

1 Agreement 2

1.1 DEFINITIONS AND GLOSSARY 2

1.2 DOCUMENTS COMPRISING THE AGREEMENT 3

1.3 SCOPE OF WORK 3

1.4 DETAILED SCOPE OF WORK 4

1.5 PAYMENT TERMS 6

1.6 COMPLIANCE WITH LAWS 7

1.7 TERMINATION 7

1.8 RESOLUTION OF DISPUTES 8

1.9 NOTICES 8

1.10 SOFTWARE LICENSES 8

1.11 GOVERNING LAW JURISDICTION 8

1.12 SURVIVAL OF PROVISIONS 9

1.13 RIGHTS AND REMEDIES 9

1.14 CORPORATE AUTHORITY / FURTHER ASSURANCES 9

1.15 PERFORMANCE BANK GUARANTEE 9

1.16 OBLIGATIONS OF THE OPERATOR 10

Annexure I 12

1 AGREEMENT

THIS AGREEMENT is made on this _____ day of _____ 2013

BETWEEN:

Punjab State Transport Society having its administrative office at PSTS , SCO 175 - 176, Sector-17, Chandigarh, India hereafter referred to as “Client” (hereinafter referred to as ‘Client’, which expression shall, unless the context otherwise requires, include his successors in office, assignees and delegates) of the FIRST PART;

AND

..... of the SECOND PART

WHEREAS

PSTS , Government of Punjab, with a view to leverage state-of-art technologies and to streamline the administration of PSTS [Punjab State Transport Society] , to provide a responsive and effective administration for an efficient, speedy, simple and cost effective service to the citizens. To achieve this objective, the State government has decided to purchase the hardware including but not limited to Desktop, UPS, Laser Printers and scanners for processes & services provided by the department at all the field offices across the state of Punjab.

And whereas

The PSTS , Punjab intends to grant to the Operator the right to undertake and provide the mentioned hardware on the terms and conditions mentioned in this Agreement

1.1 *Definitions and Glossary*

Key Definitions

- “**Agreement/ Contract Agreement/ Contract**” means this Agreement signed between the parties mentioned above, inclusive of but not limited to all the annexure, specification of hardware, the Proposal/ Bid with all clarifications and undertakings submitted by the successful operator, the acceptance and all related correspondences;

- **“Bid/ Proposal”** means the queries, bid and all related correspondences by the Successful operator for this project against the mentioned specifications;
- **“Client/Department”** means Punjab State Transport Society;
- **“PSTS”** means Punjab State Transport Society;
- **“Material Breach”** means a breach by either Party (Client or Operator) of any of its obligations under this Agreement which has or is likely to have an Adverse Effect on the Project which such Party shall have failed to cure;
- **“Operator”** means the selected bidder;
- **“Parties”** mean Client and the Operator for the purposes of this Agreement and **“Party”** shall be interpreted accordingly;
- All references to **time** are to the Indian Standard Time;
- A **‘day’** (including within the phrase ‘business day’, ‘working day’) shall mean a period of 24 hours running from midnight to midnight;
- References to a **‘business day, working day’** shall be construed as a reference to a day on which Government offices in the State of Punjab are generally open;

1.2 Documents comprising the Agreement

This agreement comprises of following documents:

1. Agreement
2. Specification for Desktop, UPS, Laser Printers and Scanners
3. Tender Notice

1.3 Scope of Work

The government proposes to avail the IT services for all 22 DTOs, 4 RTAs and 1 STC Office. To achieve the mentioned objective, Society has decided to go for purchase of 165 computers, 165 UPS, 165 Laser Printers and 165 Scanners.

The role of the selected bidder would be to provide all the mentioned hardware and distribute the same at the locations as decided and communicated by Member Sectary PSTS.

1.4 Detailed scope of work

1.4.1 Delivery of hardware

The operator shall undertake provide the hardware at all the locations on its own cost and details of the number hardware delivery as per the locations is mentioned below:

Sr. No	Name of Office	Desktops and Laser printer and Scanner	UPS and Scanner
1	Punjab State Transport Society, Chandigarh	20	
2	RTA, Patiala	5	
3	RTA, Jalandhar	5	
4	RTA, Ferozepur	3	
5	RTA, Bathinda	3	
6	DTO, Ludhiana	11	
7	DTO, Jalandhar	9	
8	DTO, Amritsar	9	
9	DTO, Patiala	6	
10	DTO, Sangrur	6	
11	DTO, Hoshiarpur	6	
12	DTO, Ajitgarh (Mohali)	6	
13	DTO, Bathinda	6	
14	DTO, Faridkot	5	
15	DTO, Ferozepur	5	
16	DTO, Gurdaspur	5	
17	DTO, Kapurthala	5	
18	DTO, Roop Nagar	5	
19	DTO, Fatehgarh Sahib	5	
20	DTO, Mansa	5	
21	DTO, Moga	5	

Sr. No	Name of Office	Desktops and Laser printer and Scanner	UPS and Scanner
22	DTO, Muktsar	5	
23	DTO, Shaheed Bhagat Singh Nagar (Nawan Shaher)	5	
24	DTO, Tarn Taran	5	
25	DTO, Barnala	5	
26	DTO, Fazilka	5	
27	DTO, Pathankot	5	
	Total	165	

1.4.2 Support of Hardware

a. Delivery

The operator will be required to deliver the said hardware within 30 days of the sign of agreement

b. Maintenance

- i. The operator will be required to maintain the delivered hardware during the time of warranty and it should be repaired / replaced within 3 working days.
- ii. The operator will be required to maintain appropriate onsite AMC till the time of warranty.

c. Delivery Note

The operator has to submit the satisfactory delivery note as Performa defined and prescribed by Member Sectary PSTS from all locations. The delivery note must be signed from the authorized personnel by concerned filed officer.

1.4.3 Inspection

i. Inspection by the committee constituted by PSTS

A committee will be formed by PSTS and it will inspect the delivered hardware at all the locations. Committee will submit its inspection report to Member Sectary PSTS.

1.4.3.1 System Support

The activities related at the time of system delivery is to be carried out by the operator, but not be limited to, are as follows:

- Installation of desktops including OS, and Micro soft Office and connection with UPS
- Installation of Laser Printers with the desktop
- Installation of Scanner with the desktop

1.5 Payment Terms

The Operator would raise delivery notes from all the locations after delivery of complete hardware. Punjab State Transport Society would inspect the delivered hardware from all locations. In case of discrepancies, agreement will terminated and further payments to the operator will be stopped.

The below mentioned points to be taken into consideration for making payments to the Operator:

- a 40 % of the payable amount will be given to operator after the signing of agreement
- b 20% of payable amount will be given to operator after delivery of all delivery notes to Member Sectary, PSTS
- c 40 % of payable amount will be given after the satisfactory inspection report submitted by committee to PSTS.
- d The payable amount shall be made to the operator as per quotes mentioned in the financial bid presented hereunder:

Type of Transaction	Rates per Transaction (Rs)*
Cost of Desktops	
Cost of Printers	
Cost of Scanners	
Cost of UPS	

- e The TDS, as applicable, will be deducted at source as per the prevalent rules and regulations at the time of making payments to the operator during the billing cycles.

1.6 Compliance with Laws

It is expected of the parties:

- a. That the operator hereto agrees that it shall comply with all applicable union, state and local laws, ordinances, regulations and codes in performing its obligations hereunder, including the procurement of licenses, permits and certificates and payment of taxes where required.

1.7 Termination

1.7.1 Termination for Default

The Client without prejudice to any other remedy for breach of contract may send a written notice of default to the operator:

- If the operator fails to deliver any or all contracted hardware as per specified in the contract, or
- If the operator fails to perform any other obligation(s) under the contract, or
- If the operator in the judgment of Member Sectary PSTS, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

In such a case, the operator will be given a period of 30 days, from the date of issuance of such notice, for resolution of the issue. If the operator fails to resolve the issue then the department may terminate the contract for default.

In the event PSTS terminates the contract, the PSTS would be free to fully take over the assets without prejudice to any other action as contemplated in the contract. PSTS will also be free to claim the BG submitted under this agreement.

1.7.2 Termination for Insolvency

The PSTS may at any time terminate the contract by giving written notice to the operator if the operator becomes bankrupt or otherwise insolvent. In his event, termination will be without compensation to the operator, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the PSTS.

1.7.3 Termination for Convenience

PSTS, by written notice (of 15 working days) sent to the operator may terminate the contract at any time for its convenience. The notice of termination shall specify that termination is for its convenience. In case of termination for convenience, the PSTS would pay to the operator the cost of hardware (as per payment plan) at the depreciated cost of the equipments for 3 years.

1.8 Resolution of disputes

PSTS and the operator shall make every effort to resolve amicably by direct negotiation any disagreement or dispute arising between them under or in connection with the contract.

If, after forty (40) days from the commencement of such negotiations, the PSTS and the successful operator have been unable to amicably resolve the dispute, then the issue will be referred to the arbitrator in accordance with the Arbitration and Conciliation Act, 1996. The sole arbitrator for such purposes will be the Administrative Secretary to the Government of Punjab, Dept. of Transport. All arbitration proceedings shall be held at Chandigarh, India, and the language of the arbitration proceedings and that of all documents and communications between the parties shall be in English. Any legal dispute will come under Punjab State jurisdiction.

1.9 Notices

Any notice given by one party to the other pursuant to this contract shall be sent to the other party in writing by fax, email or any other reasonable mode of communication. A notice shall be effective from the date when delivered, emailed or faxed whichever is earlier.

1.10 Software Licenses

The paper licenses of all software to be deployed as part of the project would be in the name of the Member Secretary, PSTS and the original copy of the same shall be deposited by the operator at office of Member Secretary, PSTS after signing of the contract and before the installation of the software at any of the sites.

1.11 Governing Law Jurisdiction

That this agreement shall be governed by and construed in accordance with the laws of India and shall be subject to the exclusive jurisdiction of the courts of Chandigarh only.

1.12 Survival of Provisions

That the terms and provisions of this Agreement which by their nature and content are intended to survive the performance hereof by any or all parties hereto shall so survive the completion and termination of this Agreement.

1.13 Rights and Remedies

That all rights and remedies conferred under this Agreement or by law shall be cumulative and may be exercised singularly or concurrently.

1.14 Corporate Authority / Further Assurances

That the operator represents that it has taken all necessary corporate action to authorize the execution and consummation of this agreement and will furnish satisfactory evidence of same upon request. An authenticated list of the officers of the operator who are authorized to sign and/or execute this agreement and/or other related documents in writing should be provided to PSTS .

1.15 Performance Bank Guarantee

- 1 The operator shall at his own expense deposit with PSTS, within ten (10) working days of the date of notice of award of the contract or prior to signing of the contract whichever is earlier, an unconditional and irrevocable Performance Bank Guarantee (PBG) from a Nationalized bank acceptable to PSTS , payable on demand, for the due performance and fulfillment of the contract by the operator. The format of the Performance Bank Guarantee attached as **Annexure I**. The bank guarantee can be encashed in Chandigarh, Punjab, on the demand of the department.
- 2 The performance guarantee shall be denominated in the currency of the contract i.e. Indian Rupees and shall be by bank guarantee.
- 3 This PBG will be for an amount of Rs. 5 Lacs (Indian Rupees Five Lacs only). All charges whatsoever such as premium; commission etc. with respect to the PBG shall be borne by the operator.
- 4 The performance bank guarantee shall be valid till warranty period
- 5 No interest shall be payable by the PSTS on the PBG.
- 6 In the event of the operator being unable to service the contract for whatsoever reason, PSTS would invoke the PBG. Notwithstanding and without prejudice to any rights whatsoever of

PSTS under the contract in the matter, the proceeds of the PBG shall be payable to PSTS in case of operator's failure to complete its obligations under the contract.

- 7 In all other cases, of default by the operator (except the aforementioned one) the PSTS will notify the operator in writing (by fax or email) of the exercise of its right 7 days in advance, indicating the contractual obligation(s) for which the operator is in default.
- 8 The PSTS shall also be entitled to make recoveries from the operator's bills, performance bank guarantee, or from any other amount due to him, the equivalent value of any payment made to him due to inadvertence, error, collusion, misconstruction or misstatement.

1.16 Obligations of the Operator

The following are the obligations of the operator:

- 1 The operator shall be obliged to work closely with the PSTS, act within its own authority and abide by directives issued by the department authorities.
- 2 The operator shall abide by the job safety measures prevalent in India and will free PSTS from all demands or responsibilities arising from accidents or loss of life the cause of which is the operator's negligence. The operator will pay all indemnities arising from such incidents and will not hold PSTS responsible or obligated.
- 3 Operator shall be responsible for the maintenance, up keep of all the hardware devices installed by him during the period of the contract till the time of warranty

1.16.1 Inspection & Test

The following are the rights of the PSTS:

- PSTS and/or its representative reserve the right of inspection and testing of the goods prior to delivery and after delivery at the site, or at any time during the period of the contract.
- PSTS reserves the right to inspect, test and, wherever necessary, reject the goods after the good's arrival at project site. This shall in no way be limited or waived by reason of the goods having previously been inspected, tested and passed by PSTS or its representative prior to the goods shipment.



For Department **For Operator**

Signature _____

Signature _____

Name _____

Name _____

Designation _____

Designation _____

Date _____

Date _____

WITNESSES

1. Signature _____

2. Signature _____

Name _____

Name _____

Designation _____

Designation _____

Date _____

Date _____

ANNEXURE I

Performa for Performance Bank Guarantee

To
Punjab State Transport Society
Chandigarh 160017

Dear Sir,
Performance Bank Guarantee: **Purchase of 165 desktops, 165 UPS, 165 Laser Printer and 165 Scanners by Punjab State Transport Society**

WHEREAS

M/s. (name of selected bidder), having its office at (address of the company), (hereinafter referred to as "our constituent", which expression, unless excluded or repugnant to the context or meaning thereof, includes its successors and assigns), agreed to enter into a Contract (herein after, referred to as "Contract") vide Acceptance of Letter of Intent (LoI) dated with the PSTS.

We are aware of the fact that as per the terms of the Contract, M/s. (name of selected bidder) is required to furnish an unconditional and irrevocable Performance Bank Guarantee in your favor for an amount of INR 5 Lacs (INR Five Lacs only), and guarantee the due performance by our constituent as per the contract and do hereby agree and undertake to pay any and all amount due and payable under this bank guarantee against breach/ default of the said contract by our constituent. In consideration of the fact that our constituent is our valued customer and the fact that he has entered into the said contract with you, we, (name and address of the bank), have agreed to issue this PBG demand without any protest or demur.

This PBG shall continue and hold good till 3 years from the date of signing of the contract, subject to the terms and conditions in the said contract. We bind ourselves to pay the above said amount at any point of time commencing from the date of the said contract till the expiry of the bank guarantee. We further agree that the termination of the said agreement, for reasons solely attributable to our constituent, virtually empowers you to demand for the payment of the above said amount under this guarantee and we would honor the same without demur.

We hereby expressly waive all our rights:

- Requiring to pursue legal remedies against Punjab State Transport Society; and
- For notice of acceptance hereof any action taken or omitted in reliance hereon, of any defaults under the contract and any resentment, demand, protest or any notice of any kind.

We the Guarantor, as primary obligor and not merely Surety or Guarantor of collection, do hereby irrevocably and unconditionally give our guarantee and undertake to pay any amount you may claim (by one or more claims) up to but not exceeding the amount mentioned aforesaid during the period from and including the date of issue of this guarantee through the contract period.

We specifically confirm that no proof of any amount due to you under the contract is required to be provided to us in connection with any demand by you for payment under this guarantee other than your written demand. Any notice by way of demand or otherwise hereunder may be sent by special courier, telex, fax, registered post or other electronic media to our address, as aforesaid and if sent by post, it shall be deemed to have been given to us after the expiry of 48 hours when the same has been posted.

If it is necessary to extend this guarantee on account of any reason whatsoever, we undertake to extend the period of this guarantee on the request of our constituent under intimation to you.

This PBG shall not be affected by any change in the constitution of our constituent nor shall it be affected by any change in our constitution or by any amalgamation or absorption thereof or therewith or reconstruction or winding up, but will ensure to the benefit of you and be available to and be enforceable by you during the period from and including the date of issue of this guarantee through the period.

Notwithstanding anything contained hereinabove, our liability under this PBG is restricted to INR 5 Lacs (INR Five Lacs only), and shall continue to exist, subject to the terms and conditions contained herein, unless a written claim is lodged on us on or before the aforesaid date of expiry of this guarantee. We hereby confirm that we have the power/s to issue this guarantee in your favor under the Memorandum and Articles of Association/Constitution of our bank and the undersigned is/are the recipient of authority by express delegation of power/s and has/have full power/s to execute this guarantee under the Power of Attorney issued by the bank in his/her favor. We further agree that the exercise of any of your rights against our constituent to enforce or forbear to enforce or any other indulgence or facility, extended to our constituent to carry out the contractual obligations as per the said contract, would not release our liability under this guarantee and that your right against us shall remain in full force and effect, notwithstanding any arrangement that may be entered into between you and our constituent, during the entire currency of this guarantee.

Notwithstanding anything contained herein:

Our liability under this PBG shall not exceed INR 5 Lacs (INR Five Lacs only). This PBG shall be valid only for 3 years from the date of signing of contract; and We are liable to pay the guaranteed amount or part thereof under this PBG only if we receive a written claim or demand on or before the expiry of this bank guarantee. Any payment made hereunder shall be free and clear of and without deduction for or on account of taxes, levies, imports, charges, duties, fees, deductions or withholding of any nature imposts.

This PBG must be returned to the bank upon its expiry. If the bank does not receive the PBG within the above-mentioned period, subject to the terms and conditions contained herein, it shall be deemed to be automatically cancelled. This guarantee shall be governed by and construed in accordance with the Indian Laws and we hereby submit to the exclusive jurisdiction of courts of Justice in India for the purpose of any suit or action or other proceedings arising out of this guarantee or the subject matter hereof brought by you may not be enforced in or by such court.

Dated this Day 2013