



## INDIAN HIGHWAYS MANAGEMENT COMPANY LIMITED

---

REQUEST FOR PROPOSAL(RFP)

FOR

Conducting Traffic Survey Using Portable Automatic Traffic  
Counter and Classifier (ATCC) Systems or AI based Video  
Analytic System on National Highways

**RFP Reference No.: IHMCL/Traffic Survey/2020/02**

Indian Highways Management Company Limited (IHMCL)

Sector-19, Dwarka, New Delhi-110075

28-May-20

**DISCLAIMER**

The information contained in this document or subsequently provided to Bidder(s), whether verbally or in documentary or any other form by or on behalf of IHMCL or any of its employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this document and such other terms and conditions subject to which such information is provided.

This document is not an agreement and is neither an offer nor invitation by IHMCL to the prospective Bidders or any other person. The purpose of this document is to provide interested parties with information that may be useful to them in making their technical/ financial offers ("Bid(s)") pursuant to this document. This document includes statements, which reflect various assumptions and assessments arrived at by IHMCL in relation to the Project. Such assumptions, assessments, and statements do not purport to contain all the information that each Bidder may require. This document may not be appropriate for all persons, and it is not possible for IHMCL, its employees or advisors to consider the investment objectives, financial situation, and particular needs of each party who reads or uses this document. The assumptions, assessments, statements and information contained in this document, may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability, and completeness of the assumptions, assessments, statements, and information contained in this document and obtains independent advice from appropriate sources.

Information provided in this document to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. IHMCL accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

IHMCL, its employees and advisors make no representation or warranty and shall have no liability to any person, including any applicant or Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this document or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the document and any assessment, assumption, statement or information contained therein or deemed to form part of this document or arising in any way for participation in this Bid.

IHMCL also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this document. IHMCL may in its absolute discretion, but without being under any obligation to do so, update, amend, or supplement the information, assessment or assumptions contained in this document.

The issue of this document does not imply that IHMCL is bound to select a Bidder or to appoint the Successful Bidder for the Project and IHMCL reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever.

The Bidder shall bear all their costs associated with or relating to the preparation and submission of their Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by IHMCL or any other costs incurred in connection with or relating to Bid. All such costs and expenses will remain with the Bidder and IHMCL shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the bidding process.

## **DOCUMENT COMPOSITION**

This document comprises of the following parts:

- PART - I : Letter of Invitation
- PART - II : Schedule of the Tender
- PART - III : Instructions to Bidders
- PART - IV : Scope of Work
- PART - V : Conditions of Contract
- PART - VI : Annexure

## **TABLE OF CONTENTS**

PART - I: LETTER OF INVITATION.....	6
1. INTRODUCTION .....	6
1.1 General Information.....	7
1.2 Definitions.....	8
PART - II: SCHEDULE OF THE TENDER (Key Dates).....	11
PART - III: INSTRUCTIONS TO BIDDERS.....	12
3. BID CONDITIONS.....	12
3.1 Information.....	12
3.2 Bidding Fees.....	12
3.3 General.....	13
3.4 Pre-Bid Meeting.....	17
3.5 Preparation of Proposal.....	17
3.6 Submission, receipt and opening of proposals.....	19
3.7 Imbalanced Bid.....	23
3.8 Process To Be Confidential.....	23
3.9 Clarification and amendment of RFP documents.....	24
3.10 Eligibility Of Bidder.....	25
3.11 Award of Contract.....	26
3.12 PERFORMANCE SECURITY.....	28
3.13 BANK GUARANTEE (BG).....	28
3.14 Corrupt or Fraudulent Practices.....	28
3.15 Miscellaneous.....	29
PART - IV: SCOPE OF WORK.....	30
4.1 backgorund .....	30
PART - V: CONDITIONS OF CONTRACT .....	39
PART - VI: ANNEXURE .....	51
Annexure A: Covering Letter .....	51
Annexure B: Brief Information about the Applicant(s).....	53
Annexure C: Undertaking .....	54
Annexure D: Bidder's Annual Turnover .....	55
Annexure E: Power of Attorney.....	57
Annexure F: Format for Self-Certificate by Bidder in Terms of Experience .....	59
Annexure G: Format for Performance Security (Bank Guarantee).....	60
Annexure H: Format for Financial Bid Submission.....	63
Annexure I: Format for Non-Disclosure Agreement .....	67

## **PART - I: LETTER OF INVITATION**

---

### **1. INTRODUCTION**

IHMCL is a company incorporated under the Companies Act, 1956 with equity participation from NHAI, various concessionaires of NHAI projects and financial institutions for implementation of Electronic Toll Collection and other Intelligent Transportation System and allied works in road transport sector in India.

IHMCL was to carry out comprehensive traffic surveys on National Highways in India, which would include conducting traffic surveys using portable Automatic Vehicle Counter and Classifier (ATCC) systems, and creating central repository of traffic data for auditing, compilation and analysis of data generated from traffic surveys.

In that direction, IHMCL invites bids from eligible agencies to conduct traffic survey using portable Automatic Traffic Counter-cum-Classifiers (ATCC) on sections of 2/4/6/8 lane National Highways at identified locations on National Highways in India as given in relevant section of RFP.

**1.1 GENERAL INFORMATION**

- a) Bids are invited by the Indian Highways Management Company Limited (IHMCL) for the following:

Name of the Work	Document Fee(non-refundable)	EMD (Earnest Money Deposit)	Closing date and time
REQUEST FOR PROPOSAL(RFP) FOR Conducting Traffic Survey Using Portable Automatic Traffic Counter and Classifier (ATCC) Systems or AI based Video Analytic System on National Highways	INR 5,000/- (INR Five Thousand) Non-refundable	INR 17,00,000/- (INR Seventeen Lakh)	26 <sup>th</sup> , June 2020 (Upto 15:00 Hrs IST)

- b) All clarifications/ corrigenda will be published only on the e-procurement portal <http://etenders.gov.in>, IHMCL website [www.ihmcl.co.in](http://www.ihmcl.co.in).
- c) The complete Bidding Documents can be viewed / downloaded from e-procurement portal <http://etenders.gov.in> .The Bids shall be liable for summarily 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.
- d) The eligibility criteria of the agency/service provider are elaborated in subsequent pages.
- e) The time period of the project is 3 years and shall start from the date of signing of Contract Agreement. Upon completion of 3 years, IHMCL may consider extending the engagement on yearly basis upto a maximum of 5 years from the date of signing of Contract Agreement with same cost as quoted by the Bidder for the RFP.

**1.2 Definitions**

---

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

**“Applicable Law”** means the laws, rules or regulations and any other instruments, having the force of law in Republic of India, as in force from time to time.

**“Authorized Representative”** means any person/agency authorized by IHMCL.

**“Bidder”** means, a company which participates in the Bid process and submits its proposal pursuant to this RFP.

**“Commencement date”** means the date upon which the Service Provider receives the notice to commence the work issued by IHMCL.

**“Contract”** shall mean & include RFP, Notice for Inviting Tender (NIT), the tender documents and letter of acceptance thereof and the formal agreement, to be executed between IHMCL and the Service Provider together with the complete documents referred to therein including the conditions with appendices and any special conditions, the specifications, designs, drawings, bill of quantities with rates and amounts. All these documents taken together shall be deemed to form one Contract and shall be complementary to each other

**“IHMCL”** means Indian Highways Management Company Ltd.

**“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.

**“Letter of Award (LOA)”** means the issue of a signed letter by IHMCL to Successful Bidder conveying its intention to accept the offer of Successful Bidder and awarding the work mentioning the total Contract Value.

**“Local Currency”** means the Indian Rupees

**“MoRTH”** means Ministry of Road Transport and Highways



**“NHAI”** means National Highways Authority of India.

**“Party”** shall mean IHMCL or Bidder individually and **“Parties”** shall mean IHMCL and Bidder collectively.

**“Personnel”** means persons hired by the Service Provider as employees and assigned to the performance of the Services or any part thereof.

**“Business Day”** or **“Day”** means a day other than Sunday or Gazetted Holiday

**“ATCC”** means Automatic Traffic Counter and Classifier System

**“AI”** means Artificial Intelligence

**“Total Cost”** means Total Cost quoted by bidder in the Financial Bid form

**“RFP”** shall mean this limited Request for Proposal dated 28<sup>th</sup> May 2020 issued by IHMCL.

**“Assignment”** shall mean installing the ATCC equipments, capturing the traffic survey data and sending the same to IHMCL including all process involved as mentioned in RFP.

**“Services”** means requirements defined in this RFP including all additional services associated thereto to be delivered by the Successful Bidder.

**“Successful Bidder”** means the Bidder, who, after the complete evaluation process, has been issued the Letter of Award by IHMCL

**“Service Provider”** means the Successful Bidder who has executed the contract with IHMCL and has complied with other requirements as specified in this RFP to the satisfaction of IHMCL

Any other term(s), not defined herein above but defined elsewhere in this RFP shall have the meaning(s) ascribed to such term(s) therein and shall be deemed to have been included in this Section.

**PART - II: SCHEDULE OF THE TENDER (KEY DATES)**

Sl. No.	Event Description	Key Dates / Time
1.	Invitation of RFP	28 May 2020
2.	Last date for receiving queries	05 June 2020
3.	Pre-Bid meeting at 11:00 Hrs	11 June 2020
4.	Bid Due Date	26 June 2020 (Upto 15:00 Hrs IST)
5.	Opening of Technical Bids	at 16:00 Hrs 29 June 2020
6.	Declaration eligible / qualified Bidders	within 20 days from Bid Due Date
7.	Opening of Financial Bid	within 30 days from Bid Due Date
8.	Letter of Award (LOA)	Within 60 days of Bid Due Date
9.	Validity of Bid	180 days from Bid Due Date
10.	Signing of Agreement	Within 45 days of award of LOA

## **PART - III: INSTRUCTIONS TO BIDDERS**

---

### **3. BID CONDITIONS**

#### **3.1 INFORMATION**

The Bidders are invited to submit Technical, and Financial Proposals (collectively called as “The Proposal”), as specified in this RFP, for “**Conducting Traffic Survey Using Portable Automatic Traffic Counter and Classifier (ATCC) Systems along-with Videography**”. Details on the format(s) of submission and list of necessary supporting documents are provided in following sections. The term “Bidder” refers to the entity participating in this bidding. The Proposal will form the basis for contract signing with the selected bidder.

Website for accessing RFP is <http://etenders.gov.in>. The Bidders shall submit the proposal as per criteria laid down in the RFP. The tender process timelines are mentioned in the section - “Part - II: Schedule of the Tender”.

#### **3.2 BIDDING FEES**

**a. Document Fee:** The document fee shall be submitted, as a part of the proposal, in the form of Bank Draft of INR 5,000/- (INR Five Thousand only) from a scheduled Indian Bank approved by RBI drawn in favour of “Indian Highways Management Company Limited” payable at New Delhi, India, as a non-refundable processing fee. Proposals not containing the document fees will be rejected.

**b. Bid Security/Earnest Money Deposit (EMD):**The bid security/Earnest Money Deposit (EMD) for a sum of INR 17,00,000/- (INR Seventeen Lakh) shall be submitted, as a part of the proposal, in the form of a Demand Draft, from a scheduled Indian Bank approved by RBI drawn in favour of “Indian Highways Management Company Limited”, valid up to 180 (one hundred and eighty) days from the date of receipt of proposal, payable at New Delhi. Proposals not containing the earnest money deposit will be rejected.

IHMCL will not be liable to pay any interest on bid security deposits. Bid security of technically qualified but unsuccessful Bidders shall be returned, without any interest, within two months after acceptance of LOA by selected Bidder or when

the selection process is cancelled by the IHMCL. The Successful Bidder's Bid Security shall be returned, without any interest, post the Successful Bidder signing the contract and furnishing the Performance Security in accordance with provisions of the RFP and contract.

IHMCL will be entitled to forfeiture and appropriation of the bid security as mutually agreed loss and damage payable to IHMCL in regard to the RFP without prejudice to the IHMCL's any other right or remedy under the following conditions:

- (i) If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as envisaged under this RFP (including the Standard Form of Contract);
- (ii) If any Bidder withdraws its Proposal during the period of its validity as specified in this RFP and as extended by the Bidder from time to time,
- (iii) In the case of the Successful Bidder, if the Successful Bidder fails to sign the contract or provide the Performance Security within the specified time limit, or
- (iv) If the Bidder commits any breach of terms of this RFP or is found to have made a false representation to IHMCL.

### **3.3 GENERAL**

IHMCL defines, for the purposes of this provision, the terms set forth below:

- a. IHMCL reserves the right to make inquiries with any of the Clients listed by the Bidders in their previous experience record. If it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the "Prohibited Practices") in the Selection Process, IHMCL will, without prejudice to its any other rights or remedies, consider forfeiture and appropriation of the Bid Security, as mutually agreed genuine pre-estimated compensation and damages payable to IHMCL for, inter alia, time, cost and effort of IHMCL, in regard to the RFP, including consideration and evaluation of such Bidder's Proposal.
- b. IHMCL will reject a proposal for award if it determines that the Bidder has engaged in corrupt or fraudulent activities in competing for the contract in question.

- c. IHMCL will declare a Bidder ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the Bidder has engaged in corrupt or fraudulent practices in competing for and in executing the contract.
- d. For the purposes of this RFP, the following terms shall have the meaning hereinafter respectively assigned to them:
- I. “Corrupt Practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of IHMCL who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOA or has dealt with matters concerning the Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of IHMCL, shall be deemed to constitute influencing the actions of a person connected with the Selection Process; or save as provided herein, engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical consultant/ adviser of IHMCL in relation to any matter concerning the Project;
  - II. “Fraudulent Practice” means a misrepresentation of facts in order to influence the selection process or the execution of a contract in a way which is detrimental to IHMCL, and includes collusive practices among suppliers (prior to or after submission of proposals) detailed designed to establish prices at artificial, non-competitive levels and to deprive the IHMCL of the benefits of free and open competition.
  - III. “Coercive practice” means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person’s participation or action in the Selection Process;

- IV. “Undesirable practice” means establishing contact with any person connected with or employed or engaged by IHMCL with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or having a Conflict of Interest;
  - V. “Restrictive practice” means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Selection Process.
- e. Confidentiality: Information relating to evaluation of proposals and recommendations concerning awards of contract shall not be disclosed to the Bidders who submitted the proposals or to other persons not officially concerned with the process, until the winning firm has been notified that it has been awarded the contract.
- f. Right to reject any or all Proposals:
- (i) Notwithstanding anything contained in this RFP, IHMCL reserves the right to accept or reject any Proposal and to annul the Selection Process and reject all Proposals, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.
  - (ii) Without prejudice to the generality of above, IHMCL reserves the right to reject any Proposal if:
    - at any time, a material misrepresentation is made or discovered, or
    - The Bidder does not provide, within the time specified by IHMCL, the supplemental information sought by IHMCL for evaluation of the Proposal.
  - (iii) Such misrepresentation/improper response by the Bidder may lead to the disqualification of the Bidder. If such disqualification/rejection occurs after the Proposals have been opened and highest-ranking Bidder gets disqualified/rejected, then IHMCL reserves the right to consider the next best Bidder, or take any other measure as may be deemed fit in the sole discretion of IHMCL, including annulment of the Selection Process.

- g. The Bidder is required to follow the highest level of work ethics, if any member of the Bidder's organization has a Conflict of Interest or indulge in "Prohibited Practices"; the proposal is liable to be disqualified. Further, in the event any entity has been barred by the Central Government, any State Government, a statutory authority or a public sector undertaking, as the case may be, from participating in any project or bid, and the bar subsists as on the date of Proposal submission Date, it would not be eligible to submit a Proposal.
- h. Bidders shall bear all costs associated with the preparation and submission of their proposals, and their participation in the Selection process, and presentation including but not limited to postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by IHMCL or any other costs incurred in connection with or relating to its Proposal. The IHMCL is not bound to accept any Proposal, and reserves the right to annul the selection process at any time prior to Contract award, without thereby incurring any liability.
- i. After submission of the proposals by the Bidder, to the satisfaction of IHMCL, if clarifications are required or doubt arises as to the interpretation of anything included in the submitted documents, the bidder shall, on receipt of written request from IHMCL, furnish such clarification to the satisfaction of IHMCL within five (05) working days without any extra charge.
- j. The Successful Bidder shall not accept or engage in any assignment that may place it in a position of not being able to carry out the assignment in the best interests of IHMCL and the Project.
- k. Acknowledgement by Bidder:
- (i) It shall be deemed that by submitting the Proposal, the Bidder has:
- made a complete and careful examination of the RFP;
  - accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of IHMCL;
  - satisfied itself about all matters, things and information, including matters herein above, necessary and required for submitting an informed Application and performance of all of its obligations there under;
  - acknowledged that it does not have a Conflict of Interest; and



- agreed to be bound by the undertaking provided by it under and in term hereof.

- (ii) IHMCL and/ or its advisors/ consultants shall not be liable for any omission, mistake or error on the part of the Bidder in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP or the Selection Process, including any error or mistake therein or in any information or data given by IHMCL and/ or its advisors.

### **3.4 PRE-BID MEETING**

- a. Pre-Bid Meeting of the Bidders will be convened at the designated date, time as specified in the Key Dates. A maximum of two representatives of each Bidder will be allowed to participate on submission of an authorization letter from the Bidder.
- b. The Bidders who are interested in attaining the pre-bid meeting should confirm IHMCL about the participation one day prior to the schedule. The confirmation can be sent to *tenders@ihmcl.com*.
- c. During the course of Pre-Bid Meeting, the Bidders will be free to seek clarifications and make suggestions for consideration of IHMCL. IHMCL will endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive selection process.

### **3.5 PREPARATION OF PROPOSAL**

- a. Bidders are requested to submit their Proposal in English language and strictly in the formats provided in this RFP. IHMCL will evaluate only those Proposals that are received in the specified forms and complete in all respects.
- b. In preparing their Proposal, Bidders are expected to thoroughly examine the RFP Document. Material deficiencies in providing the information requested may result in rejection of a Proposal.
- c. Client certifications or Purchase orders for the projects listed under the experience section: The certifications and/or PO must confirm the project attributes (size, fee, duration etc.) and the scope of work of the projects. The self-certification of the Bidder is also permitted accompanied by certified copy of work order/document certifying release of performance bank guarantee/ certified copy of payment received or any other document certifying the completion/part completion of the project as the case may be.

- d. The technical proposal must not include any information on the financial bid.
- e. Failure to comply with the requirements spelt out in this RFP shall lead to the disqualification of the bidder.
- f. Bidders should note the Proposal Due Date, as specified in the section - “Part II: Schedule of the Tender”, for submission of Proposals. Except as specifically provided in this RFP, no supplementary material will be entertained by IHMCL, and that evaluation will be carried out only on the basis of Documents received by the closing time of Proposal Due Date as specified in the section - “Part II: Schedule of the Tender”. Bidders will ordinarily not be asked to provide additional material information or documents subsequent to the date of submission, and unsolicited material if submitted will be summarily rejected. For the avoidance of doubt, IHMCL reserves the right to seek clarifications in case the proposal is non-responsive on any aspects.
- g. The Financial Proposal should be inclusive of all the costs including applicable taxes, duties, levies, permit, fees, entry fees, manpower, transportation charges, equipment insurance fees, custom duty, handling charges etc., except the Goods and Services Tax (GST) which shall be paid as per applicable rates. While submitting the Financial Proposal on eportal, the Bidder shall ensure the following:
  - (i) All the costs associated with the Assignment shall be included in the Financial Proposal.
  - (ii) The total amount indicated in the Financial Proposal shall be without any condition attached or subject to any assumption, and shall be final and binding. In case any assumption or condition is indicated in the Financial Proposal, it shall be considered non-responsive and liable to be rejected.
  - (iii) The proposal should be submitted on e-tender portal as per the standard Financial Proposal submission forms prescribed in this RFP.
  - (iv) Bidders shall express the price in Indian Rupees.
  - (v) Bidders must do their due diligence about the tax implications and IHMCL will not be liable for any incident.
  - (vi) If number of locations in Financial bid submission does not cover 2, 4 and more than 4 lanes, even then for price discovery, bidder has to provide the bid cost for conducting traffic survey. If, left blank in financial bid submission, the same shall be rejected.
- h. The Proposals must remain valid for a period of 180 days from date of submission of proposal. During this period, the selected bidder is expected to keep available the professional staff proposed for the assignment. If IHMCL wishes to extend the

validity period of the proposals, it may ask the bidders to extend the validity of their proposals for a stated period. The bidder will be required to extend the validity period without any additional financial implication to IHMCL.

### **3.6 SUBMISSION, RECEIPT AND OPENING OF PROPOSALS**

- a. IHMCL has adopted the following process (referred to as the "Bidding Process") for selection of the qualified Bidder. All documents including Application Fee, EMD, Power of Attorney, relevant annexures, eligibility documents etc. need to be submitted on e-tender portal. The Bidder shall submit the scanned copy of the original documents as mentioned in the RFP alongwith the bid on or before due date of submission. Evaluation of bids shall be carried out with the available scanned copy of original document submitted by bidder as per RFP requirement. However, the successful bidder has to submit the original documents physically with IHMCL before the issue of LOA.
- b. Opening of Technical Documents
  - i. Technical Documents submitted on e-tender portal will be opened as per schedule defined under key dates at IHMCL Office.
  - ii. Bidder's authorized representative may attend the opening, and those who are present shall sign the Attendance Sheet evidencing their attendance.
  - iii. 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.
  - iv. Technical Documents shall be opened first and based upon the evaluation of these documents as per conditions specified in the RFP, IHMCL shall announce the names of the Bidders who have qualified for opening of Financial Bids. It is hereby clarified that Financial Bids of only such Bidders who are declared qualified as stated herein shall be opened.
- c. Examination and Evaluation of Bids
  - i. Any time during the process of evaluation, IHMCL may seek for clarifications from any or all Bidders. Failure of any Bidder to provide the required clarifications within the stipulated timeline may result in rejection of its Bid, at the sole discretion of IHMCL.
  - ii. Phase-1: Technical Document Evaluation:  
The following documents shall be verified as part of technical document evaluation

(i) Document fee: - The document fee (non-refundable) of Rs. 5,000/- (Rupees Five Thousand only) in the form of a demand draft drawn in favour of “Indian Highways Management Company Limited” drawn on any Scheduled bank payable at New Delhi shall be submitted by the Applicant.

(ii) EMD: - The EMD and other relevant documents as required by this RFP will be opened. All the documents shall require to be as per format prescribed in the RFP. At any stage during the entire Bid evaluation process, if the EMD is found to be invalid, the respective Bidder’s Bid shall be summarily rejected. If Technical Documents submitted by the Bidder has the Financial Bid details, the Bid shall be summarily rejected.

The Bidder shall furnish, as part of the Bid, Earnest Money Deposit (EMD) for an amount INR 17,00,000/- (Rupee Seventeen Lakh only). The Successful Bidder’s EMD will be returned, without any interest, upon the Successful Bidder signing the Contract and furnishing the Performance Security in accordance with the provisions thereof. IHMCL may, at the Successful Bidder’s option, adjust the amount of EMD in the amount of Performance Security to be provided by him in accordance with the provisions of the Contract.

The Earnest Money shall be in the form of a demand draft drawn in favour of “Indian Highways Management Company Ltd.” on any Scheduled bank payable at New Delhi.

EMDs of unsuccessful Bidders will be returned back to them after signing of Contract with the Successful Bidder or after the expiry of the validity period of the Bids, whichever is earlier.

(iii) Other documents as specified the RFP

The Technical Bids will be evaluated by an Evaluation Committee. The Bidder shall have to fulfil all the Eligibility Criteria as specified in the RFP. The Bidder shall have to submit all the required documents and forms specified as per Annexure A - Annexure I (excluding Financial Proposal) on e-tender portal only. 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 Bids by the Evaluation Committee shall not be questioned by any of the Bidders. IHMCL may ask Bidder(s) for additional information, visit to 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.

Based upon the evaluation of these documents and the conditions specified in the RFP, IHMCL shall announce the names of the Bidders who have qualified for opening of Financial Bids. It is hereby clarified that Financial Bids of only such Bidders who are declared qualified as stated herein shall be opened.

iii. Phase-2: Financial Bid Evaluation:

- i. Technical Bids shall be opened first and based upon the evaluation of Technical Bids, IHMCL shall announce the names of the Bidders who have qualified for opening of Financial Bids. It is hereby clarified that Financial Bids of only such Bidders who are declared qualified as stated herein shall be opened. The Financial Bids of Bidders declared qualified as above, shall be opened in the Zone-wise sequence i.e. the Financial Bids of Zone-1 shall be opened first and thereafter that of Zone-2 and so on.
- ii. The maximum number of Zones for work award to any Bidder is limited to 2 (two), therefore, if any Bidder happens to be lowest in 2 Zone in the sequence of opening of Financial Bids mentioned above, its Financial Bids for remaining Zones shall not be evaluated and shall be remained unevaluated after completion of Bid process.
- iii. Post completion of the evaluation in Phase 1, IHMCL will open the Financial bids of qualified bidders on the date and time prescribed. Prior to evaluation of the bids, IHMCL shall determine as to whether each bid is responsive to the requirements of this RFP document. A bid will be declared non-responsive in case:
  - a. If the Authorized Signatory holding Power of Attorney and Signatory

are not the same

- b. If a bidder submits a conditional bid or makes changes in the terms and conditions given in this RFP document
  - c. Failure to comply with all the requirements of RFP document by a bidder
  - d. If the financial bid is not submitted in the formats prescribed in the RFP document
  - e. If any requisite document/ certificate is not in the prescribed format the same shall not be considered while evaluating the Bids and the same may lead to Bid being declared as non-responsive. And
  - f. The bid contains any pre-condition, assumption or qualification;
- iv. The Financial Bid Evaluation will be based on the “Final Cost” quoted by the bidder which would be the total payouts inclusive of all levies and taxes like Excise Duty, Custom Duty, packing, forwarding, freight and insurance, Octroi/Entry Tax, etc. or as applicable taxes, but exclusive of GST.
  - v. If there is a discrepancy between words & figures, the amount in words shall prevail. If the bidder does not accept the correction of errors, its Bid shall be rejected and the EMD will be forfeited.
  - vi. The Evaluation Committee shall determine if the financial bids are complete and without computational errors. The Bid with the lowest “Final Cost” (L1) will be selected as Successful bid in zone.
  - (i) Total no. of Locations would be as per financial bid of respective Zones. However, depending upon the need and directions of IHMCL /NHAI, actual number of locations may increase or decrease to the extent of 50% from the work allocated as per LoA, this shall be applicable either on each round of survey or in total surveys to be completed during contract period at the rates quoted in financial bid, as per sole discretion of IHMCL. IHMCL shall not be bound to provide all locations/rounds for conduct of traffic survey to the successful bidder.
  - vii. The financial quotes shall have to be provided on e-tender portal only.
  - viii. IHMCL had discovered below mentioned rates for conducting surveys through different RFP's and Contract Agreements hence for better rate discovery the earlier discovered rates are mentioned. All bidders are suggested to quote any the value accordingly: -

No. of Lanes	Rate (Ex. GST)
2 Lane	Rs. 69,046/-
4 Lane	Rs. 1,04,404/-
More than 4 Lane	Rs. 1,14,445/-

- ix. No proposal shall be accepted after the due date and time for submission of Proposals as specified in “Part - II: Schedule of the Tender”.
- x. After the Proposal submission until the contract is awarded, if any Bidder wishes to contact IHMCL on any matter related to its proposal, it should do so in writing at the Proposal submission address. Any effort by the firm to influence IHMCL during the Proposal evaluation, Proposal comparison or contract award decisions may result in the rejection of the Bidder’s proposal.

### **3.7 IMBALANCED BID**

If the Bid of the Successful Bidder is seriously imbalanced in relation to IHMCL's estimate of the cost of work to be performed under the Contract, IHMCL may require the Bidder to produce detailed price analysis for any or all items of the Bill of Quantities, to demonstrate the internal consistency of the proposed System. After evaluation of the price analyses, IHMCL may require that the amount of the Performance Security set forth in the RFP be increased and an additional Performance Security may be obtained at the expense of the Successful Bidder to a level sufficient to protect IHMCL against financial loss in the event of default of the Successful Bidder under the Contract. The amount of the additional increased Performance Security shall be equal to the seriously imbalanced amount, which shall be final, binding and conclusive on the Bidder.

### **3.8 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 IHMCL’s processing of Bids or award decisions may result in the rejection of his Bid.

**3.9 CLARIFICATION AND AMENDMENT OF RFP DOCUMENTS**

- a. Bidders may seek clarification on this RFP document no later than the date specified in the Schedule of the Tender. IHMCL reserves the right to not entertain any queries post that date. The Bidders are requested to submit the queries in electronic format (MS Excel file format only). Any request for clarification must be sent by standard electronic format (MS Excel file only) to the IHMCL's office addressed to:

*General Manager,  
Indian Highways Management Company Limited.  
2nd Floor, MTNL Building, Sector-19, Dwarka,  
New Delhi - 110075  
Phone: 011- 20427810  
Email: tenders@ihmcl.com*

- b. The format for sending the queries is as mentioned below, in MS Excel format only:

Sl No	RFP reference and Pg. No.	Existing RFP Clause	Clarification sought	Suggestion /Remark (If any)

- c. IHMCL will endeavour to respond to the queries not later than the date mentioned in this RFP. IHMCL will post the Corrigendum, if any in reply to queries on websites mentioned in RFP.
- d. At any time before the submission of Proposals, IHMCL may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, modify the RFP documents by an amendment. All amendments/ corrigenda will be posted only on the Official Website: <https://etenders.gov.in>, [www.ihmcl.co.in/tenders](http://www.ihmcl.co.in/tenders). In order to provide the Bidders reasonable time for taking an amendment into account, or for any other reason, IHMCL may at its sole discretion extend the proposal submission date.
- e. The bidder's confirmation on participating in the pre-bid meeting must be sent to tenders@ihmcl.com as per schedule of events.



**3.10 ELIGIBILITY OF BIDDER**

The bidder qualifying the following criteria shall be considered eligible to bid for this RFP: -

Sl #	Requirement Parameter	Eligibility Conditions/Conditions	Supporting Document to be provided
1.	<b>Legal Entity</b>	<p>i. The bidder must be a business entity incorporated in India under the Companies Act, 1956/2013 or the Limited Liability Partnerships Act, 2008.</p> <p>ii. Joint Venture or Consortium are not allowed to participate</p> <p>iii. The bidder should be registered with GST in India.</p>	<p>i. Copy of Certificate of Incorporation / Registration under Companies Act, 1956/2013 or any equivalent foreign act, or partnership deed as applicable</p> <p>ii. Power of Attorney</p> <p>iii. GST Registration Certificate</p>
2.	<b>Annual Turnover</b>	<p>The bidder should have an average annual turnover of minimum Rs. 8 crores during the last three (03) financial years, i.e. FY 2016-17, FY 2017-18 and FY 2018-19</p> <p><i>For the purpose of this criterion, annual turnover of only the bidding entity will be considered. Annual turnover of any parent, subsidiary, associated or other related entity will not be considered.</i></p>	<ul style="list-style-type: none"> <li>• Certificate from the Statutory Auditor clearly specifying the annual turnover for the specified years</li> <li>• Audited and Certified copies of Balance Sheet and Profit/Loss Account of last 3 Financial Years last three (03) financial years, i.e. FY 2016-17, FY 2017-18 and FY 2018-19. (In case, audited &amp; certified copies of FY 2018-19 are not available/prepared, provisional Certificate from the Statutory Auditor clearly specifying the annual turnover for FY - 2018 - 2019 shall be considered for evaluation)</li> </ul>
3.	<b>Net worth</b>	<p>The bidder must have positive Net worth in Indian Rupees as on 31 March, 2019.</p> <p>For the purpose of this RFP, net worth (the "Net Worth") shall mean the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write back of depreciation and amalgamation.</p> <p><i>For the purpose of this criterion, net-worth of only the bidding entity will be considered. Net-Worth of any parent, subsidiary, associated or other related entity will not be considered.</i></p>	<ul style="list-style-type: none"> <li>• Certificate from the Statutory Auditor clearly specifying the net worth of the firm as on 31 March 2019.</li> </ul>
4.	<b>Conflict of Interest</b>	The bidder should not have a conflict of interest with the toll fee operators/contractors on the concerned toll plaza site and the bidder should furnish an	Undertaking by the bidder

SI #	Requirement Parameter	Eligibility Conditions/Conditions	Supporting Document to be provided
		undertaking to this effect. For the purpose of clarity, “conflict of interest” as used herein shall mean that the bidder should not be a fee agency, Concessionaire, System Integrators, Agencies managing Toll Management Systems or agencies directly involved in Toll Operations at NH Toll Plazas.	
5.	<b>Relevant Experience</b>	The Bidder should have experience of undertaking minimum 400 nos. of Traffic Survey for 7 days on Highways using ATCC systems or have experience of installation, operation and maintenance of AI based Video Analytic system for traffic counting and classification on at least 1 project in India during the last five years as on bid due date.	<p><b>Sole Bidder/any Member of Consortium:</b></p> <ol style="list-style-type: none"> <li>1. Work order/ Contract clearly highlighting the relevant scope of work, and contract value, year of execution.</li> <li>2. Completion Certificate issued &amp; signed by the competent authority of the client entity on the entity’s letterhead</li> </ol> <p>OR</p> <p>Self-certificate from the bidder signed by authorised signatory for this bid holding written special power of attorney on stamp paper along with the official contact details of the competent authority of the client entity. IHMCL reserves the right to contact the aforementioned competent authority.</p> <p>In case of large orders/orders with operations &amp; maintenance phase, the completion/self-certificate may specify successful execution and in-operation status of a part of the order meeting the requirement. The format of the self-certificate is provided in relevant Annexure.</p>
6.	<b>Undertaking of Blacklisting</b>	The bidder should not have been black-listed by any State / Central Government Department or Central /State PSUs as on Bid Due Date.	Affidavit certifying non-blacklisting as per format given in relevant Annexure.

### 3.11 AWARD OF CONTRACT

- After selection, a Letter of Award (the “LOA”) will be issued by IHMCL to the Successful Bidder and the Successful Bidder shall, within 5 (Five) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Successful Bidder is not received by the stipulated date, the IHMCL may, unless it consents to extension of time for submission thereof, appropriate the EMD of such Bidder as mutually agreed genuine pre-estimated loss and damage suffered by IHMCL on account of failure of the Successful Bidder to acknowledge the LOA, and the second

lowest cost (i.e. L2) Bidder may be proposed to perform the work as per rates quoted by L1 bidder. In case L2 bidder fails to acknowledge the LOA, third lowest (L3) bidder may be proposed to perform the work as per rates quoted by L1 bidder.

- b. IHMCL reserves the right to ask successful bidder for demonstration of technology before award of work/contract signing or during the contract period as per requirement. The frequency to demonstrate the accuracy of technology shall be quarterly/ half yearly/ yearly. The said demonstration shall be of same period and provision of RFP at the location provided by IHMCL without any financial implication.
- c. The maximum number of Zones for work award to any Bidder is limited to 2 (two), therefore, if any Bidder happens to be lowest in 2 Zone in the sequence of opening of Financial Bids mentioned above, its Financial Bids for remaining Zones shall not be evaluated and shall be remained unevaluated after completion of Bid process.
- d. Performance Security: Performance Bank Guarantee for an amount equal to 10% of the “**Total Cost**” within seven (7) Days of issuance of LOA shall be furnished from a Nationalized/ Scheduled Bank, before signing of the contract, in form of a Bank Guarantee substantially in the form specified in the RFP. For the successful bidder the Performance Security will be retained by IHMCL until the completion of the Contract Agreement by the supplier and be released 180 (One hundred eighty) days after the completion of the Contract Agreement.
- e. Execution of contract: After acknowledgement of the LOA and furnishing of Performance Security as aforesaid by the Successful Bidder, it shall execute the Agreement within 30 (Thirty) days from the date of issue of LOA. The Successful Bidder shall not be entitled to seek any deviation in the Agreement.
- f. Commencement of Services: The Successful Bidder is expected to commence the Services as per key activity timelines prescribed in the RFP. If the Successful Bidder fails to either sign the Agreement, commence the services or fails to demonstrate proof of performance, as specified herein, IHMCL may invite the second lowest cost (i.e. L2) Bidder for contract signing. In such an event, the EMD/ Performance Security, as the case may be, of the first ranked Bidder shall be liable to be forfeited.

- g. If the Successful Bidder fails to fulfil the obligation as per the requirement and terminated or blacklisted by IHMCL, as specified herein, IHMCL may invite the second lowest cost (i.e. L2) Bidder for contract signing. In such an event, the EMD/ Performance Security, as the case may be, of the first ranked Bidder shall be liable to be forfeited.

### **3.12 PERFORMANCE SECURITY**

Within 7 (Seven) days of the receipt of the Letter of Award, the Successful Bidder shall submit an irrevocable and unconditional Bank Guarantee issued in the name of IHMCL for an amount equal to 10% of the “**Total Cost**” issued by a Bank described under this RFP which shall be verified at any branch located in the National Capital territory of Delhi and through SFMS mode as performance security for the due performance of its obligations under the Contract.

The aforesaid Bank Guarantee shall be as per the format given in format provided in this RFP and will be valid for a period till Contract period after the expiry of Contract period and shall also have a minimum claim period of 1 year.

### **3.13 BANK GUARANTEE (BG)**

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

- i. Any Nationalized Bank
- ii. Any Scheduled Commercial Bank approved by RBI having a net worth of not less than Rs. 500 crore as per the latest Audited Balance Sheet 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
- iii. A Foreign Bank (issued by a branch outside India) with a counter guarantee from any Indian Nationalized Bank.
- iv. Export Import Bank of India

The acceptance of the Bank 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

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

### **3.14 CORRUPT OR FRAUDULENT PRACTICES**

IHMCL will reject a proposal for award and appropriate the EMD or the Performance Security, as the case may be, if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.

IHMCL will declare the Bidder 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 Bidder has engaged in corrupt or fraudulent practices in competing for the contract, or during execution.

“Corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official or employee of IHMCL 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 IHMCL 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 IHMCL of the benefits of free and open competition.

### **3.15 MISCELLANEOUS**

- a. The Selection Process shall be governed by, and construed in accordance with, the laws of India and the Courts at New Delhi shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Selection Process. IHMCL, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:
  - (i) suspend and/or cancel the Selection Process and/or amend and/or supplement the Selection Process or modify the dates or other terms and conditions relating thereto;
  - (ii) consult with any Bidder in order to receive clarification or further information;
  - (iii) retain any information and/or evidence submitted to IHMCL by, on behalf of and/or in relation to any Bidder; and/or
  - (iv) Independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Bidder.

## **PART - IV: SCOPE OF WORK**

### **4.1 BACKGORUND**

The Ministry of Road Transport & Highways (MORT&H) is responsible for the development, maintenance and management of National Highways and for matters connected or incidental thereto.

MORT&H officiates from Transport Bhawan located at 1, Parliament Street, New Delhi. MORT&H also has Regional offices in most of the State Capitals. Issues relating to Planning for National Highways are being done by MORT&H and the execution of work at site are being done through agencies namely, National Highways Authority of India (NHAI), National Highway (NH) wing of State Public Works Department (PWD), Border Roads Organization (BRO) etc.

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

NHAI/MORT&H assigned IHMCL for conducting traffic survey on locations identified on National Highways/State Highways in India. In that direction, IHMCL invites bids from eligible agencies to conduct traffic survey using portable Automatic Traffic Counter-cum-Classifiers (ATCC) on sections of 2/4/more than 4 lane National Highways at identified locations on National Highways in India as given in relevant section of RFP.

### **4.2 Traffic Survey Assignment**

- 4.2.1 Counting and classification of vehicles passing on a designated section of the National Highway with the help of portable Automatic Traffic Counter & Classifier (ATCC) Systems for a minimum continues period of 7 days round the clock. Also, the agency shall record video of the movement of vehicles with the date/timestamp during the same period.

The ATCC data & Video shall be captured /recorded on real-time basis.

- 4.2.2 Installation of ATCC equipments and Camera should be within 200-300 meters from toll plaza location in a manner that gantry/canopy of toll plaza and installation of ATCC equipments shall be visible in captured video.
- 4.2.3 In case it is not possible to install equipment within defined range, the survey locations should be selected so that there is no traffic leakage between survey location and toll plaza location. Service Provider shall record the distance between toll plaza location and Survey Location and submits proof of no Traffic Leakage.
- 4.2.4 The service provider shall adhere with Survey Schedule approved by IHMCL/NHAI. Any deviation from the same shall be intimated with proper reasons.
- 4.2.5 After taking cognizance of NHAI so as to take care of seasonal variation to assess

the accurate/optimal results, service provider shall submit survey schedule of all locations within 07 days of issuance of the letter of commencement of works, and survey shall be commenced within 07 days after approval of survey schedule. Penalty shall be applicable for delay in submission of survey schedule and commencement of survey as per relevant clause of RFP. After collection of 7 days traffic data at each location, the agencies shall submit survey reports on daily basis after validation / correction.

- (i) The surveys schedule and surveys shall be carried out as per priority provided by IHMCL.
- (ii) Separate setup of ATCC and Videography shall be provided for upstream and downstream traffic on the project highway.
- (iii) At times, traffic survey of more or less than 7 days period may be required. In such cases, payments shall be governed on pro-rata basis.
- (iv) Total no. of Locations would be as per financial bid of respective Zones. However, depending upon the need and directions of IHMCL /NHAI, actual number of assignments may increase or decrease to the extent of 50% from the work allocated as per LoA, this shall be applicable either on each round of survey or in total surveys to be completed during contract period at the rates quoted in financial bid, as per sole discretion of IHMCL. IHMCL shall not be bound to provide all locations/rounds for conduct of traffic survey to the successful bidder.
- (v) Service provider needs to submit detailed analysis reports as and when required by IHMCL.

#### 4.2.6 Key Personnel

- (i) The agency shall deploy three Traffic Expert and one Team Leader for the purpose of establishing coordination with IHMCL, who should be employed with the agency / firm whose CV shall be approved by IHMCL.
- (ii) The Team Leader shall be overall in-charge of traffic surveys and shall interact with IHMCL with reference to each assignment and shall also be responsible for certification of report of each assignment. He should be Graduate in Engineering with minimum 10 years of specific experience in undertaking and analysis of traffic surveys on highways.
- (iii) The Traffic Expert shall be available on-site during traffic survey assignments and shall be responsible and accountable to all data being captured by the ATCC systems.
- (iv) The service provide provider shall submit the CV of all site team members with photo and update in case there is any change during contract period.
- (v) The Proof of Presence for each survey needs to be provided by Service Provider for each survey: -
  - (a) GPS latitude long with live location of team
  - (b) Snap of onsite team with installed equipments

IHMCL may conduct site visit to check the same, if any deviation found strict action shall be provision including but not limited to cancelling the survey cost and termination of Contract Agreement. It is responsibility of service provider to submit the details on regulated platform (viz. mobile app etc.) before

commencing surveys and during the surveys.

- 4.2.7 The Contractor shall be fully responsible to provide security to their persons deputed on traffic survey site including their insurance, wherever required under the law or considered prudent.
- 4.2.8 In case there is substantial variation in traffic from previous round of survey, it is responsibility of Contractor to highlight the reasons for increase/decrease in traffic with justifiable reasons and necessary proofs. In case, IHMCL found any incidence where such notification was not provided by Contractor, IHMCL may take necessary steps as to deduct the survey cost or any step as may deemed fit.

#### **4.3 ATCC System**

- 4.3.1 The Contractors may select the portable ATCC system based on any sensor technologies or AI based Video Analytic System.
- 4.3.2 The final uploaded data on the system should meet the following accuracy levels.
  - (i) Classification of vehicles: better than 95%
  - (ii) Counting of vehicles: better than 98%
- 4.3.3 The ATCC System should have capability to provide/demonstrate real-time traffic survey data, if required by IHMCL. In such case all necessary arrangements including internet etc. shall be arranged by Service Provider to facilitate the request of IHMCL.
- 4.3.4 For verification of the above-mentioned accuracy levels, IHMCL will compare the ATCC data with the video captured.
- 4.3.5 ATCC system shall be provided for identifying and recording all types of vehicles on the highway for data collection.
- 4.3.6 The system shall be capable of classifying any other vehicle category as per user needs.
- 4.3.7 Vehicle classification should be user selectable based on length of vehicle and number of axles.
- 4.3.8 The system shall be robust and be capable of operating under all weather conditions.
- 4.3.9 The system shall have the capability of accommodating multiple installations through installation of detectors/sensors taking inputs from portable sensors and should be modular in design.
- 4.3.10 The system should be able to count and classify vehicle by each lane.
- 4.3.11 Should be capable of producing vehicle level reports so that vehicle count and classification, if required, can be cross checked with video easily.
- 4.3.12 The system shall be capable of recording, for later analysis, on an individual vehicle basis, time/date, speed, direction. Number of axles, axle spacing, and site identification.
- 4.3.13 IHMCL may compare the data submitted by service provider with other sources available to IHMCL for verifying veracity, accuracy and data integrity provided by bidder.
- 4.3.14 Service provider shall ensure careful submission/uploading of traffic survey data on web-portal, IHMCL may reject survey if deficiency in services found.



4.3.15 The ATCC system shall be able to classify following vehicles, but not limited

to:

- (i) Bicycle
- (ii) 2 Wheeler
- (iii) 3 Wheeler
- (iv) Tractor
- (v) Tractor with Trailer
- (vi) 2 Axle Small Commercial Vehicle
- (vii) LMV -2 Axle Light Motor Vehicle
- (viii) LCV -2 Axle Light Commercial Vehicle
- (ix) 2 Axle Truck or Bus
- (x) 3 Axle Truck or Bus
- (xi) Multi Axle Vehicles (MAV)
- (xii) Oversized Vehicle (OSV)
- (xiii) Cycle Rickshaw
- (xiv) Earth Moving Equipment (EME)

4.3.13 Video Camera: Color video camera with the IR flash capable of capturing video during night/dark. Captured video should enable employer to identify and classify vehicles visually. Camera must be installed in such a way so that ATCC equipment and vehicle axles must be visible in the recording also captured video must have Location name, date of survey, Latitude Longitude.

- i) Video camera shall be mounted in such a way that occlusions do not generally obstruct view of the traffic.
- ii) Separate cameras to capture upstream and downstream traffic shall be used. There will be total two cameras in each direction of traffic. In case of 2 lane location Service Provider may install single camera so as to capture all details as mentioned in RFP.
- iii) The mounting height shall be such that the axle configuration of the vehicle shall be clearly visible.
- iv) For videography, colour video camera with IR flash capable of capturing video during night/dark shall be used. The traffic in the captured video during night time should be clearly visible for counting, classification and cross checking.
- v) It shall be ensured that no vehicle is stopped/parked in front of the camera obstructing view of the camera.
- vi) Camera angle shall be such that the headlight glare from vehicles does not impact quality of the video.
- vii) The camera to be used shall have clear night vision capability and a resolution of at-least 640x480 pixels and shall have frame rate of 25FPS or better as per requirement. In case IR enabled camera is used, the IR range shall be at-least 15m so that direction wise traffic from roadside can be captured without loss of quality. Cameras to be used shall have weather proof housing/casing so that video capture is uninterrupted by weather conditions.
- viii) Video should be continuous, non-compressed, unedited, raw footage of minimum of 2 hrs and maximum of 4 hrs duration to be submitted in standard video format viz. mp4 etc.
- ix) IHMCL may reject the survey data in case, axle of vehicles is not

identifiable.

#### **4.4 The System:**

- a) should be able to work as true Multi-lane free flow operation in which the Lane crossing classification should be possible together with simultaneous passages. The system should be capable of recognizing the flow of traffic in either direction.
- b) shall separately detect and classify vehicles passing at the same time - side by side
- c) Trailers with the shafts shall be detected and classified as one vehicle and not classified and counted as separate vehicles.
- d) IHMCL may require to have real time traffic survey data of some locations, successful bidder may be required to facilitate the same on request of IHMCL. The system should be capable to facilitate the real time traffic data to IHMCL and option to download and shall be able to meet all SLA. In case failure to facilitate the same, necessary action not limited to cancellation of survey cost and termination of Contract Agreement shall be invoked.
- e) should be able to classify and count standard vehicles travelling up to 100 kmph.
- f) The AI based Video Analytic System should provide description of each category/class of vehicle on submitted video.

#### **4.5 DELIVERABLES:**

- (i) The report formats shall be finalized after discussions with all the agencies and Control Centre (CC) service provider and shall be standardized by IHMCL, which may be modified from time to time based on the requirement.
- (ii) Service Provider shall submit traffic survey data on daily basis after validation on webserver provided by IHMCL alongwith video submission on video server provided by IHMCL on or before 7th day after completion of survey. For example, the survey data should be submitted as per following timeline: -
  - Survey Date - 01-04-2020 from 00.00 Hrs to 23.59.59 Hrs: -
    - Due time for uploading survey data on web-portal shall be 02-04-2020 before 23.59.59 Hrs
    - Due time for submission of video data for survey period from 01-04-2019 to 07-04-2019 shall be 14-04-2020 till 18:00 Hrs
  - Any delay in submission on survey data shall attract penalty as mentioned in RFP.
- (iii) In addition, traffic survey data and video with analysis shall also be submitted to IHMCL in electronic storage media viz. portable HDD/ DVD media for each assignment. HDD can be recycled data should be copied on IHMCL server.
- (iv) Successful bidder of each zones needs to install a common video storage server and UPS at the location and space provided by IHMCL, with adequate capacity to store the video of each location over Contract Period. Installation of Video storage Server, Server rack and

- UPS shall be done by successful bidder of all zones by mutual consent.
- (v) In addition of submission of traffic survey data to IHMCL, each agency needs to store entire traffic survey data and video of each location over contract period at their end. IHMCL may ask agency to submit the data as per requirement.
  - (vi) Submit Daily, Weekly and Monthly survey report as per format provided by IHMCL. The reports need to be submitted by next day for each defined period for ex. Daily report of previous day needs to be submitted on next day, Weekly report of ending week needs to be submitted on next day of starting week.
  - (vii) The Service Provider shall perform any analysis on collected traffic data as per the requirement of IHMCL viz. Hourly, daily, weekly, monthly and yearly traffic variation, trend analysis, traffic growth pattern, for which no additional cost shall be payable.
  - (viii) IHMCL may compare the traffic survey data collected by successful bidder with the third-party sources viz. toll plaza ETC data or by any other survey.
  - (ix) The ATCC system shall be able to classify following vehicles, but not limited to:
    - (i) Bicycle
    - (ii) 2 Wheeler
    - (iii) 3 Wheeler
    - (iv) Tractor
    - (v) Tractor with Trailer
    - (vi) 2 Axle Small Commercial Vehicle
    - (vii) LMV -2 Axle Light Motor Vehicle
    - (viii) LCV -2 Axle Light Commercial Vehicle
    - (ix) 2 Axle Truck or Bus
    - (x) 3 Axle Truck or Bus
    - (xi) Multi Axle Vehicles (MAV)
    - (xii) Oversized Vehicle (OSV)
    - (xiii) Cycle Rickshaw
    - (xiv) Earth Moving Equipment (EME)

#### **4.6 Traffic Survey Zones / Locations**

- (ii) The traffic survey locations are grouped in 6 Zones as per financial bid document. The bidders are expected to submit separate financial bid for each zone.
- (iii) The approximate number of zone-wise locations where such traffic survey is intended to be performed is indicated in financial bid document.
- (iv) Agencies are expected to conduct traffic survey twice a year at each location subject to conditions as mentioned in RFP.
- (v) With an objective to capture regional/seasonal variations of traffic, agencies shall plan the traffic survey suitably considering climatic conditions like rain, fog etc in that particular zone. The Service Provider shall take cognizance of NHAI for planning the surveys. The Service Provider should submit Survey Schedule well in advance for approval.
- (vi) The no. of survey locations in financial bid document is indicative only. IHMCL will not be responsible for any compensation to be provided to

Service Provider in case of any increase or decrease in the number of locations or incompleteness of any round of surveys due to any unforeseen issue.

- (vii) IHMCL reserves the right to allocate Traffic Survey assignment of any location of any zone to any agency. IHMCL also reserves the right to conduct repeat survey at any location as per requirements from time to time and to allocate the assignment for such repeat survey to the same agency or another agency, as it may deem fit.
- (viii) The Contractors shall have sufficient teams/setup to complete traffic surveys in respective Zones twice a year.
- (ix) The Contractors shall have to conduct traffic surveys as per priority provided by IHMCL.
- (x) If two locations are on same stretch with no traffic diversion in between than service provider should inform IHMCL before commencing such locations.
- (xi) For Toll plaza location, survey video should capture the canopy of plaza.
- (xii) IHMCL reserves the right to modify this TOR in public interest and proper conduct of services.
- (xiii) Total no. of locations would be as per financial bid of respective Zones. However, depending upon the need and directions of IHMCL /NHAI, actual number of locations may increase or decrease to the extent of 50% from the work allocated as per LoA, this shall be applicable either on each round of survey or in total surveys to be completed during contract period at the rates quoted in financial bid, as per sole discretion of IHMCL. IHMCL shall not be bound to provide all locations/rounds for conduct of traffic survey to the successful bidder.

#### **4.7 PAYMENT TERMS**

- i. Payments will be made in Indian Rupees only.
- ii. The payment to be made to the service provider after successful completion of Traffic Survey at the designated locations and submission of deliverables as per relevant RFP clause.
- iii. Invoices to be raised on monthly basis, IHMCL will make payment on submission of undisputed invoice.
- iv. IHMCL may, by written notice of suspension to the Service Provider, suspend all payments to the Service Provider hereunder if the Service Provider fails to perform any of their obligations and services under this RFP, including the carrying out of the Services, provided that such notice of suspension shall specify the nature of the failure, and shall request the Contractor to remedy such failure within a period not exceeding seven (07) days after receipt by the Service Provider of such notice of suspension.
- v. All payments shall be made subject to adjustment of applicable penalties.

#### **4.8 PRICES**

- i. GST as applicable, which will be levied on the goods and services invoiced by the Service Provider to IHMCL, will be reimbursed on actual basis.
- ii. IHMCL reserves the right to ask the Service Provider to submit proof of payment against any of the taxes, duties, levies indicated.
- iii. All payments shall be made subject to adjustment of applicable damages.
- iv. No amount or cost shall be payable for holding discussion, as considered necessary by IHMCL, for any purpose with IHMCL's Officials at IHMCL's Head

Office or elsewhere, prior, during or after the conduct of an assignment.

- v. Prices quoted by the bidder shall be excluding GST and fixed for the entire Contract period.

#### **4.9 DAMAGES**

- i. Delay in commencement of assignments (as per 4.2.4.): Damages of Rs. 5,000/- per day up-to to a maximum of Rs. 1,00,000/- shall be imposed.
- ii. Delay in submission of survey reports (Each for Data and Video): Damages of Rs. 10,000/- per day up-to to a maximum of Rs. 1,00,000/- per assignment shall be imposed.
- iii. Non-completion of traffic survey assignments in a round of survey: Each number of traffic survey shortfall in a round shall attract Damages of Rs. 1,00,000 (Rupees One lakhs only).
- iv. Priority traffic surveys as provided by IHMCL shall be commenced within 4 days of issuance of notice (by email or letter) in case there is delay, the penalty of Rs. 5,000/- per day up-to a maximum of Rs. 1,00,000/- per assignment shall be imposed.
- v. IHMCL will conduct random checking of the traffic survey report(s). In case the accuracy levels fall below the specified limit indicated in relevant section of RFP, no payment will be made for that assignment. Locations for which survey data is rejected by IHMCL, resurvey at the same location shall be conducted by service provider without any financial implication on IHMCL.
- vi. Three (03) incidence in a round of survey, where the survey data of locations after conducting resurvey is rejected, IHMCL may consider termination without intimation to service provider.
- vii. In case IHMCL is of the view that the delay is due to reasons beyond the control of the Service Provider, suitable extension of time may be granted to the Service Provider with or without imposing any Damages on such Service Provider in the absolute discretion of IHMCL.
- viii. Damages shall be payable by the Service Provider within 5 days of imposition thereof by IHMCL, failing which the same shall be deducted from the payments to be made to the Service Provider or from the Performance Security as deemed appropriate by IHMCL.
- ix. The Damages payable, as set forth in this Contract, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the "Damages").

#### **4.10 Miscellaneous**

- i) Survey location shall be judiciously selected such that there is no traffic generation between count location and toll plaza.
- ii) Agencies shall be careful with counts and classification, if there is heavy u-turning traffic at toll plaza.
- iii) The locations provided by IHMCL shall be based of GPS Latitude and

- Longitude, in case the provided GPS Latitude Longitude is not on Highway, the service provider shall ensure shifting of such locations to main highway under intimation to IHMCL.
- iv) The Service Provider under intimation to IHMCL shall propose new location to IHMCL, in case provided location has traffic diversion.
  - v) If there is any toll plaza location near to 10-15 km radius of provided location, Service provider shall ensure conducting traffic survey at toll plaza location under intimation to IHMCL, in such cases updated GPS coordinates of new location to be provided to IHMCL. If, IHMCL being not informed about the same and later IHMCL discovers the same, payment of location in such case shall be deducted.

#### **4.11 Obligations of Agency**

The Agency shall be responsible to:

- i) Arrange required electrical power including uninterrupted power supply system at the site;
- ii) Safety and security of its equipment and staff;
- iii) Deploy adequate number of resources with qualifications and skills commensurate to the job requirement;
- iv) Maintain adequate insurance covers to safeguards its interest regarding any loss/damage/theft to its equipment and or personal during conduct of the assignment;
- v) Indemnify IHMCL against any damage/loss of property or personal of the agency during conduct of assignment.
- vi) The Service Provider shall ensure keeping backup of all traffic survey data and video at their back office during entire contract period, which needs to be submitted as and when required by IHMCL.
- vii) Submit Daily, Weekly and Monthly survey report as per format provided by IHMCL. The reports need to be submitted by next day for each defined period for ex. Daily report of previous day needs to be submitted on next day, Weekly report of ending week needs to be submitted on next day of starting week.
- viii) Provide report on required analysis with proper justification to IHMCL in case of variation in traffic is found from previous round of survey.
- ix) Provide real-time access of traffic survey data, as and when required by IHMCL.
- x) Sign the Non-Disclosure Agreement (NDA) with IHMCL.

## **PART - V: CONDITIONS OF CONTRACT**

---

### **5.1 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.

### **5.2 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.

### **5.3 APPLICABLE LAW**

Appropriate laws as in force in Republic of India shall apply.

### **5.4 Project Scope**

The scope of project shall include activities as specified in relevant section of this RFP.

### **5.5 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.

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

### **5.6 RIGHT TO AMEND PROJECT SCOPE**

IHMCL retains the right to amend the Project Scope without assigning any reason at any time during the Contract Period. IHMCL makes no commitments, express or implied, that the full scope of work as described in this RFP will be commissioned.

### **5.7 PAYMENT TERMS**

As mentioned in Section IV "SCOPE OF WORK"

### **5.8 SLA/ PENALTY**

As mentioned in Section IV "SCOPE OF WORK"

### **5.9 PRICES**

a) GST as applicable, which will be levied on the goods and services invoiced by the

Service Provider to IHMCL, will be reimbursed on actual basis.

- b) IHMCL reserves the right to ask the Service Provider to submit proof of payment against any of the taxes, duties, levies indicated.
- c) All payments shall be made subject to adjustment of applicable damages.
- d) No amount or cost shall be payable for holding discussion, as considered necessary by IHMCL, for any purpose with IHMCL's Officials at IHMCL's Head Office or elsewhere, prior, during or after the conduct of an assignment.
- e) Prices quoted by the bidder shall be excluding GST and fixed for the entire Contract period.

#### 5.10 CONTRACT PERIOD

The time period of the project is 3 years and shall start from the date of signing of Contract Agreement. Upon completion of 3 years, IHMCL may consider extending the engagement on yearly basis upto a maximum of 5 years from the date of signing of Contract Agreement with same cost as quoted by the Bidder for the RFP.

Whenever there is a conflict between period of Contract Agreement and round of survey; provision herein as mentioned for period of Contract Agreement shall prevail over round of surveys.

#### 5.11 INSURANCE

The Service Provider shall effect and maintain at its own cost, during the Contract period, such insurances for such maximum sums as may be required under the Applicable Laws, and such insurances as may be necessary or prudent in accordance with Good Industry Practice to cover third party claims, theft, accidental damage, vandalism, fire, flood, and Force Majeure events.

#### 5.12 FORCE MAJEURE

- a) Neither party shall be responsible to the other for any delay or failure in performance of its obligations due to any occurrence of a Force Majeure event 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.
- b) If a Force Majeure arises, the Service Provider shall promptly notify IHMCL in writing of such condition and the cause thereof. Unless otherwise directed by IHMCL, the Service Provider 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 Parties shall be excused from performance of their respective obligations in whole or part as long as such Force Majeure event continues to prevent or delay such performance by the Parties. However, in case such Force Majeure event lasts for a continuous period of 60 days, either Party may terminate the Contract.

#### 5.13 INDEMNIFICATION

- a) The Service Provider shall indemnify, defend, save and hold harmless, IHMCL, NHAI and MoRTH and their officers, servants, agents (hereinafter referred to as the “IHMCL Indemnified Persons”) against any direct loss, damage, claims, cost and expense of whatever kind and nature (including without limitation, legal fees, claims and expenses incurred in connection with any suit, action or proceeding or any claim asserted, as such fees and expenses are incurred), joint or several, that arise out of or are based upon any order passed by any statutory authority including Courts, tribunals or other judicial/quasi-judicial authorities, on account of breach of the Service Provider’s obligations under this Contract or any other related agreement or otherwise, any fraud or negligence attributable to the Service Provider or its Agents under contract or tort or on any other ground whatsoever, all eventualities of theft, dacoity, robbery, etc., except to the extent that any such suits, proceedings, actions, demands and claims has arisen due to any breach or default of this Contract on the part of IHMCL Indemnified Persons.
- b) The Service Provider shall indemnify IHMCL Indemnified Persons from all legal obligations in respect of professionals deployed by the Service Provider. IHMCL Indemnified Persons also stand absolved of any liability on account of death or injury sustained by the Service Provider’s staff during the performance of their work and also for any damages or compensation due to any dispute between the Service Provider and its staff.
- c) In addition to the aforesaid, the Service Provider shall fully indemnify, hold harmless and defend IHMCL Indemnified Persons from and against any and all direct loss, damage, cost and expense of whatever kind and nature (including, without limitation, legal fees and other expenses incurred in connection with any suit, action or proceeding or any claim asserted, as such fees and expenses are incurred), joint or several, that arise out of, or are based upon any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any materials, information, design or process

used by the Service Provider or by the Agents in performing the Service Provider's obligations or in any way incorporated in or related to this Contract. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Service Provider shall make every reasonable effort, by giving a bond (of the type and value as required) or otherwise, to secure the revocation or suspension of the injunction or restraint order and continue to perform its obligations hereunder. If the Service Provider is unable to secure such revocation within a reasonable time, it shall, at its own expense, and without impairing the Specifications and Standards, shall rectify such defaults and shall also be liable for damages to IHMCL for the corresponding loss during the interim period on this account.

- d) The provisions of this Clause shall survive Termination.
- e) The remedies provided under the Clause are not exclusive and shall not limit any rights or remedies that may otherwise be available to IHMCL Indemnified Persons at law or in equity.

#### 5.14 TERMINATION

- a) ON EXPIRY OF THE CONTRACT: Subject to the condition mentioned under the RFP, the Agreement shall be deemed to have been automatically terminated on the expiry of the Contract Period unless IHMCL has exercised its option to further renew the Contract Period in accordance with the provisions, if any, of the Contract.
- b) ON ACCOUNT OF FORCE MAJEURE: Either party shall have the right to terminate the Contract on account of Force Majeure, as set forth in the RFP.
- c) ON BREACH OF CONTRACT: IHMCL may terminate the Contract if the Service Provider causes a fundamental breach of the Contract. Fundamental breach of Contract includes, but shall not be limited to, the following:
  - i. The Service Provider fails to carry out any obligation under the Contract.
  - ii. The Service Provider without reasonable excuse fails to commence the work in accordance with relevant clauses.
  - iii. Has failed to furnish the required securities or extension thereof in terms of the Contract.
  - iv. the Service Provider stops work and the stoppage has not been authorized by IHMCL;
  - v. the Service Provider at any time during the term of the Contract becomes insolvent or makes a voluntary assignment of its assets for the benefit of creditors or is adjudged bankrupt

- vi. If the Service Provider, in the judgment of the Employer, has engaged in the corrupt or fraudulent practice in competing for or in executing the Contract.
- d) The Service Provider sub-contracts any assignment under this Agreement without approval of IHMCL.
- e) Any other fundamental breaches as specified in the RFP.
- f) Any other breach of clause for which termination is specified in the RFP.
- g) Notwithstanding the above, IHMCL may terminate the Contract in its sole discretion by giving 30 days prior notice without assigning any reason.
- h) Upon Termination (except on account of expiry of Term of this Agreement, Force Majeure), IHMCL shall be entitled at the sole discretion to:
  - i. appropriate the entire Performance Security or part thereof as Damages; and
  - ii. Debar/Blacklist the Service Provider from participating in any other project/assignment/work of IHMCL for a period as determined by IHMCL in its sole discretion.

#### 5.15 Appropriation of Performance Security

- a) Upon failure of the Service Provider to commence the services, for any reason whatsoever, within the period set forth in this Contract or the extended period thereunder, IHMCL shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to levy Damages as per relevant Clause hereinabove.
- b) IHMCL shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the Performance Security as Damages or any other amounts payable to IHMCL under this Contract as and when such Damages or other amounts become due and payable. Upon such encashment and appropriation from the Performance Security, the Service Provider shall, within 10 days thereof, replenish, in case of partial appropriation, to its original level of the amount guaranteed under the Performance Security, and in case of appropriation of the entire Performance Security, provide a fresh Performance Security, as the case may be failing which IHMCL shall be entitled to terminate this Agreement in accordance with relevant clause hereof.

#### 5.16 MISCELLANEOUS

- a) **Standard of Performance**

The Service Provider shall undertake to perform the services with the highest standards of professional and ethical competence and integrity which are, amongst others, ESSENCE of this assignment. Keeping in view the sensitivity involved in such assignments, the personnel deployed should maintain confidentiality/integrity at all times and should work in a professional manner to protect the interest of IHMCL. The firm shall promptly replace any personnel deployed under this contract that IHMCL considered unsatisfactory.

**b) Representations and Warranties of the Parties**

The Parties represents and warrants to the each other that:

- i. It is duly organized and validly existing under the applicable laws, and has full power and authority to execute and perform its obligations under this Contract and to carry out the transactions contemplated hereby;
- ii. It has taken all necessary corporate and other actions under applicable laws to authorize the execution and delivery of this Contract and to validly exercise its rights and perform its obligations under this Contract;
- iii. This Contract constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Contract will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;
- iv. The information furnished in the Bid and as updated on or before the date of this Contract is true and accurate in all respects as on the date of this Contract;
- v. The execution, delivery and performance of this Contract will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its Memorandum and Articles of Association [or those of any member of the Consortium] or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- vi. There are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Contract or which

- vii. individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Contract;

**c) Waiver of immunity**

Each Party unconditionally and irrevocably:

- i. Agrees that the execution, delivery and performance by it of this Contract constitute commercial acts done and performed for commercial purpose;
- ii. Agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Contract or any transaction contemplated by this Contract, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Party with respect to its assets;)
- iii. Waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
- iv. Consents generally in respect of the enforcement of any judgment or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgment that may be made or given in connection therewith).

**d) Waiver**

- i. Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Contract:
  - Shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Contract;
  - Shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
  - Shall not affect the validity or enforceability of this Contract in any manner.
- ii. Neither the failure by either Party to insist on any occasion upon the

performance of the terms, conditions and provisions of this Contract or any obligation there under nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

**e) Liability for review of Documents**

Except to the extent expressly provided in this Contract:

- i. No review, comment or approval by IHMCL, any document submitted by the Service Provider nor any observation or inspection of the Services performed by the Contractor nor the failure to review, approve, comment, observe or inspect hereunder shall relieve or absolve the Contractor from its obligations, duties and liabilities under this Contract, the Applicable Laws and applicable permits; and
- ii. IHMCL shall not be liable to the Service Provider by reason of any review, comment, approval, observation or inspection referred to in Sub-clause (a) above.

**f) Exclusion of implied warranties etc.**

This Contract expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

**g) Survival**

- i. Termination shall:
  - Not relieve the Contractor or IHMCL, as the case may be, of any obligations hereunder which expressly or by implication survive Termination hereof; and
  - Except as otherwise provided in any provision of this Contract expressly limiting the liability of either Party, not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.
- ii. All obligations surviving Termination shall only survive for a period of 3 (three) years following the date of such Termination

**h) Entire Agreement**

This Contract, the RFP and the Sections hereto together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Contract are abrogated and withdrawn. For the avoidance of doubt, the Parties hereto agree that any obligations of the Contractor arising from the Request for Proposals shall be deemed to form part of this Contract and treated as such.

**i) Severability**

If for any reason whatever any provision of this Contract is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to the Dispute Resolution Procedure set forth under this Contract or otherwise.

**j) No partnership**

This Contract shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

**k) Third parties**

This Contract is intended solely for the benefit of the Parties and their respective successors and permitted assigns and nothing in this Contract shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Contract.

**l) Successors and assigns**

This Contract shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

**m) Notices**

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Contract shall be in writing and shall:

- i. in the case of the Contractor, be given by facsimile or e-mail and by letter delivered by hand to the address given and marked for attention of the person set out below or to such other person as the Contractor may from time to time designate by notice to IHMCL; provided that notices or other communications to be given to an address outside Delhi may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile or e-mail to the number as the Contractor may from time to time designate by notice to IHMCL;
- ii. in the case of IHMCL, be given by facsimile or e-mail and by letter delivered by hand and be addressed to the [•] of IHMCL with a copy delivered to the Authority Representative or such other person as IHMCL may from time to time designate by notice to the Contractor; provided that if the Contractor does not have an office in Delhi it may send such notice by facsimile or e-mail and by registered acknowledgement due, air mail or by courier; and
- iii. any notice or communication by a Party to the other Party given in accordance herewith shall be deemed to have been delivered when in the normal course of post it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery; provided that in the case of facsimile or e-mail, it shall be deemed to have been delivered on the working day following the date of its delivery

**n) Sub-Contracting**

The Service Provider shall not sub-contract any assignment to a third party. The Service Provider shall remain solely responsible for all works under this Agreement.



**o) Confidentiality of the Assignment/Findings**

The agency shall not, during the term of assignment and within two years after its expiration, disclose any propriety or confidential information relating to the services, this assignment or IHMCL's business or operations without prior written consent of IHMCL. The Successful bidder shall be required to sign Non-Disclosure Agreement (NDA) with IHMCL.

**p) Modification**

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services, may only be made by written agreement between the Parties as the case may be, has been obtained.

**q) Language**

All notices required to be given by one Party to the other Party and all other communications, Documentation and proceedings which are in any way relevant to this Contract shall be in writing and in English language.

For & behalf of IHMCL

By

Authorised Representative

Signature

Name

Address

For & behalf of

(Contractor)

Witness

1.

Signature

Name

Address

By

Authorised Representative

2.

Signature

Name

Address



## **PART - VI: ANNEXURE**

---

### **Annexure A: Covering Letter**

*(To be prepared on letterhead of the Applicant)*

To

The General Manager

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

**Subject: REQUEST FOR PROPOSAL(RFP) FOR Conducting Traffic Survey Using Portable Automatic Traffic Counter and Classifier (ATCC) Systems or AI based Video Analytic System on National Highways**

Dear Sir,

1. I/We, the undersigned, have carefully examined the contents of the document including amendments/ addendums (if any) thereof and undertake to fully comply and abide by the terms and conditions specified therein and hereby submit our application. Our application is unconditional and unqualified.
2. I/We undertake that, in competing for (and, if the award is made to us), for executing the above contract, we will strictly observe the laws against fraud and corruption in force in India.
3. I/We undertake that, Technology used for counting and classification of vehicles is in compliance with the provisions mentioned in the RFP document.
4. I/We understand that:
  - a. this application, if found incomplete in any respect and/ or if found with conditional compliance or not accompanied with the requisite application fee and/ or prescribed supporting document shall be summarily rejected.
  - b. if at any time, any averments made or information furnished as part of this application is found incorrect, then the application will be rejected

c. IHMCL is not bound to accept any/ all application(s) it will receive.

4. I/We declare that:

(a) I/We have not been ***declared ineligible*** by IHMCL, NHAI or Ministry of Road Transport & Highways, Government of India or any other agency for indulging in corrupt or fraudulent practices. I/We also confirm that I/We have not been ***declared as non-performing or debarred*** by NHAI or Ministry of Road Transport & Highways, Government of India.

(b) I/We ***haven't been blacklisted*** by a Central/ State Government institution/ Public Sector Undertaking/ Autonomous body and there has been ***no litigation*** with any Government Department/ PSU/ Autonomous body on account of similar services.

5. I/We declare that our bid is valid for 180 days.

Name .....

Designation/ Title of the Authorized Signatory.....

*(To be prepared on letterhead of the Applicant)*

**Subject: REQUEST FOR PROPOSAL(RFP) FOR Conducting Traffic Survey Using Portable Automatic Traffic Counter and Classifier (ATCC) Systems or AI based Video Analytic System on National Highways**

1.     (a)     Name of Applicant:  
       (b)     Year of establishment:  
       (c)     Registered Address:  
       (d)     Constitution of the Applicant entity e.g. Government enterprise, private limited company, limited company, etc.
  
2.     Address for correspondence with Telephone/ Fax numbers/ e-mail address:
  - (a)     Complete postal address:
  - (b)     Fixed telephone number
  - (c)     Mobile number
  - (d)     E-mail address
  - (e)     Bank Account Name, No. and IFSC Code for returning EMD
  
3.     Name of the Statutory Auditor certifying the documents along with his/ her Membership number, if applicable:
  
4.     Financial details/projects meeting the qualifying criteria

Name .....

Designation/ Title of the Authorized Signatory.....

**Annexure C: Undertaking**

---

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 Company/firm M/s\_\_\_\_\_ have abandoned any work of National Highways Authority of India/IHMCL 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 IHMCL to verify this statement or regarding my (our) competence and general reputation.
4. The undersigned understands and agrees that IHMCL may ask for further qualifying information, and agrees to furnish any such information at the request of IHMCL.
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 against our company/firm or any of its Directors/ Partners in any court of law.
7. I/We undertake that we shall not claim any expenses or losses/damages to IHMCL on account of reduction in total number of traffic survey locations/rounds.
8. I/We undertake that, Technology used for counting and classification of vehicles is in compliance with the provisions mentioned in the RFP document.
9. We also confirm that we have not been convicted by any court of law for any of the offences under any Indian laws
10. I/We confirm that we do not have a conflict of interest with the toll fee operators/contractors on the concerned toll plaza site as mentioned in eligibility criteria of RFP nor shall we undertake tolling operations during the period of Contract Agreement.

\_\_\_\_\_  
(Signed by an Authorized Officer of the bidder)

\_\_\_\_\_  
Title of Officer

\_\_\_\_\_  
Name of bidder

\_\_\_\_\_  
DATE

**Annexure D: Bidder's Annual Turnover**

RFP Ref \_\_\_\_\_ (Date)

From,

(Name & Address of the Bidder)

\_\_\_\_\_  
Co. Ltd.

\_\_\_\_\_  
Sector -19, Dwarka

To,

General Manager,

Indian Highways Management

2<sup>nd</sup> Floor, MTNL Building,

New Delhi 110 075

**Subject: REQUEST FOR PROPOSAL(RFP) FOR Conducting Traffic Survey Using Portable Automatic Traffic Counter and Classifier (ATCC) Systems or AI based Video Analytic System on National Highways**

Dear Sir/Madam,

We hereby certify that the average annual turnover of M/s. \_\_\_\_\_ (name of the bidder) for the last three financial years (ending 31<sup>st</sup> March of the previous financial year) is as given below:

Annual Turnover for the last 3 Financial Years (FYs) in Indian Rupees (INR)			
FY (2016-2017)	FY (2017-2018)	FY (2018-2019)	Average

Yours Sincerely,

(Signature of Statutory Auditor)

**Name of the Statutory Auditor:**

---

**Name of the Statutory Auditor Firm:**

**Seal:**



**Annexure E: Power of Attorney**

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 authorize 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 “**Authorized 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 Authorized 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 Authorized 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 ....., 2020

For .....

(Signature, name, designation and address)

Witnesses:

1.

2.

Notarized

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 notarized 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 favor 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 legalized by the Indian Embassy and notarized 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 legalized by the Indian Embassy if it carries a conforming Apostles certificate.*

**Annexure F: Format for Self-Certificate by Bidder in Terms of Experience**

Details of Project meeting the qualifying criteria

Sl. No.	Name of Work	Client	Number of 7 days traffic survey	Value of Project (in INR)	Period of Work (Start Date and Completion Date)	Proof of Experience	
						Document type (e.g. contract / work order, completion certificate, and/or client's testimonials, etc.)	Placed at page no.

The details of projects executed by the Bidder:

Name of the Project & Location	
Client's Name Contract Details Complete Address	
Brief narrative description of Project - highlighting relevant scope of work such as carrying out traffic survey work etc.	
Contract Value for the Project (in INR)	
Date of Start of Project	
Date of Completion of Project/Status of Completion	
Number of 7 days Traffic Surveys Using Portable ATCC or AI based Video Analytic System	
Activities undertaken by Bidder	

(Copies of Work orders/Contract Agreement/Client certificate with relevant pages to be attached along with)

Signature &amp; Seal:

Name:

Designation:

Bidding entity's name

Address:

Date:

*Indian Highways Management Company Limited*  
**Annexure G: Format for Performance Security (Bank Guarantee)**

---

To,  
General Manager,

Indian Highways Management Company Ltd  
2<sup>nd</sup> Floor, MTNL Building,  
Sector-19, Dwarka,  
New Delhi - 110075, India

WHEREAS \_\_\_\_\_[Name and address of Agency] (hereinafter called “the Service Provider”) has decided to apply to IHMCL for providing services, in pursuance of IHMCL letter of work award No. \_\_\_\_\_ dated dd/mm/yyyy for **“REQUEST FOR PROPOSAL(RFP) FOR Conducting Traffic Survey Using Portable Automatic Traffic Counter and Classifier (ATCC) Systems or AI based Video Analytic System on National Highways”** *” (hereinafter called the “Contract”).*

1. AND WHEREAS it has been stipulated by IHMCL in the said letter that the Service Provider shall furnish a Bank Guarantee for the sum specified therein as security for compliance with his obligations in accordance with the terms & conditions of the Contract Agreement.
2. AND WHEREAS we have agreed to give the Service Provider such a Bank Guarantee:
3. NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Service Provider up to a total of ` ...../- (Rupees ..... ) only, 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 ` ...../- as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.
4. We hereby waive the necessity of your demanding the said debt from the Service Provider before presenting us with the demand.
5. We further agree that no change or addition to or other modification of the terms of the service provider or of the works to be performed there under or of any of the Contract documents which may be made between you and the Service Provider shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.
6. We undertake to pay to the IHMCL any money so demanded notwithstanding any dispute or disputes raised by the Service Provider(s) in any suit or proceeding pending before any Court or Tribunal relating thereto our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our

liability for payment thereunder and the Service Provider(s) shall have no claim against us for making such payment.

7. The liability of the Bank under this Guarantee shall not be affected by any change in the constitution of the Service Provider or of the Bank.
8. 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.
9. This bank guarantee shall be valid from .....
10. Notwithstanding anything contained herein:
  - (i) Our liability under this Bank Guarantee shall not exceed ` ...../-
  - (ii) The Bank Guarantee shall be valid up to.....
  - (iii) We are liable to pay the Guarantee amount or any part thereof under this Guarantee only and only if you serve upon us a written claim or demand on or before .....

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: \_\_\_\_\_

\* The bank guarantee shall be verified through SFMS package.

**Annexure H: Format for Financial Bid Submission**

*(For sample only, actual Format to be downloaded from e-tender portal for on-line submission)*

**Sub: - REQUEST FOR PROPOSAL(RFP) FOR Conducting Traffic Survey Using Portable Automatic Traffic Counter and Classifier (ATCC) Systems or AI based Video Analytic System on National Highways**

Dear Sir,

I/We, the undersigned having examined the above referred RFP including addendums thereof and, hereby offer to submit our bid to undertake the subject assignment with total bid value as per milestone and break-up furnished below.

Financial Proposal, indicative for zone 1 to 6 is as mentioned below: -

Zone - 1 (Maharashtra and Rajasthan) - Total Locations - 460					
Sl.No.	Item	No. of lanes	No. of locations (A)	Unit Cost (Excluding GST) (in Rs.) (B)	Total Cost C = (A) * (B)
1	Counting and Classification of vehicles for Continuous period of 7 days round the clock and Videography of the movement of vehicles during the same period	2	268		
		4	168		
		More than 4 lanes	24		
“Total Cost”					

Zone - 2 (Gujarat, Madhya Pradesh & Chhattisgarh) - Total Locations - 387					
Sl.No.	Item	No. of lanes	No. of locations (A)	Unit Cost (Excluding GST) (in Rs.) (B)	Total Cost C = (A) * (B)
1	Counting and Classification of vehicles for Continuous period of 7 days round the clock and Videography of the movement of vehicles during the same period	2	182		
		4	196		
		More than 4 lanes	9		
“Total Cost”					

Zone - 3 (Andhra Pradesh, Tamil Nadu & Telangana) - Total Locations - 378					
Sl.No.	Item	No. of lanes	No. of locations (A)	Unit Cost (Excluding GST) (in Rs.) (B)	Total Cost C = (A) * (B)
1	Counting and Classification of vehicles for Continuous period of 7 days round the clock and Videography of the movement of vehicles during the same period	2	206		
		4	154		
		More than 4 lanes	18		
“Total Cost”					



Indian Highways Management Company Limited

Zone - 4 (Uttar Pradesh, Uttarakhand, Punjab, Haryana, Jammu & Kashmir, Delhi & Himachal Pradesh) - Total Locations - 437					
Sl.No.	Item	No. of lanes	No. of locations (A)	Unit Cost (Excluding GST) (in Rs.) (B)	Total Cost C = (A) * (B)
1	Counting and Classification of vehicles for Continuous period of 7 days round the clock and Videography of the movement of vehicles during the same period	2	248		
		4	158		
		More than 4 lanes	31		
"Total Cost"					

Zone - 5 (Bihar, Jharkhand, Assam, Meghalaya, and other North Eastern States, West Bengal and Orissa) - Total Locations - 372					
Sl.No.	Item	No. of lanes	No. of locations (A)	Unit Cost (Excluding GST) (in Rs.) (B)	Total Cost C = (A) * (B)
1	Counting and Classification of vehicles for Continuous period of 7 days round the clock and Videography of the movement of vehicles during the same period	2	260		
		4	99		
		More than 4 lanes	13		
“Total Cost”					

Zone - 6 (Karnataka, Kerala and Goa) - Total Locations - 247					
Sl.No.	Item	No. of lanes	No. of locations (A)	Unit Cost (Excluding GST) (in Rs.) (B)	Total Cost C = (A) * (B)
1	Counting and Classification of vehicles for Continuous period of 7 days round the clock and Videography of the movement of vehicles during the same period	2	170		
		4	62		
		More than 4 lanes	15		
“Total Cost”					

\*The L1 shall be based on the lowest "Total Cost" quoted.

**Annexure I: Format for Non-Disclosure Agreement**

---

This Non-Disclosure Agreement dated the ..... day of \_\_\_\_\_, 2020

BETWEEN

Indian Highways Management Co. Ltd., 2<sup>nd</sup> Floor, MTNL Building, Sector-19, Dwarka, New Delhi-75 (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: -

- i. is in or comes into the public domain in any way without breach of this Agreement by the Receiving Party; or
- ii. 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
- iii. 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
- iv. is hereafter furnished by the Disclosing Party to a third party without restriction on disclosure or use; or
- v. 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, advisor, consultant 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 right 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 license 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 that 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 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 nor 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 BELIABLE TO THE OTHER PARTY FOR ANY INDIRECT INCIDENTAL AND /OR CONSEQUENTTIAL DAMAGES LOST BUSINESS LOST SAVING OR LOST PROFIT OR REVENUES RESULTING FROM A BREACH OF THIS AGREEMENT EVEN IF THE BREACHING PARTY HAS BEEN ADVISED OF HTE POSSIBLITY 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. 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

Signature \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

On behalf of Receiving Party

Signature \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_