

Indian Highways Management Company Limited (IHMCL)

*2nd Floor, MTNL Building, Sector 19, Dwarka,
New Delhi-110075*

**CONSULTANCY SERVICES
FOR
“UNIQUE HELPLINE FOR ROAD USERS
ON NATIONAL HIGHWAYS”**

Ref: No. IHMCL/Helpline/Cons/2014

REQUEST FOR PROPOSAL (RFP)

13 November, 2014

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SECTION - I

NOTICE FOR INVITING THE PROPOSALS FOR CONSULTANCY SERVICES

NATIONAL COMPETITIVE BIDDING

Bids are invited for the below mentioned work by Indian Highways Management Company Limited (IHMCL, for short) from a company / Firm / PSU / Govt. Department / Autonomous Body / Scientific Society in India:

Name of the Work	EMD / Bid Security	Document Fee(non refundable)	Time period of assignment	Closing date and time
Consultancy Services for "Unique Helpline for Road Users on National Highways"	INR 5,00,000/- (Indian National Rupees Five Lakh only)	INR 5000/- (Indian National Rupees Five thousand only)	5 Years	Up to 1100 Hrs. (IST) on <u>27.11.2014</u>

The RFP document to be downloaded from IHMCL website indicated below. The Bids shall be liable for summary rejection unless accompanied by the requisite EMD and bid document fee as indicated above. IHMCL shall not be responsible for any postal delay. Bids submitted after the closing date/time shall be summarily rejected.

IHMCL reserves the right to accept or reject any or all bids without thereby incurring any financial or other liability to the affected bidders.

Address for communication and for bid submission:

**The Chief Executive Officer,
Indian Highways Management Co. Ltd. (IHMCL),
2nd Floor, MTNL Building,
Sector 19, Dwarka
New Delhi 110 075**

Phone: +91-11-25074100 Ext.1409

Email: palekar@nhai.org

Website: www.ihmcl.com

SECTION II

2.0 DEFINITIONS

In this document, the following terms shall have respective meanings as indicated:

- a) “**Authorized Representative**” means any person/agency authorized by IHMCL.
- b) “**Bidder**” means a firm or JV or Consortium which participates in the tender and submits its proposal.
- c) **Client / Purchaser** shall mean the Indian Highways Management Co. Ltd.
- d) “**Commencement date**” means the date upon which the Contractor receives the notice to commence the work issued by the Client.
- e) “**Contract**” means the agreement entered into between the client and the Contractor, as recorded in the Contract documents signed by the parties, including all attachments and appendices thereto and all documents incorporated by references therein
- f) “**IHMCL**” means Indian Highways Management Company Ltd.
- g) “**Law**” or “**Legislation**” - shall mean any Act, notification, bye law, rules and regulations, directive, ordinance, order or instruction having the force of law enacted or issued by the Government of India or State Government or regulatory authority or political subdivision of government agency.
- h) “**Letter of Award (LOA)**” means the issue of a signed letter by the client of its intention to accept the offer of successful bidder and awarding the work mentioning the total Contract Value.
- i) “**Local Currency**” means the Indian National Rupees
- j) “**MoRTH**” means Ministry of Road Transport and Highways
- k) “**NHAI**” means National Highway Authority of India, New Delhi.
- l) “**Party**” shall mean IHMCL or contractor individually and “**Parties**” shall mean IHMCL and contractor collectively.
- m) “**Personnel**” means persons hired by the Contractor as employees and assigned to the performance of the Services or any part thereof.
- n) “**RFP**” shall mean Request for Proposal, Tender Document or Bidding Document including the written clarifications & Corrigendum/Addendum issued by IHMCL in respect of the RFP.
- o) “**Services**” means requirements defined in this Request for Proposal including all additional services associated thereto to be delivered by the Service Provider.
- p) “**Successful Bidder**” means the Bidder, who, after the complete evaluation process, gets the Letter of Award. The Successful Bidder shall be deemed as “**Contractor**” appearing anywhere in the document.

SECTION 3

INSTRUCTIONS TO BIDDERS

3.1 INTRODUCTION

The National Highways Authority of India (NHAI) is responsible for the development, maintenance and management of National Highways entrusted to it and for matters connected thereto.

National Highways Development Project (NHDP) has been launched to meet the demands of increased traffic and to bring about safety and efficiency in road travel.

NHAI got a new Company “Indian Highways Management Company Ltd. (IHMCL)” incorporated with equity participation of NHAI (25%), Concessionaires (50%) and Financial Institutions (25%) for implementation of Electronic Toll Collection (ETC) and other Intelligent Transportation System (ITS) / transportation related activities on highways in India.

NHAI assigned IHMCL for setting up of Call Centre for receiving calls from the public relating to emergencies on National Highway and complaints relating to National Highways through toll free helpline No. “1033”.

3.2 ELIGIBILITY CRITERIA

3.2.1 The Consultant shall be a Firm established in India or a Company incorporated and registered in India under the Companies Act, 1956.

[Documentary proof (copy of certificate of registration/incorporation) shall be submitted as part of the eligibility documents]

3.2.2 The average annual turnover should be Rs.2 crore or more in the last consecutive three financial years.

(A certificate from the statutory auditor as proof for the above in the enclosed format)

3.2.3 The bidder should have completed at least three (3) IT (Information Technology) related consultancy jobs of total value more than Rs. 50 lakh in the last 5 years.

(Work Order / Purchase Order / Contracts with Undertaking from the bidder on his letter head as per the format 7.3.1)

3.2.4 The bidder should have completed at least one (1) call center or related IT Enabled Services project involving inbound or outbound Voice / Interactive Voice

Response System (IVRS) in at least one (1) Indian Language (other than English).

(Work Order / Purchase Order / Contracts with Undertaking from the bidder on his letter head as per the format 7.3.2)

3.2.5 Undertaking as per the format 7.4 given in the tender document which also includes the confirmation that the bidder has not been blacklisted /debarred by any central/state Government department/organization or Quasi Government agencies or PSU.

3.2.6 Power of Attorney: The bidder to submit a notarised Power of Attorney authorising the signatory to commit the bidder as per the Format 7.5.

3.2.7 The Bidder should have a valid ISO 9001 and ISO 27001 certification or should be a SEI CMMI level 3 or above company.

(Copies of documents in support of ISO / CMMI certificates to be submitted.)

3.4 No JV / Consortium allowed.

3.5 CONTENT OF TENDER DOCUMENT

3.5.1 The Tender document should be read in conjunction with any addenda issued in terms of this document.

3.5.2 Bidders are advised to study the Bid Document carefully. Submission of the Bid will be deemed to have been done after careful study and examination of all instructions, eligibility norms, terms and requirement specifications in the tender document with full understanding of its implications. Bids not complying with all the given clauses in this tender document are liable to be rejected. Failure to furnish all information required in the tender Document or submission of a bid not substantially responsive to the tender document in all respects will be at the bidder's risk and may result in the rejection of the bid.

3.6 COST OF BIDDING:

The Bidder shall bear all costs associated with the preparation and submission of the Bid and IHMCL will in no case, be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

3.7 CLARIFICATION ON TENDER DOCUMENT

3.7.1 All Bidders are required to go through the tender document (RFP document) and submit their queries/ clarifications to IHMCL in writing by 20.11.2014. IHMCL will not respond to any queries received after this date.

3.7.2 Pre-Bid meeting will be held at IHMCL, *2nd Floor, MTNL Building, Sector 19, Dwarka, New Delhi-110075* on 21.11.2014 at 11.00 am.

3.7.3 IHMCL will publish the clarifications to the bidders' queries on IHMCL's website www.ihmcl.com only. No separate information will be sent to any individual Bidder in this regard.

3.8 AMENDMENT OF TENDER DOCUMENT

3.8.1 At any time prior to the deadline for submission of bids, IHMCL, for any reason, whether at its own initiative or in response to the clarifications requested by prospective Bidders may modify the bidding documents by issuing amendment(s).

3.8.2 Any Corrigendum /Addendum thus issued shall be part of the bidding documents and shall be communicated on website www.ihmcl.com only. No separate information will be passed to any individual Bidders in this regard.

3.8.3 In order to allow eligible Bidders a reasonable time to take the amendment into account in preparing their bids, NHAI, at its discretion, may extend the deadline for the submission of bids.

3.9 LANGUAGE OF BID

The Bid prepared by the Bidder, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and IHMCL, shall be written in English.

3.10 DOCUMENTS TO BE SUBMITTED

3.10.1 Each bid submitted shall have the following documents:

Part – I (Technical bid)

- a. Bid Form as described in the bidding document, duly filled in by the Bidder.
- b. Power of Attorney for signing the bid.
- c. Proof of Eligibility Criteria.

Part – II (Financial Bid)

- a. Financial proposal submission form as per the format given in the tender document
- b. Bill of Quantities
- c. Price bid signed in original as per formats in Section-6.

3.10.2 The NIT, tender document and any addenda/corrigendum are deemed to be part of the bid submitted.

3.10.3 There shall not be any indication about the prices (printed or otherwise) of any of the offered products in the technical bid.

3.11 BID PRICE

- a) The bidder shall indicate the prices in Indian Rupees only.
- b) All taxes and duties applicable shall be paid by the bidder except the **Service tax** which is reimbursable by IHMCL as per actual on submission of the proof of payment.
- c) Prices quoted by the bidder shall be fixed for the **entire Contract period**. Bids submitted with adjustable price quotations will be rejected.

3.12 BID VALIDITY

Bids shall remain valid for a period of **180 days** from the last date of bid submission. Any Bid valid for a shorter period shall be rejected as non- responsive.

In exceptional circumstances, IHMCL may solicit Bidder's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The Bid security shall also be suitably extended. A Bidder granting the request is neither required nor permitted to modify the Bid.

3.13 DOCUMENT FEE AND BID SECURITY

3.13.1 **Document fee:** The document fee (non-refundable) of Rs. 5000/- (Rupees Five thousand only) in the form of a demand draft / pay order drawn in favour of "**Indian Highways Management Company Ltd.**" on any Scheduled bank payable at **New Delhi** shall be submitted by the bidder.

3.13.2 The Bidder shall furnish, as part of the Bid, Earnest Money Deposit (EMD) /Bid Security for an amount **INR 5,00,000/- (Indian Rupees Five Lakh only)**

3.13.3 The Earnest Money shall be in the form of a demand draft / pay order drawn in favour of "**Indian Highways Management Company Ltd.**" on any Scheduled bank payable at **New Delhi**.

The bid security in any other form shall not be accepted and the bid shall be rejected.

3.13.4 The Earnest Money of unsuccessful bidders will be returned as promptly as possible, after expiry of the period of Bid Validity prescribed by the Client

3.13.5 The Earnest Money of the successful Bidder will be discharged when the Bidder has furnished the required Performance Security and signed the Contract Agreement.

3.13.6 The Bid Security / Earnest Money will be forfeited:

- a. if the Bidder withdraws or modifies the Bid during the period of Bid validity;
- b. if the Bidder does not accept the correction of the bid price pursuant to the relevant clause of this document; or
- c. in the case of a successful Bidder,
 - i) if the Bidder fails within the specified time limit to sign the agreement; and/or

- ii) Fails to furnish the required Performance Security within the stipulated period.

In case the successful Bidder fails to sign agreement and/or furnish the required performance security, IHMCL may blacklist the bidder for a period of 2 years from participating in IHMCL tenders and may assign the work to the next lower bidder.

3.14 ALTERNATIVE PROPOSALS BY BIDDERS

Bidder shall submit offers that fully comply with the requirement of the tender document including conditions of contract. **Conditional offer or alternate offer** will **not be** considered further in the process of tender evaluation.

3.15 FORMAT FOR SIGNING OF BID

3.15.1 The Bidders are required to fill up and submit all the formats.

3.15.2 The Bid shall be signed by a duly authorized person to sign on behalf of the bidder. All pages of the bid except any un-amended printed literature shall be signed and sealed by the person signing the bid.

3.15.3 The Bid shall contain no overwriting, alterations or additions. If it is necessary to correct errors made by the Bidder, in which case such corrections shall be made by scoring out the cancelled portion, **writing the correction and signing** by the authorised signatory of the Bid.

3.16 FORMAT FOR SUBMISSION OF PROPOSALS

3.16.1 All the Bids (Technical & Financial bids) will have to be submitted **ONLY in HARD BOUND** (Hard bound implies such binding between two covers through stitching or otherwise whereby it may not be possible to replace any paper without disturbing the document) form with all pages sequentially numbered either at the top or at the bottom right corner of each page. It should also have an index giving page wise information of above documents. **Bids without hard bound will summarily be rejected. The spiral bound document is not hard bound and will be summarily rejected.**

3.16.2 The proposals shall be submitted in three parts, viz.,

- a) **Envelope-1:** Containing document fee Rs. 5,000/- (Rupees five Thousand only) and EMD of **INR. 5,00,000** /-(Indian Rupees five Lakh only) super scribed as **“Envelope 1 – EMD & Document Fee”** at the top left corner)
- b) **Envelope-2:** Super scribed as **“Envelope 2 –Technical Proposal”** (Containing duly signed Technical Proposal. In the technical proposal, there should not be any indication about the prices of any services offered).
- c) **Envelope-3:** Financial Proposal containing only Price Schedule super scribed as **“Envelope 3 – Financial Proposal”**. Name of the bidder shall also be indicated on the envelope.

3.16.3 All the sealed envelopes (1, 2 & 3) should again be placed in a sealed cover super

scribed as “IHMCL Tender No. **IHMCL/Helpine/Cons/2014**. Bid from: _____)” **“NOT TO BE OPENED BEFORE : 27.11.2014”**

3.16.4 The outer envelope shall indicate the name and address of the bidder to enable the bid to be returned unopened in case it is declared “late”.

3.16.5 If these envelopes are not sealed and marked as required, IHMCL will assume no responsibility for the bid’s misplacement or premature opening/premature disclosure of information.

3.17 DEADLINE FOR SUBMISSION OF BID

3.17.1 Complete Bid containing the entire envelope as specified must be received by the client at the address specified in the NIT on or before the prescribed date and time. In the event of the prescribed date for the submission of bids being declared a holiday for the client, the Bids will be received up to the specified time on the next working day.

3.17.2 The client may, at his discretion, extend the deadline for submission of bids by issuing an amendment in which case all rights and obligations of the client and the bidders previously subject to the original deadline will thereafter be subject to the deadline extended.

3.17.3 Offer by fax / e-mail will not be acceptable.

3.18 LATE SUBMISSION

Bids received after the deadline will be rejected and returned to the bidder unopened. This will be strictly followed.

3.19 MODIFICATION AND WITHDRAWAL OF BIDS

3.19.1 Bidders may modify or withdraw their bid before the prescribed deadline.

3.19.2 The modifications or withdrawal shall be submitted in a separate sealed envelope and marked as ‘Modifications or withdrawal’ as appropriate.

3.19.3 No bid shall be modified after the deadline for submission of Bids.

3.19.4 Withdrawal of a Bid during the interval between the deadline for submission of bids and the expiration of the original period of bid validity will result in the forfeiture of the Bid security.

3.20 OPENING OF BIDS BY IHMCL

3.20.1 Technical Bids will be opened at **1200 hrs (IST) on 27.11.2014** at the address mentioned in this NIT.

3.20.2 Bidder’s authorized representative may attend the opening, and those who are present shall sign a register evidencing their attendance.

3.20.3 The Bidder’s names, Bid modifications or withdrawals and such other details as

IHMCL at its discretion, may consider appropriate, will be announced at the time of opening.

3.21 EXAMINATION AND EVALUATION OF BIDS

3.21.1 The Client/Purchaser reserves the right to modify the Evaluation Process at any time during the Tender Process, without assigning any reason, whatsoever, and without any requirement of intimating the Bidders of any such change.

3.21.2 Any time during the process of evaluation, the Purchaser may seek for clarifications from any or all Bidders.

3.21.3 **Phase-1: Document Fee & EMD/Bid Security:** First, the envelope containing Document fee and Bid Security will be opened and if both are found furnished by the bidders in the prescribed manner, then the second envelope containing Qualification & Technical Proposal documents shall be opened. At any stage during the evaluation, if the EMD is found invalid, the respective Bidder's bid will be summarily rejected.

3.21.4 Phase-2: Technical Proposal Evaluation:

The technical bids will be evaluated by a duly constituted Evaluation Committee. The Bidder shall have to fulfil all the Eligibility Criteria as specified, in totality and submit all the required documents. These documents will be scrutinized in this phase of evaluation. Those bidders who do not fulfil the terms and conditions of Eligibility Criteria as specified in this tender will not be eligible for further evaluation.

Evaluation of Technical Proposals by IHMCL shall not be questioned by any of the Bidders. IHMCL may ask Bidder(s) for additional information, visit Bidder's site and/or arrange discussions with their professional, technical faculties to verify claims made in Technical Bid documentation from the Bidder on the already submitted Technical Proposal at any point of time before opening of the Financial Proposal.

3.21.5 Phase-3: Financial Proposal Evaluation:

The Financial Proposals of ONLY the Bidders who are short-listed in Phase-2 will be evaluated. The Financial Proposal Evaluation will be based on the "Total Cost", which would be the total payouts including all taxes etc.

If there is a discrepancy between the unit price & the total price, the unit price shall prevail and IHMCL shall correct the total price. If there is a discrepancy between words & figures, the amount in words shall prevail unless the amount in words is clearly a typographical error. If the bidder does not accept the correction of errors, his bid shall be rejected and the EMD will be forfeited.

The Evaluation Committee shall determine if the financial proposal is complete and without computational errors.

3.22 PROCESS TO BE CONFIDENTIAL

Information relating to the examination, clarification, evaluation, and comparison of bids and recommendations for the award of a contract shall not be disclosed to bidders or any other persons not officially concerned with such process until the award to the successful Bidder has been announced. Any attempt by a Bidder to influence the client's processing of bids or award decisions may result in the rejection of his Bid.

3.23 CORRECTION OF ERRORS AND EVALUATION OF FINANCIAL BID

3.23.1 Financial Bids determined to be substantially responsive will be checked by the Client for any arithmetic errors. Errors will be corrected by the Client as follows:

- i) where there is a discrepancy between the rates in figures and in words, the rate in words will govern; and
- ii) where there is a discrepancy between the unit rate and the total amount resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern.

3.23.2 The amount stated in the Financial Bid will be corrected by the Client in accordance with the above procedure for the correction of errors and shall be considered as binding upon the Bidder. If the Bidder does not accept the corrected amount, the Bid will be rejected, and the Bid Security shall be forfeited

3.24 AWARD CRITERIA

The Client will award the Contract to the Bidder whose Bid has been determined to be responsive to the Tender documents and who quoted the lowest.

In case the L1 Bidder fails to sign agreement and/or furnish the required performance security, IHMCL may withdraw the offer to that bidder and blacklist the bidder for a period of 2 years from participating in IHMCL tenders and may assign the work to the L2 bidder subject to accepting the work at L1 or negotiated price.

3.25 IHMCL'S RIGHT TO REJECT ANY OR ALL BIDS

IHMCL reserves the right to reject any Bid, and to annul the bidding process and reject all bids at any time, without thereby incurring any liability to the affected Bidder(s) or any obligation to inform the affected Bidder(s) of the grounds for such decision.

3.26 NOTIFICATION OF AWARD OF CONTRACT

3.27.1 Prior to the expiration of the Bid validity, the Client will notify the successful bidder that his Bid has been accepted. The Client will mention the contract value in the letter of acceptance (LOA).

3.27.2 The notification of award will constitute the formation of the Contract, subject only to the furnishing of a performance security within 15 days of receipt of LOA in accordance with the provisions of this tender document.

3.27.3 The Contract Agreement will incorporate all agreements between the Client and

the successful Bidder. It will be signed by the Client and the successful Bidder after the performance security is furnished. The Client will issue notice to commence the work after signing of contract.

3.27.4 Upon furnishing of the Performance Security by the successful Bidder, the Client will promptly notify the other Bidders that their Bids have been unsuccessful.

3.28 CONFIDENTIALITY

3.28.1 The Bidder shall keep confidential any information related to this tender with the same degree of care as it would treat its own confidential information. The Bidders shall note that the confidential information will be used only for the purposes of this tender and shall not be disclosed to any third party for any reason whatsoever.

3.28.2 As used herein, the term “Confidential Information” means any written information, including without intimation, information created by or for the other party, which relates to internal controls, computer or data processing programs, algorithms, electronic data processing applications, Source Code, routines, subroutines, techniques or systems, or information concerning the business or financial affairs and methods of operation or proposed methods of operation, accounts, transactions, proposed transactions or security procedures of either party or any of its affiliates, or any client of either party, except such information which is in the public domain at the time of its disclosure or thereafter enters the public domain other than as a result of a breach of duty on the part of the party receiving such information. It is the express intent of the parties that all the business process and methods used by the Bidder in rendering the services hereunder are the Confidential Information of the Bidder.

3.28.3 At all times during the performance of the Services, the Bidder shall abide by all applicable IHMCL’s security rules, policies, standards, guidelines and procedures. The Bidder should note that before any of its employees or assignees is given access to the Confidential Information, each such employee and assignees shall agree to be bound by the terms of this tender and such rules, policies, standards, guidelines and procedures by its employees or agents.

3.28.4 The Bidder should not disclose to any other party and keep confidential the terms and conditions of the Contract agreement, any amendment thereof, and any Attachment or Annexure thereof.

The **Non Disclosure Agreement** as per the enclosed format at section VII has to be signed by the successful bidder during signing of the contract agreement.

The obligations of confidentiality under this section shall survive rejection of the contract.

3.28.5 Bidders shall not be under a declaration of ineligibility for corrupt and fraudulent practices by the Central Government, the State Government or any public undertaking, autonomous body, authority by whatever name called under the Central or the State Government.

3.29 SIGNING OF AGREEMENT

At the same time that the Client notifies the successful bidder that his bid has

been accepted, the Client will direct him to submit the Performance Security within the prescribed period, and inform the bidder for signing of the Contract Agreement.

3.30 PERFORMANCE SECURITY

3.30.1 Within 15 (fifteen) days of the receipt of the Letter of Award, the successful Bidder shall deliver performance security to the Client **an amount equivalent to ten percent (10%) of the Contract Price.**

3.30.2 The Performance Security shall be submitted in the form of Bank Guarantee issued in the name of Client by a bank mentioned in this document, as per the format given in Section VII and will be valid for **a period of 180 days after the expiry of contract period.**

3.30.3 The Performance Guarantee shall be payable to the Client as a compensation for any loss resulting from the Contractor's failure to complete its obligations under the contract.

3.31 BANK GUARANTEE (BG)

3.31.1 The Bank Guarantee in the name of the Client issued by the following banks would only be accepted:-

- State Bank of India or its subsidiaries,
- Any Indian Nationalised Bank
- IDBI or ICICI Bank
- A Foreign Bank (issued by a branch outside India) with a counter guarantee from SBI or its subsidiaries or any Indian Nationalised Bank.
- Any Scheduled Commercial Bank approved by RBI having a net worth of not less than Rs.500 crore as per the latest Annual Report of the Bank. In the case of a Foreign Bank (issued by a branch in India), the net worth in respect of the Indian operations shall only be taken into account.
- Export Import Bank of India

3.31.2 The acceptance of the guarantees shall also be subject to the following conditions:-

The capital adequacy of the Bank shall not be less than the norms prescribed by RBI (presently 9, with effect from 31st March, 2003, 10).

The bank guarantee issued by a Cooperative Bank shall not be accepted.

3.32 CORRUPT OR FRAUDULENT PRACTICES

The Client will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.

The Client will declare the firm ineligible, either indefinitely or for a stated period of

time, to be awarded a contract by IHMCL if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for the contractor, or during execution.

“Corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in Contract execution.

“Fraudulent Practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Client and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid process at artificial non-competitive levels and to deprive the Client of the benefits of free and open competition.

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SECTION IV- CONDITIONS OF CONTRACT

4.1 CONDITIONS OF CONTRACT

These Conditions shall supplement or amend the other parts of the Bidding Documents and whenever there is a conflict; provision herein shall prevail over those in the other parts of the Bidding Documents.

4.2 GOVERNING LANGUAGE

All correspondence and other documents to be exchanged by the parties shall be written in the English language. The version written in English language shall govern its interpretation.

4.3 APPLICABLE LAW

Appropriate laws of Government of India shall apply.

4.4 INTERPRETATION

In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined.

4.5 The Contractor shall indemnify the IHMCL against all third party claims of infringement of patent, trademark or industrial design rights arising from use of the goods or any part thereof in IHMCL.

4.6 USE OF BID DOCUMENTS AND INFORMATION

4.6.1 All project related documents issued by IHMCL shall remain the property of IHMCL and originals and all copies shall be returned to IHMCL on completion of the Contractor's performance, if so required by the IHMCL.

4.6.2 The Contractor shall not without prior written consent of IHMCL make use of any document or information made available for the project except for purposes of performing the job.

4.7 PAYMENT TERMS

4.7.1 The Consultant will be paid stage-wise as per the schedule given below.

a) Payment for **Tendering Stage**:

60% of Cost shall be paid on submission of Draft RFP.

30% of Cost on completion of Financial Evaluation.

10% of Cost on award of work for Call centre services

a) Payment for **Implementation Stage:**

50% shall be paid on conducting successful Site Acceptance Test.

30% on successful completion of Probation period & Commissioning of Call Center services by Service Provider.

20% on successful working of Call Centre services for 6 months.

b) Payment for **Operation Stage:**

Payments will be made after successful completion of Quarterly- services .

4.7.2 Actual Expenses during travel: If IHMCL asks Consultant to visit Call Center(s)/ travel out-station for project related work, following travel expenses shall be reimbursed.

- a) Travel between New Delhi and location(s) will be paid as per train fare of AC II Tier/Rajdhani/Shatabadi to the nearest Railway Station and @ Rs.25 per km from Rly station to the project location by road.
- b) For boarding, lodging and local travel, a lump-sum amount of Rs.5000 per day per person.
- c) In case, the journey is conducted through any mode other than the train, payment will be limited to 2nd AC fare of superfast express trains to the nearest railway station and @ Rs. 25 per km from Rly station to the project site.

4.8 PRICES

All taxes and duties, Cess, etc. as applicable shall be payable by the Consultant.

Service tax shall be reimbursed as per applicable rates subject to the prevailing practice followed in IHMCL. Mandatory taxes/ duties etc. as applicable will be deducted by IHMCL.

All payments shall be made subject to adjustment of applicable penalties.

4.9 TIME SCHEDULE TO START THE CALL CENTER SERVICE

4.9.1 The expected timelines for the assignment:

D	Effective Date of Consultancy Contract
D+ 15 days	Submission of the RFP document

4.9.2 The Contractor, if faced with problems in timely delivery of services, which have dependencies on the Call Centre service provider/s, shall immediately inform the Client in writing, about the causes of the delay and tentative duration of such delay etc. The Client, on receipt of such notice, shall analyze the facts at the earliest and may at its sole

discretion, extend the contract period as deemed reasonable.

4.9.3 Any delay by the Consultant in the delivery of services will make the Contractor liable to any or all of the following:

- Forfeiture of Performance Bank Guarantee
- Imposition of penalty charges
- Termination of the contract for default.

4.9.4 PENALTY for delay

In case of delay in completion of services, a penalty equal to 0.05% of the cost of the respective stage per day subject to a maximum 5% of the cost of the respective stage will be imposed and shall be recovered from payments due/performance security. However in case of delay due to reasons beyond the control of the consultant, suitable extension of time will be granted without imposing any penalty.

If total penalty exceeds 5 % of the contract value, IHMCL may consider terminating the contract and *blacklist the bidder for a period of 2 years* from participating in IHMCL tenders.

The bidder would commit to honour all aspects of fair trade practice while dealing with IHMCL.

4.10 General Terms and Conditions

- a. The bidder will not outsource the work to any other associate/franchisee/third party under any circumstances. If it so happens then IHMCL will impose sanctions which will include: forfeiture of the security deposit, revocation of bank guarantees and termination of the Contract for default.
- b. In the event of the bidder's company or the concerned division of the company is taken over / bought over by another company, all the obligations under the agreement with IHMCL, should be passed on for compliance by the new company / new division in the negotiation for their transfer.
- c. The bidder will be responsible for any damage to equipments, property and third party liabilities caused by acts on part of its deployed consultants at IHMCL/ service providers premises. All equipment will be used only for the purpose of carrying out legitimate business of IHMCL and will not be put into any other use.
- d. The staff deployed by the Consultant will maintain office decorum. They will be courteous, polite and cooperative and able to resolve the users' problems.
- e. Intellectual Property Rights: The Bidder will indemnify IHMCL of any infringement of third party rights be they under the Patents Act or the IPR.

4.11 CONTRACT PERIOD

The total Consultancy contract period will be for 5 years from the date of commencement of satisfactory operations of the Call Centre services.

4.12 CONSULTANCY SERVICES

The successful bidder shall provide all services specified in the scope of work of the tender document in accordance with the highest standards of professional competence and integrity. IHMCL reserves the right to request for replacement of any staff assigned to work on the site by suitable qualified staff, in the event that the staff concerned is determined to be incompetent or loses the confidence of IHMCL.

4.13 TAX AND INSURANCE

The effects of any increase / decrease of any type of taxes levied by the Government shall be borne by the Consultant, as appropriate. The Consultant will remit service tax as applicable under the law and seek reimbursement from IHMCL.

4.14 DEVIATIONS

The Bidder shall submit statement to all the clauses of the tender document and clearly specify deviations from the clauses of the tender, if any, in the format given in Section-VII.

4.15 Conflict of interest

An Applicant shall not have a conflict of interest that may affect the Selection Process or the Consultancy (the "Conflict of Interest"). In order to avoid any conflict of interest, the Contractor will not undertake directly or indirectly the work(s) for which he had provided consultancy services. Any Applicant found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Client shall forfeit and appropriate the Bid Security as mutually agreed genuine pre-estimated compensation and damages payable to the Client for, inter alia, the time, cost and effort of the Client including consideration of such Applicant's Proposal, without prejudice to any other right or remedy that may be available to the Client hereunder or otherwise.

The Company requires that the Consultant provides professional, objective, and impartial advice and at all times hold the Company's interests paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The Consultant shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other clients, or that may place it in a position of not being able to carry out the assignment in the best interests of the Client.

4.16 FORCE MAJEURE

4.16.1 Neither party shall be responsible to the other for any delay or failure in performance of its obligations due to any occurrence commonly as Force Majeure which is beyond the control of any of the parties, including, but without limited to, fire, flood, explosion, acts of God or any governmental body, public disorder, riots, embargoes, or

strikes, acts of military authority, epidemics, strikes, lockouts or other labour disputes, insurrections, civil commotion, war, enemy actions.

4.16.2 If a Force Majeure arises, the Contractor shall promptly notify IHMCL in writing of such condition and the cause thereof. Unless otherwise directed by IHMCL, the Contractor shall continue to perform his obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event. The Bidder shall be excused from performance of his obligations in whole or part as long as such causes, circumstances or events shall continue to prevent or delay such performance.

4.17 INDEMNIFICATION

The successful bidder shall at all time indemnify IHMCL, NHAI and MoRTH against all claims of losses and damages etc. of any kind which may be made by third party in respect of infringement of any protected right. Provided always that in the event of any claim in respect of alleged breach being made against IHMCL, NHAI or MoRTH, the IHMCL shall notify the successful bidder of the same and the successful bidder shall at its own expense either settle any such dispute or conduct any litigation that may arise there from. The successful bidder will indemnify IHMCL, NHAI and MoRTH of all legal obligations of its professionals deployed for IHMCL project. IHMCL, NHAI and MoRTH also stand absolved of any liability on account of death or injury sustained by the Consultant's staff during the performance of their work and also for any damages or compensation due to any dispute between the agency and its staff.

4.18 TERMINATION

4.18.1 IHMCL may, without prejudice to any other remedy for breach of contract, by written notice of default, sent to the successful bidder, terminate the Contract for services in whole or in parts:

- If the successful bidder fails to deliver either the whole or part of the "Services" within the time period(s) specified in the Contract or any extension thereof granted by IHMCL.
- If the successful bidder fails to perform any other obligation(s) and,
- If the successful bidder, in either of the above circumstances, does not cure its failure within a period of 30 days (or such longer period as IHMCL may authorize in writing) after receipt of the default notice from IHMCL.

on a notice period of 60 days.

4.18.2 In the event IHMCL terminates the Contract in whole or in part, IHMCL may appoint another consultant and in such manner as it deems appropriate, and the bidder shall be liable to IHMCL for any excess cost for such setup. However, the bidder shall continue performance of the Contract to the extent not terminated.

4.18.3 All data /reports collected by the bidder shall be returned to IHMCL in its

original form upon such terminations. Bidder shall not have any right on this database, which is proprietary to IHMCL.

4.18.4 Notwithstanding the above, the Client may terminate the Contract for convenience by giving 3 month prior notice without assigning any reason.

4.18.5 Termination for Insolvency: IHMCL may at any time terminate the Contract by giving 30 (thirty) days written notice to the bidder without compensation to the bidder, if the bidder becomes bankrupt or otherwise insolvent, provided that such termination will not prejudice or affect any right of action which has accrued or will accrue thereafter to IHMCL.

4.19 ARBITRATION/ RESOLUTION OF DISPUTES

4.19.1 In the event of any dispute or difference arising out of or touching upon any of the terms and conditions of this contract and / or in relation to the implementation or interpretation hereof, the same shall be resolved initially by mutual discussion and conciliation but in the event of failure thereof, the same shall be referred to a sole arbitration of the Chairman of the Indian Highways Management Company Ltd. (IHMCL) or his nominee and the decision of the Arbitrator shall be final and binding upon the parties. The arbitration shall **be in Delhi** and the Arbitrator shall give his award in accordance with “The Arbitration and Conciliation Act, 1996”.

4.19.2 Both the parties know that sole Arbitrator might have dealt with the contract/agreement in question and is an employee or officer of IHMCL but the same shall also not disqualify him in any manner from acting as a Sole Arbitrator.

4.19.3 In this clause the expression “Chairman, Indian Highways Management Co. Ltd.” shall also include any person who for the time being is the administrative head of Indian Highways Management Co. Ltd. or any person who for the time being is officiating as Chairman, Indian Highways Management Co. Ltd.

4.19.4 In the event of death of arbitrator or the arbitrator neglecting or refusing to act or resigning or being unable to act for any reason or his award being set aside by the Court for any reason, it shall be lawful for the Chairman, Indian Highways Management Co. Ltd. or his nominee to appoint another arbitrator in place of outgoing arbitrator in the manner aforesaid.

4.19.5 The proceedings of arbitration shall be in English language.

SECTION -V

SCOPE OF WORK

5.1 Background & Requirements

The National Highways Authority of India (NHAI) is responsible for the development, maintenance and management of National Highways entrusted to it and for matters connected thereto.

National Highways Development Project (NHDP) has been launched to meet the demands of increased traffic and to bring about safety and efficiency in road travel. NHAI has already completed around 15,000 Kms of National Highways and more stretches are under construction.

Currently, around 1,40,000 people are killed in road accidents in India every year, more than in any other country in the world. A study by the Planning Commission in 2002 estimated that social cost of road accidents in India constitutes about 3% of the GDP. This situation adversely affects the poor as 70% of families that lost their main earner in road accidents subsequently fall below the poverty line.

NHAI recognizes the importance of improving safe travel along National Highways as these roads are often characterized as high speed, high volume roads with maximum number of fatal and injury accidents. Therefore, timely treatment of the injured will save many lives. Also, reporting of information like obstruction of highways due to falling of tree, dharnas, flat tyres, bad road condition etc, will help NHAI in taking preventive measures & improve maintenance of roads and facilitate to serve the road users. Provisioning of Call Center Services by IHMCL would have a notable effect on the road safety in the country.

5.2 The Bidders are expected to examine all terms and instructions included in the RFP Document. During preparation of the technical proposal, the bidders shall make their own assessment of support personnel both technical and administrative to undertake the assignment.

5.2.1 However, the Consultancy Team shall consist of minimum following key personnel during Operation Stage of Consultancy Service:

Team Leader with minimum 7 years experience in IT / Call Centre related work – 1 no.
Support Staff with minimum 5 years experience in IT / Call Centre related work – 2 nos.

Additional support and administrative staff need to be provided for timely completion of the project within the total estimated cost. It is stressed that the time period for the assignment indicated in the Tender document should be strictly adhered to.

5.2.2 The consultant should have his office /setup in Delhi/New Delhi or in an adjoining area for this assignment.

5.3 Terms of Reference (TOR)

Indian Highways Management Company Ltd. (herein referred to as "the Client") intends to engage an agency for the consultancy services which shall include but not limited to the following:

Tendering Stage :

- Review and suggest modifications, if any, in the RFP document prepared / issued by IHMCL for provisioning Call Centre Services for road users on National Highways.
- Assist IHMCL in processing **selection of agency** for setting up and operationalising call centre services.

Implementation Stage:

- Supervision/ monitoring during implementation of work.
- Providing necessary inputs to the Service Provider on customisation, finalisation of Reports, Training of Agents / Supervisors etc.
- Conducting Site Acceptance, Final Acceptance Testing & Commissioning.
- Collection, compilation of data pertaining to local Control Centre, Hospitals / Trauma Centres, Ambulance Services etc.

Operation Stage :

(Activities mentioned below are indicative, the actual requirements to be finalized after starting of call centre services):

- Analyze call volumes, hourly call patterns in different states and suggest changes in seat distribution in the Call Centre shifts
- Monitoring of the Call Centre Recording(CCR) data
- Monitoring Agents performance
- Hold regular discussions with the Service Provider for process improvement.
- Make periodic as well as surprise checks in the Call Centres Verify compliance by the Service Provider to the Service Level Agreement (SLA) and submit periodic reports to IHMCL.
- Scrutiny of reports / bills / invoices received from Service Provider.
- Assist IHMCL in furnishing information for replying to RTI queries/ Parliament questions and handling Arbitration or litigation relating to the Call Centre Services whenever required.
- To advise/ suggest improving quality of service
- Identification of shortcomings in day-to-day operation of call centres and ensure rectification by the Service Provider.

- Ensure strict compliance of the Contract Agreement signed between IHMCL & Service Provider.
- Submission of monthly & Quarterly progress reports to IHMCL.
- Updation of data pertaining to local Control Centre, Hospitals / Trauma Centres, Ambulance Services etc.

5.4. DELIVERABLES

The Consultant shall deliver the following deliverables (the “Deliverables”) during the course of this Consultancy.

A. TENDERING STAGE

- (i) Modifications, if any, in the RFP document for “Provisioning Call Centre Services for road users on National Highways”
- (ii) Assist IHMCL in selection of agency for setting up and operationalising call centre services.

B. IMPLEMENTATION STAGE

- (i) Customisation /Training Reports/ MIS / Executive Reports in consultation with IHMCL
- (ii) Report on final System Acceptance

C. OPERATION STAGE

- (i) Monthly Progress Reports on Call Centre performance
- (ii) Quarterly Reports on Call Centre performance
- (iii) Report on surprise checks in the Call Centre/s
- (iv) Scrutiny reports / bills / invoices of Service Provider.

SECTION-VI

**BOQ & FORMAT FOR
SUBMISSION OF FINANCIAL BID**

6.1 FINANCIAL PROPOSAL SUBMISSION FORM

From, _____ (Date)
(Name & Address of the Bidder)

To,
CEO
Indian Highways Management Co. Ltd.
2nd Floor, MTNL Building, Sector –19,
Dwarka
New Delhi 110 075

Dear Sir,

Subject:
Tender Ref No: _____

We, the undersigned, offer to provide the services as required in accordance with your tender document Ref no. _____ and our Proposal (Technical and Financial). Our attached financial proposal is for the sum of Rs. _____ (*Amount in words*) for Zone ----. This amount is inclusive of the all taxes, duties etc.

Our Proposal is binding upon us upto expiration of the validity period of the Proposal.

We undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will strictly observe the laws against fraud and corruption in force in India namely "Prevention of Corruption Act 1988".

We understand you are not bound to accept any Proposal you receive.

Yours sincerely,

Authorised signatory:
Name and title of Signatory:
Name of Bidder:
Address:

Encl. Bill of Quantities.

6.2 BILL OF QUANTITIES
(All rate to be quoted in Indian Rupees only)
Tender Ref No: _____

S.no	Description	Unit	Unit Price	Total Amount in INR
1	Phase I (Tendering Stage)	LS		
2	Phase II (Implementation Stage)	LS		
3	Operation Stage (2 years)	Quarterly Charges		
	Total			

***Note:**

1. The above rates shall be fixed and remain valid for the entire contract period of 5 years without any escalation.

Dated this _____ day of _____

(Signed by an Authorized Officer of the bidder)

Title of Officer

Name of bidder

DATE

SECTION-VII

FORMATS FOR SUBMISSION OF BIDS

7.1 BID FORM

_____ (Date)

From,
(Name & Address of the Bidder)

To,
CEO
Indian Highways Management Co. Ltd.
2nd Floor, MTNL Building, Sector –19,
Dwarka
New Delhi 110 075

Subject: _____

Ref.: Tender No _____

Dear Sir/Madam,

After examining/reviewing the Bidding Documents for _____ etc. the receipt of which is hereby duly acknowledged, we, the undersigned, are pleased to bid to execute the whole of the Job for the item in conformity with, the said RFP Documents, including Corrigendum / Addenda Nos. _____.

We confirm that this bid is valid for a period of **180 days** from the date of opening of Bid, and it shall remain binding upon us and may be accepted by any time before the expiration of that period.

If our bid is accepted, we will provide the required performance guarantee as per the tender document.

Until a final Contract is prepared and executed, the bid together with your written acceptance thereof in your notification of award shall constitute a binding Contract between us.

We undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will strictly observe the laws against fraud and corruption in force in India namely "Prevention of Corruption Act 1988". We understand you are not bound to accept any Proposal you receive.

Yours sincerely,

(Signature of the Authorized signatory):

Name and Designation of the Authorized signatory:

Name and Address of Bidder:

Phone, Fax & E-Mail

(Format 7.2)

7.2 BIDDER'S ANNUAL TURNOVER

Format of Certificate in respect of Bidder's Annual Turnover

(To be submitted separately for each constituent in case of a Joint Venture/ Consortium)

Dated: /...../2014

Certificate of Annual Turnover

It is certified that we have examined the books of accounts of M/s. _____ (*name and address of the bidder*) ___ and the requested financial details of the company, during last three financial years are as under:

1. Annual Turnover

Amount in **INR (Lakhs)**

Financial Year¹	Amount in figures	Amount in words
FY 2011-12		
FY 2012-13		
FY 2013-14		
Average		

(Signature of Statutory Auditor/ Chartered Accountant)

Name:

Seal:

1

A period from 1st April of preceding year to 31st March of the succeeding year

(Format 7.3.1)

UNDERTAKING ON BIDDER'S EXPERIENCE
(Should be on bidder's letter head)

I, the undersigned, do hereby certify that all the details given hereunder are true and correct.

Details of experience in IT(Information Technology) related consultancy jobs in 5 years.

Sl. No	Name of the client	Brief description of the assignment	Value of consultancy / development job (amount in INR)	Page nos of supporting documents attached

Total value of IT related consultancy / development jobs : Rs.----- (In words)

(Signed by an Authorized Officer of the bidder)

Title of Officer

Name of bidder

DATE

(Format 7.3.2)

UNDERTAKING ON BIDDER'S EXPERIENCE
(Should be on bidder's Letterhead)

I, the undersigned, do hereby certify that all the details given hereunder are true and correct.

Details of experience in Call Center / IT Enabled Services (ITeS) with Voice or Interactive Voice Response System (IVRS) supporting more one or more Indian Languages other than English in past 5 years.

Sl. No	Name of the client	Brief description of the assignment	Value of the Call Center / ITeS Project (amount in INR)	Page nos of supporting documents attached

Total value of Call Center / IT Enabled Services (ITeS) with Voice or IVRS jobs :
Rs.----- (In words)

(Signed by an Authorized Officer of the bidder)

Title of Officer

Name of bidder

DATE

(Format 7.4)

UNDERTAKING

(should be on Bidder's Letterhead)

1. I, the undersigned, do hereby certify that all the statements made in the required attachments are true and correct.
2. The undersigned also hereby certifies that neither our firm M/s_____ have abandoned any work of National Highways Authority of India nor any contract awarded to us for such works have been rescinded, during last five years prior to the date of this bid.
3. The undersigned hereby authorize(s) and request(s) any bank, person, firm or corporation to furnish pertinent information deemed necessary and requested by the Client to verify this statement or regarding my (our) competence and general reputation.
4. The undersigned understands and agrees that further qualifying information may be requested, and agrees to furnish any such information at the request of the Client.
5. We confirm that we have not been blacklisted /debarred by any central/state Government department/organization or Quasi Government agencies of PSU.
6. We confirm that no criminal proceeding is pending any court of law.
7. We also confirm that we have not been convicted by any court of law for any of the offenses under any Indian laws.

(Format 7.5)
POWER OF ATTORNEY FOR SIGNING THE BID

Know all men by these presents, we, M/s (name of Firm/ Company and address of the registered office) do hereby constitute, nominate, appoint and authorise Mr/ Ms..... son/daughter/wife of..... and presently residing at, who is presently employed with us and holding the position of as our true and lawful attorney (hereinafter referred to as the “**Authorised Signatory or Attorney**”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our quotation for empanelment as the agency for -----, proposed by Indian Highways Management Co. Ltd., including but not limited to signing and submission of all applications, proposals and other documents and writings, and providing information/ responses to IHMCL, representing us in all matters before IHMCL, signing and execution of all contracts and undertakings consequent to acceptance of our proposal and generally dealing with IHMCL in all matters in connection with or relating to or arising out of our proposal for the said assignment and/or upon award thereof to us.

AND, we do hereby agree to ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Authorised Signatory or Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Authorised Representative in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE,THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS

POWER OF ATTORNEY ON THIS DAY OF, 2014

For
(Signature, name, designation and address)

Witnesses:

1.

2.

Notarised

Accepted
.....
(Signature, name, designation and address of the Attorney)

Notes:

*The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executants(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure. **The Power of Attorney should be executed on a non-judicial stamp paper of appropriate denomination and should be registered or duly notarised by a notary public.***

Wherever required, the Applicant should submit for verification the extract of the charter documents and other documents such as a resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.

For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, Applicants from

countries that have signed the Hague Legislation Convention 1961 need not get their Power of Attorney legalised by the Indian Embassy if it carries a conforming Apostles certificate.

(Signed by an Authorized Officer of the bidder)

Title of Officer

Name of bidder

DATE

(Format 7.6)
FORM OF BANK GUARANTEE FOR BID SECURITY
(IF PROVIDED AS BANK GUARANTEE)
(To be stamped in accordance with Stamp Act if any, of the coun

B.G. No.

Dated:

To,
The CEO,
Indian Highways Managment Company Ltd (IHMCL)
2nd Floor, MTNL Building,
Sector-19,Dwarka,
New Delhi – 110075

1. WHEREAS M/s..... (a company registered under the Companies Act, 1956) and having its registered office at (and acting on behalf of its Consortium of _____ & _____) (hereinafter referred to as the “Bidder” which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns) desires to submit bids for “ _____ ” against IHMCL’s RFP No. _____ dated _____.

2. AND WHEREAS the said RFP requires the bidder(s) to furnish an Earnest Money Bank Guarantee (EMBG) along with their bids for the sum specified therein as security for compliance with his obligations in accordance with the said RFP.

3. AND WHEREAS at the request of the Bidder, we (..... Name of the Bank) having our registered office at..... and one of its branches at (hereinafter referred to as the “Bank”), have agreed to issue such a Bank Guarantee.

4. NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Bidder for the sum of ` _____ only, and we undertake to pay you, upon your first written demand and without cavil or argument, and without reference to the Bidder, any sum or sums within the limits of ` _____ only as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

5. Any such written demand made by the Authority stating that the Bidder is in default of the due and faithful fulfillment and compliance with the terms and conditions contained in the RFP Documents (hereinafter referred to as “Bidding Documents”) shall be final, conclusive and binding on the Bank.

6. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Authority is disputed by the Bidder or not, merely on the first demand from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Bidder to fulfill and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set-forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive

as regards amount due and payable by the Bank under this Guarantee.

7. This Guarantee shall be irrevocable and remain in full force for a period of **180 (one hundred and eighty) days** after the Bid Due Date. The claim period shall be **60 (sixty) days** thereafter or for such extended period as may be mutually agreed between the Authority and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.

8. We, the Bank, further agree that the Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Documents including, *inter alia*, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.

9. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.

10. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfillment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Authority, and the Bank shall not be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.

11. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.

12. We undertake to make the payment on receipt of your notice of claim on us addressed to name of Bank along with branch address and delivered at our above branch which shall be deemed to have been duly authorized to receive the said notice of claim. This guarantee shall also be operable at our _____ branch at New Delhi, from whom, confirmation regarding the issue of this guarantee or extension/ renewal thereof shall be made available on demand. In the contingency of this guarantee being invoked and payment thereunder claimed, the said branch shall accept such invocation letter and make payment of amounts so demanded under the said invocation.

13. It shall not be necessary for the Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealized.

14. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.

15. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorized and has full power to execute this Guarantee for and on behalf of the Bank.

16. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to ` _____ . The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 12 hereof, on or before (indicate date falling 180+60 days after the Bid Due Date).

(Signature of the Authorized Signatory)

(Official Seal)

Name:

Date :

Designation:

Employee Code Number:

Telephone Number:

Name of issuing bank branch _____
Address _____
Telephone number _____
E-mail: _____

Name of bank branch at New Delhi _____
Address _____
Telephone number _____
E-mail: _____

Name of controlling bank branch _____
Address _____
Telephone number _____
E-mail: _____

Note:

* The BG should be issued by a bank in accordance with the relevant clause of the tender document and the amount of Bid Security in figures and words in accordance with Instructions to Bidders.

(Format 7.7)
FORM OF PERFORMANCE SECURITY (BANK GUARANTEE)

To
The Chairman,
Indian Highways Management Co. Ltd.
2nd Floor, MTNL Building, Sector- 19,
Dwarka, New Delhi- 110 075

WHEREAS _____ (Name and address of Contractor) (hereinafter called “the contractor”)* has undertaken, in pursuance of Contract No. _____ dated _____ to execute _____ (Name of contract and brief description of works) (hereinafter called the “the Contract”).

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;
AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee;
NOW THEREOF we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor up to a total of _____ (amount of Guarantee)** _____ (in words) , such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand 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 for the sum specified therein.

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

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

The liability of the Bank under this Guarantee shall not be affected by any change in the constitution of the contractor or of the Bank.

Notwithstanding anything contained herein before, our liability under this guarantee is restricted to Rs. _____ (Rs. _____) and the guarantee shall remain valid till _____. Unless a claim or a demand in writing is served on us on or before _____ all our liability under this guarantee shall cease.

Signature and seal of the Guarantor _____

In presence of

Name and Designation _____

1. _____

(Name, signature & Occupation)

Code no. of the officer(s) signing the guarantee(s)

Name of the Bank _____

Address _____

2. _____

(Name, signature & Occupation)

Date _____

Controlling Office of the Bank:

Contact Person: _____

Address : _____

Tel. No : _____

Note:

* Give names of **all partners** if the Contractor is a Joint Venture/consortium.

** An amount is to be inserted by the Guarantor, representing the percentage of the contract price specified in the Contract and denominated in Indian Rupees.

7.8 Format for Non Disclosure Agreement

This Non Disclosure Agreement dated the day of _____, 2014

BETWEEN

Indian Highways Management Co. Ltd., 2nd Floor, MTNL Building, Sector 19, Dwarka, New Delhi-110075
(hereinafter referred to as the “**Disclosing Party**”)

AND

_____, a company incorporated under the laws of India and
having its registered office at _____ (hereinafter
referred to as “**Receiving Party**”) (collectively referred to as “**the parties**”)

WHEREAS

In connection with “_____”, the Receiving Party as **Contractor** by the Disclosing Party, the Parties have agreed to execute this Non Disclosure Agreement to ensure that all information provided by the Disclosing Party to the Receiving Party in the course of engagement of the Receiving Party as **Contractor** is kept confidential

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. Definitions

- a) “**Purpose**” shall mean “_____”, by the Receiving Party to the Disclosing Party.
- b) “**Confidential Information**” shall mean all discussions, documents, paper, discs, technology, procedure and other information of a confidential nature pertaining to, generated or disclosed by either party in any form including in writing, electronically, computerized orally or otherwise marked as “Confidential” or informed to be ‘Confidential’ or relating to the Purpose, including, without limitation:
 - (i) All financial details investment plans, price specifications, schemes, technology know-how, techniques and information relating to business, investments, transactions or affairs, services being rendered, plans for business investments or for improving services and discussions on

future services; and all other information, material or data relating to the current and /or future business and operations of the Disclosing Party and analysis, compilations, studies, summaries, extracts or other documentation prepared by the Receiving Party arising out of the Confidential Information.

- (ii) the terms of this or any other agreement or document signed or to be signed by or between the Parties and the provisions thereof.

However, "Confidential Information" shall exclude any part of such disclosed information or data which: -

is in or comes into the public domain in any way without breach of this Agreement by the Receiving Party; or

- i. the Receiving Party can show (a) was in its possession or known to it by being in its use or being recorded in its files or computers or other recording media prior to receipt from the Disclosing Party and was not previously acquired by the Receiving Party from the Disclosing Party under an obligation of confidence, or (b) to have been developed by or for the Receiving Party at any time independently of any information disclosed to it by the Disclosing Party; or
- ii. the Receiving Party obtains from a source other than the Disclosing Party without breach by the Receiving Party or such source or any obligation of confidentiality or non-use towards the Disclosing Party; or
- iii. is hereafter furnished by the Disclosing Party to a third party without restriction on disclosure or use; or
- iv. is disclosed by the Receiving Party (a) with the prior written approval of the Disclosing Party, or (b) without such approval, after a period of one (1) year from the date of receipt thereof.

2. Handling of Confidential Information

The Receiving Party shall maintain the Disclosing Party's Confidential Information in confidence and shall exercise in relation thereto no lesser security measures and degree of care than those which the Receiving Party applies to its own Confidential Information which the Receiving Party warrants as providing adequate protection against unauthorized disclosure, copying or use. The Receiving Party shall ensure that disclosure of such Confidential Information is restricted to those employees, directors, officers, representatives, advisors, consultants or agents (collectively referred to as "**Representatives**") of the Receiving Party having the need to know the same for the Purpose. Copies or reproductions shall not be made except to the extent reasonably necessary for the Purpose and all copies made shall be the property of the Disclosing Party. All Confidential Information and copies thereof shall be returned to the Disclosing Party within seven (7) days of receipt of a written request from the Disclosing Party

The Receiving Party shall not attempt to reverse engineer, decompile, disassemble or reverse translate any Confidential Information provided by the Disclosing Party or discover the source code or trade secrets in any such Confidential Information.

Nothing in this Agreement shall limit the ability of a party to disclose such Confidential Information of the other party if such disclosure is (a) required to be made pursuant to any law or regulation, government authority, duly authorized subpoena or court order, whereupon that party shall provide prompt notice to the Disclosing Party of the Confidential Information in question, who will thereof have the opportunity to respond prior to such disclosure; (b) required to be made by a court or other tribunal in connection with the enforcement of such Disclosing Party's rights under this Agreement, or (c) is approved by the prior written consent of the Disclosing Party of the Confidential Information.

3. Limitations and Warranty

- a) The Receiving Party shall (i) not divulge the Disclosing Party's Confidential Information, in whole or in part, to any third party without the prior written consent of the Disclosing Party, (ii) use the same only for the Purpose, and (iii) make no commercial use of the same or any part

thereof without the prior written consent of the Disclosing Party. Notwithstanding the foregoing, the Receiving Party shall be entitled to make any disclosure required by law of the Disclosing Party's Confidential Information.

- b) The Disclosing Party warrants its right to disclose its Confidential Information to the Receiving Party and to authorize the Receiving Party to use the same for the Purpose.

4. Disclaimer

All rights in Confidential Information are reserved by the Disclosing Party and no rights or obligations other than those expressly recited herein are granted or to be implied from this Agreement. In particular, no licence is hereby granted directly or indirectly under any invention, discovery, patent, copyright or other intellectual property right now or in the future held, made, obtained or licensable by either party. Nothing in this Agreement or its operation shall constitute an obligation on either party to enter into the aforesaid business relationship or shall preclude, impair or restrict either party from continuing to engage in its business otherwise than in breach of the terms of this Agreement

5. Notices

All notices under this Agreement shall be in writing, sent by facsimile or first-class registered or recorded delivery post to the party being served at its address specified above or at such other address of which such party shall have given notice as aforesaid, and marked for the attention of that party's signatory of this Agreement. The date of service shall be deemed to be the day following the day on which the notice was transmitted or posted as the case may be.

6. No Bar on Participation in Projects initiated by the Disclosing Party

The Disclosing Party acknowledges that the advisory mandate awarded to the Receiving Party will not bar the Receiving Party or any of its group companies from bidding or participating in any projects initiated by the Disclosing Party on the ground that the Receiving Party was privy to information which was not within the public domain.

On its part the Receiving Party shall ensure, confirm and warrant that neither the Receiving Party or any of its group companies will mis-use the information available to it in the course of the advisory mandate to derive an unfavorable advantage in bidding /participation in any projects initiated by the Disclosing Party .The Disclosing Party on its part shall not summarily debar or reject the bid / participation of the Receiving Party on the ground that the Receiving Party was privy to confidential information and its has derived undue advantage , unless reasonable opportunity its given to the Receiving Party to put forth its say.

7. Non-Assignment

This Agreement is personal to the parties and shall not be assigned or otherwise transferred in whole or in part by either party without the prior written consent of the other party.

9. Forbearance

No relaxation, forbearance or delay by a party in enforcing any of the terms of this Agreement shall prejudice, affect or restrict its rights, nor shall waiver by a party of any breach hereof operate as a waiver of any subsequent or continuing breach.

10. Indemnity

The Receiving Party agrees to indemnify the Disclosing Party for any loss or damage suffered due to any breach by it of its obligations under this Agreement. Damages shall include all costs, expenses and attorney's fees incurred by the Disclosing Party in the enforcement of this Agreement. PROVIDED ALWAYS THAT IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL AND/OR CONSEQUENTIAL DAMAGES, LOST BUSINESS, LOST SAVINGS OR LOST PROFITS OR REVENUES RESULTING FROM A BREACH OF THIS AGREEMENT EVEN IF THE BREACHING PARTY HAS BEEN ADVISED OF THE PROSSIBILITY OF THE OCURRENCE OF SUCH DAMAGES.

11. Non-Publicity

The parties shall not make any announcement or disclosure of any kind whatsoever concerning this Agreement, including without limitation the existence of this Agreement, without the other Party's prior written consent unless such announcement and/or disclosure is required by law.

12. Notwithstanding anything contained herein to the contrary, the obligations of the Parties herein shall continue for a period of one (1) year from the date of this Agreement or if a further agreement is entered into, the termination of such further agreement, whichever is the later.

13. The Receiving Party agrees that the obligations contained in this Agreement shall extend to the affiliated companies of the Receiving Party and to all its advisors and consultants. In this respect the Receiving Party represents that an agreement to keep such information confidential, on terms similar to this Agreement, is in place before disclosing any Confidential Information to such affiliate, advisor or consultant.

14. Entire Agreement

This Agreement constitutes the entire agreement and understanding between the parties in respect of Confidential Information and supersedes all previous agreements, understandings and undertakings in such respect. This Agreement cannot be amended except by written agreement signed on behalf of each party by their authorized signatories.

15. Dispute Resolution

The parties shall attempt to resolve any dispute arising out of or in connection with this Agreement by mutual consultation, failing which such dispute shall be referred to and finally resolved by arbitration in India under the auspices and governed by the provisions of the Arbitration and Conciliation Act, 1996. The arbitration shall be at **Delhi** and only the courts at **Delhi** shall have the jurisdiction to try any matters arising from the arbitration. The language of the arbitration shall be in English.

16. Governing Law and Jurisdiction

This Agreement shall be governed by and construed in all respects in accordance with the laws of India

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives on the day and year first above written

On behalf of **Disclosing Party**

On behalf of Receiving Party

Signature _____

Signature _____

Name _____

Name _____

Title _____

Title _____