

Bid Number: GEM/2022/B/2877234
Dated: 19-12-2022



Bid Document

Bid Details	
Bid End Date/Time	02-01-2023 16:00:00
Bid Opening Date/Time	02-01-2023 16:30:00
Bid Offer Validity (From End Date)	180 (Days)
Ministry/State Name	Ministry Of Agriculture And Farmers Welfare
Department Name	Department Of Agricultural Research And Education (dare)
Organisation Name	Indian Council Of Agricultural Research (icar)
Office Name	Asrb
Item Category	Manpower Outsourcing Services - Minimum wage - Skilled; Admin; Data Entry Operator , Manpower Outsourcing Services - Minimum wage - Semi-skilled; Admin; Multi-tasking Staff
Contract Period	1 Year(s)
Minimum Average Annual Turnover of the bidder (For 3 Years)	220 Lakh (s)
Years of Past Experience Required for same/similar service	3 Year (s)
Past Experience of Similar Services required	Yes
MSE Exemption for Years Of Experience and Turnover	Yes
Startup Exemption for Years Of Experience and Turnover	Yes
Document required from seller	Experience Criteria,Bidder Turnover,Certificate (Requested in ATC) *In case any bidder is seeking exemption from Experience / Turnover Criteria, the supporting documents to prove his eligibility for exemption must be uploaded for evaluation by the buyer
Bid to RA enabled	No
Type of Bid	Two Packet Bid
Time allowed for Technical Clarifications during technical evaluation	2 Days
Estimated Bid Value	22000000
Evaluation Method	Total value wise evaluation

EMD Detail

Advisory Bank	State Bank of India
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EMD Amount

215000

ePBG Detail

Advisory Bank	State Bank of India
ePBG Percentage(%)	3.00
Duration of ePBG required (Months).	14

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

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

Beneficiary:

ASRB
ASRB, krishi Anusandhan Bhawan, Pusa Campus, New Delhi - 110012
(Asrb)

Splitting

Bid splitting not applied.

MSE Purchase Preference

MSE Purchase Preference	No
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Details of the Competent Authority for MSE

Name of Competent Authority	secretary
Designation of Competent Authority	secretary
Office / Department / Division of Competent Authority	
CA Approval Number	3032
Competent Authority Approval Date	13-12-2022
Brief Description of the Approval Granted by Competent Authority	Bid is non splitable, hence no price preference can be given. Proposal approved by Head of the Department

Competent Authority Approval for not opting Micro and Small Enterprises Preference : [View Document](#)

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

If the bidder is a Startup, the bidder shall be exempted from the requirement of "Bidder Turnover" criteria and "Experience Criteria" subject to their meeting of quality and technical specifications. If the bidder is OEM of the offered products, it would be exempted from the "OEM Average Turnover" criteria also subject to meeting of

Quality and technical specifications. In case any bidder is seeking exemption from Turnover / Experience Criteria, the supporting documents to prove his eligibility for exemption must be uploaded for evaluation by the buyer.

3. The minimum average annual financial turnover of the bidder during the last three years, ending on 31st March of the previous financial year, should be as indicated above in the bid document. Documentary evidence in the form of certified Audited Balance Sheets of relevant periods or a certificate from the Chartered Accountant / Cost Accountant indicating the turnover details for the relevant period shall be uploaded with the bid. In case the date of constitution / incorporation of the bidder is less than 3-year-old, the average turnover in respect of the completed financial years after the date of constitution shall be taken into account for this criteria.

4. Years of Past Experience required: The bidder must have experience for number of years as indicated above in bid data sheet (ending month of March prior to the bid opening) of providing similar type of services to any Central / State Govt Organization / PSU / Public Listed Company. Copies of relevant contracts / orders to be uploaded along with bid in support of having provided services during each of the Financial year.

5. Estimated Bid Value indicated above is being declared solely for the purpose of guidance on EMD amount and for determining the Eligibility Criteria related to Turn Over, Past Performance and Project / Past Experience etc. This has no relevance or bearing on the price to be quoted by the bidders and is also not going to have any impact on bid participation. Also this is not going to be used as a criteria in determining reasonableness of quoted prices which would be determined by the buyer based on its own assessment of reasonableness and based on competitive prices received in Bid / RA process.

6. Past Experience of Similar Services: The Bidder must have successfully executed / completed at least one single order of 80 % of the Estimated Bid Value or 2 orders each of 50 % of the Estimated Bid Value or 3 orders each of 40 % of the Estimated Bid Value for similar service(s) in last three years to any Central / State Govt Organization / PSU / Public Listed Company. Copies of contracts / work orders and documentary evidence of successful execution / completion in support of Past Experience of Similar Services along with names, address and contact details of clients shall be uploaded with the bid for verification by the Buyer.

Additional Qualification/Data Required

Scope of work & Job description: [1671445355.pdf](#)

Buyer to upload undertaking that Minimum Wages indicated by him during Bid Creation are as per applicable Minimum Wages Act: [1671445427.pdf](#)

Pre Bid Detail(s)

Pre-Bid Date and Time	Pre-Bid Venue
26-12-2022 15:00:00	Room No. 101, Krishi Anusandhan Bhawan I, Pusa Campus, New Delhi-110012

Manpower Outsourcing Services - Minimum Wage - Skilled; Admin; Data Entry Operator (42)

Technical Specifications

Core	Specification	Values
Skill Category		
Type of Function		Skilled
List of Profiles		Admin
Educational Qualification		Data Entry Operator
Specialization		Graduate
Post Graduation		any graduate
Specialization for PG		Not Required
Experience		Not Applicable
		0 to 3 Years

Specification	Values
State	NA
Zipcode	NA
District	NA
Addon(s)	

Additional Specification Documents

Consignees/Reporting Officer

S.No.	Consignee/Reporting Officer	Address	Number of Resources to be hired	Additional Requirement
1	LAL SINGH RAWAT	110012, AGRICULTURAL SCIENTISTS RECRUITMENT BOARD, KRISHI ANUSANDHAN BHAWAN-I (KAB-I), PUSA CAMPUS, NEW DELHI-110012	42	<ul style="list-style-type: none"> • EDLI (INR per day) : 4.18 • Bonus (INR per day) : 0 • EPF Admin Charge (INR per day) : 4.18 • Optional Allowances 1 (INR per day) : 0 • Optional Allowances 2 (INR per day) : 0 • Optional Allowances 3 (INR per day) : 0 • Minimum daily wage (INR) exclusive of GST : 837 • Number of working days in a month : 26 • Provident Fund (INR per day) : 100.44 • ESI (INR per day) : 27.2 • Tenure/ Duration of Employment (in months) : 12

Empower Outsourcing Services - Minimum Wage - Semi-skilled; Admin; Multi-tasking
 Job Code: (21)

Technical Specifications

Specification	Values
Core	
Skill Category	Semi-skilled
Type of Function	Admin
List of Profiles	Multi-tasking Staff
Educational Qualification	High School
Specialization	any graduate , Not Required
Post Graduation	Not Required
Specialization for PG	Not Applicable
Experience	0 to 3 Years
State	NA
Zipcode	NA
District	NA
Addon(s)	

Additional Specification Documents

Consignees/Reporting Officer

S.No.	Consignee/Reporting Officer	Address	Number of Resources to be hired	Additional Requirement

S.No.	Consignee/Reporting Officer	Address	Number of Resources to be hired	Additional Requirement
1	LAL SINGH RAWAT	110012, AGRICULTURAL SCIENTISTS RECRUITMENT BOARD, KRISHI ANUSANDHAN BHAWAN-I (KAB-I), PUSA CAMPUS, NEW DELHI-110012	21	<ul style="list-style-type: none"> • Minimum daily wage (INR) exclusive of GST : 770 • Bonus (INR per day) : 0 • EDLI (INR per day) : 3.85 • EPF Admin Charge (INR per day) : 3.85 • Optional Allowances 1 (INR per day) : 0 • Optional Allowances 2 (INR per day) : 0 • Optional Allowances 3 (INR per day) : 0 • Number of working days in a month : 26 • Provident Fund (INR per day) : 92.4 • ESI (INR per day) : 25.02 • Tenure/ Duration of Employment (in months) : 12

Buyer Added Bid Specific Terms and Conditions

1. Generic

OPTION CLAUSE: The Purchaser reserves the right to increase or decrease the quantity to be ordered up to 25 percent of bid quantity at the time of placement of contract. The purchaser also reserves the right to increase the ordered quantity by up to 25% of the contracted quantity during the currency of the contract at the contracted rates. Bidders are bound to accept the orders accordingly.

2. Service & Support

AVAILABILITY OF OFFICE OF SERVICE PROVIDER: An office of the Service Provider must be located in the state of Consignee. DOCUMENTARY EVIDENCE TO BE SUBMITTED.

3. Forms of EMD and PBG

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

4. Forms of EMD and PBG

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

5. **Forms of EMD and PBG**

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

6. **Generic**

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

7. **Certificates**

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

8. **Buyer Added Bid Specific ATC**

Buyer uploaded ATC document [Click here to view the file.](#)

9. **Service & Support**

Escalation Matrix For Service Support : Bidder/OEM must provide Escalation Matrix of Telephone Numbers for Service Support.

10. **Service & Support**

Dedicated /toll Free Telephone No. for Service Support : BIDDER/OEM must have Dedicated/toll Free Telephone No. for Service Support.

11. **Generic**

Consortium: In case of Contracts, wherein the seller alone does not have necessary expertise, the seller can form consortium with other sellers for submission of the bid, with one of the consortium company as leader. However, each and every member of the consortium shall be equally responsible for the complete execution of the project contract. An undertaking to this effect is to be uploaded with bid.

12. **Payment**

PAYMENT OF SALARIES AND WAGES: Service Provider is required to pay Salaries / wages of contracted staff deployed at buyer location first i.e. on their own and then claim payment from Buyer alongwith all statutory documents like, PF, ESIC etc. as well as the bank statement of payment done to staff.

13. **Forms of EMD and PBG**

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

14. **Forms of EMD and PBG**

Successful Bidder can submit the Performance Security in the form of Fixed Deposit Receipt also (besides PBG which is allowed as per GeM GTC). FDR should be made out or pledged in the name of ASRB A/C

(Name of the Seller). The bank should certify on it that the deposit can be withdrawn only on the demand or with the sanction of the pledgee. For release of Security Deposit, the FDR will be released in favour of bidder by the Buyer after making endorsement on the back of the FDR duly signed and stamped along with covering letter. Successful Bidder has to upload scanned copy of the FDR document in place of PBG and has to ensure delivery of hard copy of Original FDR to the Buyer within 15 days of award of contract.

15. Generic

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

Disclaimer

The additional terms and conditions have been incorporated by the Buyer after approval of the Competent Authority in Buyer Organization, whereby Buyer organization is solely responsible for the impact of these clauses on the bidding process, its outcome, and consequences thereof including any eccentricity / restriction arising in the bidding process due to these ATCs and due to modification of technical specifications and / or terms and conditions governing the bid. Any clause(s) incorporated by the Buyer regarding following shall be treated as null and void and would not be considered as part of bid:-

1. Definition of Class I and Class II suppliers in the bid not in line with the extant Order / Office Memorandum issued by DPIIT in this regard.
2. Seeking EMD submission from bidder(s), including via Additional Terms & Conditions, in contravention to exemption provided to such sellers under GeM GTC.
3. Publishing Custom / BOQ bids for items for which regular GeM categories are available without any Category item bunched with it.
4. Creating BoQ bid for single item.
5. Mentioning specific Brand or Make or Model or Manufacturer or Dealer name.
6. Mandating submission of documents in physical form as a pre-requisite to qualify bidders.
7. Floating / creation of work contracts as Custom Bids in Services.
8. Seeking sample with bid or approval of samples during bid evaluation process.
9. Mandating foreign / international certifications even in case of existence of Indian Standards without specifying equivalent Indian Certification / standards.
10. Seeking experience from specific organization / department / institute only or from foreign / export experience.
11. Creating bid for items from irrelevant categories.
12. Incorporating any clause against the MSME policy and Preference to Make in India Policy.
13. Reference of conditions published on any external site or reference to external documents/clauses.
14. Asking for any Tender fee / Bid Participation fee / Auction fee in case of Bids / Forward Auction, as the case may be.

Further, if any seller has any objection/grievance against these additional clauses or otherwise on any aspect of this bid, they can raise their representation against the same by using the Representation window provided in the bid details field in Seller dashboard after logging in as a seller within 4 days of bid publication on GeM. Buyer is duty bound to reply to all such representations and would not be allowed to open bids if he fails to reply to such representations.

This Bid is governed by the General Terms and Conditions, conditions stipulated in Bid and Service Level Agreement specific to this Service as provided in the Marketplace. However in case if any condition specified in General Terms and Conditions is contradicted by the conditions stipulated in Service Level Agreement, then it will over ride the conditions in the General Terms and Conditions.

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

---Thank You---





सत्यमेव जयते

कृषि वैज्ञानिक चयन मंडल
कृषि अनुसन्धान एवं शिक्षा विभाग, भारत सरकार
कृषि अनुसंधान भवन-1, पुसा, नई दिल्ली-110012
AGRICULTURAL SCIENTISTS RECRUITMENT BOARD
Department of Agricultural Research and Education, Govt. of India
Krishi Anusandhan Bhavan-I, Pusa, New Delhi – 110012



SCOPE OF WORK – The services as detailed below are to be provided in the Office of ASRB located at Krishi Anusandhan Bhawan – I, Pusa Campus, New Delhi – 110012

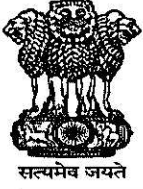
For Multi-Tasking Staff

1. General cleanliness and upkeep of the Section / Unit.
2. Carrying of files and papers within the building.
3. Physical maintenance of records of the section.
4. Photocopying of the papers / files, sending of fax etc.
5. Assisting in routine office work like diary / dispatch.
6. Delivering of Dak outside building.
7. Watch and ward duties.
8. Other non-clerical work in the Section / Unit.
9. Any other work assigned by the superior Authorities.

For Data Entry operator

1. Noting and drafting including preparing letters, Office orders, Circulars, memorandums etc.
2. Performing general Office clerical duties.
3. Typing / data entry work in both Hindi and English language.
4. The personnel deployed should be proficient in MS-Word, Excel, Powerpoint and Google spreadsheets.
5. Taking dictations and reproduction of the same as and when required.
6. Managing filing system.
7. Updating paperwork, maintaining documents and word processing.
8. Helping organize and maintain Office records.
9. Diarizing / Despatch of letters / receipts filling / docketing of paper etc.
10. Other Miscellaneous work as and when allotted by the concerned section / unit / officer.





सत्यमेव जयते

कृषि विज्ञान प्रसारण बोर्ड
कृषि विज्ञान प्रसारण बोर्ड, कृषि विज्ञान प्रसारण
कृषि विज्ञान प्रसारण बोर्ड-1, कृषि विज्ञान प्रसारण-110012
AGRICULTURAL SCIENTISTS RECRUITMENT BOARD
Department of Agricultural Research and Education, Govt. of India
Krishi Anusandhan Bhavan-I, Pusa, New Delhi - 110012



UNDERTAKING

It is certified That Minimum Wages Indicated By The Board During Bid Creation Are As Per Applicable Minimum Wages Act



BUYER ADDED BID SPECIFIC ATC

1. Only those documents which are valid on date of issuance of tender shall be considered.
2. An Office of the Service provider must be located in the state of Consignee. For the purpose of this bid, the state of consignee to be construed as Delhi/NCR. Documentary evidence to be submitted by the bidder.
3. To ensure quality of service, the list of contractual manpower proposed to be deployed by the I-1 firm shall be finalized after due scrutiny / skill assessment (based on skill, experience and nature of work) of the individuals by the Board before generating the final award letter.
4. The EPF shall be re-imbursed @ 13% of minimum wage subject to maximum of Rs 15,000/- as per EPFO Notification No. Actuarial/18(2)2008/Vol.III/7738 dated 29.08.2014.
5. The contractor / firm shall not demand any money / fee / charges / placement charges etc. over and above quoted in the bid in any form from the contractual manpower and if any information / complaint of any demand of money is received, then the same shall be treated as malpractice and the Board shall be at liberty to take appropriate action against the contractor / firm including termination / cancellation of the contract and Board will also be at liberty to forfeit the security and claim damages.
6. The Board will be at liberty to institute criminal proceedings against the owner(s) / proprietors of the agency / contractor in case the firm breaches any of the terms & conditions of the tender / involves in any malpractice / fails to abide by any laws of land as applicable.
7. The tender shall be governed by the General Terms and Conditions, Special Terms and Conditions and Miscellaneous Terms and Conditions and any other terms and conditions for services available on GeM. In case of any conflict between the Buyer's specific conditions and the conditions available on GeM, the former shall prevail.
8. The Competent Authority of the Board reserves the right to accept / reject any bid on the basis of the past performance of the firm in the Board or any other ground.
9. Although this tender is for hiring of manpower for Data Entry Operator and Multi-tasking staff, in case of exigencies or work, any other category of worker (such as driver, security etc.) may also be deployed by the buyer subject to mutual consent. Applicable wages for that category of worker so deployed (alongwith statutory dues and service charges) shall be paid by the Board.



10. Bidder shall not be banned / suspended / blacklisted by any Government / PSU / Corporate organisation or convicted in any court of law across India. A self-declaration to this effect must be uploaded in the GeM portal by the bidder.
11. The Non-blacklisting certificate and Financial standing undertaking should be dated within the bid start to bid end date.
12. The services are to be hired on annual basis and 05 working days, and as such the manpower deployed will be entitled to 08 days of casual leaves per year on pro-rata basis.
13. The contract will be initially for a period of 01 year. However, the contract may be extended subsequently, on mutual consent, and on same terms and conditions for a further period of 01 year on review of performance, depending upon the requirements and administrative conveniences of the office.
14. Bidder needs to upload a bid security declaration alongwith the bid in the format annexed, in case bidder is seeking exemption for EMD.



Format for Bid Security Declaration

To
Secretary, ASRB
Pusa Campus, New Delhi – 110012

Reference: Board's GEM tender Id Dated

Sir,

I/We , irrevocably declare as under:

1. I/We understand that, as per Clauseof Tender/bid conditions, bids must be supported by a Bid Security Declaration in lieu of Earnest Money Deposit.

2. I/We hereby accept that I/We may be disqualified from bidding for any contract with you for a period of **Two years from the date of disqualification** as may be notified by you (without prejudice to FACT's rights to claim damages or any other legal recourse), if

- a. I/We are in a breach of any of the obligations under the bid conditions,
- b. I/We have withdrawn or unilaterally modified/amended/revised, my/our Bid during the bid validity period specified in the form of Bid or extended period, if any.
- c. On acceptance of our bid by FACT, I/we failed to deposit the prescribed Security Deposit or fails to execute the agreement or fails to commence the execution of the work in accordance with the terms and conditions and within the specified time.

Signature

Name & designation of the authorized person

Date and place

(Note: In case of a Joint Venture/consortium, the Bid Security Declaration must be in the name of all partners to the Joint Venture that submits the bid)



General Terms and Conditions on GeM 4.0 (Version 1.5) dt 09th October 2022

1. Introduction

This document is an electronic record published by GeM under the provisions of the Information Technology Act, 2000 and the rules made there under (as applicable) and shall act as valid agreement between Seller / Service Provider and Buyer. Further the use of GeM Portal for Sale / Purchase of Goods / Services and the resulting Contracts shall be governed by the following **General Terms and Conditions (GTC) (unless otherwise superseded by Product / Service specific Special Terms and Conditions (STC), Product / Track / Domain Specific STC of Particular Service including its SLA (Service Level Agreement) and BID/Reverse Auction Specific Additional Terms and Conditions (ATC) as applicable).**

Government e-Marketplace (GeM) is the National Public Procurement Portal; an end- to-end online Marketplace for Central and State Government Ministries / Departments, Central & State Public Sector Undertakings (CPSUs & SPSUs), Autonomous institutions and Local bodies, for procurement of common use goods & services. The portal is owned and managed by GeM SPV which is a Section 8 (Non- Profit) Company registered under the Companies Act, 2013. GeM SPV operates, monitors and supervises all the business transactions on the portal through the Managed Service Provider as per defined roles and responsibilities.

2. General Terms and Definitions:

- a. **“APPLICABLE LAWS”** shall mean any statute, law, ordinance, notification, rule, regulation, judgment, order, decree, bye-law, approval, directive, guideline, policy or other governmental restriction as may be in effect.
- b. **“GOODS”** shall mean an Article / product or an intangible product like software, technology transfer, licenses, patents or other intellectual properties being offered for sale on the GeM portal by Seller(s) on GeM. The term ‘Goods’ shall also include works and services which are incidental or consequential to the supply of such goods, such as, transportation, insurance, installation, commissioning, training and guarantee / warrantee obligations as defined in the scope of supply given in the contract.
- c. **“SERVICES”** shall mean the services offered or provided by the Seller such as IT Professional Services, Manpower Services, Security Services, Transport Services, etc. listed as Services on GeM. The term ‘Service’ shall also include supply of goods / articles which are incidental or consequential to the provisioning of such Services as defined in the scope of supply given in the contract
- d. **“SERVICE LEVEL AGREEMENT (SLA)”** shall mean the Contractual Commitment that prevails between the Buyer and the Service Provider with regard to type of service to be provided, deliverables, desired performance level, reliability and responsiveness, monitoring process and service level

General Terms and Conditions on GeM 4.0 (Version 1.5)
dt 09th October 2022

reporting, response and issue resolution time-frame, repercussions / penalties / remedies for service provider not meeting its commitment. The SLA of a particular contract may carry the matrix regarding the delivery of the goods and/or services and the corresponding penalties or remedies and liquidated damages as applicable.

- e. **“CATEGORY SPECIFICATION”** shall mean the framework of technical features, functional capabilities, technical properties, certifications of the items etc. in a particular category. The Specifications shall identify the key parameters defining the products with all necessary validations related to configuration, type of data, restrictions, range / allowed values, allowed units etc. Sellers as well as Buyers while offering / buying the Goods / services shall have to comply with the validation rules / restrictions provided for in the Category Specification. Buyers / Sellers can not add parameters and / or drop down values not provided for in category Specification. If any Buyer / Seller desire to add new parameter, value, validation etc. against any category specification, they have to raise request for the same to GeM for incorporation in Category Specification.
- f. **“BUYER”** is the Contract placing authority, which includes Central/State Government Ministries/Departments including its attached/subordinate offices, Central/State Public Sector Units (PSUs) and Autonomous Bodies acting through its authorized officer(s) for and on behalf of President of India/Governor of the State/PSU/Autonomous Bodies, as the case may be, for purchase of Goods/Services offered by Sellers on GeM.
- g. **“SELLER / SERVICE PROVIDER”** on GeM shall mean any legal entity such as firm(s) of Proprietorship / Partnership Firm / Limited Liability Partnership / Private Limited / Limited company / Society registered under Society's Act / Statutory Bodies etc., registered on GeM to sell its Good(s) / Service(s) to the Buyers registered on GeM.

The “Seller on GeM” will be either OEM (Original Equipment Manufacturer*) or Seller having authorization to sell products manufactured by the OEM in open market or Licensed manufacturer under Drugs & Cosmetics Act, 1940.

* OEM is the owner of the Brand / Trademark of the product being offered or in case of un-registered brand's products / products with own brand, the actual manufacturer of the final product. To be recognized as an OEM on GeM, seller has to get Vendor Assessment Report from designated agency (unless exempted as per GeM VA policy) as per due process of vendor assessment notified on GeM portal (which would include production of documentary evidences and demonstration of manufacturing facilities and / or capabilities as required).

In case of Services related to Goods, Service Provider on GeM will be either OEM or Service Provider having authorization to Service products manufactured by that OEM in open market. In respect of other Services, Service Provider on GeM will be any legal entity offering its services.

General Terms and Conditions on GeM 4.0 (Version 1.5)
dt 09th October 2022

By registering on GeM portal , Seller / Service Provider hereby agrees to be bound by these General Terms and Conditions for Sale / Purchase of Goods and / or Services (GTC); Product / Service Specific Special Terms and Conditions (STC) and Service Level Agreements (SLAs) for various Services; and Additional (Bid Specific) Terms and Conditions (ATC) as applicable. For the purpose of this document and transactions on GeM, Seller as well as Service Provider will be referred to as "Seller"

- h. **"USER ID and PASSWORD"** All users including Buyers and Sellers (primary as well as secondary) will get User ID and Password created on GeM following due registration process defined on GeM. It is the responsibility of the user to keep their User ID and Password secure and confidential. Individual user shall be solely and completely responsible for all transactions taking place on GeM portal using his / her User Id and Password and GeM shall not be responsible in any manner.
- i. **"LICENSE"** shall mean by registering the Seller and by offering Product / Service details on GeM, the Seller grants GeM a non-exclusive, royalty-free, irrevocable, perpetual and fully sub-licensable right to use, reproduce, modify, adapt, publish, translate, distribute, and/or display the content/materials which has been submitted to GeM excluding Aadhaar No. In case of registration of Primary user and creation of secondary user(s) by the Buyer/Seller, their Aadhaar (UID) details collected by GeM are solely for user verification and to apply e-signing on the documents. The e-sign is at par with digital signatures as per Information Technology Act Amendment 2008 and it works based on details available in Aadhaar database of UIDAI and there is no interference / intrusion in their personal details.
- j. **"CONTRACT"** shall mean the purchase order created / issued by the Buyer on GeM for supply of Goods / Services in electronic form which includes scope of supply, delivery instructions and specifications etc. as ordered by Buyer against such Contract besides the subject GTC, STC/ATC as the case may be.
- k. **"BID SECURITY"** (also known as Earnest Money Deposit) shall mean Insurance Surety Bond, Account Payee Demand Draft, Fixed Deposit Receipt, Banker's Cheque or Bank Guarantee (**including e-Bank Guarantee**) from any of the Commercial Banks or payment online in an acceptable form as defined in the bid document, safeguarding the purchaser's interest in all respects.
- l. **"PERFORMANCE SECURITY"** shall mean Insurance Surety Bonds, Account Payee Demand Draft, Fixed Deposit Receipt from a Commercial bank, Bank Guarantee (**including e-Bank Guarantee**) from a Commercial Bank or online payment in an acceptable form as defined in the bid document safeguarding the purchaser's interest in all respects.

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3. Role, Responsibilities and Obligations of Seller/ Buyer:

A. Role and Responsibilities of Sellers on GeM are as under:

- i. Only Director (s) / Partner (s) / Proprietor (as applicable) are authorized to become Primary User and register any legal entity on GeM as Seller.
- ii. Once Seller/Service Provider is registered and account is created on GeM, the Primary user of the Seller/Service Provider can create Secondary User Accounts within Seller/Service Provider Organization with different Roles and Responsibilities. However, the Primary User creating Secondary User accounts shall continue to be fully responsible and accountable for all actions / transactions done by Secondary Users on GeM Portal.
- iii. Since GeM is a trust based Portal, the complete accuracy and integrity of data submitted in respect of the Seller and also in respect of the Goods / Services offered on GeM will be the sole responsibility of the Seller/Service Provider. Seller will be liable for administrative action as per GeM terms and conditions in case of any discrepancy / infirmity in any data / information submitted on GeM.
- iv. The Primary / Secondary Users of Sellers, offering Goods/Services and/or participating in e-Bidding / Reverse Auction on GeM, must ensure that they have the requisite authorization to enter into contract with Buyer(s) in GeM for and on behalf of the Seller, failing which such Seller as well as the individual(s) shall be vicariously liable for its actions and also for any liability arising out of such actions.
- v. Seller can offer any number of products. However, it will be the sole responsibility of the seller to satisfy themselves regarding possessing the requisites for doing business for the offered product(s). The Sellers are solely responsible for ensuring that there is no violation of any Intellectual Property Rights in their offer for sell / providing service on GeM.
- vi. The Seller should not exercise any corrupt influence on any aspect of contract and commit to take all measures necessary to prevent corruption maintaining complete transparency, integrity and fairness in all activities related to GeM.
- vii. The seller would represent its business on the GeM portal and is mandated to comply with all the terms and conditions of the platform. Sellers would be solely and absolutely responsible for the information provided about their organization, business, products and services on the portal and would be required to produce proof of such information, if requested at any point in time by the Buyer and / or GeM.
- viii. GeM would not allow creation of any fresh data related to Seller identity on GeM portal. All details provided by the Seller at the time of registration would be counter checked / verified through other data bases of Government such as PAN, MCA 21, Udyam Registration / Udyog Aadhaar (as validated by Government from time to time), etc. For Financial details, PAN / Income tax Database shall be

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primary validating database and will override any conflicting data in any other database. If the data / details entered by the seller while registering on GeM is not verified with validating databases, registration will not be allowed. Further, in case of any conflict in details after registration, Seller's registration would be automatically suspended. It is the Seller's responsibility to keep all their information on GeM updated with the latest change(s). Non-updating of details on GeM within 7 days of such occurrence would make Seller liable for administrative actions.

- ix. Eligibility of Sellers in terms of Turn Over / Past Performance / Profitability etc. and also their eligibility for availing various benefits / advantages in terms of various Govt. Policies / Guidelines / Acts / Laws etc. shall be determined solely on the basis of data fetched / validated or verified through external agency / owner of that set of database such as Income Tax / PAN Data Base, MCA 21, Udyam Registration / Udyog Aadhaar (as validated by Government from time to time), GSTN, Certifying Agencies such as BIS, BEE etc. In case of any discrepancy in data available in these databases, Seller has to get the same updated in the corresponding validating database before updating the same on GeM. Till such time only the existing validated information shall be used to decide seller's eligibility on GeM. Any default in sellers updating their data on partner sites / validating databases and any fall out of the same impacting adversely any transaction on GeM, shall entirely and exclusively be Seller's responsibility. GeM shall not be responsible for any consequential impact on any GeM transaction due to data discrepancy and / or suspension of seller account due to data discrepancy. Seller will be solely responsible for the same.
- x. The Seller shall be solely responsible for the Goods / Services including, without limitation, the applicable guarantee / warranty, shelf-life, quantity, quality and the title and for giving the correct and accurate details of the offer their Goods and / or /Services indicating product specifications, quantity which can be supplied over the specified time period, etc. as per catalogue or catalogue based template prescribed in GeM. Seller would ensure that the Goods or /Services offered are latest, new and complete in all respects. Where Seller is selling any Goods which needs spare parts, Seller should ensure and make available such spare parts for a minimum period of three years from the date of expiry of warranty period (unless otherwise specified). The individual Sellers shall ensure that the products offered in e-Bidding and/or ordered shall remain available on GeM during the bid / contract validity period.
- xi. Sellers shall offer minimum discount of 10% on the Maximum Retail Price (MRP) mandatorily (unless otherwise specified for offering their products on GeM). Sellers are free to offer higher discounts. The Seller must offer its best possible lowest price on GeM and undertake that it would not sell or offer to sell the same product outside GeM in comparable quantity on similar terms and conditions at a price equal to or lower than Offer Price on GeM. In case any such infringement by Seller is noticed, the Seller shall be liable to be removed / debarred from the GeM.

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- xii. By offering their product on GeM, the Seller agrees for sharing price details of the offered Goods / Service by GeM authorities with other Government agencies including Department of Excise & Customs, Income tax, GST etc.
- xiii. Sellers shall ensure uploading of their product / service in the correct category in all respects. Any offering of wrong and misleading product(s) or service(s) in any of the category will be removed by GeM from the portal when noticed without making any reference to the seller(s). The seller(s) will also be liable for any other Administrative action as deemed fit by GeM for uploading wrong product(s) or service(s) in any category.

If any such infringement made by Seller leads to placement of a contract by any Buyer for such inappropriately offered product(s) / service(s) by the Seller, such contract shall be treated as null and void.

No claim whatsoever against such contract shall be admissible and entertained.

- xiv. The Seller(s) shall pass on all the benefits associated with any scheme / offer / freebies provided by the OEM on any product from time to time on an "as-is basis" to the Buyer. This obligation will also apply to OEM's directly supplying the goods. Holding back any such offer or accounting such freebies in quantity supplied shall make such consignments liable to be rejected by the consignee and shall also be considered as inappropriate and against the GeM policies for which GeM reserves all rights to take necessary action against such Seller/OEM as deemed fit.

By registering on GeM and by participating in any bid on GeM, Seller undertakes that presently it is not "Debarred from Bidding" on the grounds mentioned in Rule 151 of GFR 2017.

- xvi. In case of drug manufacturer licensed under Drugs & Cosmetics Act 1940, drug manufacturers have to submit a notarized undertaking that the license for the product submitted by them has been issued under Drugs & Cosmetics Act, 1940 and is authentic and that the data of the same has been uploaded by the manufacturer on the SUGAM Portal under rule 84AB of Drugs Rules, 1945.

Only such manufacturers who have given the said undertaking as above will be considered as authentic for registration on GeM.

The said undertaking / affidavit to be submitted by the Drug Manufacturer, in prescribed form, would enable / empower Buyer / Ministry / Central Drugs Standard Control Organization (CDSCO) to initiate criminal proceedings in case of false declarations.

- xvii. By offering their product and fulfilling the basic need of regular updating of the stock on GeM as stipulated on the portal, the Seller agrees for the acceptance of the order placed through the Direct purchase and L1 purchase without any need for any acceptance or confirmation. The seller commits to hold the price and offer as valid till the date seller itself removes the product offer from GeM or

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changes the price in compliance with online price change guidelines / rule engines applicable in that category. The action as deemed fit may be initiated for the declining of the such orders as incident policy of the GeM.

B. Role and Responsibilities of Buyer on GeM:

Buyer Registration on GeM is divided in two categories:

a. Primary User: In GeM, the Primary User is as under:

- i. Any officer of Central / State Government / PSU / Autonomous Bodies / Local Bodies / Constitutional Bodies / Statuary Bodies at the level of Deputy Secretary of the Government of India or equivalent
- ii. Head of the Office at Sub Centre / Unit / Branch, can Register his / her organization / unit on GeM portal as Primary User.

Primary User shall be responsible for registering the organization on GeM, for creating User accounts for Secondary Users, assigning them roles and responsibilities on GeM and for supervision of all transactions performed by Secondary Users under him / her.

Primary User shall also be vicariously responsible for ensuring compliance of General Financial Rules and / or Rules Governing Public Procurement in respect of their organization, all GeM terms and conditions and other Procurement Policies / Guidelines notified by the government from time to time, by all the secondary users including timely payments and for dispute resolutions as per GeM terms and conditions.

Primary user cannot perform any Procurement related transactions on GeM portal.

- b. Secondary Users:** Secondary Users are officials responsible for procurement transactions on GeM including Placement of Contracts, Receipt of Stores, and Payments to the Sellers etc. The access rights permissible to registered Secondary users would be decided by the Primary User of the Department. Secondary Users may be given the roles of Buyer / Consignee / Drawing and Disbursement Office (DDO) / Paying Authority / Indentor / Technical Evaluator, etc. For transaction on GeM portal, Buyer is the official who is responsible for processing procurement transaction up to Order Placement stage. Consignee is the Secondary User in Buyer Organization responsible for certifying receipt and acceptance of the goods procured.

Buyer's responsibilities on GeM portal are as under:

- i. The Buyers are responsible to ensure that the procurement done by them are in compliance of General Financial Rules and / or Rules Governing Public Procurement in respect of their organization, all GeM terms and conditions

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and other procurement Policies / Guidelines notified by the government from time to time, including timely payments as per GeM terms and conditions.

- ii. The Buyers (in all capacities i.e. as Buyer, Consignee, DDO, Paying Authority etc) are responsible to ensure that the procurement done by them are in compliance with GeM Terms and Conditions / Guidelines and all contract related transactions are completed within time lines prescribed in GeM Contract.
- iii. The Buyers must ensure that they have the requisite authorization to enter into contract with Seller(s) on GeM for and on behalf of the organization, failing which such individual(s) shall be individually liable for its actions and also for any liability arising out of such actions.
- iv. While making procurement on GeM, the Buyers shall judiciously search and shortlist items using filters such as quantity, technical parameters, delivery period, warranty period, consignee location(s), Seller's eligibility etc. as per their approved requirements. Placement of contract for a product /service uploaded by the Seller in any wrong/inappropriate product category is strictly prohibited and such contracts shall be treated as null and void and such Buying shall adversely affect Buyer Rating on GeM.
- v. The Buyers shall satisfy themselves that the price of the selected offer is reasonable. Buyer is at liberty to utilize all the data / information and Business Analytics made available in GeM including e-bidding and reverse auction.
- vi. The Buyers, before placing the order on GeM, should have the required mandatory approval with prior sanction and approval of the competent authorities and shall be in compliance with and as per procedures outlined in GFR and other procurement guidelines issued by the Government from time to time.
- vii. On award of the Contract(s), it would be construed that the Buyer has obtained all necessary Administrative & Financial sanctions of the competent authority and adequate funds are available indicating the relevant Head of accounts in the awarded Contract(s).
- viii. The Buyers should not exercise any corrupt influence on any aspect of contract and commit to take all measures necessary to prevent corruption maintaining complete transparency and fairness in all activities related to GeM.
- ix. Buyers are not allowed to place any order at GeM prices outside GeM. The prices on GeM are only applicable if the procurement is made through GeM portal. Using GeM prices for procurement outside GeM portal is strictly prohibited. Further, Buyers are not allowed to place any off-line contract to the Seller directly based on the outcome of e-Bidding / RA conducted on GeM. All such contracts shall be treated as null and void and GeM reserves the right to delete all data related to such transactions from GeM database

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besides taking suitable actions against such Buyers including suspension from GeM and / or reduction of Buyer rating etc.

4. Enabling provisions of Rule 149 of General Financial Rules- 2017

Enabling provisions of Rule 149 of General Financial Rules- 2017 as amended vide Ministry of Finance OM dated 02.04.2019 regarding procurement through GeM and necessary guidelines and terms and conditions thereon:

GeM portal may be utilized by the Government buyers for on-line purchases as under:-

- i. Up to INR 25,000/- through any of the available suppliers on the GeM, meeting the requisite quality, specification and delivery period.
- ii. Above INR 25,000/- and up to INR 5,00,000/- through the GeM Seller having lowest price amongst the available sellers (excluding Automobiles where there is no ceiling limit), of at least three different manufacturers, on GeM, meeting the requisite quality, specification and delivery period. The tools for online bidding and online reverse auction available on GeM can be used by the Buyer if decided by the competent authority.
- iii. Above INR 5,00,000/- through the supplier having lowest price meeting the requisite quality, specification and delivery period after mandatorily obtaining bids, using online bidding or reverse auction tool provided on GeM (excluding Automobiles where there is no ceiling limit).
- iv. The Government Buyers may ascertain the reasonableness of prices before placement of order using the Business Analytics (BA) tools available on GeM including the Last Purchase Price on GeM, Department's own Last Purchase Price etc.
- v. GFR rule 149 allows direct on-line purchases on GeM up to INR 25,000/- through any of the available suppliers on the GeM, meeting the requisite quality, specification and delivery period. However, this is subject to procuring authorities certifying the reasonability of rates. While making such direct on-line purchase below INR 25,000/-, the buyer should have approval of competent authority and should also record reasons for selecting the specific product in case lowest priced products are not being accepted / ordered.
- vi. Tools have been deployed on GeM portal to show the price of compared products on other e-commerce sites (wherever available) and also the rates at which orders have been placed on GeM for such items in recent past. While taking decision on reasonableness of price, the buyers may also take into account the discount over MRP; Last Purchase Price (LPP) on GeM, Department's own Last Purchase Price; rates on other e-commerce websites etc. The prices on e-commerce site give a broad idea

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and its terms and conditions may be different. If it is found that the price available on GeM marketplace is not reasonable or is substantially higher than e-commerce sites or LPP, the GeM Portal provides tools for online bidding or reverse auction which can be used by the Buyers to get better competitive rates and then satisfy themselves about reasonableness of the price as per GFR -2017 before placement of contract. Bidding should be considered as the preferred mode of procurement above INR 25,000/-.

- vii. In case of Direct Purchase, during carting period, rates for carted quantity, for that buyer, are frozen for carting period as notified from time to time on GeM against any upward revision by seller. However, advantage of any downward revision in the offer price of carted item shall be automatically provided to the buyer.
- viii. According to the provisions of Rule 149 (ii) of GFR, 2017, GeM shall be utilized by Government buyers for direct on-line purchases above INR 25,000/- and up to INR 5,00,000/- however such purchase has to be through the Seller having the lowest price (L-1) amongst the available Sellers on the GeM. In order to ensure that buyers select only L-1 available offer, the GeM portal enables buyer to first compare all the product options available on GeM to ensure that it meets its requirements/specifications. While comparing, care should be taken by the Buyer that comparison has to be done between products of at least three different Manufacturers / OEMs. For L-1 buying, comparison has to be made between products of at least three different OEMs, as per GFR. If Buyer wants to buy any specific OEM's product then he has to go for Proprietary Article Certificate (PAC) buying after obtaining necessary approvals of competent authorities for PAC buying as per GFR-2017, as amended from time to time or the Procurement Guidelines of the respective Organisation as the case may be.
- ix. **Proprietary Article Certificate (PAC) Buying:** While making procurement under PAC Buying on GeM, it is the responsibility of the Buyer to ensure that compliances with the conditions / rules as laid down under GFR, 2017, as amended from time to time or the Procurement Guidelines of the respective Organisation, as the case may be, is met before initiating procurement under PAC:
 - (a) In case a Govt. Buyer on GeM wants to make procurement on proprietary basis on the GeM Portal after obtaining the requisite approvals / PAC certificate from their competent authority as per Rule 166 of GFR-2017 or the Procurement Guidelines of the respective Organisation, as the case may be, the Buyer can use PAC filter provided on GeM for selecting a specific model/ make available from a particular GeM Seller. The Buyer should ensure before procuring the goods under PAC Buying that the Proprietary Article Certificate as per

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the conditions laid down in GFR or the Procurement Guidelines of the respective Organisation, as the case may be, is available with the Buyer. It is the responsibility of the Buyer to ensure compliance with GFR or the Procurement Guidelines of the respective Organisation while procuring goods on proprietary basis through the GeM Portal including ensuring the certificate to be in proper format as per GFR or the Procurement Guidelines of the respective Organisation, as the case may be.

(b) The Buyer should note that the Seller's price on the Portal is just their offer prices and the proper discovery of price generally happens through bidding/RA. Moreover, in PAC procurement irrespective of multiple listing by authorised sellers, the important issue of price control remaining with the OEM should not be overlooked. Therefore, in case of all the PAC procurements, the Buyers are advised to carry out extra due diligence in establishing the reasonableness of prices before placement of contract as per Para (vii) of Rule -149 of GFR-2017 or the Procurement Guidelines of the respective Organisation, as the case may be.

(c) Except for direct buying up to INR 25,000/- subject to establishing the reasonableness of price, the bidding is mandatory for procurements above INR 25,000/- as per GFR. As result of bidding, the response could be as under:

- i. Only OEM is available or only single authorised seller is available.
- ii. OEM as well as multiple authorised Sellers are available.
- iii. Multiple authorised Sellers of the OEM are available.

(d) After bidding, under PAC buying, the Buyer may take decision with the approval of the competent authority to process the procurement subject to establishing the reasonableness of prices before placement of contract as per Para (vii) of Rule - 149 of GFR-2017 or the Procurement Guidelines of the respective Organisation, as the case may be.

- x. In order to give flexibility to the buyers in sourcing their requirements through GeM, provision has been made in e-bid and RA modules for indicating delivery period in terms of "number of days from date of placement of contract". While stipulating delivery period in their bid documents, Buyers are advised to be careful since un-realistic delivery period stipulations may result in elimination of some genuine sellers, lack of competition and may ultimately have impact on cost of procurement. While fixing delivery period in e-bid/ RA bid, buyers should not only take into consideration the quantity required and the essentiality of requirement of that quantity within stipulated

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time period but also the possible impact of shorter delivery period on competition in e-bidding / RA.

- xi. Splitting of demands by creating multiple Bids / RAs of same goods / services or making repeated procurements of same Goods / Services through L-1 buying as per rule 149(i) and 149(ii) of GFR-2017 are strictly prohibited on GeM. Splitting of demand deprives the organizations from achieving the best competitive prices leveraging economies of scale. It also implies avoiding the necessity of obtaining the sanction of higher authority required with reference to the estimated value of the total demand. It is a violation of Para Rule 149 (viii) of GFR -2017 and terms and conditions of GeM Portal and Buyer including the Primary Buyer shall be entirely responsible for the same. If any such splitting of demand is noticed, GeM shall have the right to take necessary action such as blocking of such Bids/RAs and / or cancelling such contracts.
- xii. GeM is a dynamic online marketplace. The product/service listings across the existing categories are dynamic. Moreover, new categories of products/services are continuously being added on GeM. In situations where there is only one offer available in a product/ service category and/or there is offer from only one Seller after filter based search, the buyer should not select such offer for buying. Efforts should be made by Buyer to get their past suppliers and prospective Sellers on-boarded on GeM so as to ensure availability of sufficient Sellers on GeM. This however will not apply for PAC procurement.
- xiii. **e-Bidding and Reverse Auction (RA) on GeM**
 - (a) The e-Bidding / RA module of GeM is a tool provided to the Buyer(s) for organizing bidding / RA from GeM Sellers of the particular product category for a pre-defined requirement i.e. quantity, technical parameters for Goods/ Services of the particular product category required for one or more Buyers / Consignees.
 - (b) Prior to initiating e-Bidding / RA, the Buyer shall judiciously search and shortlist item among the items offered on GeM using filters such as quantity, technical parameters, warranty period, consignee location(s) etc. as per the requirement. In case the search made using actual quantity required, fails to identify sufficient offers, the Buyer may use an indicative quantity for initial search and selection of product and quantity may be amended to match the actual requirement at the time of finalizing e-Bidding / RA.
 - (c) The technical parameters and warranty of the item identified by the Buyer shall be base parameters of the item for conducting e- Bidding / RA for the required Goods/Services.

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- (d) The e-Bidding / RA document will be finalized by the Buyer(s) by stipulating requirements such as Quantity, Consignee Details, Terms of Delivery, Delivery Period, Bid Security, Performance Security, Time & Date for Start and End of Bid Submission and for Opening of Bids and required Bid Validity period etc. GeM system shall decide Start / Reference Price and Step Value of Decrement in case of RA based on product selection and / or outcome of bidding process.
- (e) The e-Bidding / RA invitation / Notice shall be published on GEM, stipulating the last date for bid submission / opening of bids giving at least clear 10 days time after the publication. Any change in last date for bid submission will be intimated to eligible bidders through e-mail / GeM. The e-Bidding invitation shall be extended to all the registered Sellers on GeM who have Goods / Services for that particular category listed on GeM, at least 2 hours prior to closing time of e-Bidding / RA. The GeM normally requires 48 hrs for approval / rejection of the product / service offered by Sellers before it is listed on the portal. Considering these time lines, the Sellers are required to offer their Goods / Services on GeM well in advance before bid closure. The decision of the Buyer/GeM regarding technical/commercial eligibility of the individual Seller to be invited for e-Bidding / RA shall be final.
- (f) The Seller participating in the e-bidding / RA may offer any one of their product(s) already listed on GeM. The bid submitted under e-Bidding / RA shall remain valid for 15 days (or as stipulated by the Buyer in the bid document) from the Bid Opening Date (till 24.00 Hrs IST). Bid Validity can be further extended with mutual consent between Buyer and Seller. The products offered in e-Bidding / RA cannot be withdrawn by the Sellers from GeM during the bid validity period. The Buyer reserves the right to postpone/cancel the e-bidding and intimation thereof will be sent by e-mail / GeM to the Bidders. Any amendment / corrigendum to the e-bid invitation issued by the Buyer will be made online and shall be uploaded on the GeM. The participation by the Seller in e-bidding shall be construed as his / her acceptance for all the Terms and Conditions as outlined in the e-bidding including GTC, STC and ATC. However, the Buyer shall have right to decide the technical and commercial acceptability of the individual bids based on eligibility criteria and compliances as stipulated in the bid document. The technical parameters shown in the bid are from a particular catalogue as selected by the buyer while applying initial filters in selection of the product. The sellers are free to bid for same, equivalent or superior specifications catalogue / products. In the public interest, buyers will evaluate such bids based on their requirements / end use and bid parameters and will accordingly technically accept or reject the bids on merits.
- (g) In bid documents, Buyers can incorporate suitable eligibility criteria and additional terms and conditions only using various filters and ATC module

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available in e-bidding / RA modules of GeM. Buyers are not allowed to incorporate eligibility criteria and / or additional / special terms and conditions exterior to the GeM portal by making reference to any other website / documents etc.

- (h) In case, two or more acceptable bidders are found to have quoted identical lowest bid price, Buyer has to conduct Reverse Auction for the required Goods among all technically qualified bidders in case of bids for Goods. In case of Services bids, if the multiple L-1 bidders have quoted the lowest allowed price for that service, Buyer shall place the Contract by selection of a bidder amongst the L-1 bidders through a Random Algorithm executed by GeM system.
- (i) The Buyer reserves the right to accept/reject any bid including the lowest bid received through e-bid and/or annul the e- bidding process.
- (j) The participating bidders shall not disclose details of their bids or other details of their e-bids to other bidders or indulge in any anti-competitive behaviour including price manipulation in violation of Competition Act, 2002.
- (k) The Buyer/GeM will not be held responsible for consequential damages such as no internet connection, no power supply, system problems, loss of electronic information, power interruption etc.
- (l) Against any bidding or RA conducted on GeM, if a bidder quotes Nil Charges/consideration, the bid shall be treated as non- responsive and will not be considered.
- (m) There shall be no Bid Security for Bids / RA having estimated value less than INR 5 lakh. For bids / RA having estimated value more than INR 5 Lakh, while finalizing e-Bid / RA, Buyer shall indicate the exact amount of Bid Security required to be submitted by bidders. Scanned copy of the same shall be uploaded by Seller in the online bid and hard copy of the same will have to be submitted directly to the Buyer within 5 days of bid opening, failing which the bid may be treated as incomplete & may lead to rejection of the bid by buyer without making any reference to the seller.

GeM recommends quantum of Bid Security @ 1% of estimated value of procurement. The Buyer also has the option to select Bid Security between 0.5% to 5%. The same should be valid for 45 days beyond the bid validity. No interest shall be payable upon the Bid Security / EMD or any other amounts payable by the Seller to the Buyer under the Contract. Following categories of Sellers shall however, be exempted from furnishing Bid Security:

- i. Micro and Small Enterprises who are manufacturer of the Primary Product Category or Service Provider of the Primary Service Category and give specific confirmation to this effect at the time of bid submission and whose credentials are validated

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- online through Udyam Registration / Udyog Aadhaar (as validated by Government from time to time) and through uploaded supporting documents.
- ii. Start-ups as recognized by Department of Industrial Policy and Promotion (DIPP).
 - iii. KVIC, ACASH, WDO, Coir Board, TRIFED and Kendriya Bhandar.
 - iv. Sellers who have got their credentials verified through the process of Vendor Assessment by Vendor Assessment Agencies for the Primary Product / Primary Service for which Bid / RA has been invited.
 - v. Sellers/ Service Provider having annual turnover of INR 500 Crore or more.
 - vi. Micro and Small Enterprises registered with NSIC for the Primary Product Category whose credentials are validated through NSIC database and through uploaded supporting documents.
 - vii. Micro and Small Enterprises registered with DIC, for the Primary Product Category whose credentials are validated through DIC database and through uploaded supporting documents.
 - viii. Sellers / Service Providers holding BIS License for the Primary Product Category whose credentials are validated through BIS database and through uploaded supporting documents.
 - ix. Central / State PSUs.
 - x. Seller / Service Provider registered with designated Agency / Authority as specified in the bid document by the Buyer – such bidder shall have to upload scanned copy of relevant registration document in place of Bid Security document while bidding.

Note: No EMD to be taken from exempt category of sellers even by way of specific clauses mentioned in ATC / STC by the Buyers. Such clauses which are against the GeM GTC, will be treated as null and void.

- (n) Bid Security submitted by the bidder shall be forfeited, if the bidder:
- i. Withdraws or modify or impairs or derogates from the bid in any respect within the period of validity of its bid; or
 - ii. If it comes to notice that the information / documents furnished in its bid is false, misleading or forged; or
 - iii. Fails to furnish requisite performance security within stipulated time required as per e-bid / RA conditions.
- (o) Notwithstanding above, GeM SPV / GeM Admin also reserve the right to debar such seller from GeM portal. Such debarment shall be for minimum 3 months initially on first such offence and on repeat offence, the debarment period can be increased suitably by GeM SPV / GeM

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Admin. By submitting a bid on GeM, the Bidder explicitly undertakes to abide by the above clause.

- (p) Earnest money of unsuccessful bidders shall be returned within 15 days after the award of contract or expiry of bid validity, whichever is earlier. However, in case of two packet or two stage bidding, Bid securities of unsuccessful bidders during first stage i.e. technical evaluation should be returned within 15 days of declaration of result of first stage itself i.e. technical evaluation. Earnest money of successful bidder shall be returned within 15 days after receipt of Performance Security / e-PBG.
- (q) In case of RA, Start / Reference Price and Step Value of Decrement shall be indicated to the Bidders at the start of the auction. Any participating bidder can bid one or multiple Step Decrement lower than the prevailing Lowest Bid at that time.
- (r) The Bidder shall be able to view Bid Start Price, Bid Decrement Value, Prevailing Lowest Bid value and last Bid Placed by him. Whenever a lower price bid is received in the closing moment i.e. within 15 minutes of existing end time of Reverse Auction, the end time of reverse auction shall be extended automatically by another 15 minutes. All participant sellers of that RA shall be notified by the GeM system about extension of time through email and/or SMS and they shall be allowed to submit revised bid under the RA. The same process shall be repeated, if there is another lower bid received in the RA during last 15 minutes of RA.
- (s) GeM / Buyer shall not have any liability to bidders for any interruption or delay in access to the GeM site / Reverse Auction link etc, irrespective of the cause.
- (t) By creating a bid on GeM, the Buyer undertakes as under:

"I confirm that this tender document complies with the "Public Procurement (Preference to Make in India) Order, 2017, as amended from time to time" issued by DIPP and "Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012, as amended from time to time " issued by MoSME".

(u) Bid to RA:

While creating bid on GeM, Buyer shall have the provision to select Bid to RA option. If this option is selected by the Buyer at the time of bid creation, Sellers would be required to submit their Technical and Commercial bids before bid closure. After completion of technical evaluation by the Buyer, Reverse Auction would be conducted as per Bid to RA qualification rule selected by the buyer, which have been stated below:

1) Bid to RA with 50% elimination rule:

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Reverse Auction would be conducted amongst first 50% of the technically qualified bidders arranged in the order of prices from lowest to highest. Number of sellers eligible for participating in RA would be rounded off to next higher integer value if number of technically qualified bidders is odd (e.g. if 7 bids are technically qualified, then RA will be conducted amongst L-1 to L-4). In case number of technically qualified bidders are 2 or 3, RA will be between all without any elimination. If Buyer has chosen to split the bid amongst N sellers, then minimum N sellers would be taken to RA round. In case Primary products of only one OEM are left in contention for participation in RA based on lowest 50% bidders qualifying for RA, the number of sellers qualifying for RA would be increased to get at least products of one more OEM (directly participated or through its reseller) if available. Further, if bid(s) of any seller(s) eligible for MSE preference is / are coming within price band of 15% of Non MSE L-1 or if bid of any seller(s) eligible for Make in India preference is / are coming within price band of 20% of non MII L-1, then such MSE / Make in India seller shall also be allowed to participate in the RA process.

2) Bid to RA with H-1 elimination rule:

Reverse Auction would be conducted amongst all the technically qualified bidders except the Highest quoting bidder. The technically qualified Highest Quoting bidder will not be allowed to participate in RA. However, H-1 will be allowed to participate in RA in following cases:

- (a) If number of technically qualified bidders are only 2 or 3.
- (b) If Buyer has chosen to split the bid amongst N sellers, and H1 bid is coming within N.
- (c) In case Primary product of only one OEM is left in contention for participation in RA on elimination of H-1.
- (d) If L-1 is non-MSE and H-1 is eligible MSE and H-1 price is coming within price band of 15% of Non-MSE L-1.
- (e) If L-1 is non-MII and H-1 is eligible MII and H-1 price is coming within price band of 20% of Non-MII L-1

After the RA process, the award of contract(s) shall be made by the buyer keeping in view the Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012 and Public Procurement (Preference to Make-in-India) Order, 2017 as amended from time to time.

- (v) In case any Seller / Service provider has been debarred in any particular Department / Organization, Buyers of that particular Department /

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Organization only shall have the right to disqualify such Sellers / Service providers at the time of technical evaluation of Bids during the period of debarment, subject to the condition that orders of such debarment has been taken with approval of Competent Authority of that Department / Organization and has been communicated to the concerned Seller / Service Provider before bid opening date.

- (w) GeM is an end to end on-line procurement portal and not a tender publishing portal. GeM has detailed GTC, product / service specific STC and a rich ATC library in-built in the portal which can be used to create a comprehensive bid document. Based on the available terms and conditions, there is hardly any need to add any additional conditions to be attached with any GeM bid. However, for inclusion of some clause which is considered absolutely necessary for that particular bid for reasons to be explained in detail, a provision for inclusion of additional conditions in the bid through corrigendum is available in Request Management System. Only indispensable conditions that are not covered in and are not in conflict with GeM GTC, Product / Service STC and the standard ATC library, and which are in compliance with the Govt. orders on Public Procurement and are not restrictive and not against the core principals of transparency, fairness and efficiency enshrined in GeM, can be requested through RMS ATC request for making part of GeM bid through corrigendum. Each such request has to be made only after due approval of the Competent Authority in Buyer Organization confirming that the request has been made with the approval of the Competent Authority. Buyer organization shall be solely responsible for the impact of the requested clauses on the bidding process and its outcome. The clauses which are already covered in standard ATC library available on GeM Portal, will not be allowed through RMS.
- (x) Determination of eligibility in case of products requiring BIS License: In case the bid requires availability of BIS License, bidder has to upload currently valid and operative BIS License copy (Valid on the date of bid opening) to be considered eligible. Submitted BIS License may be in the name of Bidder / OEM or in the name of the Manufacturer to whom the OEM has outsourced manufacturing of his brand of product. The name of the Brand of the offered product should be mentioned in the BIS License. BIS certificate issued under Compulsory registration Scheme for electronic products to OEM/Brand owners for the products marketed under their brand name wherein their products are manufactured at third-party manufacturing unit is valid and is allowed for participation in the bids floated on GeM. The Manufacturer's Authorization in all such cases wherein the manufacturing is done by a third party shall be issued by the Brand owner / OEM and not by the third-party manufacturing unit mentioned in the BIS certificate.

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(y) **Bid Splitting:** In case of critical / vital / safety / security nature of the item, and / or large quantity under procurement and / or urgent delivery requirements and / or inadequate vendor capacity, Buyer may decide to have more than one source of supply. In such cases Buyer may opt for Bid Splitting while creating the bid on GeM, clearly indicating the Bid Splitting ratio in which order will be split among L-1, L-2, L-3 etc as per ratio of splitting pre- disclosed in the bid. After technical and financial evaluation, before splitting the quantity, it should be ensured by the Buyer that the L1 price is reasonable. After deciding the acceptable reasonable price, L1 would be awarded contract for at least the first / highest percentage indicated in the bid splitting ratio. For the rest of the bid quantity, the L-1 rates / lowest accepted rate will be counter offered to the next higher quoting bidder(s) for price matching. On acceptance of the counter offer, the order will be placed on next higher quoting bidder(s) for the respective percentage. In case of non- acceptance of the counter offer by the next higher quoting bidder(s), a similar offer shall be made to L3 and L4, and so on. In case counter offered rates are not accepted for ratio of splitting quantity as per bid document by any of the subsequent bidders, the left over quantity will be divided between bidders who have accepted the rates in the ratio of their originally allocated quantities subject to their confirmation and after getting consent on mutually agreed delivery schedule for the additional quantity.

5. Contract(s):

Following documents shall be construed to be part of the contract generated through GeM:

- i. Scope of supply including price as enumerated in the Contract Document.
- ii. General Terms and Conditions (GTC).
- iii. Product / Service specific Special Terms and Conditions (STC).
- iv. Product / Track / Domain Specific STC of Particular Service including its SLA (Service Level Agreement)
- v. Bid / RA specific Additional Terms and Conditions (ATC).

The Terms and Conditions stipulated in STC & SLA will supersede those in GTC and Terms and Conditions stipulated in ATC will supersede those in GTC and STC in case of any conflicting provisions.

6. Prices:

- i. **Offer price on GeM portal:** The prices of the offered Goods or Services shall be firm and fixed at any point of time and shall be indicated in INR

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for each accounting unit. The Seller can choose to offer Goods or Services with uniform all inclusive unit price for deliveries at locations across India on All India basis or for specified locations selected at the time of product listing. As such, for supply of Goods contract, no additional charges such as local levies / transportation / loading unloading charges etc., shall be payable over and above the contract price. For selected freight intensive products, as notified on GeM, the Seller may quote unit price inclusive of GST with delivery charge(s) (including transportation, loading unloading and local levies) payable extra as defined in the relevant categories. In respect of items requiring installation and / or commissioning and other services (as indicated in technical details of the item), the charges for the same shall also be included in the offered price on GeM.

Once a Buyer carts a particular quantity of offered Goods / Service, during carting period as notified from time to time on GeM, rates for carted quantity, for that buyer, are frozen for the period as specified on the portal against any upward revision by seller. However, advantage of any downward revision in the offer price of carted item shall be automatically provided to the buyer.

By offering their product and fulfilling the basic need of regular updating of the stock on GeM as stipulated on the portal, the Seller agrees for the acceptance of the order placed through the Direct purchase and L1 purchase without any need for any acceptance or confirmation. The seller commits to hold the price and offer as valid till the date seller itself removes the product offer from GeM or changes the price in compliance with online price change guidelines / rule engines applicable in that category. The action as deemed fit may be initiated for the declining of the such orders as incident policy of the GeM.

- ii. **Offer price in e-bidding:** Bidder is required to indicate offer price in the price schedule as provided in the bidding document. Complete breakup of price as required must be indicated. However, evaluation of the bid shall be on the basis of total all inclusive, landed price at consignee destination (unless otherwise specified in the ATC).
- iii. **Offer price in RA:** Bidder is required to indicate total offer price. Evaluation of the bid shall be on the basis of total all inclusive, landed price at consignee destination (unless otherwise specified in the ATC). Successful bidder shall have to provide complete breakup of the quoted price in the required price bid format before award of contract.
- iv. **Transaction / Annual Milestone Charge:** Sellers / Buyers will have to pay Transaction Charge and / or Annual Milestone Charge, wherever applicable, as per extant Revenue Policy of GeM.

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7. Performance Security and Performance:

- i. There shall be no Performance security requirement for contracts:
 - a) Placed under Direct Purchase / L-1 Purchase Option under Para (i) and (ii) of GFR rule 149;
 - b) Placed through Bids / RA with estimated bid value up to INR 5 Lakh (in case of Goods contracts); and
 - c) Placed through Bids / RA with estimated bid value up to INR 5 Lakh (in case of Services contracts)

- ii. In case of contracts placed following e-Bidding / RA, Performance Security valid for 2 months beyond the date of completion of all contractual obligations including warranty obligations, will be obtained from the successful Bidder, for ensuring due performance of the contract. GeM recommends quantum of Performance Security @ 2% of the value of contract. The Buyer also has the option to select Performance Security between 2% to 10%. While finalizing e- Bid / RA, Buyer shall indicate the percentage (%) of Performance Security required to be submitted by successful bidders. In case of any extension of contract obligation period, the seller shall be liable to suitably extend the validity of the Performance Security.

Such Performance Security must be submitted by Seller to the Buyer within 15 days of award of contract on GeM. The payments to the seller shall become due only after receipt of Performance Security by the Buyer and verification of its genuineness. No interest shall be payable upon the Performance Security / PBG or any other amounts payable by the Seller to the Buyer under the Contract.

If the Seller fails or neglects to observe or perform any of his obligations under the contract it shall be lawful for the Buyer to forfeit either in whole or in part, the Performance Security furnished by the Seller.

If the Seller duly performs and completes the contract in all respects the Buyer shall, refund the Performance Security, as the case may be, to the Seller within 30 days of completion of all contractual obligations by the Seller.

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8. Duties & Taxes:

- i. Offer Prices on GeM shall be on all inclusive basis i.e. including all taxes, duties, local levies / transportation / loading-unloading charges etc. In the case of Bid / RA, complete break-up of the quoted price in the required price bid format shall be furnished by the Bidder, before award of contract.
- ii. Any Statutory variation in the rate of GST, taking place between the Bid Submission by seller and Bid End Date, shall be to the Seller's account. Hence, Seller must ensure that any Statutory variation in the rate of GST till Bid End Date is duly incorporated in the bid submitted by the seller. In case seller fails to incorporate the same in bid, the seller will not be eligible for claiming any change in price due to such Statutory variation.
- iii. Statutory variation in the rate of GST, taking place between the Bid end date and the original / refixed delivery period, shall be to the Buyer's account. For claiming any change in price due to such Statutory variation, the seller shall have to lodge claim before the Buyer providing documentary evidence of change in rate of GST taking place after Bid end date and the date of supply within the original / refixed delivery period along with an undertaking that the provisions of anti-profiteering clause under GST Act have been complied with.

In respect of contracts awarded under Direct Purchase and L-1 purchase, Statutory variation taking place after date of award of contract shall only be admissible subject to submission of documentary evidence and anti profiteering compliance certificate to the Buyer. Changing Seller's offered price on GeM portal immediately after any such change in GST rates is seller's responsibility and in case of failure on part of seller, no increase shall be admissible for such changes taking place before award of contract under Direct Purchase and L-1 purchase.
- iv. No increase in price on account of statutory increase in the rate of GST taking place during the period of delivery period extension with liquidated Damages shall be admissible. Nevertheless, the Buyer shall be entitled to the benefit of any decrease in price on account of reduction in GST taking place during extended delivery period.
- v. The Bill Form / On-line invoice shall be generated by the Seller which may inter-alia include the following confirmations from the Seller:
 - a. Certified that the Goods and Services Tax (GST) charged on this Bill is not more than what is payable under the provision of the relevant Act or the Rules made there under.
 - b. Certified that the goods on which GST has been charged have not been exempted under the GST Act or the rules made there under and the

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- charges on account of GST on these goods are correct under the provisions of that Act or the Rules made there under.
- c. Certified that the Seller is registered with above indicated GSTIN as dealer in the State where in their Billing address is located for the purpose of GST.
 - d. The seller shall provide an undertaking that the provisions of anti-profiteering clause under GST Act have been complied with.
- vi. The on-line bill form / invoice generated on GeM is not a replacement for the GST invoice. The proper GST invoice as per requirements of GST rules shall be sent by the seller to the buyer / consignee directly along with the Goods / Services as and when deliveries are made to the consignee.
- vii. Seller shall comply with all the necessary statutory compliances including but not limited to providing GST invoices or other documentation as per GST Law relating to the supply of Goods or Services, uploading the details of the invoices, payment of taxes, timely filing of valid statutory returns for the tax period in the GST portal. In case the Input Tax Credit of GST is denied or demand is recovered from Buyer on account of any act/ omission of the Seller in this regard, the Seller shall be liable in respect of all claims of tax, penalty and / or interest, loss, damages, costs, expenses and liability that may arise due to such non-compliance. Buyer shall have the right to recover such amount from any payments due to the Seller or from Performance Security, or any other legal recourse from the said Seller. If any tax is required to be paid by the Seller in pursuance of any demand from tax authorities, on account of Seller's suppression of facts, fraud or willful misstatement of facts while offering the products or submitting the bids, then the same shall not be passed on to Buyer through debit notes or Invoices or Supplementary Invoices and the seller shall be solely liable for payment of the same.

9. Integrity Pact:

All the Users in GeM i.e. Seller as well as Buyer agree not to indulge in any corrupt practices including without limitation any activity or action to influence the transaction on any aspect of contract and commit to take all measures necessary to prevent corruption maintaining complete transparency and fairness in all activities related to GeM. Users agree to follow and adhere with the Integrity Pact guidelines provided on GeM Portal.

10. Guarantee and Warrantee:

- i. The Goods/Services supplied under the Contract(s) shall be in accordance with the contract specifications & quality and the Goods shall be brand new and have standard Guarantee/Warrantee for one year period

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from the date of final acceptance by the consignee unless otherwise specified in category specifications, specific Bid / RA. Seller, at the time of listing their product on GeM portal or offering their products against any Bid / RA, may accordingly provide longer Guarantee/Warranty period (i.e. more than 1 year) and in such case, Guarantee/Warranty period stipulation made in category specifications / Bid / RA document, shall prevail over standard Guarantee / Warranty period of 1 year stipulated in these General Terms and Conditions.

- ii. Notwithstanding the fact that the Buyer or its Quality Assurance Officer may have inspected and/or approved / accepted the said Goods, it is further guaranteed that if during the said guarantee / warranty period, the Goods be discovered not to conform to the requisite description and quality and/or not giving satisfactory performance or have deteriorated, and the decision of the Buyer in that behalf shall be final and binding on the Seller and the Buyer shall be entitled to call upon the Seller to rectify and/or replace the Goods or such portion thereof as is found to be defective by the Buyer within 7 days. Otherwise, the Seller shall pay to the Buyer such compensations that may arise by reasons of the warranty therein contained. In cases requiring Spares, the Seller guarantees that they will supply Spare Parts, if and when required on agreed basis for an agreed price for a minimum period of three years from the date of expiry of warranty period (unless otherwise specified in STC / ATC). The agreed basis could be, including but without any limitation, an agreed discount on the published catalogue or an agreed percentage of profit on the landed cost. The aforesaid provisions made specifically for Goods, shall also be applicable for Services to the extent the same are practically possible.

11. Buyer / Consignee's Right of Rejection (Return Policy):

- i. The Goods delivered shall bear the self certified Manufacturer's/Seller's Warranty/Guaranty. Buyer / Consignee shall have the right to inspect the supplied Goods themselves and/or through their appointed agency at consignee's own cost, at Consignee's site(s) after receipt and accept or reject on proper justification any consignment of the Goods received within a period of 10 days (unless otherwise specified in STC or ATC) of receipt of consignment of goods. The date of receipt shall be reckoned from the date of receipt of the Goods as notified in the Provisional Receipt Certificate (PRC) which will be issued online by consignee immediately after receipt of Goods.
- ii. In case of Service contract, the Buyer reserves right to reject the same in conformance with the terms and conditions of the agreed Service Level Agreement (SLA). However, such right to reject services offered by the Seller under the contract shall be exercised by the Buyer within 10 days (unless otherwise specified in STC or ATC) of the date of receipt of the

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Service. The date & time of start and completion of the Service, shall be indicated by the Seller while raising on-line invoice for a specified period of Service as per Service Level Agreement (SLA). The date of such invoice or the date of completion of the service, whichever is later shall be reckoned as date of receipt of the Service.

- iii. On Acceptance / Part Acceptance or Rejection of Goods / Services, Consignee will issue an online 'Consignee's Receipt cum Acceptance Certificate' (CRAC), which will form the basis of Payments to the Seller.
- iv. No payment shall be made for rejected goods or services. After intimation of the rejection / part rejection by the Buyer/ Consignee, the Seller shall be liable to remove / lift back such rejected Goods within 10 days without any extra charge/cost to the Buyer / Consignee failing which suitable ground rent / warehousing charges would be payable by the Seller to the Buyer /Consignee. If the Seller fails to remove / lift back such rejected Goods within reasonable time period, the Buyer / Consignee shall have the right to dispose off such rejected goods at the risk and cost of the seller.

12. Payment Authority and Payment Terms:

Payments shall be made to the Seller in the manner below:

i. For Goods:

In case of goods, 100% payment will be released within ten (10) days of issue of consignee receipt-cum-acceptance certificate (CRAC) and on-line submission of bills unless otherwise specified in STC / ATC.

ii. For Services:

In case of services, 100% payments on the basis of monthly (unless otherwise specified) bills will be paid within ten (10) days of issue of consignee receipt- cum- acceptance certificate (CRAC) and on-line submission of bills unless otherwise specified in STC / ATC.

13. Terms of Delivery:

All the Goods or Services in the GeM shall be offered on Free Delivery at Site basis including loading/unloading. In respect of items requiring installation, commissioning and other services in the scope of supply (as indicated in respective product category specification / STC / ATC), the cost of the same shall also be included in the offer price.

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14. Delivery Period

Seller shall indicate the quantity which can be supplied over the specified time period(s). The Seller would offer these details, which would constitute the part of the awarded Contract(s) in the GeM and would make a binding Contract between the Seller & the Buyer. Any modification thereto shall be mutually agreed and incorporated in the Contract. This Delivery Period/Time shall be deemed to be essence of the Contract and delivery must be completed not later than such date(s).

15. Extension of Delivery Period and Liquidated Damages:

Buyer may, on the request of the Seller or otherwise, extend the delivery date suitably subject to the following conditions:

- i. The original Delivery Period may be re-fixed by the Buyer without any Liquidated damages subject to Force Majeure conditions mentioned below and also on the ground/reasons of delay attributable to the Buyer / Consignee.
- ii. For other cases, provided the price trend is not lower, the Delivery Period may be suitably extended for which an amount equal to the Liquidated Damages for the extended period(s) for delay in the supply of the Goods/Services after the expiry of contract delivery period /re-fixed delivery period, shall be recovered from the Seller as mentioned hereinafter for the extended period. No increase in price on any ground after the original/re-fixed delivery date shall be admissible during such extended period(s). Nevertheless, the Buyer shall be entitled to the benefit of any decrease in price on account of reduction in GST taking place during extended delivery period.
- iii. **Liquidated Damages:** If the Seller/Service Provider fails to deliver any or all of the Goods/Services within the original/re-fixed delivery period(s) specified in the contract, the Buyer will be entitled to deduct/recover the Liquidated Damages for the delay, unless covered under Force Majeure conditions aforesaid, @ 0.5% of the contract value of delayed quantity per week or part of the week of delayed period as pre-estimated damages not exceeding 10% of the contract value of delayed quantity without any controversy/dispute of any sort whatsoever.
- iv. **Force Majeure Conditions:**
If at any time during the continuance of the Contract, the performance in whole or in part by either party of any obligation under this Contract shall be prevented or delayed by the reasons of any war, hostility, acts of the public enemy, epidemics, civil commotion, sabotage, fires, floods, explosion, quarantine restrictions, strikes, lockouts or act of God (but not

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including negligence or wrongdoing, predictable/seasonal rain) provided notice of happening of such event duly evidenced with documents is given by one party to the other within 10 days from the date of occurrence thereof, neither party shall be by reasons of such event, be entitled to terminate the Contract nor shall either party have any claim for damages against the other in respect of such non-performance or the delay in performance, and deliveries under the contract shall be resumed as soon as practicable after such event has come to an end or ceased to exist, and the decision of the Buyer as to whether the deliveries have been so resumed or not, shall be final and conclusive, Provided further that if the performance in whole or part of any obligation under this contract is prevented or delayed by reason of any such event for a period exceeding 90 days, either party may at its option terminate the contract provided also that the Buyer shall be at liberty to take over from the Seller at a price to be fixed by Buyer, which shall be final, all unused, undamaged and accepted material, bought out components and Goods in course of manufacture in the possession of the Seller at the time of such termination or such portion thereof as the Buyer may deem fit excepting such materials, bought out components and Goods as the Seller may with the concurrence of the Buyer elect to retain.

16. Dispute resolution between the buyer and the seller / service provider

16.1 Amicable settlement:

- i. The Parties (i.e., the Buyer and the Seller/ Service Provider) undertake that any conflict or dispute that may arise between them shall first be dealt with in the manner stated below, irrespective of any other recourse, which any Party may have in law or in equity.
- ii. In the event of any conflict or dispute arising out of or in connection with the Contract placed through GeM, the Parties shall endeavor to settle such disputes amicably. If a dispute is not resolved within 30 (thirty) days after a written notice of any dispute by one Party to the other, the same shall then be resolved through the mechanism of a Dispute Resolution Committee. This Dispute Resolution Committee shall comprise of representatives of both the Buyer and the Seller / Service Provider and shall be chaired by the Primary User of the Buyer organization/department or any other person as authorized by the Primary User. If the Dispute Resolution Committee is not able to resolve the matter within 30(thirty) days of its formation, the dispute shall then be referred to Arbitration.

16.2 Arbitration:

In the event of any conflict / dispute arising out of or in connection with the Contract placed through GeM, which has not been resolved in accordance

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with the procedure laid down in Clause 16.1 above, the aggrieved Party may invoke Arbitration by sending a written notice to the other Party. The procedure for appointment of the Arbitral Tribunal shall be as follows.

- i. In cases where the total value of the Contract is less than INR 1, 00, 00,000/- (Indian Rupees One Crore only) the same shall be referred to a sole arbitrator mutually appointed by both the Parties.
 - ii. Where the total value of the Contract exceeds INR 1,00,00,000/- (Indian Rupees One Crore only), the arbitration shall be conducted by a quorum of three arbitrators. Each party shall be entitled to appoint an arbitrator and the two party-appointed arbitrators shall within 30 (thirty) days from their nomination, appoint a third arbitrator i.e., the Presiding Arbitrator.
 - iii. In case of failure to appoint the Presiding Arbitrator within a period of 30 (thirty) days from the date of nomination of the two arbitrators by the respective parties, the aggrieved party shall approach the High Court (under whose jurisdiction the principal place of business of the Buyer department/ organization is located) to appoint the Presiding Arbitrator as per the provisions of the Arbitration and Conciliation Act, 1996 (as amended up to date).
 - iv. The arbitration shall be conducted in the English language. Arbitration proceedings can also be conducted online, as per the discretion of the Arbitral Tribunal.
 - v. The cost of the Arbitration shall be equally borne by both the Parties.
 - vi. The award of the arbitrator shall be final and binding on the Parties to the Contract. The arbitration shall be governed by the Arbitration and Conciliation Act, 1996, as amended up to date. The seat of arbitration shall be at the place where the principal place of business of the Buyer department / organization is located.
 - vii. The Contract shall be interpreted and governed in all respects in accordance with the laws of India. All disputes in connection with or arising out of the Contract, shall be subject to the exclusive jurisdiction of the Court within the local limits of whose jurisdiction principal place of business of the Buyer department / organization is located.
- 16.3** Both the Parties understand and agree that GeM being an Intermediary cannot be made a party to any dispute in connection with or arising out of the Contract and/or the arbitration proceedings between the Parties

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16.4 Where the arbitral award is for the payment of money, no interest shall be payable on whole or any part of the money for any period till the date on which the award is made.

17. Laws Governing the Contract:

- i. The contract shall be governed by the laws of India for the time being in force.
- ii. Irrespective of the place of delivery, the place of performance or the place of payment under the contract, the contract shall be deemed to have been made at the registered address of the Buyer and / or Primary Buyer.
- iii. Jurisdiction of Courts: The courts of the place from where the contract has been made shall alone have jurisdiction to decide any dispute arising out of or in respect of the contract.
- iv. GeM SPV would not be a party to any such litigation.
- v. In case any Seller / Service provider makes GeM a party / respondent in any case involving any dispute between Buyer and Seller arising out of a concluded contract or arising out of bidding process initiated / concluded by the Buyer on GeM, it would be obligatory on the part of the Buyer to represent GeM also through their Counsel / Lawyer in the proceedings before the legal authority and ensure timely filing of replies / affidavits etc provided by GeM also through their Counsel / Lawyer before the concerned legal authority during the course of litigation. A standard reply on behalf of GeM, covering following aspects shall be incorporated in all replies / affidavits filed by the Buyer in such cases:

“Government e-Marketplace is a National Public Procurement Portal; an end-to-end online Marketplace for Central and State Government Ministries / Departments, Central & State Public Sector Undertakings (CPSUs & SPSUs), Autonomous institutions and Local bodies, for procurement of common use goods & services. Prima facie, the dispute in the present case appears to be between the Buyer and Seller arising out a contract placed / bid created by the Buyer on Government e-Marketplace. As per Clause 16, Clause 17 and Clause 22 of the General Terms and Conditions of Government e-Marketplace (duly accepted by the Buyer and Seller), GeM is not to be made a party to any dispute between the Buyer and the Seller. As such Government e-Marketplace is liable to be deleted from the array of parties.

In light of the above, we request your goodself to kindly delete Government e-Marketplace from the array of parties.”

18. Limitation of Liability:

Notwithstanding anything contained in this agreement, no party will be liable for any special, incidental or consequential damages arising out of or in connection with this agreement or any breach hereof (including for loss of data

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or profits, or cost of cover), whether or not such party has been advised of the possibility of such damages, and whether under a theory of contract, tort (including negligence) or otherwise; except for liabilities arising out of any violation, misappropriation or infringement of a party's intellectual property rights, or from a breach by either party of its obligation. In no event will either party's aggregate liability arising out of or in connection with this agreement or any breach hereof (whether under a theory of contract, tort (including negligence), warranty or otherwise) exceed the Contract Price entered into the Contract between Buyer and Seller.

19. Termination for Default:

If the Seller does not perform its obligations within the Delivery Period/Date mentioned in the Contract, the same would constitute the breach of the Contract and the Buyer shall have the right to Cancel or withdraw the Contract for the unsupplied portion after the expiry of the original or re-fixed delivery date or period stipulated in the Contract. Such cancellation of contract on account of non - performance by the Seller would entitle the Buyer to forfeit the performance security besides other actions such as downgrading the Seller's rating or debarment from the GeM for specified period as decided by GeM on merits.

20. Closure of Transaction:

After satisfactory completion of all the obligations under the Contract and release of payments for the goods / services, the transaction shall be treated as closed.

21. Grounds for Administrative Action

- i) Administrative actions may be taken by GeM against the Buyer or the Seller either suo-moto on the basis of the platform mechanisms identified through analytics or on the basis of a complaint or report made to GeM by any stakeholders or any third party information or upon Court order, inter - alia, for non-adherence to the GeM Website Policies including Terms and Conditions and the Incident Management Policy published on the GeM Website.
- ii) The Seller would be liable for administrative actions such as suspension / debarment / removal from GeM, if they fail to abide by any of the Website Policies including the terms & conditions stipulated in this document and/or on anyone or more of the following grounds:
 - (a) Listing the products/services not in the relevant categories and/or listing the same with vague/conflicting product specifications/details and irrelevant product photographs.

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- (b) Offering Goods / Services without having proper authorization
 - (c) Supplies goods of inferior/ substandard quality
 - (d) Supplies or offers to supply refurbished or counterfeit or fake products
 - (e) Withdraws or modify or impairs or derogates from the bid in any respect within the period of validity of its bid;
 - (f) Seller furnishes inaccurate, false, misleading or forged or fails to furnish any information / documents, within the prescribed time limits, to GeM or to a Buyer, including during e-Bidding/ RA process;
 - (g) Fails to furnish requisite performance security within stipulated time required as per e-bid / RA conditions;
 - (h) Fails to update GeM about any change in information furnished within the prescribed time limits;
 - (i) Executes services without conforming to requirement given in Service Level Agreement (SLA);
 - (j) Fails to execute an order/ contract or fail to execute it satisfactorily
 - (k) Is declared bankrupt or insolvent;
 - (l) Fails to produce the requisite documents/ information during the course of inspection / assessment at any stage;
 - (m) Performs any activity which is listed as prohibited activities on GeM.
 - (n) On any other ground for which, in the opinion of GeM, the retention of the seller or any of its offered product in GeM is not in Public Interest.
 - (o) The grounds mentioned above are illustrative only. Users are also advised to read the list of prohibited activities published on the website.
- iii) Notwithstanding anything contained in the GTC, GeM reserves the right to cancel or annul the registration of any Seller or remove any of the Good/Services listed by a Seller on the GeM Website to comply with any provision of the Applicable Laws and / or Court Orders.
- iv) GeM may take an administrative action in terms of the GeM Website Policies against a Buyer which may include reporting of any breach or misconduct to the Buyer Primary User and/or to the competent authority and GeM reserves the right to review the rating of such Buyer, and / or block Buyer's account for such time as considered appropriate by GeM.
- v) The Seller and the Buyer understands that the grounds for administrative action as provided under the Contract are only

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indicative and additional grounds may be provided under the GeM Website Policies including the Incident Management policy. The Seller/ Buyer warrants to abide by all additional grounds as may be specified by GeM in the GeM Website Policies from time to time.

22. Role of Government E- Marketplace - Gem SPV

Government e-Marketplace – GeM SPV is the owner of the GeM portal which monitors and supervises all the business transactions on the portal. The role and responsibilities of the company are as under:

- 22.1 To develop, operate and maintain technology driven e-marketplace, through a Managed Service Provider (MSP), to be used by government agencies for procurement of various goods and services in a transparent and efficient manner.
- 22.2 Overall supervision and monitoring of GeM portal operations, policy management, finalization and implementation of various business processes and work flows in adherence with the applicable law and executive orders issued from time to time . To provide tools for on-line Bidding, on-line Reverse Auction and Business Analytics Tools on GeM.
- 22.3 To work continuously for improvements in the Business Processes and Work Flows for various activities / functions on GeM based on feedback from various stakeholders to enhance transparency, efficiency, competitiveness, equality, economy in procurement of goods and services by government agencies.
- 22.4 To finalize General Terms and Conditions for sale and purchase of Goods and Services on GeM, Product / Service Specific Special Terms and Conditions, Special Terms and Conditions for Bunching of Goods / Services, Bid Specific Special Conditions, Project Specific Special Conditions etc.
- 22.5 To finalize, upload and approve Technical Specification Frameworks for various item / service categories on GeM and to monitor conformity of offered products to the larger framework so finalized and uploaded.
- 22.6 To decide addition / deletion of any of the offered product(s)/Product category (ies) and their framework of technical parameters on GeM.
- 22.7 To work and co-ordinate with different Organizations/Departments / Agencies for integration of their Databases with the GeM portal on real time basis for the purpose of verification/authentication of data entries made by stakeholders.

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- 22.8 To offer and manage Demand Aggregation services for identified categories across buyers with assured reasonability of price, recommending for placement of orders by individual buyers
- 22.9 To co-ordinate with MSP for conducting workshops for the various Stakeholders in capacity building and in change management associated with the implementation of technology enabled procurement process.
- 22.10 To monitor MSP that the Buyers, Sellers and Service Providers are being assisted properly by them to onboard their goods and services on the GeM platform.
- 22.11 To identify and offer services of 3rd parties for Vendor Assessment relating to technical, financial capacity, past experience of sellers including manufacturing / testing facilities / quality control arrangement(s) of manufacturing premises and/or any of the premises related to manufacturing process of products / services offered by the seller / service provider on GeM.
- 22.12 To identify and offer services of 3rd parties for testing and certifying the quality of the product offered/ supplied, through documents, test reports/ certificates, testing at any independent lab or through inspection/testing by its authorized representative/s at firm's premises or at user's premises, that buyer choose to use.
- 22.13 Overall monitoring and management of Call Centre/Help desk operations being provided by the MSP.
- 22.14 Removal / debarring the Sellers/Buyers and Goods / services in GeM.
- 22.15 Management of complaints and their redressal mechanism in GeM (not disputes related to concluded contracts).
- 22.16 To identify, integrate and manage MoUs with verifying, certifying and validating entities across government(s) and also professional agencies to reinforce the online paperless, contactless and cashless system on GeM.
- 22.17 To issue Notices, Circulars, News, Flashes, Updates etc in GeM
- 22.18 Reporting and MIS mechanism in GeM
- 22.19 Any other related activities in the GeM
- 22.20 In exceptional circumstances, for ensuring propriety of procurement processes or to obviate possible misuse of GeM functionalities, GeM SPV as GeM Admin may keep any Bidding / RA process on hold for some time as considered appropriate.
- 22.21 To take approved User Charges from Buyers and Sellers for the various transactions on the GeM portal as decided and notified on the GeM portal.

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23. Miscellaneous Provisions

- 23.1 Assignment:** Users understand and agree, that the GTC, STC and ATC provisions, rights and obligations granted by GeM are non-transferrable or assignable by the User to any third party, without the prior written consent of GeM.

If same is permitted by GeM, all the conditions, rights and obligations of the GTC or any on-going STC/ATC shall also be binding upon such third party assignee besides the User.

- 23.2 Indemnification:** The Seller shall at all time indemnify Buyer against all suits and claims which may be made in respect of the goods/services for infringement of any right protected by patent, registration of designs or trade mark. Provided always that in the event of any claim and suit in respect of alleged breach of patent, registered designs or trade-mark being made against the Buyer, the Buyer shall notify the Seller/ Service Provider of the same who shall at its own expense either settle any such dispute or conduct and litigation that may arise there from.

Buyers and Sellers agree to indemnify, defend and hold harmless GeM, its officials, Managed Service Provider (herein after individually and collectively referred to as "indemnified parties") from and against any and all losses, liabilities, claims, suits, proceedings, penalties, interests, damages, demands, costs and expenses (including legal and other statutory fees and disbursements in connection therewith and interest chargeable thereon) asserted against or incurred by the indemnified parties that arise out of, result from, or in connection with

- 23.2.1 Breach of the contract(s); or
- 23.2.2 Any claims made by any third party due to, or arising out of, or in connection with, use of the Website; or
- 23.2.3 Any claim made by any third party regarding content/ information or materials provided by Seller cause any damage to a third party; or arising out of, or in connection with, use of the Website.
- 23.2.4 Violation of any intellectual property rights or any other rights.

Once GeM notifies the Buyer/ Seller of such claims, they shall defend and indemnify GeM for the same. Further, in no case they shall compromise or settle any claim or admit any liability on the part of GeM without the express or prior written consent of GeM which can be withheld

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or denied or modified by GeM in its sole discretion or as per the Applicable Laws.

23.3 Severability: If due to any change in Applicable laws, certain part of the GTC or any applicable STC or any provisions of the GeM policies or portions thereof, becomes unenforceable, the remaining provisions shall continue in full force and effect so as to give effect to the intent of the parties.

23.4 Website Terms and Policies Updation: Buyers and Sellers are advised to check the website terms and conditions as well as policies such as Privacy Policy and the Website Disclaimer at all times, as GeM may update the Website and such terms from time to time.

23.5 List of Prohibitive Activities (Suggestive and Non-Exhaustive):

LIST OF PROHIBITIVE ACTIVITIES: The following is an indicative list of prohibitive activities which the Buyers and the Sellers registered on GeM platform shall not perform on the GeM platform. A breach of any of the prohibited activities shall give the right to GeM under the Applicable Laws or in terms of these GTC or the GeM Website Policies to take administrative action which may include partial or permanent disabling of account on GeM Website, debarment etc. Additionally, GeM may remove any non-compliant information and reserves the right to preserve and share with the appropriate authority such information and associated records for investigation purposes. The Buyer and the Seller understand that this list is only indicative and additional activities may be prohibited under the GeM Website Policies. The Buyers and the Sellers shall undertake to provide their full support that may be required by GeM for removal and disabling of the non compliant information. The prohibited activities include:

- (i) Indulging in cyber crime or other criminal activities which can become a threat to GeM, GeM Website, to the Government of India or to any State Government or Government Agency.
- (ii) Advertising, exhibiting, representing, publishing, pronouncing, listing, delivering, offering to sell or selling any kind of Goods/Services which can cause any kind of infringement or disparagement of intellectual property rights.
- (iii) Selling refurbished, counterfeit and/or fake Goods / Services under a brand or misusing others brand name.
- (iv) Offering to sell or selling above the MRP any Goods or misrepresenting the MRP.
- (v) Delivering some other Goods or Services instead of the Goods or Services Contracted for or delivering empty parcels or used Goods in breach of the terms of the Contract.
- (vi) Offering to sell or selling freebies which are 'Not for sale' Goods.

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- (vii) Listing of the Goods on GeM Website without authorization to sell Goods manufactured by the OEM in open market or without proper authorisation, if any required, for providing the Service.
- (viii) Listing of the Goods or Services is done on GeM Website without guarantee/warranty or without a genuine guarantee/warranty.
- (ix) Listing of the Goods or Services in irrelevant or inappropriate categories or with vague or conflicting specifications or description (including descriptive or pictorial description).
- (x) The Buyer /Seller registering on GeM and/or offering or buying the Goods and/or Services and/or participating in e-bidding/reverse auction on GeM, without the requisite authorization to enter into contract on behalf of the concerned legal entity. Failing which such individual(s) shall be individually liable for its actions and also for any liability arising out of such actions.
- (xi) If any Seller has been debarred from GeM then such Seller or their authorized sellers shall also not be permitted to register and offer/sell their products on GeM and / or participate in Bids / RA on GeM.
- (xii) Using GeM prices for making procurement outside GeM Portal.
- (xiii) Splitting of demands by creating multiple Bids/RAs of same goods / services or making repeated procurements of same goods/services through Direct Purchase / L-1 buying as per rule 149(i) and 9(ii) of GFR- 2017.
- (xiv) Uploading goods / services containing information that —
 - (a) belongs to another person and to which the user does not have any right to;
 - (b) is grossly harmful, harassing, blasphemous, defamatory, obscene, pornographic, paedophilic, libellous, invasive of another's privacy, hateful, or racially, ethnically objectionable, disparaging, relating or encouraging money laundering or gambling, or otherwise unlawful in any manner whatever;
 - (c) harm minors in any way;
 - (d) infringes any patent, trademark, copyright or other proprietary rights;
 - (e) violates any law for the time being in force;
 - (f) deceives or misleads the addressee about the origin of such messages or communicates any information which is grossly offensive or menacing in nature;
 - (g) impersonate another person;

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- (h) contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer resource;
- (xv) threatens the unity, integrity, defence, security or sovereignty of India, friendly relations with foreign states, or public order or causes incitement to the commission of any cognizable offence or prevents investigation of any offence or is insulting any other nation.
- (xvi) Achieving or trying to achieve illegal access to features on GeM Website not specifically authorised or exceeding the scope of authorized access to or other features of the GeM Website;
- (xvii) Obstructing or causing GeM to lose (in whole or in part) the services provided by any internet service provider ("ISPs") or carrying out any cyber security incident;
- (xviii) Sending unsolicited emails, bulk messaging, auto messaging, junk email, spam and like.

24. Incident management Policy on GeM:

GeM is a trust based system and self- declaration is the key, along with a strong automated process to penalize any deviant behaviour on part of Sellers / Buyers. For this purpose, deviations from the terms and conditions of procurement on GeM, including general terms and conditions, special and additional terms and conditions and any other relevant Government rules and guidelines, are termed as "deviation". A deviation can occur while listing the products on GeM, at pre- contract stage, during bidding or at post contract stage on GeM. The mechanism for reporting and initiating action on such deviation has been detailed in the Incident Management Policy available on GeM portal under Resources. All stakeholders of GeM shall be bound by the actions as detailed in the Incident Management Policy.

All administrative actions under this Incident management Policy, taken by GeM against any of the stakeholders shall not cause any limitation on the legal and/or contractual remedies including any financial recoveries, available to Buyers/Sellers under the Terms and Conditions of contract and/or GeM policies. In case the Buyer / Seller choose to pursue any of these remedies, GeM shall not be made party to such proceedings / remedial actions taken by Buyer/Seller under the contractual provisions.

If any individual has registered multiple proprietorship concerns as separate seller entities on GeM under different business names (with same PAN), all such Seller entities would be equally impacted by the action taken against any one of such entities for his default / deviation under incident management policy.

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All the allied firms, as per definition of DOE's OM number F.1/20/2018-PPD dated 02/Nov/2021, will be equally impacted by the action taken against any one of such entities for the default / deviation under Incident Management Policy.

Following is the definition of allied firms:

All concerns which come within the sphere of effective influence of the debarred firms shall be treated as allied firms. In determining this, the following factors may be taken into consideration:

- a. Whether the management is common.
- b. Majority interest in the management is held by the partners or directors of banned/
suspended firm.
- c. Substantial or majority shares are owned by the banned/ suspended firm and by virtue of this it has a controlling voice.
- d. Directly or indirectly controls or is controlled by or is under common control with another bidder.
- e. All successor firms will also be considered as allied firms.

25. Use of Aadhaar Number in GeM:

Purpose of the Aadhaar authentication in GeM is to identify the user using eKYC. GeM has provisioned the option for Sellers and Buyers to provide virtual Aadhaar ID instead Aadhaar number. GeM receives First Name, Last Name, Mobile Number, Email ID, DOB and Gender details. It is used to link the mobile number with the user who is registering on GeM; on which subsequently OTP is sent for achieving the property of non-repudiation in different artefacts / documents generated on GeM. GeM has provisioned an alternative Identity Information option through PAN based verification to Sellers.

26. Compliance of Restrictions under Rule 144 (xi) of GFR 2017:

Restrictions on procurement from a bidder of a country which shares a land border with India

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- I. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority.
- II. "Bidder" (Seller / Service Provider) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
- III. "Bidder from a country which shares a land border with India" for the purpose of this Order means: -
 - a. An entity incorporated, established, or registered in such a country; or
 - b. A subsidiary of an entity incorporated, established, or registered in such a country; or
 - c. An entity substantially controlled through entities incorporated, established, or registered in such a country; or
 - d. An entity whose beneficial owner is situated in such a country; or
 - e. An Indian (or other) agent of such an entity; or
 - f. A natural person who is a citizen of such a country; or
 - g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above
- IV. The beneficial owner for the purpose of (iii) above will be as under:
 1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means. Explanation—
 - a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five per cent. of shares or capital or profits of the company;
 - b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
 2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;

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3. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

V. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.

VI. The successful bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority.

Any false declaration and non-compliance of the above would be a ground for immediate termination of the contract and further legal action in accordance with the laws.

27: Caution Money Deposit:

- (i) All sellers on GeM are required to deposit a one-time amount as under as caution money:
 1. Seller Turnover less than 1 Crore: INR 5,000/-
 2. Seller Turn over > 1 Crore but < 10 Crore: INR 10,000/-
 3. Seller Turn over > 10 Crore: INR 25,000/-
- (ii) The above caution money shall remain at the disposal of GeM SPV. This can be forfeited in part or in full (as per approval of CEO (GeM)) in following circumstances:
 - (a) Failure of the seller in executing any GeM contract or if the Seller fails or neglects to observe or perform any of his obligations under the contract (applicable only in respect of contracts that did not have provision of Performance Security).
 - (b) Withdraws any bid submitted on GeM within the period of validity of the bid.

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- (c) Fails to furnish requisite performance security as per GeM e-bid / RA conditions.
- (iii) In case the Caution Money of any seller is forfeited in full or part and his caution money deposit goes below the threshold indicated in para 1 above, the seller account shall be put on hold till the seller re-coups the caution Money account to required value. Seller's stock will become zero for all categories and seller will not be allowed to update anything till the caution money is topped up to minimum required amount.
- (iv) Forfeiture of caution money as per above shall be over and above any other actions taken against such sellers as per GeM Incident Management Policy and shall be without any prejudice to the rights and remedies available to GeM and / or Buyer as per provisions of the relevant contracts.

28: CMS 3.0 and OEM - Reseller responsibility matrix:

GeM has implemented enhanced Catalogue Management System (CMS 3.0) on GeM Portal. The Primary Objective of CMS 3.0 is to offer higher level of ownership & accountability to OEMs & its approved Resellers while maintaining Efficiency, Transparency & Inclusiveness of GeM. Complete and detailed Obligations and Privileges matrix of the different stakeholders in different quadrants is given in CMS document available on GeM Portal and OEMs and Resellers are bound to operate on GeM in compliance with the CMS document as updated from time to time.

1. **CMS Quadrant 1 (CMS Q1):** Product offers in categories under Q1 will be solely offered by GeM validated OEMs. OEM shall be exclusively responsible for maintaining currency and sanity of catalogue and its offer in the Market Place. OEM shall be absolutely and exclusively responsible and be legally liable for sanity and quality of offers including Warranty and After Sales Service obligations.
2. **CMS Quadrant 2 (CMS Q2):** OEMs as well as pre-Authorized Resellers can offer products in Q2. OEMs shall operate Market Place subject to providing its complete list of Open market authorized sellers along with formal commitment to list and maintain all appropriate and current Product Catalogue for pairing by its Resellers. OEM shall be absolutely and exclusively responsible and be legally liable for sanity and quality of catalogues including Warranty and After Sales Service obligations. Authorize Resellers shall be responsible for Pairing their offer with the already existing Product Catalogue created by the OEM. However, resellers can Update their Offer Price, Stock and Delivery Locations solely at their own discretion and shall be solely responsible for the same.

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3. **CMS Quadrant 3 (CMS Q3):** Catalogue creation in categories under Q3 can be from OEMs and/or their Authorized Resellers concurrently. In case OEM has not created Product Catalogue, Authorized Resellers of OEMs are also permitted to do the same. However, OEM (when registered on GeM and taken OEM Dashboard) shall be responsible for Validating & verifying the Catalogue uploaded by Reseller, Maintaining the Catalogue by adding/updating the Specifications, MRP etc. specific to catalogue. OEM shall also assume all responsibility and legal liability for sanity and quality of offers including Warranty and After Sales Service obligations. However, resellers can Update their Offer Price, Stock and Delivery Locations solely at their own discretion and shall be solely responsible for the same.
4. **CMS Quadrant 4 (CMS Q4):** Catalogue creation in categories under Q4 can be done by OEMs as well as by any Reseller also. However, OEM (when registered on GeM and taken OEM Dashboard) shall be responsible for Validating & verifying the Catalogue uploaded by Reseller, Maintaining the Catalogue by adding/updating the Specifications, MRP etc. specific to catalogue. However, there is no requirement of any endorsement or authorization of the reseller by the OEM. Resellers can Update their Offer Price, Stock and Delivery Locations solely at their own discretion and shall be solely responsible for the same. Reseller will also be responsible for providing Replacement Warranty in case of Q4 products and Buyer shall not be required to take up with OEM for any warranty claims.
5. **CMS (Special Category):** The Special Category is a specialized segment outside the four quadrants for select few categories that require a customized behavior such as Self-Help Groups (SHG) categories.

In Q3 and Q4, in case of re-sellers, if the reseller has not been approved as an authorized re-seller by the OEM on GeM, the re-seller is required to give an undertaking as under while uploading the product, while accepting any order and while participating in any bid:

“I hereby undertake that I have made arrangements for getting the stores from authorized distributor / dealer / channel partner of the OEM of the offered product. At the time of delivery of goods, I will provide necessary chain documents to prove that the supplied goods are genuine and are being sourced from authorized distributor / dealer / channel partner of the OEM. In case of any complaint from the Buyer / Consignee about genuineness of the supplied products, I shall be responsible for providing genuine replacement supplies.”

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By uploading any product on GeM or accepting any order on GeM or by participating in any bid on GeM, the re-seller is deemed to have given above undertaking and is liable for compliance of the same.

Further in view of the on-line verification of Seller credentials by the OEM on GeM platform, there is no need for Buyer to ask for or insist on furnishing of OEM authorization in bids in respect of "OEM verified Catalogue" offered by "OEM Verified Reseller". OEM authorization is also not required to be sought and checked by Buyers in case of bids for products in Q1 or Q2.

29: One Bid per Bidder

A Bidder shall submit only one bid in a particular bidding process (unless otherwise allowed in the bid STC / ATC conditions). In case of a holding company having more than one independent manufacturing units or more than one unit having common business ownership / management, only one unit should quote. Similar restrictions shall apply to closely related sister companies. Bidder's sister/ Associated/ Allied concern(s) participating or applying against the same tender, shall lead to disqualification of Bidders. Sister/ Associated/ Allied concern means a company, society, partnership firm or proprietorship firm having one or more common persons as Director/ Partner/ Member/ Owner. A Bidder who submits more than one bid will cause all the proposals submitted in the particular bid to be disqualified. In relation to the above, a person will include firm(s) of Proprietorship / Partnership Firm / Limited Liability Partnership / Private Limited / Limited company / Society registered under Society's Act / Statutory Bodies / any other legal entity, as the case maybe, & will be deemed to have submitted multiple bids in a particular bid if a person bids in any of the two formats given below:

- i. individual or proprietorship format and/or
- ii. a partnership or association of persons format and/or
- iii. a company format

Whereby,

- A company shall for this purpose include any artificial person whether constituted under the Indian laws or of any other country.
- A person shall be deemed to have bid in a partnership format or in association of persons format if he is a partner of the firm which has submitted the bid or is a member of any association of persons which has submitted a bid.
- A person shall be deemed to have bid in a company format if the person holds:
 - i. more than 10% (ten percent) of the voting share capital of the company which has submitted a bid, or

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- ii. is a director and / or Key Managerial Personnel of the company which has submitted a bid, or
- iii. holds more than 10%-(ten percent)-of voting share capital in and/or is a director and / or Key Managerial Personnel of a holding company of that company which has submitted the bid.

By making a bid pursuant to the Tender Documents, the bidder / tenderer shall be deemed to have declared that the bidder / tenderer has not made any other bid or multiple bids as understood or deemed in terms of this clause.

All the bids of a bidder who has submitted multiple bids, as per the clause, shall be rejected and Bid Security for all such bids shall be forfeited, not by way of penalty or liquidated damages but by way of reimbursement of the pre-estimated costs likely to be incurred by the buyer towards bidding process and in the scrutiny & evaluation of bids.

In addition to the above, bidders found to be in contravention, to the said clause will be liable for administrative actions.

30: Push Button Procurement (PBP)

In line with Department of Expenditure OM No. F.6/7/2022-PPD dated 6th September, 2022, "Push Button Procurement (PBP)" for small value procurements will be available on GeM with the following conditions:

- a. PBP will be made only through bidding (PBP through Direct Purchase, L-1, Custom bid, etc. are not permitted).
- b. The total procurement value of the specific case is not to exceed INR 1,00,000 /- (inclusive of all taxes).
- c. PBP will be additional method of procurement and procuring entities are free to use or not to use this additional method of procurement.
- d. PBP method can be used only in case at least five bids are received. In case of less than five bids are received, the procurement is to restart using usual procurement method.
- e. Buyer is to ensure that no splitting of requirement is being done so as to bring procurement under PBP method.
- f. Once PBP bid is invited, contract will be placed directly without any human intervention (provided condition (d) above is complied).
- g. PBP will be permitted only for such categories, where at least ten sources are listed.

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Push button procurement process is very simple and user friendly and mostly automated.

A) Buyer PB procurement:

- i. Buyer will select a product from marketplace, do 3 OEM comparison etc. just as they do in any normal L-1 purchase.
- ii. Thereafter instead of directly placing order on the L-1, the buyer will create a Push Button Procurement Notice by selecting the L-1 product which is otherwise eligible for L-1 purchase.
- iii. Clicking on "Create PBP Notice" will give an option to Buyer to decrease the quantity and delivery period at consignee level. This is enabled for Buyers to seek quotations for lower delivery periods and quantity lower than Minimum Order Quantity (MOQ) otherwise offered by the sellers in marketplace.
- iv. Per unit L-1 price will be set as ceiling price for that PBP Notice.

B) PBP Notice content and validations:

- i. The PBP Notice will contain all biddable specification parameters as per GeM category definition [excluding the text input parameters] of the product chosen by Buyer, Consignee-wise Quantity and Consignee-wise Delivery Period.
- ii. Bunching of items is not allowed in PBP Notices.
- iii. The estimated all-inclusive bid value should be less than or equal to Rs 1,00,000 based on the system identified L-1 price estimation for the quantity to be procured.
- iv. PBP Notice will include ONLY GeM GTC and category specific Special Terms and Conditions (STC), integrity pact, land border sharing countries declaration etc. Buyer is not allowed to push any new specification parameter or any Additional T&C.
- v. PBP Notice have participation time of 3 days and offer validity of 10 days.

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C) Seller participation:

- i. PBP notices is published on GeM portal under a separate tab for anyone to see.
- ii. All sellers/service providers can view the PBP Notices created for their category in their dashboard.
- iii. By participating in PBP, Sellers unconditionally accept the GTC and STC, integrity pact, price declaration and other conditions part of the PBP Notice floated before participation.
- iv. Sellers will offer their matching product and price against the PBP Notice by clicking on "Offer Price" and submission of price and compliance of T&C. This offer price will be applicable only for that PBP Notice.
- v. Seller/Service Provider can participate in a PBP Process only once and there is no option to withdraw.
- vi. PBP participation will be without EMD and against Bid Securing Declaration only.
- vii. Per unit price to be entered by the seller will have to be less than the L-1 price set as ceiling price in PBP Notice.

D) Procurement Decision:

- i. System/Buyer will open offers after PBP end date and time.
- ii. System will check if offers are received from at least 5 sellers offering products of at least three different OEMS and total L1 value is less than or equal to 1,00,000.
- iii. Buyer will not get any access to see list of participating bidders or Seller details.
- iv. If all conditions as defined above are satisfied, system will automatically prompt Buyer to create order on L1 by providing details related to financial approval, paying authority and payment mode etc. as applicable to buyer.

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- v. In case of multiple L1 System would place order on seller with maximum Seller Rating on GeM
- vi. If adequate number of offers are not received or total L1 value is more than 1,00,000 system will cancel the PBP Notice. A message will be displayed to the buyer stating - Due to insufficient participation in the PBP, you cannot create an order against this PBP. You may go ahead and procure L1 in marketplace through L-1 Purchase after Comparing and verifying price reasonableness or create a regular bid / RA to get better response
- vii. System will not allow same buyer to use PBP to BUY SAME ITEM in case of failure of the PBP for next 30 days.
- viii. System generated contract will have complete specification of the product offered by seller, Consignee-wise Quantity, Consignee-wise Delivery Period and GeM GTC and category specific STC etc.

*****END OF DOCUMENT*****



Service Level Agreement

Manpower Outsourcing Services – Minimum Wage Based

1 Agreement Overview

This is a Service Level Agreement (“SLA” or “Agreement”) between the Buyer and Manpower Hiring Agency/Service Provider. The purpose of this Agreement is to facilitate implementation of Manpower Hiring Service at the Buyer’s premises, or any other premises approved by the Buyer. This Agreement outlines the scope of work, Buyer’s obligations, special terms and conditions related to service delivery and payment of services. The Agreement remains valid till completion of scope of services or end of contractual duration (whichever is earlier) unless mutually extended by both the parties. The Services contracts placed through GeM shall be governed by following set of Terms and Conditions:

I. General terms and conditions for Services; (“GTC”)

II. Service Specific Standard Terms and Conditions (“STC”) of the Services contracts shall include the service level agreement (SLA) for the service.

III. BID/ Reverse Auction specific Additional Terms & Conditions (ATC) as specified by the buyer.

The above terms and conditions are in reverse order of precedence i.e., ATC shall supersede Service specific STC which shall supersede GTC, whenever there are any conflicting provisions. The above set of terms and conditions along with the scope of work and SLA as enumerated in this document shall be construed to be part of the Contract/Agreement between the Buyer and Service Provider.

2 Objectives and Goals

The objective of this Agreement is to ensure that all the commitments and obligations are in place to ensure consistent delivery of services to Buyer by Service Provider. The goals of this agreement are to:

I. Provide clear reference to service ownership, accountability, roles and responsibilities of both parties

II. Present a clear, concise, and measurable description of services offered to the Buyer

III. Establish terms and conditions for all the involved stakeholders, it also includes the actions to be taken in case of failure to comply with conditions specified

IV. To ensure that both the parties understand the consequences in case of termination of services due to any of the stated reasons

This Agreement will act as a reference document that both the parties have understood the above-mentioned terms and conditions and have agreed to comply by the same.

3 Parties to the Agreement

The main stakeholders associated with this agreement are below-

1. Buyer: Buyer is responsible to provide clear instructions, approvals and timely payments for the services availed

2. Service Provider: Service provider is responsible to provide all the required services in timely manner. Service provider may also include seller, any authorized agents, permitted assignees, successors and nominees as described in the agreement. The responsibilities and obligations of the stakeholders have been outlined in this document. The document also encompasses service level/ deductions in case of non-adherence to the defined terms and conditions.

4 Terms & Conditions:

4.1 Buyer’s Obligations:

i. The Buyer shall provide workspace (seating area, work desk, furniture etc.) for the manpower hired through Service Provider, the Buyer shall also arrange necessary gate/ entry pass to Buyer's premise/ designated premise for the manpower.

ii. Working shifts (includes day and night shift) if any, and daily working hours shall be mutually agreed upon between Buyer and Service Provider and should follow all the labor laws.

iii. The Buyer shall directly or in consultation with the Service Provider provide the necessary training to the manpower for Buyer specific tools, applications, and machinery etc., if required.

iv. The Buyer shall provide, free of charge unimpeded access to all the infrastructure which is required to perform the Service. It may include use of stationery, printer, electricity, internet, Buyer specific servers, data drives, tools, and software etc. However, use of such infrastructure shall be limited for official purpose only.

v. The Buyer shall make necessary arrangements for use of basic facilities like water pots/ machines, cafeteria, washrooms etc for manpower working at Buyer's premise/ designated premise.

vi. TA/ DA shall be payable directly by the Buyer, in case of travel included in the scope of work, on production of travel documents in original and approval of appropriate authority of the Buyer for undertaking such travel for the project/assignment.

vii. In case of services hired on annual basis and 5 working days, the manpower will be entitled to 08 days of casual leaves per year on pro-rata basis and in case of 6 working days, the manpower will be entitled to 15 days casual leave per year on pro-rata basis. Beyond specified leaves as applicable, leave will be treated as leave without pay (LWP) for which necessary deduction

will be made by the Buyer in the amount billed by the Service Provider, if no replacement of manpower is provided.

viii. The Buyer shall have the right, within reason, to have any personnel removed who is undesirable with proper reasoning & justification.

ix. The Buyer will have option to replace the proposed manpower in case of non-performance, non-delivery or in any other exceptional case, however replacement of the manpower will be in same category with same degree of skills, educational qualification, and number of years of experience, also prior approval for the same to be provided by the Buyer.

x. In case if the Buyer has selected the option in the bid for retention of existing resource/resources of previous service provider, then service provider shall retain those resources. In such cases, the Buyer shall be responsible for ensuring the qualification eligibility of those resources as per the contract requirement. Any extra costs incurred by Service provider for onboarding those resources on their payroll shall be borne by Service Provider. Service Provider shall include any such costs in the service charges quoted by them during the bid participation.

4.2 Service Provider's Obligations:

i. The Service Provider would be required to provide sufficient and qualified manpower, capable of supporting the functioning of the project/department in a manner desired by the Buyer. Any mismatch in demand and supply of the manpower such as number of employees, educational qualification, sectoral/ desired work experience etc. may lead to deductions and/or replacement of the resource with the matching skillset based on the approval from buyer.

ii. Service Provider shall adhere to the timeline given by Buyer for providing the required manpower on Buyer's premise/ designated premise.

iii. The Service Provider shall not assign its rights or obligations under this Contract, in whole or in part, nor enter any subcontract to perform any portion of this Contract, without the written consent of the Buyer. The Service Provider shall be responsible and liable to deliver the services as per the contract.

iv. The Service Provider shall be required to keep the Buyer updated about the change of address, change of the Management etc. from time to time.

v. The Service Provider shall provide the documentary proof for the qualifications and experience of the manpower deployed by them. The biodata/ resume, qualification and experience of the said manpower should be verified/certified by the Service Provider. In case any of such document is found to be false at any stage, it would be deemed to be a breach of terms of contract making the Service Provider liable for legal action.

vi. The Service Provider shall be responsible for police verification, character, and antecedents' verification of the manpower. The same may be verified by the Buyer at the time of joining of the manpower, if he/she so desires.

vii. The manpower provided by the Service Provider shall not be deemed employees of the Buyer department hence the compliance of the applicable acts/ laws will be the sole responsibility of the Service Provider.

viii. The Service Provider shall furnish the following documents in respect of the manpower deployed by them to Buyer's premise/ designated premise in the given time limit:

a. List of persons deployed (monthly)

b. Biodata/ resume with antecedents' details (at the time of deployment)

c. Copy of Aadhaar Card of the candidates (at the time of deployment)

d. Identity Cards issued by Service Provider bearing photograph (within 8 days of joining)

e. Identity proof and residential proof (at the time of deployment)

f. Copy of police verification certificate (at the time of deployment)

g. Copy of birth certificate, if required (at the time of deployment - for domicile purpose)

ix. The Service Provider shall nominate a coordinator/ Single Point of Contact (SPOC) who shall be responsible for regular interaction with the Buyer Department so that optimal services of the persons deployed could be availed without any disruption.

x. The attendance of the manpower shall be entered in the register provided by the Service Provider and/or in the Aadhaar based Biometric attendance system at the Buyer's premises.

xi. All selected manpower shall wear Identity Card provided by the Service Provider every day during working hours.

xii. The Service Provider shall issue the letter of deployment to every deployed manpower and a copy of same shall be submitted to Buyer.

xiii. In an event of deployed manpower availing leave, and if required by Buyer, suitable substitute(s) shall be provided by Service Provider as per mutual understanding with Buyer. Service Provider shall communicate the same to buyer in advance.

xiv. In case of any resource permanently leaving the organization or taking leave for a longer duration, service provider shall communicate the same to buyer at least 1 month prior to the last working day of a resources. Suitable substitute(s) shall be provided by Service Provider as per mutual understanding with buyer.

xv. The Service Provider shall be responsible for any act of indiscipline on the part of the persons deployed.

xvi. The Service Provider shall ensure that all the relevant licenses/ registrations/ permissions which may be required for providing the services under this Agreement are valid during the entire period of the Agreement; failing which the Buyer can take appropriate action including imposition of deductions and termination of contract. The documents relevant in this regard shall be provided by the Service Provider to the Buyer on demand.

- xvii. In case of continuous work (24 hours or more than 26 days in a month), Service Provider shall be responsible to change the shift and manpower in compliance with the labor laws.
- xviii. The persons deployed by the Service Provider shall not claim nor shall be entitled to pay, perks and other facilities admissible to regular/ confirmed employees during the currency or after expiry of the Agreement.
- xix. No medical facilities or reimbursement or any sort of medical claims thereof in respect of employees provided by the Service Provider will be entertained by the Buyer.
- xx. The persons deployed shall treat as confidential all data and information received from the Buyer and obtained in the execution of its responsibilities under this Contract/ Agreement, in strict confidence and will not reveal such information to any other party including the Service Provider without the prior written approval of the Buyer. In view of this, the persons deployed shall be required to sign a non-disclosure agreement and breach of the same shall make the Service Provider as well as the person deployed liable for penal action under the applicable laws besides, action for breach of contract and termination of contract.
- xxi. For all intents and purposes, the Service Provider shall be the "Employer" within the meaning of different Rules & Acts in respect of manpower so deployed. The persons deployed by the Service Provider shall not have any claim whatsoever like employer and employee relationship against the Buyer.
- xxii. No deployed manpower shall be allowed to stay in the Buyer's premise/ designated premise unnecessarily after working hours without Buyer's permission.
- xxiii. Any damages/ losses caused by deployed manpower shall be borne by the Service Provider. The Buyer Department shall not be responsible for any financial loss or any injury to any person deployed by the Service Provider during their performing the functions/duties, or for payment towards any compensation.
- xxiv. The Service Provider shall be solely responsible for the redressal of grievances/ resolution of disputes relating to persons deployed. The Buyer shall, in no way be responsible for settlement of such issues whatsoever.
- xxv. The Service Provider shall be responsible for timely payment of take-home remuneration to the manpower and deposit of EPF and ESI (both employee and employer share), failing which deductions shall be made by buyer.
- xxvi. The Service Provider shall maintain all statutory registers under the Law and shall produce the same, on demand, to the Buyer Department or any other authority under Law.
- xxvii. The Service Provider shall ensure regular payment to the deployed manpower to their entitlements like monthly salaries wages etc. and submit the documentary proof of the salary paid as per the terms and conditions of the contract. Bill for the subsequent month will be paid only after submission of certificate of disbursement of wages of previous month.
- xxviii. The wages of every person deployed upon or in any establishment upon or in which less than one thousand persons are employed, shall be paid before expiry of the seventh day after the last day wage-period in respect of which the wages are payable. In any other establishment, wages of every person employed shall be paid before expiry of tenth day after last day wage-period. Payment of salary/ wages to the employees shall be made in their bank accounts only, no cash or kind payment shall be made.
- xxix. The Service Provider shall furnish statement of amount paid for the month to the manpower deployed along with Transaction Details and Bank account from which the payment has been made. Service Provider shall furnish copy of bank statement in support of amount paid as and when required by Buyer.
- xxx. The Service Provider shall also deposit EPF and ESI of both employer and employee share within 15th day of the month of payment of wages.
- xxxi. The Service Provider shall submit before the Buyer Department, one copy of the return within 7 days from the date of filing of monthly/ quarterly/ half yearly/ annual return if any before the EPF and ESI authorities.
- xxxii. All applicable taxes and duties other than mentioned in the contract document, shall be payable by the Service Provider and the Buyer shall not entertain any claims whatsoever with respect to the same.
- xxxiii. The Service Provider, at all times, will ensure that the services being provided under this Contract/Agreement are performed strictly in accordance with all applicable laws, order, byelaws, regulations, notifications, guidelines, rules, standard recommended practices etc. and no liability in this regard will be attached to the Buyer.

4.3 Special Terms & Conditions:

- i. The Buyer will in no way be responsible for the violation of any rules and/or infringement of any other laws from the time being in force, either by the manpower or by the Service Provider. The manpower as well as the Service Provider shall comply with the relevant rules and regulations applicable at present and as may be enforced from time to time, for which the Buyer will not be liable or responsible in any manner. The onus of compliance to all the applicable laws/acts/rules etc. shall only rest with the Service Provider. An indicative list of central labor laws is provided under Annexure 1.
- ii. The cost of services quoted by the Service Provider shall cover all aspects of service delivery and include all the components of salary/ wages (minimum wage, insurance, PF, ESI etc.) and taxes, as applicable.
- iii. No advance payment shall be made to the Service Provider.
- iv. Payment shall be made once the services are delivered, and the Service Provider submits the invoice for the same.
- v. The Buyer shall make the payment within prescribed timelines as per the payment process flow upon submission of invoice logbook, and service feedback.

- vi. Payment shall be made only after submission of invoices, attendance sheet, logbook, service feedback, documentary proof for PF/ESI/EDLI etc. payments. Non-submission of the same may lead to delay/ deduction in payment.
- vii. All the deductions (if applicable) shall be settled before making the payments. Service Provider shall not have any objection on the same.
- viii. Payment to the manpower resources by the service provider shall be made through bank transfer only, in no circumstance cashpayment shall be made.
- ix. In case of any changes in the minimum wages or any statutory wage component as per the Applicable Laws during the Contract period, the Buyer shall pay the Service Provider the differential amount in wage. It is clarified that such increase in the wages will not have any impact on the service charges. The total value of the service charge to be paid by the buyer to service provider shall remain same as per the original contract value.
- x. Service provider will submit the invoice & upload the supporting documents such as attendance sheet, logbook etc. on GeV portal
- xi. Buyer will review the documents provided by service provider & may either accept or reject based on actual performance. If required, buyer may impose any non-delivery deductions, SLA deductions, over & above the invoice submitted by service provider.

5 Deductions

Deductions can be imposed by the Buyer for the following:

S. No.	Description	Deductions 1st Instance	2nd Instance	3rd Instance
1	Non-deployment of total manpower mentioned in the contract as per the date of joining	Up to 15 Days, 1 day wages of the resources which are not deployed, per day. Beyond 15 days cancellation of the contract with cancellation charges @ 10% of the order value.		
2	If employee is found disclosing any confidential information/ document to the Service Provider/ any third parties	Cancellation of the contract with cancellation charges @ 10% of the order value along with recovery of losses caused (if any) and legal action against the Service Provider depending on the gravity of the act	-	-
3	If the employee is found responsible for any theft, loss of material/ articles and damages	Payment in actuals, equivalent to the value of the article theft/ lost/ damaged within the period prescribed by the Buyer. Replacement of employee within 2 days.	Payment in actuals, equivalent to the value of the article theft/ lost/ damaged within the period prescribed by the buyer. Replacement of employee within 2 days/ cancellation of contract as decided by the buyer depending on the gravity of the act.	Cancellation of the contract with cancellation charges @ 10% of the order value
4	If the employee is found responsible for disobedience/ misconduct	Warning/ counselling of employee as decided by the Buyer depending on the gravity of the act	Warning/ counselling/ Immediate replacement of employee within 2 days as decided by the Buyer and Warning to Service Provider depending on the gravity of the act	Cancellation of the contract with cancellation charges @ 10% of the order value
5	If the employee is absent or takes leave for more than 2 days without informing buyer or taking prior approval without substitute being provided by the service provider.	Substitute within 2 days of intimation from buyer failing which, up to 15 days, 1 day wages of absent resource/s per day. Beyond 15 days, cancellation of the contract with cancellation charges @ 10% of the order value	Substitute within 2 days of intimation from buyer failing which, up to 15 days, 2 day wages of absent resource/s per day. Beyond 15 days, cancellation of the contract with cancellation charges @ 10% of the order value	Cancellation of the contract with cancellation charges @ 10% of the order value

No.	Description	1st Instance	2nd Instance	3rd Instance
6	If the employee is found responsible for adopting illegal and foul methods or exercising any corrupt practice in collusion with any third party or officials at the workplace	Immediate replacement within 2 days/ cancellation of the contract with cancellation charges @ 10%, as decided by the buyer depending on the gravity of the act.	Cancellation of the contract with cancellation charges @ 10% of the order value	-
7	Delay in payments of take-home remuneration by the Service Provider and deposit of EPF and ESI (both employee and employer share)	Rs. 100 per day per resource, warning to Service Provider to deposit the said amount within 7 working days	Rs. 200 per day per resource, hold on all type of payments to Service Provider till the said amount is deposited to respective stakeholders and proof of same is submitted to Buyer	Cancellation of the contract with cancellation charges @ 10% of the order value

6 Payment Terms

- The Payment procedure as specified in the General Terms and Conditions (GTC) of GeM will be applicable.
- Payment schedule to be as per payment terms specified in bid document/ATC by the buyer.

7 Undertaking

The Service Provider hereby undertakes not to charge any money/fees/ deductions in whatever manner, name or form, or take any monetary/non-monetary considerations, or make any unlawful deductions from the compensation/salary of the manpower/employees/resources engaged by it and, to be deployed at the Buyer's site. The Service Provider further agrees that it will not indulge in any unethical practices and acknowledges that any non-compliance of the aforesaid undertaking will be treated as a material breach of the Contract, in which case the Buyer and GeM shall have the right to take appropriate independent actions including termination of the Contract and actions as per GeM Incident Management Policy.

8 Formula Used

8.1 Cumulative Cost (Daily): -

$$“d” = “bp” + “esi” + “pf” + “edli” + “bonus” + “admin” + “nm1” + “nm2” + “nm3”$$

Where,

“bp” = Basic dailywage (INR) exclusive of GST

“pf” = Provident Fund (INR Daily)

“edli” = EDLI (INR Daily)

“esi” = ESI (INR Daily)

“bonus” = Bonus (INR Daily)

“admin” = EPF Admin Charge (INR Daily)

“nm1” = Optional Allowance 1 (INR Daily)

“nm2” = Optional Allowance 2 (INR Daily)

“nm3” = Optional Allowance 3 (INR Daily)

“m” = Cumulative Cost (INR Daily)

8.2 Total: -

$$“tcv” = (d * 1.18 + d * sc / 100) * nd * t * q$$

Where

“tcv” = Total Contract Value

“d” = Cumulative Cost (Daily) as calculated in 10.1 above

“sc” = Service Charge in %age, as quoted by service provider

“nd” = No. of working days in a month

“t” = Tenure for which service is required (In no. of months)

“q” = Quantity (No. of resources required by buyer)

1. The Minimum Wages Act, 1948
2. The Payment of Wages Act, 1936
3. The Payment of Bonus Act, 1965
4. The Equal Remuneration Act, 1976
5. The Trade Unions Act, 1926
6. The Industrial Employment (Standing Orders) Act, 1946.
7. The Industrial Disputes Act, 1947
8. The Weekly Holidays Act, 1942
9. The Factories Act, 1948
10. The Plantation Labour Act, 1951
11. The Mines Act, 1952
12. The Building and Other Constructions Workers' (Regulation of Employment and Conditions of Service) Act, 1996
13. The Motor Transport Workers Act, 1961
14. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966
15. The Contract Labour (Regulation and Abolition) Act, 1970.
16. The Bonded Labour System (Abolition) Act, 1976
17. The Sales Promotion Employees (Conditions of Service) Act, 1976
18. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
19. The Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981
20. The Dock Workers (Safety, Health and Welfare) Act, 1986
21. The Child Labour (Prohibition and Regulation) Act, 1986
22. The Working Journalists and Other Newspapers Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955
23. The Working Journalists (Fixation of rates of Wages) Act, 1958
24. The Employees' Compensation Act, 1923
25. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
26. The Employees' State Insurance Act, 1948
27. The Maternity Benefit Act, 1961
28. The Payment of Gratuity Act, 1972
29. The Unorganized Workers' Social Security Act, 2008
30. The Building and Other Construction Workers Cess Act, 1996
31. The Mica Mines Labour Welfare Fund Act, 1946
32. The Cine Workers Welfare (Cess) Act, 1981
33. The Cine Workers Welfare Fund Act, 1981
34. The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972
35. The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare (Cess) Act, 1976
36. The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976
37. The Beedi Workers Welfare Cess Act, 1976
38. The Beedi Workers Welfare Fund Act, 1976
39. The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988
40. The Employment Exchange (Compulsory Notification of Vacancies) Act, 1959