

Tamil Nadu Power Finance and Infrastructure Development Corporation Limited

No.490/3-4, Anna Salai, Nandanam, Chennai – 600 035, Phone : 044 - 2432 9945 / 46, Fax : 044 24329914, E-mail: syanlt.tpfidc@tn.gov.in

Assignment Title: Procure, Customize, Implement and Maintain Finance Management System over Infrastructure as a Service Cloud

Reference No: TNPFC/SWRUP/2018-19/01

Prebid Query Response 2 dated 25.03.2019

#	Document Reference	Page No.	Description in RFP	Clarification Sought	Response
1	18. under General Contract Conditions	105	18.1. The Client may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) calendar days after receipt by the Consultant of such notice of suspension.		Following Clause is modified as below, The Client may, by a thirty (30) days written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services; provided such failure is solely due to the Consultant's negligence, willful misconduct, or breach of this Contract or any action or inaction of the Consultant taken at the express direction of the Client, and, provided further that such notice of suspension (i) shall specify the nature of the failure including a written list of items that must be corrected by the Consultant, and (ii) shall request the Consultant to remedy such failure within a mutually agreed

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					<p>period of time reasonable under the circumstances not after receipt by the Consultant of such notice of suspension. The Client shall not suspend any payments to the Consultant, provided, at no additional cost to the Client, the Consultant shall promptly present a plan to fix such problems and perform its obligations.</p>
2	19. Termination	105	<p>19.1.1 The Client may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause. In such an occurrence the Client shall give at least thirty (30) calendar days' written notice of termination to the Consultant in case of the events referred to in (a) through (d); at least sixty (60) calendar days' written notice in case of the event referred to in (e); and at least five (30) calendar</p>		<p>Clause is modified to the following, The Client shall have no right to terminate the contract provided, at no additional cost to the Client, the Consultant shall promptly present the Client a plan to fix such problems and perform services within a mutually agreed period of time that is reasonable under the circumstances</p>

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			days' written notice in case of the event referred to in (f) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GCC 1.8		
3	23. liability of the consultant	108	23.1 Subject to additional provisions, if any, set forth in the SCC, the Consultant's liability under this Contract shall be as determined under the Applicable Law.		Clause if modified to following, Maximum Liability is capped at 10% of the overall project value
4	25. Accounting inspection & auditing	108	The consultants shall permit and cause its sub consultant consultants to permit, the Client and/or persons appointed by the Client to inspect the Site and/or all accounts and records relating to the performance of the Contract and the submission of the Proposal to provide the Services, and		Following Clause is added, The Client shall have the right to audit Consultant's Non-Private Records pertaining to the services. Such inspection shall be conducted with at least 15 days' prior written notice to the Consultant.

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			to have such accounts and records audited by auditors appointed by the Client. The Consultant’s attention is drawn to Clause GCC 10 which provides, inter alia, that acts intended to materially impede the exercise of the Client’s inspection and audit rights provided for under this Clause GCC25.2 constitute a prohibited practice subject to contract termination		
5	27.1 Proprietary rights of clients	109	proprietary rights of clients in reports and records otherwise indicated in the SCC, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the Client in the course of the		Clause is modified to the following, Notwithstanding the foregoing, all ownership, rights, title and interest in and to Preexisting Works are reserved to the Consultant. As used herein, “Preexisting Works” means any ideas, concepts, know-how, knowledge, techniques, approaches, methodologies, software, technologies, information, Trade Secrets, other

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			Services shall be confidential and become and remain the property of client of the Client. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Client.		materials, or any other IPR that the Consultant owned prior to the effective date of this Contract hereunder, or that the Consultant created or acquired independently of its obligations pursuant to this Contract.
6	Fraudulent practices 5.2	4	In further pursuance of this policy consultant shall permit and shall cause its agents , experts , sub-consultants , sub contractors , services providers or suppliers to permit the client to inspect all accounts , records and		Following Clause is added, The Client shall have the right to audit Consultant’s Non-Private Records pertaining to the services. “Non-Private Records” include records such as time sheets, attendance records, invoices and the like, but does not include

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			other documents relating to the submission of the proposal and contract performance (in case of an award) and to have them audited by auditors appointed by the client		Consultant’s income statement, balance sheet, and statement of cash flows, payroll records, or related private financial records. Such inspection shall be conducted with at least 15 days’ prior written notice to the Consultant.
7	23.1 Limitation of Liability	108	Consultant’s Liability towards the Client: (a) Except in the case of gross negligence or willful misconduct on the part of the Consultant or on the part of any person or a TNPFC & IDCL acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused by the Consultant to the Client’s property, shall not be liable to the Client: (i) for any indirect or consequential loss or damage; and (ii) for any		The following clause is modified as below, “Limitation of the Consultant’s Liability towards the Client, against any and all losses arising out of or resulting from any claim, demand, or cause of action brought by a third party, including the Consultant’s employees to the extent based on, resulting from or alleging the gross negligence, willful misconduct and/or breach of this Contract of or by the Consultant or its personnel: Except in the case of gross negligence or willful misconduct on the part of the Consultant or on the part of any person or a TNPFC &

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			<p>direct loss or damage that exceeds one times the total value of the Contract; (b) This limitation of liability shall not (i) affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or TNPFC & IDCL acting on behalf of the Consultant in carrying out the Services; be construed as providing the Consultant with any limitation or exclusion from liability which is prohibited by the applicable law in the Client's country.</p>		<p>IDCL acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused by the Consultant to the Client's property, shall not be liable to the Client: shall not be liable to the Client: (i) for any indirect, incidental, lost profits, special, or consequential, punitive or exemplary loss or damage arising out of this Contract, even if such Party has been made aware of the possibility of such damages; and (ii) for any direct loss or damage that exceeds one times the total value of the Contract; provided, however, that the Consultant's liability obligations hereunder shall not extend to losses that arise out of or result from the negligence, willful misconduct, or breach of this Contract of or by the Client or any action or inaction of the Consultant taken at the express direction of the Client. (d) This</p>

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					<p>limitation of liability shall not (i) affect the Consultant’s liability, if any, for damage to Third Parties caused by the Consultant or any person or TNPFC & IDCL acting on behalf of the Consultant in carrying out the Services; provided such damage is solely due to the Consultant’s negligence, willful misconduct, or breach of this Contract or any action or inaction of the Contract taken at the express direction of the Client. Limitation of the Client’s Liability towards the Consultant, against any and all losses arising out of or resulting from any claim, demand, or cause of action brought by a third party, including the Client’s employees to the extent based on, resulting from or alleging the gross negligence, willful misconduct and/or breach of this Contract of or by the Client or its personnel; provided, however, that the Client’s liability obligations hereunder shall not</p>

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					extend to losses that arise out of or result from the negligence, willful misconduct, or breach of this Contract of or by the Consultant or any action or inaction of the Client taken at the express direction of the Consultant. Neither party's liability for damages hereunder, regardless of the form of action, shall exceed, per claim and in the aggregate, the total amount paid for services in the preceding twelve (12) months under the specific SOW giving rise to the liability