Corrigendum / Amendment-8

Date : 03.11.2022

Corrigendum/Amendment-8 for Tender No: SPMCIL/Corporate Office New Delhi/Purchase/5/21-22/ET/32[Hiring a System Integrator] dated 04.04.2022 for Hiring a System Integrator for technology refresh at DC, DRC & business units along with migration of SAP ECC to SAP S/4 HANA platform.

Sl. No.	RFP/Corrigendum/ Amendment Reference & page number	RFP/Corrigendum/Amendment Clause	Amendment in Tender Clause (To be read as)
1	Section I: Notice Inviting Tender (NIT)Page no. 8 & 9 Amendment-7 (Sl No 3): New Clause(S. No 18)	The liability of either Party (whether in contract, tort, negligence, strict liability in tort, by statute or otherwise) for any claim in any manner related to this Agreement, including the work, deliverables or Services covered by this Agreement, shall be the payment of direct damages only which shall in no event exceed one time the total contract value payable under this Agreement.	**18 Indemnification & Limitation of Liability** 18.1 Subject to Clause 18.4 below, Implementation Agency (the "Indemnifying Party") undertakes to indemnify, and hold harmless the Purchaser (the "Indemnified Party") from and against all claims, liabilities, losses, expenses (including reasonable attorneys' fees), fines, penalties, taxes or damages (Collectively “Loss”) on account of bodily injury, death or damage to tangible personal property arising in favor of any person, corporation or other entity (including the Indemnified Party) attributable to the Indemnifying Party's negligence or willful default in performance or non-performance under this Agreement. 18.2 If the Indemnified Party promptly notifies Indemnifying Party in writing of a third-party claim against Indemnified Party that any Service provided by the Indemnifying Party infringes a copyright, trade secret, or patents incorporated in India of any third party, Indemnifying Party will defend such claim at its expense and will pay any costs or damages, that may be finally awarded against Indemnified Party. 18.3 Indemnifying Party will not indemnify the Indemnified Party, however, if the claim of infringement is caused by a) Indemnified Party’s misuse or modification of the Service; b) Indemnified Party’s failure to use corrections or enhancements made available by the Indemnifying Party; c) Indemnified Party’s use of the Service in combination with any product or information not owned or developed by Indemnifying Party; However, if any service, information, direction, specification, or materials

RAVI PRAKASH YADAV

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			provided by Indemnified Party or any third party contracted to it, is or likely to be held to be infringing, Indemnifying Party shall at its expense and option either i. Procure the right for Indemnified Party to continue using it ii. Replace it with a non-infringing equivalent iii. Modify it to make it non-infringing The foregoing remedies constitute Indemnified Party's sole and exclusive remedies and Indemnifying Party's entire liability with respect to infringement. **18.4 The indemnities set out in Clause 18 shall be subject to the following conditions:** (i) the Indemnified Party as promptly as practicable informs the Indemnifying Party in writing of the claim or proceedings and provides all relevant evidence, documentary or otherwise; (ii) the Indemnified Party shall, at the cost of the Indemnifying Party, give the Indemnifying Party all reasonable assistance in the Defense of such claim including reasonable access to all relevant information, documentation, and personnel provided that the Indemnified Party may, at its sole cost and expense, reasonably participate, through its attorneys or otherwise, in such Defense; (iii) if the Indemnifying Party does not assume full control over the Defense of a claim as provided in this Article, the Indemnifying Party may participate in such Defense at its sole cost and expense, and the Indemnified Party will have the right to defend the claim in such manner as it may deem appropriate, and the cost and expense of the Indemnified Party will be included in Losses; (iv) the Indemnified Party shall not prejudice, pay or accept any proceedings or claim, or compromise any proceedings or claim, without the written consent of the Indemnifying Party; (v) all settlements of claims subject to indemnification under this Clause will: a. be entered into only with the consent of the Indemnified Party, which consent will not be unreasonably withheld and include an unconditional release to the

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			Indemnified Party from the claimant or plaintiff for all liability in respect of such claim; and b. include any appropriate confidentiality agreement prohibiting disclosure of the terms of such settlement; (vi) the Indemnified Party shall account to the Indemnifying Party for all awards, settlements, damages, and costs (if any) finally awarded in favour of the Indemnified Party which are to be paid to it in connection with any such claim or proceedings; (vii) the Indemnified Party shall take steps that the Indemnifying Party may reasonably require to mitigate or reduce its loss as a result of such a claim or proceedings; (viii) in the event that the Indemnifying Party is obligated to indemnify an Indemnified Party pursuant to this Article, the Indemnifying Party will, upon payment of such indemnity in full, be subrogated to all rights and defenses of the Indemnified Party with respect to the claims to which such indemnification relates; and (ix) if a Party makes a claim under the indemnity set out under Clause 18.1 above in respect of any particular Loss or Losses, then that Party shall not be entitled to make any further claim in respect of that Loss or Losses (including any claim for damages). 18.5 The liability of either Party (whether in contract, tort, negligence, strict liability in tort, by statute or Contract Agreement or otherwise) for any claim in any manner related to this Agreement, including the work, deliverables or Services covered by this Agreement, shall be the payment of direct damages only which shall in no event exceed one time the total contract value payable under this Agreement. The liability cap given under this Clause shall not be applicable to the indemnification obligations set out in Clause 18 and breach of Clause 18.8 and 18.9. 18.6 In no event shall either party be liable for any consequential, incidental, indirect, special, or punitive damage, loss, or expenses (including but not limited to business interruption, lost business, lost profits, or lost savings) nor

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			for any third-party claims (other than those set forth in Clause 18.1) even if it has been advised of their possible existence. 18.7 The allocations of liability in this Section 18 represent the agreed and bargained-for understanding of the parties and compensation for the Services reflects such allocations. Each Party has a duty to mitigate the damages and any amounts payable under an indemnity that would otherwise be recoverable from the other Party pursuant to this Agreement by taking appropriate and commercially reasonable actions to reduce or limit the number of such damages or amounts. **Clause 18.8: Security and Safety** (a) The Implementation Agency shall comply with the technical requirements of the relevant security, safety and other requirements specified in the Information Technology Act or Telegraph Act including the regulations issued by dept. of telecom (wherever applicable), IT Security Manual of the Purchaser as specifically stated in the RFP and follow the industry standards related to safety and security (including those as stated in the RFP), insofar as it applies to the provision of the Services. (b) Each Party to the SLA/Agreement shall also comply with Purchaser or the Government of India, and the respective State's security standards and policies in force from time to time at each location of which Purchaser or its nominated agencies make the Implementation Agency aware in writing insofar as the same apply to the provision of the Services. (c) The Parties to the SLA/Agreement shall use reasonable endeavours to report forthwith in writing to each other all identified attempts (whether successful or not) by unauthorized persons (including unauthorized persons who are employees of any Party) either to gain access to or interfere with the Purchaser as the case may be or any of their nominees data, facilities or Confidential Information. (d) The Implementation Agency shall upon reasonable request by the Purchaser as the case may be or their nominee(s) participate in regular meetings when

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			safety and information technology security matters are reviewed. (e) As per the provisions of the SLA or this Agreement, the Implementation Agency shall promptly report in writing to the Purchaser or its nominated agencies, any act or omission which they are aware that could have an adverse effect on the proper conduct of safety and information technology security at the facilities of Purchaser as the case may be. **Clause 18.9: Confidentiality** 18.9.1 The Purchaser or its nominated agencies shall allow the Implementation Agency to review and utilize highly confidential public records and the Implementation Agency shall maintain the highest level of secrecy, confidentiality, and privacy with regard thereto. 18.9.2 Additionally, the Implementation Agency shall keep confidential all the details and information with regard to the Project, including systems, facilities, operations, management and maintenance of the systems/facilities. 18.9.3 The Purchaser or its nominated agencies shall retain all rights to prevent, stop and if required take the necessary punitive action against the Implementation Agency regarding any forbidden disclosure. 18.9.4 The Implementation Agency shall ensure that all its employees, agents and sub-contractors involved in the project, execute individual non-disclosure agreements, which have been duly approved by the Purchaser with respect to this Project. The implementing agency may submit a declaration that it has obtained the NDA from its employees. However, if the project is critical in nature, IA may get NDAs signed from every resource involved in the project and submit it to purchaser (Optional). For the avoidance of doubt, it is expressly clarified that the aforesaid provisions shall not apply to the following information: (a) information already available in the public domain; (b) information which has been developed independently by the Implementation Agency; (c) information which has been received from a third party who had the right to

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			disclose the aforesaid information; (d) Information which has been disclosed to the public pursuant to a court order. 18.9.5 To the extent the Implementation Agency shares its confidential or proprietary information with the Purchaser for effective performance of the Services, the provisions of the Clause 18.9.1 to 18.9.3 shall apply mutatis mutandis on the Purchaser or its nominated agencies. 18.9.6 Any handover of the confidential information needs to be maintained in a list, both by Purchaser & SI, containing at the very minimum, the name of provider, recipient, date of generation of the data, date of handing over of data, mode of information, purpose, and signatures of both parties. 18.9.7 Notwithstanding anything to the contrary mentioned hereinabove, the Implementation Agency shall have the right to share the Letter of Intent / work order provided to it by the Purchaser in relation to this Agreement, with it's prospective purchasers solely for the purpose of and with the intent to evidence and support its work experience under this Agreement.
2	Section I: Notice Inviting Tender (NIT) Page no. 8 & 9	Dates and place of issue of tender documents: From 04.04.2022 to 04.11.2022 during office hours (as per Corrigendum/Amendment-7)	Dates and place of issue of tender documents: From 04.04.2022 to 18.11.2022 during office hours
		Closing date and time for receipt of tenders: 04.11.2022 up to 3.00 PM (as per Corrigendum/Amendment-7)	Closing date and time for receipt of tenders: 18.11.2022 up to 3.00 PM
		Time and date of opening of tenders (Part I – PQB): 04.11.2022 at 3.30 PM (as per Corrigendum/Amendment-7)	Time and date of opening of tenders (Part I – PQB): 18.11.2022 at 3.30 PM