

EXPRESSION OF INTEREST FOR INFRA MAINTENANCE/OPERATION OF BSNL SITES IN SHIMLA SSA



BHARAT SANCHAR NIGAM LIMITED
O/o GENERAL MANAGER TELECOM DISTRICT SHIMLA

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Bharat Sanchar Nigam Ltd.

OFFICE OF THE GENERAL MANAGER TELECOM DISTRICT SHIMLA-171009

Expression of Interest

NIT No. 002/501/2015-16/Tender/Outsourcing/BTS/Plg/SML/ 02

Dated 15.07.2015

Sealed EOI are invited by GMTD, Shimla on behalf of Bharat Sanchar Nigam Limited for providing services for Upkeep/ Maintenance/ Operation of BSNL Sites in Shimla SSA.

SN	Description	Date	Time
1	Last date for Sale of bid Form	13.09.2015	up to 16:00 Hrs
2	Date of Submission of bid Form	14.09.2015	up to 14:30 Hrs
3	Date of Opening of bid	14.09.2015	At 15:00 Hrs

For more details, kindly visit our website www.hp.bsnl.co.in

**AGM (Planning)
O/o GMTD Shimla
Tel No 0177-2626344**

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Bharat Sanchar Nigam Ltd.

OFFICE OF THE GENERAL MANAGER TELECOM DISTRICT SHIMLA-171009

NIT No. 002/501/2015-16/Tender/Outsourcing/BTS/Plg/SML/ 02

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Wax/PVC Tape sealed EOIs are invited for & on behalf of BSNL by GMTD Shimla for providing Services for Upkeep/ Maintenance/Operation of BSNL Sites in Shimla SSA

S N	Description of work	Section	Area of work	Estimated cost	EMD	Tender Cost (Rs)
1	Upkeep/Maintenance/ Operation of USO Sites in Shimla SSA	Section-I	USO Sites of Shimla SSA (Tribal/Non Tribal Sites)	2718216.00	67955.00	1138/-
2	Upkeep/Maintenance/ Operation of NBSNL Sites in Shimla SSA	Section-II	NBSNL Sites of (Tribal/Non Tribal Sites) Shimla SSA	2561616.00	64040.00	

1. Eligibility Criteria:-

- (a) The contractor/bidder must have a turnover of not less than 3 times the estimated annual cost of the work during each of the preceding two financial years.
- (b) The prospective bidders should also satisfy following conditions :
He should have completed similar work in BSNL/MTNL/PSU/Govt. department as per detail given below during last seven years ending last day of month previous to one in which the tenders are invited:
 - I. Three similar completed works each costing not less than the amount equal to 40% of estimated cost of the section for which he applies. OR
 - II. Two similar completed works each costing not less than the amount equal to 50% of estimated cost of the section for which he applies. OR
 - III. One similar completed works costing not less than the amount equal to 80% of estimated cost of the section for which he applies.
- (c) Each section is taken as separate work for the purpose of quoting rates, depositing EMD & experience etc. A contractor is at liberty to apply for one or more than one section on the same tender document, but the required experience will be sum of experience of sections for which he applies. If more than one section is awarded to one contractor, he has to start the work simultaneously and complete the work in the time schedule given.

The Experience certificate should be issued by an officer not below than the rank of STS or Equivalent.

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1. Issue of EOI forms: -

EOI form will be issued up to one day before date of opening of Tender on all working days between 10.00 hrs. to 16.00 hrs from SDE(Planning) O/o GMTD Shimla by paying EOI form cost in cash or DD to AO(Cash), O/o GMTD, Shimla . The cost of EOI form is shown in table. EOI document can be downloaded from website www.hp.bsnl.co.in and can be used by enclosing a D.D. of requisite amount as mentioned above , drawn in favour of AO (Cash) BSNL O/o GMTD Shimla, payable at Shimla, with the technical bid. EOI form, submitted without enclosing D/D of requisite amount of EOI form cost will not be entertained.

2. Last date and time of receipt of EOIs: -

Date of Submission of Bid : 14.09.2015 upto 14:30 Hrs
Date of Opening of Bid : 14.09.2015 at 15:00 Hrs

- (a) **Technical Bids** will be opened as per above schedule. If it happens to be a holiday, then EOI will be opened on the next working day.
- b) **Financial Bids:-** Date of opening of financial bid will be intimated later on. The Financial bid will be opened only of those technically qualified tenderers who will submit all the documents in proper order as per NIT/ EOI document.
3. The General Manager Telecom Distt. Shimla reserves the right to accept/reject any or all the EOIs without assigning any reason thereof.

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O/o GMTD, Shimla**

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OFFICE OF THE GENERAL MANAGER TELECOM DISTRICT, SHIMLA-171009

Request for Expression of Interest

1. Introduction:-

- 1.1 BHARAT SANCHAR NIGAM LIMITED (BSNL), a Public Sector Enterprise, 100% owned by Government of India, with the dominant market share in the Wire line Telephony, Wireless Telephony, Broadband & Internet services besides other data services like MPLS- VPN, Leased circuits etc. BSNL is the largest Internet Service Provider (ISP) of India. As a leading telecom player, BSNL controls a wide range of telecom infrastructure such as Main Exchange Buildings, RSU Exchange Buildings, Transmission Centre Buildings, BTS sites, billing centres, customer care centers.etc. For more details about BSNL, please log on to www.bsnl.in.

2. Purpose of the EOI:-

- 2.1. BSNL (from here on BSNL means GMTD Shimla or Competent Authority floating the EOI) intends to invite Expression of Interest (EOI) from interested parties for Upkeep/Maintenance/Operation of BSNL Sites in Shimla SSA. After evaluation of EOIs, agreements will be entered with the successful party for a period of one year, which can be extended further up to a period of one year in step of 6 months as per performance and on mutually agreeable terms and conditions.

3. General Requirement:-

- 3.1. BSNL intends to contract Infrastructure Maintenance Services (Annexure E) at selected Telecom Sites in Shimla SSA. These may be required for different time frames at different installations as per requirement (Annexure F). Contractors need to bid for the provision of services at all sites in a unit. The requirement of operators and number of shifts at sites may vary depending upon requirement time to time.

4. Eligibility Requirements:-

- 4.1 **As per NIT**
4.2 List of Documents for eligibility requirement as mentioned in Para 14 of this document.

5. Financial Requirement/ Performance Security Deposit:-

- 5.1 Performance Bank Guarantee @10% of total contract value (less EMD amount which will be converted into security deposit in respect of successful tenderer) is to be deposited by approved contractor before signing of the agreement.
- 5.2 Contractor shall submit the aforesaid Performance Bank Guarantee of the said amount valid for 18 months or as BSNL may recommend from time to time. Without prejudice to other rights and remedies available to BSNL, BSNL reserves the right to forfeit/adjust the said Performance Bank Guarantee in full or part or any sum due from the contractor to BSNL at any time. Contractor shall continue to be liable for balance if any. BSNL reserves the right to increase the amount of Performance Bank Guarantee at any time in its own discretion with respect to any/some/all such

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contractors. The PBG shall be in favour of AO (Cash) , O/o GMTD Shimla. EMD of unsuccessful bidders shall be refunded on finalization of tender .

- 5.3. The BSNL reserved the right to forfeit earnest money and security deposit if the tenderer, after acceptance of the tender/EOI fails to comply or neglect to perform with any of the terms and conditions under the contract. If the contractor fully performs and completes the work in all respects satisfactorily, BSNL shall after the expiry of the warranty period, if any, refund the security to the contractor after deducting all costs and other expenses, that the BSNL might have incurred for making good any/ loss due to any action attributed to the contractor, which the BSNL is entitled to recover from the contractor.

6. Evaluation Criteria:-

- 6.1. BSNL will issue of Letter of Intent (LOI) to the lowest bidder amongst those who meets the eligibility requirements as mentioned in Clause 4 and agreeable to all terms and conditions. The bidder shall within 14 days of issue of LOI give its acceptance and furnishes Performance Bank Guarantee as mentioned in clause 5 and sign the contract with BSNL. The signing of contract shall constitute the award of the contract on bidder.
- 6.2. After award of contract to the Approved bidder the officer designated by the GMTD Shimla/competent authority shall issue the work orders for commencement of the work.

7. Agreement period:-

- (i) The agreement shall be valid for a period of one year and will be extended suo moto on same terms and conditions in step of six months but not more than one year subject to satisfactory performance during the previous period by the contractor. This is subject to extension of the Performance Bank Guarantee of same amount or enhanced amount as per the discretion of BSNL, one month prior to the end of the agreement.
- (ii) The actual value of work may vary based on actual requirement but generally being limited to +/-25% of indicated value.

8. Right:-

- 8.1. BSNL reserves the right to reject any application/ EOI for any reason, without assigning any reason and liability, the information provided by the contractor gathered by BSNL shall become BSNL' s property even if application is rejected and can be used by BSNL in any manner, it deem fit.
- 8.2. The EOI can be modified/ withdrawn at any time without any information or notice to anyone.
- 8.3. The decision of BSNL will be final and binding on all the bidders.

9. Responsibilities of Contractor:-

- 9.1. The contractor shall be responsible for provision of the services as per Annexure E at the site premises during the service timings specified for each site. The sites will be classified by BSNL into three categories (A, B and C). Annexure E lays out the services required at each type of site. At each site, the services may be required in one, two or three standard eight hour shifts. The proposed shift timings are provided in annexure F. However, the GMTD Shimla can decide to change these timings as per local conditions. The requirement of services will be provided by BSNL as per Annexure E.
- 9.2. This clause is applicable only for sites requiring services as specified in items 5, 6 or 7 as per Annexure E. The contractor's representatives shall be responsible for calling the concerned officer in charge for the Telecom Site both at the time of the starting as well as end of duty from the site. At any point if the contractor's representatives fail to do so, 5% of the monthly contract amount of that site will be deducted from their payment for every instance of such negligence on their part. In addition, if

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during any visit, the contractor's representatives are not found to be present at the time of duty, 10% of the monthly contract amount will be deducted from their payment for every instance of such negligence on the part of the contractor.

- 9.3. For all telecom sites for which the contract has been given to the contractor, BSNL reserves the right to monitor the provision of services at any time through visits to the site. In case the service provided by the contractor is not found satisfactory, 10% of the monthly contract amount for that site will be deducted from their payment for every instance of such negligence on the part of the contractor. More penalty per bill is restricted to 15% of work awarded .

10. Inspection:-

BSNL shall have the right to cause an examination of the work and the final bills of the contractor including all supporting vouchers, abstract etc. to be made after payment of the final bill and if as a result of such audit and technical examination any sum is found to have been overpaid in respect of any work done by the contractor under the contract or any work claimed by him to have been done by him under the contract and found not to have been executed, the contractor shall be liable to refund the amount of over payment and it shall be lawful for BSNL to recover the same from him through the PBG or future bills.

11. General Terms and Conditions:

11.1. Commercial Terms & Conditions

- 11.1.1. BSNL reserves the right to disqualify such bidders who have a record of not meeting contractual obligations against earlier contracts entered into with the BSNL.
- 11.1.2. The BSNL reserves the right to black list a bidder for a suitable period in case he fails to honour his bid without sufficient grounds.
- 11.1.3. The BSNL reserves the rights to counter offer price(s) against price(s) quoted by any bidder.
- 11.1.4. BSNL also reserves the right to award the work amongst more than one bidder.
- 11.1.5. Any clarification issued by BSNL, in response to query raised by prospective bidders shall form an integral part of bid documents and it may amount to amendment of relevant clauses of the bid documents.
- 11.1.6. The company reserves the right to change the terms of trade from time to time with notice period of 30 days.
- 11.1.7. The company reserves the right to withhold or delay the payment for the contractor in case of any pending disputes.
- 11.1.8. In the event of any question, dispute or difference arising under this agreement or in connection there- with (except as to the matters, the decision to which is specifically provided under this agreement), the same shall be referred to the sole arbitrator appointed by BSNL.
- 11.1.9. BSNL's decision will be final on all matters relating to the business and will be binding on the contractor.
- 11.1.10. It will be BSNL's endeavour to make the payment to the contractors as per the schedule. However this may stretch beyond the scheduled time only in case of delays in getting claims

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from the contractors or in case of incorrect claims.

- 11.1.11. The payment to the contractors will be made through RTGS / ECS after deducting applicable taxes.
- 11.1.12. All contractors' representatives will report to GMTD Shimla through the nodal officer appointed by GMTD Shimla.
- 11.1.13. All present, future & additional taxes /Levies/ duties etc. that may be levied by the govt/Local authorities etc will be borne by the contractors.
- 11.1.14. The contractor's representatives shall comply with all applicable laws, bye Laws, rules, regulations, orders, directions, notifications etc of the Govt/ Court/Tribunals and shall also comply with all directions issued by BSNL and provide BSNL with all information and cooperation that BSNL may reasonably require from time to time.
- 11.1.15. The contractor's representatives have to fully cooperate with BSNL to investigate any complaint from the public/staff.
- 11.1.16. The contractor shall ensure provision of necessary safety devices tools/ kits etc required for discharge of services as mentioned in Annexure E at his own cost and shall recoup the same from time to time.
- 11.1.17. Contractor shall be liable for all the payments of wages, salary etc to its employees deployed for providing services to BSNL & shall comply with all statutory laws, rules, relating to employment, wages, PF, ID, act etc.
- 11.1.18. The Contractor shall be liable for any theft, sabotage etc. of BSNL property and the damages/losses if any will be recovered from the contractor. The contractor shall report any such incident to the site in charge immediately.
- 11.1.19. A. The Contractor agrees to protect, defend, indemnify and hold harmless BSNL and its employees, officers, directors, agents or representatives from and against any and all liabilities, damages, fines, penalties and costs (including legal costs and disbursements) arising from or relating to:
- a) Any breach of any statute, regulation, direction, orders or standards from any governmental body, agency, telecommunications operator or regulator applicable to such party; or
 - b) Any breach of the terms and conditions in this agreement by Contractor
- This clause shall survive even on the termination or expiry of this agreement.
- 11.1.20. BSNL Shall not be liable for any act of commission or omission of any third party.
- 11.1.21. The Contractor's representatives will have to abide by the policy rules, regulations & instructions of BSNL as revised/modified from time to time, without any prior notice to the Contractor in respect of all matters including security deposit / PBG, payment to the contractor etc.
- 11.1.22. The Contractor will be bound by all the aspects and legal issues relating to the labour laws.

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12. Payments

- 12.1 The contractor should submit bills in duplicate .The checklist as detailed vide clause no.12.2 duly verified by concerned SDO and further c/s by DE concerned . Full Payment will be made on monthly basis on submission of bill/claim by way of RTGS/ECS as per agreement against the work order. The monthly bill/claim will be submitted by the contractor along with following supporting documents to the AGM (Planning) O/o GMTD Shimla-9.
- (a) A Certificate from the SDE or controlling officer concerned regarding attendance for which work done against work order along with satisfactory services duly counter signed by the DE concerned.
 - (b) Documents regarding payment of EPF, ESI (if applicable) and Service tax etc. payable by the contractor as per his statutory Obligations if applicable.
 - (c) Payment to the workers engaged for Upkeep/ Maintenance/Operation of BSNL Sites will be made by the contractor by A/C Payee cheque/RTGS .
 - (d) Service Tax Number and PAN Number should be printed on the bill.
 - (e) The bill should be submitted by 10th of every month. No claim will be entertained if bill received after three months of completion of work.
 - (f) The contractor should fulfill/comply with the terms and conditions of the provisions of EPF & Misc. Provisions Act.1952 and Employees Provident Fund Scheme 1952 in r/o labourers/employees engaged by him for performing the works of BSNL.
 - (g) Payments shall be released only after approval of SSA Head.
- 12.2 Checklist Points (To be endorsed on the bill) :
- Contract No.....dated.... Bill No. dated
- (i) Work has been done satisfactory as per contract bearing Number..... date.....
And further w/o Number.....date for the period
Provision exist in Estimate no.....
 - (ii) Rate approved/accepted as per ANXof agreement
 - (iii) All documents have been attached as required as per contract.
 - (iv) No complaints received from labours .
 - (v) Nothing is due from contractor.
 - (vi) No damages done by the contractor during performance of duty.
 - (vii) No substandard work has been done /
 - (viii) No penalty is applicable as per contract.
 - (ix) All statutory obligations as per labour laws have been complied by the vendor.

13. EOI submission

The EOI may be submitted by the contractor at following address:-
AGM (Planning) O/o GMTD, BSNL, SHIMLA -171009

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14. PROCEDURE FOR SUBMISSION OF EOI

- 14.1. The application for Expression of Interest must be submitted in two sealed envelopes separately, super scribing one envelope as “Technical Bid for EOI for Upkeep/Maintenance/Operation of BSNL sites in Shimla SSA ” and second Envelope as “Financial Bid for Upkeep/Maintenance/Operation of BSNL sites in Shimla SSA ” . Both the sealed envelopes should be placed in another sealed envelope super scribe “EOI for Upkeep/Maintenance/Operation of BSNL Sites in Shimla SSA ” and should be addressed to the contact person indicated in this EOI. Envelope containing Technical Bid must have the documents listed in Clause 14 whereas the envelope containing the Financial Bid must have quoted bid in the format specified.
- 14.2. The EOI should be submitted in person or through an authorized representative.
- 14.3. The prescribed documents as per eligibility criterion should be submitted by contractor.
- 14.5. Declaration regarding the close relatives working in BSNL. If there is no close relative working in BSNL then the declaration should be submitted as per Annexure-C.

15. List of documents to be submitted along with EOI **Each Document should be submitted separately.**

- 15.1 EOI document(s), in original, duly filled in and signed by tenderer or his authorized representative along with seal on each page. All corrections and over writing must be initialled with date by the tenderer or his authorized representative.
- 15.2. Declaration on a stamp paper regarding no close relative working in BSNL (Annexure-C)
- 15.3. Duly Attested Copy of PAN certificate
- 15.4. Duly Attested copies of EPF and ESI Registration number.
- 15.5. The turnover of the company/contractor as required in eligibility criteria to be issued/certified by a Chartered Accountant/Auditor.
- 15.6. Single EOI form cost and EMD separately for each section .
- 15.7. Certificate of incorporation/registration of firm .
- 15.8. Article of Memorandum of Association or partnership deed or proprietorship deed/affidavit as the case may be wherever required.
- 15.9. The authorization/Power of Attorney of the competent authority for signing the EOI document, bid agreement etc. ,if applicable.
- 15.10. Service Tax registration number certificate duly attested.
- 15.11 Application form (Annexure-A).
- 15.12 Experience as per Eligibility criteria of NIT .

16. Evaluation Criterion

- 16.1. The contractor has to quote rates for services provided at each category of site (A & B) . This is shown in Table of Financial bid. Bids will be evaluated on the basis of rates quoted as per Table of financial bid.
- 16.2. After awarding of the contract, BSNL reserves the right to add/delete sites where the services are required. It also reserves the right to increase/decrease the number of shifts where the services are required .
- 16.3 BSNL may waive any minor infirmity or non-conformity or irregularity in a bid which does not constitute a material deviation, provided such waiver does not prejudice or relative ranking of the bidder

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Annexure – A

Application Form to be submitted with EOI

Name of the Contactor :

Address for correspondence :

I,....., authorized signatory of the contractor M/s....., certify that I fully agree and comply with all the clauses and sub-clauses of the EOI and annexure A to F and financial bid available with EOI.

(Signature of the authorized signatory)

(With seal and contact numbers)

Dated..... at

Note: The bidder while submitting the bid should sign all the pages of the EOI document consisting of terms and conditions and draft of agreement and enclose the same with this OI

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Annexure – B**FORMAT OF THE PERFORMANCE BANK GUARANTEE**

(To be typed on Rs.100/- non-judicial stamp paper)

Re: Bank Guarantee in respect of LOI dated _____ between Bharat Sanchar Nigam Limited and M/s _____, having its Registered Office at _____ (hereinafter called CONTRACTOR) has entered into an agreement dated _____ (hereinafter referred to as "the said agreement") with M/s Bharat Sanchar Nigam Limited (BSNL in short) (A Government of India Enterprise) with Corporate office at Harish Chandra Mathur Lane Janpath, New Delhi - 110 001 and having Himachal Telecom Circle office at Shimla through CGMT _____ whereby BSNL has agreed to appoint CONTRACTORS for providing BSNL services on the terms and conditions exclusively mentioned therein for the circle _____).

It has been agreed between the parties that a Bank Guarantee for Rs. _____ (Rupees _____ thousand only) shall be given by the CONTRACTOR in favour of the AO(Cash) O/o BSNL GMTD Shimla for due and faithful performance of the terms and conditions of the said agreement. _____ Bank having its office at _____ has at the request of the CONTRACTOR (M/s), agreed to give the guarantee as hereinafter contained:

1. We, _____ (hereinafter called "the Bank") do hereby undertake and assure to the BSNL that if in the opinion of the BSNL, the CONTRACTOR has in any way failed to observe or perform the terms and conditions of the said agreement or has committed any breach of its obligations thereunder, the Bank shall on demand and without any objection or demur pay to the BSNL the said sum of Rs. _____/- (Rupees _____ lakh only)(As per EOI) or such lesser amount as BSNL may demand without requiring BSNL to have recourse to any legal remedy that may be available to it, compel the Bank to pay the same.
2. Any such demand from the BSNL shall be conclusive as regards the liability of CONTRACTOR to pay to BSNL or as regards the amount payable by the Bank under this guarantee. The Bank shall not be entitled to withhold payment on the ground that the CONTRACTOR had disputed its liability to pay or has disputed the quantum of the amount or that any arbitration proceeding or legal proceeding is pending between CONTRACTOR and BSNL regarding the claim.
3. We, the Bank further agree that the guarantee shall come into force from the date hereof and shall remain in full force and effect for the period of thirty months from the date of commencement of the agreement or the term of this guarantee whichever is later. But if the period of the said agreement is extended either pursuant to the provisions in the said Agreement or by mutual agreement between the CONTRACTOR and the BSNL, the Bank shall automatically renew the period of the Guarantee for such period which expires 6 (six) months after the renewed period of the said agreement failing which it shall pay to the BSNL the said sum of Rs. _____/- (Rupees _____ thousand only) without BSNL demanding the payment of the above sum.
4. The Bank further agrees that the BSNL shall have the fullest liberty without the consent of the Bank and without affecting in any way the obligations hereunder to vary any of the terms and conditions of the said agreement or to extend the time for performance of the said agreement from any of the powers exercisable by BSNL against the CONTRACTOR and to forebear to enforce any of the terms and conditions relating to the said agreement and the Bank shall not be relieved from its liability by reason of such failure or extension

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being granted to CONTRACTOR or through any forbearance, act or omission on the part of BSNL or any indulgence by BSNL to CONTRACTOR or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of relieving or discharging the guarantor.

5. The Bank further agrees that in case this Guarantee is required for a larger period and it is not extended by the Bank beyond the period specified above in Clause 3, the Bank shall pay to BSNL without BSNL having to demand the payment of the said sum of Rs. _____ /- (Rs. _____ thousand only) on the last day on which the Bank Guarantee is due to expire.

6. Notwithstanding anything herein contained;

The liability of the Bank under this guarantee is restricted to Rs. _____ /- (Rs. _____ thousand only) and it will remain in force for a period of 3 years i.e. up to _____.

(b) The guarantee shall stand completely discharged and all rights of the BSNL under this Guarantee shall be extinguished if no claim or demand is made on us in writing on or before _____.

7. The Bank guarantees under its constitutional power to give this guarantee and _____ and _____ who have signed it on behalf of the Bank have authority to do so.

(Authorized Signature of the Bank Official)
Power of Attorney General:
Dated: at

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Annexure – C**Format of Certificate regarding close relatives working in BSNL**

I _____ s/o _____ r/o _____ here by certify that none of my relative(s) as defined under is/are employed in BSNL unit for which I am bidding.

In case at any stage, it found that the information given by me is false / incorrect, BSNL shall have the absolute right to take any action as deemed fit/without any prior intimation to me. The near relatives for this purpose are defined as:-

- a) Members of a Hindu undivided family.
- b) They are husband and wife.
- c) The one is related to the other in the manner as father, mother, son(s) & son's wife (daughter in law), Daughter(s) and daughter's husband (son in law), brother(s) and brother's wife, sister(s) and sister's husband (brother in law).

Dated this _____ Day of _____ 2015

Signature: _____

Note:1 In case of proprietorship firm, Certificate will be signed by the proprietor himself.

Note:2 In case of partnership firm, Certificate will be signed by all the partners or their authorized signatory on behalf of partners.

Note: 3 In case of limited company, this certificate is to be signed by CMD and all the board level directors or by their authorized signatory.

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ANNEXURE- D**This agreement is executed on the****2015****By and in Between**

BSNL (A Govt. of India Enterprises) a company incorporated under the companies act 1956 vide incorporation certificate no _____ having its registered office at Corporate office at Harish Chandra Mathur Lane Janpath, New Delhi - 110 001 (hereinafter referred to as the 'Party of First Part' which expression shall included the legally constituted signatories, assigns, successors and officers duly empowered to execute such agreement) of the first part through its _____ empowered to execute this agreement through its resolution passed in the meeting of Board of directors vide number dated herein part of this agreement.

And

_____ having Address at _____ (hereinafter referred to as the Party of Second Part' or Second Part which expression shall included the legally constituted signatories, assigns, successors and officers duly empowered to execute such agreement) of the second part through its _____ empowered to execute this agreement.

Whereas the Party of First Part i.e. BSNL (A Govt. of India Enterprises) is and

Whereas the Party of First Part has established a high brand through quality services, marketing research, publicity and public relation exercise in relation to telecommunication cellular telephony internet broadband and the said high reputation and goodwill so earned has been and continues to be unique in its area of operation. Whereas the Party of First Part is running and operating Telecom Networks and due to increase in work pressure and increase in the scale of operations the party of first part intend to distribute non-core activities of general nature to the party of second part.

Whereas the Party of Second part desire to own responsibility of/for non-core activates and incidental activities related to proper and suitable functioning of the Telecom Network Premises. Whereas the Parties agree to that the title / heading / label / title / name / brand / trade-mark / trade-name / design / logo / drawing / blueprint / sign / signal / indication / style / mode in the name and style of "BSNL" shall be exclusive property of party of first part. All compliance of the relevant and applicable law and other statutory provision attracted under such transfer of non core activities privilege, right from the party of first part to second part shall be responsibility and liability of the party of first part. And

Whereas the Parties agrees to that the title / heading / label / title / name / brand / trade-mark / trade-name / design / logo / drawing / blueprint / sign / signal / indication / style / mode in the name and style of "BSNL" shall be exclusive property of party of party of first part, eventually and the cost of such transfer shall be bear by the party of second part. And

Whereas, the transfer of non-core activities as enumerated in the scheme, is not of permanent nature and for a specific period only as defined in this agreement and within the provisions of applicable law and

Whereas the party of second part has offered to enter into the present agreement with the party of first part for services to be rendered, inter alia, for _____ and other services which are as given in Appendix D (Scope of work to be defined exhaustively) on the terms and conditions herein contained and the rates approved by the party of first part _____

Whereas the party of second part has been duly accepted and necessary security deposits have been furnished in accordance with the EOI documents vide _____ and whereas no interest will be claimed on the security deposits

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NOW THEREFORE IN CONSIDERATION OF MUTUAL COVENANTS PREMISES MADE HEREINAFTER PARTIES AGREES AS FOLLOWS:

1. Article 1: SHORT TITLE EXTENT AND COMMENCEMENT

1.1 This agreement shall be for the purpose of specify and arranging the non-core activities and operative schedule and bringing on record the duties in between the parties and also to record all the documents executed in between the parties inclusive of all the tenders, lease agreement, permits and any other document executed on this regard.

2. Article 2: DEFINITIONS

In this agreement, unless the context otherwise requires the following word means;

2.1 Agreement

The agreement executed between the parties and it includes other agreements also, in furtherance of the subject/cause of this agreement.

2.2 Parties;

The Party of first Part and the Party of Second Part

2.2.1 Party of First Part means

And include the party of first part and the body corporate, its directors, shareholders, promoters.

2.2.2 Party of Second Part means

And include the party of second part and its legally constituted signatories, assigns, successors; officers duly empowered to execute the agreement;

2.3 Expression of interest. (EOI)

The application and the document submitted by the party of the second part to the party of the first part showing his interest for entering into the agreement.

3. ARTICLE 3: PARTY OF FIRST PART PERMISSIONS

The Party of first part in order to carry out Non-core activities has given entire responsibilities and privileges subjects to terms and condition of this agreement to the party of second part.

3.1 Use of premises

3.1.1 The Party of First Part permits to the Party of Second Part, to use the said premises and incidental thereto; the same is executed in accordance with the terms and conditions as prescribed by the Party of first part.

3.1.2 The Party of First Part also permits to the Party of Second Part the privilege to use the premises only for the execution of the work only as assigned to the Party of second Part.

3.2 Disclaimer

3.2.1 The Party of Second Part undertakes with the Party of First Part that at no time after the execution of this agreement for whatsoever cause, shall the Party of First Part make any claim to the premises or use of the fact having been Party of First Part in any relationship with 'BSNL' in the past, for any business gains.

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3.2.2 At the end of the agreement all the equipment and infrastructure support shall remain with party of first part, in case those equipments and infrastructure are owned by the part of the first part and provided by party of the first part to the party of the second part. The party of second part shall not claim any right over the equipments and infrastructure of the party of the first part.

3.3 Scope of rights of Party of Second Part;

The agreements permit the Party of Second Part the privilege executing non-core activities and activities incidental thereto, in relation to the agreed terms and condition in furtherance of business interest and public interest is indispensable. Party of Second Part understands that they are not authorized to any illegal activity or any such activity which is, in contravention to the general policy, statutory provision, rules, regulation as announced or declared or published by any competent authority. Party of Second Part further states that they acknowledge the duty and obligations of the Party of First Part as per the general policy, statutory provision, rules, regulation as announced or declared or published by any competent authority and undertake to fully co-operate with the Party of First Part.

3.4 Appointment of sub-'Agency' by Party of Second Part;

3.4.1 The Party of Second Part shall not be entitled to allow any sub-'Agency' or to enter any agreement, arrangement with any other person with a view to delegating the responsibilities, rights and duties allowed to the Party of Second Part under this agreement or in respect of any other work assigned to the Party of Second Part in terms of this agreement without prior permission of SSA Head

3.4.2 The Party of Second Part hereby agrees that during the tenure of this agreement it shall not misuse or allow any other person to misuse the premises of BSNL.

3.4.3 'Exclusion of Party of First Part's other premises, offices Trade name, design, copyright, goodwill etc.

3.5 Ministry of telecommunications Compliance

The Party of second part undertakes to comply with all the rules, regulations etc. as per the requirement of MTC issued from time to time in consonance with the party of first part. Failure of compliance of such statutory and mandatory compliance may give right to party of first part for redressal of the grievances within the frame work of this agreement and also to initiate mechanism to settle at the cost of party of first part.

3.6 Ministry of labour Compliance

The Party of second part undertakes to comply with all the rules, regulations etc. as per the requirement of Ministry of labour issued from time to time in consonance with the party of first part. Failure of compliance of such statutory and mandatory compliance may give right to party of first part for redressal of the grievances within the frame work of this agreement and also to initiate mechanism to settle at the cost of responsible party

4. Article 4. PARTY OF SECOND PART OBLIGATION

4.1 **Equipment & infrastructure;** The Party of Second Part may provide Tools and Equipments as per the requirement and need of efficient and effective execution of assigned work. And

3.2 The Party of Second Part shall not misuse or allow to be misused the premises and / or infrastructure of the premises therein through grant of lease, sub-lease, license or otherwise for

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doing any other business activities or work whether full time, part time or on any other basis.

4.3 'Maintenance of specified account/records'

4.3.1 The Party of Second Part shall maintain all specified records in the manner as per the GAAP or other relevant statutory provision, rules and regulations emanating there from. The Party of Second Part understands that the requirement to maintain all the said records in the particular specified formats is necessary for uniform and regulated function and proper calculation of revenue, cost, profit and other related derivatives to ascertain actual and factual position for various instrumentalities of the government.

4.3.2 In the event of this, if the Party of Second Part not maintains the specified records, the Party of Second Part agrees to pay / reimburse to the Party of First Part, the charges incurred by the Party of First Part in actually completing the same records or assisting the Party of Second Part in this regard. The Party of Second Part also undertakes to pay the said amount to the Party of First Part within fifteen days of issuance of the invoice.

4.4 Staff recruitment and selection

4.4.1 The Party of Second Part shall appoint any staff at the pay scale prescribed by the various relevant statutory provisions as prescribe by the relevant competent instrumentalities of the government. The Party of Second Part unambiguously understands that the staffs appointed by the Party of Second Part shall be the employees of the Party of Second Part only and Party of First Part shall have no liabilities / obligations towards them and the party of first part not in any manner exercises their control over the appointed staff in any manner.

4.4.2 The Party of Second Part shall be free to appoint other supporting staff on his own and shall be responsible for the any outcome of such appointment. Party of first part is not responsible for any such outcome.

4.4.3 The party of second part understands and undertakes that it will ensure compliance of all the labor and employment law rules and regulation and prepare an 'employment manual' to this effect within a reasonable time period taking care of all the laws, effective on that date and present a original copy for submission to the relevant authorities.

4.5 Scope of selection procedure, interview and training;

The Party of First Part reserves the right to decide the scope, location and dates of the selection process, final interview and training, if so required.

4.6 Reports and feed back

The parties mutually decide to exchange such reports and feedbacks for mutual benefits and proper implementation of this agreement.

4.7 Confidentiality and protection of premises property of The Party of Second Part undertakes;

4.7.1 Not to cause or permit anything, which may damage or endanger the property of the Party of the first Part and

4.7.2 To notify the Party of First Part about / of any suspected trespass intrusion of the property of the principal immediately after such detection and

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- 4.7.3 To take reasonable action as decided mutually by the parties in relation to such encroachment of property right. And
- 4.7.4 On expiry or termination of the agreement forthwith stop the use of all property of the Party of First part. And
- 4.7.5 Not to lend, sell, or otherwise give away any property or information about the Party of First Part, his business secrets, plans, services, programs, materials, manuals etc. to any third party during the tenure of the agreement or even after this agreement ceases to exist.
- 4.7.6 Not to cause or permit to be caused any activity which may damage endanger the property rights or title of the Party of First Part.
- 4.7.7 Shall maintain all the records including duty roaster as per the requirement of Ministry of labour.
- 4.8 The Party of second part hereby undertakes to indemnify BSNL against all actions, suits, proceedings, claims, losses, damages etc., which may arise under Minimum Wages Act, Fatal Accident Act, Workmen Compensation Act, Shops & Establishment Act, Family Pension & Deposit Linked Insurance Scheme Contract Labour (Regulation and Abolition) Act 1970 or any other Act or statutes not herein specifically mentioned but having any direct or indirect application for the person(s) engaged under this contract by him.
- 4.9 The Party of second part shall defend, indemnify and hold BSNL harmless from any liability, which may be imposed by the Central, State or local authorities and also from all claims, suits arising out of or by reason of the work provided by this contract including any liability that may arise out of accident, whether brought by the employees of the Party of second part or by the third parties or by the Central or State Government authority or any sub-division thereof.
- 4.10 BSNL shall not be responsible for any claim/compensation that may arise due to damages/injuries to the Party of second part's employee(s) under any circumstances while an employee(s) of the contractor is engaged in duty under the Contract.
- 4.11 (a) The Party of second part shall also be bound to discharge obligations as provided under various statutory enactment including the Employees Provident Fund & Miscellaneous Act, 1952, Employees Pension Scheme, 1995, ESI Act 1948, Contract Labour (Regulation and abolition) Act, 1970, Minimum Wages Act 1948, Payment of Wages Act 1936, Payment of Bonus Act, 1965, Payment of Gratuity Act, 1972, Workmen's compensation Act 1923, Works Contract Act, 1999 and other relevant Acts, Rules and Regulations in force and as amended from time to time and are in force in the State where the subject work under this Contract are executed.
- (b) The engagement and employment of labourers and payment of wages to them as per existing provisions of various labour laws and regulations is the sole responsibility of the Party of second part and any breach of such laws or regulations shall be deemed to be breach of this contract. BSNL may ask the contractor to produce documents to verify that these provisions/laws are complied with by the contractor.
- (c) All wages allied benefits such as leave, ESI, PF, Gratuity, Bonus etc, shall be paid by the Party of second part and BSNL shall not incur any liability or additional expenditure whatsoever for personnel deployed.

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4.12 The Party of second part shall at his own cost and initiative take out and maintain at all times until the completion of the contract/lease period, insurance policies in respect of workmen engaged by him for providing services under this contract, in order to keep himself as well as BSNL/Lessee fully indemnified from and against all claims whatsoever including but not limited to those arising out of the provisions contained in Workmen's Compensation Act, 1923. Should the Contractor fail to take out and/or keep afoot insurance as provided for in the foregoing paragraph, BSNL/Lessee shall be entitled (but without any obligation to do so) to take out and/or keep afoot such insurance at the cost and expense of the Contractor and without prejudice to any other rights or remedies of BSNL/Lessee in this behalf, to deduct the sum(s) incurred thereof from any amounts due to the Contractor.

4.13 Communication of the problems;

Any problem that may arise while executing this agreement must be communicated by the parties in writing by fax/e-mail/registered post immediate by the parties, respectively to their corporate head offices and any other Addresses provided by the parties.

4.14 Maintenance of records

4.14.1 The Party of Second Part shall maintain a true and accurate record of all the cost of material, salaries and direct operating expenses related to the expenses and other incidental activities.

4.14.2 The Party of Second Part shall submit audited profit and loss account and balance sheets of its business to the competent authorities to the preceding financial year of operation within 30 days from the end of financial year and the Party of Second Part in compliance may seek assistances of party of first part to this effect.

4.14.3 The Party of Second Part shall maintain any other record to ensure the interest of party of first part from time to time.

4.14.4 The Party of Second Part shall maintain any other record to ensure the compliance of guidelines from time to time.

4.15 Execution of non-core activities;

4.15.1 The Party of Second Part agrees to spend a reasonably adequate amount as per the requirement, proper functioning, for the Execution of non-core activities.

4.15.2 The Party of First Part agrees to work in tandem with the Party of second Part for Execution of non-core activities.

4.15.3 The Party of Second Part agrees that the activity at ground level shall be the sole responsibility of the Party of Second Part

4.16 Securities;

4.16.1 The Party of Second Part undertakes to abide by the rules and regulation as decided by the parties for the physical protection of information, infrastructure and other related things.

4.17 Code of conduct

Party of Second Part undertakes to ensure that the all staff and employee adhere to the standard code of conduct followed by the industry and to ensure this the party of second part appoints suitable and responsible person to supervise the proper implementation of such code, revised and amended up to date.

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4.18 Membership, affiliations;

The Party of Second Part shall enroll itself as a member of such professional bodies, associations and societies as the normal standard of the requirements of the industry. The Party of Second Part understands that such enrolments are for its benefits and undertakes to pay such charges /fee may be required for such enrolments.

4.19 Additional activities:-

The Party of Second Part undertakes to organize such additional activities which may be decided mutually from time to time which would contribute towards improvements of work culture and agrees to accept the terms and conditions as decided by the parties .

4.20 The party of second part shall engage on his own expenses the requisite number of representatives with means & materials as well as tools, appliances, machines, implements, vehicles for transportation, cartage etc. required for the proper execution of work within the link prescribed in the work orders.

4.21 The party of second hereby declares that nobody connected with or in the employment of the Bharat Sanchar Nigam Limited/DOT/DTS is not/shall not ever be achieved as partner in the contract

4.22 The rates approved are inclusive of all taxes except service tax which will be paid extra applicable as per rule .The payment will be subject to availability of funds after sanction of bill by the competent authority through RTGS/ECS and deduction of Income Tax & all statutory/Govt. Taxes. The party of second part shall submit the copy of service Tax paid challan and EPF/ESI paid challan for the previous month along with the bill. While preparing the bill the party of second part shall bifurcate the amount of service tax in bill submitted. The party of second part shall submit the bills monthly consolidated for each section duly signed and verified by the officer's in-charge for satisfactory work execution. All the bills should be submitted within three months of completion of work .

5. Article 5: CONSIDERATIONS**5.1 Monthly fee**

5.1.1 The Party of First Part shall pay to the Party of second Part an amount as per approved bill . Any demand by the party of second Part shall not be entertained by the Party of first Part to the Party of First Part towards any other use apart from this agreement shall not be claimed and is agreed to be sufficient consideration for payments of prescribed monthly fee.

5.1.2 The monthly fee shall not be increased under any circumstances what so ever by the party of second part.

5.2 Profit sharing

The Party of Second Part shall not pay to the Party of First Part any amount as a profit sharing. Any demand by the party of first part shall not be entertained by the Party of Second Part to the Party of First Part towards the use and earning any profit by executing the work.

5.3 Taxes duties

Any taxes or duties, imposed or assessed by the central government or any other authorized local bodies in respect of payment or dues paid by Party of First Part after signing this agreement, will be borne by the Party of Second Part.

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6. Article 6: SERVICE BY THE PARTY OF FIRST PART

The Party of First Part here by agrees to provide following services in accordance with the terms of this agreements.

- 6.1 Functional management in respect of the competent government authorities for proper execution of this agreement in letter and spirit of this agreement.

7. Article 7: DISBURSEMENT TO PARTY OF FIRST PART

- 7.1 Disbursement in relation to entire, unconditional, unlimited and unqualified responsibilities, Party of Second Part agrees to execute a separate agreement with the party of first part.

8. Article 8: LIMITATION OF AGREEMENT

- 8.1 Trademarks, trade names and trade secrets

8.1.1 The Party of Second Part shall not claim any ownership right in trade mark, trade name, design, copyright, goodwill which is not the subject matter of this agreement but property of first party. It shall derive its power to use from the provision and clauses of this agreement only.

8.1.2 The Party of second Part shall not claim any ownership right on premises as it shall be property of party of party of first part. after complying all the mandatory provisions of applicable laws and contractual obligations. It shall derive its power to use from the provision and clauses of this agreement only.

8.1.3 The party of second part shall not incorporate any word or design deceptively and confusingly similar to Party of First Part's trade-mark, trade-name, design in its trade-mark, trade-name and trade-style other then the subject matter of the agreement.

8.1.4 The Party of Second Part agrees not to divulge any trade secrets that may be made available to it, in confidence. The Party of Second Part further agrees to ensure fidelity of information imparted to or available to them.

8.1.5 All the liabilities of the party of first part related to their business prior to the date of execution of this agreement shall be liabilities of the party of first part.

8.2 No 'Agency'

8.2.1 The parties here to agree that the Party of Second Part is an independent entity. Nothing here in contain shall constitute the Party of Second Part as an agent, legal representative, partner, subsidiary; joint venture or employee of the Party of First Part. The Party of Second Part shall have no right or power to and shall not bind or obligate the Party of First Part in any way, manner or title whatsoever, nor represent, it has any right to do so.

8.2.2 The parties here to agrees that all the litigation-disputes/claims arising or taking place with the third parties after signing this agreement shall be contested/or settle by the Party of Second Part itself. The Party of First Part shall not be responsible for the same in any circumstances.

9. Article 9: INSURANCE

The Party of Second Part takes appropriate policies for new insurances w.e.f this agreement to cover it against losses /damages and renew such policies up to the period of this agreement.

Evidence of policies having being renewed shall be made available to the Party of First Part, in

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case it requires it, in any compliance issue.

10. Article 10: TENURE AND RENEWAL OF THE AGREEMENT

10.1 Tenure

The tenure of this MOU will be as per clause 7 of Tender document . MOU ceased to exist if the :-

10.1.1 Both the parties shall execute a new agreement in case if it is required to achieve the purpose stipulated in this agreement as per the modified law, statutory provisions, rules and regulation issued or changes by the competent authorities.

10.1.2 The parties shall not have any automatic right of termination under any of the clause and it shall be not discretions of the parties to terminate the present agreement.

10.2 **Disbursement of dues;** Both the parties agree to initiate all the necessary activities to settle pending dues as per the scheme enumerated in other agreements, which comprehensively deals with this issue. Any such disbursement shall strictly as per the scheme.

10.3 Notwithstanding anything elsewhere herein provided and in addition to any other right or remedy of the BSNL under the Contract or otherwise, the BSNL shall be entitled to terminate the Contract by written notice at any time during the currency on or after the occurrence of any one or more of the following events or contingencies, namely:

10.3.1 Default or failure by the party of second part of any of the obligations of the party of second part under the contract, including but not limited to:

- (a) Negligence in carrying out the works or carrying out of work found to be unsatisfactory by the competent authority in BSNL.
- (b) Abandonment of the works or any part thereof;
- (c) Suspension of the entire works or any part thereof, for a period of 14 (fourteen) days or more without due authority from the BSNL.
- (d) Commission, permission or sufferance of any other breach of any of the terms, conditions or provisions of the Contract on the part of the party of second part to be paid, performed and/or observed;
- (e) Failure to deposit the Initial Security Deposit within 10 (ten) days of receipt by the party of second part of Acceptance of EOI/Tender (in case applicable).
- (f) Failure to execute the Contract in terms of the Form of Contract forming part of the EOI/Tender Documents within 10(ten) days of notice in this behalf from the BSNL;

10.3.2 If the party of second part is incapable of carrying out the work;

10.3.3 If the party of second part misconducts himself in any manner;

10.3.4 If there is any change in the constitution of the party of second part or in the circumstances or organization of the party of second part, which is detrimental to the interests of the work or the BSNL;

10.3.5 Dissolution of the party of second part or commencement of liquidation or winding up (whether

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- voluntary or compulsory) of the party of second part or appointment of a receiver or manager of any of the party of second part 's assets and/ or insolvency of the party of second part or any Partner of the party of second part;
- 10.3.6 Distress, execution, or other legal process being levied on or upon any of the party of second part 's goods and/ or assets;
- 10.3.7 Death of the party of second part;
- 10.3.8 If upon any change in the Partnership/constitution of a party of second part 's organization (if a Partnership), the BSNL shall refuse to continue the contract with the re-constituted firm;
- 10.3.9 If the party of second part or any person employed by him shall make or offer for any purpose connected with the Contract any gift, gratuity, royalty, commission, gratification or other inducement (whether money or in any other form) to any employee or agent of the BSNL;
- 10.3.10 If the party of second part shall sub-contract the whole or any part of the work in contravention of the provisions of the Contract
- 10.3.11 The decision of the GMTD Shimla, as to whether any of the events/ contingencies mentioned in above Clauses, entitling the BSNL to terminate the Contract, has occurred or not, shall be final and binding upon the party of second part. However, before invoking action under this clause, BSNL shall give prior written notice to the party of second part to rectify the problem areas within maximum two weeks of time.
- 10.4 The authority of premises shall stand terminated in the following events
- 10.4.1 Upon the expiry of the contracted period.
- 10.4.2 Upon occurrences of instances mentioned in clause above.
- 10.4.3 Upon mutual consent of the parties before the expiry of the period. In the event, the

11. Article 11: EFFECT OF NON- RENEWAL

Both the parties shall ensure and work to clear all the dues, liabilities and make such arrangements, so to avoid inconvenience to both parties. This agreement is governed by this agreement and both the parties are bound to renew this agreement by redrafting and re-executing it, as prescribed in this agreement in letter and spirit.

12. Article 12: INDEMINIFICATION

12.1 Loses and Damages

- 12.1.1 The Party of Second Part and the indemnifiers are jointly and severally responsible for all losses to damages to third person, originating in or connected with the conduct of the Party of Second Part for all claims demand for damages to properties or for injury, illness, or death of persons directly or indirectly resulting there from. The agency and indemnifier agree to defend, Indemnifies and save the Party of First Part from any harm with respect to any such claims, losses all damages result from the wilful negligence of the Party of First Part, Its employees or agents after signing the agreement.
- 12.1.2 The Party of first part and the indemnifiers are jointly and severally responsible for all losses to SDE(Planning) Signature of Tenderer with Seal

damages to third person, originating in or connected with the conduct of the Party of first Part for all claims demand for damages to properties or for injury, illness, or death of persons directly or indirectly resulting there from.

12.1.3 The agency and indemnifier agree to defend. Indemnifies and save the Party of second Part from any harm with respect to any such claims, losses all damages result from the willful negligence of the Party of First Part, Its employees or agents. The Party of first Part and the indemnifier shall be obliged to immediately intimate to the Party of second Part in the event of any unlawful use of either the Party of second Part's trade mark, trade name, design, copyright, patent by any third party. If it is established that such activity is the act of either the Party of Second Part itself or any of or all of its directors Party of First Part officers Key personnel employees etc the indemnifier here by indemnifies the Party of second Part in respect all expense that may be incurred by the Party of second Part In stopping such activity. The Party of Second Part agrees to assist the Party of First Part in taking appropriate action and further agrees to commence such action if legal requirement so dictate.

12.1.4 Personnel Indemnification;

- (a) The indemnifier here by personally indemnifies the Party of First Part in respect of every claim, which the Party of First Part may have against the Party of Second Part under this agreement and further personnel guarantees payment of the same to the Party of First Part. This shall not affect any right of the Party of First Part to precede ageist the Party of Second Part in respect of such claim or claims.
- (b) The indemnifier here by personally indemnifies the Party of Second Part in respect of every claim, which the Party of second Part may have against the Party of first Part under this agreement and further personnel guarantees payment of the same to the Party of second Part. This shall not affect any right of the Party of second Part to precede ageist the Party of first Part in respect of such claim or claims.

13. Article 13: DIRECT SUPERVISION

Both Parties agrees that in the event of Non-compliance of any clause due from the Parties
Or

For any other reason as may be mentioned in the agreement or against the law of this land,
Both the Parties may in their discretion, act any or the entire procedure in following manner:

- (a) Direct to take appropriate measures with respect to all its activities.
- (b) Call arbitrator to Assume direct supervision over the operations.
- (c) The Parties reserve the right to withdraw or report to the arbitrator at its discretion during the currency of the agreement if the condition so demand.
- (d) The Parties shall further agrees that such arrangement shall continue till the Parties are fully satisfied that the things are in order in respect of the breaches and defaults mentioned above after which the Parties shall handover the operation to the arbitrator.

14. Article 14: DEFAULTS

14.1 The occurrence of the following events / acts shall constitutes good and sufficient cause for the Party of First Part at its options and without prejudice to any other rights or remedies provided for hereunder or by law or equity to redressal of the issues, this agreement without any compensation by notice in writing to the Party of Second Part, such notice to redressal of the issues at such date as the Party of First Part in their discretion determine and cancel the contract.

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- 14.1.1 In case of appointment of Sub- 'Agency' by Party of Second Part, in contravention of the spirit and intention of the MOU, it excludes the agencies appointed to carry out delegated works and tasks.
- 14.1.2 Using the recourses dedicated under this agreement for the purpose outside the purview of this agreement.
- 14.1.3 In case any of the condition and requirements mentioned in the Expression of Interest (EOI) application given to the party of the first part by the party of the second part is found to be misleading, false and incorrect, the party of the first part reserves the right to cancel the agreement at any time.
- 14.2 In case of the following non-performance by the party of the second part the penalty enumerated therein will be imposed by the party of the first part.
- 14.2.1 The party of the second part shall be responsible for calling the concerned officer In-charge at the work site (i.e. Telephone Exchange, BTS etc.) at the time of starting as well as end of duty. If at any of time, the party of the second part fails to do so, 5% of the monthly contract amount will be deducted from the payment of the party of the second part for every such instance of such negligence on their part.
- 14.2.2 The party of the first part also reserves the right to monitor the provisions of services at the work site at any time through visit to the site. In case the party of the second part is not found at the time of the duty, 10% of the monthly contract amount will be deducted from their payment for every such instance of such negligence on the part of the party of the second part.

15. Article 15: EFFECT OF REDRAFTING/RE-EXECUTION

- 15.1 As described, this agreement is terminable, re-convening of this agreement either due to default or for any other reason, the reputation and the goodwill of Party of First Part shall forthwith stand reverted and re-conveyance to the Party of First Part. The Party of Second Part acknowledges that the benefit obtained and accrued to it as a result of this agreement of said reputation and goodwill shall constitute adequate consideration for such reversion and re-conveyance in favours of the Party of First Part or party of second part as the case may be.
- 15.2 Non use of trade-mark, trade-name, trade secretes on redrafting/re-execution of this agreement for any reason, the Party of First Part shall directly or indirectly identify in any manner as a Party of Second Part or the Party of First Part in particular but without prejudice to forgoing generality, the Party of Second Part shall execute the work assigned to it.
- 15.3 **Lien and damages;**
In the event of redrafting/re-execution of this agreement by the parties, the parties shall be entitled to claim damages and injuries and the parties agrees to, in such event of termination, they shall pay amount as decided by arbitrator as liquidated damages to the injured party.

16. Article 16: MISCELLANEOUS /GENERAL CONDITION

16.1 Interpretation

The recitals incorporated herein make a part of this agreement, total of article, sections, clauses and paragraphs are used for convenience only and are part of the text. All terms used in any one gender shall be construed to include any other gender as the context may require. The singular shall be deemed to include the plural and the plural shall be deemed to refer to singular as the context may

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be.

16.2 Entire agreement

This agreement constitutes the entire agreement between the parties and shall prevail over any other agreements relating to the subject matter thereof. The Party of Second Part declares that it rely upon no representation, conditions or warranty on the part of the Party of First Part except herein contain. The agreement is prepared in two original copies having same effect.

16.3 Non-waiver

The failure of the Party of First Part to exercise any right, power or option given to it hereunder or non- insistence on options for strict compliance of the terms hereof, by the Party of Second Part shall constitute a waiver of the terms and conditions of this agreement with respect to any other or subsequent breach thereof, not a waiver by the Party of Second Part of its right at any time thereafter to require strict compliance with all the terms thereof. The right of remedies hereunder is cumulative to other rights on remedies which may be granted by the law.

16.4 Governing laws

The agreement shall be governed and construed in accordance with the laws of republic of India.

16.5 Applicable laws

This agreement including any mater relating thereto arising after its expiry or termination shall be governed by the laws of Indian union.

16.6 Severability

If any provision of this agreement is held invalid by the court decree the remainder of this agreement shall not be invalidated.

16.7 Registration

In case of any delay in registration of this agreement or non-registration due to any reason the effect and strength of this agreement shall have same as of a registered document and neither party shall raise any objection before any competent authority in this regard.

16.8 Notices

Any notice to be given hereunder shall be in writing and shall be deemed to have been duly served after two days of the date of dispatch if send by the registered post at the recorded address of the parties. Notices shall be served by both parties at the addresses/fax/email mention hereunder Of party of first part
AGM (Planning) O/o GMTD, Shimla.
Of party of second part

1.

2.

Or in case, to the arbitrator at his address at;
CGMT, Himachal Pradesh Telecom Circle, Shimla -171009

16.9 Force majeure clause;

16.9.1 Force majeure shall mean any event or circumstances or combination of the events or events or circumstances that materially and adversely affect, prevent or delay any party in performance of its obligation in accordance with the terms of this agreement but only if and to the extent such events and circumstances are within the affected parties reasonable, control, directly or indirectly.

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- 16.9.2 Force majeure events; the force majeure events shall consist of civil war, rebellion, civil commotion, mutiny, flood, tempest, earth quake or other unforeseen forces of the nature or act of god or due to any restrained or regulation or change in the statute, policy of the state or central govt. Like expropriation or compulsory acquisition, exercise of the central and / or state executive prerogative and court stay order.
- 16.9.3 In the event of a force majeure occurrence, the party invoking the force majeure shall promptly notify the other party of such circumstances force majeure occurrence shall be suspend the parties obligations with respect to circumstances affected by the force majeure,
- 16.10 The Party of First Part shall not guarantee any success hence; the Party of First Part shall not responsible under any circumstances to pay any compensation and / or damages or losses incurred by the Party of Second Part.

Article 17 ARBITRATION

- 17.1 In the event of any question, dispute or difference arising under this agreement or in connection there-with except as to matter the decision of which is specifically provided under this agreement, the same shall be referred to sole arbitration of the Chief General Manager, (**Himachal Pradesh**) or in case his designation is changed or his office is abolished then in such case to the sole arbitration of the officer for the time being entrusted whether in addition to the functions of the Chief General Manager, (**Himachal Pradesh**) or by whatever designation such officers may be called (hereinafter referred to as the said officer) and if the Chief General Manager, (**Himachal Pradesh**) or the said officer is unable to act as such to the sole arbitration or some other person appointed by the Chief General Manager, or the said officer. The agreement to appoint an arbitrator will be in accordance with the Arbitration and Conciliation Act 1996. There will be no objection to any such appointment that the arbitrator is BSNL Servant or that he has to deal with matter to which the agreement relates or that in the course of his duties as BSNL Servant has expressed view on all or any of the matter under dispute. The award of the arbitrator shall be final and binding on the parties. In the event of such arbitrator to whom the matter is originally referred, being unable to act for any reasons whatsoever such Chief General Manager or the said officer shall appoint another person to act as arbitrator in accordance with terms of the agreement and the person so appointed shall be entitled to proceed from the stage at which it was left out by his predecessors.
- 17.2 The arbitrator may from time to time with the consent of parties enlarge the time for making and publishing the award, subject to aforesaid Indian Arbitration and Conciliation Act 1996 and the rules made there under, any modification thereof for the time being in force shall be deemed to apply to the arbitration proceeding under this clause.
- 17.3 The venue of the arbitration proceeding shall be the office of the Chief General Manager, Himachal Pradesh or such places as the arbitrator may decide. The dispute may be requested for arbitration within six months from the date of completion of work by the contractor . The following procedure shall be followed :
- 17.3.1 In case parties are unable to reach a settlement by themselves, the dispute should be submitted or arbitration in accordance with contract agreement.

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- 17.3.2 There should not be a joint submission with the contractor to the sole arbitrator.
- 17.3.3 Each party should submit its own claim severally and may oppose the claim put forward by the other party.
- 17.3.4 The onus of establishing his claims will be left to the contractor.
- 17.3.5 Once a claim has been included in the submission by the contractor, a reiteration or modification thereof will be opposed.
- 17.3.6 The “points of defense” will be based on actual conditions of the contract.
- 17.3.7 Claims in the nature of ex-gratia payment shall not be entertained by the Arbitrator as these are not contractual.
- 17.3.8 The question whether these conditions are equitable shall not receive any consideration in the preparation of “points of defense”.
- 17.3.9 If the contractor includes such claims in his submission, the fact that they are not contractual will be prominently placed before the Arbitrator. The award of the sole Arbitrator shall be final and binding on all the parties to the dispute.

Agreed and accepted

Signatures of Witnesses of parties are;

By Party of first part

Party of second part

Through authorized

Through authorized

Signatory Shri

signatory Shri

Witnesses;

- 1.
- 2.

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Annexure - E**Service to be provided by the contractor or his/ her representatives**

1. Refuelling of diesel in DG sets and maintaining log book of diesel refuelling. (The contract for supply of diesel on site shall be separate and is not part of this contract)
2. Starting of the DG set in case of power failure and auto start up failure and making entries in the log book.
3. Switching on and switching off the ACs.
4. Cleaning of power plant, DG battery, fire fighting equipment, other equipment installed at site
5. Answering of telephone, noting of complaints and passing information immediately to specified competent authority.
6. Ensuring that the property of BSNL is not tampered with; Custodianship of site with control of Keys will be provided to the contractor during the time of infrastructure maintenance. Movement of any material from the site is to be allowed only with a written permission of site in charge.
7. Restricting access to the site for un-authorized persons and opening & closing of gate as and when required.
8. Keeping exchange/office premises in hygienic conditions.
9. Informing BSNL officer in charge Exchange/ BTS about any alarm/ fault message immediately.
10. Help in testing of fire alarm, fire fighting equipment etc when desired by officer in charge
11. Any other works that may be incidental and related to proper upkeep of the Telecom Site.

Classification of services required at each category of site :**Category of Site****Services required**

A – USO Sites(Tribal/Non Tribal)	All as per annexure-E
B – NBSNL Site (Tribal/Non Tribal)	All as per annexure-E

***Sites with equipment/equipment with office in the same building**

Annexure – F

SECTION-I: Comprising of all SDCAs of Shimla SSA

Proposed Shift timing:-

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1. Shift 1: 6 AM to 2 PM
2. Shift 2: 2 PM to 10 PM
3. Shift 3: 10 PM to 6 AM
4. Shift 4: 10 AM to 6 PM

(Note: The service timings of shifts can be modified if needed, by GMTD, Shimla depending upon local condition)

TABLE-I

SN	Name of BTS	Tribal/Non Tribal	Sub-Divn	SDCA	Category of Site (As per attached annexure-E)
1	Bagha	NT	CPL	THG	A
2	Ballain	NT	THG	THG	A
3	Batargalu	NT	JBL	RHR	A
4	Batewari	NT	CPL	THG	A
5	Bragli	NT	THG	THG	A
6	Chouni	NT	NRD	NRD	A
7	Churwadhar	NT	CPL	THG	A
8	Dhar Kalna	NT	THG	THG	A
9	Dingidhar	NT	NRD	NRD	A
10	Gainali	NT	THG	THG	A
11	Ghurla	NT	THG	THG	A
12	Gaibong	T	R.PEO	KLP	A
13	Gobh	NT	TDR	RMB	A
14	Goskwari	NT	RHR	RHR	A
15	Jadaun	NT	THG	THG	A
16	Junah	NT	RMB	RMB	A
17	Kainthnali	NT	THG	THG	A
18	Kalbog	NT	KKI	THG	A
19	Kaso	NT	THG	THG	A
20	Kawag	NT	SMLT	SML	A
21	Kharla	NT	RHR	RHR	A
22	Mahasu	NT	KKI	THG	A
23	Nag	NT	CPL	THG	A
24	Nerua	NT	CPL	THG	A
25	Newal Tikri	NT	CPL	THG	A
26	Samoli	NT	NRD	NRD	A
27	SeriDgon	NT	SMLT	SML	A
28	Shalan	NT	RHR	RHR	A
29	Teel	NT	THG	THG	A
30	Thaloghiati	NT	THG	THG	A

Note: I hereby agree to provide services at all the above sites and have accordingly quoted the rates of all in the Financial Bid in Annexure F.

Annexure – F

SECTION-II: Comprising of all SDCAs of Shimla SSA
Proposed Shift timing:-

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1. Shift 1: 6 AM to 2 PM
2. Shift 2: 2 PM to 10 PM
3. Shift 3: 10 PM to 6 AM
4. Shift 4: 10 AM to 6 PM

(Note: The service timings of shifts can be modified if needed, by GMTD, Shimla depending upon local condition)

TABLE-II

SN	Name of BTS	Tribal/Non Tribal	Sub-Divn	SDCA	Category of Site (As per attached annexure-E)
1	Bahali	NT	RMB	RMB	B
2	Chunaghai	NT	NRD	NRD	B
3	Kandaghai	NT	NRD	NRD	B
4	Kharapathar	NT	JBL	RHR	B
5	Lossar	T	R.Peo	KLP	B
6	Pooh	T	R.Peo	KLP	B
7	Rarang	T	R.Peo	KLP	B
8	Tabo	T	R.Peo	KLP	B
9	Chango	T	R.Peo	KLP	B
10	Chunjar	NT	JBL	RHR	B
11	Devidhar Bag	NT	SMLT	SML	B
12	Dodrakwar	T	RHR	RHR	B
13	Guglidhar	NT	JBL	RHR	B
14	Kadrain	NT	SMLT	SML	B
15	Kanam	T	R.Peo	KLP	B
16	Katachi Dhrogra	NT	SMLT	SML	B
17	Kaza	T	R.Peo	KLP	B
18	Khaneri	NT	RMB	RMB	B
19	Kilba	T	R.PEO	KLP	B
20	Nagaan	NT	THG	THG	B
21	Narkanda	NT	TDR	RMB	B
22	Ralli	T	R.PEO	KLP	B
23	Rohru Shiv Mandir	NT	RHR	RHR	B
24	Shilladesh	NT	RHR	RHR	B
25	Tangru	NT	RMB	RMB	B
26	Thanedhar	NT	TDR	RMB	B

Note: I hereby agree to provide services at all the above sites and have accordingly quoted the rates of all in the Financial Bid in Annexure F.

Financial Bid

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**Rates to be Quoted for services to be provided for each category of sites .
Detail of Sites mentioned in Table-I & II**

Tribal/Non Tribal Sites	SECTION-I (USO SITES) Rate Quoted per site per Month (Category of Site A) Rs		SECTION-II (NBSNLSITES) Rate Quoted per site per Month (Category of Site B) Rs	
	Rates in Figures	Rates in words	Rates in Figures	Rates in words
Non Tribal				
Tribal				

- Note:-**
1. Rate to include all levies and duties, except service tax which will be charged separately as applicable.
 2. The contractor has to quote rates for services provided at each category of site (A & B)

Signature of tenderer with rubber seal

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