

Corrigendum-2

This is with reference to NPCI's RFP No. NPCI/RFP/2029-21/IT/09 dated 02.07.2020 for RFP for Empanelment of vendor for new payments applications performance evaluation. The prospective bidders may please note the following

Page No	Clause No	Existing RFP Clause	Amended clause vide this note
18	5.14 Envelope bidding process	The Bid shall be prepared in 3 different envelopes, Envelope A, Envelope B and Envelope C . <u>"Request for Proposal for procurement of Digital Signature Solution"</u> .	The Bid shall be prepared in 2 different envelopes, Envelope A, Envelope B. <u>"Empanelment of vendor for New Payments Application Performance Evaluation"</u> .
29	8.23 Force Majeure	<p>If either party is prevented, restricted, delayed or interfered by reason of: a) Fire, explosion, cyclone, floods, droughts, earthquakes, epidemics; b) War, revolution, acts of public enemies, blockage or embargo, riots and civil commotion; c) Any law, order, proclamation, ordinance or requirements of any Government or authority or representative of any such Government, including restrictive trade practices or regulations; d) Strikes, shutdowns or labor disputes which are not instigated for the purpose of avoiding obligations herein; Or e) Any other circumstances beyond the control of the party affected; then notwithstanding anything here before contained, the party affected shall be excused from its performance to the extent such performance relates to prevention, restriction, delay or interference and provided the party so affected used its best efforts to remove such cause of non-performances, and when removed the party shall continue performance with the utmost dispatch. Each of the parties agrees to give written notice forthwith to the other upon becoming aware of an Event of Force Majeure, the said notice to contain details of the circumstances giving rise to the Event of Force Majeure. If the Event of Force Majeure shall continue for more than twenty (20) days either party shall be entitled to terminate the Agreement at any time thereafter without notice. Notwithstanding the provisions of the RFP, the successful bidder or NPCI shall not be liable for penalty or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the RFP/Purchase Order/contract is the result of Force Majeure. For purposes of this clause, "Force Majeure" means an event beyond the control of the successful bidder and not involving NPCI or the successful bidder's fault or negligence and not foreseeable. Such events may include, but not restricted to wars, revolutions, epidemics, natural disasters etc.</p> <p>If force majeure situation arises, the successful bidder shall promptly notify NPCI in writing of such condition and cause thereof. Unless otherwise directed by NPCI in writing, the successful shall continue to perform its obligations under contract as far as possible.</p> <p><u>Neither party shall have any liability to the other in respect of the termination of this Agreement as a result of an Event of Force Majeure</u></p>	<p>If either party is prevented, restricted, delayed or interfered by reason of: a) Fire, explosion, cyclone, floods, droughts, earthquakes, epidemics; b) War, revolution, acts of public enemies, blockage or embargo, riots and civil commotion; c) Any law, order, proclamation, ordinance or requirements of any Government or authority or representative of any such Government, including restrictive trade practices or regulations; d) Strikes, shutdowns or labor disputes which are not instigated for the purpose of avoiding obligations herein; Or e) Any other circumstances beyond the control of the party affected; then notwithstanding anything here before contained, the party affected shall be excused from its performance to the extent such performance relates to prevention, restriction, delay or interference and provided the party so affected used its best efforts to remove such cause of non-performances, and when removed the party shall continue performance with the utmost dispatch. Each of the parties agrees to give written notice forthwith to the other upon becoming aware of an Event of Force Majeure, the said notice to contain details of the circumstances giving rise to the Event of Force Majeure. If the Event of Force Majeure shall continue for more than twenty (20) days either party shall be entitled to terminate the Agreement at any time thereafter without notice. Notwithstanding the provisions of the RFP, the successful bidder or NPCI shall not be liable for penalty or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the RFP/Purchase Order/contract is the result of Force Majeure. For purposes of this clause, "Force Majeure" means an event beyond the control of the successful bidder and not involving NPCI or the successful bidder's fault or negligence and not foreseeable. Such events may include, but not restricted to wars, revolutions, epidemics, natural disasters etc.</p> <p>If force majeure situation arises, the successful bidder shall promptly notify NPCI in writing of such condition and cause thereof. Unless otherwise directed by NPCI in writing, the successful bidder shall continue to perform its obligations, <u>except for payment obligations for Services already rendered (that are not deficient or delayed and are generally in conformity with the terms contained herein)</u>.</p>
17	5.7 EMD	The Bidder is required to deposit Rs. 5,00,000/- (<u>Rupees Ten Lakhs only</u>) in the form of a Online Transfer/ Demand Draft / Pay order in favor of "National Payments Corporation of India" payable at Mumbai or Bank Guarantee issued by a scheduled commercial bank valid for six months, with a claim period of 12 months after the expiry of validity of the Bank Guarantee as per the statutory provisions in this regard, as per format in Annexure A1 or A2	The Bidder is required to deposit Rs. 5,00,000/- (<u>Rupees Five Lakhs only</u>) in the form of a Online Transfer/ Demand Draft / Pay order in favor of "National Payments Corporation of India" payable at Mumbai or Bank Guarantee issued by a scheduled commercial bank valid for six months, with a claim period of 12 months after the expiry of validity of the Bank Guarantee as per the statutory provisions in this regard, as per format in Annexure A1 or A2

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31	8.27 Intellectual Property Rights	<p>All rights, title and interest of NPCI in and to the trade names, trademark, service marks, logos, products, copy rights and other intellectual property rights shall remain the exclusive property of NPCI and Bidder shall not be entitled to use the same without the express prior written consent of NPCI. Nothing in this RFP including any discoveries, improvements or inventions made upon with/by the use of the Bidder or its respectively employed resources pursuant to contract shall either vest or shall be construed so that to vest any proprietary rights to the Bidder. Notwithstanding, anything contained in this RFP, this clause shall survive indefinitely, even after termination of this contract.</p> <p>Bidder shall indemnify, hold harmless and defend NPCI against any action brought against NPCI to the extent that such action is based on a claim that the code provided by Bidder, infringes a copyright, patent or any intellectual property right and the Bidder shall pay all costs, including but not limited to Legal, Settlements and damages finally awarded</p>	<p>All rights, title and interest of NPCI in and to the trade names, trademark, service marks, logos, products, copy rights and other intellectual property rights shall remain the exclusive property of NPCI and Bidder shall not be entitled to use the same without the express prior written consent of NPCI. Nothing in this RFP including any discoveries, improvements or inventions made upon with/by the use of the Bidder or its respectively employed resources pursuant to contract shall either vest or shall be construed so that to vest any proprietary rights to the Bidder. Notwithstanding, anything contained in this RFP, this clause shall survive indefinitely, even after termination of this contract.</p> <p>Bidder shall indemnify, hold harmless and defend NPCI against any action brought against NPCI to the extent that such action is based on a claim that the code provided by Bidder, infringes a copyright, patent or any intellectual property right and the Bidder shall pay all costs, including but not limited to Legal, Settlements and damages finally awarded</p> <p><u>"NPCI shall have the Right of First Refusal in relation to any intellectual property developed by Bidder under this RFP. Bidder shall not have the right to commercially exploit such intellectual property created during the performance of the RFP until NPCI has been presented with the option to purchase such intellectual property and has categorically declined to purchase the same. Notwithstanding the foregoing, Bidder owns, and shall continue to own all intellectual property rights in software, tools and methodology developed by it outside the scope of the requirements specified in the RFP."</u></p>
26	8.15 Indemnity	<p>The bidder shall indemnify, protect and save NPCI and hold NPCI harmless from and against all claims, losses, costs, damages, expenses, action suits and other proceedings, (including reasonable attorney fees), relating to or resulting from any act or omission or negligence or misconduct of the bidder and its employees and representatives, breach of the terms and conditions of the agreement or purchase order, false statement by the bidder, employment claims of employees of the bidder, third party claims arising due to infringement of intellectual property rights, death or personal injury attributable to acts or omission of bidder, violation of statutory and regulatory provisions including labour laws, laws related to information technology and intellectual property rights, breach of confidentiality obligations, breach of warranty, etc.</p> <p>Indemnity would be limited to court or arbitration awarded damages and shall exclude indirect, consequential and incidental damages and compensation. <u>Bidder shall indemnify NPCI, provided NPCI promptly notifies the Bidder in writing of such claims and the Bidder shall have the right to undertake the sole defense and control of any such claim</u></p>	<p>The bidder shall indemnify, protect and save NPCI and hold NPCI harmless from and against all claims, losses, costs, damages, expenses, action suits and other proceedings, (including reasonable attorney fees), relating to or resulting from any act or omission or negligence or misconduct of the bidder and its employees and representatives, breach of the terms and conditions of the agreement or purchase order, false statement by the bidder, employment claims of employees of the bidder, third party claims arising due to infringement of intellectual property rights, death or personal injury attributable to acts or omission of bidder, violation of statutory and regulatory provisions including labour laws, laws related to information technology and intellectual property rights, breach of confidentiality obligations, breach of warranty, etc.</p> <p>Indemnity would be limited to court or arbitration awarded damages and shall exclude indirect, consequential and incidental damages and compensation. <u>"Bidder shall indemnify NPCI, provided NPCI makes all reasonable endeavors to promptly notify the Bidder in writing of such claims and the Bidder shall have the right to undertake the sole defense and control of any such claim. NPCI shall not make any prejudicial admission about the claim without written confirmation from the Bidder (which shall not be unreasonably withheld or delayed)."</u></p> <p><u>NPCI shall indemnify the Bidder only for direct losses and damages actually suffered or incurred by the Bidder that have arisen or resulted from gross negligence or fraud by NPCI or any infringement of third party IPR by NPCI provided such infringement can be solely and directly attributable to the actions of NPCI and does not result from Bidder's authorized use of any third party IP / product or vendor's use of such product / IP in combination/conjunction with another third party components / products</u></p>
27	8.18(f)(a) Exit option and contract renegotiation	<p>All the warranties held by or in the name of the bidder shall be assigned or transferred as-is, in the name of NPCI. <u>The bidder shall execute any and all such documents as may be necessary in this regard.</u></p>	<p>All the warranties held by or in the name of the bidder shall be assigned or transferred as-is, in the name of NPCI, <u>if permissible by law.</u></p>

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28	8.21 Termination of Purchase Order / Contract	<p>8.21 Termination of Purchase Order/Contract</p> <p>For Convenience: NPCI, by written notice sent to Bidder, may terminate the Purchase Order/ contract in whole or in part at any time for its convenience giving three months prior notice. The notice of termination may specify that the termination is for convenience the extent to which Bidder's performance under the contract is terminated and the date upon which such termination become effective. NPCI shall consider request of the bidder for pro-rata payment till the date of termination.</p> <p>For Insolvency: NPCI at any time may terminate the contract by giving written notice to Bidder, if Bidder becomes bankrupt or insolvent. In this event, termination will be without compensation to Bidder, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to NPCI.</p> <p>For Non-Performance: NPCI reserves its right to terminate the contract in the event of Bidder's repeated failures (say more than 3 occasions in a calendar year to maintain the service level prescribed by NPCI).</p>	<p>8.21 Termination of Purchase Order/Contract</p> <p>For Convenience: NPCI, by written notice sent to Bidder, may terminate the Purchase Order/ contract in whole or in part at any time for its convenience giving three months prior notice. The notice of termination may specify that the termination is for convenience the extent to which Bidder's performance under the contract is terminated and the date upon which such termination become effective. NPCI shall consider request of the bidder for pro-rata payment till the date of termination.</p> <p>For Insolvency: NPCI at any time may terminate the contract by giving written notice to Bidder, if Bidder becomes bankrupt or insolvent. In this event, termination will be without compensation to Bidder, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to NPCI.</p> <p>For Non-Performance: NPCI reserves its right to terminate the contract in the event of Bidder's repeated failures (say more than 3 occasions in a calendar year to maintain the service level prescribed by NPCI).</p> <p><u>"NPCI reserves its right to terminate the contract in the event of Bidder's default or non-compliance with the terms hereof, if said default is not cured within thirty (30) days from receipt of notice of default by the Bidder."</u></p>
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