Mobile/Fax			
9	URL			
10	Details of Incorporation of the	Date:		
11	Company	Ref No:		
12	Details of Commencement of	Date:		
13	Business	Ref No:		
14	Valid GST registration no.			
15	Permanent Account Number (PAN)			
16	Total Staff Strength in the Org. in India (Categorise)			
17	Mention Number of certified Resources available for suggested ERP and Enterprise Portal implementation project handled			
18	CMM level 3 or above Certification			
19	Financial Details (as per audited Balance Sheets) (in INR)			
20	Year	Year 3	Year 2	Year 1
21	Turnover (in INR)			

Please indicate Completed Projects

	Completed Projects					
sl.no	Client Name	Project Description	Project awarded year	Project Completion year	Module Covered	Current Status
1						
2						
3						
4						
5						
6						

Note:

The valid copy of contract/certificate/signed-off letter should be submitted.
Bidders are requested to submit the list of projects as per proforma given above.
If any three of the following modules including Finance & Accounting Module are implemented then it will be considered as ERP implementation:

1. Finance & Accounting
2. Sales & Marketing
3. Purchase
4. Inventory
5. Human Resource & Payroll
6. Production Management
7. Supply Chain Management (SCM)
8. Customer Relationship Management (CRM)

Checklist for the pre-qualification

Sr.No.	Item Appropriate document as per requirement enclosed	(Yes/No)
1	Covering letter for Pre-qualification	
2	Bid Security/ EMD	
3	Authorisation letter/resolution from the company enclosed	
4	Two separate bids duly filled and signed in the sealed envelope	
5	List of deliverables enclosed	
6	Registration certificates (GST, PAN)	
7	General Information about the bidder	
8	Staff details attached	
9	Registration Certificate/Certificate of Incorporation and Certificate of Commencement of Business issued by the Registrar of Companies, India.	
10	SEI – CMM level 3 or above certified certification	
11	Signed copy of the RFP as token of acceptance of all the terms.	
12	Certificate of Incorporation/Registration	
13	Audited financial statement or certificate from CA firm for last 3 years ending 31.03.2019	
14	Copy of CMMi/ISO certificate	
15	Write up on solution proposed – point 2 of technical evaluation criteria	
16	CV provided as per Format • Project Manager • Domain Specialist	

TECHNICAL BID

Date:

Managing Director
The Jharkhand State Cooperative Milk Producers' Federation Ltd., Farmers Training Centre Campus, HEC, Sec-II, Dhurwa, Ranchi-834004,
Jharkhand.

Dear Sir,

Ref: RFP for Supply and Implementation of An Open Source based Enterprise Resource Planning (ERP) Software including configuration & customization with 3 Year Maintenance Support

We, the undersigned Bidder(s), having read and examined in detail all the bidding documents in respect of, do hereby propose to provide our services as specified in Tender.

Having examined the bid document, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to provide the IT services as required and outlined in the RFP for Customisation and Implementation of Enterprise Resource Planning (ERP) and Maintenance Support for The Jharkhand State Cooperative Milk Producers' Federation Ltd (JMF) to meet such requirements and provide such services as required are set out in the bid document.

We confirm having submitted the information as required by you in your Request for Proposal document In case you require any other further information/documentary proof in this regard for evaluation of our bid, we agree to furnish the same in time to your satisfaction.

We have enclosed a EMD in the preformed as per the bid security form in the form of a bank guarantee/Demand Draft for a sum of INR -------------- (INR ---------------------------). This bid security is liable to be forfeited in accordance with the provisions of bid documents.

We declare that all the services shall be performed strictly in accordance with the RFP.

We undertake, if our proposal is accepted, to adhere to the implementation plan (Project schedule for providing Customisation, Implementation and Maintenance Support of **Enterprise Resource Planning (ERP)** put forward in RFP or such adjusted plan as may subsequently be mutually agreed between us and JMF or its appointed representatives.

If our proposal is accepted, we will obtain a Security Deposit/performance bank guarantee in the format given in the bid document issued by a scheduled bank in India, acceptable to JMF, for a sum equivalent to **10%** of the respective bid prices as quoted in our commercial proposal for the due performance of the contract.

We agree for unconditional acceptance of all the terms and conditions set out in the bid document and also agree to abide by this bid response for a period of SIX (plus TWO) MONTHS from the date fixed for bid opening and it shall remain binding upon us with full force and virtue, until within this period a formal contract is prepared and executed, this bid response, together with your written acceptance thereof in your notification of award, shall constitute a binding contract between us and JMF.

We confirm that the information contained in this proposal or any part thereof, including its exhibits, schedules, and other documents and instruments delivered or to be delivered to the JMF is true, accurate, and complete. This proposal includes all information necessary to

ensure that the statements therein do not in whole or in part mislead the JMF as to any material fact."

We hereby declare that our bid is made in good faith, without collusion or fraud and the information contained in the bid is true and correct to the best of our knowledge and belief.

We agree that you are not bound to accept the lowest or any bid response you may receive. We also agree that you reserve the right in absolute sense to reject all or any of the products/service specified in the bid response without assigning any reason whatsoever.

It is hereby confirmed that, We are entitled to act on behalf of our corporation/company/firm/organization and empowered to sign this document as well as such other documents, which may be required in this connection.

Dated this   Day of   2019

(Signature) (In the capacity of)

Duly authorized to sign the Bid Response for and on behalf of:

(Name and Address of Company)   Seal/Stamp of bidder

Date   : Place :

Witness Signature:

Witness Name:

Witness Address:

To,

Managing Director
The Jharkhand State Cooperative Milk Producers' Federation Ltd., Farmers Training Centre
Campus, HEC, Sec-II, Dhurwa, Ranchi-834004,
Jharkhand.

Sir,

Ref: RFP for Supply and Implementation of An Open Source based Enterprise Resource
Planning (ERP) Software including configuration & customization with 3 Year Maintenance
Support

I have carefully gone through the Terms & Conditions contained in the RFP document [No.
....] Regarding Selection of Agency for Integrated IT Solution.

I declare that all the provisions of this RFP/Tender Document are acceptable to my company. I
further certify that I am an authorized signatory of my company and am, therefore,
competent to make this declaration.

Yours faithfully,

(Signature of the Bidder)
Printed Name Designation
Seal
Date:
Business Address:

CERTIFICATE AS TO AUTHORISED SIGNATORIES

I, certify that I am .... of the ... ... , and that
.... who signed the above Bid is authorized to
bind the company by authority of its governing body.

(Authority)

Date

(Seal here)

Format for CVs

	Resume of key personal		
1.	Name		
2.	Position		
3.	Date of birth		
4.	Total Work Experience in IT, Years with same firm		
5.	Nationality		
6.	Education		

Degree (Specialisation)	Institution	Year in which obtained

7.	Other Professional certification or training		
8.	Languages &degree of proficiency		
9.	Countries of work experience		
10.	Employment record (Starting with present position, list in reversed order every employment held for the last ten years and state the start and end dates of each employment) (Clearly distinguish your "employer" as an employee of the firm from a "client" for whom you have worked as a successful bidder or an adviser)		

Employer	From	To	Position held and Description of duties

11.	Detailed ERP Projects handled (Domestic and International) (Work undertaken that best illustrates capability to handle the work and tasks assigned)

Client Name	Tasks Handled	Project Details including modules	Position Assigned	Start Year & Time spent

12.	I, the undersigned certify that, this bio data correctly describes me, my qualifications, and my experience. I understand that my willful misstatement described herein may lead to my disqualification or dismissal, if engaged.

Name & Signature (Personnel)	Name & Signature (Authorised Representative)
	Date of signing

The resumes must be in above format only. The CVs should be signed by the concerned Executive and countersigned by the Authorized Signatory of the Bidder. Any wrong statement described herein may lead to disqualification or dismissal, if engaged.

TECHNICAL BID

Format and Checklist for the Technical Bid

The bidder is expected to prepare a checklist to confirm the following descriptions in the Technical Bid in a Checklist form.

Description	Indicate Yes/No
• Overview of the Proposed Solution	Write in 1500 words
• Overall architecture	Compliance to the proposed architecture in ANNEXURE - **V** based on functional requirement of JMF as mentioned in ANNEXURE - **V** If there is a deviation, the bidder needs to specify the deviations in the solution architecture and mention the deviation here.
• Technical architecture with integration of all the applications using the Proposed ERP/SharePoint Enterprise Portal • Scope and Approach note for integration with MS Exchange Server, Active Directory, MS Project Server and MS Office Suite.	Compliance to the proposed architecture in ANNEXURE - **V** based on functional requirement of JMF as mentioned in ANNEXURE - **V** If there is a deviation the bidder needs to specify the deviation in the solution architecture and mention the deviation here.
• Module wise detailed Bill of material for PROPOSED ERP SOLUTION with EP	Compliance to the proposed architecture in ANNEXURE - **V** based on functional requirement of JMF as mentioned in ANNEXURE - **V** If there is a deviation the bidder needs to specify the deviation in the solution architecture and mention the deviation here, and explain the same during the pre-bid conference
• Implementation methodology	User acceptance Test (UAT) and Operation Acceptance test (OAT) should be part of the implementation methodology document
• Assumptions and Constraints • Business Assumptions/Constraints • Technical Assumptions	

• Architecture Assumptions • General Assumptions if any	
• Resumes of the resources and Key personnel	
• Project Schedule and timelines	
• Training Plan and Approach for end user and systems team.	
• WARRANTY Support Plan and On-site/Off-shore Post Implementation Support Plan with Proposed Service Level Agreement	
• Quality assurance/process	
• Risk Assessment methodology	
• Key challenges of the project.	
• Business Continuity plan and recommendation	
• Backup and disaster recovery plan	
• Deviations	JMF is also open to any Suggestions that the bidder may have, about how to approach the assignment in the light of their expertise or experience from similar assignments. If, for example, the bidder has any material reservations about what JMF would like or feel that there are any significant omissions in what JMF have asked for then JMF would like you to raise these issues. However, this should not lead to the submission date being missed or extended.
• Exclusions	Exclusion if any
• Reference of the bidder in maintaining at least one contract on PROPOSED ERP SOLUTION for at least 2 years for any Organization.	
• Checklist for Functional Specification	Please provide the checklist for Functional Specification as in the ANNEXURE-V.

ANNEXURE-III

COMMERCIAL BID

Date: /   /2019

Managing Director
The Jharkhand State Cooperative Milk Producers' Federation Ltd., Farmers
Training Centre Campus, HEC, Sec-II, Dhurwa, Ranchi-834004,
Jharkhand.

Dear Sir,

Ref: RFP for Supply and Implementation of An Open Source based Enterprise
Resource Planning (ERP) Software including configuration & customization with
3 Year Maintenance Support

Having examined the Bid Document, the receipt of which is hereby duly
acknowledged, we, the undersigned, offer to implement the RFP for **Enterprise
Resource Planning (ERP)** for The Jharkhand State Cooperative Milk Producers'
Federation Ltd (JMF). To meet such requirements and to provide services as set out
in the bid document following is our quotation summarizing our commercial
proposal.

A. Implementation cost including warranty   `...
B. Maintenance Service Support Cost   `..

TOTAL COST (A+B)   `..

We attach hereto the commercial proposal as required by the Bid document, which
constitutes our proposal.

If our proposal is accepted, we will obtain a Security Deposit/performance bank
guarantee in the format given in the bid document issued by a Nationalised Bank
in India, acceptable to JMF for a sum equivalent to **10%** of the respective bid prices
as quoted in our commercial proposal of the bid document for the due performance
of the contract.

We agree for unconditional acceptance of all the terms and conditions in the bid
document and also agree to abide by this bid response for a period of SIX (plus
TWO) MONTHS from the date fixed for bid opening and it shall remain binding
upon us, until within this period a formal contract is prepared and executed, this
bid response, together with your written acceptance thereof in your notification of
award, shall constitute a binding contract between us.

We confirm that the information contained in this proposal or any part thereof,
including its exhibits, schedules, and other documents and instruments delivered
or to be delivered to JMF is true, accurate, and complete. This proposal includes all
information necessary to ensure that the statements therein do not in whole or in
part mislead JMF as to any material fact.

We agree that you are not bound to accept the bid you evaluate as most superior as per your evaluation criteria. We also agree that you reserve the right in absolute sense to reject all or any if the products/ service specified in the bid response without assigning any reason whatsoever.

It is hereby confirmed that I/We are entitled to act on behalf of our corporation/company/firm/organization and empowered to sign this document as well as such other documents, which may be required in this connection.

Dated this   Day of   2019

(Signature) (In the capacity of)

Duly authorized to sign the Bid Response for and on behalf of:

(Name and Address of Company)   Seal/Stamp of bidder

Witness Signature:

Witness Name:

Witness Address:

COMMERCIAL BID

Note: Commercial Bid is an addition of two components i.e. A+B

A: IMPLEMENTATION COST (INCLUDING WARRANTY)

Description	Functions	AMT (in INR`)
		A
Implementation Cost including **12 months warranty** for implementation of all the modules	a) Supply and Implementation of An Open Source based Enterprise Resource Planning (ERP) Software including configuration & customization as per functional requirement document in Annexure – V	
	Basic (A)	
	Total Taxes	
	Grand Total (A)	

- Cost should be exclusive of all taxes.
- Taxes if applicable should be shown separately.
- In case of new software version releases during the course of implementation, the vendor should override the present solution with the updated solution for the new software release (including OS, Database, Application, etc.), without extra cost to JMF.

B: MAINTENANCE SUPPORT COST AFTER WARRANTY PERIOD (36
- months)

Sr. No.	Particulars	UOM	Rate (i)	GST %	GST Amount (in INR) (ii)	Total (in INR) B = i+ii
1	Product up-grade support from ERP Vendor	Per up-grade				
2	Onsite EDP (one resource) support from implementation partner	Per Month				
3	3 years post warranty AMC	Per Year				
	Grand Total (B)					

Note:

- THE TOTAL VALUE OF A + B WILL BE CONSIDERED AS EVALUATION.

ANNEXURE – IV

PAYMENT TERMS:
a) Payment terms (Customisation and Implementation)
b) Payment terms [Maintenance Support]

a) Payment terms

Payment will be released on successful implementation & acceptance of each module including integration with the overall system.

Phase	Milestone Description	Payment Term	Payment % (Implementation cost as per item (a) of table 'A' part of Commercial Bid) Phase I
1	Advance against BG	Advance payment bearing intererst@9% p.a. shall be payable on signing of the contract and submission of Bank Guarantee of 110% of advance amount from Nationalised Bank /other banks approved by RBI to be at par with Nationalised bank for the limited purpose of acceptance of the guarantee valid till 45 days beyond schedule completion date of the main contract for implementation & warranty.	10%
2	Requirement Gathering - Conduct a study of present systems/process - Submission of requirement gathering document with GAP analysis report - Submission of Final SRS	Submission of related documents (SRS and Business blue-print) and acceptance.	10%
3	Implementation of core modules (Accounts, Purchase, Material Management, Sales Management during Phase I & HRM, Payroll, Utility & Maintenance, Asset etc.)	Successful implementation & Training of the core modules as mentioned in the milestone column for testing.	20%
4	Customisation and implementation of all other remaining Modules (Mill Procurement & Bill Management during Phase I & Plant Operation, Cattle Feed Plant Operation, Chilling Centre Operation, Input services and other modules defined in RFP during Phase II)	Successful implementation & Training of the customised modules as mentioned in the milestone column for testing.	20%
5	Integration of all modules as defined in Phase I & II and Completion of Final Testing	Completion of system testing and deployment of final application for integrated testing.	20%
6	Go Live -Supply of relevant software codes, user documents, application documents, software licenses etc.	Completion of successful GO Live of the modules	10%
7	handholding support for 2 months	Completion of handholding support for 2 months	10%
8	After successful completion of warranty period	completion of warranty period and Performance BG	10%

b) Maintenance Support:

The payment for ONSITE EDP support would be made after completion of the corresponding contract period.

The payment for maintenance service support (AMC) would be made after every 3 months. The cost of services shall be according to the actual services utilised by JMF (As defined in Part 'B' of the Commercial bid). Hard copy of Bill / Invoice will be raised by the Vendor as per defined procedure in SLA.

ANNEXURE-V

A.   FUNCTIONALITY EXPECTATION

The proposed solution architecture is based on the products from any open source community with 100% open source and license free solution.

The functional modules required in Proposed ERP Solution are given in **ANNEXURE–V.**

Important Note:

a. *The Bidder have to carry out product fitment based on JMF's functional requirements specified in this document and needs to submit the product fitment rating value as follows:*
   The process details at activity/action level are to be compiled in tabular format with last column carry the rating value against each activity.

   1 – Standard feature (built-in)
   2 – Available thru work around
   3 - Customisation
   4 – New Development

   Note – The exhaustive functional requirement has been included in the document. However, bidder wish to add/modify the standard nomenclature and the missing functionalities in the fitment ratings document.

b. *Successful Bidder has to carry out the detailed Users Requirement Study in consultation with User Groups. The requirements would be finalized and agreed upon mutually by Successful Bidder, the Functional User Group and ICT Group and ink-signed by representatives from Successful Bidder, the Functional User Group and ICT Group. After this agreement, the implementation and customisation would be started.*

Any statutory requirements announced by Government (State/Central) during the course of implementation, warranty and AMC will be developed and deployed as a part of this contract.

ANNEXURE-VI

PHASES OF CUSTOMISATION, IMPLMENTATION AND DELIVERABLES (IN EACH MODULE)

Phases	Stages	Deliverables
Plan & Design	a) Project kick-off	Project road-map and major mile-stones
	b) Requirement Study	System requirement specification 1) System Study, Data & workflow analysis 2) Detailed Project plan & Schedule 3) Hardware & Network Requirement
	c) Fit-gap analysis	Business blue-print including list of customisations
	d) Implementation plan	1) Resource plan 2) Backup & Disaster Recovery Plan 3) Training plan 4) Unit test plan 5) Module integration test plan 6) Data migration plan
Configuration and Development	a) Final Configuration b) Document Technical Specifications of all Custom Components	1) Creation of master tables and data entry 2) Transfer of legacy data from existing system
Final Testing & Deployment	a) System Integration testing b) User acceptance testing c) User acceptance testing – Issue resolution	1) Setting up the environment with customizations, bug fixing and resolutions 2) User Training/methodology 3) Data conversion report 4) System handover checklist 5) Operation & maintenance guide 6) Cutover strategy 7) User/operational acceptance test plan
Cutover & Support	a) Training material b) Test scripts, Issue log c) Go-live checklist d) Final customization list e) Cut-over plan	1) Project closure 2) Help Manuals (Hard/soft copies) with stepwise screenshots of the workflow 3) Configuration document 4) Warranty assurance 5) Submission of Administrators guide with final system diagrams 6) Customisation code

		7) Training to System's team 8) Final integration, testing of ERP, EP, MS Project, Exchange server and Active Directory etc. 9) Creation of Helpdesk & sign off

Note: Payments will be linked to achieving the above deliverables.

ANNEXURE – VII

Service level Agreement

Sr.No.	Description	
1	Purpose	
2	Applications covered	
3	Scope of Agreement	
	Services automatically provided under this agreement	
	12 months warranty support	
	36 months post-warranty support	

1. PURPOSE

The purpose of this Support Service Level Agreement (SLA) is to formalize an arrangement between JMF and the VENDOR to deliver specific support services, at specific levels of support, and at an agreed-upon cost. This document is intended to provide detailed application support services to JMF. This SLA will evolve over time, with additional knowledge of the client requirements, as well as the introduction of new applications and services into the support portfolio provided to JMF. Resident EDP support resource provided by the vendor to JMF for a period of 4 years after warranty period would be part & parcel of this SLA. The vendor while preparing the Service level agreement must adhere to requirements as mentioned below.

2. APPLICATIONS COVERED

This agreement is for services related to support requests concerning the **Proposed ERP Application, Customisation and Integration of all modules and software's and hardware's as defined in the scope of work of the JMF RFP Document.**

3. SCOPE OF AGREEMENT

The Vendor will support and maintain proposed ERP application, Integration and customizations as mentioned in the RFP and that were carried out by the vendor.

Deliverables include:

♦ Take responsibility of the complete maintenance of the ERP application
♦ Troubleshooting and resolution of production problems
♦ Production support
♦ Bug resolution

♦ Telephone Support, if needed
♦ Escalation management
♦ Expert advice
♦ Liaise with ERP Vendor in case of product related issues
♦ Handling user queries
♦ Assessment of New application development service requests
♦ Remote support & diagnostics
♦ Access to expert-level support

These services are classified as

1. *Services Automatically Provided Under This Agreement*
2. *Requests for Support Specifically Covered Under This Agreement*

The following services are provided in response to the support mentioned as under

1. Services Automatically Provided Under This Agreement

WARRANTIES

A. 12 Month warranty support

The vendor will provide **twelve months** of warranty with **ON SITE / OFFSHORE SUPPORT (24*7)** after the project has been declared as **LIVE** to JMF. The vendor shall deploy the following support.

The system is under warranty period, the vendor must provide comprehensive support for application, integration, implementation failures free of cost. Vendor must deploy adequate resources during warranty & implementation support who should have adequate knowledge & experience of the entire system.

- **Corrective maintenance**—Defined as activities associated with root-cause analysis and bug-fix isolation and resolution

- **Preventative maintenance**—For applications considered critical (i.e., a criticality level of high priority) by JMF, and when corrective maintenance activities are low, work will be conducted up to the level of effort identified, to analyse and take steps to prevent potential problems.

- **Root-cause analysis**—Analysis of the root causes of problems. Problems will be reviewed to determine their root causes, measures will be taken to correct the sources of the problems, and reports will be prepared and distributed in a timely fashion.

- **Bug fixes**—defined as the emergency repair of any system operation that does not comply with the current signed and approved system specification. This includes system errors, "hung" or halted screens, or unexpected results within the system that render it unusable for the purpose for which it was designed. 48 hours will be for resolution of the bug and 72 hours for the critical bug.

- Trouble shooting any user problems

- Handholding the users to enable them to smooth transition onto the new System

- System performance monitoring to help stabilize the system

- Generating output Reports from ERP system

- Changing access privileges

- Modifying the fields if needed, and creation of new/existing reports

- Changing configuration data

- Consolidate the request raised by end users,

- Support end user queries, provide call reports

- Backup of the full system, database, and confirmation of successful routine

- Retrieval of data, maintaining system logs etc.

- Coordinating & resolving issues with offshore team, in case the onsite resources are not able to solve the problem

- Updation of codes archive as and when required in the centralized code Repository

- Any support service related to Application system, which is not covered above

- The resources would impart and work on knowledge sharing mode with JMF EDP

- Help the Systems team to conduct end-user training sessions to increase system adaptability

- ***Ticket status updates*** - *The vendor will provide direct input into JMF's problem tickets at ONSITE or remotely from other satellite e-Support centres within JMF*

B. 36 MONTHS POST WARRANTY SUPPORT

The EDP resource would undertake the following responsibilities:

- Perform HELP-DESK duties for ERP application system

- System performance monitoring to help stabilize the system

- Generating output Reports from ERP

- Changing access privileges

- Modifying the fields if needed, and creation of new/existing reports

- Consolidate the request raised by end users,

- Support end-user queries, provide call reports and keeping backup of the system,

- Backup of the full system, database, and confirmation of successful routine

- Retrieval of data, maintaining system logs etc.

- Periodic testing of disaster recovery system according to the plan envisaged by the vendor

- Coordinating & resolving issues with offshore team, in case the onsite resources are not able to solve the problem

- Updation of codes archive as and when required in the centralized code repository

- Any support service related to Application system, which is not covered above

Note: JMF retains the right to change of resources if not found capable or competent to perform the assigned functions.

ANNEXURE – VIII(a)

PERFORMANCE SECURITY FORM (Security Deposit)

To: _____ (Name of Purchaser)

WHEREAS ....(Name of Supplier) hereinafter called "the Supplier" has undertaken , in pursuance of Contract/PO No................dated................20.. to Provide services on...
.... (Description of Services) hereinafter called "the order".

AND WHEREAS it has been stipulated by you in the said order that the Supplier shall furnish you with Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with the Supplier's performance obligations in accordance with the order.

AND WHEREAS we have agreed to give the Supplier a Guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Supplier, up to a total of .... (Amount of the Guarantee in Words and Figures) and we undertake to pay you, upon your first written demand declaring the Supplier to be in default under the order and without cavil or argument, any sum or sums within the limit of ....(Amount of Guarantee) as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the .... day of ....20......

Signature and seal of
Guarantors
....
....
....
Date......................20.........
Address...............................
....
....
All correspondence with reference to this guarantee shall be made at the following address:

Group Head (Accounts)
The Jharkhand State Cooperative Milk Producers' Federation Ltd., Farmers Training Centre Campus, HEC, Sec-II, Dhurwa, Ranchi-834004, Jharkhand.

ANNEXURE - VIII(b)

PERFORMANCE BANK GUARANTEE (PBG)

Date: / /2019

Managing Director
The Jharkhand State Cooperative Milk Producers' Federation Ltd., Farmers Training Centre Campus, HEC, Sec-II, Dhurwa, Ranchi-834004, Jharkhand.

Dear Sir,

PERFORMANCE BANK GUARANTEE IT Services for Design, Development, Implementation and Deployment of Enterprise Resource Planning and Enterprise Portal System and Maintenance Support for 4 years after the completion of warranty period of The Jharkhand State Cooperative Milk Producers' Federation Ltd (JMF) Project.

WHEREAS

M/s. ...., a company registered under the Companies Act, 1956, having its registered and corporate office at ...., (hereinafter referred to as "our constituent", which expression, unless excluded or repugnant to the context or meaning thereof, includes its successors and assigns), agreed to enter into a contract dated ....(Herein after, referred to as "Contract") with you **"The Jharkhand State Cooperative Milk Producers' Federation Ltd"** (JMF) located at JMF Address to be put here, for providing the IT Services for Enterprise Management Information System (ERP) and Maintenance Support.

We are aware of the fact that as per the terms of the contract, M/s. .... is required to furnish an unconditional and irrevocable bank guarantee in your favour for an amount INR ....(in words and figures), being equivalent to **10%** of the Maintenance Service Support (part 'B' of the price as quoted in the commercial proposal) submitted by the constituent and guarantee the due performance by our constituent as per the contract and do hereby agree and undertake to pay the amount due and payable under this bank guarantee, as security against breach/ default of the said contract by our constituent. In consideration of the fact that our constituent is our valued customer and the fact that he has entered into the said contract with you, we, --------------------------(name of the bank) agreed to issue this Performance Bank Guarantee.

Therefore, we ------------------------------(name of the bank) hereby unconditionally and irrevocably guarantee you as under:

In the event of our constituent committing any breach/default of the said contract, and which has not been rectified by him, we hereby agree to pay you forthwith on demand such sum/s not exceeding the sum of INR .... (in words and figures) without any demur.

Notwithstanding anything to the contrary, as contained in the said contract, we agree that your decision as to whether our constituent has made any such default(s) / breach (es), as aforesaid and the amount or amounts to which you are entitled by reasons thereof, subject to the terms and conditions of the said contract, will be binding on us and we shall not be entitled to ask you to establish your claim or claims under this Performance Bank Guarantee, but will pay the same forthwith on your demand without any protest or demur.

This Performance Bank Guarantee shall continue and hold good till the completion of the following period:

a) _____Months for the Design, Development, Implementation and deployment phase
b) 12 months warranty period from the effective sign off date and commencement of operations
c) 36 Months till the closure of the Maintenance service support phase

We bind ourselves to pay the above said amount at any point of time commencing from the date of the said Contract until the completion of the _____ months **from effective date of SIGNING OF CONTRACT** for the total solution as per said Contract. We further agree that the termination of the said agreement, for reasons solely attributable to our constituent, virtually empowers you to demand for the payment of the above said amount under this guarantee and we would honour the same without demur.

We hereby expressly waive all our rights:

I.   Requiring to pursue legal remedies against The Jharkhand State Cooperative Milk Producers' Federation Ltd, Ranchi; and

II. For notice of acceptance hereof any action taken or omitted in reliance hereon, of any defaults under the contract and any resentment, demand, protest or any notice of any kind.

We the guarantor, as primary obligor and not merely surety or guarantor of collection, do hereby irrevocably and unconditionally give our guarantee and undertake to pay any amount you may claim (by one or more claims) up to but not exceeding the amount mentioned aforesaid during the period from and including the date of issue of this guarantee through the period. We specifically confirm that no proof of any amount due to you under the contract is required to be provided to us in connection with any demand by you for payment under this guarantee other than your written demand. Any notice by way of demand or otherwise hereunder may be sent by special courier, telex, fax, registered post or other electronic media to our address, as aforesaid and if sent by post, it shall be deemed to have been provided to us after the expiry of 48 hours from the time it is posted.

If it is necessary to extend this guarantee on account of any reason whatsoever, we undertake to extend the period of this guarantee on the request of our constituent upon intimation to you. This Performance Bank Guarantee shall not be affected by any change in the constitution of our constituent nor shall it be affected by any change in our constitution or by any amalgamation or absorption thereof or therewith or reconstruction or winding up, but will ensure to your benefit and be available to and be enforceable by you during the period from and including the date of issue of this guarantee through the period.

Notwithstanding anything contained hereinabove, our liability under this Performance Guarantee is restricted to INR .... (in words and figures) and shall continue to exist, subject to the terms and conditions contained herein, unless a written claim is lodged on us on or before the aforesaid date of expiry of this guarantee. We hereby confirm that we have the power/s to issue this Guarantee in your favour under the Memorandum and Articles of Association/ Constitution of our bank and the undersigned is/are the recipient of authority by express delegation of power/s and has/have full power/s to execute this guarantee under the Power of Attorney issued by the bank in your favour.

We further agree that the exercise of any of your rights against our constituent to enforce or forbear to enforce or any other indulgence or facility, extended to our constituent to carry out the contractual obligations as per the said Contract, would not release our liability under this guarantee and that your right against us shall remain in full force and effect, notwithstanding any arrangement that may be entered into between you and our constituent, during the entire currency of this guarantee.

Notwithstanding anything contained herein:

Our liability under this Performance Bank Guarantee shall not exceed INR .... (In words and figure); This Performance Bank Guarantee shall be valid only up to the completion the period_____ months **from effective date of SIGNING OF CONTRACT** for the Total Solution; and We are liable to pay the guaranteed amount or part thereof under this Performance Bank Guarantee only and only if we receive a written claim or demand on or before _____ months **from effective date of SIGNING OF CONTRACT** for the proposed ERP Product, Implementation and Support Services for 5 years for JMF.

Any payment made hereunder shall be free and clear of and without deduction for or on account of taxes, levies, imports, charges, duties, fees, deductions or withholding of any nature imposts.

This Performance Bank Guarantee must be returned to the bank upon its expiry. If the bank does not receive the Performance Bank Guarantee within the above-mentioned period, subject to the terms and conditions contained herein, it shall be deemed to be automatically cancelled.

This guarantee shall be governed by and construed in accordance with the Indian Laws and we hereby submit to the exclusive jurisdiction of courts of Justice in India for the purpose of any suit or action or other proceedings arising out of this guarantee or the subject matter hereof brought by you may not be enforced in or by such count.

Dated .... this .... day .... 2019.

Yours faithfully,

For and on behalf of the _____(name of the Bank),

(Signature)

Designation

Name of the Bank and Address

Note:
This guarantee will attract stamp duty as a security bond.

A duly certified copy of the requisite authority conferred on the official/s to execute the guarantee on behalf of the bank should be annexed to this guarantee for verification and retention thereof as documentary evidence

ANNEXURE - IX

BUSINESS AGREEMENT

BUSINESS AGREEMENT

This agreement is made and entered into as of the ____ day of _____, 2019 by and between The Jharkhand State Cooperative Milk Producers' Federation Ltd., Farmers Training Centre Campus, HEC, Sec-II, Dhurwa, Ranchi-834004, Jharkhand, India, (hereinafter called "JMF" which expression shall where the context so admits include its successors and permitted assigns) of the first part,

_____ a company registered under the laws of India having its registered office at _____ (Hereinafter referred to as Operator), which term or expression unless excluded by or repugnant to the subject or context shall mean and include its successors-in office and assigns;

WHEREAS

JMF invited bids issuing a Request for Proposal (RFP) to select a qualified and experienced Operator for An Open Source based Enterprise Resource Planning (ERP) Software including configuration & customization with 3 Year Maintenance Support.

The Operator has been short listed as the preferred bidder based on the selection criteria established during the bidding process conducted in accordance with the procurement process covered under the laws of India;

The JMF and the Operator have negotiated and agreed to the following terms and conditions for the development and establishment of the ERP.

The scope of this Agreement shall cover the following phases of ERP Project

a) 11 months for the Design, Development, Customisation, Implementation and deployment phase
b) 12 months warranty period from the effective sign off date and declared GO-LIVE for all the modules.
c) 36 Months till the closure of the Maintenance support phase post completion of warranty.
d) Minimum 3 months of onsite ERP Support as per the price schedule which remains true till the completion of AMC as mentioned in point 'C' above.

Definitions

"Agreement" means this Agreement together with all Schedules and the contents and specifications of the RFP. In the event of a conflict between this Agreement and the Schedules, the terms of the Agreement shall prevail;

"Commercial Deployment" means effective 'SIGN OFF' date and declared "Go Live" of all the modules at JMF for successful completion of the acceptance testing, documentation and demonstration of one full cycle of each module in LIVE environment System satisfying the functional requirements, technical requirements and technical specifications;

"Contract Value" means the value of the expenditure estimated during the design, development, implementation and deployment of ERP + Maintenance Support cost of the ERP project agreed between the JMF and the Operator;

"Intellectual Property Rights" means and includes all rights in the Bespoke Software, its improvements, up gradations enhancements, modified versions that may be made from time to time, database generated, compilations made, source code and object code of the software, the said rights including designs, copyrights, trademarks, patents, trade secrets, moral and other rights therein;

"Scope of work" means the list of services identified for introduction of ERP of JMF that include information and interactive services as mentioned in the RFP;

"Project" means the development and establishment of ERP and includes the design, development, implementation and deployment of ERP and Maintenance Service Support phases;

"Project Coordinator" means either an individual of the JMF or an entity nominated by the JMF to deal with the Project and the Operator in respect of implementation of the provisions of this Agreement;

"Project Plan" means the detailed activities chart with timeframes and milestones identified in respect of the design, development, implementation and deployment phase of the Project;

"Proprietary Information" means processes, methodologies and technical and business information, including drawings, designs, formulae, flow charts, data and computer programs already owned by, or granted by third parties to a Party hereto prior to its being made available under this Agreement;

"RFP" or "Request for Proposal" means the documents containing the Technical, Functional, Commercial and Legal Specifications for the implementation of the development of ERP Project, issued in this RFP and includes the clarifications, explanations and amendments issued from time to time;

"Services" means the services to be provided by the Operator during the Maintenance Service Support phase or/and on-site EDP support more elaborately covered under the SLA;

"SLA" means Services Level Agreement which is part of this Agreement, covering the performance metrics used for measurement, credit and debit point mechanism and the mechanism linking the payment to performance/deliverables;

"Stakeholders" means JMF employees, JMF vendors/customers;

"System" means the ERP for the back-office program of JMF.

"System Integration" means the process of elaboration of the inception artefacts as contained in the RFP and related documents, construction and testing & acceptance and deployment of the System using either unified process or any other accepted and well-defined process; this would involve developing specific application software using diverse platforms, technologies, components, networks and standards.

"Training Plan" means the document agreed between the Parties identifying the number of employees of the JMF, their qualifications, training methods, training duration and method of training.

Effective date duration

The Agreement shall come in to effect upon signature by both Parties and ratification of the signatures by competent authorities. The Agreement shall remain valid and binding on the Parties until the following period

a) 48 Weeks for the Design, Development, Customisation, Implementation and deployment phase
b) 12 months warranty period from the effective sign off date and delclared GO Live of all the modules
c) 36 Months till the closure of the Maintenance service support phase or upon earlier termination in accordance with the provisions of this Agreement.

Objectives & Scope of work:

The objectives and scope of work of this project shall be as per documents containing the Technical, Functional, Commercial and Legal Specifications for the implementation of the development of ERP Project, issued in this Request for Proposal (RFP) and includes the clarifications, explanations and amendments issued from time to time;

Applicable Law

The legal provisions of the Government of India and any amendments thereof shall govern the entire Agreement. The Operator acknowledges the requirement to comply with the law and agrees to take appropriate steps to familiarize and follow the provisions as applicable in the implementation of the Project. The JMF shall assist the Operator in interpreting provisions of the law as applicable in the performance of obligations.

Language

The governing language of the Agreement shall be English. All documents submitted by the Operator to JMF under this Agreement shall be principally in English.

Performance Security

The Operator shall furnish Security Deposit and Performance Bank Guarantee in the format's (Annexure VIIIa and VIIIb) in the form of a bank guarantee. The performance guarantee shall be for an amount equivalent to **10%** of the respective bid prices. The validities of Security Deposit and performance bank guarantee shall be as per the respective bank guarantees defined in the ANNEXUREs.

Invoking Performance Securities (Security Deposit (SD) / Performance Bank Guarantee (PBG))

The Project Coordinator has the right to call the performance guarantee (SD/PBG) in case there is a material breach to the provisions of this Agreement during any phase of the Project. A material breach shall refer to a non-completion of the establishment of the ERP in conformity with the technical requirements and specifications within the period agreed to in the Project Plan. The Project Coordinator shall grant a time extension of 30 days for the fulfilment of the obligations of the Operator for the achievement of Commercial Deployment and maintenance support phase of the System, beyond which the JMF shall serve a notice to the Operator and take action to call the Performance Securities (SD/PBG).

If there are delays in the execution of the construction phase for reasons beyond the control of both parties, the Operator will be required to extend the validity of the Performance Securities (SD/PBG). The Operator agrees to extend the validity for a period of 90 days upon request from the JMF in such circumstances.

Warranty

The Operator warrants that the System developed and deployed is based on state of the art cutting edge technology wherever applicable. The Operator provides warranty for the workmanship and quality of construction guaranteeing performance in accordance with functional and technical requirements identified in the RFP. The Operator also warrants that it would

adopt best practices and industry standards while constructing the System. The Operator also is responsible to secure updates and upgrades in respect of bought out software items during the construction phase and Maintenance Service Support phase of the Project. The Operator shall procure back-to-back warranties from suppliers and ensure that JMF is mentioned as the beneficiary in the warranty terms of supply. The Operator shall make good the defects reported by the JMF in a timely manner and ensure compliance to the SLA at all times during the Maintenance Service Support phase. The Operator shall be responsible for the upkeep of all the items of supply and development irrespective of availability of back-to-back arrangements from suppliers.

Force Majeure

Neither Party to this Agreement or to the SLA shall be liable to the other for any loss or damage which may be suffered by the other due (directly) to the extent and for the duration of any cause beyond the reasonable control of the Party unable to perform ("Force Majeure") events such as but not limited to acts of God not confined to the premises of the Party claiming the Force Majeure, flood, drought, lightning or fire, earthquakes, strike, lock-outs beyond its control, labour disturbance not caused at the instance of the Party claiming Force Majeure, acts of government or other competent authority, war, terrorist activities, military operations, riots, epidemics, civil commotions etc. No failure, delay or other default of any contractor to either Party shall entitle such Party to claim Force Majeure under this Article.

Process for Force Majeure condition

The Party seeking to rely on Force Majeure shall promptly, within 2 days, notify the other Party of the occurrence of a Force Majeure event as a condition precedent to the availability of this *defence* with particulars detail in writing to the other Party and shall demonstrate that it has and is taking all reasonable measures to mitigate the events of Force Majeure.

In the event the Force Majeure substantially prevents, hinders or delays the Operator's performance of obligations necessary for the operation of ERP project's critical functions for a period in excess of 5 days, the JMF may declare that an emergency exists. The Project Coordinator will issue a notice to the Operator to resume normal services and operations within a period of seven days after return of normalcy. In the event that the Operator is not able to resume services within the next 7 days, the Project Coordinator may issue a notice to terminate the Agreement and/or obtain substitute performance from an alternate supplier. However, the event of force Majeure is to be reviewed under two categories i.e. prior to commencement of operations and post commencement of operations respectively.

Prior to commencement of operations:

If the event of Force Majeure occurs prior to commencement of operations and continues for a period in excess of ten days, then the Project Coordinator will grant a period of 7 days to the Operator to resume normal activities under this Agreement after resumption of normalcy. In case the default continues, then the Project Coordinator may discuss the issue with the Operator and revise the existing timelines for the Project. If the Operator does not complete the Project Implementation in accordance with the revised timelines after the return of normalcy, the Project Coordinator will have the option to invoke the Performance Guarantee and/or issue a notice to terminate this Agreement.

Post commencement of operations:

If the event of Force Majeure occurs, post commencement of operations and continues for a period in excess of five days, then the Project Coordinator will grant a period of 7 days to the Operator to resume normal services under this Agreement after resumption of normalcy. In case the default continues, the Project Coordinator may grant an extension of time to the Operator for rectifying the situation. However, the Project Coordinator will deduct for each day of the extension period a percentage proportionate to the number of days and the affected areas/s from the next payable Charges as per the agreed payment terms. If there is any further delay despite the extended period, the Project Coordinator will have the option to invoke the Performance Guarantee and/or issue a notice to terminate the Agreement.

All payments pursuant to termination due to Force Majeure event shall be in accordance with the Terms of Payment Schedule.

Notwithstanding the terms of this Article, the failure on the part of the Operator under the Agreement or the SLA to implement any disaster contingency planning and back-up and other data safeguards in accordance with the terms of the Agreement against natural disaster, fire, sabotage or other similar occurrence shall not be an event of force Majeure.

Confidentiality

The Project Coordinator may permit the Operator to come into possession of confidential public records as per the needs of the Project and the Operator shall maintain the highest level of secrecy, confidentiality and privacy with regard thereto. Additionally, the Operator shall keep confidential all the details and information with regard to the Project, including systems, facilities, operations, management and Maintenance Service Support of the systems/facilities. The Project Coordinator shall retain all rights to prevent, stop and if required take the necessary punitive action against the Operator regarding any forbidden disclosure. The Operator shall ensure that all its employees, agents and execute individual nondisclosure agreements, which have been duly approved by the Project Coordinator, with respect to this Project. The previously mentioned provisions shall not apply to the information:

- already in the public domain;
- which has been received from a third party who had the right to disclose the aforesaid information; and
- Disclosed to the public due to a court order.

Personnel

Personnel assigned by the Operator to perform the Services shall be employees of the Operator, and under no circumstances will such personnel be considered employees of the JMF. Operator shall have the sole responsibility for supervision and control of its personnel and for payment of such personnel's entire compensation, including salary, TA/DA to the site of assignment, withholding of income taxes and social security taxes, worker's compensation, employee and disability benefits and the like and shall be responsible for all employer obligations under all applicable laws. Operator shall use its best efforts to ensure that sufficient Operator personnel are employed to perform the Services and those personnel have appropriate qualifications to perform the Services. The Project Coordinator shall have the right to require the removal or replacement of any Operator personnel performing work under this Agreement providing reasons for his dissatisfaction. In the event that the Project Coordinator requests that any Operator personnel, be replaced which the Operator agrees, the substitution of such personnel shall be accomplished pursuant to a mutually agreed upon schedule but not later than 30 working days. In case the Operator does not agree with the replacement proposed the issue should be referred to Dispute Resolution.

The Operator shall also be responsible to train certain employees of the JMF with regard to the Services being provided by the Operator in accordance with the Training Plan during the Term of this Agreement. The Training Plan shall be developed and mutually agreed by the Parties within 90 days of the Effective Date. The parameters of the training required for these employees of the Project shall be communicated by the Project Coordinator to the Operator periodically, shall be in accordance with the latest procedures and processes available in the relevant areas of work, and included in the Training Plan. The JMF should arrange the infrastructure, support facilities and any travel required for the training of JMF (including its nominated agencies') personnel. The cost of such arrangements shall be entirely borne by the JMF. The Operator would only provide its personnel to train with necessary material for training.

In the event the Project Coordinator identifies any personnel of Operator as "Key Personnel", then the Operator shall not remove such personnel without the prior written consent of the Project Coordinator. The JMF shall make this notification of Key Personnel within 90 days of the Effective Date to the Operator.

Except as stated in this Article, nothing in this Agreement will limit the ability of the Operator to freely assign or reassign its employees; provided that Operator shall be responsible, at its expense, for transferring all appropriate knowledge from personnel being replaced to their replacements. Operator shall maintain the same standards for skills and professionalism among replacement personnel as in personnel being replaced.

Each Party shall be responsible for the performance of all its obligations under this Agreement and shall be liable for the acts and omissions of its employees and agents in connection therewith.

Sub-contractors

JMF shall not permit subcontracting of the project at any stage. The Operator shall be responsible for the development, deployment and Maintenance Service Support of the project with its own resources ONLY.

Limitation of liability

There shall be no limitation of liability in case of any damages for bodily injury (including death) and damage to real property and tangible personal property, consequent to jobs undertaken by the operator. This Agreement does not grant or create any rights, benefits, claims, obligations or causes of action in, to or on behalf of any person or entity (including any third party) other than between the respective Parties to this Agreement. Any claim or series of claims arising out or in connection with this Agreement shall be time barred and invalid if legal proceedings are not commenced by the relevant Party against the other Party within a period of 18 months from the date when the cause of action first arose or within such longer period as may be permitted by applicable law without the possibility of contractual waiver or limitation. The Project Coordinator shall be entitled to claim the remedy of specific performance under this Agreement against gross negligence and misconduct on the part of the Operator.

Operator's obligations

The scope of work of the Operator includes the construction of the ERP project to access the services provided by various internal divisions that have a functional information infrastructure. A web portal should be established which will integrate with the gateway interoperability layer. The portal will serve as the medium to present these services to users through multiple delivery mechanisms such as the internet browser, handheld and mobile devices. The Operator shall also be responsible for the migration of legacy data as per agreed timelines. The Operator agrees to make use of the existing resources of JMF to the extent feasible after evaluating their deployment potential. The operator also agrees to impart training of programming language and database to JMF's systems team during the course of ERP project.

Operator's obligations during the design, development, implementation and deployment phases are more specifically covered in the RFP and are broadly classifies as:

1. Elaboration of the inception artefacts
2. Development of necessary application components
3. Initiate/communicate for supply of software's with ERP Vendor
4. Integration and quality assurance
5. Digitization
6. Migration of Legacy data
7. Acceptance testing
8. Deployment
9. Training, handholding and documentation
10. All exceptions (more specifically mentioned in the RFP) not included in this agreement

The Operator shall ensure completion of the construction phase within the time schedule agreed (as per the agreed Project Plan attached as Schedule to this Agreement). Any delay in the deployment of the System and certification by the Project Coordinator after Acceptance Testing beyond a period of 90 days from the scheduled date shall result in an event of default. If the delay is caused solely due to the actions of the Operator then the Project Coordinator has the right to forfeit the Performance Security and issue a notice for termination. The Operator shall keep the Project Coordinator informed through written progress reports and likelihood of completion of the construction phase and the Date of Commercial Deployment. The Operator shall also be responsible for coordinating with Project Coordinator and its nominated agencies.

Operator's obligations during the maintenance support phase will include:

1. Upkeep of the entire application including hardware and software
2. Updating and up-gradation where necessary
3. Operation and Maintenance Service of the System
4. Compliance with Service Level Agreement (SLA)
5. Deployment of required personnel
6. Troubleshooting
7. All exceptions (more specifically mentioned in the RFP) not included in this agreement

Non-Exclusivity, License Fee, IPR:

JMF reserves the unrestricted right to deploy the solution developed for JMF, at other locations by utilizing the services of any other developer or agency. Except where proprietary software is used in an "off-the-shelf" condition, the Intellectual Property Rights of solution packages developed for JMF shall be vested in the organization that shall have absolute right to use

or license the system without any payment to or permission from the Operator within the organization/any other organization to any of its offices.

Software Ownership Rights:

Ownership of all artefacts (software and any custom-built applications including source codes thereof) will rest with the JMF. However, the supply of software through third parties will be governed by the individual license agreement. The operator shall relinquish to JMF the source code and the rights to the systems, programs and software developed at JMF's expense and without negotiated agreements, all ownership right to the application software procured by JMF. JMF shall own the software and would have the right to resell/implement the same with any other organization.

Patent Rights:

In the event of any claim asserted by a third party of infringement of copy right, patent, trademark or industrial design rights arising from the use of the Goods or any part thereof in India, the operator shall expeditiously extinguish such claim. If the operator fails to comply and JMF is required to pay compensation to a third party resulting from such infringement, the operator shall be responsible for the compensation including all expenses, court costs and lawyer fees. JMF will give notice to the operator of such claim, if it is made, without delay.

Data protection
In the course of providing the Services, the Operator may be compiling, processing and storing proprietary Project Data relating to JMF users.

The Operator and each user are responsible for complying with its respective obligations under the applicable data protection laws and regulations governing the Project Data.

The Operator is required to perform or adhere to only those security measures concerning the Project Data, which were in place (i) as of the Effective Date; and (ii) those made available to it in writing from time to time in accordance with the SLA.

As a processor of Project Data, the Operator will process Project Data in accordance with the Provisions of this Agreement.

The Operator shall not transfer any Project, Data across India unless otherwise authorized by the Project Coordinator, in this regard.

Upon reasonable written request from a Party to the Agreement, the other Party to the Agreement will provide the requesting Party with such information that it has regarding the Project, Data and its processing which is necessary to enable the requesting party to comply with its obligations under the applicable data protection law or regulation.

Technical Documentation

Acceptance testing & certification

The Project Coordinator will undertake an exercise of Testing, Acceptance and Certification of ERP system either directly or through a nominated qualified agency, as soon as the Operator declares the ERP system to be ready for the commercial deployment.

Operator shall coordinate with the Project Coordinator and the nominated agency for performing the acceptance testing and certification. The following methodology will be adopted for acceptance testing to be carried out for ERP solution:

The Project Coordinator will nominate a suitable neutral and technically competent agency for conducting acceptance testing and certification.

The agency will lay down a set of guidelines following internationally accepted norms and *e*-Governance Standards for the testing and certification in all aspects of project development and implementation covering software, hardware and networking including the processes relating to the design of solution architecture, design of systems and subsystems, coding, testing, business process description, documentation, version control, change management assessment, security, interoperability, scalability, availability and compliance with all the technical and functional requirements of the RFP and the agreement.

The agency nominated by the Project Coordinator for ERP project will establish appropriate processes for notifying the Operator of any deviations from the norms, standards or guidelines at the earliest instance after noticing the same to enable the operator to take corrective action. Such an involvement of and guidance by the agencies will not, however, absolve the Operator of the fundamental responsibility of designing, developing, installing, testing and commissioning the various components of the project to deliver the services.

Should acceptance tests not be concluded to the satisfaction of the Project Coordinator, the JMF shall have the right to reject the solution/ or identified faulty components in respect of which the acceptance tests are not satisfactorily concluded as provided in this section and to take remedial action including issue of notice to terminate the Agreement.

Acceptance Criteria and Certification

The primary goal of Acceptance Testing & Certification is to ensure that the project meets requirements, standards, specifications and performance prescribed JMF or external agency from time to time and shall include the

following acceptance tests, which shall be conducted by JMF team or through an external agency appointed by JMF.

Performance

Performance is a key requirement for the Project. The deployed solution is supposed to be a highly scalable solution, which is designed in a scale up/out model at each layer. This will provide the model for future growth. This test process will include the following activities:

1. Determination of performance metrics
2. Designing performance tests
3. Development of workload
4. Performance testing and sizing study
5. Identification of bottlenecks and providing solutions.
6. Determining final performance figures.
7. Communication of final results to all stakeholders

Final output of this process would be a sizing guide for the solution tested. The sizing guide will document the details of the performance tests, test data, bottlenecks identified, alternate solutions provided, and the final performance data. This document will provide the scalability data of the solution for various loads. This will become the authentic guide for future scale up/out plans of the Project.

Availability

The ERP solution should be designed to remove all single points of failure. The solution should provide the ability to recover from failures, thus protecting against many multiple component failures. This test process will include the following activities:

1. Designing tests for high availability testing
2. Execution of high-availability tests
3. Assessment of transaction/data losses in relation to Disaster Recovery system
4. Communication of final results to all stakeholders
5. High Available clustering at all App and DB server levels will be targeted at 99.90% availability.

Security

Security certification process will include:

1. Audit of Network, Server and Application security mechanisms.
2. Assessment of authentication mechanism provided in the application / components /modules
3. Assessment of data encryption mechanism.

4. Assessment of data access privileges, retention periods and archival mechanisms.
5. Final output of this process would be a comprehensive audit report including all the Network, Server and Application security features incorporated in ERP Project.

Manageability

Manageability Requirements of ERP will be tested and certified for the following:

1. Remote Monitoring of Status and Statistics of all high-level components
2. Management capability to start/ stop/ restart services & systems.
3. Auto discovery of all components manageable through SNMP
4. Auto discovery of all other system components
5. Ability to track changes in configurations of the system components to help track Service System disruptions.

Final output of this process would be a manageability compliance document for the ERP system deployed.

Project Management

The Operator shall nominate a project manager for the implementation of the Project upon signature of the Agreement. The project manager shall not be changed under normal circumstance until the successful completion of the construction phase of the Project. The Operator may choose to change the project manager for the Operation and Maintenance Support phase of the Project. Any replacement of the project manager shall be intimated to the JMF.

The project manager shall liaise with the Project Coordinator on a regular basis and shall submit monthly progress reports on achievement of milestones and progress with respect to the Project Plan. The progress reports shall highlight exceptions, deviations and any critical issues that affect the performance of Operator's obligations. The project manager and the Project Coordinator shall agree on the format and content of the progress reports and the periodicity of meetings to review progress. The Project Coordinator reserves the right to seek information from the project manager aspects of the Project at any time and the project manager shall be obliged to respond within a reasonable time.

JMF's Obligations

JMF shall provide or arrange to provide necessary consents, permits and licenses/software as required during the implementation phase and Maintenance Support phase to the Operator after the Operator duly

complies with the statutory procedures as per the legal provisions. The JMF shall make available infrastructure in terms of space, buildings, office furniture, air-conditioning, heating etc. for the Operator to carry out its obligations in respect of implementation and operation of ERP and Maintenance Support.

JMF shall make available all required information, content (electronic and non-electronic), documentation and means to access of all those information and interactive services listed in Annexure - V in order that the Operator constructs the System in accordance with the functional and technical requirements enumerated in the RFP. Failure to do so in a timely manner will not excuse the Operator from its obligations especially with respect to completing the implementation of the System in accordance with the Project Plan.

Arbitration and Dispute Resolution

In case of disagreement between the two parties, as first option, Managing Director, JMF or his nominee will be involved in arbitration and resolving of the dispute.

Any disputes on technical matters that are not resolved between the Parties satisfactorily and affecting the performance of respective obligations of the Parties shall be settled by referring to a panel of technical experts. If the parties fail to agree to the decision, both the parties can refer it to a panel of technical experts. The panel of technical experts shall be mutually agreed between the Parties. The panel should comprise of experts not belonging to either of the Parties (employees, associates or persons having commercial relationship with either of the Parties). The minimum number of experts constituted for any dispute resolution should not be less than two. The panel may comprise of experts numbering up to six. The experts shall provide their determination and award of decision within a period of 30 days from the date of referral of the dispute. If the Parties fail to agree to the decision of the experts then the dispute shall be referred to Arbitration. Except as hereinbefore provided, any dispute arising out of this Agreement, and which is not resolved by above methods, shall be referred to the arbitration of two arbitrators, one to be appointed by each party to the dispute, and in case of difference of opinion between them to an umpire appointed by the said two arbitrators before entering on the reference, and the decision of such arbitrators or umpire, as the case may be, shall be final and binding on both parties. The arbitration proceeding shall be held in Ranchi and the arbitration proceedings shall take place under the Indian Arbitration and Conciliation Act, 1996 or any subsequent amendments made thereof. The decision of the arbitration proceedings shall be binding on the Parties. Subject to the said Arbitration, the courts at Ranchi shall have exclusive Jurisdiction in the matter.

Termination and consequences of termination

Termination for default

JMF without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Tenderer, may terminate the Contract fully or in part:

- If the selected tenderer/ fails to deliver any or all Contracted services as per service standards specified in the Contract or
- If the selected tenderer/ fails to perform any other obligation(s) under the Contract, or
- If the Tenderer/selected tenderer in the judgment of Chairman, JMF, Ranchi has engaged in corrupt or fraudulent practices in competing for or in executing the Contract. In the event JMF terminates the Contract in whole or in part, the organization may procure, upon such terms and in such manner as it deems appropriate, services similar to those undelivered, and the selected tenderer shall be liable to JMF for any excess costs for such similar services. However, the tenderer shall continue performance of the Contract to the extent not terminated.

Termination for insolvency

JMF may at any time terminate the Contract by giving written notice to the selected Tenderer/ if the successful Tenderer/ becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the selected Tenderer, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the organization.

Termination for Convenience

JMF, by written notice sent to the Tenderer, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for its convenience.

Liquidated damages

Time of completion is one of the important aspects of the contract. Liquidated Damages (LD) shall be levied for delays attributable to the Bidder for delays in execution of orders. For delays attributable to the Bidder, liquidated damages for such delay shall be levied at the rate of @ 0.5% per week or part thereof on the total value of the contract as mentioned in the Price bid schedule, based on the stage of activity subject to a maximum of 5% of the total value of the contract.

For e.g., LD imposition during the development stage would be on the total value mentioned in Table-2, that towards facility management

including support and maintenance would be on the total price as mentioned in Table 3 and so on.

The liquidated damage will be recovered from any outstanding bills or amount due to the Bidder.

Prices

The JMF agrees to compensate the Operator for undertaking implementation, deployment and Maintenance support of the ERP system in accordance with the prices listed in the Schedule of Prices. Prices quoted by the Operator shall remain firm and shall not include any escalation qualifications. The prices indicated are inclusive of all taxes and duties and denominated in Indian Rupees. No adjustment to the prices is permissible during the validity of the Agreement.

Payment Schedule

The JMF shall make payments to the Operator upon achieving milestones identified in the Project Plan as per the Payment Schedule listed in ANNEXURE-IV. The Operator shall furnish invoices supported by documents and certificates from appropriate authorities signifying achievement of relevant milestones. The JMF shall make the payments to the Operator within 40 days of receipt of valid invoices with all supporting documents. In case of non-admission of invoices, the JMF shall notify the Operator within 20 days' time the details of discrepancy noted. The Operator shall correct the discrepancies, if any, within 15 days of receipt of notice and resubmit the invoice.

Project completion

The project will be deemed as completed only after:

1. The project scope and requirements are met in full and the deployment of Application software for all our relevant functions is completed in all respects as per RFP and requirement analysis, more clearly elaborated in ANNEXURE -V.

2. The data migration is complete with respect to all legacy systems to the satisfaction of the JMF.

3. One full cycle for each module is completed in LIVE environment for all relevant functions of the JMF.

4. All trainings are completed and all documentation is submitted by the operator to the satisfaction of the JMF.

5. JMF and the operator SIGN OFF after successful completion of the project and commencement of the warranty period of twelve months.

6. JMF and the operator SIGN OFF after successful completion of the warranty period of the project and commencement of Maintenance Support phase for a period of 3 years.

7. Any statutory requirements announced by Government (State/Central) during the course of implementation, warranty and AMC will be developed and deployed as a part of this contract.

Amendments

No amendment or modification of this Agreement shall be valid unless the same is made in writing by the parties or their authorized representatives and specifically stating the same to be an amendment of this Agreement. The modifications/changes shall be effective from the date on which they are made/ executed, unless otherwise agreed to. No side Agreements exist to the present Agreement.

Assignment

This Agreement shall be binding upon the parties hereto, and the successors and assigns of M/s Gemini Consulting & Services India Pvt Ltd., Bhubaneswar, and the heirs, administrators and personal representatives of JMF. No party to this agreement shall assign any of its right/obligations to any third party without the prior written consent of the other party.

IN WITNESS WHEREOF, M/s Gemini Consulting & Services India Pvt Ltd., Bhubaneswar, by its authorized representative, and JMF have executed this Agreement as of the day and year first above written.

For and on behalf of Operator   **For and on behalf of JMF**

Signature: Signature:

Name: Name:

Title: Title:

Date: Date:

ANNEXURE – X

CLARIFICATION REQUEST FORMAT (to be submitted on or before   /   /   )

Sr. No.	Title of Clause and Page No.	Clarification	Remark