



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
1	Section IV	Technical specification	7.5.1 Project plans should be prepared for maintenance overhaul purposes (i.e., long term maintenance plan) purposes Complete project management capabilities are required including, PERT charts, Gantt Charts, activity schedules, resource planning, baselining, progress monitoring etc.	Please indicate the no of planners responsible doing long term planning/ shutdown turnaround planning activities?	Part of Bidder's "As-is". To be taken on industry standards
2	Section IV	Technical specification	7.6.14 - Data should be made available (through standard interfaces) related to but not limited to the following predictive diagnostic maintenance technologies: 1) Digital Control System (Process Automation) 2) Condition based monitoring software for a) Vibration Monitoring b) Acoustics Monitoring c) Infrared Thermography d) Dissolved Gas Analysis e) Noise Level Monitoring f) Motor Current Analysis g) Analysis h) Provide list of any other, if available	We are reading this as an outbound process from proposed solution to make the data made available for external systems and not providing any predictive analytics capabilities as part of the scope of this RFP. Please confirm	Part of Bidder's "As-is". To be taken on industry standards
3	Section IV	Technical specification	7.14.1 - ser defined PTWs should be defined including but not limited to the following types: - Permit for Work - Limited Work Certificate - Sanction for Test - PTW with Restoration of Motive Power	How many plant users are expected to perform PTW issuance related activities	Part of Bidder's "As-is". To be taken on industry standards
4	Section II	Instruction to Bidders	5.3.5 Grade wise users	Out of total 800 total transactional users, how many are the maintenance users? Say X	Part of Bidder's "As-is". To be taken on industry standards.
5	Section II	Instruction to Bidders	5.3.5 Grade wise users	Please provide the no of users who will perform planning and supervisory activity as maintenance users (from among the transaction users)	Part of Bidder's "As-is". To be taken on industry standards
6	Section II	Instruction to Bidders	5.3.5 Grade wise users	Please provide the no of users who will execute as maintenance users (from among the transaction users)	Part of Bidder's "As-is". To be taken on industry standards



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
7	Section IV	Current software at NEEPCO		Can the existing CMS be leveraged as Document management system? If not, is there any content to be migrated from current CMS, please share volume information.	As-is assessment and provide solutions as per industry standard for NEEPCO
8	Section III	Section 3; Page 6	Acceptance / Rejection of bids	Bidder requests for deletion of clause 3.5: "In the event of any assumptions, presumptions, key points of discussion, recommendation or any points of similar nature submitted along with the Bid, the Owner reserves the right to reject the Bid and forfeit the EMD". Bidder typically factors industry standard solutioning assumptions and recommendations based on best practices and accrued experience. Inclusion of the same should not lead to bid rejection and EMD forfeiture.	(The Cl. No. 3.5, Section-III, Page No 6 may be read as "In the event of any assumptions, presumptions, key points of discussion, recommendation or any points of similar nature submitted along with the Bid, the Owner reserves the right to reject the Bid".
9			1) The Bidder must be in the Gartner Magic Leader Quadrant of the proposed ERP product for implementation and AMS	This makes sure the best in technical ability bidders of the ERP biz. Participate in the bidding process.	Bid condition prevails
10			2) The bidder should be CMMI 5 certified company	All the past credentials should be considered only when the bidder has executed the ERP projects being a CMMI 5 organization as part of Evaluation.	Bid condition prevails
11			3) Under Evaluation Criteria/Marking, there shouldn't be any binding like "All credentials should be of the proposed ERP product" for the following reasons.	This would increase the no of bidders and make sure SAP/Oracle gave the best price by which the total ownership cost of ownership (TCO) will reduce for NEEPCO.	Bid condition prevails
12			4) All the credentials should be from the end customer and not from any OEM.	This would ensure the veracity of the credentials and eliminates biasness.	Bid condition prevails
13			5) All the sited ERP project should be in completed state and no on-going project would be considered.	This would ensure the success story of the credentials as a successful Implementation.	Bid condition prevails
14			6) Limitation of Liability clause	Bidder shall be excused and not be liable or responsible for any delay or failure to perform the services or failure of the services or a deliverable under this Agreement, to the extent that such delay or failure has arisen as a result of any delay or failure by the BUYER or its employees or agents or third party service providers to perform any of its duties and obligations as set out in this Agreement. In the event that Bidder is delayed or prevented from	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				<p>performing its obligations due to such failure or delay on the part of or on behalf of the BUYER, then Bidder shall be allowed an additional period of time to perform its obligations and unless otherwise agreed the additional period shall be equal to the amount of time for which Bidder is delayed or prevented from performing its obligations due to such failure or delay on the part of or on behalf of the BUYER. Such failures or delays shall be brought to the notice of the BUYER and subject to mutual agreement with the BUYER, then Bidder shall take such actions as may be necessary to correct or remedy the failures or delays. Bidder shall be entitled to invoice the BUYER for additional costs incurred in connection with correction or remedy as above at time & material rate card as agreed upon between the parties. Neither party shall be liable to the other for any special, indirect, incidental, consequential (including loss of profit or revenue), exemplary or punitive damages whether in contract, tort or other theories of law, even if such party has been advised of the possibility of such damages.</p> <p>The total cumulative liability of either party arising from or relating to this Agreement shall not exceed the total amount paid to Bidder by the BUYER in the preceding twelve months under that applicable work that gives rise to such liability (as of the date the liability arose); provided, however, that this limitation shall not apply to any liability for damages arising from (a) wilful misconduct or (b) indemnification against third party claims for infringement.</p>	
15			7. Confidentiality	Information can be preserved as confidential information for a period of three (3) years from the date of disclosure.	Bid condition prevails
16			8. Risk Purchase	Subject to limit of 10% of the value of undelivered goods/Services as bidder has to submit separate PBG .	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
17	Section II	Bid Validity Period	As per RFP	Wipro will quote with a bid validity of 30 days from the date of submission of the BID.	Bid condition prevails
18	Section II	Taxes and Duties	As per RFP	Any increase or decrease in the rates of the applicable taxes, duties or any new levy on account of changes in law shall be to the account of Customer.	NEEPCO to respond
19	Section II	Eligibility Criteria	3.7.5 Bidders shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by any bank. Self-declaration to this effect should be submitted. 3.7.6 Bidder shall not be blacklisted by any Government department/ PSU. Self-declaration to be submitted.	3.7.5 On the date of Submission , Bidders shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by any Government or PSU Companies in India . bank. Self-declaration to this effect should be submitted. 3.7.6 On the date of Submission , Bidder shall not be blacklisted by any Government department/ PSU in India . Self-declaration to be submitted.	Bid condition prevails
20	Section II	Solution Availability:	As per RFP	In case uptime commitment of firewall is not met, the same would attract a penalty @ Rs.1000 per hour, subject to a maximum of 2.5% of maintenance value.	Bid condition prevails
21	Section II	Payment terms for Bidder	As per RFP	Payment terms is 90% on delivery and 10% on installation.	Bid condition prevails
22	Section II	Performance Acceptance Tests for Implementation	As per RFP	1.It should be restricted to +/-10% maximum of the quantity quoted as per RFP. 2. Wipro agrees to provide the increased quantity at the same terms and conditions. However additional prices shall be charged for the goods supplied over the contracted quantity.	Bid condition prevails
23	Section III	Breach of Contract	As per RFP	In the event of termination Customer shall pay Wipro for goods delivered and services rendered till the date of termination.	Bid condition prevails
24	Section III	Termination of Contract on Owner's Initiative	As per RFP	Either Party shall have the right to terminate this Agreement at any time in the event that the other party commits a material breach of the Agreement and fails to cure such default to the non-defaulting party's reasonable satisfaction within thirty (30) days. In the event of termination Customer shall pay Wipro for goods delivered and services rendered till the date of termination.	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
25	Section III	Suspension of Work	As per RFP	Request deletion	Bid condition prevails
26	Section III	Liquidated Damages	<p>29.1 If the Contractor fails to complete the work within the period fixed for such completion or at any time repudiates the Contract before the expiry of such period for reasons attributable to the Contractor, the Purchaser shall without prejudice, have the right to recover the damage of the breach of the Contract by reducing the Contract price by 1/2 (half) percent per week or part of the week as Liquidated Damage.</p> <p>29.2 The delay shall be reckoned for the period between the Contractual date of completion as stipulated in the Contract and the actual date of completion.</p> <p>29.3 Interim deduction @ 1% per week or part thereof on the gross value of all the invoices pertaining to the delayed milestone(s) shall be made as per payment schedule, which will be refunded in case of achieving any subsequent milestones as per the schedule.</p> <p>29.4 The deductions cited in all above clauses shall not exceed 5 (five) % of the total Contract value at any point of time.</p>	<p>29.1 If the Contractor fails to complete the work within the period fixed for such completion or at any time repudiates the Contract before the expiry of such period for reasons attributable to the Contractor, the Purchaser shall without prejudice, have the right to recover the damage of the breach of the Contract by reducing the Contract price by 1/2 (half) percent per week or part of the week as Liquidated Damage.</p> <p>29.2 The delay shall be reckoned for the period between the Contractual date of completion as stipulated in the Contract and the actual date of completion.</p> <p>29.3 Interim deduction @ 1% 0.25% per week or part thereof on the gross value of all the invoices pertaining to the delayed milestone(s) shall be made as per payment schedule, which will be refunded in case of achieving any subsequent milestones as per the schedule.</p> <p>29.4 The deductions cited in all above clauses shall not exceed 5 (five) % 2.5% of the total Contract value at any point of time.</p>	Bid condition prevails
27	Section III	Penalties	As per RFP	The maximum penalty should be up to 3 % of the maintenance value.	Bid condition prevails
28	Section III	Contractor Default	As per RFP	Either Party shall have the right to terminate this Agreement at any time in the event that the other party commits a material breach of the Agreement and fails to cure such default to the non- defaulting party's reasonable satisfaction within thirty (30) days. In the event of termination Customer shall pay Wipro for goods delivered and services rendered till the date of termination.	Bid condition prevails
29	Section III	Power to vary/ Omit Work	As per RFP	<p>1.It should be restricted to +/-10% maximum of the quantity quoted as per RFP.</p> <p>2. Wipro agrees to provide the increased quantity at the same terms and conditions. However additional prices</p>	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				shall be charged for the goods supplied over the contracted quantity.	
30	Section III	Foreclosure of the Contract	If at any time after acceptance of the bid the Corporation decides to abandon or reduce the scope of the works for reason whatsoever and hence does not require the whole or any part of the work to be carried out, the Engineer-In-Charge shall give notice in writing to that effect to the Contractor and the Contractor shall have to claim to any Payment of compensation or otherwise whatsoever, on account of any profit or advantage which he might have derived from the execution of the works in full but which he could not derive in consequence of the foreclosure of the whole or part of the works. The Contractor shall be paid at Contract rates for actual amount of the works executed at site	If at any time after acceptance of the bid the Corporation decides to abandon or reduce +/- 10% the scope of the works for reason whatsoever and hence does not require the whole or any part of the work to be carried out, the Engineer-In-Charge shall give notice in writing to that effect to the Contractor and the Contractor shall have to claim to any Payment of compensation or otherwise whatsoever, on account of any profit or advantage which he might have derived from the execution of the works in full but which he could not derive in consequence of the foreclosure of the whole or part of the works. The Contractor shall be paid at Contract rates for actual amount of the works executed at site	Bid condition prevails
31	Section III	Winding up	As per RFP	Either Party shall have the right to terminate this Agreement at any time in the event that the other party commits a material breach of the Agreement and fails to cure such default to the non-defaulting party's reasonable satisfaction within 90 days. In the event of termination by customer, the Bidder shall be paid for the: 1. Goods delivered 2. Services rendered 3. Work in progress 4. Unpaid AMCs 5. Third party orders in pipeline which cannot be cancelled despite Bidder's best efforts 6. Unrecovered investments shall be paid by customer as per termination schedule till the date of termination.	Bid condition prevails
32	Section III	Ownership	Ownership of the ERP system under this Contract will not pass to NEEPCO until final acceptance by NEEPCO in accordance with the provisions of the Contract	The risk, title and ownership of the products shall be transferred to the customer upon delivery of such products to the customer	Bid condition prevails
33	Section IV	ERV	Clause not present in RFP	"It is agreed that the price quoted is arrived at based on the exchange rate of 1 USD = INR ___ ("Base Exchange	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				Rate"). In the event the Base Exchange Rate either increases or decreases by percentage points greater than two per cent [2%], the prices shall be charged as per the then current exchange rate."	
34	Section III	GENERAL TERMS AND CONDITIONS OF CONTRACT	"Services" means the work to be performed by the Bidder including the supply of related software/hardware, material etc. handling packing, loading forwarding, transportation, insurance, road permit (if required) etc.	We request modification: "Services" means the work to be performed by the Bidder as per the scope mentioned under the contract. including the supply of related software/hardware, material etc. handling packing, loading forwarding, transportation, insurance, road permit (if required), sys	Bid condition prevails
35		GENERAL TERMS AND CONDITIONS OF CONTRACT	Works" means and includes the materials to be supplied and the work to be executed as defined and set out in the specifications and includes all extra work, additions, substitutions and variations ordered by the Engineer – in – Charge in accordance with the provisions of the Contract and any other items not specifically written but essential to complete the entire activity defined in the Contract	We request modification: Works" means and includes the materials to be supplied and the work to be executed as defined and set out in the specifications and includes all extra work, additions, substitutions and variations ordered by the Engineer – in – Charge in accordance with the provisions of the Contract and any other items not specifically written but essential to complete the entire activity defined in the Contract	Bid condition prevails
36		GENERAL TERMS AND CONDITIONS OF CONTRACT	Terms and expressions not herein defined shall have the same meaning as are assigned to them in the Indian Sale of Goods Act (1930), failing that in the Indian Contract Act (1872) and failing that in the General Clause	We request modification: Terms and expressions not herein defined shall have the same meaning as are assigned to them in the Indian Sale of Goods Act (1930), failing that in the Indian Contract Act (1872) and failing that in the General Clause	Bid condition prevails
37		2. Deviations	Bids shall be submitted strictly in accordance with the requirements and terms & conditions of the Bid Document. The Bidder shall submit deviation, if any in Deviation Certificate as per Data forms. Owner reserves the right to reject or accept the deviation.	We request modification: Bids shall be submitted strictly in accordance with the requirements and terms & conditions of the Bid Document and the deviations as submitted by the Bidder. The Bidder shall submit a No Deviation Certificate as per Data forms. The bids with deviation(s) are liable for rejection.	Bid condition prevails
38		3. Acceptance / Rejection of bids	In the event of any assumptions, presumptions, key points of discussion, recommendation or any points of similar nature submitted along with the Bid, the Owner reserves the right to reject the Bid and forfeit the EMD.	We request modification: In the event of any assumptions, presumptions, key points of discussion, recommendation or any points of	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				similar nature submitted along with the Bid, the Owner reserves the right to reject the Bid and forfeit the EMD.	
39		4. Contractor to inform himself fully	Any information thus or otherwise obtained from the Owner or the Engineer-in-Charge shall not, in any way, relieve the Contractor of his responsibility for executing the work in terms of the Contract, including all details and incidental works.	We request modification: Any information thus or otherwise obtained from the Owner or the Engineer-in-Charge shall not, in any way, relieve the Contractor of his responsibility for executing the work in terms of the Contract and as specifically mentioned in the Contract , including all details and incidental works.	Bid condition prevails
40		6. Contract Agreement	<p>After issue of the Detailed Work Order and on receipt of its unconditional acceptance, the Owner shall prepare the Agreement on stamped paper and the Contractor will be informed for signing of the Agreement on a notified date.</p> <p>In particular, it is expressly understood and agreed that the Government of India is not a party to this Agreement and has no liabilities, obligations or rights hereunder. It is also expressly understood and agreed that the Owner is an independent legal entity with power and authority to enter into Contracts agreements solely on its own behalf under the applicable laws of India and the general principles of Contract law. The Contractor expressly agrees, acknowledges and understands that the Owner is not an agent, representative or delegate of the Government of India. It is further understood and agreed that the Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the Contract. Accordingly, the Contractor shall expressly waive, release and forego any and all actions or claims including cross claims, impleader claims or counterclaims against the Government of India arising out of this Contract and covenants not to sue the Government of India as to any manner, claim, cause of</p>	<p>After issue of the Detailed Work Order and on receipt of its unconditional acceptance, the Parties shall negotiate a mutually acceptable Owner shall prepare the Agreement which shall be signed on stamped paper and the Contractor will be informed for signing of the mutually agreed Agreement on a notified date.</p> <p>In particular, it is expressly understood and agreed that the Government of India is not a party to this Agreement and has no liabilities, obligations or rights hereunder. It is also expressly understood and agreed that the Owner is an independent legal entity with power and authority to enter into Contracts agreements solely on its own behalf under the applicable laws of India and the general principles of Contract law. The Contractor expressly agrees, acknowledges and understands that the Owner is not an agent, representative or delegate of the Government of India. It is further understood and agreed that the Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the Contract. Accordingly, the Contractor shall expressly waive, release and forego any and all actions or claims including cross claims, impleader claims or counterclaims against the Government of India arising out of this Contract and covenants not to sue the Government of India as to any manner, claim, cause of</p>	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
			action or thing whatsoever arising out of /or under this Contract Agreement.	<p>action or thing whatsoever arising out of /or under this Contract Agreement.</p> <ul style="list-style-type: none"> The Contractor shall be required to sign the Contract Agreement in 3 (three) copies, along with appropriate Power of Attorney and other requisite materials. <u>Until a formal Agreement is executed, the Letter of Intent, Detailed Work Order read in conjunction with the bidding documents will constitute a binding Contract.</u> After signing of the mutually agreed Contract Agreement, 8(eight) true copies of the same shall have to be made by the parties Contractor and shall be submitted within 30(thirty) days from the date of signing of the Contract Agreement to the Executive Director (C&P), NEEPCO Ltd., Shillong. The parties Contractor shall be required to bear all its respective charges in respect of vetting and execution of the Contract Agreement. 	
41		7. Confidentiality of information	The Contractor, without the Owner's prior written consent, shall not disclose the Contract, or any provisions thereof, or any specification, plan, drawing, pattern, sample or information furnished by or on behalf of the Owner in connection therewith, to any person other than the person employed by the Contractor in the performance of the Contract.	<p>We request that confidentiality clause be mutual. We request for addition of following terms under confidentiality clause <u>Any information disclosed in intangible form shall be reduced to writing within ten (10) days of such disclosure. No such information, including the provisions of this Agreement, shall be disclosed by the recipient without the prior written consent of disclosing Party, except as required by law. If either Party is required to disclose any confidential information of the other Party, the Party so required shall notify the disclosing Party immediately and shall co-operate in seeking a reasonable protective order. Customer acknowledges and agrees that this clause shall not apply to the sharing of any client reference information including Purchase Order(s) issued under this Agreement with third party of Wipro solely for the purpose of demonstrating that Wipro has secured</u></p>	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				<p><u>business under this Agreement and the foregoing shall not be construed as a breach of any of Wipro's obligations under this Agreement.</u> <u>This section shall not apply to information which is (i) in the public domain, (ii) already known to the recipient and the recipient can show that it was in possession of such information prior to receipt of such information from the disclosing Party, (iii) developed independently by the receiving Party without the benefit of any confidential information of the disclosing Party, or (iv) is required to be disclosed by a government agency or by a proper court of competent jurisdiction.</u> <u>The confidentiality obligation shall continue for one (1) year after the expiry/ termination of this Agreement.</u></p>	
42		8. Patent Rights and Royalties		<p>The Contractor, if licensed under any patent covering the equipment, materials, work, method, process, composition etc. to be used, practiced or supplied in the performance of the Contract, shall have to agree to pay all royalties and license fees which may be due with respect thereto.</p> <ul style="list-style-type: none"> · If any of these is to be used, practiced or supplied under the Contract, but if the Contractor is not licensed, he shall, before using or supplying of these, pay all the royalties and license fees applicable. · In the event the Contractor fails to pay such royalty and or license fees or fails to obtain such license and any third party suit for infringement of such patent is brought against the Contractor or Purchaser, the Contractor shall promptly notify the same to the Purchaser. The Contractor shall defend such suit at his own cost and shall pay all the cost and or damage awarded against him. The Contractor shall also pay all losses and expenses actually incurred by the Purchaser in connection with the same. · The Contractor shall indemnify the Purchaser from and 	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				<p>against any third party claim or demand or action brought against the Purchaser for infringement or alleged infringement of patent rights in respect of any equipment, work, method, process, system, composition or thing whatsoever used or supplied by the Contractor under this Contract and against all losses and expenses arising from or incurred by reasons of such claim, demand or litigation. The Purchaser shall notify the Contractor, if any claim, demand or litigation is made and the Contractor shall, at his own expenses, settle such claim, demand or litigation that may arise there from provided that no such equipment, work, method, process, system, composition or things shall be used by the Purchaser for any purpose and in any manner other than those specified under the Contract.</p> <p>This clause shall apply mutatis mutandis on NEEPCO for claims on the bidder with respect to materials provided by NEEPCO.</p>	
43		Patent Rights and Royalties		<p>We request to add following under clause 8</p> <p><u>Exceptions to Indemnity</u></p> <p><u>(a) Contractor shall not have any liability to Purchaser under this Section to the extent that any infringement or claim thereof is attributable to: (1) the combination, operation or use of a Deliverable with equipment or software supplied by Purchaser where the Deliverable would not itself be infringing; (2) compliance with designs, specifications or instructions provided by Purchaser; (3) use of a Deliverable in an application or environment for which it was not designed or contemplated under this Agreement; or (4) modifications of a Deliverable by anyone other than Contractor where the unmodified version of the Deliverable would not have been infringing. Contractor will completely satisfy its obligations hereunder if, after receiving notice of a claim,</u></p>	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				<u>Contractor obtains for Purchaser the right to continue using such Deliverables as provided without infringement, or replace or modify such Deliverables so that they become non-infringing.</u>	
44		9. Arbitration	Unless the Contract has already been repudiated or terminated, the Contractor shall, in every case, continue to proceed with the works with all due diligence and the Contractor and the Corporation shall give effect forthwith to every such decision of the Engineer-in-Charge, unless and until the same shall be revised, as hereinafter provided, or by amicable settlement or through an arbitral award. 9.3 If the Contractor is not satisfied with any decision of the Engineer-in-Charge, or if the Engineer-in-Charge fails to give notice of his decision on or before the 60th (sixtieth) day after the day on which he receives the reference, then the Contractor may, on or before the 45th (forty fifth) day after the day on which he receives notice of such decision or on or before the 45th (forty fifth) day after the day on which the said period of 60 (sixty) days expires, as the case may be, give notice to the Corporation of his intention to commence Arbitration as hereinafter provided, with regard to the matter in dispute. Such notice shall establish the entitlement of the party giving the same to commence Arbitration, with regard to such dispute which is subject to Sub-clause 9.5, which stipulates that no Arbitration in respect thereof may be commenced unless such notice is given.	We request deletion. Unless the Contract has already been repudiated or terminated, the Contractor shall, in every case, continue to proceed with the works with all due diligence and the Contractor and the Corporation shall give effect forthwith to every such decision of the Engineer in-Charge, unless and until the same shall be revised, as hereinafter provided, or by amicable settlement or through an arbitral award. If the Engineer in Charge has given notice of his decision with regard to a matter in dispute to the Contractor and no notice of intention to commence Arbitration with regard to such dispute has been given by the Contractor on or before the 45th (forty fifth) day after the day on which the parties receive notice with regard to such decision from the Engineer in Charge, the said decision shall become final and binding upon the Contractor. Thereafter, such issues shall not be subjected to Arbitration.	Bid condition prevails
45		9. Arbitration		We request modification: Amicable Settlement: Where notice of intention to commence Arbitration as to a dispute has been given in accordance with Sub-clause 9, the parties shall attempt to settle such dispute amicably before the commencement of Arbitration. Provided that, unless the	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				parties otherwise agree, Arbitration may be commenced on or after the 96 th (ninetieth) day after the day on which notice of intention to commence Arbitration of such disputes was given, even if no attempt at amicable settlement thereof has been made	
46		9. Arbitration	Amicable settlement has not been reached within the period stated in Sub-clause 9.5 shall be finally settled, unless otherwise specified in the contract as below: (i) A dispute with an Indian Contractor shall be settled by Arbitration in accordance with the Indian Arbitration and Conciliation Act, 1996 (Act No.26 of 1996) and its subsequent amendments from time to time and any rules made there under and to such other order or orders, instructions issued by the Government of India from time to time in this connection. The Arbitration Tribunal shall consist of a Sole Arbitrator to be appointed by the Chairman and Managing Director of NEEPCO or by his duly authorised representative out of a Panel of names of three Arbitrators, proposed by him and selected by the Contractor. For the purposes of the Sub-clause, the term "Indian Contractor" means a Contractor who is registered in India and is a juristic person created under Indian law as well as Joint Venture between such a Contractor and a Foreign Contractor.	We request modification: A dispute with an Indian Contractor shall be settled by Arbitration in accordance with the Indian Arbitration and Conciliation Act, 1996 (Act No.26 of 1996) and its subsequent amendments from time to time and any rules made there under and to such other order or orders, instructions issued by the Government of India from time to time in this connection. The Arbitration Tribunal shall consist of a Sole Arbitrator to be appointed jointly by the parties Chairman and Managing Director of NEEPCO or by his duly authorised representative out of a Panel of names of three Arbitrators, proposed by him and selected by the Contractor. For the purposes of the Sub-clause, the term "Indian Contractor" means a Contractor who is registered in India and is a juristic person created under Indian law as well as Joint Venture between such a Contractor and a Foreign Contractor.	Bid condition prevails
47		9. Arbitration	The parties to the dispute, prior to referring the dispute to the Arbitrator/or Arbitrators as the parties may mutually decide, first drawn up the specific terms of reference/issues by way of a separate Joint Agreement, which shall be filed before the Arbitrator or Arbitrators for commencing the proceedings.	We request modification: The parties to the dispute, prior to referring the dispute to the Arbitrator/or Arbitrators as the parties may mutually decide, first drawn up the specific terms of reference/issues by way of a separate Joint Agreement, which shall be filed before the Arbitrator or Arbitrators for commencing the proceedings.	Bid condition prevails
48		9. Arbitration	(v) The reference to Arbitration may proceed notwithstanding that the works shall not then be or be alleged to be complete, provided always that the	We request modification: (v) The reference to Arbitration may proceed notwithstanding that the works shall not then be or be	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
			obligations of the Corporation and the Contractor shall not be altered by reason of the Arbitration being conducted during the progress of the works. The Contractor will ensure that the work under the Contract shall continue during Arbitration proceedings and dispute and no payment due from or payment by the Corporation shall be withheld on account of such proceedings except to the extent that may be in dispute.	alleged to be complete, provided always that the obligations of the Corporation and the Contractor shall not be altered by reason of the Arbitration being conducted during the progress of the works. The Contractor will ensure that the work under the Contract shall continue during Arbitration proceedings and dispute and no payment due from or payment by the Corporation shall be withheld on account of such proceedings except to the extent that may be in dispute.	
49		9. Arbitration		We understand that this clause is not applicable on us. Please confirm its non-applicability through modification as "Not applicable on non Govt. Organisations".	Bid condition prevails
50		9. Arbitration	The Arbitrator appointed shall have no power to award interest on any claim referred to the Arbitration. No claims for interest or damages on whatsoever count will be entertained by the Corporation with respect to any dispute, difference or misunderstanding between the Corporation and the Contractor.	We request modification: (ix) The Arbitrator appointed shall have no power to award interest on any claim referred to the Arbitration. No claims for interest or damages on whatsoever count will be entertained by the Corporation with respect to any dispute, difference or misunderstanding between the Corporation and the Contractor. <u>We request that seat of arbitration be in Delhi.</u>	Bid condition prevails
51		9. Arbitration	The Contract shall be considered as having come into force from the date of issue of the Letter of Intent of the Contract by the Owner. 10.2 The laws applicable to this Contract shall be the laws in force in India. The Meghalaya High Court, Shillong, India shall have the exclusive jurisdiction in all matters arising under this Contract.	10. Effect and jurisdiction of Contract: The Contract shall be considered as having come into force from the date of issue of the Letter of Intent of the Contract by the Owner <u>signing of mutually agreed contract between the parties.</u> The laws applicable to this Contract shall be the laws in force in India. The Meghalaya Delhi High Court, Shillong , India shall have the exclusive jurisdiction in all matters arising under this Contract.	Bid condition prevails
		12. Assignment and subletting of Contract	The Contractor shall not, without the prior consent in writing of the Purchaser, assign or sublet or transfer the Contract or any part thereof.	We request to replace this clause as follows: -Purchaser hereby agrees and provides consent to Contractor to have unhindered right to assign the receivables under this Contract to a financial or banking institution or any other institution / organization engaged in the business of funding. For avoidance of	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				<p>doubt, such assignment may include but is not limited to sale of receivables.</p> <p>Notwithstanding anything contained or expressed to the contrary in the Agreement or elsewhere, Purchaser is obligated to provide full support and cooperation to Contractor to enable Contractor to assign and discount the receivables by furnishing all data, documents, reports, future projections etc. including last three years financials, latest progress report, financial model etc. to the reasonable possible extent if so required by such financial or banking institution in order to enable them to ascertain the credit worthiness for lending money against the assignment of receivables.</p> <p>In the event if RFP/Contract provides for takeover of ownership of Purchaser's asset, it shall be conditioned upon successfully securing the finances from a financial or banking institution or any other institution / organization engaged in the business of funding under a factoring arrangement.</p>	
52		13. Risk purchase	<p>In case the Bidder withdraws the offer submitted by him/ her after it is accepted by the Owner and fails to supply the goods and services as per the Terms & Conditions of the Contract, or at any time repudiated the contract wholly or in part, the Owner shall be at liberty to cancel the Purchase Order and to recover from the Bidder the extra cost and the other loss incidentals to the breach of Contract on the part of the Bidder apart from other legal recourses. Prior to invoking Risk Purchase clause, notice period of thirty (30) days and cure period of ninety (90) days will be offered to the Bidder.</p> <p>13.2 The total liability of the Bidder under Risk-Purchase clause shall not exceed 100% of the Total Contract value.</p>	<p>We request modification:</p> <p>In case the Bidder withdraws the offer submitted by him/ her after it is accepted by the Owner and fails to supply the goods and services as per the Terms & Conditions of the Contract, or at any time repudiated the contract wholly or in part <u>except due to the default of Owner or any other third party</u>, the Owner shall be at liberty to cancel the Purchase Order and to recover from the Bidder the extra cost and the other loss incidentals to the breach of Contract on the part of the Bidder apart from other legal recourses. Prior to invoking Risk Purchase clause, notice period of thirty (30) days and cure period of ninety (90) days will be offered to the Bidder.</p> <p><u>Notwithstanding such cost shall be capped to 3% of the value of services / works not delivered. This clause shall be the sole remedy for the Owner.</u></p>	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				13.2 The total liability of the Bidder under Risk Purchase clause shall not exceed 100% of the Total Contract value.	
53		14. Adjustment of recovery	Any amount payable by the Bidder under any of the condition of this contract shall be liable to be adjusted against any amount payable to the Bidder under any other works / contract awarded to him by any of the Owner's unit. This is without prejudice to any other action as may be deemed fit by the Owner. However, recourse to this clause will be had after exhausting all options available within the contract.	We request for deletion of this clause: Any amount payable by the Bidder under any of the condition of this contract shall be liable to be adjusted against any amount payable to the Bidder under any other works / contract awarded to him by any of the Owner's unit. This is without prejudice to any other action as may be deemed fit by the Owner. However, recourse to this clause will be had after exhausting all options available within the contract.	Bid condition prevails
54		15. Force Majeure		We request modification: Other such causes, over which the Contractor has no control and are accepted as such, by the Engineer-in-Charge, whose decision shall be final and binding.	Bid condition prevails
55		15. Force Majeure		Loss to any party due to occurrence of Force Majeure risk shall be borne by the respective Party. However, in the event of any damage caused to the Works by Force Majeure Risks, the Contractor upon receiving instructions from the Engineer-in-Charge, shall remove the debris and re-construct the Works, cost of which shall be paid by the Owner at the contract rates. If however, the Force Majeure events causing such damage are insurable, removal of debris and re-construction/ repair shall also be done by the Contractor upon receiving instructions from the Engineer-in-Charge at Owner's cost and the claim proceeds received from the Insurer against such damage shall be passed on to the Owner.	Bid condition prevails
56		15. Force Majeure		Should there be a request for extension of time arising out of "Force Majeure", the same shall be granted . considered. No compensation, whatsoever, will be allowed to the Contractor for the delay arising out of Force Majeure condition. Purchaser shall pay to the Contractor for all works completed till the date of	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				<u>occurrence of Force Majeure event and shall pay demobilization cost if such event continues for more than 15 days.</u>	
57		16. Commencement, execution and taking over	<p>The purchaser will issue LOI and the successful bidder has to accept the same unconditionally within 3 calendar days. Subsequently the purchaser will issue detailed work order on acceptance of LOI. The contract performance guarantee has to be submitted within 30 days from the date of LOI and the contract agreement will be signed on acceptance of CPG.</p> <p>16.2 The Contractor shall execute the work with faithfulness and in conformity with the specifications.</p> <p>16.3 Taking Over- Performance of the equipment shall be observed for 6 (six) months and on their satisfactory performance for the said period, duly certified by the Engineer-in-Charge, the same will be taken over and a 'Taking Over Certificate' will be issued to the Contractor by NEEPCO's Project Manager. For the purpose, ED (IT), NEEPCO Ltd, Shillong shall act as "Engineer-in-Charge". Issuance of taking over certificate by the Purchaser shall not relieve the Contractor of any of the obligations which otherwise survive by the terms and conditions of the contract.</p>	<p>The purchaser will issue LOI and the successful bidder has to <u>communicate its acceptance or conditions of acceptance within 30 days</u> accept the same unconditionally within 3 calendar days. Subsequently the purchaser will issue detailed work order on acceptance of LOI. The contract performance guarantee has to be submitted within 30 days from the date of <u>signing of mutually agreed contract agreement</u> LOI and the contract agreement will be signed on acceptance of CPG.</p> <p>16.3 Taking Over- Performance of the equipment shall be observed for 6 (six) months and on their satisfactory performance for the said period, duly certified by the Engineer-in-Charge, the same will be taken over and a 'Taking Over Certificate' will be issued to the Contractor by NEEPCO's Project Manager. For the purpose, ED (IT), NEEPCO Ltd, Shillong shall act as "Engineer-in-Charge". Issuance of taking over certificate by the Purchaser shall not relieve the Contractor of any of the obligations which otherwise survive by the terms and conditions of the contract.</p>	Bid condition prevails
58		17. Breach of Contract	<p>In case of breach of any terms and conditions, major or minor, of the Contract by the Contractor, the Owner shall have the full power to rescind, cancel or terminate the whole or a part of the Contract and get it done through any other Agency at the risk and cost of the Contractor and without any prejudice to any right of the Owner provided in the Contract. The decision of the Owner in this regard shall be final and binding. The Owner, shall, in such an event, give 30 (Thirty) days' notice in writing to the Contractor of his decision to do so.</p>	<p>In case of <u>material</u> breach of any terms and conditions, major or minor, of the Contract by the Contractor, the Owner shall have the full power to rescind, cancel or terminate the whole or a part of the Contract and get it done through any other Agency at the risk and cost of the Contractor and without any prejudice to any right of the Owner provided in the Contract. The decision of the Owner in this regard shall be final and binding. <u>Provided that Owner shall provide a 30 days cure period to the Contractor to cure such breach. Such costs shall not exceed 3% of the value of undelivered services / works.</u></p>	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				<u>Risk purchase shall be the sole remedy for the Contractor in such event of termination.</u>	
59		18. Termination of Contract on Owner's Initiative	The Owner reserves the right to terminate the Contract either in part or in full due to reasons other than those mentioned under the Clause entitled "Contractor's Default". The Owner, shall, in such an event, give 15(fifteen) days' notice in writing to the Contractor of his decision to do so.	<u>We request modification:</u> The Owner reserves the right to terminate the Contract either in part or in full due to reasons other than those mentioned under the Clause entitled "Contractor's Default". The Owner, shall, in such an event, give 90 15 (ninety fifteen) days' notice in writing to the Contractor of his decision to do so. In the event of such termination, the Contractor shall be paid compensation, equitable and reasonable dictated by the circumstances prevalent at the time of termination <u>as stipulated by the Contractor</u> , as decided by the Purchaser.	Bid condition prevails
60		Suspension of work	19.1The Purchaser reserves the right to suspend and reinstate execution of the whole or any part of the work. Order for suspension or reinstatement of the works will be issued by the Engineer-in-charge to the Contractor in writing. The time for completion of the works will be extended for a period equal to the duration of the suspension. 19.2 Any necessary and demonstrable cost incurred by the contractor, as a result of such suspension of works, will be paid by the Purchaser, provided that such costs are substantiated to the satisfaction of the Engineer-in-Charge. The Purchaser shall not be responsible for any liabilities if suspension or delay is due to some default on the part of the Contractor	19.1The Purchaser reserves the right to suspend and reinstate execution of the whole or any part of the work. Order for suspension or reinstatement of the works will be issued by the Engineer-in-charge to the Contractor in writing. The time for completion of the works will be extended for a period equal to the duration of the suspension. 19.2 Any necessary and demonstrable cost incurred by the contractor, as a result of such suspension of works, will be paid by the Purchaser, provided that such costs are substantiated to the satisfaction of the Engineer-in-Charge. The Purchaser shall not be responsible for any liabilities if suspension or delay is due to some default on the part of the Contractor	Bid condition prevails
61		20. Frustration of the Contract	20.1 In the event there is frustration of the Contract because of supervening impossibility in terms of relevant section of the Indian Contract Act 1872, then the parties shall be absolved of their responsibilities to perform the balance portion of the Contract, subject to provisions contained in Sub-Clause below.	<u>We request modification:</u> The parties shall mutually discuss to arrive at reasonable settlement on all issues including amounts due to either party for the work already done on <u>terms as suggested under clause 18.</u> "Quantum Merit" basis of which shall be determined by the mutual. Agreement between the parties. If either party disputes that there is frustration	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
			20.2 The parties shall mutually discuss to arrive at reasonable settlement on all issues including amounts due to either party for the work already done on "Quantum Meruit" basis of which shall be determined by the mutual Agreement between the parties. If either party disputes that there is frustration of the contract as above, then the dispute will be determined by Arbitration as provided under the Contract.	of the contract as above, then the dispute will be determined by Arbitration as provided under the Contract.	
62		21. Time frame for the Contract	<p>21.1 The date of completion of works in all respect, as stipulated in the bid document by the Purchaser with or without modifications, if any, and so incorporated in the Letter of Intent shall be deemed to be the essence of the Contract.</p> <p>21.2 The Contractor shall so organize his resources and perform his work as to complete it not later than the date agreed to. The time for completion of his works Contracted for, shall be reckoned from the date of issue of the Letter of Intent by the Purchaser.</p> <p>21.4 The entire scope of the work must be completed within 23 (twenty-three) months from the date of issue of the Letter of Intent</p>	<p>We request modification: The date of completion of works in all respect, as stipulated in the bid document by the Purchaser with or without modifications, if any, and so incorporated in the mutually agreed Contract Letter of Intent shall be deemed to be the essence of the Contract.</p> <p>The Contractor shall so organize his resources and perform his work as to complete it not later than the date agreed to. The time for completion of his works Contracted for, shall be reckoned from the date signing of mutually agreed contract of issue of the Letter of Intent by the Purchaser.</p> <p>The entire scope of the work must be completed within 23 months from the date of mutually agreed contract issue of the Letter of Intent</p>	Bid condition prevails
63		21. Time frame for the Contract		The Contractor shall, at all times during execution of the Contract, carry out the work with such work force and equipment as in the judgment of the Engineer-in-Charge is sufficient to complete it within the specified completion period. The Engineer-in-charge reserves the right to direct the Contractor to supplement the work force and equipment provided by the Contractor, if it is felt that the same is not sufficient achieve the completion target of the work as per schedule.	Bid condition prevails
64		21. Time frame for the Contract	21.8 No such certificate will be given nor shall the work be considered as completed, until the Contractor has removed from the premises on which the work has	This is not applicable considering the nature of services provided by the bidder	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
			been executed, all surplus materials and rubbish, which he may have had possession for the purpose of the execution thereof and the area is fully cleared to the satisfaction of the Engineer-in-Charge and if the Contractor fails to do so on or before the date fixed for completion of the work, the Engineer-in-Charge may do so and the expenditure so incurred shall be recovered from the Contractor's outstanding dues.		
65		23. Withholding Payment		We request deletion	Bid condition prevails
66		24. Performance Guarantee		<p>We request modification: Within 30(thirty) days from the date of signing of mutually agreed contract of issue of Letter of Intent, the Contractor shall furnish a Bank Guarantee in prescribed format, for an amount equal to 10 (ten) percent of the Contract value by way of Guarantee for the due and faithful performance of the Agreement. and for the due and faithful performance of the Letter of Intent along with the other terms and conditions agreed to. The Contractor shall, on receipt of written instruction from the Owner, at his own cost, get the validity period of Bank Guarantee furnished by him, extended from time to time as per the instructions of the Owner and shall furnish the extended/revised Bank Guarantee or any extension thereof. In case the extended/revised Bank Guarantee is not received by the Owner within the specified period, the Owner, entirely at his discretion, shall be at liberty to encash the aforesaid Bank Guarantee. The Contractor/firm guarantees the successful and satisfactory operation and maintenance of the system under the Contract as per the specifications and documents. 24.9 The Contractor/firm further guarantees that the materials/ equipments/ workmanship provided and or erected/constructed by him shall be free from all defects</p>	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				in design, material and workmanship and shall upon written notice from the Owner fully remedy free of expenses to the Owner such defects as developed.	
67		24. Performance Guarantee	24.12 As security for due fulfilment of the terms and the obligation for the Annual Technical Support for ERP Product and for the Annual Functional Support for the ERP Solution, the Contractor shall furnish a Bank Guarantee initially valid for a period of 90 days after end of the ATS/AFS period. The amount of the Bank Guarantee will be 10% of the total yearly charges for ATS/AFS. The prescribed Performa for Bank Guarantee shall be same as that for Contract Performance Guarantee enclosed at Section-VIII of Bid Document. This would be a separate BG to be provided by the Contractor before the start of AFS/ATS period whichever is earlier.	We request modification: 24.12 As security for due fulfilment of the terms and the obligation for the Annual Technical Support for ERP Product and for the Annual Functional Support for the ERP Solution, the Contractor shall furnish a Bank Guarantee initially valid for a period of 90 days after end of the ATS/AFS period. The amount of the Bank Guarantee will be 10% of the total yearly charges for ATS/AFS. The prescribed Performa for Bank Guarantee shall be same as that for Contract Performance Guarantee enclosed at Section-VIII of Bid Document. This would be a separate BG to be provided by the Contractor before the start of AFS/ATS period whichever is earlier.	Bid condition prevails
68		25. Deductions from the Contract	25.2 In addition to above provision related to the recovery by the Owner of any amounts that the Owner may have paid for which the Contractor is liable under the Contract, the Owner shall also be entitled to recover all dues in terms of the Contract including, but not limited to, Liquidated Damages for delay etc. by way of deductions from the payments due to the Contractor or that may become due to the Contractor in future or from any securities/guarantees under the Contract and/or otherwise.	We request deletion: 25.2 In addition to above provision related to the recovery by the Owner of any amounts that the Owner may have paid for which the Contractor is liable under the Contract, the Owner shall also be entitled to recover all dues in terms of the Contract including, but not limited to, Liquidated Damages for delay etc. by way of deductions from the payments due to the Contractor or that may become due to the Contractor in future or from any securities/guarantees under the Contract and/or otherwise. In case of any dispute, the sum of money so withheld or obtained under this clause by the Owner will be kept withheld or retained as such by the Owner till all the claims arising out of the Contract is either mutually settled or determined by the Arbitrator, or by the competent Court, as the case may be, and that the Contractor shall have no claim for interest or damages whatsoever on this account.	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
69		26. INSURANCE TO BE TAKEN OUT BY THE IMPLEMENTATION PARTNER	LOSS OF OR DAMAGE TO PROPERTY; ACCIDENT OR INJURY TO WORKERS; INDEMNIFICATION The Implementation Partner shall indemnify and hold harmless the Owner and its employees and officers from and against any and all suits, actions or administrative proceedings, claims demands, losses, damages, costs , and expenses of whatsoever nature, including attorney's fees and expenses, in respect of the death or injury to any person or loss of or damage to any property (other than the Facilities whether accepted or not), arising in connection with the execution of Facilities and by reason or the negligence of the Implementation Partner or its sub-contractors, or other employees, officers or agents, except any injury, death or property damage caused by the negligence of the Owner, its contractors, employees, offices or agents.	The Implementation Partner Either party shall indemnify and hold harmless the other Owner and its employees and officers from and against any and all suits, actions or administrative proceedings, claims demands, losses, damages, costs , and expenses of whatsoever nature, including reasonable attorney's fees and expenses, in respect of the death or bodily injury to any person or loss of or damage to any property (other than the Facilities whether accepted or not), arising in connection with the execution of Facilities and by reason of or the gross negligence of the indemnifying party Implementation Partner or its sub-contractors, or other employees, officers or agents. Implementation Partner shall not be liable for to indemnify in case of except any injury, death or property damage caused by the negligence of the Owner, its contractors, employees, offices or agents.	Bid condition prevails
70		27. Packaging and forwarding			Bid condition prevails
71		29. Delivery of equipment	28.3 In case of any damage or loss occurred in transit, it should be the liability of the Contractor to initiate or pursue the claim with the Insurance Company. He shall also take immediate steps to repair the damages or to replace the loss and damages as per the instruction of the Engineer-in-Charge.	We request deletion in case we are not supplying any equipment. We request modification, in case of any damage or loss occurred in transit, it should be the liability of the Contractor to initiate or pursue the claim with the Insurance Company. He shall also take immediate steps to repair the damages or to replace the loss and damages as per the instruction of the Engineer in Charge.	Bid condition prevails
72		Liquidated Damages	If the Contractor fails to complete the work within the period fixed for such completion or at any time repudiates the Contract before the expiry of such period for reasons attributable to the Contractor, the Purchaser shall without prejudice, have the right to recover the damage of the breach of the Contract by reducing the Contract price by 1/2 (half) percent per week or part of the week as Liquidated Damage. 29.2 The delay shall be reckoned for the period	If the Contractor fails to complete the work within the period fixed for such completion or at any time repudiates the Contract before the expiry of such period for reasons attributable to the Contractor, the Purchaser shall without prejudice , have the right to recover the damage of the breach of the Contract by reducing the Contract price by 1/2 (half) percent per week or part of the week as Liquidated Damage.	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
			<p>between the Contractual date of completion as stipulated in the Contract and the actual date of completion.</p> <p>29.3 Interim deduction @ 1% per week or part thereof on the gross value of all the invoices pertaining to the delayed milestone(s) shall be made as per payment schedule, which will be refunded in case of achieving any subsequent milestones as per the schedule.</p> <p>29.4 The deductions cited in all above clauses shall not exceed 5 (five) % of the total Contract value at any point of time.</p>	<p>29.2 The delay shall be reckoned for the period between the Contractual date of completion as stipulated in the Contract and the actual date of completion.</p> <p>29.3 Interim deduction @ 1% per week or part thereof on the gross value of all the invoices pertaining to the delayed milestone(s) shall be made as per payment schedule, which will be refunded in case of achieving any subsequent milestones as per the schedule.</p> <p>29.4 The deductions cited in all above clauses shall not exceed <u>2.5 (Two point five)</u> % of the total Contract value of delayed portion of work at any point of time.</p>	
73		31. Contractor Default		<p><u>We request modification:</u></p> <p>If the Contractor shall neglect to execute the works with due diligence and expedition or shall refuse or neglect to comply with any reasonable orders given to him in writing by the Engineer in charge in connection with the works, or shall contravene the provisions of the Contract, the Owner may give notice in writing to the Contractor to make good the failure, neglect or contravention complained of. The Owner may terminate the contract in case such breach is not cured within 30 days from the date of notice in this regard. In case of termination under the Contract, Contractor shall be paid for the: 1. Goods delivered; 2. Services rendered; 3. Work in progress; 4. Unpaid AMCs/ Services; 5. Third party orders in pipeline which cannot be cancelled despite Wipro's best efforts; 6. Unrecovered investments shall be paid by customer as per termination schedule till the date of termination.</p> <p>Should the Contractor fail to comply with the notice within 10(ten) days from the date of service thereof, then and in such a case, the Owner shall be at liberty to employ other workmen and forthwith execute such part of the works as the Contractor may have neglected to do or, if the Owner shall think fit it shall be lawful for him,</p>	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				<p>without prejudice to any other right he may have under the Contract, to take the works wholly or in part out of the Contractor's hand and enter into a separate Contract with any other person or persons to complete the works or any part thereof.</p> <p>Should the Contractor fail to comply with the notice within 10(ten) days from the date of service thereof, then and in such a case, the Owner shall be at liberty to employ other workmen and forthwith execute such part of the works as the Contractor may have neglected to do or, if the Owner shall think fit it shall be lawful for him, without prejudice to any other right he may have under the Contract, to take the works wholly or in part out of the Contractor's hand and enter into a separate Contract with any other person or persons to complete the works or any part thereof.</p> <p>- In such event, the Owner shall have free use of all the Contractor's equipment that may have been at that time at the site in connection with the works, without being responsible to the Contractor for wear and tear thereof and to the exclusion of any right of the Contractor over the same, and the Owner shall be entitled to retain and apply any balance which may otherwise be due under the Contract by him to the Contractor, or such part thereof as may be necessary, to the payment of cost of executing the said part of the works or of completing the works, as the case may be. If the cost of completing the works or executing a part thereof as aforesaid shall exceed the balance due to the Contractor, the Contractor shall pay such excess amount. Such payment of excess amount shall be independent of the Liquidated Damages for delay that the Contractor shall have to pay if the completion of works is delayed.</p>	



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				<p>In addition, such action by the Owner as aforesaid shall not relieve the Contractor of his liability to pay penalty for delay.</p> <p>The termination of the Contract under this Clause shall not entitle the Contractor to reduce the value of the Contract Performance Guarantee nor the time thereof. The Performance Guarantee shall be valid for the full value and for the full period as originally stipulated in the Contract.</p>	
74		Outbreak of war	<p>If, during the currency of the Contract, there shall be an outbreak of war, whether declared or not, in any part of the world, which whether financially or otherwise, materially affect the execution of the works, the Contractor shall, unless and until the Contract is terminated under the provisions in this Clause, continue to use his best endeavour to continue the execution of the work, provided always that the Owner shall be entitled, at any time after such outbreak of war, to terminate the Contract by giving notice in writing to the Contractor and upon such notice being given, the Contract shall, save as to the rights of the parties under this Clause and to the operation of Clauses entitled Settlement of Disputes and Arbitration hereof, be terminated but without prejudice to the rights of either party in respect of any antecedent breach thereof.</p> <p>32.2 If the Contract is terminated under the provisions of the above Clause, the Contractor shall, with all reasonable diligence, remove from the site the entire Contractor's equipment and shall give similar facilities to the Sub-Contractors to do so.</p> <p>32.3 Payment in the event Contract is terminated: If the Contract is terminated as aforesaid, the Contractor shall be paid by the Owner (in so far as such amounts or items shall not have already been covered by</p>	<p>32.6 In the event of any dispute in regard to the price of the works and portion of the payment to be made to the Contractor, the decision of the Engineer in charge shall be final.</p> <p><u>In the event of termination by owner, the Bidder shall be paid for the:</u></p> <p><u>1. goods delivered</u></p> <p><u>2. services rendered</u></p> <p><u>3. work in progress</u></p> <p><u>4. unpaid AMCs</u></p> <p><u>5. third party orders in pipeline which cannot be cancelled despite Bidder's best efforts</u></p> <p><u>5. unrecovered investments shall be paid by customer as per termination schedule till the date of termination.</u></p>	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
			<p>payments on account made to the Contractor) for all work executed and accepted by the Engineer-in-charge prior to the date of termination at the rate and prices provided in the Contract and, in addition</p> <p>32.4 The amount payable in respect of any preliminary items, in so far as the work or service comprised therein has been carried out or performed and an appropriate portion as certified by the Engineer-in-charge of any such items of work or service comprised therein which has been partially carried out or performed.</p> <p>32.5 Any other expenses which the Contractor has incurred for performing the work under the Contract, subject to being duly certified by the Engineer-in-charge, based on the documentary evidence for having incurred such expenses.</p> <p>32.6 In the event of any dispute in regard to the price of the works and portion of the payment to be made to the Contractor, the decision of the Engineer-in-charge shall be final.</p>		
75		Third Party Audit		<p>We request modification: NEEPCO can opt to arrange a 3rd party audit during/after completion of the engagement and the cost for the same will be borne by NEEPCO. <u>The audit shall be strictly with respect to scope of work under the contract. Such audit shall not involve any financial data or confidential information of Contractor. Such audit shall be conducted upon minimum 15 days' notice and the cost of the same shall be borne by the Owner. Third party auditors shall not be competitor of the Contractor.</u></p>	<p>Bid condition prevails. ERP OEM audit is in scope of Bidder as per the RfP</p>
76		<p>34. No waiver of rights</p> <p>35. Certificate not to affect right of Owner and liability of the Contractor</p>	<p>Neither the inspection by the Owner or the Engineer or any of their officials, employees, or agents nor any order by the Owner or the Engineer-in-charge for payment of money or any payment for, or acceptance of, the whole or any part of the works by the Owner or</p>	<p><u>Any acceptance certificate of work or payment for milestones shall be final and binding</u> Neither the inspection by the Owner or the Engineer or any of their officials, employees, or agents nor any order by the Owner or the Engineer-in-charge for payment of</p>	<p>Bid condition prevails</p>



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
			<p>the Engineer-in-charge, nor any extension of time, nor any possession taken by the Engineer-in-charge, shall operate as a waiver of any provision of the Contract, or any power herein reserved to the Owner, or any right to damages herein provided, nor shall any waiver of any breach in the Contract be held to be a waiver of any other or subsequent breach.</p>	<p>money or any payment for, or acceptance of, the whole or any part of the works by the Owner or the Engineer-in-charge, nor any extension of time, nor any possession taken by the Engineer in-charge, shall operate as a waiver of any provision of the Contract, or any power herein reserved to the Owner, or any right to damages herein provided, nor shall any waiver of any breach in the Contract be held to be a waiver of any other or subsequent breach.</p> <p>No interim certificate of the Engineer, nor any sum made on account, by the Owner, nor any extension of time for execution of the works granted by the Engineer in-charge shall affect or prejudice the rights of the Owner against the Contractor or relieve the Contractor of his obligations for the due performance of the Contract or be interpreted as approval of the works done or of the equipment furnished and no certificate shall create liability for the Owner to pay for alterations, amendments, variations or additional works not ordered, in writing, by the Engineer-in-charge or discharge the liability of the Contractor for the payment of damages whether, due ascertained or certified or not of any sum against the payment of which he is bound to indemnify the Owner, nor shall any such certificate nor the acceptance by him of any sum paid on account or otherwise affect or prejudice the rights of the Owner against the Contractor.</p>	
77		38. Release of information		<p>We request modification: The Contractor shall not communicate or use in advertising, publicity, sales releases or in any other medium, photographs and other reproductions of the works under the Contract or descriptions of the site, dimensions, quantity, quality or other information concerning the works unless prior written permission has been obtained from the Owner.</p>	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				<u>Contractor may also share contract / engagement / project details and relevant documentation to its customers / prospective customers solely for the purpose of, and with the intent to, evidence and support its experience earned under this Agreement.</u>	
78		40. Decision of Engineer in Charge		<p>We request for deletion of following portion of this clause:</p> <p>If, in the opinion of the Contractor, the decision of the Engineer-in-charge is not in accordance with the meaning and intent of the Contract, the Contractor may file with the Engineer-in-charge, a written objection to the decision within 15 (fifteen) days after receipt of the same. However, subject to payment for the same, in the process, that Contractor shall continue to execute the work as per instruction of the Engineer-in-charge. Failure to file an objection within the allotted time will be considered as acceptance of the decision of the Engineer in-charge and the decision shall become final and binding.</p> <p>40.3 The Owner's decision and filing of the written objection thereto shall be a condition precedent to the right to request for Arbitration. It is in the intent of the Agreement that there shall be no delay in the execution of the works and the decision of the Engineer in-charge as rendered, shall be promptly observed</p>	Bid condition prevails
79		41. Power to vary/ Omit Work		<p>We request deletion:</p> <p>Any alteration in the scope of work shall be subject to additional costs and terms as mutually agreed between the parties.</p> <p>The purchaser reserves the right at the time of award of Contract to increase or decrease the quantity of goods without any change in terms and conditions.</p>	Bid condition prevails
80		42. Warranty		<p>We request for deletion of following:</p> <p>The contractor shall give warrantee/guarantee for the software supplied as per OEM standard</p>	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
81		43. Defence of Suit	If any action in Court is brought against the Owner or Engineer-in-charge or an Officer or Agent of the Owner, for the failure, omission or neglect on the part of the Contractor to perform any acts, matters, covenants or things under the Contract or for damage or injury caused by the alleged omission or negligence or any other act on the part of the Contractor, his Agents, representatives, supplier or employees whether the Contractor has been impleaded in the suit or not, the Contractor shall, in all such cases, indemnify and keep the Owner and the Engineer-in-charge and / or his representatives, Office / Agent harmless from all losses, damages, expenses or decrees arising out of such action.	We request deletion	Bid condition prevails
82		46. Death, Insolvency and Breach of Contract		Bidder shall also have the right to terminate in case of insolvency of the Purchaser. Termination for breach is already covered. We request for deletion of following: The Owner may terminate the Contract by notice in writing if the Contractor commits breach of any provisions of the Contract, provided always that such determination shall not prejudice any right of action or remedy that has already accrued or shall accrue thereafter to the Owner. The Contractor shall be liable to pay compensation to the Owner for all losses, expenses or damages incurred by the Owner. The Contractor, however, shall under no circumstances, be entitled to any gain on account of such action by the Owner.	Bid condition prevails
83		47. Responsibility of the Contractor	The Contractor shall guarantee and be entirely responsible for the execution of the Contract in accordance with the specification schedules and appendices. He shall further guarantee and be responsible for the quality and workmanship of all materials and completed works, timely delivery of the materials within the agreed completion period and	We request for following modification: The Contractor shall guarantee and be entirely responsible for the execution of the Contract in accordance with the specification schedules and appendices. He shall further guarantee and be responsible for the quality and workmanship of all materials and completed works, timely delivery of the	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
			<p>removal of defects in the equipment or works during the warranty period.</p> <p>47.2 The Corporation shall have the right to direct the Contractor to make any change which may be necessary in the opinion of the Engineer-in-Charge to make the works conform to the provisions and contents of the specifications, without any extra costs to the Purchaser. Approval by the Engineer-in-Charge or by the authorized representative of the Corporation of the specification or any other activities related to the works shall not relieve the Contractor of his responsibility and obligation.</p> <p>47.3 If any action in Court is brought against the Purchaser or Engineer or an Officer or agent of the Purchaser, for the failure, omission or neglect on the part of the Contractor to perform any acts, matters, covenants or things under the Contract or for damage or injury caused by the alleged omission or negligence or any other act on the part of the Contractor, the Contractor shall in all such cases indemnify and keep the Purchaser, and the Engineer and/or his representative, office or agent harmless from all losses, damages, expenses or decrees arising out of such action.</p>	<p>materials within the agreed completion period and removal of defects in the equipment or works during the warranty period.</p> <p>The Corporation shall have the right to direct the Contractor to make any change which may be necessary in the opinion of the Engineer-in-Charge to make the works conform to the provisions and contents of the specifications, without any extra costs to the Purchaser. Approval by the Engineer-in-Charge or by the authorized representative of the Corporation of the specification or any other activities related to the works shall not relieve the Contractor of his responsibility and obligation.</p> <p>If any action in Court is brought against the Purchaser or Engineer or an Officer or agent of the Purchaser, for the failure, omission or neglect on the part of the Contractor to perform any acts, matters, covenants or things under the Contract or for damage or injury caused by the alleged omission or negligence or any other act on the part of the Contractor, the Contractor shall in all such cases indemnify and keep the Purchaser, and the Engineer and/or his representative, office or agent harmless from all losses, damages, expenses or decrees arising out of such action.</p>	
84		49. Foreclosure of the Contract		We request deletion	Bid condition prevails
85		51. Discipline of workmen		We request that such replacement shall be done only with prior consultation with the Contractor and shall be made only for documented and demonstrated cases of misconduct. Such replacements shall be made within 30 days from the date of removal.	Bid condition prevails
86		53. Rates of Wages and Recruitment of Labour		The Contractor will be at liberty to recruit labourers from anywhere within India, but no labourers below the age of 18 (eighteen) years shall be engaged on the work. No female labourer shall be employed after darkness. Fair wages, not less than minimum wages as may be fixed	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				from time to time in accordance with the Law or Act or rules there under applicable to the area covered by the work, shall be paid by the Contractor to all labourers. <u>This is clarified that Bidder complies with applicable State Minimum Wages Act and its commercials are factored accordingly. In case of any change or increase in the applicable Minimum Wages Act, the increased amount shall be paid by the Purchaser.</u>	
87		54. Labour regulations		We comply with all applicable law that are applicable on the services provided by us. We request for modification in this clause accordingly.	Bid condition prevails
88		55. Contractor responsibility towards employee	The Contractor shall have to be registered establishment under EPF & MP Act '52 and the scheme thereunder and shall specify its independent code number at the time of submission of bid. In the event the Contractor is liable under the said Act but is not a registered establishment the said Contractor shall immediately try to obtain code number, sub code number from the Regional Provident Fund Commissioner as per procedure prescribed by law. The Corporation shall recover 20% of the bill value against each running bill and final bill or any amount as may be prescribed from time to time if the Contractor fails to comply with the provisions of the said Act.	The Contractor shall have to be registered establishment under EPF & MP Act '52 and the scheme thereunder and shall specify its independent code number at the time of submission of bid. In the event the Contractor is liable under the said Act but is not a registered establishment the said Contractor shall immediately try to obtain code number, sub code number from the Regional Provident Fund Commissioner as per procedure prescribed by law. The Corporation shall recover 20% of the bill value against each running bill and final bill or any amount as may be prescribed from time to time if the Contractor fails to comply with the provisions of the said Act.	Bid condition prevails
89		57. Winding up		This is repeated. We request deletion	Bid condition prevails
90		58 Ownership		Ownership shall pass upon delivery of products	Bid condition prevails
91		61 Limitation of Liabilities	Except in cases of gross negligence or wilful misconduct, neither party shall be liable to the other party for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of SI to pay liquidated damages to the Purchaser; and 61.2 The aggregate liability of SI to the Purchaser, whether under the Contract, in tort, or otherwise, shall	Except in cases of gross negligence or wilful misconduct, neither party shall be liable to the other party for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of SI to pay liquidated damages to the Purchaser; and 61.2 <u>Notwithstanding anything contained elsewhere in the Contract or its annexures</u> , the aggregate liability of	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
			not exceed the amount specified in the Contract Price. Provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, goods and/or related services, or to any obligation of SI to indemnify the Purchaser with respect to patent infringement.	SI to the Purchaser, whether under the Contract, in tort, or otherwise, regardless of the form of claims , shall not exceed the Annual Contract Value . amount specified in the Contract Price. Provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, goods and/or related services, or to any obligation of SI to indemnify the Purchaser with respect to patent infringement.	
92		62. REGULATIONS OF LOCAL AUTHORITIES	<p>The Contractor shall, throughout the continuance of the Contract and in respect of all matters arising out of the performance thereof, comply the laws, rules and regulations of the Local Authorities. He shall also comply with the Minimum Wages Act, 1948, Payment of Wages Act 1936, the Contract (Regulation and Abolition) Act 1970 and other Act, Laws, Rules and Regulations applicable in performance of the Contract. All registrations, permissions, inspections, rights etc., required for execution of the Contract shall be arranged by the Contractor himself at his own cost. The Purchaser will provide the necessary documentary assistance to the extent possible, in obtaining the same. The Purchaser shall not, be responsible for delay on this account.</p> <p>If, under any statute/law, any registration, permission, inspection, right etc., is required to be arranged specifically by the Purchaser, this shall be brought to the notice of the Purchaser by the Contractor along with the bid.</p>	<p>The Contractor shall, throughout the continuance of the Contract and in respect of all matters arising out of the performance thereof, comply the laws, rules and regulations of the Local Authorities which are applicable on the IT Services Industry in India. He shall also comply with the Minimum Wages Act, 1948, Payment of Wages Act 1936, the Contract (Regulation and Abolition) Act 1970 and other Act, Laws, Rules and Regulations applicable in performance of the Contract. All registrations, permissions, inspections, rights etc., required for execution of the Contract shall be arranged by the Contractor himself at his own cost. Any specific or additional licenses or authorisation /consents required for the performance under this contract shall be obtained at the cost of the Purchaser. The Purchaser will provide the necessary documentary assistance to the extent possible, in obtaining the same. The Purchaser shall not, be responsible for delay on this account.</p> <p>If, under any statute/law, any registration, permission, inspection, right etc., is required to be arranged specifically by the Purchaser, it shall be provided by the Purchaser. this shall be brought to the notice of the Purchaser by the Contractor along with the bid.</p>	Bid condition prevails
93		2.8 Bid Guarantee/ Earnest Money Deposit (EMD)	The Bid Guarantee shall be made payable without any condition to the Owner. The Bid Guarantee shall be valid for a minimum period of 180 (One Hundred & Eighty) days thereafter from the date set for opening	The Bid Guarantee shall be made payable without any condition to the Owner. The Bid Guarantee shall be valid for a minimum period of 180 (One Hundred Eighty) days thereafter from the date set for submission of bids. If any	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
			of bids. If any further extension of this Guarantee is required, the same shall be extended to such required period on receiving instructions from the Corporation. All bank charges shall be borne by the Bidder.	further extension of this Guarantee is required, the same shall be extended to such required period on receiving instructions from the Corporation. All bank charges shall be borne by the Bidder.	
94		2.8 Bid Guarantee/ Earnest Money Deposit (EMD)	2.8. 8. The Bid Guarantees of the unsuccessful Bidders i.e. other than L-1 Bidder, whose Techno-Commercial bids have been evaluated to be acceptable, will be returned only after issuance of the Letter of Intent to the successful bidder. The Bid Guarantee of the Techno-Commercially unsuccessful / rejected Bidder shall be returned after completion of Techno-Commercial evaluation.	The Bid Guarantees of the unsuccessful Bidders i.e. other than L-1 Bidder, whose Techno-Commercial bids have been evaluated to be acceptable, will be returned within 30 days from only after issuance of the Letter of Intent to the successful bidder. The Bid Guarantee of the Techno-Commercially unsuccessful / rejected Bidder shall be returned after completion of Techno-Commercial evaluation.	Bid condition prevails
95		2.13 Effect and Validity of Bids	The submission of any bid connected with these documents and specifications shall constitute an Understanding/Agreement that the Bidder shall have no cause of action or claim against the Owner for rejection of his bid. The Owner shall always be at the liberty to reject any bid or bids at his sole discretion and any such action will not be called into question and the Bidder shall have no claim in this regard against the Owner.	The submission of any bid connected with these documents and specifications shall constitute an Understanding/Agreement that the Bidder shall have no cause of action or claim against the Owner for rejection of his bid. The Owner shall always be at the liberty to reject any bid or bids at his sole discretion and any such action will not be called into question and the Bidder shall have no claim in this regard against the Owner. After award of the Contract, the parties shall sign a mutually agreed contract. EMD shall not be forfeited in case the deviations provided by the Bidder are not considered by the Purchaser.	Bid condition prevails
96		2.14 Policy of Bids under consideration	2.14.3 Any action on the part of the Bidder to revise the price or the structure of price or to change the substance of the bid at his own instance after opening of Price bid and within the validity period of the bid will result in rejection of the bid and/or debarring the Bidder from participating in future tenders of NEEPCO. The Bid Guarantee (Earnest Money), in that case, is liable to be forfeited. 2.14. 4. If the Bidder withdraws his bid while it is under consideration and within the validity period of bids, the Bid Guarantee (Earnest Money) shall be forfeited,	We request modification: Any action on the part of the Bidder to revise the price or the structure of price or to change the substance of the bid at his own instance after opening of Price bid and within the validity period of the bid will result in rejection of the bid and/or debarring the Bidder from participating in future tenders of NEEPCO. The Bid Guarantee (Earnest Money), in that case, is liable to be forfeited. · If the Bidder withdraws his bid while it is under consideration and within the validity period of bids, the Bid Guarantee (Earnest Money) shall be forfeited, along	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
			<p>along with other action, as the Owner deems fit. All techno-commercial consultation and clarifications required by the Bidder should be completed before opening of Price Bid.</p> <p>2.14. 5. The Corporation shall notify the successful Bidder through Letter of Intent issued online through the portal or manually by FAX / E- Mail / Registered Letter and, in no case, this notification should be construed as an Agreement with the Bidder. The Corporation will enter into an Agreement, subject to fulfilment of further requirements as stipulated in the bid documents.</p>	<p>with other action, as the Owner deems fit. All techno-commercial consultation and clarifications required by the Bidder should be completed before opening of Price Bid.</p> <p>· The Corporation shall notify the successful Bidder through Letter of Intent issued online through the portal or manually by FAX / E- Mail / Registered Letter and, in no case, this notification should be construed as an Agreement with the Bidder. The Corporation will enter into an Agreement, subject to fulfilment of further requirements as stipulated in the bid documents.</p>	
97		3.6 Responsiveness check of Bids		<p>3.6 Any action on the part of the Bidder to revise the price or to change the structure of price at his own instance after opening of the bids and within the validity of offer may result in rejection of the bid and / or debaring the Bidder from participation in future tenders of the Owner. The Bid Guarantee (Earnest Money) obtained along with this bid, in that case, is also liable to be forfeited.</p>	
98	NIT	Signing of Contract	<p>After issue of the Letter of Intent and on receipt of its unconditional acceptance, the detailed order will be issued. On acceptance of the detailed order and submission of CPG and its acceptance the Owner shall prepare the Contract Agreement on Non-Judicial Stamped Paper and the successful Bidder will be informed for signing of the Contract Agreement on a notified date. Signing of the Contract Agreement will be done in the office of the Executive Director(C&P), NEEPCO Ltd., Brook land Compound, Lower New Colony, Shillong.</p>	<p>After issue of the Letter of Intent and on receipt of its unconditional acceptance, the detailed order will be issued. On acceptance of the detailed order and submission of CPG and its acceptance the Owner shall prepare the Contract Agreement which shall be mutually negotiated and agreed and signed on Non-Judicial Stamped Paper and the successful Bidder will be informed for signing of the Contract Agreement on a notified date. Signing of the Contract Agreement will be done in the office of the Executive Director(C&P), NEEPCO Ltd., Brookland Compound, Lower New Colony, Shillong.</p>	Bid condition prevails
99	NIT	5. Obligations of Bidder			Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
100	NIT	Supply of ERP licenses and software	5.3.4 The Owner has identified the indicative type of users & numbers and their system usage profiles offers users as follows: The above numbers are calculated on the basis of actual strength of NEEPCO as on 31.03.2017. These numbers are initial estimates, NEEPCO management can rationalize them through a review exercise. In order to avoid risk of buying more licenses, NEEPCO may obtain less than the above-mentioned licenses initially and have a rate contract with the Bidder to procure additional licenses at the same rate as and when required in the next few years.	The number of licenses have to be identified at the bidding stage itself.	Refer Corrigendum No.1, dated 05.10.2018
101	NIT	5.4 Supporting NEEPCO in procurement, installation and commissioning of IT Infrastructure			Bid condition prevails
102	NIT	Annual Technical support (ATS) / Annual Functional Support (AFS) 5.5. 1. Annual Technical Support (ATS)		The Bidder shall provide support, maintenance & upgrades for all the software products versions (ERP Licenses & all Add-on engines) supplied for a period of 5 (Five) years from the date of license procurement dates. Provide free upgrades , updates & patches of the products to Owner as and when released by ERP Product OEM & Database Vendor Free upgrade and free implementation of onsite upgrade including technical upgrade. o Technical upgrade of the installation to the new version, when required by NEEPCO.	Refer Clause No. 5.3.11.9 & Clause No.5.3.11.11 of Section II (Page No. 34/71).Bid conditions prevail
103	NIT	5.9 Team profile and deployment		Any replacement shall be subject to prior consultation and only for documented and demonstrated cases of misconducts. Replacements shall be made within 30 days.	Bid condition prevails
104	NIT	5.13 Project implementation and sustenance support	5.13.2.4 Technical upgrade of the installation to the new version, as and when required. 5.13.2.5 As and when any new releases/ higher version become available, the Bidder will inform the Owner for	5.13.2.4 Technical upgrade of the installation to the new version, as and when required. 5.13.2.5 As and when any new releases/ higher version become available, the Bidder will inform the Owner for	Refer Clause No. 5.3.11.9 & Clause No.5.3.11.11 of Section II (Page No. 34/71).Bid conditions prevail



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
			the enhancements and interpret how it may benefit the Owner directly. The Bidder shall accordingly inform the Owner through various media including product newsletters, hotline access, release notes, design alerts or technical bulletins. All product fixes or release updates on the new system will take place at the Owner's discretion.	the enhancements and interpret how it may benefit the Owner directly. The Bidder shall accordingly inform the Owner through various media including product newsletters, hotline access, release notes, design alerts or technical bulletins. All product fixes or release updates on the new system will take place at the Owner's discretion and subject to additional costs to be paid by the owner. 5.13.2.8 Incremental functionality enhancements and patches to cater to changes (including tax, legal and all statutory requirements) 5.13.3 Above services shall be provided without any additional cost to the Owner.	
105	NIT	6. Scope of work	The Bidder shall provide all required equipment, tools and resources which may not be specifically stated herein, but required to meet intent of ensuring completeness, maintainability and reliability of the total system covered under this specification	We request deletion of following: The Bidder shall provide all required equipment, tools and resources which may not be specifically stated herein, but required to meet intent of ensuring completeness, maintainability and reliability of the total system covered under this specification	Bid condition prevails
106	NIT	Scope of Work	6.18.9 Taking Over- The software shall be taken over by the Owner after the successful completion of Performance Acceptance Testing to the satisfaction of the Owner's representatives at all NEEPCO locations. 6.18.10 Software & Media Warranty- All the software and media supplied under the contract shall be warranted against damages or not working within 90 days from the date of installation and will be replaced immediately without any cost to NEEPCO.	Taking Over of software(s) shall be upon delivery. The Warranty shall be as per the warranties as supplied by OEM's	Refer Corrigendum No.1, dated 05.10.2018
107	FORM F – Parent Company Agreement Format	FORM F – Parent Company Agreement Format (TO BE EXECUTED ON STAMP PAPER OF REQUISITE VALUE AND NOTORISED) DEED OF GUARANTEE		This is not applicable and hence to be deleted	Bid condition prevails. Also refer NIT clause 4.3.4



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
108	FORM G - Deed of Joint Undertaking	FORM G - Deed of Joint Undertaking [DEED OF JOINT UNDERTAKING TO BE GIVEN BY PARENT/HOLDING COMPANY ALONGWITH THE SUBSIDIARY COMPANY (CONTRACTOR) FOR (Name of the Work/Contract)]		This is not applicable and hence to be deleted	Bid condition prevails. Also refer NIT clause 4.3.4
109	A: Form of Bank Guarantee		And that if any further extension of this Guarantee is required the same shall be extended to such required period on receiving instructions from the Corporation and failure to comply such required extension by the contractor shall be treated as claim of the above mentioned sum by the Corporation upon the Bank.	This is unilateral extension of PBG. We request deletion	Please refer Cl. No. 2.7.2 & 2.8.4 of section-II, Page No. 6 of RfP. The line “and failure to comply such required extension by the contractor shall be treated as claim of the above mentioned sum by the Corporation upon the Bank” from the BG format stands deleted from Form-A
110	B: Performa of Bank Guarantee for Contract Performance (To		Notwithstanding anything contained herein above our liability under this guarantee is restricted to Rs. (Rupees.....) only and it will remain in force up to and including and shall be extended from time to time for such periods as may be advised by the Purchaser who is the beneficiary under this guarantee and in the event if the Contractor fails to comply such extension within the validity period, this shall be treated as a claim by the purchaser on the Bank. Dated this Day of201_ at	Notwithstanding anything contained herein above our liability under this guarantee is restricted to Rs. (Rupees.....) only and it will remain in force up to and including and shall be extended from time to time for such periods as may be advised by the Purchaser who is the beneficiary under this guarantee and in the event if the Contractor fails to comply such extension within the validity period, this shall be treated as a claim by the purchaser on the Bank. Dated this Day of201_ at	Bid Condition prevail
111	Draft Contract Agreement	Article No. 3.0: Conditions and Covenants		Clause 3.2 We request deletion 3.2 The above contract shall also include executing such works, which are not specifically mentioned in the contract document but essential for completion and	The Cl. May be read as The above contract shall also include executing such works, which are not specifically



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				successful operation of the connectivity of the Video conferencing solution unless otherwise specifically excluded in the bid document.	mentioned in the contract document but essential for successful implementation of the ERP solution in NEEPCO unless otherwise specifically excluded in the bid document.
112	Draft Contract Agreement	3.3 Completion Schedule: 3.4		The Contractor guarantees that the equipment package under the Contract shall meet all the requirement as stipulated in the bid document. 3.4 It is expressly understood by the Contractor that the scope of works as described in the contract is indicative. For clarification, the composite scope shall be as described in the NIB, Purchaser's bid document and subsequent amendment if any, issued by the Purchaser. The scope shall be specified in the contract.	Bid condition prevail. However, the contract agreement may be finalised with the successful bidder covering all aspects
113	Draft Contract Agreement	3.7		We request modification. It is further understood and agreed that the Govt. of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the Contract. Accordingly, Contractor expressly waives, releases and foregoes any and all actions or claims including cross claims, impleader claims or counterclaims against the Govt. of India arising out of this Contract and covenants not to sue the Govt. of India as to any manner, claim, cause of action or thing whatsoever arising out of /or under this agreement.	Bid condition prevail
114		Taxes	Clause to be added	Any increase or decrease in the rates of the applicable taxes or any new levy on account of changes in law shall be to the account of Customer.	Refer Cl. No. 2.17.2, Section-II of RfP
115		Savings Clause	Clause to be added	Bidder's failure to perform its contractual responsibilities, to perform the services, or to meet agreed service levels shall be excused if and to the extent Bidder's performance is effected, delayed or causes non-performance due to Customer's omissions or actions whatsoever.	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
116		Deemed Acceptance	Clause to be added	Services and/or deliverables shall be deemed to be fully and finally accepted by Customer in the event when Customer has not submitted its acceptance or rejection response in writing to Bidder within 15 days from the date of installation/commissioning or when Customer uses the Deliverable in its business, whichever occurs earlier. Parties agree that Bidder shall have 15 days' time to correct in case of any rejection by Client.	Bid condition prevails
117		SNR	Clause to be added	Customer hereby agrees to make the site ready as per the agreed specifications, within the agreed timelines. Customer agrees that Bidder shall not be in any manner be liable for any delay arising out of Customer's failure to make the site ready within the stipulated period, including but not limited to levy of liquidated damages for any delay in performance of Services under the terms of this Agreement.	Bid condition prevails
118		Transfer of risk and title	Clause to be added	Bidder assumes that the title of ownership and risk of the goods supplied under this Contract is passed onto Customer on delivery of the material at the Customer location.	Bid condition prevails
119		Termination	Clause to be added	Bidder shall have the right to terminate this Agreement at any time: With Cause – in the event that Owner commits a material breach of the Agreement and fails to cure such default to the non-defaulting party's reasonable satisfaction within thirty (30) days. In the event of termination by owner, the Bidder shall be paid for the: 1. Goods delivered 2. Services rendered 3. Work in progress 4. Unpaid AMCs 5. Third party orders in pipeline which cannot be cancelled despite Bidder's best efforts	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
				6. Unrecovered investments shall be paid by customer as per termination schedule till the date of termination.	
120		Change Orders	Clause to be added	Either party may request a change order (“Change Order”) in the event of actual or anticipated change(s) to the agreed scope, Services, Deliverables, schedule, or any other aspect of the Statement of Work. Bidder will prepare a Change Order reflecting the proposed changes, including the impact on the Deliverables, schedule, and fee. In the absence of a signed Change Order, Bidder shall not be bound to perform any additional services.	Bid condition prevails
121		Pass through Warranties	Clause to be added	<u>for third party products, Bidder shall “pass-through” any and all warranties and indemnities received from the manufacturer or licensor of the products and, to the extent, granted by such manufacturer or licensor, the Customer shall be the beneficiary of such manufacturer’s or licensor’s warranties and indemnities. Further, it is clarified that Bidder shall not provide any additional warranties and indemnities with respect such products.</u>	Bid condition prevails
122		Intellectual Protection	Clause to be added	No intellectual property rights of any nature shall be transferred from one party to the other in the course of performing any obligations or otherwise under this agreement. For the avoidance of doubt, Bidder may use certain tools, processes or methodologies of its own in performing the Services. Ownership of all intellectual property rights and any other rights in these shall vest with Bidder, and no rights shall be deemed to have accrued to the Customer.	Bid condition prevails
123		Non Hire and Non-solicitation	Clause to be added	During the term of this Agreement and for a period of one (1) year thereafter Purchaser shall not, directly or indirectly, hire or solicit for hire, any of the personnel of the Bidder. Additionally, Purchaser agrees to the entry of an injunction against it in the event of actual or threatened breach of its obligations hereunder.	Can be accepted



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
124		Warranty	Clause to be added	Customer acknowledges that Wipro does not provide any warranty in respect of the components replaced and the defective parts will be the property of Wipro Ltd.; The Customer represents and warrants that it has or will obtain or will arrange for all requisite approvals, consents, logon Credentials to carry on its business, and for Wipro to undertake and perform the Services.	Bid condition prevails
125		Additional Hardware	Clause to be added	Any requirement by Customer of any additional Hardware under the Agreement shall be provided by the Wipro at an additional cost to Customer and the same shall be done through a Change order.	Bid condition prevails
126		Upgrade/Updates/Enhancement:	Clause to be added	Any requirement by Customer for any upgrade/enhancement shall be provided by Wipro at an additional cost to Customer and the same shall be done through a Change order.	Bid condition prevails
127		Faulty Spares/Replacement of Spare parts:	Clause to be added	<p>All the Faulty Spares/equipment and any Standby spares/equipment if delivered by Wipro to the Customer shall be returned to Wipro within 10 days of the Replacement Spares/Equipment so provided and title of the said Faulty or Standby spares/equipment shall be transferred back to Wipro Limited. Customer shall acknowledge receipt of the replacement spares/equipment in accordance with the format provided and shall submit the same to the authorized courier at the time of delivery.</p> <p>In the event Faulty or Standby spare/equipment is not returned within the time period stipulated above for any reasons whatsoever, Spares support shall be suspended till the return of the spare/equipment or till the payment is made (period not exceeding 21 days from the date of invoice) for such spare/equipment at the applicable rate (including taxes as may be made applicable). It stands clarified that no SLAs or penalties of any nature whatsoever shall be made applicable to Wipro during such period.</p>	Bid condition prevails



3rd CLARIFICATION TO PRE-BID QUERIES AGAINST NIB No.292, DATED: 31.08.2018

Sl. NO.	Section	Reference	Clause Description	Bidders Comments/ Suggestions	Clarification To Bidders Queries/Suggestions
128		CMM Level 5	Clause to be added	The credentials given by the bidder needs to have completed in CMM 5 Company... & not as CMM 3 company	Refer Corrigendum No.1, dated 05.10.2018
129		LoI & PO	Clause to be added	As a credentials, LOI and PO / Completion certificate should be considered and not OEM certificate	Refer Corrigendum No.1, dated 05.10.2018
130		Project Completion	Clause to be added	Only completed project should be considered	Refer Corrigendum No.1, dated 05.10.2018
131		Turnover	Clause to be added	2. Turnover shall be more than 1000 crore from last 5 years	Refer Corrigendum No.1, dated 05.10.2018

Sd/-
General Manager,
I/c Contracts & Procurement