



बैंक ऑफ महाराष्ट्र
Bank of Maharashtra

भारत सरकार का उद्यम

एक परिवार एक बैंक

REQUEST FOR PROPOSAL (RFP)

RFP Ref No. : BOM/FM&A/SONC/1/2018-19

June 20, 2018

SELECTION OF INVESTMENT/ MERCHANT BANKERS FOR EMPANELMENT FOR SALE OF NON CORE INVESTMENTS (DIVESTMENT)



INDEX

Sr.	Contents	Page no.
-	Letter of Invitation	3
1	Terms of RFP Response	4
2	Context	6
3	Scope of Work	7
4	Eligibility Criteria For Applicants For Empanelment	8
5	Submission Of Proposal	9
6	Time Lines And Evaluation Criteria For Empanelment	11
8	General Terms & Conditions	13
9	Annexures	26

Abbreviation & Definition

The Bank / Bank / BOM	Bank of Maharashtra
Bid / Application/ Expression of Interest	An offer made to BOM in response to the RFP document
Bidder / Applicant /Consultant	Investment Banker /Merchant Bankers submitting response to RFP for empanelment
RFP or RFP document or Tender	Request for Proposal document for Expression of Interest including all appendices, annexures and addendum, if any
Transaction / Divestment	sale and transfer of the shares (together with rights, title, interest and benefits appertaining thereto) held by the Bank in a Company or a Corporate in compliance with the applicable laws and rules
Strategic Investment' / Investment / Non-Core Investment	The investment(s) in such company (ies) that shall be identified by Bank for selling its partial/ full existing equity stake
SEBI	Securities and Exchange Board of India



LETTER OF INVITATION

Dear Sir,

1. Bank of Maharashtra intends to sale it's some of the non-core / strategic investments and invites proposal from interested Applicants (Investment/ Merchant Bankers) fulfilling eligibility criteria for empanelment.
2. These empanelled Investment/Merchant Bankers will be eligible to participate in bidding process/ quote to act as Investment/ Merchant Banker for which bid / quotes will be called by the Bank for sale of non-core/ strategic Investment identified by Bank for sale.
3. The proposal shall be submitted latest by **05:00 PM** on **July 12, 2018** to below mentioned address in hard copies in original, duly signed by the authorized officer of the Investment/ Merchant Banker through post or by hand deliveries.

**Dy. General Manager,
FM&A,
Bank of Maharashtra,
Head Office, 1
501, Lokmangal Shivaji Nagar,
Pune 411005.**

Yours faithfully,

(Sanjay Rudra)
Dy. General Manager,
FM&A



1. TERMS OF RFP RESPONSE

- 1.1 This Request for Proposal (RFP) document is meant for the exclusive purpose / specific use by the applicant interested to participate in the current RFP process. This document in its entirety is subject to Copyright Laws. Bank of Maharashtra expects the applicant or any person acting on behalf of the applicant strictly adhere to the instructions given in the document and maintain confidentiality of information. The applicants will be held responsible for any misuse of information contained in the document, and liable to be prosecuted by the Bank In the event that such a circumstance is brought to the notice of the Bank. By downloading the document, the interested party is subject to confidentiality clauses. The RFP document is not a recommendation, offer or invitation to enter into contract, agreement or any other arrangement in respect of the services. The provision of the services is subject to observance of selection process and appropriate documentation being agreed between BOM and any successful Applicant as identified by BOM after completion of the selection process as detailed in this document.
- 1.2 While this document has been prepared in good faith, neither BOM nor any of its employees make any representation or warranty or shall have any responsibility whatsoever in respect of this document. Any liability is accordingly and expressly disclaimed.
- 1.3 This document is meant to provide information only and upon the express understanding that the recipients / Applicants will use it only for the purpose set out herein.
- 1.4 The consultancy firm / Applicants shall bear all costs associated with the preparation and submission of the application including but not limited to additional information required by BOM, attendance of meeting etc. and BOM will in no case be held responsible or liable for these costs, regardless of the conduct or outcome of the tendering process.
- 1.5 The recipients / Applicants must take care and conduct its own investigation and analysis regarding any information contained in the RFP document and the meaning and interpretation of the information.
- 1.6 This document constitutes no form of commitment on the part of BOM. Each recipient / Applicant acknowledges and accepts that BOM may, in its sole and absolute discretion, apply whatever criteria it deems appropriate in the selection of organisations, not limited to those selection criteria set out in this RFP document. The issuance of RFP document is merely an invitation to offer and must not be construed as any agreement or contract or arrangement nor would it be construed as material for any investigation or review to be carried out by the recipients / Applicants. The recipients/ Applicants unconditionally acknowledge by submitting its response to this RFP document that they have not relied on any idea, information, statement, representation given in this RFP document.
- 1.7 BOM reserves the right to reject any or all the applications without assigning any reasons without thereby incurring any liability to the consultants / Applicants or any obligation to inform the affected consultants / Applicants on the grounds for BOM's action or without assigning any reasons, whatsoever. The decision of BOM shall be final, conclusive and binding on all the Applicants/parties directly or indirectly connected with the bidding process and the same shall not be questioned / challenged.
- 1.8 BOM may be notified of any omission / discrepancy in the RFP before the pre-bid meeting. If required, BOM may thereafter modify the RFP. The modified RFP would be hosted on BOM's website.
- 1.9 BOM also reserves the sole right for carrying out any amendments/ modification / changes including any addendum to this RFP. Such amendments / modifications / changes including any addendum to this RFP shall be notified on BOM's website and these will be binding on the Applicants.
- 1.10 BOM reserves the sole right to cancel the RFP at any stage without assigning any reason.



- 1.11 Before tendering, the Applicants are requested to carefully examine the RFP Documents, Terms & Conditions of Assignment, Specifications and if there is or appears to be any ambiguity there in, they should immediately refer the matter to BOM, for clarification.
- 1.12 Any application received by BOM after the deadline for submission of tenders prescribed by BOM will be summarily rejected and returned unopened to the Applicants. BOM shall not be responsible for any delay or non-receipt/ non-delivery of the documents.
- 1.13 From the time the proposals are opened to the time of appointment, Applicants should not contact BOM or any of its employees or representatives on any matter related to the proposal with a view to influence the examination, evaluation, ranking and appointment. Such an effort shall result in rejection of the applications.
- 1.14 All submissions, including any accompanying documents, will become the property of BOM. The Applicant shall be deemed to have licensed, and granted all rights to BOM to reproduce the whole or any portion of their submission for the purpose of evaluation and to disclose and/or use the contents of the submission as the basis for any resulting RFP process, notwithstanding any copyright or other intellectual property right of the recipient / Applicant in the submission or accompanying documents.
- 1.15 **RFP Validity Period:** RFP responses will remain valid and open for evaluation according to their terms for a period of at least 90 days from the RFP opening date.

BOM shall also have the right at its sole and absolute discretion to continue the assignment/contract with the successful empanelled consultants for future requirements on the rates finalized in this processing for various items/activities as and when called under financial bid in future from empanelled investment/Merchant Bankers, or at the price negotiated thereafter, after expiry of current assignment period.

Communication on the RFP

Recipients are required to direct all communications for any clarification related to this RFP on below mentioned address:

Shri Sanjay Rudra,
Dy General Manager, FM&A
Bank of Maharashtra
1501, Lokmanagl, Shivaji nagar
Pune- 411 005
Phone: 020- 25614254
Email ID: - dgmfma@mahabank.co.in

All queries relating to the RFP, must be by email only and will be entertained by BOM only in respect of the queries received upto the date and time specified in the RFP.

BOM may, in its absolute discretion seek, but being under no obligation to seek, additional information or material from any Applicants after the closure of RFP and all such information and material provided will to form part and parcel of that Applicants response.

- 1.16 **Sub-contracting:** No Subcontracting is allowed. However, formation of consortium or association of empanelled Investment /Merchant Bankers post selection may be allowed by the BOM with written request from these empanelled Investment /Merchant Bankers.



2. CONTEXT

A. ABOUT THE BOM:

The Bank was registered on September 16, 1935 at Pune as a Public Limited Company in the name & style of “The Bank of Maharashtra Limited”. The Bank was started by a group of visionaries from Pune, with the objective to serve larger section of the society. The operations commenced on February 8, 1936. Right from its inception, the focus of the Bank has been to assist small business enterprises, traders, self-employed and other common men. In 1944, the Bank became a Scheduled Bank.

In 1969, the nationalization of 14 major banks in the country took place and Bank of Maharashtra was one of these major banks. The Bank marched ahead in the changed scenario and crossed many milestones. At the time of nationalization, the Bank had 211 branches, which has increased to 1897 branches on March 31, 2017 having pan India presence. The Bank is one of the progressive nationalized banks that achieved autonomy in 1998 and continues to enjoy the status by virtue of good performance. Key financial performance parameters as of 31.03.2018 are as under:

- ✚ Total Business (Deposits & Gross Advances) stood at Rs 233626 crore.
- ✚ Total Deposit & Gross Advances stood at Rs138981 crore and Rs 94645 crore respectively
- ✚ CASA deposits stood at Rs 66345 crore (i.e. 47.74% of total deposits)
- ✚ Capital Adequacy Ratio (CRAR) under Basel III stood at 11.00% with Tier 1 of 9.01% and CET1 incl CCB of 8.97%.

B. PROPOSAL

Bank had made strategic investment in equity of various companies based on future prospects, Govt. guidelines etc. Most of these investments in non-core financial assets are unlisted including holdings in subsidiaries and associates.

Bank intends to sale it's some of the non-core / strategic investments and invites application from interested Investment/ Merchant Bankers fulfilling eligibility criteria for empanelment.

These empanelled Investment/Merchant Bankers will be eligible to participate in bidding process/ quote to act as Investment/ Merchant Banker for which bid / quotes will be called by the Bank for sale of non-core/ strategic Investment identified by Bank for sale.

Bank will call for quotes from these empanelled Investment/ Merchant Banker(s) for individual security/ investment or group of securities /investment proposed to be sold. Selected bidder/s (L1) out of empanelled Applicants decided on the basis of quotes submitted will assist the Bank to identify buyer/s who may be interested in buying a stake in the identified Strategic Investment(s), manage the process of divestment and facilitate consummation of the transaction as per the scope of work.

Bank will have the option to empanel any numbers of Investment / Merchant Banker, if necessary. The Bank's decision in this regard, will be final and binding on all the parties concerned.



3. SCOPE OF WORK

The Investment /Merchant banker will be required, *inter alia*, to undertake various tasks related to all aspects to sale of the investments, including but not restricted to, the following:-

- (i) Identifying the potential investors/ buyers
- (ii) Preparation of placement documents/ presentations for potential investors/buyers
- (iii) Assisting bank in valuation of investments.
- (iv) Assist the Bank in its consideration and analysis of the transaction;
- (v) Negotiate on behalf of the Bank/ Assist the Bank in negotiation with the potential/interested acquirers.
- (vi) Provide financial advice and assistance in connection with the transaction as is customary and appropriate in transactions of these types including guidance on any approvals required.
- (vii) Advise the Bank on the timing, modalities and structuring of the Stake Sale including but not limited to advising on the requisite regulatory/ statutory/ corporate/ legal/tax & accounting requirements
- (viii) Co-ordinate with other intermediaries like legal counsel/valuers etc. if necessary
- (ix) Managing a transparent process of bidding from potential investors/buyers as per CVC guidelines
- (x) Ensuring the best deal for the Bank in terms of transaction value which is in absolute compliance with the applicable guidelines/ regulations/ laws
- (xi) Assisting Bank in obtaining required regulatory/ statutory & other approvals
- (xii) Any other work that may be required during the divestment process.
- (xiii) A more detailed and specific scope of work for the specific assignment will be given while calling quotes from empanelled Investment/ Merchant Banker.

NOTE: The aforementioned scope of work is only indicative & illustrative but not exhaustive.



4. ELIGIBILITY CRITERIA FOR APPLICANTS FOR EMPANELMENT

Applicants should fulfil the following criteria to be eligible for bidding:

Sl. No.	Eligibility Criteria
a.	The applicant should be a Firm/ Company and should hold a valid certificate issued by SEBI to work as registered Category-I Merchant Banker. The certificate of registration issued by SEBI should remain valid (renewed, if required) till the completion transaction
b.	The applicant should have facilitated at least one divestment deals (full or partial)
c.	The applicant should have had an average revenue of not less than Rs. 10 crore in the last 3 years, i.e. up to financial year ended March 31, 2018.
d.	Applicants should not have been prohibited by any regulatory authority in offering such services and should not have been blacklisted/debarred or penalized by any PSU, Central or State Govt. Undertaking, Court of law in the past.
e.	No Action have been initiated against it by SEBI/CVC/RBI or any other Govt./ Statutory agency with regard to any financial irregularities pertaining to financial dealings with various Banks/FIs/LIC and its subsidiaries/any other agency.
f.	Selected Investment / Merchant Bankers would be required to sign the Service Level Agreement (SLA)/ non-disclosure agreement (NDA) with the Bank. Failure to submit the same make their appointment null and void
g.	Interested Applicants fulfilling eligibility criteria mentioned above are advised to furnish the undertaking and declarations given in Annexure 2 as a part of the proposal



5. SUBMISSION OF PROPOSAL

Proposal for Empanelment are required to be submitted as under:

5.1 Sealed Envelope super scribed as “Proposal for Empanelment as Investment / Merchant Banker for Proposed Divestment ” and should contain following:

- (i) Letter of Consent as per Annexure 1
- (ii) Certificate/Declaration/undertakings as per Annexure 2
- (iii) Details as per Annexure 3
- (iv) Certified Copy of Board Resolution or Power of Attorney (POA) in favour of person signing the application document/s.
- (v) Copy of valid certificate of Category-I Merchant Banker issued by SEBI, duly certified by the person authorized to sign the proposal/application.
- (vi) a pre –contract integrity pact (as per Annexure 4) - The participating applicant are mandatory required to submit a pre –contract integrity pact and should be printed on Rs 500/- non judicial stamp paper signed by the authorized signatory.
- (vii) Copy of Power Point Presentation as per **clause 6.2 (Section -E)** of RFP

5.2 Timelines for Submission of Applications as per clause 5.1 above

The proposal must be submitted latest by **05:00 PM on July 12, 2018** to **Dy General Manager, FM&A, Bank of Maharashtra, Head Office, 1501, Lokmangal Shivaji Nagar, Pune 411005** in hard copies in original, duly signed by the authorized officer of the Investment/Merchant Banker. The sealed envelopes should be delivered at aforementioned address between 10:00 hours to 17:00 hours on Monday to Saturday (working days only) (*Applicant to check Bank of Maharashtra holiday list with respect to the same*).

Submission by Fax transmission or emails not allowed and will be considered invalid.

No proposal will be entertained after the appointed time and date. The proposals received after the appointed time and date will be rejected.

5.3 Rules for Responding to RFP

- i. All responses received after the due date/ time as mentioned in advertisement would be considered late and would be liable to be rejected. The Bank will not be responsible for any postal/ courier delay
- ii. Documents not required as part of the Tender should not be provided.
- iii. All application responses would be deemed to be irrevocable offers/ proposals from the consultants / Applicants and may be accepted by the BOM to form part of final contract between the BOM and the selected Investment/ Merchant Banker. Unsigned responses would be treated as incomplete and are liable to be rejected. The applications once submitted cannot be withdrawn/ modified after the last date for submission of the applications unless specifically permitted by the BOM.
- iv. In case, due to unavoidable circumstances, the BOM does not award the contract within 90 days from the last date of the submission of the applications, BOM reserves the right to extend this for 30 more days.



- v. BOM reserves the right not to allow/ permit changes in the technical requirements and not to evaluate the offer in case of non-submission of the details in the required format or partial submission of required details.
- vi. Applicants at no point in time can excuse themselves from any claims by BOM whatsoever for their deviations in confirming to the terms and conditions and other schedules as mentioned in the RFP circulated by BOM. Investment/ Merchant Banker shall be fully responsible for deviations to the terms & conditions etc. as proposed in the RFP.
- vii. If related parties (as defined below) submit more than one application then both/all applications submitted by related parties are liable to be rejected at any stage at BOM's discretion:
 - a) Applications submitted by the holding company and its subsidiary
 - b) Applications submitted by one or more companies having common director/s
 - c) Applications submitted by one or more Limited Liability Partnership (LLP) firms having Common partners
 - d) Applications submitted by one or more companies in the same group of promoters/ management
 - e) Any other application in the sole discretion of the BOM is in the nature of multiple applications.

The Bank reserves the sole right to accept or reject any or all proposals thus received without assigning any reasons therefor. The decision of the Bank management in regard to the selection of Investment /Merchant Bankers will be final.



6. TIME LINES AND EVALUATION CRITERIA FOR EMPANELMENT:

6.1 Timelines are as given under.

Particulars	Timelines
RFP Issuance Date	June 20, 2018
Last date for written request for clarifications	June 27, 2018
Last date for submission of application for RFP	5:00 PM , July 12, 2018
Opening of RFP for empanelment	11:00 AM, July 13, 2018
Presentation before Selection Committee of Bank, if required	12:00 Noon, July 13, 2018

During the opening of the applications, the Applicants can depute authorized representative/s to attend the application opening process. No separate information will be given in this regard to the Applicants for deputing their representatives. The representative has to submit an authority letter duly signed by the Management Consultancy firm, authorizing him to represent and attend the Application opening on behalf of Management Consultancy firm. The authorised representative having photo identification, present shall sign a register of attendance. However, applications would be opened even in the absence of any or all representatives of the Applicant.

6.2 Procedure for Selection of Investment/ Merchant Bankers for empanelment

- o Interested Applicants meeting the eligibility criteria would be evaluated bases on criteria mentioned below. Applicants will require to give presentation comprising points mentioned below before the Selection committee of the Bank, if required by Bank. The weightage for evaluation of the Investment /Merchant Banker in respect of each criterion has been indicated against each section as under.

Section	Description
A	Experience & Capabilities in handling divestment transactions (25%) <ul style="list-style-type: none"> <input type="checkbox"/> No. of Years since registered as Category 1 Merchant Banker <input type="checkbox"/> Experience in Divestment process <input type="checkbox"/> Total number of successful deals in divestment handled in last 3 years along with amount (01.04.2015 to 31.03.2018) <input type="checkbox"/> of which deals handled for BFSI sector
B	Distribution Network, Identifying Investor/s, Marketing Strategy (20%) <ul style="list-style-type: none"> <input type="checkbox"/> Domestic and global network <input type="checkbox"/> Strategies for identifying target investors/buyers



C	Team strength, their qualification and experience- (15%) <ul style="list-style-type: none"><input type="checkbox"/> Total team strength handling divestment transactions, experience, qualifications etc.<input type="checkbox"/> Details of the core team that will be handling the proposed divestment, their status in the organization, their background, qualification, and experience.
D	Domain knowledge including Regulatory laws/ issues related to Divestment (10%) <ul style="list-style-type: none"><input type="checkbox"/> Detail of requirements of various regulatory agencies pertinent to divestment transactions and flow chart flow chart indicating process/ expected timelines for divestment
E	Power Point presentation covering above points (A to D) - (30%)

- Applicants scoring at least 60% on aforementioned criteria will be considered for empanelment as Investment /Merchant Banker for the transaction/s. However, Bank may at its own discretion increase / decrease the minimum score depending upon the availability of eligible applications. The Bank's decision in this regard, will be final and binding on all the parties concerned.
- Applicants to note that no drop dead fee will be payable to any of the Investment/ Merchant Banker post empanelment in case the Bank calls off the transaction/s.

In case of conflict, the Bank's decision will be binding on all parties concerned.



7. GENERAL TERMS & CONDITION

7.1 Adherence to terms and conditions

The Consultants who wish to submit their responses to this RFP should note that they should abide (in true intent and spirit) by all the terms and conditions contained in the RFP. If the responses contain any extraneous conditions put in by the respondents / Applicants, such responses may be disqualified and may not be considered for the selection process.

7.2 Consultant's General Responsibilities

The Consultant shall, subject to the provisions of the Assignment and with due care, execute the work and take all responsibility, including the supervision thereof and all other things, whether of a temporary or permanent nature, required in and for such execution.

The Consultant shall carry out and complete the work in accordance with prevailing good industry practices and using workmanship of the quality and standards there in specified, provided that where and to the extent some approval of the quality of the standards of workmanship is a matter of opinion, such quality and standards shall be to the satisfaction of BOM.

The Consultant should provide professional, objective and impartial advice at all times and hold the BOM's interest paramount and should observe the highest standard of ethics, values, code of conduct, honesty-while executing the assignment.

7.3 Execution of Service Level Agreement (SLA) / Non-Disclosure Agreement (NDA)

The selected Consultant will be required to execute the following:

- a. Service Level Agreement (SLA) which will include all the services and terms and conditions of the services to be extended as detailed here in and as may be prescribed or recommended by BOM; and
- b. Non-disclosure Agreement (NDA)

If the selected Consultant differs / does not agree on any conditions / terms of the contract, the BOM has the right to appoint the next ranked Consultant without any obligation or without assigning any reasons to anyone and shall not be held liable for any losses or damages caused by such action.

Unless and until a formal Agreement is prepared and executed, this Tender (RFP) together with the written acceptance of the Consultant thereof shall constitute binding Terms and Conditions between the parties.

7.4 Tenure

The Consultant will be empanelled for a period of 12 months from the date of appointment, Bank at its discretion may extend the validity period for further 12 months. However, this would be subject to satisfactory performance during periodic reviews which would be solely adjudged by BOM. In case the performance of the Investment/ Merchant banker is deemed unsatisfactory, the contract will be terminated as per the provision of the "termination of contract" clause mentioned in this RFP.



7.5 Statutory authority obligations, notices, fees and charges

The Consultant shall comply with and give all notices required by any Act, any instrument, rule or order made under any Act, or any regulation or byelaw of any relevant authority which has any jurisdiction with regard to the assignment.

The Consultant would comply with all Applicable Laws as they relate to its performance under this Agreement. This Agreement shall be governed, interpreted by and construed in accordance with the substantive laws of India.

7.6 Applicable Law and Jurisdiction of Court

The Contract with the selected Consultant shall be governed in accordance with the Laws of India and will be subject to the exclusive jurisdiction of Courts at Pune.

7.7 Single Point of Contact

The selected Consultant should provide details of single point of contact viz. Name, designation, address, e-mail address, telephone/ mobile no. etc.

7.8 Authorised Signatory

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

7.9 Rights in Intellectual Property and Material

All the rights relating to the Trade Marks and Copy Rights in respect of work generated by the Consultant on behalf of BOM and paid for by BOM shall vest with BOM, provided that BOM would reimburse the Consultant for any sums of money paid for the assignment / licensing of the copyright by way of fees, charges, or otherwise as provided by the guidelines, regulations, rules, or policies of any professional body or association, with prior approval from BOM.

In order to perform the services, the Consultant must obtain at its sole account, the necessary assignments, permits and authorizations from the title holder of the corresponding patents, models, trademarks, names or other protected rights and shall keep BOM harmless and indemnify from and against claims, proceedings, damages, costs and expenses (including but not limited to legal costs) for and/ or on account of infringements of said patents, models, trademarks names or other protected rights.

All documents, report, information, data etc. collected and prepared by Consultant in connection with the scope of work submitted to BOM will be property of the BOM. The Consultant shall not be entitled either directly or indirectly to make use of the documents, reports given by BOM for carrying out of any services with any third parties. Consultant shall not without the prior written consent of BOM be entitled to publish studies or descriptive article with or without illustrations or data in respect of or in connection with the performance of services.



The pre-existing intellectual property of the Consultant used in deliverables shall remain vested with the Consultant. Anything developed during the course of the project shall be owned by the BOM.

7.10 Confidentiality

Information provided under this RFP and subsequent Service Agreement (if the Consultant is selected) is confidential and neither Party shall at any time either during the association or at any time thereafter divulge either directly or indirectly to any person(s), firm or company, business entity, or other organisation whatsoever, any Confidential Information that the Other Party may acquire during the course of such association or otherwise concerning the Other Party's business, property, contracts, trade secrets, clients or affairs.

"Confidential Information" means any and all information that is or has been received by the "Receiving Party" from the "Disclosing Party" and that:

- a. Relates to the Disclosing Party; and
- b. Is designated by the Disclosing Party as being confidential or is disclosed in circumstances where the Receiving Party would reasonably understand that the disclosed information would be confidential or
- c. Is prepared or performed by or on behalf of the Disclosing Party by its employees, officers, directors, agents, representatives or consultants.
- d. Without limiting the generality of the foregoing, Confidential Information shall mean and include any information, data, analysis, compilations, notes, extracts, materials, reports, specifications or other documents or materials that may be shared by the BOM with the Consultant.
- e. "Confidential Materials" shall mean all tangible materials containing Confidential Information, including, without limitation, written or printed documents and computer disks or tapes whether machine or user readable.
- f. Information disclosed pursuant to this clause will be subject to perpetual confidentiality obligation after expiry of contract and shall survive expiry or termination of contract.
- g. Nothing contained in this clause shall limit Consultant from providing similar services to any third parties or reusing the skills, know-how and experience gained by the employees in providing the services contemplated under this clause, provided further that the Consultant shall at no point use the BOM's confidential information or Intellectual property.

The Parties will, at all times, maintain confidentiality regarding the contents of this RFP and subsequent Agreement and proprietary information including any business, technical or financial information as confidential.

The Parties will keep in confidence and not disclose to any third party any and all Confidential Information available to the Parties, whether such information is given in writing or, is oral or visual, and whether such writing is marked to indicate the claims of ownership and/or secrecy or otherwise. Except as otherwise provided in this RFP, the Parties shall not use, nor reproduce for use in any way, any Confidential Information. The Parties agrees to protect the Confidential Information of the other with at least the same standard of care and procedures used to protect its own Confidential Information of similar importance but at all times using at least a reasonable degree of care.



If the Consultant hires another person to assist it in the performance of its obligations under this RFP, or assigns any portion of its rights or delegates any portion of its responsibilities or obligations under this RFP and subsequent Agreement to another person, it shall cause its assignee or delegate to be bound to retain the confidentiality of the Confidential Information in the same manner as the Consultant is bound to maintain the confidentiality.

The Receiving Party shall, at all times regard, preserve, maintain and keep as secret and confidential all Confidential Information and Confidential Materials of the Disclosing Party

- a. Disclose, transmit, reproduce or make available any such Confidential Information and materials to any person, firm, Company or any other entity other than its directors, partners, advisers, agents or employees, sub-contractors and contractors who need to know the same for the purposes of maintaining and supporting the equipment provided as a part of the contract. The Receiving Party shall be responsible for ensuring that the usage and confidentiality by its directors, partners, advisers, agents or employees, sub-contractors and contractors is in accordance with the terms and conditions and requirements of this RFP; or
- b. Unless otherwise agreed herein, use of any such Confidential Information and materials for its own benefit or the benefit of others or do anything prejudicial to the interests of the Disclosing Party or its customers or their projects.

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

- a. Take at least the same degree of care in safeguarding such Confidential Information and materials as it takes for its own confidential information of like importance and such degree of care shall be at least, that which is reasonably calculated to prevent such inadvertent disclosure.
- b. Keep the Confidential Information and Confidential Materials and any copies there of secure and in such a way so as to prevent unauthorized access by any third party
- c. Limit access to such Confidential Information and materials to those of its directors, partners, advisers, agents or employees, sub-contractors and contractors who are directly involved in the consideration/evaluation of the Confidential Information and bind each of its directors, partners, advisers, agents or employees, sub-contractors and contractors so involved to protect the Confidential Information and materials in the manner prescribed in this document.
- d. Upon discovery of any unauthorized disclosure or suspected unauthorized disclosure of Confidential Information, promptly inform the Disclosing Party of such disclosure in writing and immediately return other Disclosing Party all such Information and materials, in whatsoever form, including any and all copies thereof
- e. The Receiving Party who receives the confidential information and materials agrees that on receipt of a written demand from the Disclosing Party;
 - i. Immediately return all written Confidential Information, Confidential materials and all copies thereof provided to, or produced by it or its advisers, as the case



- may be, which is in the Receiving Party's possession or under its custody and control
- ii. To the extent practicable, immediately destroy all analyses, compilations, notes, studies, memoranda or other documents prepared by it or its advisers
 - iii. to the extent that the same contain, reflect or derive from Confidential Information relating to the Disclosing Party
 - iv. So far as it is practicable to do so immediately expunge any Confidential Information relating to the Disclosing Party or its projects from any computer, word processor or other device in its possession or under its custody and control
 - v. To the extent practicable, immediately furnish a certificate signed by its director or other responsible representative confirming that to the best of his/ her knowledge, information and belief, having made all proper enquiries the requirements of this paragraph have been fully complied with
 - vi. The rights in and to the data/ information residing at the BOM's premises shall at all times solely vest with the BOM
- f. **Clause 7.10** shall not be applicable and shall impose no obligation on the receiving party with respect to any portion of Confidential Information which:
- a. Was at the time received or which thereafter becomes, through no act or failure on the part of the receiving party, generally known or available to the public;
 - b. Is known to the receiving party at the time of receiving such information as evidenced by documentation then right-fully in the possession of the receiving party;
 - c. Is furnished by others to the receiving party without restriction of disclosure;
 - d. Is there after rightfully furnished to the receiving party by a third party without restriction by that third party on disclosure;
 - e. Has been disclosed pursuant to the requirements of law or by any court of competent jurisdiction, the rules and regulations of any recognized stock exchange or any enquiry or investigation by any governmental, statutory or regulatory body which is lawfully entitled to require any such disclosure provided that, so far as it is lawful and practical to do so prior to such disclosure, the Receiving Party shall promptly notify the Disclosing Party of such requirement with a view to providing the Disclosing Party an opportunity to obtain a protective order or to contest the disclosure or otherwise agree to the timing and content of such disclosure
 - f. Was independently developed by the receiving party without the help of the Confidential Information. On termination of the RFP and subsequent Agreement, each party must immediately return to the other party or delete or destroy all Confidential Information of the other party and all notes and memoranda (including copies of them) containing Confidential Information of the other party in its possession or control save for that training materials and Documentation that has been provided to the BOM which is contemplated for continued realization of the benefit of the Services. Notwithstanding the foregoing, Consultant may retain a copy of such information (but which shall not include customer data and Confidential Information) as may be necessary for archival purpose.
 - i. The Confidential Information and materials and all copies thereof, in whatsoever form shall at all times remain the property of the Disclosing



Party and its disclosure under the contract shall not confer on the Receiving Party any rights whatsoever beyond those contained in the contract.

- ii. Without prejudice to any other rights or remedies which a Party may have, the Parties acknowledge and agree that damages would not be an adequate remedy for any breach of the clause and the remedies of injunction, specific performance and other equitable relief are appropriate for any threatened or actual breach of any such provision and no proof of special damages shall be necessary for the enforcement of the rights under this Clause. Further, breach of this Clause shall be treated as “Material Breach” for the purpose of the contract.
- iii. The confidentiality obligations shall survive the expiry or termination of the agreement between the Consultant and the BOM.

7.11 Indemnification

All applicants under the RFP absolutely, irrevocably and unconditionally hereby indemnifies and undertakes to keep BOM and /or its directors, officers, employees, agents, and representatives indemnified and hold harmless for all time from and against all charges, costs, losses, claims, demands, damages, liabilities, obligations, suits, judgments, penalties, proceedings, prosecutions, litigations, or actions, financial or otherwise; at law or equity, including the expenses of defending any claim of liability by any third party, and from and against all actual damages sustained, whatsoever, whether past, or current suffered or incurred by BOM and or its directors, officers, employees, agents and representatives due to reason of (a) breach, misconduct, omission, or (b) negligence on the part of the Consultant and or its directors, employees, in the performance of the Services including, but not limited to, any claim arising out of improper or illegal use or adoption or invasion or infringement of the copyright or intellectual property right. The Indemnification obligation shall survive the expiry or termination of the agreement between the Consultant and the BOM.

7.12 Termination

In the event of non-performance of the Consultant as decided by the BOM or any disputes or differences arising between the Parties hereto on any matter / provision set out in this RFP and subsequent Service Agreement for the selected Consultant, the Parties shall try to resolve the matter amicably inter se. The defaulting Party shall be given notice of 30 days to alter the situation and resolve the dispute or reverse the damage caused in any way.

In the event the defaulting Party does not comply with its obligations, on the termination of the notice period, the Other Party shall be at liberty to terminate the Agreement, without further notice, and shall additionally have the right to claim any further rights available under the law, including without limitation, the right to damages.

Upon termination of the Agreement, the Consultant would promptly hand over to BOM all Deliverable Items, including work-in-progress, all —as is where isll condition subject to the mutual settlement of all money due and payable to them being paid. During the period of notification of termination, the Consultant shall complete pending assignments and BOM shall agree to settle the dues in respect of assignments after completion thereof by the Consultant, except if specifically instructed by BOM to act otherwise. In such case, the payment due to the Consultant would be determined on the basis of the last completed milestone as per the contract schedule.



BOM would also have the right to terminate such Service Agreement with 30 days' notice without assigning any reason.

The BOM reserves the right to cancel the contract of the selected Consultant and recover expenditure incurred by the BOM in any of the following circumstances:

- a. The Consultant becomes insolvent or goes into liquidation voluntarily or otherwise
- b. An attachment is levied or continues to be levied for a period of 7 days upon effects of the application
- c. The progress regarding execution of the contract, made by the selected Consultant is found to be unsatisfactory.
- d. If deductions on account of Penalty exceeds more than 10% of the total contract price.
- e. If the selected Consultant fails to complete the due performance of the contract in accordance with the agreed terms and conditions.
- f. If the selected Consultant gets merged/ taken over by another firm.

7.13. Arbitration

Without prejudice to the right of the BOM to terminate the RFP/Contract and pursue other remedies under RFP/Contract, if a dispute, controversy or claim arises out of or relates to the contract, or breach, termination or invalidity thereof, and if such dispute, controversy or claim cannot be settled and resolved by the Parties through discussion and negotiation, then the Parties shall refer such dispute to sole Arbitrator appointed with the mutual consent of the BOM and the Consultant. In case BOM and consultant do not agree upon on common Arbitrator, each one of them will appoint one Arbitrator and two Arbitrators appointed by the parties shall appoint or Third Arbitrator. The arbitration proceedings shall be conducted in English. The venue of the arbitration shall be Pune. The arbitration shall be held in accordance with the Arbitration and Conciliation Act, 1996. The arbitration award shall be final, conclusive and binding upon the Parties. Each Party shall bear the cost of preparing and presenting its case, and the cost of arbitration, including fees and expenses of the arbitrators, shall be shared equally by the Parties unless the award otherwise provides. The decision of the Arbitrator shall be final and binding upon the Parties.

7.14 Publicity

Any publicity by the Consultant in which the name of the BOM is to be used should be done only with the explicit prior written permission of the BOM.

7.15. Notices and other Communication

If a notice has to be sent to either of the parties following the signing of the contract, it has to be in writing and shall be sent personally or by certified or registered post with acknowledgement due or courier or email duly transmitted, facsimile/ fax transmission (with hard copy to follow for email/fax), addressed to the other party at the addresses, email and fax number given in the contract.

Notices shall be deemed given upon receipt, except that notices sent by registered post in a correctly addressed envelope shall be deemed to be delivered within 5 working days (excluding Sundays and public holidays) after the date of mailing dispatch and in case the communication is made by facsimile transmission or email, on business date immediately after the date of successful facsimile/ email transmission (that is, the sender has a hard copy



of a confirmation page evidencing that the facsimile was completed in full to the correct fax number or email sent to correct email address).

Any Party may change the address, email address and fax number to which notices are to be sent to it, by providing written notice to the other Party in one of the manners provided in this section.

7.16. Written Notice of change in name, form or control of either Party

The Consultant shall provide BOM with prompt 30 days prior written notice of any change in Consultant's name, ownership, or form of organisation. The Consultant shall also provide BOM with prompt written notice and in any event within a period of 30 days of the occurrence of any event, which could jeopardize or materially impact its ability to perform its obligations under this Agreement in a timely manner.

7.17. Violation of Terms

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

7.18. Limitation of Liability

Save and except as provided in "Terms of Compensation" and "Termination" herein, neither Party shall be liable to the other for any lost revenue, lost profits or other incidental or consequential damages based on any breach or default under this Agreement.

The Consultant's aggregate liability in connection with obligations undertaken as a part of the RFP regardless of the form or nature of the action giving rise to such liability (whether in contract, to otherwise), shall be at actual amount of loss caused to the Bank for the contract period. Consultant's liability in case of claims by the BOM resulting from Willful Misconduct or Gross Negligence of Consultant, its employees and Subcontractors or from infringement of patents, trademarks, copyrights or such other Intellectual Property Rights or breach of confidentiality obligations shall be unlimited.

The BOM shall not be held liable for and is absolved of any responsibility or claim/ litigation arising out of the use of any third party software or modules supplied by Consultant as part of procurement under the RFP. It is expressly agreed between the Parties that for any event giving rise to a claim, the BOM shall have the right to make a claim (including claims for indemnification under the procurement in this RFP) against the Consultant.

7.19. Survival

Any provision of the Contract/ this RFP (if any) which, either expressly or by implication, survive the termination or expiry of the Contract, shall be complied with by the Parties in the same manner as if the Contract/ RFP is valid, subsisting and in full force and effect.

In the event of the Termination of the Agreement (with the selected Applicant) in whole or in part, "Rights in Intellectual Property and Material", "Indemnification", "Confidentiality", and



“Limitation of Liability” shall survive and continue in effect and shall ensure to the benefit of and be binding upon both the Parties, their successors and assigns.

7.20. Severability

Each of the above restrictions is separate and severable from the other. Any provision, which is invalid or unenforceable, shall be ineffective to the extent of such invalidity or unenforceability, without affecting in any way the remaining provisions hereof.

7.21. No Agency

The Service(s) of the successful Applicant herein shall not be construed as any agency of BOM and there shall be no principal agency relationship between BOM and the successful Applicant in this regard.

7.22. Corrupt and Fraudulent practices

As per Central Vigilance Commission (CVC) directives, it is required that Consultants/ Suppliers / Contractors observe the highest standard of ethics during the procurement and execution of such contracts in pursuance of this policy:

- a. “Corrupt Practice” means the offering, giving, receiving or soliciting of anything of values to influence the action of an official in the procurement process or in contract execution; and
- b. “Fraudulent Practice” means a misrepresentation of facts in order to influence a procurement process or the execution of contract to the detriment of the BOM and includes collusive practice among consultants (prior to or after application submission) designed to establish application prices at artificial non-competitive levels and to deprive the BOM of the benefits of free and open competition.

The BOM reserves the right to reject a proposal for award if it determines that the Consultant recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question. The BOM reserves the right to declare a firm ineligible, either indefinitely or for a stated period of time as per the BOM’s discretion, to be awarded a contract if at any time it determines that the firm has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

7.23. Adherence to Standards

The selected Consultant should adhere to all the applicable laws of land and rules, regulations and guidelines prescribed by various regulatory, statutory and Government authorities.

The BOM reserves the right to conduct an audit/ ongoing audit of the consulting services provided by the selected Consultant. The BOM reserves the right to ascertain information from the other institutions to which the Consultants have rendered their services.

The selected Consultant shall allow the Reserve Bank of India (RBI) / Securities Exchange Board of India (SEBI) and any Statutory or Regulatory body or persons authorized by it to access the documents, records of transaction or any other information given to, stored or processed by the selected Consultant relating to this RFP, within a reasonable time failing which selected Consultant will be liable to pay any charges/penalty levied by Statutory or Regulatory body. The selected Consultant shall allow the RBI/SEBI to conduct audits or



inspection of its Books and account with regard to the BOM or this RFP by one or more of RBI/SEBI officers or employees or other persons duly authorized by RBI/SEBI.

7.24. Conflict of interest

The Consultant shall strictly avoid conflicts with other assignments/jobs or their own corporate interest and shall disclose to BOM all actual and potential conflicts that exist, arise or may arise in the course of performing the services after it becomes aware of that conflict.

7.25. Sub Contracts

Neither the contract nor any rights granted under the contract can be sold, leased, assigned, or otherwise transferred, in whole by the selected Consultant without advance written consent of the BOM. Any such sale, lease, assignment or otherwise transfer shall be void and be of no effect. Formation of consortium or association of consultants is not allowed and such proposals will be disqualified at the evaluation stage itself.

7.26. Non-solicitation

The selected Consultant, during the term of the contract and for a period of two years thereafter shall not without the express prior written consent of the BOM, directly or indirectly:

- a. Recruit, hire appoint or engage or attempt to recruit, hire, appoint or engage or discuss employment with or otherwise utilize the services of any person who has been an employee or associate or engaged in any capacity, by the BOM in rendering services in relation to the contract; or
- b. Induce any person who shall have been an employee or associate of the BOM at any time to terminate his/ her relationship with BOM.

7.27. No Employer Employee Relationship

The selected Consultant or any of its holding/subsidiary/joint-venture/ affiliate/ group/ client companies or any of their employees/ officers/ staff/ personnel/ representatives/ agents shall not, under any circumstances, be deemed to have any employer employee relationship with BOM or any of its employees/ officers/ staff/ representatives/personnel/agents.

7.28. Vicarious Liability

The selected Consultant shall be the principal employer of the employees, agents, contractors, sub-contractors etc., engaged by the selected Consultant and shall be vicariously liable for all the acts, deeds, matters or things, whether the same is within the scope of power or outside the scope of power, vested under the contract. No right of any employment in the BOM shall accrue or arise, by virtue of engagement of employees, agents, contractors, sub-contractors etc. by the selected Consultant, for any assignment under the contract. All remuneration, claims, wages dues etc. of such employees, agents, contractors, sub-contractors etc. of the selected Consultant shall be paid by the selected Consultant alone and the BOM shall not have any direct or indirect liability or obligation, to pay any charges, claims or wages of any of the selected Consultant's employees, agents, contractors, sub-contractors etc. The selected Consultant shall agree to hold the BOM, its successors, assigns and administrators fully indemnified, and harmless against loss or liability, claims, actions or proceedings, if any, whatsoever nature that may arise or caused to the BOM through the action of selected Consultant's employees, agents, contractors, sub-contractors etc.



7.29. Integrity Pact

The Applicant will enter into an “Integrity Pact” as per the format given in Annexure -4.

7.30 Other Conditions

It is clarified, as and by way of abundant caution that BOM will have all ownership and / or license rights on all the ideas, concepts, proposals, etc. developed by the Consultant during the course of this assignment as specified in the RFP and paid for by BOM.

BOM reserves the right to negotiate any aspect of proposal with any Consultant and negotiate with more than one Consultant at a time after the RFP closes to improve upon or clarify any response.

BOM reserves the right to ask some or all consultants for clarification of their offer to assist in the scrutiny, evaluation and comparison of offers and based on this, disqualify the Consultant whose clarification is found not suitable for the proposed project.

BOM reserves the right to share the information/clarifications provided in response to RFP by any Consultant, with any other Consultant(s)/others, in any form.

7.31 Representations and Warranties

In order to induce BOM to enter into the Contract, the Applicant hereby represents and warrants as of the date hereof, which representations and warranties shall survive the term and termination hereof, the following:

- a) That the Applicant is a partnership firm/LLP/company which has the requisite qualifications, skills, experience and expertise in providing the service(s), the technical know-how and the financial wherewithal, the power and the authority to enter into the Contract and provide the service(s) sought by BOM.
- b) That the Applicant is not involved in any major litigation and no litigation or investigation is threatened against the Applicant. That the existing or threatened litigations or investigations do not have an impact of affecting or compromising the performance and delivery of service(s) under the RFP/Contract.
- c) That the representations made by the Applicant in its application are and shall continue to remain true and fulfill all the requirements as are necessary for executing the duties, obligations and responsibilities as laid down in the Contract and RFP and unless BOM specifies to the contrary, the Applicant shall be bound by all the terms of the application. The Applicant has not suppressed any information, which is within the knowledge of the Applicant.
- d) That the Applicant meets the requisite eligibility criteria as set out hereinabove and has the requisite professional skills, personnel and resources/authorizations that are necessary for providing / rendering all such service(s) as are necessary to perform its obligations under the application and this Contract.
- e) That the Applicant shall ensure that all assets including but not limited to software's, licenses, databases, documents, etc. developed, procured, deployed and created during the term of the Contract are duly maintained and suitably updated, upgraded, replaced with regard to contemporary and statutory requirements.
- f) That the Applicant shall use such assets of BOM as BOM may permit for the sole purpose of execution of its obligations under the terms of the application, or the Contract. The Applicant shall however, have no claim to any right, title, lien or other interest in any such



property, and any possession of property for any duration whatsoever shall not create any right in equity or otherwise, merely by fact of such use or possession during or after the term hereof.

- g) That the Applicant shall procure all the necessary permissions and requisite authorities approvals, consents, no objections and licenses for use of various software and any copyrighted process / product free from all claims, titles, interests and liens thereon, and shall keep BOM, its directors, officers, employees, representatives, consultants and agents indemnified in relation thereto.
- h) That all the representations and warranties as have been made by the Applicant with respect to its application and the Contract, are true and accurate, and shall continue to remain true and accurate through the term of the Contract.
- i) That the execution of the service(s) herein is and shall be strictly in accordance and in compliance with all applicable laws, as amended from time to time, the regulatory framework governing the same and the good industry practice.
- j) That there are – (a) no legal proceedings pending or threatened against Applicant or its team which adversely affect/may affect performance under the Contract; and (b) no inquiries or investigations have been threatened, commenced or pending against the Applicant or its team members by any statutory or regulatory or investigative agencies.
- k) That the Applicant has the corporate power to execute, deliver and perform the terms and provisions of the Contract and has taken all necessary corporate action to authorize the execution, delivery and performance by it of the Contract.
- l) That all the conditions precedent under the Contract has been complied
- m) That neither the execution and delivery by the Applicant of the Contract nor the Applicant's compliance with or performance of the terms and provisions of the Contract (i) will contravene any provision of any applicable laws or any order, writ, injunction or decree of any court or governmental authority binding on the Applicant (ii) will conflict or be inconsistent with or result in any breach of any or the terms, covenants, conditions, provisions or stipulations of, or constitute a default under any agreement, contract or instrument to which the Applicant is a party or by which it or any of its property or assets is bound or to which it may be subject or (iii) will violate any provision of the Constitutional Documents (if applicable) of the Applicant.
- n) That the Applicant certifies that all registrations, recordings, filings and notarizations of the Contract and all payments of any tax or duty, including without limitation stamp duty, registration charges or similar amounts which are required to be effected or made by the Applicant which is necessary to ensure the legality, validity, enforceability or admissibility in evidence of the Contract have been made by him/her/it.
- o) That the Applicant confirms that there has not and shall not occur any execution, amendment or modification of any agreement/contract without the prior written consent of BOM, which may directly or indirectly have a bearing on the Contract or service(s).
- p) That the Applicant owns, has license to use or otherwise has the right to use, free of any pending or threatened liens or other security or other interests all Intellectual Property Rights, which are required or desirable for the service(s) and the Applicant does not, in carrying on its business and operations, infringe any Intellectual Property Rights of any person. None of the Intellectual Property or Intellectual Property Rights owned or enjoyed by the Applicant or which the Applicant is licensed to use, which are material in the context of the Applicant's business and operations are being infringed nor, there is any infringement or threatened infringement of those Intellectual Property or Intellectual Property Rights licensed or provided to the Applicant by any person. All Intellectual Property Rights (owned by the Applicant or which the Applicant is licensed to use) are valid and subsisting. All actions (including registration, payment of all registration and



renewal fees) required to maintain the same in full force and effect have been taken thereon and shall keep BOM, its representatives and consultants indemnified in relation thereto.

7.32. Relationship between the Parties:

Nothing in the Contract constitutes any fiduciary relationship between BOM and successful Applicant/its team or any relationship of employer - employee, principal and agent, or partnership, between BOM and the successful Applicant.

No Party has any authority to bind the other Party in any manner whatsoever, except as agreed under the terms of the Contract.

BOM has no obligation to the successful Applicant's except as agreed under the terms of the Contract.

All employees/personnel/ representatives/agents etc., engaged by the successful Applicant for performing its obligations under the Contract/RFP shall be in sole employment of the successful Applicant and the successful Applicant shall be solely responsible for their salaries, wages, statutory payments etc. Under no circumstances, shall BOM be liable for any payment or claim or compensation (including but not limited to any compensation on account of any injury / death / termination) of any nature to the employees/personnel/representatives/agent etc. of the successful Applicant.

The successful Applicant shall disclose to BOM in writing, all actual and potential conflicts of interest that exist, arise or may arise (either for the successful Applicant or its team/agents/representatives/personnel etc.) in the course of performing the services as soon as practical after it becomes aware of that conflict.

The successful Applicant shall not make or permit to be made a public announcement or media release about any aspect of the Contract unless BOM first gives the successful Applicant its prior written consent.

For Bank of Maharashtra

Dy General Manager,
FM&A



Letter of Consent

In the letter head of the Investment /Merchant Banker

1. We hereby express our willingness to participate in the Merchant Banker(s) selection process of Bank for Empanelment for proposed divestment transaction as per the terms and conditions mentioned in the RFP Ref. No. **BOM/FM&A/SONC/1/2018-19 dated June 20, 2018**
2. We confirm and certify that we satisfy the criteria as mentioned in Clause (3) of the said RFP.
3. We do agree to submit all the requisite documents as required by the Bank.
4. If selected as Merchant Banker(s) by the Bank, our consent shall remain valid for the period up to 12 months from the date of mandate and we will not withdraw midway from the whole process of divestment (in one or more tranche/s) till its completion. Bank at its discretion may extend the validity period for further 12 months.
5. We are agreeable to finalize the agreements in mutual consultation with the Bank at the appropriate time.
6. We are agreeable to work with any other Investment/ Merchant Banker(s) and other intermediaries as decided by the Bank from time to time.
7. We also agree that the whole process of selection of Investment/Merchant Banker(s) for the proposed transaction, any of our officials shall not compromise the confidentiality.
8. Contact Details (Phone & Official email ID of Authorised person) are as under:

Note: The certificate should be signed by the authorized signatory of the Applicant along with the seal of the Applicant.

Date:
Place:

For _____

Authorized Signatory



CERTIFICATE/ UNDERTAKING

In the letter head of the Merchant Banker

"We certify that there has been no conviction by a court of law or indictment / adverse order by a regulatory authority for a grave offence against us or any sister concern(s) or the CEO, Directors / Managers / Employees of our concern or of our sister concern(s). It is further certified that there is no investigation pending against us or sister concern(s) or the CEO, Directors / Managers / Employees of our concern or of our sister concern(s)".

"Further, we certify that as on the date we are not advising or acting on behalf of or associated with any other person or entity (including any company, partnership, proprietary concern or individual or an HUF or association of persons or body of individuals) which is engaged in the same line of business as that of the Bank, in respect of any transaction of same nature as the transaction for which the Bank is proposing to select the Merchant Bankers, except for the list of the mandates, duly signed by us, in the same line of business and for the same type of transaction as enclosed. Further, the decision of the Bank as to whether such other person or entity is engaged in the same line of business as that of the Bank, shall be final and binding on the Merchant Banker."

"Further, we certify and undertake that for a period commencing from the date of our appointment (if so appointed) as the Merchant Banker till the completion of the transaction, we shall keep the Bank informed of any mandate/contracts entered into, to advise or act on behalf of or associate ourselves with, any other person or entity (including any company, partnership, proprietary concern or individual or an HUF or association of persons or body of individuals) which is engaged in the same line of business as that of the Bank, in respect of any transaction of same nature as the transaction in respect of which we have been appointed as the Merchant Banker."

Further we hereby undertake that the decision taken by the Bank of Maharashtra regarding the qualified Applicant shall be binding upon us."

Note:

1. The certificate should be signed by the authorized signatory of the Applicant along with the seal of the Applicant.
2. The content of the certificate must not be changed. Clarification, if any, may be provided separately.

Date:

Place:

For _____

Authorized Signatory



Statement of Experience / Other details

Sr.	Particulars	Details		
1	No. of Years since registered as Category 1 Merchant Banker	__ years		
2	Experience in Divestment process (handling divestment issue since how many years)	__ Years		
3	Total number of successful deals in divestment handled in last 3 years along with amount (01.04.2015 to 31.03.2018)	FY	No. of Deals handled	Amount (Rs in crore)
		2015-16		
		2016-17		
		2017-18		
		<i>of which deals handled for BFSI sector</i>		
	Period	No. of Deals handled	Amount (Rs in crore)	
	Last three FY as above			
4	Domestic and global network	Part of presentation as per clause 6.2 (E)		
5	Strategies for identifying target investors/buyers	Part of presentation as per clause 6.2 (E)		
5	Total team strength handling divestment transactions, experience, qualifications etc.	Part of presentation as per clause 6.2 (E)		
6	Details of the core team that will be handling the proposed divestment, their status in the organization, their background, qualification, and experience.	Part of presentation as per clause 6.2 (E)		
7	Detail of Various regulatory /statutory & other requirement along with flow chart indicating process /timelines for divestment	Part of presentation as per clause 6.2 (E)		



RFP Ref. No. BOM/FM&A/SONC/1/2018-19 dated June 20, 2018

PRE CONTRACT INTEGRITY PACT

General:

This pre-bid pre-contract Agreement (hereinafter called the Integrity Pact) is made on _____ day of the month of _____, between, on one hand, Bank of Maharashtra, a body corporate constituted under Banking Companies (Acquisition & Transfer of Undertakings) Act 1970 having its Head Office at 1501, Lokmangal Shivaji Nagar, Pune- 411005 (hereinafter referred to as the "BANK" which expression unless repugnant to the context or meaning thereof shall mean and include its successors and assigns) of the First Part and M/s _____ represented by Shri. _____ Chief Executive Officer (hereinafter called the "APPLICANT" which expression shall mean and include unless the context otherwise requires, his successors and permitted assigns of the Second Part.

WHEREAS the BANK proposes to procure _____ (Name of the equipment/item/service) and APPLICANT is willing to offer/has offered the equipment/item/service and

WHEREAS the APPLICANT is a private company/public company/Government undertaking/partnership/registered export agency, constituted in accordance with the relevant law in the matter and the BANK is a Public Sector Bank performing its functions on behalf of the President of India.

NOW, THEREFORE

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:-

Enabling the BANK to obtain the desired said equipment/item/service at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on public procurement and

Enabling APPLICANT to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the BANK will commit to prevent corruption, in any form, by its officials by following transparent procedures.

The parties hereto hereby agree to enter into this Integrity Pact and agree as follow:

1. Commitments of the BANK



- 1.1. The BANK undertakes that no officials of the BANK, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the APPLICANT, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process, application evaluation, contracting or implementation process related to the contract.
- 1.2 The BANK will during the pre-contract stage, treat all Applicants alike and will provide to all APPLICANTS the same information and will not provide any such information to any particular Applicant which could afford an advantage to that particular APPLICANT in comparison to other Applicants.
- 1.3. All the officials of the BANK will report to the Bank/appropriate Government office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.
- 1.4 In case any such preceding misconduct on the part of such official(s) is reported by the APPLICANT to the BANK with full and verifiable facts and the same is prima facie found to be correct by the BANK, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the BANK and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the BANK the proceedings under the contract would not be stalled.

2. Commitments of Applicants

- 2.1 The APPLICANT commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its application or during any pre-contract stage in order to secure the contract or in furtherance to secure it and in particular commit itself to the following:-
- 2.2 The APPLICANT will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the BANK, connected directly or indirectly with the bidding process, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
- 2.3 The APPLICANT further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the BANK or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the contract or any other contract with the Bank/Government for showing or forbearing to show favour or disfavor to any person in relation to the contract or any other contract with the Bank/Government.
- 2.4 *Applicants shall disclose the name and address of agents and representatives and Indian Applicants shall disclose their foreign principals or associates.

Foreign Applicant: Name and address of agents and Representatives in India.

Indian Applicant: Name and address of Foreign Principals / Associates



- 2.5 *We hereby disclose the payments to be made by us to agents/brokers or any other intermediary, in connection with this bid/contract.
- 2.6 *Applicant is engaged in defense supplies as Manufacturer / Integrator / Authorized Government sponsored export entity: Yes / No
- If yes, we confirm we have not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way of recommend to the BANK or any of its functionaries, whether officially or unofficially to the award of the contract to the APPLICANT, nor has any amount been paid, promised or intended to be paid to any such individual, firm or company in respect of any such intercession, facilitation or recommendation.
- 2.7 The APPLICANT, either while presenting the application or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of the BANK or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.
- 2.8 The APPLICANT will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, application evaluation, contracting and implementation of the contract.
- 2.9 The APPLICANT will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
- 2.10 The APPLICANT shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the BANK as part of the business relationship, regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The APPLICANT also undertakes to exercise due and adequate care less any such information is divulged.
- 2.11 The APPLICANT commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.
- 2.12 The APPLICANT shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.
- 2.13 If the APPLICANT or any employee of the APPLICANT or any person acting on behalf of the APPLICANT either directly or indirectly, is a relative of any of the officers of the BANK, or alternatively, if any relative of an officer of the BANK has financial interest/stake in the APPLICANT's firm, the same shall be disclosed by the APPLICANT at the time of filing of tender. *The term relative for this purpose would be defined in Section 6 of the Companies Act 1956.*
- 2.14 The APPLICANT shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the BANK in India or Public Sector Banks in India or any Government Department in India that could justify APPLICANT's exclusion from the tender process.



- 2.15 The APPLICANT agrees that if it makes incorrect statement on this subject, BANK can be disqualified from the tender process or the contract, if already awarded can be terminated for such reason.

3. Sanctions for Violations

- 3.1** Any breach of the aforesaid provisions by the APPLICANT or any one employed by it or acting on its behalf (whether with or without the knowledge of the APPLICANT) shall entitle the BANK to take all or any one of the following actions, wherever required:-
- (i) To immediately call off the pre-contract negotiations without assigning any reason or giving any compensation to the APPLICANT. However, the proceedings with the other APPLICANT(s) would continue.
 - (ii) To immediately cancel the contract, if already signed, without giving any compensation to the APPLICANT
 - (iii) To recover all sums already paid by the BANK, and in case of an Indian APPLICANT with interest thereon at 2% higher than the prevailing Base Rate of Bank of Maharashtra, while in case of a APPLICANT from a country other than India with interest thereon at 2% higher than the LIBOR. If any outstanding payment is due to the APPLICANT from the BANK in connection with any other contract for any other office/department/section/stores, such outstanding payment could also be utilized to recover the aforesaid sum and interest.
 - (iv) To encash the advance bank guarantee and performance bond/warranty bond, if furnished by the APPLICANT, in order to recover the payments, already made by the BANK, along with interest.
 - (v) To cancel all or any other Contracts with the APPLICANT. The APPLICANT shall be liable to pay compensation for any loss or damage to the BANK resulting from such cancellation/rescission and the BANK shall be entitled to deduct the amount so payable from the money(s) due to the APPLICANT.
 - (vi) To debar the APPLICANT from participating in future bidding processes of the Government of India/Public Sector Banks for minimum period of five years, which may be further extended at the discretion of the BANK.
 - vii) To recover all sums paid in violation of this Pact by APPLICANT(s) to any middleman or agent or broker with a view to securing the contract.
 - viii) In cases where irrevocable Letters of Credit have been received in respect of any contract signed by the BANK with the APPLICANT, the same shall not be opened.
 - ix) Forfeiture of Performance Bond in case of a decision by the BANK to forfeit the same without assigning any reason for imposing sanction for violation of this Pact
- 3.2** The BANK will be entitled to take all or any of the actions mentioned at para 3.1 (i) to (ix) of this Pact also on the Commission by the APPLICANT or any one employed by it or acting on its behalf (whether with or without the knowledge of the APPLICANT), of an offence as defined in Chapter IX of the Indian Penal code, 1860 or Prevention of Corruption Act 1988 or any other statute enacted for prevention of corruption.
- 3.3** The decision of the BANK to the effect that a breach of the provision of this Pact has been committed by the APPLICANT shall be final and conclusive or the APPLICANT. However, the APPLICANT can approach the Independent Monitor(s) appointed for the purpose of this Pact.



4. Independent Monitors

4.1 The BANK has appointed Independent Monitors (hereinafter referred to as Monitors) for this Pact in consultation with the Central Vigilance Commission. *(Names and Address of the Monitors to be given)*

Shri. Nilomni Bhakta Address - A-801, PBCL CHS Ltd. Plot No. 3, Sector 46 A Nerul, Navi Mumbai, 400706 Email - nilmoni.bhakta@gmail.com	Shri. Madan Lal Sharma Address - K-23, Japura Extension New Delhi Email - ml.sharma1965@yahoo.com
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4.2 The task of the Monitors shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this Pact

4.3 The Monitors shall not be subject to instructions by the representatives of the parties and perform their functions neutrally and independently.

4.4 Both the parties accept that the Monitors have the right to access all the documents relating to the project/procurement, including minutes of meetings

4.5 As soon as the Monitor notices, or has reason to believe, a violation of this Pact, he will so inform the Authority designated by the BANK.

4.6. The APPLICANT(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the BANK including that provided by the APPLICANT. The APPLICANT will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor shall be under contractual obligation to treat the information and documents of the APPLICANT/Subcontractor(s) with confidentiality.

4.7. The BANK will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the parties. The parties will offer to the Monitor the option to participate in such meetings.

4.8. The Monitor will submit a written report to the designated Authority of BANK /General Manager, Department of Information Technology within 8 to 10 weeks from date of reference or intimation to him by the BANK / APPLICANT and should the occasion arise, submit proposals for correcting problematic situations.

5. Facilitation of Investigation

In case of any allegation of violation of any provisions of this Pact or payment of commission, the BANK or its agencies shall be entitled to examine all the documents including the Books of Accounts of the BANK and the APPLICANT shall provide necessary information and document in English and shall extend all possible help for the purpose of such examination.



6. Law and Place of Jurisdiction

This Pact is subject to Indian Law. The place of performance and jurisdiction is the seat of the BANK.

7. Other Legal Actions

The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

8. Validity

8.1 The validity of this Integrity Pact shall be from date of its signing and extend upto 5 years or the complete execution of the contract to the satisfaction of both BANK and the APPLICANT, including warranty period, whichever is later. In case APPLICANT is unsuccessful, this Integrity Pact shall expire after six months from the date of the signing of the contract.

8.2 Should one or several provisions of this Pact turn out to be invalid, the remainder of this Pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intentions.

9. The parties hereby sign this Integrity Pact at _____ on _____

BANK

Name of the Officer:

Designation:

Dept:

APPLICANT

CHIEF EXECUTIVE OFFICER

Witness

1. _____

2. _____

Witness

1. _____

2. _____

** Provisions of these clauses would need to be amended / deleted in line with the policy of the BANK in regard to involvement of Indian agent of foreign suppliers.*