

ANNEXURE 11: AGREEMENT DRAFT

[Ref: LIC/CO/INVR/ERM-SV/RFP/2019-20 dated 13th Aug 2019]

(Should be on Rs.250/-stamp paper)

This agreement made on this _____ day of _____ between _____ hereinafter called the "BIDDER" and Life Insurance Corporation of India, hereinafter called "LIC" sets forth the terms and conditions for the implementation of Enterprise Risk Management System (ERMS).

1) PRICE

2) PERFORMANCE GUARANTEE

3) SCOPE OF WORK (SOW) and approach

4) PROJECT SCHEDULE

5) WARRANTY AND ANNUAL MAINTENANCE CONTRACT

6) PAYMENT TERMS:

7) GENERAL TERMS

7.1) The agreement shall be in force for a period of 5 years and 180 days.

7.2) The successful bidder is required to sign NDA as per Annexure-8 with LIC to maintain and protect the confidentiality of Data.

7.3) The Integrity Pact (IP) duly signed by the authorized official of LIC and the bidder, will form part of the contract / supply order. Proforma of the IP is enclosed along with the RFP document (Annexure-10) and shall be returned by the bidder along with the technical bid, duly signed by authorized person. All the pages of the IP shall be duly signed by the same authority. Bidder's failure to return the IP along with the bid, duly signed may lead to outright rejection of such bid.

7.4) LIC reserves its right to carry out Pre-delivery inspection of the equipment to be supplied to LIC at bidder's factory/warehouse. There shall not be any additional charges for such inspection.

8) ROYALTIES AND PATENTS

Any royalties or patents or the charges for the use or infringement thereof that may be involved in the contract shall be included in the price. The bidders shall protect LIC against any claims thereof.

9) RISK AND TITLE

The risk, title and ownership of the products shall be transferred to the customer upon delivering of such products to the customer.

10) SAVINGS CLAUSE

The bidder's failure to perform its contractual responsibilities, to perform the services, or to meet agreed service levels shall be excused if and to the extent the bidder's non-performance is caused by LIC's omission to act, delay, wrongful action, failure to provide Inputs, or failure to perform its obligations under this Agreement.

11) PASS THROUGH WARRANTY

The bidder shall “pass-through” any and all warranties and indemnities received from the manufacturer or licensor of the products and, to the extent, granted by such manufacturer or licensor, LIC shall be the beneficiary of such manufacturer’s or licensor’s warranties and indemnities.

12) LIMITATION OF LIABILITY & INDEMNITY

The bidder represents and warrants that the repair and maintenance of services/products hereby sold do not violate or infringe upon any patent, copyright, trade secret or other property right of any other person or other entity. The bidder agrees that it will and hereby does, indemnify LIC from any claim, directly resulting from or arising out of any breach or claimed breach of this warranty. Subject to the above and notwithstanding anything to the contrary elsewhere contained herein, the maximum aggregate liability of bidder for all claims under or in relation to this Agreement, shall be, regardless of the form of claim(s), shall be limited to immediately preceding 12 months of payments collected by bidder under this contract. Neither party shall be liable to the other for any special, indirect, incidental, consequential (including loss of profit or revenue), exemplary or punitive damages whether in contract, tort or other theories of law, even if such party has been advised of the possibility of such damages.

13) SITE NOT READY

LIC agrees that the bidder shall not be in any manner be liable for any delay arising out of LIC’s failure to make the site ready within the stipulated period, including but not limited to levy of liquidated damages for any delay in performance of services under the terms of this Agreement.

14) DEEMED ACCEPTANCE

Any Deliverable(s) / Work Product(s)/installation & commissioning provided to LIC shall be deemed to have been accepted if the customer puts such Deliverable(s) / Work Product(s) /installation & commissioning to use in its business or does not communicate its disapproval of such Deliverable(s) / Work Product(s) /installation & commissioning together with reasons for such disapproval within 30 days from the date of receipt of such Deliverable(s) / Work Product(s) /installation & commissioning .

15) NON- HIRE

LIC acknowledges that the personnel to be provided by the bidder represent a significant investment in recruitment and training, the loss of which would be detrimental to bidder’s business. In consideration of the foregoing, LIC agrees that for the term of this Agreement and for a period of one year thereafter, LIC will not directly or indirectly, recruit, hire, employ, engage, or discuss employment with any bidder employee, or induce any such individual to leave the employ of bidder. For purposes of this clause, a bidder employee means any employee or person who has been involved in providing services under this Agreement.

16) JURISDICTION & ARBITRATION

All disputes/differences of any kind whatsoever arising out of or relating to the construction, meaning, operation, effect or breach of the Agreement, then either party may refer to a sole arbitrator who shall be jointly appointed by both the parties or, in the event that the parties are unable to agree on the person to act as the sole arbitrator within 30 days after any party has claimed for arbitration in written form, by three arbitrators, one to be appointed by each party with power to the two arbitrators so appointed, to appoint a third arbitrator within a period of 30 days from the appointment of the second of the Arbitrators.

- i. The arbitration shall be conducted under the Arbitration & Conciliation (Amendment) Act, 2015 as

amended or re-enacted from time to time.

- ii. The governing law for the arbitration shall be Indian Law.
- iii. The proceeding of arbitration shall be conducted in the English language. The arbitration shall be held in Mumbai, India.

17) **FORCE MAJEURE**

The bidder shall not be liable for any delay or failure of performance of any of its obligations under or arising out of this contract, if the failure or delay results from Act of God, refusal of permissions or other Government Act, fire, explosion, accident and the like which renders it impossible or impracticable for the bidder to fulfill its obligations under the contract or any other cause or circumstances of whatsoever nature beyond bidder's control.

18) **CONFIDENTIALITY**

Both parties acknowledge that all materials and information which has or will come in its possession or knowledge about the performance of this agreement, hereof, consists of confidential and proprietary data, whose disclosure to or use by third parties will be damaging or cause loss to LIC. The parties agree to hold such material and information in strictest confidence not to make use thereof other than for the performance of this agreement, to release it only to employees requiring such information, and not to release or disclose it to any other parties. The parties shall take appropriate action with respect to its employees to ensure that the obligations of non-use and non-disclosure of confidential information as per NDA is fully satisfied.

19) **TERMINATION**

Either party shall have the right to terminate this contract / agreement at any time by giving 3 months' notice if the other party commits a material breach of the agreement and fails to make good such default to the non-defaulting party's reasonable satisfaction within thirty (30) days. In the event of termination LIC shall pay supplier / vendor for goods delivered and services rendered till the date of termination. LIC's decision in this regard shall be final and binding on the bidder.

IN WITNESS WHEREOF THE PARTIES HERE TO have set and subscribed their respective hands and seals the day and year herein above mentioned.

- a) SIGNED SEALED & DELIVERED BY THE
- b) SIGNED SEALED & DELIVERED BY THE WITHIN NAMED INSURANCE COMPANY
WITHIN NAMED (BIDDER)

Executive Director

In the presence of

Witnesses: 1 _____

Witnesses: 2 _____

In the presence of

Witnesses: 1 _____

Witnesses: 2 _____