

## कोल इण्डिया लिमिटेड

(महाराज कंपनी)

(भारत सरकार उपक्रम)

क्रिटिकल मिनेरल और आईसी- बिजनेस डेवलपमेंट डिविजन,  
'कोल भवन', प्रेमिसिज सं.04 एमएआर,  
प्लॉट सं.-एएफ-III, एक्शन एरिया-1 ए, न्यूटाउन, राजरहाट,  
कोलकाता-700 156,  
वेबसाई: [www.coalindia.in](http://www.coalindia.in)  
सी आई एन सं. L23109WB1973GOI028844



5 DECADES OF UNEARTHING ENERGY

## COAL INDIA LIMITED

(A Maharatna Company)

(A Govt. of India Undertaking)

Critical Mineral & IC- Business Development Division,  
'Coal Bhawan', Premises No.04-MAR,  
Plot No-AF-III, Action Area -1A,  
New Town, Rajarhat  
Kolkata - 700 156

Website: [www.coalindia.in](http://www.coalindia.in)

CIN No.L23109WB1973GOI028844

CIL/BD/CM&IC/Pre-NIT/2026-27/65

Date: 17.04.2026

# Section I: Request for Expression of Interest (REoI)



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**Section-I: Request for Expression of Interest (REoI)**

**Section I: Request for Expression of Interest (REoI)**

The following Acronyms have been used in this REoI document:

Acronym	Definition	Acronym	Definition
EoI	Expression of Interest (Used interchangeably with “Bid” or “Bidding”).	RFP	Request for Proposals
ToR	Terms of Reference	TIA	Tender Inviting Authority
REoI	Request for Expression of Interest		

**1. Invitation**

Coal India Limited (referred to as Employer/ Procuring Entity in these documents) invites Expression of Interest (hereinafter referred as the ‘EoI’) from eligible and qualified Consultants for shortlisting for the delivery of Consultancy Services as described in ‘Part II: Schedule of Requirements’ (hereinafter referred to as ‘the Services’). Interested Consultants should provide sufficient and relevant information demonstrating that they meet the specified eligibility criteria and have the required qualifications to be shortlisted for providing the Services. This Request for Expression of Interest (REoI) document, reference number, **REoI/ xxxx**, details the process of such shortlisting. As part of procurement process, a Request for Proposal (RFP) for selecting Consultants for the mentioned Services shall be subsequently issued only to such shortlisted Consultants.

**2. Eligibility Criteria**

The invitation for bid is open to all Bidders including an Individual, Proprietorship firm, Partnership firm, Company registered under Companies Act or a Limited Liability Partnership registered under Limited Liability Partnership Act. **No form of Joint Venture/ Consortium is allowed to participate in this REoI.** The Bidders shall be eligible to participate only if they fulfil the Eligibility Criteria specified in e-tender Notice.

Subject to other provisions in the REOI document, participation in this shortlisting process is open to all Consultants who fulfil the ‘Eligibility’ criteria. Consultants should meet the following eligibility criteria as of the date of their EOI submission and should continue to meet these until the subsequent RFP process and contract award.

Sl. No	Parameter	Eligibility Criteria	Information to be furnished by the	Scanned copy of documents, to be uploaded by the	Remarks
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			<b>bidder in BSC Sheet</b>	<b>bidder, in support of information/declaration furnished by the bidders against Eligibility Criteria as Confirmatory Documents</b>	
a.	General Technical Evaluation (GTE) Sheet		Bidders are required to submit the duly filled GTE on portal.	The scanned copy of documents will be verified against the data furnished in the GTE Sheet.	
b.	Bid Summary Sheet (BSC)	Bidders must furnish the duly signed and filled BSC sheet. Any bid not accompanied by the BSC sheet will be summarily rejected as non-responsive.			<b>Bidders must download the protected excel sheet from the portal and sign and upload the duly filled sheet in “.pdf” format.</b>
c.	Firm Profile	The bidder shall be a full-service law firm providing legal advisory services across multiple practice areas.	Confirmation in the form of Yes/No for possessing the supporting documents in the BSC Sheet.	The bidder shall submit documentary evidence including firm profile, list of partners with practice areas and independent directory listings (e.g. Chambers and Partners ) demonstrating capability across at least five major legal practice areas.	
d.	Listing in Chambers and Partners List	Must be at least in Band-1 in the Practise Area of “Corporate/M&A”, as per rankings of Chambers	Confirmation in the form of Yes/No for possessing the supporting documents in the BSC Sheet.	Duly certified copy of latest ranking certificate issued to the bidder by Chambers and Partners.	



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		and Partners.			
e.	Firm's Existence in Business	The bidder's firm should be in existence for a minimum period of seven years.	Confirmation in the form of Yes/No for possessing the supporting documents in the BSC Sheet.	Certificate of Incorporation or any other legal document as applicable.	
f.	Work Experience	<p>The bidder should have successfully completed in its name at least two (2) works of <b>Similar Nature</b> during last 7 (seven) years, ending last day of month previous to the one in which bid applications are invited. (Note: No relaxation in prior work experience will be given to start ups or MSEs).</p> <p>(Note: In case, more than one experience is furnished by the bidder, only first two mentioned in the BSC sheet will be considered</p>	<ul style="list-style-type: none"> <li>Start date &amp; end date of each qualifying experience (Similar Nature).</li> <li>Work</li> <li>Order Number/Agreement Number of each experience</li> <li>Name &amp; address of Employer/Work Order Issuing authority of each experience.</li> </ul>	<p>For work experience Bidders are required to submit either:</p> <ul style="list-style-type: none"> <li>Work Experience Certificate issued by the employer against the Experience of similar work containing all the information as sought. (Work Order, BoQ, TDS, etc. may be sought during clarification or along with deficient documents, if felt necessary by the Tender Committee.)</li> </ul> <p>Or,</p> <ul style="list-style-type: none"> <li>Work Order issued by the client against the experience of similar work containing all information as sought, along with a separate UDIN bearing certification from ICAI registered Chartered accountant (CA) or statutory auditor of the</li> </ul>	<p><b>Similar nature of works shall mean:</b> Acted as Lead Legal Counsel in Corporate/ M&amp;A transactions, with responsibility of legal structuring of the transaction documents, regulatory compliances and coordination of legal closing and not merely as local counsel, diligence counsel or supporting counsel.</p> <p><b>Note:</b> For the avoidance of doubt, financial advisory, valuation, pricing and commercial negotiation functions performed by transaction advisors are excluded; the requirement relates strictly to legal advisory leadership.</p> <p><b>with a government entity or Stock Market Listed Private entity with over</b></p>



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		for evaluation.)		applicant/ Bidder certifying the date of completion and the total amount received including the final bill settlement for the specific work.	<b>Rs. 500 crore of turnover.</b> <b>Note:</b> Following Experiences will also be considered: 1. Joint Ventures of government entities, 2. Joint Ventures of listed private entities with over Rs. 500 crore of turnover.
g.	Annual Financial Turnover		<ul style="list-style-type: none"> <li>Average annual turnover during the last three (3) financial years (i.e. 2025-26, 2024-25 and 2023-24). In case the results for financial year 2025-26 is not available, then results for 2022-23 will be considered.</li> <li>Name of the Chartered Accountant issuing the Profit and Loss A/c or the Turnover certificate.</li> <li>Membership Number of the CA.</li> </ul>	Financial Turnover certificate with UDIN for last three (3) financial years (i.e. 2025-26, 2024-25 and 2023-24). In case the results for financial year 2025-26 is not available, then results for 2022-23 will be considered, issued by a Practicing Chartered Accountant having a membership number with Institute of Chartered Accountants of India containing the information as furnished by Bidder online.	<b>There is no minimum criteria but the consultants have to furnish the turnover details for the purpose of shortlisting. (Please refer clause 26).</b>
h.	Permanent Account Number		Confirmation in the form of Yes/No for possessing the supporting documents	PAN card issued by Income Tax department, Govt. of India.	
i.	GST Registration	The Bidder should be either:	Confirmation in the form of Yes/No for	The following documents	



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	<ul style="list-style-type: none"> <li>• GST Registered Bidder under regular scheme or,</li> <li>• GST registered bidder under composition scheme or,</li> <li>• GST Unregistered bidder</li> </ul>	possessing the supporting documents	<p>depending upon the status w.r.to GST:</p> <ul style="list-style-type: none"> <li>• <b>Status:</b> GST registered Bidder under regular scheme.</li> <li>• <b>Document:</b> GST Registration Certificate (i.e., GST identification Number) issued by appropriate authority of India.</li> <li>• <b>Status:</b> GST Registered Bidder under composition scheme</li> <li>• <b>Document:</b> GST Registration Certificate (i.e., GST identification Number) issued by appropriate authority of India.</li> <li>• <b>Status:</b> GST Unregistered Bidder.</li> <li>• <b>Document:</b> A certificate with UDIN from a practicing Chartered Accountant having membership number with Institute of Chartered Accountants of India certifying that the Bidder is GST unregistered Bidder in compliance with the relevant GST rules of India.</li> </ul>
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j.	Legal Status of the bidder	The Bidder should be either an Individual, Proprietors hip firm, Partnership firm, Company registered under Companies Act, or Limited Liability Partnership, as per Limited Liability Partnership Act.	Confirmation in the form of Yes/No for possessing the supporting documents.	<p>1. Any one of the following documents:</p> <ul style="list-style-type: none"> <li>• Memorandum &amp; Article of Association with certificate of Incorporation containing name of the Bidder for Companies registered under Companies Act.</li> <li>•Certificate of Incorporation along with a copy of the LLP Agreement for Limited Liability Partnerships.</li> <li>• Affidavit or any other document to prove proprietorship/Individual status of the bidder.</li> <li>• Partnership deed containing name of partners.</li> </ul> <p>And</p> <p>Board Resolution and Power of Attorney or any sort of legally acceptable document for the authority to submit the bid on behalf of the Bidder.</p>	
k.	Letter of Bid		Confirmation in the form of Yes/No for possessing the supporting documents	Annexure 1 (No need of submission, the acceptance during bidding through BSC shall be sufficient.)	



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<b>l.</b>	Code of Integrity for Public Procurement (CIPP) (Please refer Appendix-1)		Confirmation in the form of Yes/No for possessing the supporting documents	Bidders are required to accept the CIPP as available in the Bid document through BSC (No need of submission, the acceptance during bidding through BSC shall be sufficient.) (Annexure- 2)  This will be signed by the authorized signatory of the Bidder(s) with name, designation and seal of the Company at time of execution of formal agreement.	
<b>m.</b>	Public Procurement (Preference to Make in India) for “Local supplier”.		Confirmation in the form of Yes/No for possessing the supporting documents	‘Class-I Local Supplier’ / ‘Class- II Local Supplier’ shall indicate the percentage of local content and provide self-certification that the services offered meets the local content requirement for Class-I Local Supplier’ / ‘Class-II Local Supplier’, as the case may be. They shall also give details of the location(s) at which the local value addition is made. (Annexure-III)	
<b>n.</b>	An Undertaking on their letter head regarding relatives as employees of company, local supplier		Confirmation in the form of Yes/No for possessing the supporting documents	Bidders are required to submit the duly filled Undertaking as per format given at Annexure III.	



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	status of the Bidder etc. as per the format given in Annexure III.				
o.	Digital Signature Certificate (DSC)	<p>The Bidders have to get themselves registered online on the e-Procurement portal of CIL (<a href="https://coalindiastenders.gov.in">https://coalindiastenders.gov.in</a>) with valid Digital Signature Certificate (DSC) issued from any agency authorized by Controller of Certifying Authority (CCA), Govt. of India and which can be traced up to the chain of trust to the Root Certificate of CCA. The registration should be in the name of Bidder, whereas DSC holder may be either Bidder himself or his duly authorized person.</p> <p>If the Bidder himself is the DSC holder bidding on-line, then no document is required. However, if the DSC holder is bidding online on behalf of the Bidder then the Power of Attorney or any sort of legally acceptable document for the authority to bid on behalf of the Bidder.</p>			

### 2.1. Eligibility of Consultants from Restricted Countries

- **Restrictions based on Reciprocity**

Entities from countries (if so, identified in Section II: Appendix) as not allowing Indian companies to participate in their Government procurement shall not be allowed to participate (directly or as a sub-contractor or as a member of a JV/C) on a reciprocal basis in this REOI process under the “Public Procurement (Preference to Make in India) Order 2017 (No. P-45021/2/2017-PP (BE-II) dated September 2020)” (MII – para 10 - d) of Department for Promotion of Industry and Internal Trade, (DPIIT). Consultants must apprise themselves of the latest version of this order.

- **Restrictions based on Land Borders (Please refer Appendix-5)**

Order (F.NO.6/18/2019-PPD dated 23<sup>rd</sup> July, 2020) (Public Procurement No. 1) issued by the Government of India (Ministry of Finance Department of Expenditure Public Procurement Division) restricting procurement from consultants from certain countries that share a land border with India shall apply to this procurement. Consultants must apprise themselves of the latest version of this order.

Any consultant from a country that shares a land border with India, excluding countries to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects (as listed on the website of the Ministry of External Affairs), – hereinafter called ‘Restricted Countries’ shall be eligible to participate in this REOI, only if the consultant is registered with the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT). Consultants shall enclose the certificate in Form 1 - EOI Form.

### 2.2. Sub-consultants/Sub-contracting

Creation of Multi-Use List of Full-Service Law Firms for Mergers and Acquisition and similar activities for Business Development



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Consultants may propose to associate Sub-consultants for specialised parts of the Services provided their names and details are clearly stated in the EOI. Such Sub-consultants should not circumvent the eligibility condition laid down above. The value of such sub-contracts shall not exceed the limit specified (25% of the contract price, if not specified) in Section II: Appendix. Nevertheless, the consultant shall solely remain responsible for sub-contracted portions of the Services. Key and Non-key personnel, whether full-time employees or on contract, shall not be considered sub-consultants. Procurement of incidental goods, equipment hires, or labour engagement shall not be treated as sub-contracting.

**2.3. Conflict of Interest-** Please refer Appendix-1.

**3. Deleted**

**4. One Bid per Bidder**

In a REoI, a Bidder shall participate in one EoI only. A Bidder who submits or participates in more than one Bid (other than as a sub-Contractor or in cases of alternatives that have been permitted or requested) will cause all the proposals with the Bidder's participation to be disqualified.

**5. Cost of Bidding**

The Bidder shall bear all costs associated with the preparation and submission of his Bid, and the Employer will in no case be responsible or liable for those costs.

**6. Deleted**

**7. Content of Bidding Documents**

The set of bidding documents comprises the documents listed below as issued online by the Employer and addenda issued in accordance with Clause 9:

**Part I: REoI Process**

- Section I: Request for Expression of Interest (REoI)
- Section II: Appendix

Variable parameters and information related to this specific REOI process are summarised in the appendix.

**Part II: Schedule of Requirements**

1) Section III: Terms of Reference

‘Section III: Terms of Reference (TOR)’ describes the background, purpose/ objectives, description/ scope, deliverables/ outcomes, and timelines of Consultancy Services (hereinafter called the ‘Service’) required. The ‘Service’ may include incidental Goods Works, and other Services if so indicated therein. Any



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generic reference the 'Service' shall be deemed to include such incidental Goods, Works, and other Services.

### 8. Clarification of Bidding Documents

The Bidder may seek clarification online within the specified period. The identity of the Bidder will not be disclosed by the system. The Department will clarify as far as possible the relevant queries of Bidders. The clarifications given by Department will be visible to all the Bidders intending to participate in that tender. The clarifications may be asked from the day of e-Publication of REoI. The period for seeking clarification by Bidder will be up to 7 (seven) days before the end date of bid submission. The replies to clarifications sought by Bidders should be given by the Department at least 2 (two) days before the end date of bid submission.

In exceptional cases where a large number of queries from Bidders are expected, the period for seeking clarification may be kept maximum upto 15 (fifteen) days before the end date of bid submission, but the minimum period given to the Bidders for seeking clarification should not be less than 10 (ten) days in such cases.

The Tender Inviting Authority will be responsible for replying/responding to the clarifications online within the prescribed time frame. However, if the Tender Inviting Authority feels that the query is of such a nature that advice of Tender Committee or any other authority is required to give clarification, he may do so to reply the queries within the prescribed time limit.

### 9. Corrigendum to REoI

Corrigendum should be issued only in exceptional cases as per the extant procedure and e-procurement guideline prevailing in the Company.

### 10. Governing Language

The EOI submitted by the consultant and all subsequent correspondence and documents relating to the EOI exchanged between the consultant and the Procuring Entity should be written in the language specified in Section II: Appendix ( or English, if nothing is specified - hereinafter referred to as the 'EOI Language'). However, the language of any printed literature furnished by a Consultant in connection with its EOI may be written in any other language provided a certified translation accompanies the same in the EOI language. For interpretation of the EOI, translation in the language of the EOI shall prevail.

### 11. Deleted.



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### 12. Deleted.

### 13. Bid Validity

Bid shall remain valid for a period not less than 120 days after the deadline for bid submission specified in Clause 16.

In exceptional circumstances, prior to expiry of the original time limit, the Employer may request that the Bidders may extend the period of validity for a specified additional period. The request and the Bidder's responses shall be made in writing. A Bidder may refuse the request without forfeiting his bid security. A Bidder agreeing to the request will not be required or permitted to modify the bid.

### 14. Deleted

### 15. Signing and Submission of Bid:

- 15.1. In order to submit the Bid, the bidders have to get themselves registered online on the e-Procurement portal (<https://coalindiatenders.nic.in>) with valid Digital Signature Certificate (DSC) issued from any agency authorized by Controller of Certifying Authority (CCA), Govt. of India and which can be traced up to the chain of trust to the Root Certificate of CCA. The online Registration of the Bidders on the portal will be free of cost and one-time activity only. The registration should be in the name of bidder, whereas DSC holder may be either bidder himself or his duly authorized person.
- 15.2. The Bidder will submit their bid online. No off-line bid shall be accepted.
- 15.3. The Bidders will have to accept unconditionally the online User Portal (Appendix-7) Agreement which contains the acceptance of all the Terms and Conditions of REoI including General and Special Terms & Conditions, Integrity Pact and other conditions, if any, along with online undertaking in support of the authenticity of the declarations regarding the facts, figures, information and documents furnished by the Bidder online in order to become an eligible Bidder. No conditional bid shall be allowed/accepted. This User Portal Agreement of Guidelines for e Procurement of Works and Services will be a part of REoI Document.
- 15.4. The Bidders will have to accept unconditionally in BSC (Bid Summary Sheet) the Undertaking regarding Genuineness of the information furnished by him on-line & authenticity of the scanned copy of documents uploaded by him on-line in support of his eligibility criteria, declaration w.r.t Make in India order and compliance w.r.t procurement from Bidder of a country which shares a land border with India etc. and Letter of Bid. All such undertakings requiring unconditional acceptance and where no input from Bidder is required in the undertaking shall be included in the BSC Template and shall be accepted by the Bidder during Bid submission.
- 15.5. In the undertaking given by Bidder online through acceptance in BSC, there will be provision for penal action, if any information/declaration furnished online by the



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Bidder against eligibility criteria is found to be wrong at any stage which changes the eligibility status of the Bidder.

### **15.6. For online submission of tender the Bidders will have to upload the following-**

**For One/Single Part System-** All the confirmatory documents as prescribed in the REoI in Cover-I.

- **Letter of Bid:** The Letter of Bid addressed to the Tender Inviting Authority (TIA) will be given in REoI document containing name of the work, REoI No., REoI ID. This will be the covering letter of the Bidder for his submitted bid. The Bidders have to accept unconditionally the Letter of Bid in BSC (Bid Summary Sheet) at the time of bid submission. This online acceptance during bidding through BSC shall be construed as submission of LOB by bidder.
- **Confirmatory Documents:** All the confirmatory documents as enlisted in the REoI in support of online information submitted by the Bidder are to be uploaded in Cover-I or through “My Document” link in Bidder space by the Bidder while submitting his/her bid.

### **16. Deadline for Submission of Bids:**

- 16.1. Bids shall be submitted online on the e-procurement portal of CIL within the deadlines prescribed as per Guidelines for e-procurement for Works and Services of CIL.
- 16.2. The Employer may extend the deadline for submission of Bids by issuing a Corrigendum in accordance with Clause 9, in which case, all rights and obligations of the Employer and the Bidders previously subject to the original deadline will then be subject to the new deadline.
- 16.3. Auto extension of Bid may also be done in accordance to Guidelines for e procurement for Works and Services of CIL.

### **17. Modifications, Resubmission and Withdrawal of EoIs**

#### **a) Modification & Resubmission**

Once submitted in e-Procurement, Consultants cannot view or modify their EOI since it is locked by encryption. However, resubmission of the EOI by Consultants for any number of times superseding earlier EOI(s) is allowed upto the submission deadline by following procedures prescribed by the portal. Resubmission of an EOI shall require uploading all documents afresh. The system shall consider only the last EOI submitted.

#### **b) Withdrawal**

The consultant may withdraw his EOI before the submission deadline by following procedures prescribed by the portal, and it shall be marked as withdrawn and shall not get opened during the EOI opening. No EOI should be withdrawn after the submission deadline and before its validity period expires.



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### 18. EoI Opening

EOIs received shall be opened online on or after the specified date and time in Section II: Appendix. EOIs cannot be opened before the specified date & time, even by the Tender Inviting Authority, the Procurement Officer, or the Publisher. If the specified date of EOI opening falls on or is subsequently declared a holiday or closed day for the Procuring Entity, the EOIs shall be opened at the appointed time on the next working day.

### 19. Evaluation of EOIs and Shortlisting of Consultants

#### 19.1. General Norms

- Evaluation is based only on declared criteria
  - a) The evaluation shall be based upon scrutinising and examining all relevant data and details submitted by Consultants in its/ his EOI and other allied information deemed appropriate by Procuring Entity. Evaluation of EOIs shall be based only on the criteria/ conditions included in the REOI document.
  - b) Information relating to the evaluation of EOIs and shortlisting results shall not be disclosed to any participant or any other persons not officially concerned with such process until the notification of shortlisting is made.
  - c) The determination shall not consider the qualifications of other firms, such as the consultant's subsidiaries, parent entities, affiliates, or any other firm(s) different from the consultant.

#### 19.2. Evaluation of EOIs and Shortlisting

In evaluating the EOI, conformity to the eligibility criteria to those in the REOI document is ascertained. Additional factors incorporated in the REOI document shall also be considered as indicated therein.

- **Evaluation of Eligibility**
  - a) After opening of Technical bid, the documents submitted by Bidder(s) in Cover I as enlisted in the REoI will be downloaded by the Evaluator and shall be put up to the Tender Committee. The Tender Committee will examine the uploaded documents against information/declarations furnished by the Bidder(s) online. If it confirms to all of the information/ declarations furnished by the Bidder online and does not change the eligibility status of the Bidder then the Bidder will be considered eligible for shortlisting.
  - b) In case the Tender Committee finds that there is some deficiency in uploaded documents corresponding to the information furnished online or in case corresponding document have not been uploaded by Bidder(s) then the same will be specified online by Evaluator clearly indicating the omissions/shortcomings in the uploaded documents and indicating start date and end date allowing 7 days (7 x 24 hours) time for online re-submission by Bidder(s). The Bidder(s) will get this information on their personalized



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dashboard under “Upload confirmatory document” link. Additionally, information shall also be sent by system generated email and SMS, but it will be the Bidder’s responsibility to check the updated status/information on their personalized dash board regularly after opening of bid. No separate communication will be required in this regard. Non-receipt of e-mail and SMS will not be accepted as a reason of non-submission of documents within prescribed time. The Bidder(s) will upload the scanned copy of all those specified documents in support of the information/ declarations furnished by them online within the specified period of 7 days. No further clarification shall be sought from Bidder. The shortfall information/ documents should be sought only in case of historical documents which pre-existed at the time of the tender opening and which have not undergone change since then. These should be called only on basis of the recommendations of the TC. So far as the submission of documents is concerned with regard to qualification criteria, after submission of the tender, only related shortfall documents should be asked for and considered. For example, if the bidder has submitted a work order document related to a particular contract without its completion/ performance certificate, the certificate can be asked for and considered. However, no work order for new contract should be asked for so as to qualify the bidder.

- c) It is responsibility of Bidders to upload legible/clearly readable scanned copy of all the required documents as mentioned above.
- d) The tender will be evaluated on the basis of documents uploaded by Bidder(s) online. The Bidder(s) is/are not required to submit hard copy of any document through offline mode. Any document submitted offline will not be given any cognizance in the evaluation of tender.
- e) In case the Bidder(s) submit(s) requisite documents online as per REoI, then the Bidder(s) will be considered eligible for shortlisting.
- f) Seeking clarification shall be restricted to confirmation of submitted document/online information only and it should be only for one time for a period of upto 7 days. The clarification shall be taken in online mode in the e-Procurement portal of CIL only.
- g) The verification of Document from source shall be done only in case of complaints received or on suspicion. This should be done either through speed post or through electronic communication. No anonymous/pseudonymous complaints shall be entertained.
- h) After Technical evaluation of tender, “Technical Evaluation Summary” will be uploaded by the Evaluator.
- i) In case none of the Bidder(s) complies the technical eligibility criteria as per REoI, then Bidder(s) will be rejected online and re-tender (if required) will be done (with the same or different quantity, as per the instant requirement).



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- j) The following clauses will be applicable in subsequent RfP:
- i. Procurement from Micro and Small Enterprises (MSEs) shall be applicable for Service Tenders in accordance to the notification of Govt. of India and including its amendment(s) as notified by GoI from time to time. (Please refer Appendix- 3)
  - ii. Procurement Preference to Make In India (Please Refer Appendix-4)

### Note:

- k) Procuring entity shall determine whether the Consultants are qualified and capable in all respects to be shortlisted to provide the 'Services', The determination shall not consider the qualifications of other firms, such as the consultant's subsidiaries, parent entities, affiliates, or any other entity different from the consultant. The Procuring Entity reserves the right to waive minor deviations in the qualification criteria if they do not materially affect the capability of a Consultant to perform the contract.
- l) Unless otherwise stipulated in Section II: Appendix, assignments completed by the Consultant's individual experts working privately or through other consulting firms cannot be claimed as the relevant experience of the Consultant or that of the Consultant's partners or sub-consultants.

### 19.3. Publication of RFP following this EoI:

- The Procuring Entity shall publish a Request for Proposal (RFP) online addressed exclusively to shortlisted Consultants on GeM Portal. Procuring Entity/ the Portal may issue notifications/ alerts to such Consultants but without any liability. Such Consultants shall be responsible for being on the lookout for the RFP on the portal. While publishing the RFP, the Procuring Entity reserves its right to elaborate further on the brief overview of the proposed procurement/scope of work, qualification Criteria and other terms & conditions without vitiating the shortlisting process. Shortlisted Consultants shall have no claim in this regard.

### 20. Clarifications of EoIs:

Seeking clarification shall be restricted to confirmation of submitted document/online information only and it should be only for one time for a period of upto 7 days. The clarification shall be taken in online mode in the e-Procurement portal of CIL only.

### 21. Process to Remain Confidential

- 21.1. Information relating to the examination, clarification, evaluation and comparison of Bids and recommendations for shortlisting shall not be disclosed to Bidders or any other persons not officially concerned with such, however, the REoI



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## Section-I: Request for Expression of Interest (REoI)

Status will be in public domain and anyone visiting the site can view it by identifying the tender.

- 21.2. It will be the Bidder's responsibility to check the status of their Bid online regularly, after the opening of bid till award of contract. Additionally, information shall also be sent by system generated e-mail and SMS at nodal points (Date of bid opening, Requisition for Clarification on Confirmatory document from the Bidder(s), award of work etc.). No separate communication will be required in this regard. Non-receipt of e-mail and SMS will not be accepted as a reason of non-submission of Confirmatory documents within prescribed time.
- 21.3. Any effort by a Bidder to influence the Employer's processing of Bids or shortlisting decisions may result in the rejection of his Bid.
- 21.4. From the time of bid opening to the time of shortlisting, no bidder shall contact the Procuring Entity on any matter related to the bid, except on request and prior written permission.

### 22. Examination of Bids and Determination of Responsiveness:

A substantially responsive Bid is one which conforms to all the terms, conditions, and specifications of the Bidding documents without material deviation or reservation. A material deviation or reservation is one:

- which affects in any substantial way the scope, quality, or performance of the works;
- which limits in any substantial way, inconsistent with the Bidding documents, the Employer's rights or the Bidder's obligations under the Contract; or
- whose rectification would affect unfairly the competitive position of other Bidders presenting substantially responsive Bids.

If a Bid is not substantially responsive, it may be rejected by the Employer at its sole discretion.

### 23. Evaluation and Comparison of Bids

- 23.1. The Employer will evaluate and compare only the Bids determined to be substantially responsive in accordance with Clause No. 22.
- 23.2. The evaluation of Bid, by the Employer shall be done as per Clause No. 19.
- 23.3. The Employer reserves the right to accept or reject any Bid not conforming to the requirements of the Bidding documents.
- 23.4. No document presented by the Bidder, after closing date and time of bid, will be taken into account by the evaluation committee unless otherwise called for during scrutiny / technical scrutiny by the tender committee as clarification.

### 24. Shortlisting Criteria

Subject to Clause 23, the Employer will Shortlist the Bidders whose Bid has been determined to be substantially responsive to the Bidding documents, provided that such Bidders have been determined to be:

- eligible in accordance with the provisions of Clause 2; and
- qualified in accordance with the provisions of Clause 3.



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## Section-I: Request for Expression of Interest (REOI)

### 25. Procuring Entity- Right to Reject any or all EoIs

The issue of the REOI document does not imply that the Procuring Entity is bound to shortlist Consultants. Notwithstanding Clause 24, the Employer reserves the right to accept, negotiate or reject any Bid, and to cancel the bidding process and reject all Bids, at any time prior to issue of Final Shortlist, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders of the grounds for the Employer's action.

### 26. Declaration of Shortlisted Consultants

EOIs of Consultants that succeed in the above evaluation shall be shortlisted. Provisionally shortlisted consultants will be informed of the condition(s) that must be met before submitting their Proposal in the RFP process. Such shortlisting shall remain valid for a period of two years from the date of declaration.

Only shortlisted (including provisionally shortlisted) Consultants shall be invited to participate in the following RFP process. If there are a larger number of consultants meeting the evaluation criteria, the shortlist shall be restricted to a specified number of Consultants (i.e. eight (8) consultants) based on higher Average Turnover (Please refer clause 2(g)).

In no case, the shortlist shall contain less than 03 (three) consultants.

The name and address of the shortlisted consultant (s) shall be published in the portal and notice board/ bulletin/website of the Procuring Entity. All Consultants shall be advised about shortlisting of their EOIs or otherwise without disclosing the comparative position of their EOIs with that of others. Shortlisted Consultants must not advertise or publish the same in any form without the prior written consent of the Procuring Entity.

Shortlisting a consultant is an administrative process and does not confer any legal or contractual rights on him. Since original documents/ certificates are not being called for and examined at this stage, all shortlisted shall be conditional upon final verification of such documents/ certificates during the RFP Process.

### 27. Deleted.

### 28. Deleted.

### 29. Legal Jurisdiction

Matter relating to any dispute or difference arising out of this tender and subsequent contract awarded based on the bid shall be subject to the jurisdiction of Kolkata court only.

### 30. Downloading Bid Document



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## Section-I: Request for Expression of Interest (REOI)

- a) The Bidders will download the Bid documents from the website. The Company shall not be responsible for any delay/ difficulties/ inaccessibility of the downloading facility for any reason whatsoever. The downloading facility shall be available as soon as the bid is notified and up to the period of submission.
- b) The Bidders will be required to submit an undertaking that they will accept the Bid documents as available in the website and their Bid shall be rejected if any tampering in the Bid documents is found to be done at any time after opening of Bid and during pendency of the contract.
- c) The bid document as available online on the e-procurement of CIL shall always prevail and will be binding on the Bidders. Any claim on account of any deviation with respect to this online Bid document from the Bidder side shall not be entertained.

**31. Deleted.**

**32. Deleted.**

### **33. Change in the Constitution of Shortlisted Agency**

Bidders are required to accept the CIPP as available in the Bid document (Annexure III) online at e-procurement portal of CIL. This will be signed by the authorized signatory of the Bidder (s) with name, designation and seal of the Company at time of execution of formal agreement. In case of Partnership Firms, all partners shall sign at the time of agreement.

### **34. Miscellaneous:**

- 34.1. The bidders should fill the bid document properly and carefully. They should avoid quoting absurd rates.
- 34.2. Throughout the bidding documents, the terms 'EoI', 'bid' and "tender" and their derivatives are synonymous.
- 34.3. Provisions related to instructions to bidder shall be a part of agreement.

**Note:** For further details, please refer to appended Section II: Appendix.

Signed/Digitally Signed by  
Tender Inviting Authority (TIA)



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Section-II: Appendix

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## Section II: Appendix



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**Section II: Appendix**

Expression of Interest Document No. REOI/ xxxx; Tender Title: Legal Due- Diligence

<b>1.0 Basic REoI Details</b>			
<b>Tender Title/Name of Assignment</b>	Legal Due- Diligence		
<b>Name of Project</b>	Creation of Multi-Use List of Full-Service Law Firms for Mergers and Acquisition and similar activities for Business Development.		
<b>Tender Reference Number</b>	REoI No. _____	<b>Tender ID</b>	
<b>Tender Type</b>	Expression of Interest	<b>Tender Category</b>	Services
<b>No. of Covers</b>	Single	<b>Product Category</b>	Consultancy
<b>Domestic/ Global Procurement</b>	Domestic Procurement	<b>Organization</b>	Coal India Limited
<b>Address</b>	Coal Bhawan Premise No-04 MAR, Plot No-AF-III, Action Area- 1A, Newtown, Rajarhat, Kolkata- 700156		

<b>2.0 Critical Dates</b>			
<b>Published Date</b>		<b>EoI Validity (Days from the date of REoI Opening)- REoI Clause 7.2</b>	120 days (dates: _____)
<b>Document Download Start Date &amp; Time</b>		<b>Document Download End Date &amp; Time</b>	
<b>Clarification Start Date &amp; Time</b>		<b>Clarification End Date &amp; Time</b>	
<b>EoI Submission Start Date &amp; Time</b>		<b>EoI Submission End Date &amp; Time</b>	
<b>EoI Opening Date &amp; Time</b>			

<b>3.0 Eligibility and Qualification Criteria</b>			
<b>Nature of Consultants eligible and association with sub-consultants/JV</b>	No Form of JV/Consortium is eligible for the purpose of this REoI.		
<b>Maximum limit of the value of Subcontracting permitted</b>	25%	<b>Various JV Parameters: Maximum number of members, etc.</b>	NA

Creation of Multi-Use List of Full-Service Law Firms for Mergers and Acquisition and similar activities for Business Development



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Section-II: Appendix

4.0 Pre-EoI Conference	
Is a Pre-EoI Conference proposed to be held?	Yes.
Place, time and date of the Pre-EoI Conference	NA
Place, time and date before which Written queries for the Pre-EoI conference must be received.	NA
Place, time and date before which registration of participants for the Pre-EoI Conference must be received	NA

6.0 Preparation and Submission and Opening of EoIs			
Language of Submission	English	EoI Validity	120 days from Bid opening date
<b>EoI Opening Place</b>	(Portal's web address)		

7.0 Evaluation of EoI and Qualification Criteria			
Maximum number of consultants on the shortlist and criteria on which it would be based	A maximum of 8 consultants and minimum of 3 consultants will be shortlisted and if more than eight are found eligible then top eight consultants based on higher average total turnover will be shortlisted.	For JVs, minimum qualifications to be met by Lead Member and Substantial members	NA
Validity of the Shortlist	2 years from the date of issuance of Multi-Use List order. (The list will be revised annually.)		

8.0 About RFPs that would follow	
RFP to be issued	Limited to shortlisted Consultants from this EoI, till the validity of the EoI.
Bid Security Requirements	Yes- shall be detailed in the RfP.
Performance Security	Yes- shall be detailed in the RfP.
De-listing	If a shortlisted consultant fails to participate in atleast 50% of the RfPs in a year on being invited to do so, it will be removed from



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## Section-II: Appendix

	the approved Multi-Use List and won't be considered for any subsequent RfP.
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Section-IV: Terms of Reference

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**Section III:**  
**Terms of Reference**  
**(Schedule of Requirements)**



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## Section-IV: Terms of Reference

### Section IV: Terms of Reference

#### 1. Recitals and Objectives

##### a. Background

- Coal India Limited (CIL) is the world's largest coal mining company and plays vital role in ensuring the country's energy security.
- CIL intends to strategically diversify and expand into high-potential growth areas for achieving exponential growth.
- Though CIL has identified Critical Minerals, Coal to Chemicals, Solar and Energy (with a special emphasis on Thermal sector) as primary areas to diversify into, the company is open to explore more potential sectors in the foreseeable future.
- Against this background, since CIL has decided to venture into a vertical integration of business initiatives other than its conventional coal business with necessary approval of the Board, it invites expression of interest for **creation of Approved Multi-Use List** of experienced consultant(s) for availing legal services for Business development and Diversification.
- The purpose is to create a Multi-Use List of reputed firms on the basis of the credentials being furnished and then to award the work via Request for Proposals among the listed firms as and when needed.

##### b. Purpose and Service Outcome Statement:

Will be detailed in RfP.

##### c. Upstream contract based on which this REOI is generated and/or downstream work that would be required, if any:

As and when CIL feels the need to get legal services for an identified task, a Request for Proposal will be floated only among the firms shortlisted through this REOI. Even after the assignment is completed, if the procuring entity feels that some incidental task is in the nature of natural continuation to the task already performed under the RfP thus floated, it may request the consultant selected for the assignment under the RfP to carry out the task subject to price justification for the additional task. The Consultant is not bound to consent to the request and any decline from the Consultant will not attract any penalty.

#### 2. Form of BOQ/ Contract (Details will be published in subsequent RfP):

- a. BoQ: Lumpsum
- b. Contract: Lumpsum

#### 3. Description of Services

- a. Short Description and Broad Scope of Services:
- b. The tentative broad scope of services will include the following:

Creation of Multi-Use List of Full-Service Law Firms for Mergers and Acquisition and similar activities for Business Development



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## Section-IV: Terms of Reference

Corporate/ M&A Transaction Advisory, strategic legal structuring & Re-organisation, Large Project Legal advisory (such as PPP structuring, risk-sharing frameworks, etc.), Deal-linked regulatory strategy & advisory (includes structuring to comply with sectoral regulations), Complex Dispute Strategy Advisory (dispute avoidance strategy, structuring settlement frameworks, etc.), legal opinions (on complex statutory interpretations, cross-border or first of its kind issues, etc.), due-diligence and advisory, legal services for listing panel, legal negotiations and closing, Legal structuring of transaction documents, Advisory on Joint Venture (JV) / Special Purpose Vehicle (SPV) formation, including structuring of equity participation and associated corporate structuring aspects, Legal Due Diligence and Vetting of Transaction Documents, including but not limited to Share Purchase Agreements (SPA), Shareholders' Agreements (SHA), Share Subscription Agreements (SSA), Joint Venture Agreements, and related transaction documentation, Drafting, review, and legal risk assessment of agreements executed for project development, asset acquisition, strategic partnerships, or corporate restructuring, etc.

(**Note:** Subsequent RfP can be floated for all or either or any combination of the above mentioned or similar tasks.)

c. **Key Activities**

Key activities will be task specific and will be detailed in the RfPs.

d. **Incidental Goods, Works or other Services required, if any:**

Will be detailed in the RfPs.

e. **Key Experts Required:**

The engagement may require a team comprising of team lead and other consultants, with sufficient experience and required qualifications details of which will be given in subsequent RfP. The qualification and Experience of Key Experts are not included in the shortlisting criteria but shall be evaluated at the RFP stage. It is assumed that the bidders who meet the REoI qualification, can well manage to attract right Key experts during RfP.)

f. **Deliverables and Outcomes:**

Will be detailed in the RfPs.

g. **Performance Targets/ Key Indicators for measuring impact, if feasible:**

Will be detailed in the RfPs.

4. **CIL's Institutional and Organisational Arrangement for Services:**

a. Counterpart Contract Manager (or Contract Management Team) of the Procuring Entity: \_\_\_\_\_

b. **Chain of Command for Reporting and Monitoring:** Will be detailed in RfP.



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## Section-IV: Terms of Reference

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- c. **Consultancy Management Reporting and Monitoring Procedures:** Will be detailed in RfP.
5. **Reporting Requirements and Time Schedule for Deliverables**  
Will be detailed in RfP.
6. **Statutory, Sustainability and Contractual obligations to be complied with by the Consultant:** Will be detailed in subsequent RfP.

**ANNEXURE –I (PROFORMA FOR LETTER OF BID)**

To  
The Tender Inviting Authority.  
Coal India Limited

Sub: Letter of Bid for \_\_\_\_\_”

Ref: No.: “ \_\_\_\_\_”

Dear Sir,

This has reference to above referred bid. I/we have read and examined the conditions of contract, Scope of Work, technical specifications, BOQ and other documents carefully.

I/We am/are pleased to submit our bid for the above work. I/We hereby unconditionally accept the bid conditions and bid documents as available in the eProcurement portal, in its entirety for the above work and agree to abide by and fulfil all terms and conditions and specifications as contained in the bid document.

I/we here by submit all the documents as required to meet the eligibility criteria as per provision of the bid notice/document.

I/We hereby confirm that this bid complies with the Bid validity, Bid Security and other documents as required by the Bidding documents.

If any information furnished by me/us towards eligibility criteria of this bid is found to be incorrect at any time, penal action as deemed fit may be taken against me/us for which I/We shall have no claim against CIL/Subsidiary.

In case of our failure to abide by the provisions, Coal India Ltd. shall, without prejudice to any other right or remedy, be at liberty to” cancel our shortlisting order and debar us from participating in future tenders for a minimum period 12 months”.



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## Formats

### ANNEXURE – II: PROFORMA FOR UNDERTAKING TO BE UPLOADED BY BIDDER/S (on their letterhead)

We solemnly declare that:

1. I/We am/are submitting Bid for the work “\_\_\_\_\_” against Ref. No. \_\_\_\_\_  
Dated \_\_\_\_\_ and I/we offer to execute the work in accordance with all the terms, conditions and provisions of the bid.
2. All information furnished by us in respect of fulfilment of eligibility criteria and qualification information of this Bid is complete, correct and true.
3. All copy of documents, credentials and documents submitted along with this Bid are genuine, authentic, true and valid.
4. I/ We hereby authorize department to seek references / clarifications from our Bankers.
5. If awarded a contract in any RfP, we bind ourselves to abide by General Terms and Conditions of Contract available on GeM Portal.
6. We hereby undertake that we shall register and obtain license from the Competent Authority under the contract labour (Regulation & Abolition Act) as relevant, if applicable.
7. I/We have not been debarred by any procuring entity for violation of Preference to Make in India (as applicable) vide Order No. P-45021/2/2017-PP (BE-II) dated 16.09.2020, issued by Govt. of India as amended from time to time.
8. **Certificate regarding compliance to order no.F.No.6/18/2019-PPD dt 23/7/2020 as amended from time to time of Ministry of Finance, Dept of Expenditure, Public Procurement Division with respect to restrictions on procurement of goods, services or works from a Bidder of a country which shares a land border with India and on sub-contracting to Contractors from such countries - I/we have read the Clause regarding restrictions on procurement from a Bidder of a country which shares a land border with India and on sub-contracting to Contractors from such countries; I/we certify that I am/ we are not from such a country or, if from such a country, has/have been registered with the Competent Authority and will not sub-contract any work to a Contractor from such countries unless such Contractor is registered with the Competent Authority. I hereby certify that I/we fulfil all requirements in this regard and I am/ we are eligible to be considered.**

(Where applicable, evidence of Competent Authority shall be attached.)

9. If any information and document submitted is found to be false/ incorrect at any time, department may cancel my/our Bid and action as deemed fit may be taken against me/us, including termination of the contract, forfeiture of all dues and Debarment of our firm and all partners of the firm etc from Bidding, as per the tender document.

Signature



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## Formats

### ANNEXURE – III (PROFORMA FOR UNDERTAKING TO BE UPLOADED BY BIDDER/S ON THEIR LETTER HEAD)

Proforma for undertaking to be uploaded by bidder/s (on their letterhead) regarding relatives as employees of company, arbitration clause (in case of partnership firm), local supplier status of the bidder, cipp etc.

I / We, ....., Proprietor/Partner/Legal Attorney/Director/ Accredited Representative of M/s. ...., solemnly declare that:

1. Myself/Our Partners/Directors don't has/have any relative as employee of Coal India Limited/Subsidiary.

OR

The details of relatives of Myself/Our Partners/Directors working as employee of Coal India Limited is as follows:

- a. Name of the employee
- b. Place of posting
- c. Department
- d. Designation
- e. Type of relation - Wife/Husband/ Father/ Step-Father/Mother / Step-Mother/ Son/Step-son/ Son's wife / Daughter / Daughter's Husband / Brother/ Step-Brother/ Sister / Stet-Sister.

2. \*I/We hereby confirm that we have registration with CMPF / EPF Authorities. We shall make necessary payments as required under law.

Or

\*I/We hereby undertake that we shall take appropriate steps for registration as relevant under CMPF / EPF authorities, if applicable. We shall make necessary payments as required under law.

**\* Delete whichever is not applicable.**

3. \*\* I/We have not been debarred or banned or delisted by any Govt., or Quasi Govt. Agencies or PSUs.

Or

\*\*I / We .....have been debarred or banned by the organization named "....." for a period of..... year/s, effective from ..... to.....

**\*\* Delete whichever is not applicable.**

4. We certify that the works/services offered by us against the tender for the work "..... (Name of work)" against Ref. No. .... Dated....., meet the minimum local content requirement and has local content:  
\* Equal to or more than 50% (Select this, in case of Class-I Local Suppliers) i.e.....% (indicating the percentage of local content).



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\* More than 20% but less than 50% (Select this, in case of Class-II Local Suppliers)

i.e.....% (indicating the percentage of local content).

The details of the location(s) at which the local value addition is made, is / are as under:

- 1.
- 2.

5. \*\*I/We have not been debarred by any procuring entity for violation of Preference to Make in India (as applicable) vide Order No. P-45021/2/2017-PP (BE-II) dated 16.09.2020, issued by Govt. of India as amended from time to time.

OR

\*\*I / We .....have been debarred by.....(name of procuring entity) for violation of Preference to Make in India vide Order No. P-45021/2/2017-PP (BE-II) dated 16.09.2020, issued by Govt. of India as amended from time to time for a period of.....year/s, effective from ..... to.....

**\*\*Delete whichever is not applicable.**

Note: A bidder who has been debarred by any procuring entity for violation of Preference to Make in India vide Order No. P-45021/2/2017-PP (BE-II) dated 16.09.2020, issued by Govt. of India as amended from time to time shall not be eligible for preference under this Order for procurement by any other procuring entity for the duration of debarment.

6. I/we abide the Code of Integrity for Public Procurement (CIPP) as given in the tender document.
7. \*I/we do not have any previous transgression of CIPP in last three years with any entity in any country.

Or

\*I / We have been debarred by.....(name of procuring entity) for violation of Code of Integrity for Public Procurement (CIPP), for a period of..... year/s, effective from ..... to.....

**\*Delete whichever is not applicable**

10. If any information and document submitted is found to be false/ incorrect at any time, department may cancel my/our Bid and action as deemed fit may be taken against me/us, including termination of the contract, forfeiture of all dues and Debarment of our firm and all partners of the firm etc from Bidding, as per the tender document.

Signature

## APPENDIX-1

### APPENDIX – I Code of Code of Integrity for Public Procurement (CIPP)

TO BE ACCEPTED UNCONDITIONALLY BY BIDDER/S

#### 1. Introduction

Public procurement is perceived to be prone to corruption and ethical risks. To mitigate this, the officials of Procuring Entities involved in procurement and the bidders/ contractors must abide by the following Code of Integrity for Public Procurement (CIPP). The bidders/ contractors should accept a declaration about abiding by a Code of Integrity for Public Procurement (including sub-contractors engaged by them) during submission of bid, with a warning that, in case of any transgression of this code, it would be liable for punitive actions such as cancellation of contracts, banning and blacklisting or action in Competition Commission of India, and so on.

#### 2. Code of Integrity for Public Procurement

Procuring authorities as well as bidders, contractors and consultants should observe the highest standard of ethics and should not indulge in the following prohibited practices, either directly or indirectly, at any stage during the procurement process or during execution of resultant contracts:

- i) **“Corrupt practice”**: making offers, solicitation or acceptance of bribe, rewards or gifts or any material benefit, in exchange for an unfair advantage in the procurement process or to otherwise influence the procurement process or contract execution;
- ii) **“Fraudulent practice”**: any omission or misrepresentation that may mislead or attempt to mislead so that financial or other benefits may be obtained or an obligation avoided. This includes making false declaration or providing false information for participation in a tender process or to secure a contract or in execution of the contract;
- iii) **“Anti-competitive practice”**: any collusion, bid rigging or anti-competitive arrangement, or any other practice coming under the purview of The Competition Act, 2002, between two or more bidders, with or without the knowledge of the procuring entity, that may impair the transparency, fairness and the progress of the procurement process or to establish bid prices at artificial, non-competitive levels;
- iv) **“Coercive practice”**: harming or threatening to harm, persons or their property to influence their participation in the procurement process or affect the execution of a contract;
- v) **“Conflict of interest”**:  
Participation by a bidding firm or any of its affiliates that are either involved in the consultancy contract to which this procurement is linked; or if they are part of more than one bid in the procurement; or if the bidding firm or their personnel have relationships or financial or business transactions with any official of procuring entity who are directly related to tender or execution process of contract; or improper use of information obtained by the (prospective) bidder from the procuring entity with an intent to gain unfair advantage in the procurement process or for personal gain.



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All such Bidders having a Conflict of Interest, shall be disqualified.

**Note:** - However, debarment shall be done as per Guidelines on Debarment of firms from Bidding.

- vi) **“Obstructive practice”**: materially impede the procuring entity’s investigation into allegations of one or more of the above mentioned prohibited practices either by deliberately destroying, falsifying, altering; or by concealing of evidence material to the investigation; or by making false statements to investigators and/ or by threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or by impeding the procuring entity’s rights of audit or access to information;

### 3. Obligations for Proactive Disclosures

- i) Procuring authorities as well as bidders, contractors and consultants, are obliged under Code of Integrity for Public Procurement to suo-moto proactively declares any conflicts of interest (coming under the definition mentioned above – pre-existing or as and as soon as these arise at any stage) in any procurement process or execution of contract. Failure to do so would amount to violation of this code of integrity; and
- ii) Any bidder must declare, whether asked or not in a bid document, any previous transgressions of such a code of integrity with any entity in any country during the last three years or of being debarred by any other procuring entity. Failure to do so would amount to violation of this code of integrity.
- iii) To encourage voluntary disclosures, such declarations would not mean automatic disqualification for the bidder making such declarations. The declared conflict of interest may be evaluated and mitigation steps, if possible, may be taken by the procuring entity. Similarly voluntary reporting of previous transgressions of Code of Integrity elsewhere may be evaluated and barring cases of various grades of debarment, an alert watch may be kept on the bidder’s actions in the tender and subsequent contract.

### 4. Punitive Provisions

Without prejudice to and in addition to the rights of the procuring entity to other penal provisions as per the bid documents or contract, if the procuring entity comes to a conclusion that a (prospective) bidder/ contractor directly or through an agent, has violated this code of integrity in competing for the contract or in executing a contract, the procuring entity may take appropriate measures including one or more of the following:

- i) If his bids are under consideration in any procurement
- a. Forfeiture or encashment of bid security;
  - b. calling off of any pre-contract negotiations; and



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- c. rejection and exclusion of the bidder from the procurement process
- ii) If a contract has already been awarded
  - a. Cancellation of the relevant contract and recovery of compensation for loss incurred by the procuring entity;
  - b. Forfeiture or encashment of any other security or bond relating to the procurement;
  - c. Recovery of payments including advance payments, if any, made by the procuring entity along with interest thereon at the prevailing rate;
- iii) Provisions in addition to above:
  - a. banning/ debarment of the bidder from participation in future procurements of the procuring entity for a period not less than one year;
  - b. In case of anti-competitive practices, information for further processing may be filed, with the Competition Commission of India;
  - c. Initiation of suitable disciplinary or criminal proceedings against any individual or staff found responsible.



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### **APPENDIX- 2- Guidelines on Debarment of Firms from Bidding**

CIL and its Subsidiary Companies shall follow the following guidelines for effecting 'Debarment of firms from Bidding' with a contracting entity in respect of Works and Services Contracts.

1. Observance of Principle of Natural Justice before debarment of firm from Bidding. The Bidder/contractor shall not be debarred unless such Bidder/contractor has been given a reasonable opportunity to represent against such debarment (including personal hearing, if requested by the Bidder/contractor).
2. The terms 'banning of firm', 'Suspension', 'Blacklisting' etc. convey the same meaning as of 'Debarment'.
3. The order of debarment shall indicate the reasons(s) in brief that lead to debarment of the firm.
4. The contracting entity may be debarred from bidding in the following circumstances: -
  - a. Withdrawal of Bid as per relevant provisions of tender document.
  - b. If L1 Bidder fails to submit PSD, if any and/or fails to execute the contract within stipulated period.
  - c. If L1 Bidder fails to start the work on scheduled time.
  - d. In case of failure to execute the work as per mutually agreed work schedule.
  - e. Continued and repeated failure to meet contractual Obligations:
    - i. In case of partial failure on performance, agency shall be debarred from future participation in tenders keeping his present contract alive.
    - ii. On termination of contract.
  - f. Wilful suppression of facts or furnishing of wrong information or manipulated or forged documents by the Agency or using any other illegal/unfair means.
  - g. Formation of price cartels with other contractors with a view to artificially hiking the price.
  - h. The contractor fails to maintain/ repair/ redo the work up to the expiry of performance guarantee period, when it is specifically brought to his notice.
  - i. Contractor fails to use Mobilisation advance (if any) given to him for the purpose it was intended.
  - j. Contractor fails to renew the securities deposited to the department.
  - k. The contractor fails to rectify any lapse(s) in quality of the work done within defect liability period.
  - l. Any other breach of Contract or misdeed which may cause financial loss or commercial disadvantage to the Company.
  - m. If it is determined that the Bidder has breached the Code of Integrity for Public Procurement (CIPP) as provided in the tender document.
  - n. False declarations w.r.t Make in India Order.
  - o. In case of supply of sub-standard materials, sub-standard quality of work, non-execution of work, non-supply of materials, failure to abide by bid securing declaration (if any) etc.

In case of price cartel, matter shall be reported to the Competition Commission and requesting, inter alia, to take suitable strong actions against such firms.
5. Such 'Debarment, if any when effected, shall be with prospective effect only. The effect



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of 'Debarment' shall be for future tenders from the date of issue of such Order. No contract of any kind whatsoever shall be placed to debarred firm after the issue of a debarment order by DoE/MoC/CIL/Subsidiary (as applicable) if such debarment has been done before the last date of bid submission. Even in the case of risk purchase, no contract should be placed on such debarred firms.

In case, any debarred firms have submitted the bid, the same will be ignored. In case such firm is lowest (L1), next lowest firm shall be considered as L1. Bid security/ EMD submitted by such debarred firms shall be returned to them.

The contracts concluded i.e. issue of LOA/issue of work order, before the issue of the debarment order shall not be affected by the debarment orders.

6. In case CIL is of the view that a particular firm should be banned across all the Ministries/ Departments by debarring the firm from taking part in any bidding procedure floated by the Central Government Ministries/ Departments, CIL may refer the case to MoC with the approval of Chairman, CIL for referring the case DoE with a self-contained note setting out all the facts of the case and the justification for the proposed debarment, along with all the relevant papers and documents.  
This shall be done only in those case where debarment has been done across CIL and its Subsidiaries.
7. The debarment shall be for a minimum period of one year and shall be effective for the concerned Subsidiary for the tenders invited at Subsidiary level. Similarly, in case of tenders of CIL HQ, debarment shall be for CIL HQ. However, if such 'debarment' has to be made effective for entire CIL and its Subsidiaries then approval of Chairman, CIL shall be required. The period of debarment shall not exceed 02(Two) years. In case of Clause (4) (vi) & (xv) above, period of debarment shall be 02(Two) years.
8. Once a contracting entity is debarred, it shall be extended to the constituents of that entity, i.e. partners (jointly and severally) in case of Joint Venture, all the partners (jointly and severally) in case of Partnership Firm, owner/proprietor in case of Proprietorship Firm. The names of partners should be clearly specified in the Debarment Order. If such debarred owner/Proprietor/ Partner make/form different Firms/entity and attempts to participate in tenders, the same shall not be entertained during the currency of such debarment. In case the contracting entity being debarred is a Company then only the Company shall be debarred.
9. The above 'Debarment' shall be in addition to other penal provisions of NIT/Contract document.
10. Debarment in any manner does not impact any other contractual or other legal rights of CIL and/or its Subsidiaries.
11. In case of shortage of firms (less than three eligible firms) in a particular group, such debarments may also hurt the interest of CIL and/or its Subsidiaries. In such cases, endeavour should be to pragmatically analyse the circumstances, try to reforms the firm and may get a written commitment from the firm that its performance will improve.
12. Approving Authority: The 'Debarment' of a contracting entity shall be done with the approval of the Competent Authority as per the details below:
  - a. In case the Accepting Authority of the work is Board or Empowered Committee or FDs or CMD of CIL/Subsidiary Company, then the Competent Authority for debarment shall be CMD of CIL/Subsidiary Company.



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- b. In case the Accepting Authority of the work is up to the level of Director of CIL/Subsidiary Company, then the Competent Authority for debarment shall be Director of CIL/Subsidiary Company.
13. An order for debarment passed shall be deemed to have been automatically revoked on the expiry of that period and it shall not be necessary to issue a specific formal order of revocation.  
A debarment order may be revoked before the expiry of the Order, by the competent authority, if it is of the opinion that the disability already suffered is adequate in the circumstances of the case or for any other reason.
14. Appellate Authority for debarment orders shall be CMD of CIL/ Subsidiary Company. In case the debarment is done with the approval of CMD of the Subsidiary Company then Chairman, CIL shall be Appellate Authority. The appellate authority in case debarment is done with approval of Chairman CIL, shall be CFD of CIL.
15. Any change on the above may be done with approval of FDs of CIL.
16. All the orders of debarment or orders passed in appeal shall be marked to GM (CMC) / Civil / concerned HODs of CIL/Subsidiary Company/ Application Admin of e-procurement portal of CIL/Nodal officers of Subsidiaries. Application Admin of e-procurement portal of CIL/Nodal officers of Subsidiaries shall maintain the master data of such banned firms which shall be made available in the public domain (i.e. on the website of CIL/Subsidiaries/ e-Procurement portal of CIL).



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## APPENDIX- 3: Public Procurement Policy for MSEs

### Appendix- 3: Public Procurement Policy for Micro and Small Enterprises (MSEs)

1. **The Policy:** From time to time, the Government of India (Procuring Entity) lays down procurement policies to help inclusive national economic growth by providing long-term support to micro and small enterprises and disadvantaged sections of society and to address environmental concerns. The Procurement Policy for Micro and Small Enterprises, 2012 [amended 2018 and 2021] has been notified by the Government in exercise of the powers conferred in Section 11 of the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006. Details of the policy along with the amendments issued in 2018 and 2021 are available on the MSME website (<http://dcmsme.gov.in/pppm.htm.aspx>).
2. **Eligibility:**
  - a. Micro and Small Enterprises (MSEs) registered under Udyam Registration are eligible to avail the benefits under the policy.
  - b. This Policy provides preferential procurement of goods produced and services rendered by MSEs. Traders/ distributors/ sole agents/ Works Contract are excluded from the purview of the policy.
    - i) In case of an upward change in terms of investment in plant and machinery or equipment or turnover or both, and consequent re-classification, an enterprise shall continue to avail of all nontax benefits of the category (micro, small, or medium) it was in before the re-classification, for a period of three years from the date of such upward change. Non-tax benefits include benefits of various schemes of the Government, including Public Procurement Policy, Delayed Payments, etc.
    - ii) MSEs would be treated as owned by SC/ ST or Women entrepreneurs:
      1. In the case of proprietary MSE, proprietor(s) are SC /ST or Woman;
      2. In the case of partnership MSE, the SC/ ST or Women partners hold at least 51% (fifty-one per cent) shares in the unit;
      3. In the case of Private Limited Companies, SC/ ST or Women promoters hold at least 51% (fifty-one per cent) share.
3. **Applicability and Exemptions:**
  - a. The policy is applicable to Central Government Ministries/ Departments/ Public Sector Undertakings
  - b. The policy is not applicable to State Government Ministries/ Departments/ State PSEs, but they have similar policies applicable in their state.
  - c. **Exemptions:** Given their unique nature, defence armament imports shall not be included in computing the 25 (twenty-five) per cent goal for the Ministry of Defence. In addition, defence equipment like weapon systems, missiles, etc., shall remain out of the purview of such a reservation policy. Monitoring of goals set under the policy will be done, as far as



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### APPENDIX- 3: Public Procurement Policy for MSEs

they relate to the Defence sector, by the Ministry of Defence itself in accordance with suitable procedures to be established by them.

#### 4. Facilities for MSE:

- a. **Reduced Transaction Costs:** To reduce transaction cost of doing business, MSEs will be facilitated by providing them tender documents free of cost, exempting MSEs from payment of earnest money deposit, adopting e-procurement to bring transparency in tender process. However, exemption from paying Performance Bank Guarantee/ Security Deposit is not covered under the policy.
- b. **Relaxation in Prior Turnover and Experience:** The Procuring Entity may relax the condition of prior turnover and prior experience **for start-up enterprises** recognised by the Department for Industry & Internal Trade (DPIIT), subject to meeting quality & technical specifications. Startups may be MSEs or otherwise. Such relaxation can be provided in the case of procurement of works as well. It is further clarified that such relaxation is not optional but normally has to be ensured, except in case of procurement of items related to public safety, health, critical security operations and equipment, etc.) where adequate justification exists for the Procuring Entity not to relax such criteria The decision of the Procuring Entity in this regard shall be final.
- c. **Timely Payments:** Chapter V of the MSMED Act, 2006 also has provision for ensuring timely payments to the MSE suppliers. The period agreed upon for payment must not exceed forty-five days from the deemed acceptance of the materials supplied by the MSEs; in case of any discrepancies in the supplies, then the Procuring Entity shall raise objection to the MSE supplier within 15 days from date of receipt of materials, if such objection is not raised, then it will be taken as deemed acceptance. For delays in payment the buyer shall be liable to pay compound interest to the supplier on the delayed amount at three times of the bank rate notified by the Reserve Bank. For arbitration and conciliation regarding recovery of such payments and interests, Micro and Small Enterprises Facilitation Council has been setup in states.

#### 5. Purchase Preference

- a. Under the amended Public Procurement Policy for MSEs, Order 2012, the Central Government Ministries/ Departments/ Public Sector Undertakings shall procure a minimum of 25 per cent of their annual value of goods or services from MSEs.
  - i) The annual goal of procurement from MSEs also includes subcontracts to Micro and Small Enterprises by large enterprises and consortia of Micro and Small Enterprises formed by the National Small Industries Corporation. If a subcontract is given to MSEs, it will be considered as procurement from MSEs.
  - ii) The annual target of 25% procurement from MSEs is only a minimum. The MSE purchase preference is mandatory for all procurements (except for exemptions as per sub-para 3-c above), even after this target is achieved. For example, it is not



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permissible for organisations to earmark only some goods/ services to be procured exclusively from MSEs to achieve the annual target and not apply MSE procurement preferences to the rest of the goods/services.

- b. In tender, if the L1 price is from someone other than an MSE, participating Micro and Small Enterprises (MSE) quoting prices within a price band of L1+15 (fifteen) per cent shall be allowed to supply up to 25 (twenty-five) per cent of the total tendered value by bringing down their price to L1 price. If there is more than one eligible MSE within such price band who agree to match the L1 price, the 25 (twenty-five) per cent quantity is to be distributed proportionately to them

*Note: If the procuring entity negotiates with the non-MSE L1 bidder, the price band (L1+15%) should be calculated based on the original L1 price, not the lower negotiated price, and such eligible MSE bidders shall be called to match the new negotiated L1 price as per procedure mentioned above for placement of 25% quantity.*

- i) In case the tender item cannot be split or divided, etc., the MSE quoting a price within the band L1+15% may be awarded for full/ complete supply of the total tendered value to MSE, considering the spirit of the Policy for enhancing Government procurement from MSEs.
- ii) Out of the target of 25% of annual procurement from MSEs (Not in the specific tender), the sub-target of 4% of annual procurement from MSEs is earmarked for procurement from MSEs owned by Scheduled Caste (SC)/ Scheduled Tribe (ST) entrepreneurs, and 3% of annual procurement from MSEs is earmarked for procurement from MSEs owned by women entrepreneur. However, in the event of failure of such MSEs to participate in the tender process or meet tender requirements and L1 price, the 4% sub-target for procurement earmarked for MSEs owned by SC/ST entrepreneurs and 3% earmarked to women entrepreneurs will also be met from other MSEs.

6. **Developing MSE Vendors:** The Central Ministries or Departments or Public Sector Undertakings shall take necessary steps to develop appropriate vendors by organising Vendor Development Programmes (VDP) or Buyer-Seller Meets focused on developing Micro and Small Enterprises (MSEs) for procurement through GeM Portal. To enhance the participation of MSEs owned by SCs /STs/ Women in Government procurement, Central Government Ministries/ Departments/ CPSEs should conduct Special Vendor Development Programmes/ Buyer-Seller Meets for SC/STs and Women MSEs.

### 7. Policy Implementation:

- a. A Review Committee has been constituted under the Chairmanship of Secretary, Ministry of MSME for monitoring and reviewing of Public Procurement Policy for MSEs. M/O MSME will review and/or modify the composition of the Committee as and when required.



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This Committee will, inter alia, review the list of 358 items reserved for exclusive purchase from MSEs on a continuous basis, consider requests from Central Government Departments, CPSUs for exemption from 25 (twenty-five) percent target on a case-to-case basis and monitor achievements under the Policy.

- b. To monitor the progress of procurement by Central Government Ministries/ Departments and CPSEs from MSEs, Ministry of MSME has launched the MSME ‘Sambandh’ Portal on 8th December 2017 for uploading procurement details by all CPSEs on a monthly and an annual basis which is regularly monitored by the Ministry.
- c. To redress the grievances of MSEs related to non-compliance of the Policy a Grievance cell named “CHAMPION Portal” has been set up in the Ministry of MSME.
- d. Clarifications: Office of Development Commissioner (Micro, Small & Medium Enterprises) issued FAQs on Public Procurement Policy for MSE Order, 2012, (Issued vide ON. F. No. 1(3)/2018-MA, Part III dated 25.03.2022).



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## Appendix- 4: Procurement Preference to Make In India

### Appendix- 4: Procurement Preference to Make In India

1. **Purpose:** To encourage 'Make in India' and promote manufacturing and production of goods and services in India with a view to enhancing income and employment, Department for Promotion of Industry, and Internal Trade (DPIIT), Ministry of Commerce and Industry, Government of India, issued Public Procurement (Preference to Make in India), Order 2017. The order is issued pursuant to Rule 153 (iii) of GFR, 2017. The Order is applicable on the procurement of Goods, Works, and Services.
2. **Definitions:** For the purpose of this Order:-
  - a. 'L1' means the lowest tender or lowest bid, or the lowest quotation received in a tender, bidding process or other procurement solicitation as adjudged in the evaluation process as per the tender or other procurement solicitation.
  - b. 'Local Content' means the amount of value added in India which shall, unless otherwise prescribed by the Nodal Ministry, be the total value of the item procured (excluding net domestic indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value, in percent.

Explanatory Notes for calculation of local content are given below:

- i) Imported items sourced locally from resellers/ distributors shall be excluded from calculation of local content.
- ii) The license fees/ royalties paid/ technical charges paid out of India shall be excluded from local content calculation
- iii) Procurement/ Supply of repackaged/ refurbished/ rebranded imported products as understood commonly shall be treated as reselling of imported products and shall be excluded from calculation of local content. The definition of repackaged/ refurbished/ rebranded imported products is as follows:
  1. 'Refurbishing' means repair or reconditioning of an imported product does not amount to manufacture because no new goods come into existence.
  2. 'Repackaging' means repacking of imported goods from bulk pack to smaller packs would not ordinarily amount to manufacture of a new item.
  3. 'Rebranding' means relabelling or renaming or change in symbol or logo/ makes or corporate image of a company/ organization/ firm for an imported product would amount to rebranding.
- iv) To ensure that imported items sourced locally from resellers/ distributors are excluded from calculation of local content, procuring entities to obtain from bidders, the cost of such locally-sourced imported items (inclusive of taxes) along with break-up on license/ royalties paid/ technical expertise cost etc. sourced from outside India/ for items sold by bidder as reseller, OEM certificate for country of origin to be submitted.
- v) For contracts involving supply of multiple items, weighted average of all items to be taken while calculating the local content.



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- c. 'Class-I local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, meets the minimum local content as prescribed for 'Class-I local supplier' under this Order.
- d. 'Class-II local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, meets the minimum local content as prescribed for 'Class-II local supplier' but less than that prescribed for 'Class-I local supplier' under this Order.
- e. 'Non - Local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content less than that prescribed for 'Class II local supplier' under this Order.
- f. 'Margin of purchase preference' means the maximum extent to which the price quoted by a "Class-I local supplier" may be above the L1 for the purpose of purchase preference. It has been fixed as 20 (twenty) percent.
- g. 'Nodal Ministry' means the Ministry or Department identified pursuant to this order in respect of a particular item of goods or services or works.
- h. 'Procuring entity' means a Ministry or department or attached or subordinate office of, or autonomous body controlled by, the Government of India and includes Government companies as defined in the Companies Act.
- i. 'Works' means all works as per Rule 130 of GFR- 2017 and will also include 'turnkey works'.

**Special treatment for items covered under PLI Scheme:** The manufacturers manufacturing an item under PLI scheme shall be treated as deemed Class II local supplier for that item unless they have minimum local content equal to or higher than that notified for Class-I local supplier for that item, provided the manufacturer has received incentive from the concerned PLI Ministry for the item. The above shall be applicable for the specific time period only, as notified by concerned PLI Ministry.

- 3. **Eligibility** of 'Class-I local supplier'/'Class-II local supplier'/'Non-local suppliers' for different types of procurement
  - a. In procurement of all goods, services or works in respect of which the Nodal Ministry/ Department has communicated that there is sufficient local capacity and local competition, only 'Class-I local supplier', shall be eligible to bid irrespective of purchase value.
  - b. Only 'Class-I local supplier' and 'Class-II local supplier', shall be eligible to bid in procurements undertaken by procuring entities, except when Global tender enquiry has been issued. In global tender enquiries, 'Non-local suppliers' shall also be eligible to bid along with 'Class-I local suppliers' and 'Class-II local suppliers'. In procurement of all goods, services or works, not covered by sub-para 3-a) above, and with estimated value of purchases less than Rs. 200 Crore, in accordance with Rule 161(iv)-(b) of GFR, 2017, Global tender enquiry shall not be issued except with the approval of competent authority as designated by Department of Expenditure.
  - c. For the purpose of this Order, works includes Engineering, Procurement and Construction (EPC) contracts and services include System Integrator (SI) contracts.



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### (3A) Mandatory sourcing of items, with sufficient local capacity and competition, from Class-I local suppliers in SI/ EPC/ Turnkey Contracts/ Service Tenders

- d. The items, notified as having sufficient local capacity and competition, shall mandatory be sourced from Class-I local suppliers in SI/ EPC/ Turnkey Contracts/ Services tenders. This provision will be applicable only for those items which have been notified by the Nodal Ministry as Class-I i.e., having sufficient local capacity and competition, with specific HSN codes.
- e. Notwithstanding above, if in any project, it is considered that it is not practically feasible to source such items from Class I local suppliers, it may take relaxation from such stipulation with the approval of Secretary of the administrative Ministry/ Department concerned or with the approval of the Competent Authority specified by the Administrative Ministry/ Department, on case-specific basis.

#### 4. Purchase Preference:

- a. Subject to the provisions of the Order and to any specific instructions issued by the Nodal Ministry or in pursuance of the Order, purchase preference shall be given to 'Class-I local supplier' in procurements undertaken by procuring entities in the manner specified here under.
- b. In the procurements of goods or works, which are covered by para 3-b) above and which are divisible in nature, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:

Note:

1. If the procuring entity negotiates with the L1 bidder, who is not a Class I Local Supplier, the margin of purchase preference (L1+20%) should be calculated based on the original L1 price, not the lower negotiated price, and such eligible Class-I Local Suppliers shall be called to match the new negotiated L1 price as per procedure mentioned above for placement of 50% quantity.
2. Since as per sub-para c) below, MII order is applicable 'where the bid is evaluated on price alone' – **MII purchase preference would not be applicable where evaluation is based inter-alia on non-price criteria, e.g., QCBS or FBS in Services and Works.**
  - ii) Among all qualified bids, the lowest bid will be termed as L1. If L1 is 'Class-I local supplier', the contract for full quantity will be awarded to L1.
  - iii) If L1 bid is not a 'Class-I local supplier', 50 (fifty) percent of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the 'Class-I local supplier' will be invited to match the L1 price for the remaining 50 (fifty) percent quantity subject to the Class-I local supplier's quoted price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such 'Class-I local supplier' subject to matching the L1 price. In case such lowest eligible 'Class-I local supplier' fails to match the L1 price or accepts less than the offered quantity, the next higher 'Class-I local supplier' within the margin of purchase preference shall be



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- invited to match the L1 price for remaining quantity and so on, and contract shall be awarded accordingly. In case some quantity is still left uncovered on Class-I local suppliers, then such balance quantity may also be ordered on the L1 bidder.
- c. In the procurements of goods or works, which are covered by para 3-b) above and which are not divisible in nature, and in the procurement of services where the bid is evaluated on price alone, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:
- Among all qualified bids, the lowest bid will be termed L1. If L1 is a 'Class-I local supplier', the contract will be awarded to L1.
  - If L1 is not a 'Class-I local supplier', the lowest bidder among the 'Class-I local suppliers' will be invited to match the L1 price subject to the Class-I local supplier's quoted price falling within the margin of purchase preference (L1+20%), and the contract shall be awarded to such 'Class-I local supplier' subject to matching the L1 price.
  - In case the lowest eligible 'Class-I local supplier' fails to match the L1 price, the 'Class-I local supplier' with the next higher bid within the margin of purchase preference (L1+20%) shall be invited to match the L1 price and so on, and the contract shall be awarded accordingly. In case none of the 'Class-I local suppliers' within the margin of purchase preference matches the L1 price, the contract may be awarded to the L1 bidder.
- d. "Class-II local supplier" will not get a preference for any procurement undertaken by procuring entities.
- (4A) Applicability in tenders where the contract is to be awarded to multiple bidders:** In tenders where the contract is awarded to multiple bidders subject to matching of L1 rates or otherwise, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:
- In case there is sufficient local capacity and competition for the item to be procured, as notified by the nodal Ministry, only Class I local suppliers shall be eligible to bid. As such, the multiple suppliers who would be awarded the contract should be all and only 'Class I Local suppliers.'
  - In other cases, 'Class II local suppliers' and 'Non-local suppliers' may also participate in the tender process along with 'Class I Local suppliers' as per provisions of the Order.
  - If 'Class I Local suppliers' qualify for the award of contract for at least 50 (fifty) per cent of the tendered quantity in any tender, the contract may be awarded to all the qualified bidders as per award criteria stipulated in the tender documents. However, in case 'Class I Local suppliers' do not qualify for the award of contract for at least 50 (fifty) per cent of the tendered quantity, purchase preference should be given to the 'Class I local supplier' over 'Class II local suppliers'/'Non-local suppliers' provided that their quoted rate falls within 20 (twenty) per cent margin of purchase preference of the highest quoted bidder considered for award of contract so as to ensure that the 'Class I Local suppliers' taken in



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totality are considered for award of contract for at least 50 (fifty) per cent of the tendered quantity.

- h. The margin of purchase preference shall be 20%. Only those 'Class-I local suppliers' would be eligible for purchase preference whose quoted rates fall within the margin of purchase preference, subject to its meeting the prescribed criteria for award of contract as also the constraint of maximum quantity that can be sourced from any single supplier. First, purchase preference must be given to the lowest quoting eligible 'Class-I local supplier.' If the lowest quoting 'Class-I local supplier' does not qualify for purchase preference because of aforesaid constraints or does not accept the offered quantity, an opportunity may be given to the next higher eligible 'Class-I local supplier,' and so on. In case the quantity thus allocated to eligible 'Class-I local suppliers' is short of 50% of the tendered quantity, then this shortfall quantity may be distributed among all other qualified bidders as per award criteria stipulated in the tender documents.
- i. To avoid any ambiguity during the bid evaluation process, the procuring entities may stipulate their own tender-specific criteria for the award of contracts amongst different bidders, including the procedure for purchase preference to 'Class-I local supplier' within the broad policy guidelines stipulated in the sub-paras above.

5. **Exemption of small purchases:** Notwithstanding anything contained in paragraph 1 above, procurements where the estimated value to be procured is less than Rs. 5 lakhs shall be exempt from the Order. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this Order.

**(5A) Exemption in the sourcing of spares and consumables of closed systems:** Procurement of spare parts, consumables for closed systems and Maintenance/ Service contracts with Original Equipment Manufacturer/ Original Equipment Supplier/ Original Part Manufacturer shall be exempted from this Order.

6. **Minimum local content:** The 'local content' requirement to categorise a supplier as a 'Class-I local supplier' is a minimum of 50 (fifty) per cent. For 'Class-II local suppliers,' the 'local content' requirement is a minimum of 20 (twenty) per cent. Nodal Ministry/ Department may prescribe only a higher percentage of the minimum local content requirement to categorise a supplier as a 'Class-I local supplier'/'Class-II local supplier.' For the items for which the Nodal Ministry/ Department has not prescribed higher minimum local content notification under the Order, it shall be 50 (fifty) per cent and 20 (twenty) per cent for 'Class-I local supplier'/'Class-II local supplier' respectively. It may be noted that local content is not related to the nationality of the firm – a foreign-owned firm may also become a Class-I or Class-II local supplier by adding local value addition.
7. **Requirement for specification in advance:** The minimum local content, the margin of purchase preference and the procedure for preference to Make in India shall be specified in the notice inviting tenders or other form of procurement solicitation and shall not be varied during a particular procurement transaction.



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8. **Government E-marketplace:** In respect of procurement through the Government E marketplace (GeM), shall, as far as possible, specifically mark the items that meet the minimum local content while registering the item for display and shall, wherever feasible, make provision for automated comparison with purchase preference and without purchase preference and for obtaining consent of the local supplier in those cases where purchase preference is to be exercised.
9. **Verification of Local Content:**
- The 'Class-I local supplier'/ 'Class-II local supplier' at the time of tender, bidding or solicitation shall be required to indicate percentage of local content and provide self-certification that the item offered meets the local content requirement for 'Class-I local supplier'/ 'Class-II local supplier', as the case may be. They shall also give details of the location(s) at which the local value addition is made.
  - In cases of procurement for a value in excess of Rs. 10 crores, the 'Class-I local supplier'/ 'Class-II local supplier' shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.
  - The bidder shall give self-certification for local content in the quoted item (goods/ works/ services) at the time of tendering. However, at the time of execution of the project, for all contracts above INR 10 Crore, the contractor/ supplier shall be required to give local content certification duly certified by cost/ chartered accountant in practice. For cases where it is not possible to provide certification by Cost/ Chartered Accountant at the time of execution of project, the supplier shall be permitted to provide the certificate for local content from Cost/ Chartered Accountant after completion of the contract, within the limit acceptable to the procuring entity. In case the contractor/ supplier does not meet the stipulated local content requirement and the category of the supplier changes from Class-I to Class-II/ Non-local or from Class II to Non-local, a penalty upto 10% of the contract value may be imposed. However, contract once awarded shall not be terminated on this account.
  - Decisions on complaints relating to implementation of this Order shall be taken by the competent authority which is empowered to look into procurement-related complaints relating to the procuring entity.
  - Nodal Ministries may constitute committees with internal and external experts for independent verification of self-declarations and auditor's/ accountant's certificates on random basis and in the case of complaints.
  - Nodal Ministries and procuring entities may prescribe fees for such complaints.
  - False declarations will be in breach of the Code of Integrity under Rule 175(1)(i)(h) of the General Financial Rules for which a bidder or its successors can be debarred for up to two years as per Rule 151 (iii) of the General Financial Rules along with such other actions as may be permissible under law.



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- h. A supplier who has been debarred by any procuring entity for violation of the Order shall not be eligible for preference under the Order for procurement by any other procuring entity for the duration of the debarment. The debarment for such other procuring entities shall take effect prospectively from the date on which it comes to the notice of other procurement entities in the manner prescribed above.
- i. The Department of Expenditure shall issue suitable instructions for the effective and smooth operation of this process, so that:
  - i) The fact and duration of debarment for violation of the Order by any procuring entity are promptly brought to the notice of the Member-Convenor of the Standing Committee and the Department of Expenditure through the concerned Ministry /Department or in some other manner;
  - ii) on a periodical basis such cases are consolidated and a centralized list or decentralised list of such suppliers with the period of debarment is maintained and displayed on the website(s);
  - iii) in respect of procuring entities other than the one that has carried out the debarment, the debarment takes effect prospectively from the date of uploading on the website(s) in such a manner that ongoing procurements are not disrupted.

#### 10. Specifications in Tenders and other procurement solicitations:

- a. Every procuring entity shall ensure that the eligibility conditions in respect of previous experience fixed in any tender or solicitation do not require proof of supply in other countries or proof of exports.
- b. Procuring entities shall endeavour to see that eligibility conditions, including on matters like turnover, production capability, and financial strength, do not result in unreasonable exclusion of 'Class-I local supplier' / 'Class-II local supplier' who would otherwise be eligible beyond what is essential for ensuring quality or creditworthiness of the supplier.
- c. Procuring entities shall review all existing eligibility norms and conditions with reference to sub-paragraphs (a) and (b) above.
- d. **Reciprocity Clause:**
  - i) When a Nodal Ministry/Department identifies that Indian suppliers of an item are not allowed to participate and/ or compete in procurement by any foreign government due to restrictive tender conditions which have direct or indirect effect of barring Indian companies such as registration in the procuring country, execution of projects of specific value in the procuring country etc., it shall provide such details to all its procuring entities including CMDs/CEOs of PSEs/PSUs, State Governments and other procurement agencies under their administrative control and GeM for appropriate reciprocal action.
  - ii) Entities of countries that have been identified by the nodal Ministry/Department as not allowing Indian companies to participate in their Government procurement for any item related to that nodal Ministry shall not be allowed to participate in Government



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procurement in India for all items related to that nodal Ministry/ Department, except for the list of items published by the Ministry/ Department permitting their participation.

- iii) The stipulation in (b) above shall be part of all tenders invited by the Central Government procuring entities stated in (1) above. All purchases on GeM shall also necessarily have the above provisions for items identified by the nodal Ministry/ Department.
  - iv) State Governments should be encouraged to incorporate similar provisions in their respective tenders.
  - v) The term 'entity' of a country shall have the same meaning as under the FDI Policy of DPIIT as amended from time to time.
- e. Specifying foreign certifications/ unreasonable technical specifications/ brands/ models in the bid document is a restrictive and discriminatory practice against local suppliers. If foreign certification is required to be stipulated because of non-availability of Indian Standards and/or for any other reason, the same shall be done only after written approval of the Secretary of the Department concerned or any other Authority having been designated such power by the Secretary of the Department concerned.
- f. "All administrative Ministries/Departments whose procurement exceeds Rs. 1000 Crore per annum shall notify/update their procurement projections every year, including those of the PS Es/PS Us, for the next 5 years on their respective website."

**(10A) Action for non-compliance of the Provisions of the Order:** In case restrictive or discriminatory conditions against domestic suppliers are included in bid documents, an inquiry shall be conducted by the Administrative Department undertaking the procurement (including procurement by any entity under its administrative control) to fix responsibility for the same. Thereafter, appropriate action, administrative or otherwise, shall be taken against erring officials of procurement entities under relevant provisions. Intimation on all such actions shall be sent to the Standing Committee.

11. **Assessment of supply base by Nodal Ministries:** The Nodal Ministry shall keep in view the domestic manufacturing / supply base and assess the available capacity and the extent of local competition while identifying items and prescribing the higher minimum local content or the manner of its calculation, with a view to avoiding cost increase from the operation of this Order.
12. **Increase in minimum local content:** The Nodal Ministry may annually review the local content requirements with a view to increasing them, subject to availability of sufficient local competition with adequate quality.
13. **Manufacture under license/ technology collaboration agreements with phased indigenization:** While notifying the minimum local content, Nodal Ministries may make special provisions for exempting suppliers from meeting the stipulated local content if the product is being manufactured in India under a license from a foreign manufacturer who holds intellectual property rights and where there is a technology collaboration agreement / transfer



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of technology agreement for indigenous manufacture of a product developed abroad with clear phasing of increase in local content.

**(13A)** In the procurement of all goods, services or works in respect of which there is a substantial quantity of public procurement and for which the nodal ministry has not notified that there is sufficient local capacity and local competition, the concerned nodal ministry shall notify an upper threshold value of procurement beyond which foreign companies shall enter into a joint venture with an Indian company to participate in the tender. Procuring entities, while procuring such items beyond the notified threshold value, shall prescribe in their respective tenders that foreign companies may enter into a joint venture with an Indian company to participate in the tender. The procuring Ministries/Departments shall also make special provisions for exempting such joint ventures from meeting the stipulated minimum local content requirement, which shall be increased in a phased manner.

### 14. Powers to grant exemption and to reduce minimum local content:

- a. The administrative Department undertaking the procurement (including procurement by any entity under its administrative control), with the approval of their Minister-in charge, may by written order, for reasons to be recorded in writing,
  - i) reduce the minimum local content below the prescribed level; or
  - ii) reduce the margin of purchase preference below 20 (twenty) percent; or
  - iii) exempt any particular item or supplying entities from the operation of this Order or any part of the Order.
- b. The Administrative Department, while seeking exemption under this para, shall certify that such an item(s) has not been notified by Nodal Ministry/ Department concerned under sub-para 3A-a) above.
- c. A copy of every such order shall be provided to the Standing Committee and concerned Nodal Ministry / Department. The Nodal Ministry / Department concerned will continue to have the power to vary its notification on Minimum Local Content.

**15. Directions to Government companies:** In respect of Government companies and other procuring entities not governed by the General Financial Rules, the administrative Ministry or Department shall issue policy directions requiring compliance with this Order.

### 16. Standing Committee:

- a. A standing committee is hereby constituted with the following membership
  - i) Secretary, Department for Promotion of Industry, and Internal Trade-Chairman
  - ii) Secretary, Commerce-Member
  - iii) Secretary, Ministry of Electronics, and Information Technology-Member
  - iv) Joint Secretary (Public Procurement), Department of Expenditure-Member
  - v) Joint Secretary (DPIIT)-Member-Convenor
- b. The Secretary of the Department concerned with a particular item shall be a member in respect of issues relating to such item. The Chairman of the Committee may co-opt technical experts as relevant to any issue or class of issues under its consideration.



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17. **Functions of the Standing Committee:** The Standing Committee shall meet as often as necessary as but not less than once in six months. The Committee
- shall oversee the implementation of this order and issues arising therefrom and make recommendations to Nodal Ministries and procuring entities.
  - shall annually assess and periodically monitor compliance with this Order.
  - shall identify Nodal Ministries and the allocation of items among them for issue of notifications on minimum local content.
  - may require the furnishing of details or returns regarding compliance with this Order and related matters.
  - may, during the annual review or otherwise, assess issues, if any, where it is felt that the manner of implementation of the order results in any restrictive practices, cartelisation or increase in public expenditure and suggest remedial measures.
  - may examine cases covered by paragraph (xiii) above relating to manufacture under license/ technology transfer agreements with a view to satisfying itself that adequate mechanisms exist for enforcement of such agreements and for attaining the underlying objective of progressive indigenisation.
  - may consider any other issue relating to this Order which may arise.
18. **Removal of difficulties:** Ministries /Departments and the Boards of Directors of Government companies may issue such clarifications and instructions as may be necessary for the removal of any difficulties arising in the implementation of the Order.
19. **Ministries having existing policies:** Where any Ministry or Department has its own policy for preference to local content approved by the Cabinet after 1st January 2015, such policies will prevail over the provisions of the Order. All other existing orders on preference to local content shall be reviewed by the Nodal Ministries and revised as needed to conform to this Order, within two months of the issue of this Order.
20. Please refer to the FAQs related to the PPP-MII order issued by DPIIT.



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## Appendix- 5: Restrictions on Entities from a Class of Countries

### Appendix- 5: Restrictions/ Prior Registration on Entities from a Class of Countries

1. **Requirement of registration:** Rule 144 of GFR, 2017, has been amended to include a new sub-para (xi) as follows:
  - a. “Notwithstanding anything contained in these Rules, Department of Expenditure may, by order in writing, impose restrictions, including prior registration and/ or screening, on procurement from bidders from, or bidders having commercial arrangements with an entity from, a country or countries, or a class of countries, on grounds of defence of India, or matters directly or indirectly related thereto including national security; no procurement shall be made in violation of such restrictions.”
2. Detailed provisions in this regard have been notified by the Department of Expenditure's OM No. F.7/10/2021-PPD (1) dated 23.02.2023(Public Procurement Order No. 4 – hereinafter referred to in this section as the ‘Order’), are as follows.
  - a. Any bidder from a country which shares a land border with India will be eligible to bid in any procurement, whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority. The information on Competent Authority is given in sub-para 10 below.
  - b. Any bidder (including an Indian bidder) who has a Specified Transfer of Technology (ToT) arrangement with an entity from a country which shares a land border with India will be eligible to bid in any procurement, whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority, specified in para 10 below.
  - c. The requirement of registration for cases covered by sub-para a) above has been applicable since 23.07.2020. The requirement of registration for bidders covered by sub-para b) above will be applicable for all procurements where tenders are issued/ published after 01.04.2023.
  - d. In tenders issued after 23.07.2020 or 01.04.2023, as the case may be, the provisions of requirement of registration of bidders and of other relevant provisions of this Order shall be incorporated in the tender conditions.
3. **Applicability**
  - a. Apart from Ministries/Departments, attached and subordinate bodies, notwithstanding anything contained in Rule 1 of the GFR 2017, the Order shall also be applicable to:
    - i) all Autonomous Bodies;
    - ii) all public sector banks and public sector financial institutions;
    - iii) all Central Public Sector Enterprises;
    - iv) all procurement in Public Private Partnership projects receiving financial support from the Government or public sector enterprises/ undertakings; and



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v) all Union Territories, National Capital Territory of Delhi, and all agencies/ undertakings thereof.

**b. The Order will not be applicable to:**

- i) projects which receive international funding with the approval of the Department of Economic Affairs (DEA), Ministry of Finance, the procurement guidelines applicable to the project shall normally be followed, notwithstanding anything contained in this order and without reference to the Competent Authority. Exceptions to this shall be decided in consultation with DEA.
- ii) procurement made by Indian missions and by offices of government agencies/ undertakings located outside India.
- iii) bidders (or entities) from those countries (even if sharing a land border with India) to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects. Updated lists of countries to which lines of credit have been extended or in which development projects are undertaken are given on the website of the Ministry of External Affairs.
- iv) procurement of spare parts and other essential service support like Annual Maintenance Contract (AMC)/ Comprehensive Maintenance Contract (CMC), including consumables for closed systems, from Original Equipment Manufacturers (OEMs) or their authorized agents.

**4. Definitions:**

- a. "Bidder" for the purpose of the Order (including the term 'bidder', 'consultant' 'vendor' or 'service provider' in certain contexts) 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.
- b. "Tender" for the purpose of the Order will include other forms of procurement, except where the context requires otherwise.
- c. "Transfer of Technology" means dissemination and transfer of all forms of commercially usable knowledge such as transfer of know-how, skills, technical expertise, designs, processes and procedures, trade secrets, which enables the acquirer of such technology to perform activities using the transferred technology independently. (Matters of interpretation of this term shall be referred to the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade, and the interpretation of the Committee shall be final.)
- d. "Specified Transfer of Technology" means a transfer of technology in the sectors and/ or technologies, specified in sub-para 5 below, occurring on or after 23.07.2020.
- e. "Bidder (or entity) from a country which shares a land border with India" for the purpose of the Order means:



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- i) An entity incorporated, established, or registered in such a country; or
  - ii) A subsidiary of an entity incorporated, established, or registered in such a country; or
  - iii) An entity substantially controlled through entities incorporated, established, or registered in such a country; or
  - iv) An entity whose beneficial owner is situated in such a country; or
  - v) An Indian (or other) agent of such an entity; or
  - vi) A natural person who is a citizen of such a country; or
  - vii) A consortium or joint venture where any member of the consortium or joint venture falls under any of the above
- f. “Agent” for the purpose of the Order is a person employed to do any act for another, or to represent another in dealings with third persons.

### Note

- i) A person who procures and supplies finished goods from an entity from a country which shares a land border with India will, regardless of the nature of his legal or commercial relationship with the producer of the goods, be deemed to be an Agent for the purpose of this Order.
  - ii) However, a bidder who only procures raw material, components etc. from an entity from a country which shares a land border with India and then manufactures or converts them into other goods will not be treated as an Agent.
- g. **Beneficial owner** for the purposes of point e(iv) will be as under:
- i) 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(s), has a controlling ownership interest or who exercises control through other means.

### Explanation:-

1. “Controlling ownership interest” means ownership of, or entitlement to, more than twenty-five per cent of shares or capital or profits of the company;
  2. “Control” shall include the right to appoint the 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;
- ii) 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;
  - iii) 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;



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- iv) Where no natural person is identified under sub-para g(i) or g(ii) or g(iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
- v) 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.
- vi) For determining nationality while assessing the beneficial ownership of the bidder, the nationality as mentioned in the Passport of the beneficiary owner should be considered. In case of the possibility of dual citizenship, nationality on all the passports should be considered, through a suitable declaration. If, nationality in any of the passports of the person, whose beneficial ownership is being assessed, is recorded to be from a country sharing land border with India, the provisions contained under this Order shall apply. Hong Kong and Macau are to be considered as part of China for the purpose of this Order.

5. **Sensitive Sectors/ Technologies** (relevant only for the provisions on ToT arrangements; please refer to sub-para 2-b) above):

- a. Certain sectors and technologies have been identified as sensitive from the national security point of view. The sectors listed in Schedule I to the Order are considered Category-I sensitive sectors. The sectors listed in Schedule II to the Order are considered Category-II sensitive sectors. The technologies listed in Schedule III are considered sensitive technologies.

List of Category-I Sensitive Sectors (Schedule- I)

Sl. No.	Sectors
1	Atomic Energy
2	Broadcasting/ Print and Digital Media
3	Defence
4	Space
5	Telecommunications

List of Category-II Sensitive sectors (Schedule-II)

Sl. No.	Sectors
1	Power and Energy (including exploration/ generation/ transmission/ distribution/ pipeline)
2	Banking and Finance including Insurance
3	Civil Aviation
4	Construction of ports and dams & river valley projects
5	Electronics and Microelectronics
6	Meteorology and Ocean Observation
7	Mining and extraction (including deep sea projects)
8	Railways



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9	Pharmaceuticals & Medical Devices
10	Agriculture
11	Health
12	Urban Transport

### List of Sensitive Technologies (Schedule-III)

Sl. No.	Sectors
1	Additive Manufacturing (e.g., 3D Printing)
2	Any equipment having electronic programmable components or autonomous systems (e.g., SCADA systems)
3	Any technology used for uploading and streaming of data including broadcasting, satellite communication etc.
4	Chemical Technologies
5	Biotechnologies including Genetic Engineering and Biological Technologies
6	Information and Communication Technologies
7	Software

- b. For Category-I sensitive sectors, bidders with ToT arrangement in any technology with an entity from a country which shares a land border with India shall require registration.
  - c. For Category-II sensitive sectors, bidders with ToT arrangement in the sensitive technologies listed in Schedule III, with an entity from a country which shares a land border with India shall require registration.
  - d. In Category-II sensitive sectors, the Secretary (or an officer not below the rank of Joint Secretary to Government of India, so authorized by the Secretary) of the Ministry/ Department of the Government of India is empowered, after due consideration, to waive the requirement of registration for a particular item/ application or a class of items/ applications from the requirement of registration, even if included in Schedule III. The Ministry/ Department concerned shall intimate the Department for Promotion of Industry and Internal Trade (DPIIT) and National Security Council Secretariat (NSCS) of their decision to waive the requirement of registration. Ministries/ Departments of the Government of India are not required to consult the DPIIT/ NSCS before deciding and are only required to intimate the decision to DPIIT/ NSCS. If any point is raised by DPIIT/ NSCS, it should be considered in future procurements; ongoing procurement for which the waiver was granted need not be interrupted or altered.
  - e. Based on security considerations, a Ministry/ Department in a Category II sensitive sector or other Ministries/ Departments may recommend to DPIIT inclusion of any other technology in the list of sensitive technologies, either generally or for their Ministry/ Department.
6. **Sub-contracting in works contracts:** In works contracts, including turnkey contracts, contractors shall not be allowed to sub-contract works to any contractor from a country which



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shares a land border with India unless such contractor is registered with the Competent Authority. The definition of “contractor from a country which shares a land border with India” shall be as in sub-para 4-e) above. This shall not apply to sub-contracts already awarded on or before the date of the Order (i.e., 23rd July 2020).

**Note:** Procurement of raw material, components, etc. does not constitute sub-contracting

7. **Model Clauses/ Certificate regarding compliance:** A certificate shall be taken from bidders that the extant guidelines for participation in the tenders (which should include conditions for implementation of this Order) have been complied with. If such certificate given by a bidder whose bid accepted is found to be false, this would be a ground for debarment and further legal action in accordance with law. Model Clauses and Model Certificates which may be inserted in tenders / obtained from Bidders are given at Annexure 17. While adhering to the substance of the Order, procuring entities are free to appropriately modify the wording of these clauses based on their past experience, local needs etc.
8. **Validity of registration:** In respect of tenders, registration should be valid at the time of submission of bids and at the time of acceptance of bids. In respect of supply otherwise than by tender, registration should be valid at the time of placement of order. If the bidder was validly registered at the time of acceptance / placement of order, registration shall not be a relevant consideration during contract execution.
9. **Government e-Marketplace:** GeM shall remove non-compliant entities from GeM unless/ until they are registered in accordance with this Order.
10. **Competent Authority and Procedure for Registration**
  - a. The Competent Authority for the purpose of registration under this Order shall be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT) 18 [Notified vide OM No. F.6/18/2019-PPD issued by Department of Expenditure dated 23.07.2020]

**Note:**

    - i) In respect of application of the Order to procurement by/ under State Governments, all functions assigned to DPIIT shall be carried out by the State Government concerned through a specific department or authority designated by it. The composition of the Registration Committee shall be as decided by the State Government. However, the requirement of political and security clearance as per para 10 (d) shall remain and no registration shall be granted without such clearance.
    - ii) Registration granted by State Governments shall be valid only for procurement by the State Government and its agencies/ public enterprises etc. and shall not be valid for procurement in other states or by the Government of India and their agencies/ public enterprises etc.
  - b. The Registration Committee shall have the following members:
    - i) An officer, not below the rank of Joint Secretary, designated for this purpose by DPIIT, who shall be the Chairperson;



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- ii) Officers (ordinarily not below the rank of Joint Secretary) representing the Ministry of Home Affairs, Ministry of External Affairs, and of those Departments whose sectors are covered by applications under consideration;
  - iii) Any other officer whose presence is deemed necessary by the Chairperson of the Committee.
  - iv) With effect from 01.04.2023, an officer (ordinarily not below the rank of Joint Secretary) representing the National Security Council Secretariat.
- c. DPIIT has laid down the method of application, format etc. for such bidders as covered by the Order.
- d. On receipt of an application seeking registration from a bidder covered by sub-para 2-a) and 2-b) above, the Competent Authority shall first seek political and security clearances from the Ministry of External Affairs and Ministry of Home Affairs, as per guidelines issued from time to time. registration shall not be given unless political and security clearance have both been received.
- e. The Ministry of External Affairs and Ministry of Home Affairs may issue guidelines for internal use regarding the procedure for scrutiny of such application by them.
- f. The decision of the Competent Authority, to register such bidder may be for all kinds of tenders or for a specified type(s) of goods or services and may be for a specified or unspecified duration of time, as deemed fit. The decision of the Competent Authority shall be final.
- g. Registration granted by the Competent Authority of the Government of India shall be valid not only for procurement by the Central Government and its bodies specified in sub-para 3 above, but also for procurement by State Governments and their agencies/ public enterprises etc. No fresh registration at the State level shall be required.
- h. The Competent Authority is empowered to cancel the registration already granted if it determines that there is sufficient cause. Such cancellation by itself, however, will not affect the execution of contracts already awarded. Pending cancellation, it may also suspend the registration of a bidder, and the bidder shall not be eligible to bid in any further tenders during the period of suspension.
- i. For national security reasons, the Competent Authority shall not be required to give reasons for rejection/cancellation of registration of a bidder.
- 11. Clarifications regarding the applicability of the restrictions under Rule 144 (xi) of the GFR.**
- a. The proprietary purchases are not excluded from the provisions of the Rule 144 (xi) of GFR, 2017.
  - b. The rule is applicable on all the purchases irrespective of the order value.
  - c. The provisions of Rule 144 (xi) are not applicable in the case of selling of raw materials by a Government agency (like a CPSE/ Autonomous Bodies, etc.).
  - d. The provisions of Rule 144 (xi) are not applicable on the export to the countries sharing land border with India.



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- e. Sub-contracting is not permitted to any contractor from a country sharing land border with India, unless registered with the competent authority. However, it is to be noted that procurement of raw material, components, etc. does not constitute sub-contracting. In case, a bidder has proposed to supply finished goods, procured directly/ indirectly from the vendors from the countries which shares land border with India, such vendor will be required to be registered with the Competent Authority as per the provisions of Rule 144 (xi) of GFR, 2017.
- f. There is no bar on the contractor from procuring raw material from a firm that has been acquired by another firm belonging to a country that shares a land border with India.
- g. Contract Manufacturing outside India: If the bidder is getting the subject product manufactured outside India, this is treated as contract manufacturing, and beneficial ownership of the actual manufacturing entity must be verified. If the actual manufacturer meets the beneficial ownership criteria (para 4-g above) – then the bidder must submit DPIIT registration of such manufacturer to participate in the procurement.
- h. Hiring of Services: Suppose, a Bidder (Indian/Foreign), who is not from a country sharing land border with India, offers services to a procuring entity by arranging equipment from another company then the following scenarios may appear:

Sl. No.	Scenario	Applicability of Rule 144 (xi)
a.	The equipment/ goods have been purchased or will be purchased from company (manufacturer) from country which shares a land border with India	The bidder has procured certain goods to offer the requisite services to a procuring entity. In such case, the bidder does not fall within the definition of the terms “bidder” as defined under sub-para 4-e) above. Hence, the provisions of the Rule 144 (xi) of GFR, 2017 do not apply to this case.
b.	By entering into a MOU/ lease agreement with the company (who owns the equipment/ goods) from country which shares a land border with India	Here, the bidding vendor proposes to hire the services from a company that belongs to a country sharing land border with India. This, prima facie, becomes the case of indirect supply of services by a company that owns the equipment/ goods by introducing an intermediary. The intermediary merely acts as an agent to the company providing services of the equipment. In such a case registration of company owning the equipment and indirectly supplying the services shall require to be registered with the competent authority, thereby requiring the need to fulfil the provisions of Rule 144 (xi).
c.	By entering into a MOU/ lease agreement with the company (say ‘X’ who is the	In this case, the actual supplier of services, prima facie, shall be ‘X.’ Status of ‘X’ in this



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	present owner of the equipment) from country which does not share a land border with India. The equipment has been purchased from the manufacturer of the company (say 'Y') which is from country that shares a land border with India.	case does not attract the provisions of Rule 144 (xi).
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### 12. Illustrative examples on the applicability of the Restrictions under Rule 144 (xi) of GFR 2017

- a. A vendor, say, 'Party A' from India, is procuring an item from their sister company, say, 'Party B,' which is registered in a country not sharing a land border with India. Both the parties, Party A and B, are owned by an entity that does not belong to a country sharing a land border with India. Party B has its production facility in a country sharing land border with India. The manufactured item will be procured by Party A from its sister concern, i.e., Party B from the above-mentioned production facility. The production unit is wholly owned by Party B. The Party A now claims that the provisions of Rule 144 (xi) of GFR 2017 do not apply on it because: both the Party A and B are not:
- Both Party A and B are not an entity incorporated, established, or registered in such a country, since Party A is registered in India and Party B is registered in a country not sharing land border with India;
  - Both Party A and B are 100% owned subsidiary of an entity, which is incorporated, registered, and established in a country not sharing land border with India;
  - The beneficial owner of Party A and B is not situated in a country sharing land border with India since they are owned by an entity belonging to country not sharing land border with India;
  - Both Party A and B are not an Indian (or other) agent of such an entity;
  - Both A and B are not a natural person who is a citizen of such a country;
  - Both A and B are not a consortium or joint venture where any member of the consortium or joint venture falls under any of the above. Though, Party B has a wholly owned subsidiary in a country that shares a land border with India but is not a JV or consortium (a subsidiary does not qualify as a JV or consortium)
  - In addition to the above, Party A claims that they are not procuring finished goods directly/ indirectly from the vendors from the countries sharing a land border with India as the item is being manufactured in their own production units.
  - In light of the above facts and the claims put forth by Party A, it is important to clarify to the procurers that Party A acts as an agent for Party B, which manufactures goods in a country sharing a land border with India. Party B supplies goods



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manufactured at premises established in a country that shares a land border with India. In such a case, registration is required for Party B (and not necessarily for Party A, who is only an agent and not from a country sharing a land border with India).

b. Taking an example of IT goods and services:

- i) if the contractor is only supplying the servers as it is from an OEM, that belongs to a country sharing land border with India, and there is no value addition done by the contractor, then the contractor acts as an agent for the OEM and registration of the OEM and the agent (contractor) both are required as per the provisions of Rule 144 (xi) of GFR 2017.
- ii) In case the contractor supplies value added services on a hardware, the contractor outsources, in that case the registration of OEM is not required.
- iii) Where there is deployment of IT services that includes both hardware and software customization, and the contractor has sourced hardware, which is made in the country sharing land border with India, the requirement of registration as per the provisions of Rule 144 (xi) are not applicable.



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### Appendix- 6: Deleted



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### Appendix- 7: User Portal Agreement

#### A. Undertakings to be Furnished Online by the Bidder

##### I Do Hereby Undertake

1. That all the information being submitted by me/us is genuine, authentic, true and valid on the date of submission of tender and if any information is found to be false at any stage of tendering or contract period I/We will be liable to the following penal actions apart from other penal actions prescribed elsewhere in the tender document.
  - a. Cancellation of my/our bid/contract (as the case may be)
  - b. Forfeiture of EMD
  - c. Punitive action as per tender document
2. That I/we accept all terms and condition of NIT, including General Terms and Condition and Special/Additional Terms and Condition as stated there in the tender document as available on the website.
3. That I/we accept the Integrity Pact as given in the tender document (if applicable).
4. That I/we am/are giving my/our consent for e-payment and submitting/shall submit the mandate form for e-payment in the format as prescribed in the document in case, the work is awarded to us.
5. That I/we do authorize CIL/Subsidiary for seeking information/clarification from my Bankers having reference in this bid.
6. That I/we will upload original/certified photo/scanned of all the relevant documents as prescribed in the tender document in support of the information and data furnished by me/us online.
7. I/We confirm that I/We have not been banned or de-listed by any Govt. or Quasi Govt. agencies or PSUs. In case, we are banned or delisted this information shall be specifically informed to the tender issuing authority.
8. That I/We accept all the undertakings as specified elsewhere in the tender document.
9. That this online agreement will be a part of my bid and if the work is awarded to me/us, this will be a part of our agreement with CIL/Subsidiary Company.

#### B. TERMS AND CONDITIONS OF E-TENDER SERVICES AGREEMENT

##### • Bidder Registration, Password and Security

Upon successful completion of Registration online, User ID and Password will be registered. You can login, only by giving valid User ID and Password and then signing with your valid Digital Signature Certificate.

The Online registration/enrollment of Bidder on the portal should be done in the name of the Bidder.

The person whose DSC is attached to the Registered Bidder should be either the Bidder himself Or, duly authorized by the Bidder.



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User ID and password are strictly personal to each Authorised User and non-transferable. The User shall ensure that its Authorised Users do not divulge or disclose their user ID or password to third parties. In the event that the Authorised User comes to know that the User ID/ Password has been/might have been divulged, disclosed or discovered by any third party, user or its authorized user shall immediately modify the password using “Change password” option. CIL/Subsidiary will have no responsibility or obligation in this regard.

At the time of enrollment in the e-Tendering portal of CIL/its Subsidiaries, the Bidders should ensure that the status of DSC is active on this site. The activation of newly issued DSC may take 24 hrs or more. Hence Bidders who are obtaining new DSC should register at least 24 hrs before the submission of Bid.

By registering in this portal you forthwith assume the responsibility for maintaining the confidentiality of the Password and account, and for all activities that occur under your Password or Account. You also agree to (a) immediately notify by e-mail to Application Administrator/Nodal officer, of any unauthorized use of your Password or Account or any other breach of security, and (b) ensure that you log-out from your account at the end of each session. CIL/its Subsidiaries shall not be liable for any loss or damage caused to you due to your failure to comply with the foregoing.

Registered user can modify or update some of the information in their profile as and when required at their own discretion. However, some information such as “User ID” are protected against changes by Bidder after enrollment and some other information such as “Bidder Name” etc are protected against changes by Bidder after bid submission.

- **Modification of Software**

With consent of Project Advisory Committee, e-procurement of CIL, the Administrator of e-Tender portal, reserves the right to modify, add, delete and/or change the contents, classification and presentation of the information on the marketplace at any time as it may in its absolute discretion find to be expedient and without giving any notice. It is the users responsibility to refer to the terms and/or any change or addition to the same while accessing the site.

Coal India Limited reserves right to interrupt/suspend the availability of the e Tender system without any notice to the users.

- **System Requirements**

It is the users responsibility to comply with the system requirements: hardware, software, Internet connectivity at user premises to access the e-Tender portal as mentioned in the home page in the link ‘resources required’. Under any circumstances, CIL shall not be liable to the Users for any direct/indirect loss incurred by them or damages caused to them arising out of the following:

- Incorrect use of the e-Tender System, or;



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- Internet Connectivity failures in respect of the equipment used by the Users or by the Internet Service Providers, or;
- Inability of the Bidder to submit their bid due to any DSC related problems, hardware, software or any other factor which are personal/ special/ local to the Bidder.

- **Contents of Tender Information**

Tenders shall be published by the authorized Tender Inviting Authorities of the respective Tendering entities of CIL/Subsidiary. In case of any clarifications arising out of the tenders, the users have to contact the respective Tender Inviting Authority.

- **Bid Submission Acknowledgement**

The User should complete all the processes and steps required for Bid submission. The successful Bid submission can be ascertained once acknowledgement is given by the system through Bid Submission number i.e. Bid ID, after completion of all the processes and steps. Coal India Limited/Subsidiary is not responsible for incomplete bid submission by users. Users may also note that the incomplete bids will not be saved by the system and so the same will not be available to the Tender Inviting Authority for processing.

The acknowledgment is the only confirmation of submission of bid, which the Bidder can show as a proof of participating in the tender. Other than this acknowledgement, no proof will be considered as a confirmation to the submission of a bid. If the Bidder fails to produce this acknowledgement required for verification in case of dispute, his claim for submission of bid may not be considered.

- **Upload Files**

The Bidders have to ensure that the files being uploaded by them are free from all kinds of viruses and contain only the relevant information as stated by the Tender Inviting Authorities for the particular tender. It is not obligatory on the part of CIL/Subsidiary to read each and every document uploaded by the Bidder. If any Bidder / company has uploaded / attached irrelevant data, bogus or fabricated certificates towards his qualification requirements to the respective tender then their User account will be liable for termination permanently or temporarily by CIL/Subsidiary without any prior notice.

- **User Conduct**

You agree that all information, data, text, software, photographs, graphics, messages or other materials (“Content”), whether publicly posted or privately transmitted, are the sole responsibility of the person from which such Content is originated. This means that you are entirely responsible for all Content that you upload, post, email or otherwise transmit via the e-Tender portal.

CIL/Subsidiary does not control the Content posted via the e-Tender portal and, as such, does not guarantee the accuracy, integrity or quality of such Content. Hence under no circumstances, CIL/Subsidiary is liable in any manner for any Content, including, but not limited to, for any errors or omissions in any Content, or for any loss or damage of any



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kind incurred as a result of the use of any Content posted, e-mailed or otherwise transmitted via the Site.

- **Amendments to a tender published:**

You agree that the CIL/ Subsidiary companies reserves the right to re-tender / cancel a tender or extend the closing date or amend the details of tender at any time by publishing corrigendum as applicable.

- **Special Admonitions for International Use:**

Recognizing the global nature of the Internet, you agree to comply with all local rules regarding online content and acceptable Content. Specifically, you agree to comply with all applicable laws regarding the transmission of technical data to and from India or the country in which you reside.

- **Links**

The Site may provide, links to other World Wide Web sites or resources. Because CIL/Subsidiary has no control over such sites and resources, you acknowledge and agree that the CIL/Subsidiary is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any Content, advertising, products, or other materials on or available from such sites or resources. You further acknowledge and agree that the CIL/Subsidiary shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such Content, Goods or Services available on or through any such site or resources.

- **Miscellaneous**

This Agreement shall all be governed and construed in accordance with the laws of India & applicable to agreements made and to be performed in India. The e Tender portal's failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of this Agreement. CIL/Subsidiary may assign its rights and duties under this Agreement to any party at any time without notice to you. Any rights not expressly granted herein are reserved.

- **Governing Law**

Terms shall be governed by, and construed in accordance with, Indian law. The parties agree that the principal civil court of the place where the registered office of Coal India/Subsidiary Company is situated shall have non-exclusive jurisdiction to entertain any dispute with Coal India/Subsidiary Company. In case of dispute being with a regional Institute of CMPDIL, the principle Civil Court where the said regional Institute is situated shall be place of suing. CIL/Subsidiary reserves the right to initiate any legal action against those Bidders violating all or any of the above-mentioned terms & conditions of e Tender services agreement.

- **Modification of terms of Agreement**



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CIL/its Subsidiaries reserves the right to add to or change/modify the terms of this Agreement. Changes could be made by us after the first posting to the Site and you will be deemed to have accepted any change if you continue to access the Site after that time. CIL/its Subsidiaries reserves the right to modify, suspend/cancel, or discontinue any or all services/ make modifications and alterations in any or all of the content, at any time without prior notice.

### **Policy and Security**

- **General Policy**

CIL/its Subsidiaries is committed to protecting the privacy of our e-Tender site visitors. CIL/Subsidiary does not collect any personal or business information unless you provide it to us voluntarily when conducting an online enrolment, bid submission etc. or any other transaction on the Site.

- **Information Collected**

When you choose to provide personal or business information to us to conduct an online transaction, we use it only for the purpose of conducting the specific online transaction that you requested. The information is also used for the purpose of vendor searches. For each online transaction, we require only a minimum amount of personal and business information required to process your transaction.

When you visit our portal to browse, read pages, or download information, we automatically collect and store only the following information:

- The Internet domain and IP address from which you access our portal;
- The date and time you access our portal;
- The pages you visit

This information would help us to make our site more useful to visitors and to learn about the number of visitors to our site and the types of technology our visitors use.

We do not give, share, sell or transfer any personal information to a third party unless required to do so by law. If you do not want any personal or business information to be collected, please do not submit it to us; however, without this required information we will be unable to process your online bid submission or any other on line transaction. Review, update and correction of any personal or business information can be done directly on the Site.

- **Use of Cookies**

When you choose to enter into an online transaction, we use cookies to save the information that you input while progressing through the transaction. A cookie is a very small amount of data that is sent from our server to your computer's hard drive. By enabling this feature, the cookie will remember the data entered by you and next time when you visit this site, the data stored in the cookie will be available in future.

- **Security**



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The Site has security measures in place to protect against the loss, misuse and alteration of information under our control.