

Supply and Implementation of ERP Solution

Response to Queries Related to Contract Terms

Ref:RFP No.KMRL/IT/AE(IT)2013/971

Date: July 17, 2014

Sl. No.	Bidding Document Reference(s) (section number/page)	Content of RFP Requiring Clarification	Points of clarification required	Response of KMRL
22	ANNEXURE I--FORMATS FOR BID RESPONSE, 13. FORMAT FOR BID SECURITY (EMD)	Entire draft of EMD	<p>Would request that the following clauses be made a part of the bank guarantee text since the banks do not accept wording which is open ended for term and a definite expiry date should be mentioned:</p> <p>The terms of this document/instrument will be governed by Indian law.</p> <p>Notwithstanding anything contained herein above,</p> <p>1. Our liability under this Bank Guarantee shall not exceed _____ (_____) only.</p> <p>2. This Bank Guarantee shall be valid upto _____ ; and</p> <p>3. We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if any claim or demand is received by us in writing at this office by hand, by post or by courier, by close of banking hours, on or before _____, thereafter the bank will stand discharged of all its liabilities in all respect whether or not the original Bank Guarantee is returned to us.</p>	Please see the revised Bank Guarantee formats
23	COMMERCIAL PROPOSAL FORMATS FOR ERP SOLUTION AND IMPLEMENTATION, 2. COMMERCIAL PROPOSAL COVERING LETTER FOR ERP IMPLEMENTATION	Para 6 - We agree for unconditional acceptance of all the terms and conditions in the bid document	Please confirm in line with Clause 4.10 (2) above whether deviations can be provided along with bidder's proposal.	No deviations are permitted
24	ANNEXURE III- DRAFT CONTRACT, clause 1.4	Governing law and jurisdiction	Would request that the jurisdiction be a neutral one within India eg. Bangalore or Delhi.	No change
25	ANNEXURE III- DRAFT CONTRACT, clause 2.9.1	sub-clause (a), (c) and (g)	Clause (g) is requested to be deleted. For sub-clause (a) and (c), termination is requested to be only for material breach of the agreement with a reasonable cure period to be mutually discussed and agreed between the parties.	Clause 2.9.1 (g) stands deleted. New clause 2.9.7 added
26	ANNEXURE III- DRAFT CONTRACT, clause 2.8	Entire clause 2.8	Any termination is requested to be only for material breach of the agreement with a reasonable cure period to be mutually discussed and agreed between the parties.	Clause 2.8 stands deleted

27	ANNEXURE III- DRAFT CONTRACT, clause 3.2.2	Entire clause 3.2.2	We request this clause to be deleted. This is a non-compete clause and not in the interest of System Integrator's business.	Clause 3.2.2 stands deleted
28	ANNEXURE III- DRAFT CONTRACT, clause 3.4.2 and 3.4.3	Entire clause 3.4.2 and 3.4.3	We request the clauses 3.4.2 and 3.4.3 be amended to the following clauses : "(a) the System Integrator shall not be liable to KMRL, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, loss of goodwill, savings (real or anticipated), data loss of and cost of reconstituting data from last backup; and (b) the aggregate liability of the System Integrator to KMRL, whether under the Agreement, in tort or otherwise, shall be limited to direct damages in an aggregate amount equal to hundred percent (100%) of the service charges actually paid during the year (means a period of 12 months after the date on which the Services commence and each anniversary of such date thereafter) in which the liability arose, provided that KMRL claiming damages provides prior written notice to Supplier."	No change
29	ANNEXURE III- DRAFT CONTRACT, Clause 3.5	Entire clause 3.5	We request deletion of this clause. This is an open book clause and not acceptable as per our policies.	Clause 3.5 stands deleted
30	ANNEXURE III- DRAFT CONTRACT, clause 5.3	Entire clause 5.3	We request that the requirement of price increase due to change in Applicable Laws not be subject to the cap of 2%.	The cap of 2% stands removed
31	ANNEXURE III- DRAFT CONTRACT, clause 7.2.1	Entire clause 7.2.1	We request this clause to be deleted as this is in the nature of consequential damages and these are excluded. System Integrator shall only be liable for direct damages as per clause 3.4.	Clause 7.2.1 stands deleted
32	ANNEXURE III- DRAFT CONTRACT, clause 7.3	Entire clause 7.3	We request this clause to be deleted as direct damages are covered in clause 3.4 and there is provision of performance security.	Clause 7.3 stands modified as " 7.3 Liability for deficiency in service. In addition to the liquidated damages specified in clause 7.2.2, in case of deficiency in service resulting adverse effect on the Project or affecting the reputation of KMRL the System Integrator shall be liable to rectify the deficiency in addition to compensating KMRL fro the loss to the extent of the Performance Security"

33	ANNEXURE III- DRAFT CONTRACT, clause 9.4	Entire clause 9.4	<p>We suggest incorporation of Arbitration through LCIA India for dispute resolution instead of Courts, as resolution of disputes through LCIA arbitration is quick and cost effective, unlike the ad-hoc arbitration route. Below is our suggested clause:</p> <p>"Any Dispute which is not resolved amicably by conciliation, as provided in Clause 9.3, then the dispute shall be referred to arbitration and shall be resolved in accordance with the rules of London Commercial International Arbitration in India ("LCIAI"). There will be a sole arbitrator and the language of the arbitration shall be English. The parties will appoint the sole arbitrator after mutual discussion and agreement. Such arbitration shall be held at Mumbai."</p> <p>KMRL can suggest any other instituon based arbitration.</p>	Please see the modified Clause 9.4.
34	ANNEXURE III- DRAFT CONTRACT	Clause 11.2 (b)	We request deletion of the wording "or any benefit or interest therein" from this clause	No change
88	ANNEX 7 FORMAT FOR BANK GUARANTEE FOR PERFORMANCE SECURITY	Entire draft of PBG	<p>Would request that the following clauses be made a part of the bank guarantee text since the banks do not accept wording which is open ended for term and a definite expiry date should be mentioned:</p> <p>The terms of this document/instrument will be governed by Indian law.</p> <p>Notwithstanding anything contained herein above,</p> <p>1. Our liability under this Bank Guarantee shall not exceed _____ (_____) only.</p> <p>2. This Bank Guarantee shall be valid upto _____ ; and</p> <p>3. We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if any claim or demand is received by us in writing at this office by hand, by post or by courier, by close of banking hours, on or before _____, thereafter the bank will stand discharged of all its liabilities in all respect whether or not the original Bank Guarantee is returned to us.</p>	Please see the revised Bank Guarantee formats
11	6.15. NOTIFICATION OF AWARD AND SIGNING THE CONTRACT	15. Commencement of Assignment: The SI shall commence the project Within fifteen days of the date of the Agreement, or such other date as may be mutually agreed. If the SI fails to commence the assignment as specified herein, KMRL may invite the second ranked SI for negotiations. In such an event, the LOA or the Agreement, as the case may be, may be cancelled / terminated.	<p>SI hopes complete readiness from KMRL end for the commencement of assignment after the agreement signing? How are the delay / lack of readiness from KRML taken care / handled?</p>	Section 6.15, clause 15 modified as "15. Commencement of Assignment: The SI shall commence the project Within fifteen days of the date of the Agreement, or such other date as may be mutually agreed. If the SI fails to commence the assignment as specified herein, KMRL may cancel/terminate the LOA or the Agreement, as the case may be.
33		Authorised Signatory	We propose Proposal Signing Authority (as per Board Resolution) as Authorized Signatory for all sections and the required formats for Proposal instead of Company Secretary/ Internal Auditor/ CEO/ CFO etc. for some of the sections and formats as per RFP.	Agreed

34		Authorised Signatory	For Authorized Signatory for signing Proposal, is Power of Attorney required? Can Board Resolution be attached in Proposal instead of Power of Attorney?	Board Resolution is acceptable
38	Page 229, 7.2.2 Liquidated Damages and Penalty	In case of delay in completion of Services, liquidated damages not exceeding an amount equal to 0.5% (zero point five per cent) of the Agreement Value per day, subject to a maximum of 10% (ten per cent) of the Agreement Value shall be imposed and shall be recovered by appropriation from the Performance Security or otherwise.	In case of delay in completion of Services, liquidated damages not exceeding an amount equal to 0.25% (zero point two five per cent) of the Agreement Value per week, subject to a maximum of 10% (ten per cent) of the Agreement Value shall be imposed and shall be recovered by appropriation from the Performance Security or otherwise.	The clause 7.2.2 stands modified as "In case of delay in completion of Services, liquidated damages not exceeding an amount equal to 0.5% (zero point five per cent) of the Agreement Value per week, subject to a maximum of 10% (ten per cent) of the Agreement Value shall be imposed and shall be recovered by appropriation from the Performance Security or otherwise. Further it is opined that Liquidated damages are generally levied at the rate of 0.5% per week of the value of the delayed services/items/deliverables and not on the entire contract value. The total LD shall not exceed 10 % of the contract value. The Liquidated Damages will be levied for reasons of delay solely attributable to the Bidder and KMRL should not have contributed any act or omission which led to such delay.
20	Section 3.8 of Page62	Documents prepared by the Consultant to be property of the Authority	It is requested that following be added at the end of the referred clause: "Notwithstanding the above, it is agreed that nothing contained herein above shall be applicable to Consultant's pre-existing materials (i.e Materials owned by the Consultant which were created and developed prior to this Agreement without direct reference to the deliverables under this Agreement) which may now be incorporated by the Consultant into the final deliverables/reports or the like, supplied to the Client hereunder in the course of delivering the Services pursuant to this Agreement. However, in the event any such pre existing material is used in the deliverables/reports provided to the Client by the Consultant, the Consultant hereby agrees to grant the Client an irrevocable, transferable, non exclusive, paid-up, royalty free and perpetual license to use, modify and copy such preexisting material as it exists in the deliverable/ reports prepared by the Consultant as a part of this Agreement."	Agreed
21	Clause 1.4 Page 211	Governing law and jurisdiction	"This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at Ernakulam/ Kochi shall have exclusive jurisdiction over matters arising out of or relating to this Agreement." Please confirm our understanding thsat "courts at India" shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.	Courts at Ernakulam/ Kochi shall have exclusive jurisdiction
22	Clause 2.8 Page 216	Suspension of Agreement	Kindly include the following condition in the clause 2.8 of Agreement: "It is agreed between the parties that in case this agreement is suspended due to reasons not attributable to the Consultant, in that event the Consultant shall be entitled for time extension and to receive payments for all the expenses and costs incurred by it during the period of such suspension from the client."	Clause 2.8 stands deleted
23	Clause 2.8 Page 216	Suspension of Agreement	Please add the following line in the end, "It is agreed between the parties that in case this agreement is suspended due to reasons not attributable to the Consultant, in that event the Consultant shall be entitled for time extension and to receive payments for all the expenses and costs incurred by it during the period of such suspension from the client."	Clause 2.8 stands deleted

24	Clause 3.2 Page 219	Conflict of Interest	We propose the client on the mitigation of risk by assuring to maintain appropriate business standards, procedures and controls to ensure that no conflict of interest arises between Services undertaken for you and those for our other clients	Clause 3.2.2 stands deleted
25	Clause 3.4.3 Page 223	Liability of the System Integrator	We request the clause be amended as "The Parties hereto agree that in case of negligence or wilful misconduct on the part of the System Integrator or on the part of any person or firm acting on behalf of the System Integrator in carrying out the Services, The Project, the System Integrator, with respect to damage caused to the KMRL's property, shall not be liable to the KMRL or otherwise arising under this Agreement "	Not accepted
26	Clause 3.4.3 Page 223	Liability of the system integrator	Please add the words, "or otherwise arising under this Agreement" after the words, "damage caused to KMRL's property"	Not accepted
27	Clause 3.8.1 Page 224	Documents prepared by the Consultant to be property of the Authority	Please add Notwithstanding the above, it is agreed that nothing contained herein above shall be applicable to Consultant's pre-existing materials (i.e Materials owned by the Consultant which were created and developed prior to this Agreement without direct reference to the deliverables under this Agreement) which may now be incorporated by the Consultant into the final deliverables/reports or the like, supplied to the Client hereunder in the course of delivering the Services pursuant to this Agreement. However, in the event any such pre existing material is used in the deliverables/reports provided to the Client by the Consultant, the Consultant hereby agrees to grant the Client an irrevocable, transferable, non exclusive, paid-up, royalty free and perpetual license to use, modify and copy such preexisting material as it exists in the deliverable/ reports prepared by the Consultant as a part of this Agreement."	Agreed
28	Clause 3.8.2 Page 225	Documents prepared by the Consultant to be property of the Authority	We request the clause be amended as "The System Integrator shall, not later than termination or expiration of this Agreement, deliver all Project Documents to the KMRL, together with a detailed inventory thereof. The System Integrator shall not retain any of such Project Documents. The System Integrator, its Sub-Contractor or a Third Party shall not use these Project Documents for purposes unrelated to this Agreement without the prior written approval of the KMRL. The System integrator shall be entitled to retain its working papers. "	Agreed
29	Caluse 7 Page 230	Liquidated Damages and Penalties	We propose upper limit to the penalty which may be imposed by the client on selected bidder in case of any delay/deficiencies/other conditions mentioned in the clause. Such penalty be restricted to an upper limit of 20% of the total fees to be received by the SI.	Please see the modified LD clause
30	Caluse 7.2 Page 231	Liquidated Damages for error/ variation	Liquidated Damages (LD) shall be applicable under circumstances mentioned under the present clause. However, it is proposed that such LD should only be levied incase the faults/delay is caused due to reasons solely attributable to the Consultant and request KMRL to amend the clause.	Clause 7.2.1 stands deleted
31	Caluse 7.3 Page 231	Penalty for deficiency in services	The clause shall be deleted as applicability of LD should be a sole remedy available to the client.	Please see the modified clause 7.3

11	Page 103	6.16. PERFORMANCE BANK GUARANTEE 2. This Performance Bank Guarantee will be for an amount equivalent to 10% of value of the contract(s). All incidental charges whatsoever such as premium, commission etc. with respect to the performance bank guarantee shall be borne by the bidder.	Request to accept separate BG's for amount equivalent to 5% of Implementation Services amount and thereafter an annual BG for Support Services.	Performance bank guarantee will be 10% on the contract value. After the successful completion of the implementation services 5% of the contract value will be released by KMRL after effecting any applicable deductions as per this agreement. Balance 5% will be retained as performance bank guarantee till the completion of the services as per this agreement. The clause stands modified to this extend.
14	Preamble	Name of the entity	Pls. add the following :Tata Consultancy Services Ltd, a Company incorporated under the Companies Act, 1956 and having its Corporate office at TCS House, Raveline St, Fort, Mumbai - 400001	Not accepted
15	1.7 Page 211	Notices	Any legal notices to System Integrator shall be marked a copy to : The General Counsel, TCS House, Raveline Street, Fort, Mumbai	Not accepted
16	1.10 Page 213	Taxes	All fees payable to System Integrator are exclusive of any sales, use or value added tax imposed by any applicable taxing jurisdiction for which KMRL shall be liable. Where applicable, System Integrator shall invoice such taxes as a separate line item in applicable invoices and shall pay such amount of tax to the appropriate taxing authority upon receipt of such amount from the KMRL. Service Tax shall be in addition to the fee payable to the Consultant as remuneration and KMRL shall also reimburse other overheads or expenses which are agreed by it. Further any increase or decrease in the existing taxes as well as any newly introduced taxes shall be to the account of KMRL. Price quoted for third party products cannot remain unchanged if the such third party OEM modifies the price. System Integrator proposes that any charges related to travel expenses, boarding and lodging needs to be reimbursed at actual.	Not accepted

17	2.9.1 Page 216	Termination by KMRL	<p>Termination for breach to be made mutual and the grounds of termination to be made objective as follows.</p> <p>a. Termination for material breach if such breach remains uncured.</p> <p>b. Termination for insolvency/liquidation. Any such termination shall be with a prior written notice and with a cure period of 30 days and shall not abrupt without any written notice. Pls delete sub clause d,e and g.</p> <p>Any termination for convenience shall be with a prior written notice of 90 days or more.</p> <p>In the event of any termination, KMRL shall, remain obligated to pay System Integrator any amounts due hereunder for Services performed and expenses incurred or arising from the termination under any sow prior to the date of termination of such sow, including any Services performed and expenses incurred during any applicable notice period</p>	Please see the revised clauses
18	3.2.3 Page 220	Prohibition of Conflicting activities	<p>This clause needs to be restricted to the Key personnel only and not for the entire SI personnel.</p> <p>Pls add the following non-exclusivity clause: System Integrator shall be free to do similar business either for itself or for any other party or offer similar services to any third parties but without in any way affecting the services agreed to be offered by System Integrator either under this Proposal and Agreement resulting from this proposal.</p>	Clause 3.2.3 stands deleted
19	3.2.5 & 3.2.6 Page 220 and 221	Prohibited practices	<p>Any termination for the breach of the terms of this Agreement shall be in accordance with the termination clause.</p> <p>In the event of any termination for Prohibited Practices, the Agreement shall not be terminated for speculative reasons but only for reasons which are established before any court of law and falling within the purview of the Prohibited Practices.</p>	Original terms to continue.

20	3.3 Page 222	Confidentiality	<p>Mutualise Confidentiality</p> <p>The business strategies, plans and procedures, proprietary information, software, tools, processes, methodologies, data and trade secrets, and other confidential information and materials of the SYSTEM INTEGRATOR shall be treated as 'SYSTEM INTEGRATOR Confidential Information' and any 'SYSTEM INTEGRATOR confidential information' disclosed to KMRL in the performance of this agreement or applicable SOW shall not, without the written consent of the SYSTEM INTEGRATOR, be disclosed to any third Party, by KMRL, its affiliates, or their employees and in respect of 'SYSTEM INTEGRATOR confidential information' KMRL shall take the same care as it takes in respect of its own confidential information. Upon expiration or termination of this Agreement, KMRL shall, at SYSTEM INTEGRATOR's option, promptly (i) return to SYSTEM INTEGRATOR all documentation and other materials containing SYSTEM INTEGRATOR Confidential Information, or (ii) certify to SYSTEM INTEGRATOR, pursuant to a certificate in form and substance reasonably satisfactory to SYSTEM INTEGRATOR, as to the destruction of all such documentation and materials.</p> <p>Pls add the following in addition to the exceptions (e) is independently developed by the receiving party without reference to or use of any confidential information of the disclosing party;</p>	Agreed. Clause 3.3 stands modified to this extend
21	3.4.1 Page 223	Liability of the SI	<p>Pls delete 3.4.1 as the liability of the SI is quantified in 3.4</p> <p>For the purpose of clarity pls add the following: Neither party shall be liable to the other for any special, indirect, incidental, consequential, exemplary or punitive damages whether in contract, tort or other theories of law, even if the party has been advised of the possibility of such damages. Notwithstanding any other provisions, the total liability of the System Integrator arising from the Contract shall not exceed in aggregate the amount paid to System Integrator for the Services under the relevant work order that gives rise to the claim during the period of 6 months preceding the claim.</p>	Clause 3.4.1 stands modified with the inclusion of the following " Neither party shall be liable to the other for any special, indirect, incidental, consequential, exemplary or punitive damages whether in contract, tort or other theories of law, even if the party has been advised of the possibility of such damages."

22	3.8 Page 224	Documents prepared by the SI shall be property of the KMRL	3.8.1 Upon the payment of all the amounts due to the SI, all Project Documents prepared by the SI and its agents shall become the property of KMRL. System Integrator proposes the standard IPR clause to be added for the purpose of protecting its IPR. KMRL acknowledges that in performing Services under this Agreement System Integrator may use System Integrator's proprietary methodology, processes, ideas, know-how and technology or any improvements thereof ("System Integrator Background Technology"). System Integrator agrees that except with prior consent of KMRL. System Integrator shall not embed or incorporate any product, independent utilities, tools, programs or components that are or were developed or owned by System Integrator prior to or independent of the Services performed hereunder or any enhancements or improvements thereof made as part of the services hereunder ("System Integrator Pre- Existing IP"). Notwithstanding anything to the contrary contained in this Agreement, System Integrator shall continue to retain the ownership and title to all System Integrator Background Technology and System Integrator Pre-Existing IP and nothing contained herein shall be construed as preventing or restricting System Integrator from using System Integrator Background Technology or System Integrator Pre-Existing IP in any manner and the assignment provisions set forth in this Agreement shall not apply to System Integrator Background Technology, System Integrator Pre-existing IP or any improvements thereof. To the extent that any System Integrator Background Technology or System Integrator Pre-Existing IP or a portion thereof is incorporated or contained in a Deliverable under this Agreement, System Integrator hereby grants to KMRLs nonexclusive, perpetual, royalty free, fully paid up,	Please see the revised clause 3.8
23	3.9 Page 225	Materials furnished by KMRL	KMRL will defend, indemnify and hold harmless the SYSTEM INTEGRATOR, applicable SYSTEM INTEGRATOR affiliates and SYSTEM INTEGRATOR personnel ("SYSTEM INTEGRATOR Indemnified Party") from and against any third party suit, proceedings damages, judgments, cost and expenses (including reasonable attorney fees) relating to any infringement claim by a third party to the extent based on any content or other materials provided to SYSTEM INTEGRATOR by or on behalf of KMRL or the access and use by SYSTEM INTEGRATOR of any KMRL provided software or material in connection with SYSTEM INTEGRATOR's performance of Services hereunder without breaching the terms of this Agreement	Agreed

24	4.2.3 Page 226	Deployment of Personnel	<p>Any addition to the scope of work shall be subject to change management procedure as follows: Either Party may request a change in the scope of Services or deliverables or the project but no such change shall be effective and binding unless such changes are documented in a change control document and signed by both parties. If KMRL desires to propose a change in a scope, KMRL shall deliver to System Integrator a change request in writing, describing the changes proposed. Promptly following System Integrator's receipt of KMRL's change request, System Integrator shall submit a written change order proposal to KMRL. If System Integrator desires to propose any change System Integrator shall submit to the KMRL a written description of the change in the form of a proposed change order for KMRL's review and approval. Any change order document prepared by the parties shall include, among other items, an estimate of additional charges to KMRL, if applicable, for the modified Services, any additional software or other material required to implement the change and any expected impact on the project schedule or service levels under the Statement of Work. On KMRL's written approval of the change order document submitted by System Integrator the parties shall sign the change order whereupon the Statement of Work shall be deemed to have been amended by the change order. No change to any Statement of Work shall be binding on the parties unless the change order has been signed by authorized representatives of each party</p>	Please see the new clause 2.6 b
25	6.3(b) Page 229	Mode of billing and payment	<p>Pls add the following: Any invoice remaining unpaid after the credit period of 30 days shall be treated as debt owed by KMRL to System Integrator and System Integrator shall , without prejudice to any other rights that it may have in this regard, entitled to charge interest @1.5% per month on the amount due till the actual date of payment. Without prejudice to the other rights available, System Integrator also reserves the right to withhold the provision of services till such time all the payments due to it and any such withholding by System Integrator shall not be treated as breach by it of the provisions of this Agreement.</p>	The following is added to clause 6.3(b) "Any invoice remaining unpaid after the credit period of 45 days shall be treated as debt owed by KMRL to System Integrator and System Integrator shall , without prejudice to any other rights that it may have in this regard, entitled to charge interest @12% per annum on the amount due and remaining unpaid till the actual date of payment.
26	7.1.2 Page 230	Performance Security	<p>Apart from the appropriation of BG, KMRL shall not be entitled to deduct any other amounts which are disputed. Pls delete the language which states that further deductions can be done</p>	No change

27	7.2.1 Page 230	Liquidated damages for error/variation	Pls delete this para, there cannot be liquidated damages for errors in report, in the event of any errors SI shall correct such errors as soon as its brought to the notice or aware of such errors	Clause 7.2.1 stands deleted
28	7.2.2 Page 230	Liquidated damages for delay	Pls modify as below: Liquidated damages shall be levied at the rate of 0.5% per week of the value of the delayed services and not on the entire contact value. The total LD shall not exceed 5 % of the milestone value. The Liquidated Damages should be levied for reasons of delay solely attributable to the Bidder and KMRL does not have any contributory acts or omission which led to such error or omission.	Please see the modified clause
29	7.2.3 Page 231	Encashment and appropriation of performance security	Pls delete this para, not agreeable	Clause 7.2.3 stands modified as "The KMRL shall have the right to invoke and appropriate the proceeds of the Performance Security, in whole or in part, without notice to the System Integrator for an amount equal to the sums due to KMRL as per this agreement or for recovery of liquidated damages specified in this Clause 7.2, provided the System Integrator fails to pay such dues on demand by KMRL in 15 days of such demand and no running bills from which recoveries can be effected, is due to be paid to the System Integrator.
30	7.3 Page 231	Penalty for deficiency of Services	Pls delete this para. Not agreeable	Please see the modified clauses 7.2.1 and 7.3
31	9.4 Page 232	Arbitration	Appointment of Arbitrators clause is missing, proposed clause Any dispute arising between the Parties in relation to or in connection with this Agreement and its implementation which are not amicable resolved shall be settled under the Rules of Arbitration and Conciliation Act, 1996, The arbitral tribunal shall consist of a chairman and two arbitrators. Each Party shall appoint one arbitrator and the two arbitrators so appointed shall, in agreement between them, appoint the third arbitrator who shall act as chairman of the arbitral tribunal. If either Party fails to appoint its own arbitrator within one month from receipt of a request by the other Party or the two arbitrators appointed by the Party fail to reach agreement on the appointment of the third arbitrator within one month from the date of the last appointment, the arbitrator or arbitrators shall be appointed by the respective High Court at the request of either Party. The third arbitrator, being the chairman of the arbitral tribunal, shall be a member of the legal profession. The arbitration process shall be conducted in English. The seat of arbitration shall be Mumbai. An application for the enforcement of the arbitration award rendered may be made to any court having jurisdiction.	Please see the modified clause

32	10.2 (c)&(d) Page 234	Compliance of Laws	Any indemnification by the SI shall be subject to KMRL complying with the indemnification procedure as requested by the SI and SI shall be liable only for the direct damages arising out of any breach and not consequential damages.	Clause 10.2 (c) stands modified as " (c) Parties agree and undertake to observe, adhere to, abide by, comply with all Applicable Laws in force or as are or as made applicable in future, pertaining to or applicable to them, their business, their employees or their obligations towards them pursuant to the Project and shall indemnify, keep indemnified, hold harmless, defend and protect other party and its employees/officers/staff/ personnel/representatives/agents from any failure or omission on its part to do so and against all claims or demands of liability and all consequences that may occur or arise for any default or failure on its part to conform or comply with the above and all other statutory obligations arising therefrom." Also clause 10.2 (d) stands modified as " (d) Parties represent and warrant that they have obtained all the consents, permissions, approvals, licenses, etc., as may be necessary or required for any of the purposes of this Agreement or for the conduct of its own business under any Applicable Law, government regulation/guidelines and shall keep the same valid and in force during the Term and shall endeavor to promptly obtain all such future approvals and consents from various departments as may be required in future under any amendments in law or notifications issued by the government, and in the event of any failure or omission to do so, shall indemnify, keep indemnified, hold harmless, defend, protect and fully compensate the other party and its employees/ officers/ staff/ personnel/ representatives/agents from and against all claims or demands of liability and all consequences that may occur or arise for any default or failure on its part to conform or comply with the above and all other statutory obligations arising therefrom."
33	11.3 Page 235	Specific performance	Any relief sought by KMRL shall be notified to the SI.	Agreed
34	11.6 Page 236	Survival	Pls. delete sub section (a) as all rights and obligations under this Agreement upon termination of this Agreement.	Agreed
53	69	4.14 General Conditions For Commercial Proposals – 10 – If during the contract period, there is any change in the applicable laws with respect to taxes and duties quoted in the commercial proposal which increases or decreases the cost incurred by the bidder in performing the services, then such payment, otherwise payable to the bidder under this contract shall be increased or decreased accordingly. Such increase of decrease in the contract shall be valid on the invoice submitted on or after the date of such changes brought into force only.	This is at variation with clause 5.3 which restricts this increase or decrease to more than 2%. It is not clear whether in a scenario, where, let us say, there is an increase of 2.5% in taxes, will KMRL increase the amount payable by 2.5% or by 0.5% (offsetting the 2% increase as per this clause). However, we request that, since such increases or decreases are outside the control of KMRL and bidder, this limit of 2% may not be imposed.	Please see the modified clause

57	4.16/ 71	2. On completion of the validity period, unless the bidder withdraws its proposal in writing, it will be deemed to be valid until such time that the bidder formally (in writing) withdraws his proposal.	Request modifications as follows: Bid to be valid only till the end of the validity period specified in the response. In case the validity expires, the bid will not be valid until the bidder formally renews the validity in writing.	Original terms to continue.
58	5.9.3 Sub clause (e)/ 84	5.9.3 – Consequence of disqualification sub clause (e) e. During validity of the Bid, or its extended period, if any, the bidder increases its quoted prices. During validity of the Bid, or its extended period, if any, the bidder increases its quoted prices	Request modification as below: Bid validity to be changed to 30 Days from the date of submission. Any extension of this validity period shall be at bidders sole discretion	Original terms to continue.
61	118	6. Company Information	We request that in addition to the internal auditor, the bidders may be optionally permitted to get this signed by Company Secretary/CFO/Chartered Accountant	Agreed
84	1.1.3, Annexure 3, Pg 211	1.1.3 All documents forming part of the Agreement are to be taken as mutually explanatory of one another. In the event of any conflict, the terms of the Agreement (including the Schedules and appendices) shall prevail over any other document. In case of conflict between RFP (as may be amended) and the Proposal by the SI, the provisions mentioned in the RFP (including its annexures, addenda and pre-bid clarifications issued for the RFP) shall prevail over the Proposal.	Request Proposal to prevail over the RFP. Proposal is our comprehensive response to the requirements of the RFP and indicates the extent of our compliance to the same therefore the very purpose of the Proposal is defeated if the RFP will over rule the same.	Original terms to continue.
85	1.4, Annexure 3, Pg 211	1.4 Governing law and jurisdiction This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at Kochi / Ernakulam shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.	We would request the place of Arbitration to be moved to Bangalore.	Original terms to continue.

86	2.3, Annexure 3, Pg 213	2.3 Termination of Agreement for failure to commence Services If the System Integrator does not commence the Services within the period specified in Clause 2.2 above, the KMRL may, by not less than 1 (one) weeks' notice to the System Integrator, declare this Agreement to be null and void, and in the event of such a declaration, this Agreement shall stand terminated and the System Integrator shall be deemed to have accepted such termination	Request this to be read in tandem with termination provisions under clause 2.9 and shall be applicable only if the same is established to lead to material breach of the contract	Original terms to continue.
87	2.8, Annexure 3, Pg 216	2.8 Suspension of Agreement The KMRL may, by written notice of suspension to the System Integrator, suspend all payments to the System Integrator hereunder if the System Integrator shall be in breach of this Agreement or shall fail to perform any of its obligations under this Agreement, including the carrying out of the Services; provided that such notice of suspension (i) shall specify the nature of the breach or failure, and (ii) shall provide an opportunity to the System Integrator to remedy such breach or failure within a period not exceeding 15 (fifteen) days after receipt by the System Integrator of such notice of suspension.	Requests deletion	Clause 2.8 stands deleted
89	2.8/ 216	Suspension of Agreement	Request modifications as follows: There will be no suspension or withholding of payments for services not under dispute. Payments should be made as soon as the dispute is resolved or the defect is remedied or rectified.	Original terms to continue.
90	2.9/ 216	Termination of Agreement	Request modifications as follows: Remedy period as well as notice period of 30 days is required in case of termination by KMRL. In case of termination by SI, the SI should be able to terminate if the customer does not make the payment within 30 days from date of notice by SI, instead of 45 days	Notice period and remedy period will be 90 days all together. The clause stands modified to that extend

91	2.9, Annexure 3, Pg 216	<p>2.9 Termination of Agreement</p> <p>2.9.1 By the KMRL</p> <p>The KMRL may, by not less than 15 (fifteen) days' written notice of termination to the System Integrator, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.1, terminate this Agreement if:</p> <p>(a) The System Integrator fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.8 hereinabove, within 15 (fifteen) days of receipt of such notice of suspension or within such further period as the KMRL may have subsequently granted in writing;</p> <p>(d) The System Integrator submits to the KMRL a statement which has a material effect on the rights, obligations or interests of the KMRL and which the System Integrator knows to be false;</p> <p>(f) As the result of Force Majeure, the System Integrator is unable to perform a material portion of the Services for a period of not less than 60 (sixty) days; or</p> <p>(g) The KMRL, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.</p>	<p>Request following modifications to this clause:</p> <p>a) KMRL shall provide the bidder with a 30 day notice in the event of termination and shall terminate the contract if the same remains uncured during this period .</p> <p>b) KMRL may terminate the agreement only in the event of a material breach of this Agreement as opposed to any breach and subject to (a) above.</p> <p>c) Request deletion of sub clause (d) d) Request deletion of Sub clause (g) which is essentially termination for convenience.</p>	<p>Original terms to continue. Following additional clause will be added as clause 2.9.7." KMRL shall be entitled to terminate the Contract, at any time for it's convenience, by giving notice of such termination to the System Integrator. The termination shall take effect 30 days after the System Integrator receives this notice. KMRL shall not terminate the Contract under this sub-Clause in order to execute the Project/Services by itself or to arrange for the Project/Services to be executed by another System Integrator or to avoid a termination of the Contract by the System Integrator. After a notice of termination for convenience, the System Integrator shall promptly:</p> <p>(a) cease all further work with respect to the Project/Services, except for such activity as may have been instructed by KMRL for the protection of property or for the safety of the data</p> <p>(b) hand over all Documents for which the System Integrator has received payment. After a notice of termination for convenience, KMRL shall promptly pay the System Integrator any amounts due till the date of Termination.</p>
92	2.9.2. Annexure 3, Pg 217	2.9.2 (termination) By the System Integrator	Request limit the notice period for termination to 30 days, within which if KRML fails to remedy the a) , c) and d) Bidder shall terminate the Agreement	Original terms to continue.
93	2.9.5. Annexure 3, Pg 218	2.9.5 Payment upon Termination	Request modifications to subclause (a) as: Remuneration pursuant to Clause 6 hereof for Services performed upto the effective date of termination;	Original terms to continue.

94	3.2, Annexure 3, Pg 219	<p>3.2 Conflict of Interest</p> <p>3.2.2 System Integrator and Affiliates not to be otherwise interested in the Project</p> <p>The System Integrator agrees that, during the term of this Agreement and after its termination, the System Integrator or any Associate thereof, as well as any Sub-Contractor and any entity affiliated with such Sub-Contractor, shall be disqualified from providing goods, works, services, loans or equity for any project resulting from or closely related to the Services or the Project and any breach of this obligation shall amount to a Conflict of Interest; provided that the restriction herein shall not apply after a period of three years from the completion of this assignment or to consulting assignments or services granted by banks/ lenders at any time; provided further that this restriction shall not apply to consultancy/ advisory services provided to the KMRL in continuation of this Project or to any subsequent Project/ advisory services provided to the KMRL in accordance with the rules of the</p>	<p>We request deletion of this clause as :</p> <p>a) The clause is not clear as to what are the events that may result in a conflict of interest.</p> <p>b) It is very vast in its implications. It covers not only bidder but its affiliates, its subcontracts and their affiliates as well.</p> <p>c) This is restriction of our right to continue our business.</p> <p>d) It's impossible to comply or even request and ensure that all our affiliates and sub cons and their affiliates comply with this provision.</p>	Please see the modified clause
95	3.3, Annexure 3,	3.3 Confidentiality	<p>Request modifications as follows:</p> <p>All information to be maintained confidential shall be marked and / or identified by KMRL as confidential at the time of disclosure. Confidential Information shall not include information that is independently developed by recipient or is in public knowledge or is already in the possession of the Bidder or is received by bidder from a third party. Confidentiality obligation shall survive for a period of two years from date of initial disclosure. Each party shall comply with the applicable export and import laws and regulations. In the event the Bidder shares Confidential Information under this Agreement , the KMRL shall comply with all obligations applicable to the Bidder under this clause and Bidder shall have all rights and remedies available to KMRL as set out hereunder with respect to breach of confidentiality obligations.</p>	Please see the modified clause

96	3.4, Annexure 3, Pf 223	<p>3.4 Liability of the System Integrator</p> <p>3.4.1 The System Integrator's liability under this Agreement shall be determined by the Applicable Laws and the provisions hereof.</p> <p>3.4.2 The System Integrator shall, subject to the limitation specified in Clause 3.4.3, be liable to the KMRL for any direct loss or damage accrued or likely to accrue due to deficiency in Services rendered by it.</p> <p>3.4.3 The Parties hereto agree that in case of negligence or wilful misconduct on the part of the System Integrator or on the part of any person or firm acting on behalf of the System Integrator in carrying out the Services, The Project, the System Integrator, with respect to damage caused to the KMRL's property, shall not be liable to the KMRL:</p> <p>i. For any indirect or consequential loss or damage;</p> <p>and ii. For any direct loss or damage that exceeds the Agreement Value set forth in Clause 6.1.2 of this Agreement</p>	<p>Request following modifications in the clause:</p> <p>3.4.2 The System Integrator shall, subject to the limitation specified in Clause 3.4.3, be liable to the KMRL for any direct loss or damage accrued due to breach of this Agreement with respect to Services rendered by it.</p> <p>Additionally request addition of following to this clause:</p> <p>The System Integrator shall in no event be liable for indirect, consequential, incidental or special damages, loss of/damage to, data and third party claims, even if it has been advised of possibility of such damages.</p> <p>Notwithstanding anything stated to the contrary in the RFP and the Contract and regardless of the nature of claim, System Integrator's aggregate liability for direct damages under this Agreement shall not exceed the charges paid by KMRL to the System Integrator for the individual product or service that is the subject of claim (if recurring, twelve months charges apply</p>	<p>The clause is modified with the inclusion of the following " Neither party shall be liable to the other for any special, indirect, incidental, consequential, exemplary or punitive damages whether in contract, tort or other theories of law, even if the party has been advised of the possibility of such damages. Other suggestion may not be accepted, however finance may decide."</p>
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97	3.8, Annexure 3, Pf 224	<p>3.8 Documents prepared by the System Integrator to be property of the KMRL</p> <p>3.8.1 All reports and other documents (collectively referred to as "Project Documents") prepared by the System Integrator (or by the Sub-Contractor or any Third Party) in performing the Services shall become and remain the property of the KMRL, and all intellectual property rights in such Project Documents shall vest with the KMRL.</p> <p>Any Project Document, of which the ownership or the intellectual property rights do not vest with the KMRL under law, shall automatically stand assigned to the KMRL as and when such project Document is created and the System Integrator agrees to execute all papers and to perform such other acts as the KMRL may deem necessary to secure its rights herein assigned by the System Integrator.</p> <p>3.8.2 The System Integrator shall, not later than termination or expiration of this Agreement, deliver all Project Documents to the KMRL, together with</p>	<p>Request modification as below:</p> <p>3.8 Documents prepared by the System Integrator to be property of the KMRL</p> <p>3.8.1 All reports and other documents (collectively referred to as "Project Documents") prepared by the System Integrator (or by the Sub-Contractor or any Third Party) in performing the Services shall become and remain the property of the System Integrator, and all intellectual property rights in such Project Documents shall vest with the System Integrator. Any Project Document, of which the ownership or the intellectual property rights do not vest with the KMRL under law, shall automatically stand assigned to the KMRL as and when such project Document is created and the System Integrator agrees to execute all papers and to perform such other acts as the KMRL may deem necessary to secure its rights herein assigned by the System Integrator provided the same has been identified as KMRL Material in the statement of work / proposal explicitly. System Integrator grants KRLM an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, and distribute (within KRLM only) copies of the Project Documents solely for the purposes for which they were delivered.</p> <p>3.8.2 The System Integrator shall, not later than termination or expiration of this Agreement, deliver all Project Documents to the KMRL, to the extent they have been paid for fully to the System Integrator as detailed in the Agreement. The System Integrator shall not retain any of such Project Documents.</p> <p>3.8.3 The System Integrator shall hold KMRL indemnified for any losses, claims, damages, expenses (including all reasonable legal expenses), awards, penalties or injuries that the System Integrator is legally liable to pay (collectively referred to as</p>	Please see the modified clause
98	7/230	Liquidated Damages and Penalties	<p>Request following modifications to the terms:</p> <ol style="list-style-type: none"> 1. All Liquidated Damages / Penalties in whatsoever form to be capped to 10% of contract value 2. Clause 7.2.2 – Penalty to be charged @ 0.5% per week 3. Request deletion of clauses 7.2.1 and 7.3 <p>Liquidated Damages can be recovered from payments due to bidder only. Performance Bank Guarantee will not be used for deducting Liquidated Damages.</p>	Please see the modified clause
102		<p>9.4 Arbitration</p> <p>9.4.1 The venue of such arbitration shall be Kochi</p>	Request venue of arbitration to be changed to Bangalore	Original terms to continue.

103		<p>10. Compliances with the applicable laws 10.1 Statutory Obligations. (b) System Integrator represents and warrants to KMRL that the performance of obligations under this Agreement will not conflict with or result in a breach of any of the terms, conditions or provisions of or constitute a default or require any consent under, any instrument or arrangement to which System Integrator is a party or violate any other Applicable Laws or any writ,</p>	<p>Request following modifications to this clause: 10. Compliances with the applicable laws 10.1 Statutory Obligations. (b) System Integrator confirms to KMRL that the performance of obligations under this Agreement will not conflict with or result in a breach of any of the terms, conditions or provisions of or constitute a default or require any consent under, any instrument or arrangement to which System Integrator is a party or violate any other Applicable Laws or any writ, order, injunction or judgment by which System integrator is bound resulting in a material adverse effect on its ability to provide Services to KMRL as agreed under this Agreement .</p>	Agreed
104		<p>10.2 Compliance with Laws (c) System Integrator agrees and undertakes to observe, adhere to, abide by, comply with all Applicable Laws in force or as are or as made applicable in future, pertaining to or applicable to them, their business, their employees or their obligations towards them pursuant to the Project and shall indemnify, keep indemnified, hold harmless, defend and protect KMRL and its employees/officers/staff/ personnel/representatives/agents from any failure or omission on its part to do so and against all claims or demands of liability and all consequences that may occur or arise for any default or failure on its part to conform or comply with the above and all other statutory obligations arising therefrom.</p>	<p>Request modification of the clause as below: 10.2 Compliance with Laws (c) System Integrator agrees and undertakes to observe, adhere to, abide by, comply with all Applicable Laws in force or as are or as made applicable in future, pertaining to or applicable to them, their business, their employees or their obligations towards them pursuant to the Project</p>	Original terms to continue.

105	Page 113, GENERAL FORMATS AND FORMATS FOR ELIGIBILITY CRITERIA (2)	2. PROPOSAL COVERING LETTER	Request deletion of ". This response includes all information necessary to ensure that the statements therein do not in whole or in part mislead KMRL as to any material fact in its short listing process. We fully understand and agree to comply that on verification, if any of the information provided here is found to be misleading the short listing process or unduly favors our company in the short listing process, we are liable to be dismissed from the selection process or termination of the contract during the project, if selected to do so, for providing implementation services to KMRL." Further request following addition: All the information provided and statements made under the bid response documents is true and accurate to the best of our knowledge as of the date of its submission.	Original terms to continue.
106	Page 116, GENERAL FORMATS AND FORMATS FOR ELIGIBILITY CRITERIA (4)	4. CONFLICT OF INTEREST	Request deletion of the Letter itself for the reasons already covered hereunder with respect to the conflict of interest clause of the RFP and draft contract.	See the modified clause
107	Page 117, GENERAL FORMATS AND FORMATS FOR ELIGIBILITY CRITERIA (5)	5. DECLARATION ON GOVERNMENT REGULATION	Request modifications to the first para of the letter as follows: We confirm that our company is not blacklisted in any manner whatsoever by Government of Kerala or any organisation belonging to Government of Kerala, or any department of Government of India or any of the organisations, or public enterprises of Government of India which shall have a material adverse impact on our ability to enter into this contract or provide services as agreed upon.	Agreed
108	2/ Page 131	The Solution fitment statement for ERP Solution	Request you to consider statement from either ERP OEM or SI on their respective letterhead not jointly.	Not accepted

109	Page 142 TECHNICAL PROPOSAL FORMATS FOR IMPLEMENTA TION (1)	1. TECHNICAL PROPOSAL COVERING LETTER	Request following modifications in the cover letter: Having examined the bid document, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to provide the implementation services for the ERP solution (name of the ERP) at KMRL as required and outlined in the RFP. We attach hereto the bid technical response as required by the bid document, which constitutes our proposal. We undertake, if our proposal is accepted, to provide all the services put forward in this RFP or such features as may subsequently be mutually agreed between us and KMRL or its appointed representatives. We agree to abide by this bid response for a period of 30 days from the date fixed for bid opening and it shall remain binding upon us with full force and virtue, until within this period a formal contract is prepared and executed. This bid response, together with your written acceptance thereof in your notification of award, shall constitute a binding contract between us and KMRL. We confirm that the information contained in this proposal or any part thereof, including its exhibits, schedules, and other documents and instruments delivered or to be delivered to the KMRL is true, accurate, and complete to the best of our knowledge e. We agree that you are not bound to accept the lowest or any bid response you may receive. We also agree that you reserve the right in absolute sense to reject all or any of the products/ service specified in the bid response without assigning any reason whatsoever.	Original terms to continue.
110	Page 148 TECHNICAL PROPOSAL FORMATS FOR IMPLEMENTA TION (9)	9. DECLARATION ON IPR/PATENT RIGHTS - SI	Request modifications to the letter as below: I/We do hereby confirm that none of the unaltered Bidder logoed deliverables being provided by us is infringing on any patent or copyrights of a third party We shall indemnify KMRL against all court awarded cost/claims/legal claims/liabilities arising from third party claim in this regard at any time on account of the infringement of patent or copyrights of any such parties, where such claims arise in respect of use of the said deliverables, that we are legally liable for . KMRL shall provide Bidder with prompt notice of such claim and allow Bidder to control the defense of such claim If at a later date it is found that it does infringe on patent rights, I/We absolve and indemnify KMRL of any legal action.	Original terms to continue.

111	Page 152 COMMERCIAL PROPOSAL FORMATS FOR ERP SOLUTION AND IMPLEMENTA TION (2)	2. COMMERCIAL PROPOSAL COVERING LETTER FOR ERP IMPLEMENTATION	Request following modifications in the letter: We agree to abide by this bid response for a period of 30 days from the date fixed for opening the commercial bid and it shall remain binding upon us, until within this period a formal contract is prepared and executed, this bid response, together with your written acceptance thereof in your notification of award, shall constitute a binding contract between us Further request addition as follows: All the information provided and statements made under the bid response documents is true and accurate to the best of our knowledge as of the date of its submission. We confirm that the information contained in this proposal or any part thereof, including its exhibits, schedules, and other documents and instruments delivered or to be delivered to the KMRL is true, accurate, and complete. Request deletion of : This proposal includes all information necessary to ensure that the statements therein do not in whole or in part mislead the KMRL as to any material fact.	Original terms to continue.
112	6/ 158	The payment terms for Implementation services	Kindly note, there will be difference between price based on payment terms proposed by bidder in form 6 (page number 158) and same based on payment terms as per RFP section no. 4.15 (page 70). Request clarity on how KMRL plan to handle this variation.	See the corrigendum/addendum
1	Section 4.15 Page 69, Payment Terms	25% of the cost of implementation services will be paid after one annual quarter of successful operation and successful completion of three months of user adoption services	Request to amend the last milestone as below- 20% on UAT 5% on Go-live/ within 3 months of UAT completion whichever is earlier	See the corrigendum/addendum

2	Section 5.3, Page 228, Change in Applicable law	If, after the date of this Agreement, there is any change in the Applicable Laws with respect to taxes and duties which increases or decreases the cost or reimbursable expenses incurred by the System Integrator in performing the Services, by an amount exceeding 2% (two per cent) of the Agreement Value specified in Clause 6.1.2, then the remuneration and reimbursable expenses otherwise payable to the System Integrator under this Agreement shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the aforesaid Agreement Value.	Any change in taxes subsequent to submission of proposal shall be borne by Customer. This is because all of our internal cost estimations and projections related to this bid are exclusive of taxes.	See the revised clause
3	Section 6.3.(a).i, Page 229, mode of billing and payment	No payment shall be due for the next stage till the System Integrator completes to the satisfaction of the KMRL the work pertaining to the preceding stage; and	Request to remove the term "satisfaction", as it is very subjective and replace it with a suitable objective alternative, such as a pre-defined milestone.	No change
4	Section 6.3(d), Page 229, mode of billing and payment	Any amount which the KMRL has paid or caused to be paid in excess of the amounts actually payable in accordance with the provisions of this Agreement shall be reimbursed by the System Integrator to the KMRL within 30 (thirty) days after receipt by the System Integrator of notice thereof. Any such claim by the KMRL for reimbursement must be made within 1 (one) year after receipt by the KMRL of a final report in accordance with Clause 6.3 (c). Any delay by the System Integrator in reimbursement by the due date shall attract simple interest @ 10% (ten per cent) per annum.	Request to delete the sentence below: "Any delay by the System Integrator in reimbursement by the due date shall attract simple interest @ 10% (ten per cent) per annum."	No change
5	Section 7, Page 230, Liquidated Damages	Refer RFP	LD clause is OK except we are not ok with the apportionment form further amounts due. We are ok with the cap suggested and money being claimed from us up to the percentage of the PBG value	See the modified clauses on LD and Performance guarantee

6	Section 7.3, Page 231, Penalty for deficiency	<p>In addition to the liquidated damages not amounting to penalty, as specified in Clause 7.2, warning may be issued to the System Integrator for minor deficiencies on its part. In the case of significant deficiencies in Services causing adverse effect on the Project or on the reputation of the KMRL, penal action including but not limited to debarring for a specified period and/or stopping of all payments under the Agreement may also be initiated as per policy/discretion of the KMRL.</p>	<p>Request to delete. Penal actions like debarment are something which impact our business as a whole and hence not acceptable. We are ok to liable to pay damages</p>	
7	Page 149, covering letter for ERP solution proposal	<p>We agree for unconditional acceptance of all the terms and conditions in the bid document and also agree to abide by this bid response for a period of six months from the date fixed for opening the commercial bid and it shall remain binding upon us, until within this period a formal contract is prepared and executed, this bid response, together with your written acceptance thereof in your notification of award, shall constitute a binding contract between us.</p> <p>We confirm that the information contained in this proposal or any part thereof, including its exhibits, schedules, and other documents and instruments delivered or to be delivered to the KMRL is true, accurate, and complete. This proposal includes all information necessary to ensure that the statements therein do not in whole or in part mislead the KMRL as to any material fact.</p>	<p>Request to remove terms: "Unconditional"</p> <p>Request to add phrases as outlined in the Suggested Clause Column: "except for the deviations/suggestions provided" "to the best of our knowledge"</p> <p>We agree for unconditional acceptance of all the terms and conditions, except for the deviations/suggestions provided in the bid document and also agree to abide by this bid response for a period of six months from the date fixed for opening the commercial bid and it shall remain binding upon us, until within this period a formal contract is prepared and executed, this bid response, together with your written acceptance thereof in your notification of award, shall constitute a binding contract between us.</p> <p>We confirm that the information contained in this proposal or any part thereof, including its exhibits, schedules, and other documents and instruments delivered or to be delivered to the KMRL is true, accurate, and complete to the best of our knowledge. This proposal includes all information necessary to ensure that the statements therein do not in whole or in part mislead the KMRL as to any material fact.</p>	<p>See the modified clause</p> <p>Not accepted</p>

8	Page 151, commercial proposal covering letter for ERP implementation	<p>We agree for unconditional acceptance of all the terms and conditions in the bid document and also agree to abide by this bid response for a period of six months from the date fixed for opening the commercial bid and it shall remain binding upon us, until within this period a formal contract is prepared and executed, this bid response, together with your written acceptance thereof in your notification of award, shall constitute a binding contract between us.</p> <p>We confirm that the information contained in this proposal or any part thereof, including its exhibits, schedules, and other documents and instruments delivered or to be delivered to the KMRL is true, accurate, and complete. This proposal includes all information necessary to ensure that the statements therein do not in whole or in part mislead the KMRL as to any material fact.</p>	<p>Request to remove terms: "Unconditional"</p> <p>Request to add phrases as outlined in the Suggested Clause Column: "except for the deviations/suggestions provided" "to the best of our knowledge"</p> <p>We agree for unconditional acceptance of all the terms and conditions, except for the deviations/suggestions provided in the bid document and also agree to abide by this bid response for a period of six months from the date fixed for opening the commercial bid and it shall remain binding upon us, until within this period a formal contract is prepared and executed, this bid response, together with your written acceptance thereof in your notification of award, shall constitute a binding contract between us.</p> <p>We confirm that the information contained in this proposal or any part thereof, including its exhibits, schedules, and other documents and instruments delivered or to be delivered to the KMRL is true, accurate, and complete to the best of our knowledge. This proposal includes all information necessary to ensure that the statements therein do not in whole or in part mislead the KMRL as to any material fact.</p>	Not accepted
9	Page 113, Proposal covering letter	<p>We Confirm that the information contained in this response or any part thereof, including its exhibits, and other documents and instruments delivered or to be delivered to the KMRL Are true, accurate, verifiable and complete. This Response includes all information necessary to ensure that the statements therein do not in whole or in part mislead KMRL As to any material fact in its short listing process.</p>	<p>Request to add phrases as outlined in the Suggested Clause Column: "to the best of our knowledge"</p> <p>We Confirm that the information contained in this response or any part thereof, including its exhibits, and other documents and instruments delivered or to be delivered to the KMRL Are true, accurate, verifiable and complete to the best of our knowledge. This Response includes all information necessary to ensure that the statements therein do not in whole or in part mislead KMRL As to any material fact in its short listing process.</p>	Not accepted

10	Page 141, IPR/solution ownership declaration	I/We do hereby undertake that he we are the rightful owners of the ERP solution (name of the solution) being provided by us and is not infringing on any patent or intellectual property rights as per the applicable laws of relevant jurisdictions having requisite competence.	Request to delete the words below: "and is not infringing on any patent or intellectual property rights as per the applicable laws of relevant jurisdictions having requisite competence." I/We do hereby undertake that he we are the rightful owners of the ERP solution (name of the solution) being provided by us. and is not infringing on any patent or intellectual property rights as per the applicable laws of relevant jurisdictions having requisite competence.	Not accepted
11	SNR, Added		Bidder assumes that the sites shall be kept ready for installations and acceptance well before deliveries. However, in case the installation/ acceptance gets delayed beyond 15 days of delivery, due to sites not ready or any other reason attributable to the customer, the equipment/Software shall be deemed to have been installed and commissioned for the purpose of payment, warranty, title transfer or any other related clause.	Not accepted
12	To be added, Mutual terminaiton due to default		Either party may terminate this Agreement upon written notice to the other in the event that: (a) 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 after receipt of notice (or ten (10) days in the event of nonpayment by Company); or (b) the other party becomes insolvent or bankrupt, assigns all or a substantial part of its business or assets for the benefit of creditors, permits the appointment of a receiver for its business or assets, becomes subject to any legal proceeding relating to insolvency or the protection of creditors' rights or otherwise ceases to conduct business in the normal course; provided that this right to termination shall not apply if the other party is ordered to be wound up by the court for the purpose of a bona fide reconstruction or amalgamation. In the event of termination hereunder, Customer shall pay SI/Implementation partner for services render including work in progress and Product delivered till the effective date of the termination	Not accepted

13	LoL		Bidder request insertion of following clause "Notwithstanding anything to the contrary elsewhere contained herein, the maximum liability of Bidder shall be, regardless of the form of claim, the consideration actually received by Bidder ."	Not accepted. See the revised related terms
14	To be added, Deemed acceptance		Deliverables will be deemed to be fully and finally accepted by Customer in the event Customer has not submitted such Deliverable Review Statement to Implimentation Partner before the expiration of the 15-day review period, or when Customer uses the Deliverable in its business, whichever occurs earlier ("Deemed Acceptance").	Not accepted
15	Change Request		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. Implementation Partner will prepare a Change Order reflecting the proposed changes, including the impact on the Deliverables, schedule, and fee. Absent a signed Change Order, Implementation Partner shall not be bound to perform any additional services. The parties agree to negotiate in good faith all Change Order proposals.	Following clause is inserted as clause No.2.6(b) 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. Implementation Partner will prepare a Change Order reflecting the proposed changes, including the impact on the Deliverables, schedule, and fee. Absent a signed Change Order, Implementation Partner shall not be bound to perform any additional services. The parties agree to negotiate in good faith all Change Order proposals. No change order shall be effective unless accepted by KMRL in writing.
16	Payment to invoices		Customer shall pay invoices within fifteen (15) days from the date of receipt of invoices, except for those portions of any invoice that the Customer disputes in good faith. Delayed payments shall incur interest at the rate of 1.5% per month	See the modified clauses
17	Change in Taxes		Any change in taxes subsequent to submission of proposal shall be borne by Customer	See the modified clauses
18	Saving Clause		Contractor'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 Contractor's non-performance is caused by Employer's omission to act, delay, wrongful action, failure to provide Inputs, or failure to perform its obligations under this Agreement	Following clause is inserted as clause No 7.2.4 Contractor'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 Contractor's non-performance is caused by Employer's omission to act, delay, wrongful action, failure to provide Inputs, or failure to perform its obligations under this Agreement