

Tender No.24011/4/2019-OM Dated 19/02/2019

**e-TENDER DOCUMENT FOR
RENEWAL OF SUPPORT FOR McAfee SECURITY
SOFTWARE**

**National Intelligence Grid
(Ministry of Home Affairs)
Shivaji Stadium Annexe
1st Floor, Shaheed Bhagat Singh Marg,
NewDelhi-110001**

The information provided by the bidders in response to this Tender Document will become the property of NATGRID (MHA) and will not be returned. NATGRID reserves the right to amend, rescind or reissue this Tender Document and all amendments will be advised to the bidders and such amendments will be binding on them. This document is prepared by NATGRID (MHA) for renewal of support for McAfee security software. It should not be reused or copied or used partially or fully in any form.

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SECTION - 1

Notice Inviting e-Tender (NIT)

1. **Online** bids exclusively from McAfee certified authorised partner/business associate are invited for and on behalf of President of India under one bid system for “**Renewal of support for McAfee Security Software**” installed at NATGRID.
2. Tender documents may be downloaded from the CPPP e-Procurement Portal <https://eprocure.gov.in/eprocure/app> or the Ministry of Home Affairs website www.mha.gov.in as per the schedule as given in **CRITICAL DATE SHEET** as under:

CRITICAL DATE SHEET

Published Date & Time	03:00 PM on 19.02.2019
Bid Document Download Start Date & Time	03:00 PM on 19.02.2019
Bid Submission End Date & Time	03:00 PM on 13.03.2019
Bid Opening Date & Time	04:00 PM on 14.03.2019

3. **Manual bids shall not be accepted except for the original documents/instruments as mentioned in this tender.**
4. **Bids shall be submitted online only at CPPP website:** <https://eprocure.gov.in/eprocure/app>.
5. **Bidders are advised to follow the ‘Special Instructions to the Contractors/Bidders for the e-submission of the bids online’ available through the link ‘Help for Contractors’ at the e-Procurement Portal** <https://eprocure.gov.in/eprocure/app>
6. **Bidder shall not modify the downloaded tender form including downloaded price bid template in any manner.** In case any tender form/Price bid template is found to be tampered with/modified in any manner, such bid will be summarily rejected, Bid Security would be forfeited, and bidder is liable to be banned from doing business with NATGRID.
7. Bidders are advised to check the website www.mha.gov.in and CPPP website <https://eprocure.gov.in/eprocure/app> at least 3 days prior to closing date of submission of tender for any corrigendum, addendum, or amendment to the tender document.
8. **Bid Security:** Bid Security (EMD) of Rs. 15,000/- (Rupees Fifteen Thousand only), in the form of Crossed Demand Draft/Pay Order drawn on any scheduled commercial bank in favour of **Pay & Accounts Officer, NATGRID, New Delhi** is to be delivered in original to the Deputy Director (P&CM), NATGRID, 1st Floor Shivaji Stadium Annexe, Shaheed Bhagat Singh Marg, New Delhi-110001 before the time stipulated against ‘Bid Submission End Date and time’ as mentioned in the ‘Critical Date Sheet’. Name & full address of the bidder may be written at the back of the Demand Draft/Pay Order. The bid security is to be valid for a period of 45 days beyond the bid validity period which is 180 days from the bid opening date. Signed and scanned soft copy of the Bid Security instrument must be uploaded to the e-Procurement portal along with other bid documents as prescribed below at Para 10.2. Bids not received with Bid Security as mentioned above shall be summarily rejected. Bidders registered as Micro and Small Enterprises (MSEs) as defined in MSE Procurement Policy issued by Department of Micro, Small and Medium Enterprises (MSME) or are registered with the Central Purchase

Organisation or the concerned Ministry or Department or Startups as recognised by Department of Industrial Policy & Promotion (DIPP) are exempted from submission of Bid security.

9. **Bid Opening:** Bids will be opened as per date/time mentioned in the **Tender Critical Date Sheet**. The results of the bid and the bidder selected for supply will be notified later on.

10. Submission of Tender:

10.1 The tender shall be submitted online at one stage, viz., technical bid and financial bid should be submitted together.

10.2 **Technical and Financial Bid:** Signed and scanned copies of the following documents are to be uploaded by the bidder along with the Technical and Financial Bid:

- a. Scanned copy of Form-I after filling in all information asked for about the firm.
- b. Scanned copy of Authorisation letter from McAfee indicating that the bidder is an authorized partner/business associate of McAfee for supply of security software.
- c. Scanned copy of Account Payee Demand Draft/ Bankers' cheque from any of the Commercial banks for Rs.15,000/- (Rupees Fifteen Thousand only) drawn in favour of PAO, NATGRID and payable at Delhi, towards Earnest Money Deposit (EMD).
- d. Scanned copy of Bank account details in Form-II.
- e. Price Bid in BoQ_XXXX.xls format.
- f. Scanned copy of Financial Bid Undertaking in the Form-III.
- g. Filled up Technical Compliance sheet in the Form-VI

Note:

- i. **Bidder shall not modify the downloaded financial bid template in any manner.** In case Bid found to be tampered/ modified in any manner, will be rejected outright, Bid Security would be forfeited, and bidder is liable to be banned from doing business with NATGRID.
- ii. Bid documents may be scanned with 100 dpi with black and white option which helps in reducing size of the scanned document.
- iii. The bidder is required to submit their offer for the complete requirement given in schedule of requirements mentioned in Section 6. Any failure to comply with the aforesaid condition shall summarily result in rejection of such bid.

11. Contact Information: For any clarifications, vendor may contact:

The Deputy Director (P&CM), NATGRID (Ministry of Home Affairs), Shivaji Stadium Annexe, 1st Floor, Shaheed Bhagat Singh Marg, New Delhi-110001, Ph: 011-23444269, ddproc.nig@gov.in

INSTRUCTIONS FOR ONLINE BID SUBMISSION

2.1 **General Instruction:** The bidders are required to submit soft copies of their bids electronically on the Central Public Procurement (CPP) Portal i.e: <http://eprocure.gov.in/eprocure/app> using valid Digital Signature Certificates. The instructions given below are meant to assist the bidders in registering on the CPP Portal, prepare their bids in accordance with the requirements and submitting their bids online on the CPP Portal.

2.2 **REGISTRATION:**

- a. Bidders are required to enrol on the e-Procurement module of the Central Public Procurement Portal by using the “Online Bidder Enrolment” option available on the home page. Enrolment on the CPP Portal is free of charge.
- b. During enrolment/ registration, the bidders should provide the correct/ true information including valid email-id & mobile no. All the correspondence shall be made directly with the contractors/ bidders through email-id provided.
- c. As part of the enrolment process, the bidders will be required to choose a unique username and assign a password for their accounts.
- d. For e-tendering possession of valid Digital Signature Certificate (Class II or Class III Certificates with signing key usage) is mandatory which can be obtained from SIFY /nCode/eMudra or any Certifying Authority recognized by CCA India on eToken/ SmartCard.
- e. Upon enrolment on CPP Portal for e-tendering, the bidders shall register their valid Digital Signature Certificate with their profile.
- f. Only one valid DSC should be registered by a bidder. Bidders are responsible to ensure that they do not lend their DSCs to others which may lead to misuse and should ensure safety of the same.
- g. Bidders can then log into the site through the secured login by entering their user ID/ password and the password of the DSC/ eToken.

2.3 **PREPARATION OF BIDS:**

- a. For preparation of bid, Bidders shall search the tender from published tender list available on site and download the complete tender document and should take into account corrigendum if any published before submitting their bids.
- b. After selecting the tender document same shall be moved to the ‘My favourite’ folder of bidders account from where bidder can view all the details of the tender document.
- c. Bidder shall go through the tender document carefully to understand the documents required to be submitted as part of the bid. Bidders shall note the number of covers in which the bid documents have to be submitted, the number of documents – including the names and content of each of the document that need to be submitted. Any deviations from these may lead to rejection of the bid.
- d. Any pre-bid clarifications if required, then same may be obtained online through the tender site, or through the contact details given in the tender document.
- e. Bidders should get ready in advance the bid documents in the format to be submitted as indicated in the tender document/schedule. Bid documents may be scanned with 100 dpi with black and white option which helps in reducing size of the scanned document.

- f. Bidders can update well in advance, the documents such as experience certificates, annual report, PAN, EPF & other details etc., under “My Space/ Other Important Document” option, which can be submitted as per tender requirements. This will facilitate the bid submission process faster by reducing upload time of bids.

2.4 SUBMISSION OF BIDS:

- a. Bidder should log into the site well in advance for bid submission so that he/ she upload the bid in time i.e. on or before the bid submission time.
- b. Bidder should prepare the EMD as per the instructions specified in the NIT / Tender document. The details of the DD/BC/BG/ others physically sent should tally with the details available in the scanned copy and the data entered during bid submission time. Otherwise the uploaded bid will be rejected.
- c. While submitting the bids online, the bidder shall read the terms & conditions (of CPP portal) and accepts the same in order to proceed further to submit their bid.
- d. Bidders shall select the payment option as offline to pay the EMD and enter details of the DD/BC/BG/others.
- e. Bidder shall digitally sign and upload the required bid documents one by one as indicated in the tender document.
- f. Bidders shall note that the very act of using DSC for downloading the tender document and uploading their offers is deemed to be a confirmation that they have read all sections and pages of the tender document without any exception and have understood the complete tender document and are clear about the requirements of the tender document.
- g. Bid documents may be scanned with 100 dpi with black and white option which helps in reducing size of the scanned document. For the file size of less than 1 MB, the transaction uploading time will be very fast.
- h. If price quotes are required in XLS format, utmost care shall be taken for uploading Schedule of quantities & Prices and any change/ modification of the price schedule shall render it unfit for bidding.
- i. Bidders shall download the Schedule of Quantities & Prices in XLS format and save it without changing the name of the file. Bidder shall quote their rate in figures in the appropriate cells, thereafter save and upload the file as financial bid (Price bid) only.
- j. Bidders shall submit their bids through online e-tendering system to the Tender Inviting Authority (TIA) well before the bid submission end date & time (as per Server System Clock). The TIA will not be held responsible for any sort of delay or the difficulties faced during the submission of bids online by the bidders at the eleventh hour.
- k. After the bid submission (i.e. after Clicking “Freeze Bid Submission” in the portal), the bidders shall take print out of system generated acknowledgement number, and keep it as a record of evidence for online submission of bid.
- l. Bidders should follow the server time being displayed on bidder’s dashboard at the top of the tender site, which shall be considered valid for all actions of requesting, bid submission, bid opening etc., in the e-tender system.
- m. All the documents being submitted by the bidders would be encrypted using PKI (Public Key Infrastructure) encryption techniques to ensure the secrecy of the data. The data entered cannot be viewed by unauthorized persons until the time of bid opening. The confidentiality of the bids is maintained using the secured Socket Layer 128 bit encryption technology.
- n. NATGRID has adopted e-tendering process which offers a unique facility for ‘Public Online Tender Opening Event. NATGRID’s tender opening officers as well as authorized

representatives of bidders can attend the Public Online Tender Opening Event from the comforts of their office.

2.5 ASSISTANCE TO BIDDERS:

- a. Any queries relating to the tender document and the terms and conditions contained therein should be addressed to the Tender Inviting Authority for a tender or the relevant contract person indicated in the tender.
- b. Any queries relating to the process of online bid submission or queries relating to CPP Portal in general may be directed to the 24X7 CPP Portal Helpdesk.
- c. The CPP Portal Helpdesk can be contacted at 0120- 4200462, 0120-4001002/5.

Special Instructions to Bidders

- 3.1 National Intelligence Grid (NATGRID) is an attached office of Ministry of Home Affairs, Government of India situated at 1st Floor, Shivaji Stadium Annexe, Shaheed Bhagat Singh Marg, New Delhi-110001. This office itself will be working location for all services and supply.
- 3.2 Bids are invited exclusively from McAfee certified authorized partner/business associate for support for McAfee security software installed at NATGRID for period mentioned in schedule of requirements in section-6.
- 3.3 Tender documents may be downloaded from the Ministry of Home Affairs website www.mha.gov.in or the e-Procurement Portal <https://eprocure.gov.in/eprocure/app>. Bids shall be submitted online only at CPPP website: <https://eprocure.gov.in/eprocure/app> in one bid system [i.e. Technical & Financial Bid] along with scanned copy of the following documents:-
 - a. Details of the Firm in Form-I
 - b. Authorisation letter from McAfee indicating that the bidder is an authorized partner/business associate of McAfee for supply of security software;
 - c. Account Payee Demand Draft/ Bankers' cheque from any of the Commercial banks for Rs.15,000/- (Rupees Fifteen thousand only) drawn in favour of PAO, NATGRID and payable at Delhi, towards Earnest Money Deposit (EMD);
 - d. Bank account details in the Form-II
 - e. Financial Bid Undertaking in the Form-III.
 - f. Price Bid in BoQ_XXXX.xls format.
 - g. Filled up Technical Compliance sheet in the Form-VI
- 3.4 Bids complete in all respects may be submitted online before bid submission end date and time. Latest Bids submitted by any other mode will not be accepted.
- 3.5 EMD must be delivered in original to the Deputy Director (P&CM), NATGRID, before Bid end submission date and time.
- 3.6 The bidder is required to submit their offer for the complete requirement given in schedule of requirements mentioned in Section 6. Any failure to comply with the aforesaid condition shall summarily result in rejection of such bid.
- 3.7 The successful bidder has to sign confidentiality and Non-disclosure agreement (NDA) i.e. Form – VII of section- 9 with NATGRID at the time of signing of contract

General Conditions of Contract (GC)

4.1. Definitions: Unless the context otherwise requires, the following terms whenever used in this contract have the following meanings:

- a. 'NATGRID' shall mean National Intelligence Grid, Ministry of Home Affairs, New Delhi, with office situated at 1st Floor, Shivaji Stadium Annexe, Shaheed Bhagat Singh Marg, New Delhi - 110001.
- b. 'Bidder' shall mean the individual or firm who participates in this tender and submits its bid.
- c. 'Contractor'/ 'Agency'/ 'Firm' shall mean the successful bidder in this tender and shall include its legal representatives, successors.
- d. 'Performance Security' shall mean monetary guarantee furnished by the successful bidder for due performance of the contract concluded with it.

4.2. Notices: Any notice, instruction, or communication made pursuant to this Contract shall be in writing, and shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered post to such Party at the address specified in the Technical Bid.

4.3. Taxes and Duties: The Contractor shall be liable to pay such direct and indirect taxes, duties, fees and other impositions levied under the applicable laws of India.

4.4. Fraud and Corruption

- a. **Definitions:** For the purpose of this clause, the terms set forth below have meanings as follows:
 - i. "Corrupt practice" means the offering, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the selection process or in contract execution;
 - ii. "fraudulent practice" means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract;
 - iii. "collusive practices" means a scheme or arrangement between two or more Contractors, with or without the knowledge of NATGRID, designed to establish prices at artificial, non-competitive level;
 - iv. "coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract;

b. Measures to be taken by NATGRID

- i.** NATGRID may terminate the contract if it determines at any time that representatives of the Contractor were engaged in corrupt, fraudulent, collusive or coercive practices during the tender process or the execution of that contract, without the Contractor having taken timely and appropriate action satisfactory to NATGRID to remedy the situation;
- ii.** NATGRID may also sanction against the Contractor, including declaring the Contractor ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the Contractor has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a contract.

4.5. Commencement and Expiration of Contract

- i. Effectiveness of Contract:** This Contract shall come into force and effect on the date (the “Effective Date”) as specified in the SC. In case effective date is not so stipulated, the contract shall be effective from the date it is signed by both parties.
- ii. Expiration of Contract:** Unless terminated earlier pursuant to Clause GC 4.10 hereof, this Contract shall expire at the end of such time after the Effective Date as specified in the SC.

4.6. Entire Agreement: This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for any other statement, representation, promise agreement not set forth herein.

4.7. Modifications or Variations: Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. Each Party shall give due consideration to any proposal for modification or variation made by the other Party.

4.8. Force Majeure

- a. Definition:** For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable and not brought about by or at the instance of the Party claiming to be affected by such events and which has caused the non-performance or delay in performance, and which makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstance and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other extreme adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Government agencies.
- b.** Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or by or of such Party’s employees, nor (ii) any event which a diligent Party could reasonably have been expected both to take into account at the time of

the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.

- c. **No breach of Contract:** The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.
- d. **Measures to be taken:** A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimise the consequences of any event of Force Majeure.
- e. A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.
- f. Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
- g. During the period of their inability to perform the Services as a result of any event of Force Majeure, the Contractor, upon instructions by NATGRID, shall either:
 - i. Demobilize; or
 - ii. Continue with the Services to the extent possible, in which case the Contractor shall continue to be paid proportionately and on pro rata basis, under the terms of this Contract.
- h. In case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clause GC 4.19.

4.9. Suspension: NATGRID may, by written notice of suspension to the Contractor, suspend all payments to the Contractor hereunder if the Contractor fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall allow the Contractor to remedy such failure, if capable of being remedied, within a period not exceeding thirty (30) days after receipt by the Contractor of such notice of suspension.

4.10. Termination

- a. **By NATGRID:** NATGRID may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (i) to (viii) below:
 - i. If the Contractor fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GC 4.9 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as NATGRID may have subsequently approved in writing.

- ii. If the Contractor becomes insolvent or go into liquidation or receivership whether compulsory or voluntary.
 - iii. If the Contractor fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 4.21(b) hereof.
 - iv. If the Contractor, in the judgement of NATGRID, has engaged in corrupt or fraudulent practices in competing for or in executing this Contract.
 - v. If the Contractor submits to NATGRID a false statement which has a material effect on the rights, obligations or interests of NATGRID.
 - vi. If the Contractor places itself in position of conflict of interest or fails to disclose promptly any conflict of interest to NATGRID.
 - vii. If the Contractor fails to provide the quality services as envisaged under this Contract.
 - viii. If NATGRID, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.
- b. In any event such as at (i) to (vii) above NATGRID shall give fifteen (15) days' written notice of termination to the Contractor, and thirty (30) days' in case of event referred to in (viii) above.
- c. **By the Contractor:** The Contractor may terminate this Contract by not less than thirty (30) days' written notice to NATGRID, in case of occurrence of any of the events specified in paragraph(s) (i) to (iv) below.
- i. If NATGRID fails to pay any money due to the Contractor, pursuant to this Contract and the same is not subject of dispute under Clause GC 4.21 hereof within forty-five (45) days after receiving written notice from the Contractor that such payment is overdue.
 - ii. If, as the result of Force Majeure, the Contractor is unable to perform a material portion of the Services for a period of not less than sixty (60) days.
 - iii. If NATGRID fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 4.21(b) hereof.
 - iv. If NATGRID is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Contractor may have subsequently agreed in writing) following the receipt by NATGRID of the Contractor's notice specifying such breach.

4.11. Cessation of Rights and Obligations: Upon termination of this Contract pursuant to Clauses GC 4.5(ii) or GC 4.10 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GC 4.20 hereof, and (iii) any right which a Party may have under the Law.

- 4.12. Cessation of Services:** Upon termination of this Contract by notice of either Party to the other pursuant to Clauses under GC 4.10 hereof, the Contractor shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner.
- 4.13. Payment upon Termination:** Upon termination of this Contract pursuant to Clauses under GC 4.10 hereof, NATGRID shall make the following payments to the Contractor:
- a. If the Contract is terminated pursuant of Clause 4.10(a)(vii), 4.10(a)(viii) or 4.10(b), payment for Services satisfactorily performed prior to the effective date of termination;
 - b. If the agreement is terminated pursuant of Clause 4.10(a)(i) to (vi), the Contractor shall not be entitled to receive any agreed payments upon termination of the contract. However, NATGRID may consider payment for the part satisfactorily performed on the basis of Quantum Merit as assessed by it, if such part is of economic utility to NATGRID.
- 4.14. Disputes about Events of Termination:** If either Party disputes whether an event specified in paragraph (i) to (vii) of Clause GC 4.10(a) or in Clause GC 4.10(b) hereof has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter for dispute settlement under Clause GC 4.21(b) hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.
- 4.15. Forfeiture of Performance Security:** In the event of breach of this Agreement, NATGRID shall have the right to invoke and appropriate the proceeds of the performance security, in whole or in part, without separate notice to the Contractor.
- 4.16. Change in the Applicable Law Related to Taxes and Duties:** If, after the date of this Contract, there is any change in the Applicable Laws of India with respect to taxes and duties, which are directly payable by the Contractor for providing the services i.e. GST or any such applicable tax from time to time, which increases or decreases the cost incurred by the Contractor in performing the Services, then the amount otherwise payable to the Contractor under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto.
- 4.17. Payment:** In consideration of the services provided by the Contractor under this Contract, NATGRID shall make to the Contractor such payments and in such manner as is provided in the SC.
- 4.18. Fairness and Good Faith:** The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.
- 4.19. Operation of the Contract:** The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the currency of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause

or causes of such unfairness, but no failure on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause GC 4.21(b) hereof.

4.20. Confidentiality: Except with the prior consent of NATGRID, the Contractor shall not at any time communicate to any person or entity any information acquired in the course of performance of this Contract. By agreeing to enter into this Contract, the Contractor also agrees to sign and abide with the Non-Disclosure Agreement.

4.21. Settlement Of Disputes

- a. **Amicable Settlement:** In case dispute arises between the parties regarding any matter under the contract, either Party of the contract may send a written Notice of Dispute to the other party. The Party receiving the Notice of Dispute will consider the Notice and respond to it in writing within 30 days after receipt. If that party fails to respond within 30 days, or the dispute cannot be amicably settled within 60 days following the response of that party, clause GC 4.21(b) shall become applicable.
- b. **Arbitration:** In the case of dispute arising upon or in relation to or in connection with the contract between NATGRID and the Contractor, which has not been settled amicably, any party can refer the dispute for Arbitration under the Arbitration and Conciliation Act 1996.
 - i. Arbitration proceedings shall be held in New Delhi and the language of the arbitration proceedings and that of all documents and communications between the parties shall be English.
 - ii. The decision of the arbitrator(s) shall be final and binding upon both parties. The expenses of the arbitrator(s) as determined by the arbitrator(s) shall be shared equally by NATGRID and the Contractor. However, the expenses incurred by each party in connection with the preparation & presentation of their cases shall be borne by the party itself. All arbitration awards shall be in writing and shall state the reasons for the award.
- c. **Jurisdiction of Courts etc.:** The courts/any other Tribunal or Forum in New Delhi alone shall have exclusive jurisdiction with regard to any matter/dispute relating to or arising out this contract.

4.22. Miscellaneous

- a. All payments, including refund of Bid Security (EMD) will be made electronically.
- b. The personnel engaged by the Contractor are subject to security check by the NATGRID Security Staff at any time.
- c. All personnel deputed by the Contractor should bear upon his/her person due authorisation from the Contractor, and should produce the same for inspection in order to be allowed to enter NATGRID premises, and during their stay within the premises.
- d. Within NATGRID premises, the Contractor's personnel shall restrict their activities to performance of this contract.

- e. The Contractor shall be directly responsible for any dispute arising between him and his personnel and NATGRID shall be kept indemnified against all actions, losses, damages, expenses and claims whatsoever arising thereof.
- f. The Contractor shall be solely responsible for payment of wages/salaries, other benefits and allowances etc in r/o the personnel deputed for NATGRID. NATGRID shall have no liability whatsoever in this regard and the Contractor shall indemnify NATGRID against all claims in this regard.
- g. The Contractor shall be fully responsible for theft or burglary or any damage to NATGRID property directly attributable to any acts of commission or omission on the part of Contractor's personnel.

Special Conditions of Contract (SCs)

- 5.1. **Eligibility:** An authorized partner/business associate of McAfee for supply of security software can submit bid;
- 5.2. **Contract Period:** The contract will be for a period as mentioned in the award letter;
- 5.3. **Effective Date:** The contract shall be effective from the date as stipulated in the Letter of Award;
- 5.4. **Cost Details & Validity:** The quoted Rate/Cost should be inclusive of all levies/taxes. The Bid submitted against this Tender should remain valid for not less than 180days from the date of bid opening;
- 5.5. **Payment terms:** No advance payment shall be made under any circumstances. Payment will be made on quarterly basis at the end of each quarter. Payment will be made on pro rata basis if contract is terminated prematurely.
- 5.6. **Supporting Services Schedule:** The standard supporting services schedule of McAfee shall be as per applicable practices adopted globally;
- 5.7. **Indemnity:** The successful bidder will be required to furnish the duly filled in Proforma of Indemnity given at Form-IV by the McAfee. The vendor will indemnify NATGRID to the extent of direct damages against all claims, demands, costs, charges, expenses, award, compensations etc. due to violation of any patents and copy rights by the bidder.

Schedule of Requirements**6.1 Renewal of McAfee Endpoint Security Advanced Suite (EPA) and Complete Data Protection Advanced (CDA) Licenses**

S. No.	SKU/Description	Quantity (In Nos.)
1.	McAfee Endpoint Security Advanced Suite (EPA) GL support : Renewal for 01 year from the date of expiry of existing licenses i.e. from 01.04.2019 to 31.03.2020	100*
2.	McAfee and Complete Data protection advanced (CDA) GL support : Renewal for 01 year from the date of expiry of existing licenses i.e. from 01.04.2019 to 31.03.2020	100*
3.	McAfee Endpoint Security Advanced Suite (EPA) GL support : Renewal for 05 months from the date of expiry of existing licenses i.e. from 07.11.2019 to 31.03.2020	40*
4.	McAfee and Complete Data protection advanced (CDA) GL support : Renewal for 05 months from the date of expiry of existing licenses i.e. from 07.11.2019 to 31.03.2020	40*
5.	Technical Support Services for 01 year for items mentioned at S. No 1 & 2 above and for 05 months for items mentioned at S. No 3 &4 above.	

*Distributed over 02 independent networks (over 2 servers) at the same site

6.2 Technical Support Services for 01 year for items mentioned at S. No 1 & 2 in the above table and for 05 months for items mentioned at S. No 3 &4 in the above table:

1. Installation / Updating and Fine tuning of McAfee EPO server on quarterly basis and also performing of other administrative operations on the server as and when required.
2. Upgradation of existing ENS console management to the latest version during the period of support.
3. Migration of McAfee ENS console application to another server.
4. Quarterly Visits for Health Checkup.
5. '6' Onsite Visits as and when required. Visit count would be based on resolution of ticket and not physical day count. Additionally, telephonic support should be provided form 8 AM to 8 PM on working days.
6. Functional & Operational Training on site.
7. Vendor shall be responsible for provisioning of on-going support services through a single point of contact to resolve emergency, non-critical day to day assistance.
8. Provision for implementation of McAfee suite in case of relocation of office within the city.

Note: No remote access will be provided for technical support.

BID EVALUATION & AWARD OF CONTRACT

7.1 **Bank Details:** NATGRID shall be making all payments electronically, including refund of Bid Security (EMD). For this purpose, all bidders shall upload scanned copies of the appropriate mandate form containing their bank details.

7.2 **Clarification of Bids:**

- a. To assist in the examination, evaluation and comparison of technical bids, NATGRID may ask bidders individually for clarification of their bids, including breakdowns of unit prices. The request for clarification and the response shall be in writing, but no change in the price or substance of the bid shall be sought, offered or permitted, except as required to confirm the correction or arithmetical errors discovered by NATGRID during evaluation of the bids.
- b. Any action on the part of any bidder to influence any NATGRID officer in the process of examination, clarification, evaluation, and comparison of bids, and decision concerning award of contract, or canvassing in any form, shall make the tender liable for rejection.

7.3 **Bid Responsiveness:**

- a. NATGRID will determine the substantial responsiveness of each bid with respect to the bid documents. A substantially responsive bid is one which conforms to all terms and conditions of the bid documents without material deviations.
- b. The following deviations will be deemed material deviations:
 - i. Non-submission of appropriate Bid Security;
 - ii. Bid-validity period less than that stipulated in this tender document; and
- c. NATGRID's determination of a bid's responsiveness will be based on the contents of the bid itself without recourse to extrinsic evidence.
- d. A bid determined as substantially non-responsive will be rejected by NATGRID and shall not be considered beyond tender opening stage by correction of the non-conformity.
- e. NATGRID may waive any minor infirmity or non-conformity or irregularity in a bid which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any bidder.

7.4 **BID EVALUATION:** The responsive bids will be evaluated by a Tender Opening cum Evaluation Committee as per the compliance sheet given at Form VI of the Tender document. Non-submission of essential documents stipulated in para 10.2 of Section-1 will result in, a bid liable for disqualification.

7.5 **EVALUATION OF FINANCIAL BIDS :**

- a. Financial bids will be opened only of those bidders who qualify the technical evaluation.
- b. Bids determined to be substantially responsive will be checked by NATGRID for any arithmetical errors in computation and summation. Errors will be dealt by NATGRID as follows :-
 - i. Where there is discrepancy between rates/amounts given in figures and in words, the rates/amounts given in words will prevail.

- ii. Incorrectly added totals will be corrected.
 - iii. In case there is any inconsistency between the unit rate and the total price (after multiplication with the tender quantity), the unit rate quoted shall prevail.
- c. NATGRID shall evaluate the financial bids of eligible bidders to determine the L-1 bidder on the basis of lowest total cost of all the five items in the financial/price bid from.

7.6 AWARD OF CONTRACT:

- a. **Letter of Award:** NATGRID will notify the successful bidder by post or by fax or e-mail that his/her bid has been accepted. The notification of award will constitute the formation of the Contract upon the furnishing by the successful bidder of a performance security/security deposit in accordance with clause mentioned at para 7.8 below.
- b. **Letter of Acceptance:** Within 7 days of receipt of notification of award, the successful bidder shall furnish Letter of Acceptance to NATGRID conveying willingness to accept the work/supply order in accordance with the provisions of this tender and the Letter of Award.
- c. **Selection of Firm:** In case L-1 bidder does not submit Letter of Acceptance as above, NATGRID may at its discretion issue Letter of Award to the L-2 bidder on L-1 rates in the manner specified in (i) above. In case, L-2 bidder is not agreeable to provide services on L-1 rates then the contract may be awarded to L-3 bidder on L-1 rates.

7.7 SIGNING OF CONTRACT:

- a. Where the contract value is Rs.10 lakhs or below, this tender document containing the General Conditions of Contract, Special Conditions of Contract and Scope of Work, along with the Letter of Acceptance will form a binding contract.
- b. Where the contract value is more than Rs.10 lakhs, within 7 days of submission of Letter of Acceptance, the successful bidder shall prepare and submit to NATGRID the Contract Agreement on the basis of the format provided. After receipt of Performance Security as per clause 7.8 below, NATGRID shall return the Agreement after scrutiny, and the successful bidder shall get the same engrossed, have the correct amount to stamp duly adjudicated by Superintendent of Stamps and thereafter return the same duly signed and executed on behalf of the successful bidder, all at his own cost, within two weeks from the receipt of the approved Agreement.

7.8 PERFORMANCE SECURITY:

- a. The successful bidder should arrange to have performance security amounting to 10% of the awarded contract value furnished within 7 days of submission of Letter of Acceptance in the case of contracts covered by clause 7.7.(a) above, and within 7 days of submission of draft Contract Agreement in the case of contracts covered by clause 7.7.(b) above.
- b. Subject to any provision elsewhere in the contract regarding forfeiture or appropriation in full or part thereof, the performance security shall be released at the time of expiry / non-renewal / termination of the contract.
- c. The performance security may be either in the form of Demand Draft in favour of **Pay & Accounts Officer, NATGRID, New Delhi**, or as Bank Guarantee in the format at Form-V of this document
- d. In case Bank Guarantee is furnished as performance security, the same should be valid by more than sixty (60) days after the expiry of contract.

- e. In case Bank Guarantee is furnished as performance security, it should be sent to NATGRID by the concerned Bank, and not by the bidder itself.
- f. The performance security amount is interest free.
- g. NATGRID has the right to encash/appropriate the whole amount of performance security in accordance with the contract conditions and also to deduct any amount due from the contractor at the time of the termination/expiry of the contract.

7.9 BID SECURITY

- a. The bid security/EMD submitted along with the bid shall be refunded to the successful bidder after furnishing of Performance Security.
- b. Bid Security (EMD) of unsuccessful bidders shall be refunded after signing of contract with successful bidder.
- c. Bid Security shall be forfeited in the following circumstances:
 - i. If bidder withdraws bid after opening of bids
 - ii. If bidder fails to accept contract after award
 - iii. If bidder awarded contract fails to furnish performance security within the time limit specified.

SECTION 8**Financial/Price bid in the form of BOQ_xxxx.xls**

(Price in INR)

S. No.	SKU/Description	Quantity (In Nos.)	Unit price (inclusive of all taxes except GST)	Total price (inclusive of all taxes except GST)
1	McAfee Endpoint Security Advanced Suite (EPA) GL support : Renewal for 01 year from the date of expiry of existing licenses i.e. 01.04.2019 to 31.03.2020	100*		
2	McAfee and Complete Data protection advanced (CDA) GL support : Renewal for 01 year from the date of expiry of existing licenses i.e. 01.04.2019 to 31.03.2020	100*		
3.	McAfee Endpoint Security Advanced Suite (EPA) GL support : Renewal for 05 months from the date of expiry of existing licenses i.e. from 07.11.2019 to 31.03.2020	40*		
4.	McAfee and Complete Data protection advanced (CDA) GL support : Renewal for 05 months from the date of expiry of existing licenses i.e. from 07.11.2019 to 31.03.2020	40*		
5.	Technical Support Services for 01 year for items mentioned at S. No 1 & 2 above and for 05 months for items mentioned at S. No 3 & 4 above			

1. The rates shall be quoted in Indian Rupee only.
2. The price quoted is inclusive of all taxes, fees, levies, etc. (except GST) and any revision in the statutory taxes, fees, etc. will be the responsibility of the Bidder.
3. In case of any discrepancy/difference in the amounts indicated in figures and words the amount in words will prevail and will be considered.
4. The quoted price shall remain firm throughout the tenure of the contract and no revision is permissible for any reason.

(Signature of the Bidder/Authorized representative)

Standard Forms

FORM-I

1. Name of Firm
2. Address, Telephone, FAX, e-mail
3. Name & Telephone/Mobile number of contact person
5. Status of Firm
Sole Proprietorship/ Partnership/Pvt Ltd
Co./Ltd Co. etc.
6. Registration No.
7. Year of establishment

DETAILS OF BANK ACCOUNT

(RTGS/NEFT facility for receiving payments)

Sl.No	Particulars	To be filled by the bidder
1.	Name(s) of Account Holder(s)	
2.	Address of Account Holder(s)	
3.	Name of the Bank	
4.	Name and Address of Branch	
5.	IFSC Code	
6.	MICR Code	
7.	Account Number	
8.	Type of Account	

I/We, hereby, declare that the particulars given above are correct and complete. If the transaction is delayed or not effected at all for reasons of incomplete or incorrect information, I/we would not hold NATGRID responsible.

(Signature(s) of account holder(s))
Name(s) of Account holder(s)

SIGNATURE OF BIDDER/ Authorized representative

Financial Bid Undertaking (on letter-head of the bidder)

UNDERTAKING

I submit the Financial Bid for “**Renewal of support for McAfee security software**” installed at NATGRID as envisaged in the Tender document.

2. I have thoroughly examined and understood all the terms and conditions as contained in the Tender document, and agree to abide by them.

3. I offer the price(s) as indicated in the Financial Bid inclusive of all applicable taxes.

(Signature of the Bidder/Authorized representative)

[to be filled in by the successful Bidder only]

Form-IV

Format of Indemnity

This is to certify that M/s _____, who have supplied McAfee security software licenses support renewal to NATGRID (MHA), New Delhi, vide order no. _____ dated _____, 2018 have all required rights for the renewal of support for McAfee security software. The software/ supplied by us are legal/licensed copies.

Further, M/s _____ is willing to indemnify NATGRID against any claims due to violation of any patents and copyrights for the software sold under licensing agreement from us. The above indemnity is limited to the software supplied by M/s _____ only.

For M/s McAfee

.....

Signature

Name, seal, designation and date.

[to be filled in by the successful Bidder only]

Form -V

MODEL BANK GUARANTEE FORMAT FOR PERFORMANCE SECURITY

To
The President of India

WHEREAS(name and address of the supplier) (hereinafter called “the supplier”) has undertaken, in pursuance of contract no..... datedto provide “support for McAfee security software” installed at NATGRID” (herein after called “the contract”).

AND WHEREAS it has been stipulated by you in the said contract that the supplier shall furnish you with a bank guarantee by a scheduled commercial Bank recognized by you for the sum specified therein as security for compliance with its obligations in accordance with the contract;

AND WHEREAS we have agreed to give the supplier such a bank guarantee;

NOW THEREFORE we hereby affirm that we are guarantors and responsible to you, on behalf of the supplier, up to a total of (amount of the guarantee in words and figures), and we undertake to pay you, upon your first written demand declaring the supplier to be in default under the contract and without cavil or argument, any sum or sums within the limits of (amount of guarantee) as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the supplier before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the contract to be performed thereunder or of any of the contract documents which may be made between you and the supplier shall in any way release us from any liability under this guarantee and we hereby waive notice of any such change, addition or modification.

This guarantee shall be valid until the day of, 20.....

.....
(Signature of the authorized officer of the Bank)

.....
Name and designation of the officer

Seal, name & address of the Bank and address of the Branch

TECHNICAL COMPLIANCE SHEET

S. No	SKU/Description	Provided (Yes/No)	Reference & Page No.
1.	McAfee Endpoint Security Advanced Suite (EPA) GL support : Renewal of 100 licenses for 01 year from the date of expiry of existing licenses i.e. 01.04.2019 to 31.03.2020		
2.	McAfee and Complete Data protection advanced (CDA) GL support : Renewal of 100 licenses for 01 year from the date of expiry of existing licenses i.e. 01.04.2019 to 31.03.2020		
3.	McAfee Endpoint Security Advanced Suite (EPA) GL support : Renewal of 40 licenses for 05 months from the date of expiry of existing licenses i.e. from 07.11.2019 to 31.03.2020		
4.	McAfee and Complete Data protection advanced (CDA) GL support : Renewal of 40 licenses for 05 months from the date of expiry of existing licenses i.e. from 07.11.2019 to 31.03.2020		
5.	<p>Technical Support Services for 1 year for items mentioned at S. No. 1 & 2 above and for 5 months for items mentioned at S. No. 3 & 4 in the above table:</p> <p>a. Installation / Updating and Fine tuning of McAfee EPO server on quarterly basis and also performing of other administrative operations on the server as and when required.</p> <p>b. Upgradation of existing ENS console management to the latest version during the period of support.</p> <p>c. Quarterly Visits for Health Checkup.</p> <p>d. '6' Onsite Visits as and when required. Visit count would be based on resolution of ticket and not physical day count. Additionally, telephonic support should be provided form 8 AM to 8 PM on working days.</p> <p>e. Functional & Operational Training on site (32 hrs).</p> <p>f. Single point of contact to resolve emergency, non-critical day to day assistance.</p> <p>g. Provision for migration of McAfee ENS console application to another server</p> <p>h. Provision for implementation of McAfee suite in case of relocation of office within the city.</p>		
6.	Copy of Authorisation letter from McAfee indicating that the bidder is an authorized partner/business associate of McAfee for supply of security software		

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

[To be filled in by the successful bidder only]

This Confidentiality and Non-Disclosure Agreement (hereinafter referred to as the “**Agreement**”) is made and executed at _____ on this the _____ day of _____ 2019 (hereinafter referred to as the “**Effective Date**”).

BY AND BETWEEN

The President of India acting through his duly authorized representative <<insert designation>>, National Intelligence Grid (NATGRID), Ministry of Home Affairs, Government of India, having its official headquarters at 1st Floor, Shivaji Stadium Annexe, Shaheed Bhagat Singh Marg, New Delhi – 110001 (hereinafter referred to as “NATGRID”) of the **First Part**;

AND

[name of the vendor], a [company] / [partnership firm] validly incorporated / organized and registered under the [laws of [_____]] with its [registered/corporate/head office] situated at [_____] and acting through its authorized representative [Name of the representative] _____ (hereinafter referred to as the “**Recipient**”, which expression shall unless repugnant to the context or meaning thereof be deemed to include its successors, legal representatives, administrators, employees, consultants and permitted assigns) of the **Second Part**.

NATGRID and the Recipient shall hereinafter be individually referred to as “**Party**” and collectively as “**Parties**”.

WHEREAS:

1. NATGRID has engaged the Recipient for _____ [Kindly *insert the service to be provided by the Recipient*] (“**Service**”). [N.B: Details of different types of service depending on the tracks.]
2. The Recipient had represented to NATGRID that it has the requisite professional and technical skills to provide the Services.

3. The Recipient shall be involved in provision of the Services to NATGRID and would therefore have access to certain information, documents, etc. provided by NATGRID or otherwise.

4. The Recipient acknowledges that during the course of provision of Services by the Recipient, there would be exchange of information, discussions, deliberations, negotiations, etc. amongst the Parties and in performance of their obligations mentioned herein, there will be significant flow of ideas, information, strategy, technical data/information from the NATGRID to the Recipient. The Recipient agrees that any information disclosed to the Recipient by NATGRID or acquired by the Recipient during such course will be used exclusively for the knowledge of the Recipient and shall not be divulged to any third party and/or not utilized for any purpose other than for which it was disclosed without the prior written consent of NATGRID.

5. NATGRID and the Recipient have agreed to enter into and execute this Agreement on the terms and conditions set forth herein below. It has been further agreed between the Parties that there shall be a separate Confidentiality and Non-Disclosure Agreement executed between the NATGRID and all the employees of the Recipient-who are involved in the delivery of Services under this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, the Parties hereto agree as follows:

1. Confidential Information

(i) “Confidential Information” shall mean all confidential and proprietary information of NATGRID which includes but is not limited to:

- a) All Confidential information relating to the organization, finances, processes, specifications, methods, designs, formulae, technology and business activities of and concerning NATGRID.
- b) Any and all information thereof in relation to the project or transaction contemplated by this Agreement, additions thereto and materials related thereto, produced at any time by the NATGRID.
- c) All other information and material of NATGRID relating to method of development/deployment, construction, manufacturing, operation, size, specification,

quantity, use and service of equipment and components supplied to or used by NATGRID, intellectual property including, but not limited to reports, process data, test data, performance data, inventions, trade secrets, systems software, object codes, source codes, copyrighted matters, methods, drawings, computation, calculations, computer program narration, flow charts, and all documentation therefore and all the components which might form part of confidential information and might be disclosed.

- d) Any other confidential and proprietary material and information, disclosed by NATGRID in relation to this Agreement whether orally or in writing; provided that with regard to any information shared orally by NATGRID to the Recipients shall be notified to the Recipient in writing as confidential within 7 days of such discussion.
- e) Any other information provided by NATGRID to the Recipient or procured by the Recipient from NATGRID shall be treated as Confidential Information under this clause irrespective of the fact whether the same is designated or earmarked “Confidential” / “Restricted” etc. or not by NATGRID; or even if the same is unclassified.

(ii) Unless otherwise specified by NATGRID, following shall not be deemed to be a Confidential Information under this Agreement and Recipient shall have no obligation with respect to any such information which:

- a) was generally known to the public prior to the disclosure under this Agreement , provided the same is declared to be in the public domain by NATGRID at the time of receipt of such information; or
- b) is already known to Recipient prior to the execution of this Agreement as demonstrated by the Recipient; or
- c) is received by and/or from a third party without breach of this Agreement or any other obligation to maintain the confidentiality of such information; or
- d) is independently developed by Recipient apart from the transition as contemplated under this Agreement; or
- e) is approved for release by written authorization of NATGRID; or
- f) is disclosed pursuant to the lawful requirement or request of a Governmental agency, or disclosure is required by operation of law provided the Recipient gives NATGRID prompt notice and assists NATGRID, at NATGRID’s expense, in obtaining an applicable protective order.

2. Non-Disclosure Covenant

2.1 Except as otherwise provided in this Agreement , the Recipient hereby agrees that in respect of all Confidential Information received from NATGRID by way of non-disclosure pursuant to this Agreement, the Recipient shall:-

(i) Keep such Confidential Information absolutely secret and in confidence and treat such Confidential Information and apply the same standard of duty and care as the Recipient accords to their own Confidential Information;

(ii) Only use Confidential Information for the permitted purpose as contemplated under this Agreement;

(iii) Not disclose in any manner whatsoever any Confidential Information to anyone except those of its directors, officers, lawyers, consultants and advisors:-

- a) Who need such information for the permitted purpose under this Agreement; and/or
- b) are informed of the proprietary and confidential nature of the Information; and/or
- c) Come under the purview of this Agreement by virtue of the Recipient's acceptance same.

(iv) Not disclose in any manner whatsoever the existence of this Agreement, the terms contained in this Agreement or the exchange of information by the Parties pursuant to this Agreement to a third party.

(v) The non-disclosure obligation of the Recipient under this Agreement shall apply during and after the termination of the Agreement unless and until released in writing by NATGRID after the expiry of the Contract for service, the Recipient agrees that all conditions and obligations imposed under this Agreement apply during the time that the Recipient has access to Confidential Information and at all times thereafter.

2.2 The Recipient further agrees not to divulge any Confidential Information or not to do any act or divulge any information of any nature whatsoever which shall be prejudicial to the safety or interests of NATGRID or the Government of India including but not limited to those mentioned herein below:-

(i) make any sketch, plan, model, or note using the Information provided by NATGRID which might be directly or indirectly, useful to any third party;

(ii) obtain, collect, record or publish or communicate to any other person any secret/ official code or password, or any sketch, plan, model, or note or other document or information which might be, directly or indirectly, useful to any third party or which relates to a matter of disclosure of which is likely to affect the sovereignty, integrity or security of India or friendly relations with foreign States using the Information provided by NATGRID.

2.3 As regards the Confidential Information and acts or information as mentioned in Clause 2.2 above, the Recipient hereby agrees that the Recipient shall not:

(i) communicate the Confidential Information, code or password, sketch, plan, model, article, note, document or information to any person unless authorized in writing by NATGRID; or

(ii) use the information provided by NATGRID in its possession for the benefit of any foreign power or in any manner prejudicial to the safety of the State; or

(iii) retain any Confidential Information, code or password, sketch, plan, model, article, note, document in its possession or control when it has no right to retain it, or fails to comply with all directions issued by NATGRID with regard to return or disposal thereof; or

(iv) fail to take reasonable care of, or so conduct itself so as to endanger the safety of the Confidential Information, sketch, plan, model, note, document, official code, password or information provided by NATGRID.

3. Other Obligations of the Recipient

(i) The Recipient hereby acknowledges that as a result of its access to the Confidential Information, it will occupy a position of trust and confidence and maintain the confidentiality of all the Confidential Information shared by NATGRID and without limitation of the foregoing, the Recipient agrees not to do the following:-

a. Communicate or disclose, directly or indirectly, any of the Confidential Information, in full or part thereof to a third party, or

b. Take any other action which may lead to breach of the confidential and propriety nature of such Confidential Information provided by NATGRID.

(ii) The Recipient shall take reasonable steps to maintain the security and confidentiality of

the Confidential Information and take reasonable steps to cause its officers, employees; and affiliates to comply with the Agreement, as fully as if such persons had executed this Agreement and made the same Agreement as to themselves with respect to the Confidential Information as is made herein by the Recipient.

(iii) The Recipient acknowledges that such Confidential Information provided by NATGRID shall remain the property of NATGRID and that the disclosure and/or provision of Confidential Information by NATGRID is solely for the purposes as stipulated by NATGRID and shall not be used directly or indirectly to gain a competitive advantage over or negatively affect NATGRID.

(iv) The Recipient acknowledges and agrees that it shall not make, have made, replicate, reproduce, use, sell, incorporate or otherwise exploit, for his own or any other purpose, any of the Confidential Information provided by NATGRID that is or may be revealed to him by NATGRID unless specifically authorized to do so in writing by NATGRID.

(v) The Recipient acknowledges that any and all the Confidential Information that may be disclosed by NATGRID under this Agreement is the valuable property of NATGRID and is highly proprietary and confidential in nature. The Recipient further acknowledges that the disclosure, distribution, dissemination and/or release of the Confidential Information by the Recipient without the prior written consent of NATGRID will cause NATGRID to suffer severe, immediate and irreparable damage. The Recipient agrees that in the event the Recipient does disclose, disseminate, distribute and/or release the Confidential Information provided by NATGRID which comes into its possession or knowledge as a result of this Agreement, without the prior, written consent of NATGRID, then NATGRID shall be entitled to seek immediate injunctive relief in order to enforce the provisions of this Agreement.

(vi) The Recipient further agrees to take reasonable steps, no less rigorous than those taken to protect its own confidential and proprietary information to prevent any unauthorized/inadvertent disclosures of the Confidential Information. The Recipient agrees that upon termination of this Agreement, the Recipient shall forthwith return to NATGRID and/or provide proof of destruction any and all Confidential Information or any other information as mentioned under clause 1, 2.2 and 2.3 of this Agreement and all components which and might form part of Confidential Information and might be disclosed.

(vii) The Recipient shall restrict its discussions or negotiations with any third party during the term of this Agreement except with prior written permission of NATGRID. However, the said permission of NATGRID may be subject to:

- (a) For services-include terms which restrict the deployment of the same personnel who are working on NATGRID project with any other organization without permission of NATGRID during engagement with NATGRID.
- (b) For products- The configuration, deployment details, etc. of the products provided by the Recipient to NATGRID shall not be discussed by the Recipient with any third party.

4. SECURITY OBLIGATIONS OF THE RECIPIENT

(i) The Recipient hereby agree and acknowledges that only a limited number of persons who have direct concern with delivery of Services under this Agreement shall peruse any confidential information received from NATGRID.

(ii) The Recipient agrees and acknowledges that any confidential information will at all time and during all stages remain in the personal custody of the person to whom it was addressed or entrusted to the personal custody of person who is directly concerned with delivery of Services under this Agreement

(iii) The Recipient further agrees and undertakes not to send or otherwise communicate with respect to any confidential information under this Agreement except by way of secure communication lines and surreptitious eves-dropping, monitoring and masquerading on the communication lines should be safeguarded against. Further, the recipient shall ensure any unauthorized physical access to computer terminals is prevented and under no circumstances are any physical copies of the confidential information carried loose in the hands of the persons dealing with the confidential information.

(iv) The Recipient further agrees and acknowledges that it is not authorized to carry any physical copies of confidential information to his residence. If any person loses confidential information after taking it to his residence with prior authorization of NATGRID, the provision of Penalty as stipulated in the Clause 5 of this Agreement shall be applicable.

(v) It is further agreed between the Parties that in the event of any violation or breach of any of the sub-clauses of Clause 4 committed by the Recipient, the provision of Penalty as stipulated in Clause 5 of this Agreement shall be applicable.

5. PENALTY

It is agreed between the Parties that in the event of any breach or default or offence committed by the Recipient under this Agreement, NATGRID shall be entitled to take appropriate legal action against the Recipient, both civil as well as criminal, under the Official Secrets Act, 1923, Indian Penal Code, 1860, Information Technology Act, 2000, or any applicable laws prevalent in India or any other relevant statutory enactment of legislation in India. In such an eventuality, NATGRID further reserve its right to take any other appropriate action, in law or otherwise, against the Recipient, as it deems fit and necessary. The Recipient agrees that nothing in this Agreement constitutes a waiver by NATGRID of the right to prosecute the Recipient for any statutory violation.

6. MISCELLANEOUS

(i) Interpretation: The interpretation of NATGRID with respect to the provisions of this Agreement shall be accepted by the Recipient and if dissatisfied with the interpretation, the Recipient can make an appeal to the authority next to NATGRID in MHA, i.e., the Union Home Secretary.

(ii) Supersession: This Agreement constitutes the entire understanding between the Parties and supersedes all prior agreements and understandings pertaining to the subject matter hereof.

(iii) Indemnification: The Recipient agrees to indemnify and hold NATGRID harmless for any cost, damage, losses, penalty and/or liability or claims incurred by or made against NATGRID due to any breach, non-observance, failure or any other act leading to breach or omissions on part of the Recipient in the performance of this Agreement.

(iv) Amendments: The Agreement may be amended at any time by mutual agreement of the Parties in writing. No amendment, variation or modification of this Agreement shall be valid unless it is made in writing and signed by an authorized representative of each Party.

(v) Severability: If any provision in this Agreement is held by a court or any competent authority to be void or unenforceable, then such provision shall be deemed to be severed, but the validity and enforceability of the remaining provisions shall not be affected, unless enforcement of this Agreement without the invalidated provision would be grossly inequitable under all of the circumstances or would affect the primary purposes of this Agreement.

(vi) Waiver: The non-exercise of or delay in exercising any power or right by NATGRID shall not operate as a waiver of its power or right. A waiver by a Party shall be valid only if such waiver of power or right is in writing and is signed by a duly authorized officer of such Party.

(vii) Relationship between the Parties: Each Party is an independent contractor and not an agent or a partner of, or joint venture with, the other Party for any purpose. Neither Party by virtue of this Agreement shall have any right, power of authority to act or create any obligation, express or implied, on behalf of the other Party.

(viii) Notices: Every notice, demand or other communication under this Agreement shall:

- a. Be in writing, delivered by hand, or by registered AD post or Speed post AD or by fax number as notified by parties.
- b. Be sent to the parties at their principal place of business in India or to such other address as either party may in writing hereafter notify to the other party.
- c. Be deemed to have been received:
 1. When delivered by hand; at the time so delivered if during business hours on a business day for the recipient;

2. If given by registered AD post or Speed post AD, 48 hours after it has been put into post, (To be confirmed) and
3. If sent by fax or electronic mail (E-mail) at the completion of transmission during business hours at its destination or, if not within the business hours, at the opening of the next period of business hours, but subject to
 - a. Proof by the sender that it holds a printed transmission report confirming dispatch of the transmitted notice;
 - b. The sender not receiving any telephone calls from the recipient, to be confirmed in writing, that the fax has not been received in legible form; and

(ix) Governing Law and Jurisdiction: This Agreement shall be construed, interpreted, and enforced pursuant to the laws of India and all disputes arising out this Agreement shall be subject to jurisdiction of the appropriate Court of Delhi, India.

IN WITNESS WHEREOF, the Parties have hereunto set and subscribed their respective hands, the day, month and year first above written.

SIGNED AND DELIVERED for and on behalf of the President of India represented by
 Designation: _____
 Name: _____
 [Employer]

WITNESSES:

- 1.
- 2.

SIGNED AND DELIVERED by and on behalf of _____
 [Recipient]
 Represented by its Authorized Signatory,

Mr./Ms. _____

WITNESSES:

- 1.
- 2.