

BID DOCUMENT
Expression of Interest (EOI) for
Empanelment of
Internet Data centers (IDCs) partner
in BSNL MH Circle
On
Revenue Share basis

EOI No. CGMT/MH/EB-MH/OPEN IDC POLICY /EOI/2020-21/ 03
Dated 21/11/2020



भारत संचार निगम लिमिटेड
(भारत सरकार का उपक्रम)
BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India enterprise)

EB-MH Section

O/ o CGMT MH Circle,
5t Floor, B Wing, BSNL Admin Bldg,
Santacuruz(W), Mumbai- 400054

Tele: 022-26467499
"visit us at www.bsnl.co.in"

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SECTION-I

BHARAT SANCHAR NIGAM LIMITED

(A Govt. of India Enterprise)

Maharashtra Telecom Circle, Mumbai

(EB-MH)

NOTICE INVITING EXPRESSION OF INTEREST

EOI No and Date : CGMT/MH/EB-MH/OPEN IDC POLICY /EOI/2020-21/ 03 Dated 21/11/2020

Date of Submission : Open Ended

On behalf of CGMT MH Circle, Bharat Sanchar Nigam Limited , Mumbai-400054 Expression of Interest (EOI) is invited from the Companies registered / incorporated in India for Empanelment for providing Internet Data Centers (IDCs) services in BSNL on Revenue Share basis as per the terms and conditions of this EOI document. Submission of Integrity Pact signed by Applicant mandatory.

A. Introduction

1. Bharat Sanchar Nigam Limited (BSNL) is having countrywide presence with wire line & wireless telephone subscribers and offer hosts of other services like Data communication, National long distance, International Long Distance, Internet, Broad band, Multiplay, Leased Line, etc.
2. BSNL intends to empanel the partner(s) for providing Internet Data Centers (IDCs) services in partnership with the Data Center Service Providers (DCSP) on revenue share basis, wherein all CAPEX shall be borne by the DCSP. In the EOI document term "Applicant" and "Data Center Service Providers (DCSP)" has been used interchangeably.
3. For this purpose, on behalf of CGMT MH Circle, Bharat Sanchar Nigam Limited , Mumbai-400054, Expression of Interest (EOI) are invited from the Companies registered / incorporated in India for empanelment as DSCP for providing Data center services to BSNL customers on revenue share basis as per the terms and conditions of this EOI document.
4. BSNL intends to empanel DSCPs who are having at least 2 data centers of minimum 25000 Square feet each in India. Each data center in the pair shall work as DR for one another.

5. The typical revenue share to BSNL for the services provided under such arrangement will XX %, which may vary depending on the prevailing market conditions, and on case to case basis.

C. ELIGIBILITY FOR APPLICANTS :

The Indian Companies who are registered/incorporated in India. Taking into consideration the importance of the IDCs for BSNL as well as prospective end user customers, it is very essential that the applicant firms have sufficient experience running such IDCs facility. The following criterion shall be met by the applicant company who intend to participate in this EOI and only those applicants who qualify the following conditions, need put in the proposal:

- i) The company shall be registered/incorporated in India.
- ii) *The applicant company shall have a minimum annual turnover of INR 50 Crores each year during last 2 years (i.e. financial year 20018-19, FY 2019-20).*
- iii) The applicant shall be ISO 9001: 2015/SEI CMMI level 4 certified.
- iv) The applicant should have at least 2 data centers of minimum area 25,000 Square feet each in India.
- v) The data centers should be minimum of Tier -3 CERTIFIED and preferably Tier-4.
- vi) Data Centers should be ISO 27001 certified.
- vii) **Bidders are required to submit certificates/documentary proof for item (i) to (vi).**
- viii) Agreement including NDA will be signed with qualified applicant.
- ix) End customer prices shall be fixed on case to case basis depending on the market conditions. A governing body with representations from BSNL and Partner DCSP be consulted for the purpose of deciding offerings to end customers.
- x) DCSP shall ensure to provide the services from the IDCs so set up within the ambit of Government rules and regulations only, applicable from time to time. Any monitoring system required for meeting such requirements shall be provided by DCSP.
- xi) Various security guidelines issued time to time by BSNL and Govt of India shall be complied by DCSP.
- xii) Building security should be 24 X 7 X 365 and entry to the IDC via exclusive entrance.
- xiii) Performance Bank guarantee to be submitted by DCSP : back to back basis PBG on case to case basis to be submitted by DSCP to BSNL.

- xiv) Bid security in the form of Bank guarantee will be Rs. 1 lakh (Rupee One lakh only)
- xv) **Mutual Non-Disclosure Agreement attached as Annexure-I is to be submitted along with application.**
- xvi) Intending Applicant may download the copy of EOI document from web site www.maharashtra.bsnl.co.in
- xvii) Applicant needs to submit DD of Rs. 2360/- (Rs. Two thousand three hundred and sixty only) in favor of AO (F & A), BSNL Maharashtra Circle, as non refundable tender fee The payment shall be accepted in the form of A/c payee Demand Draft, drawn in any scheduled Bank in favor of in favor of AO (F & A), BSNL Maharashtra Circle, Mumbai.

ANNEXURE-I

MUTUAL NON-DISCLOSURE AGREEMENT

This Agreement is made as of the _____ day of _____ 2009/2010 between BHARAT SANCHAR NIGAM LIMITED (BSNL), a Government of India Enterprise, having its registered office at Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, Janpath, New Delhi (hereinafter called BSNL) which expression shall unless repugnant to the subject or the context mean and included its successors, nominees or assigns and M/s _____ incorporated _____ having its office located _____ hereinafter referred as “_____” (which expression shall unless repugnant to the subject or the context mean and include its successors, nominees or assigns.

Whereas in order to pursue the mutual business purpose of this particular project as specified in Bid document for Internet Data Center (the “Business Purpose”), BSNL and _____ recognize that there is a need to disclose to one another certain information as also defined in Para-1 below and/or traffic statistic, traffic volume, pricing, technical information relating to service, provisioning, inter-connection and other potential business and or technical information as necessary to evaluate potential arrangement involving their sale of international telecommunications service of each party to be used only for the business purpose and to protect such confidential information from unauthorized use and disclosure.

In consideration of the other party’s disclosure of such information, each party agrees as follows:~

1. This Agreement will apply to all confidential and proprietary information disclosed by one party to the other party, including the discussion conducted by the parties under this Agreement in relation to feasibility and possibility of business collaborations between the parties within various areas including without limitation(i)(ii).....(iii)..... and information listed in Bid document for Internet Data Center attached hereto and stated herein above or all information of disclosing party as in its possession under obligations of confidentiality in whatever from transmitted relating to business plan, operations and/or the proposed sale, purchase & use of telecommunications services which is disclosed by the disclosing party or its affiliates/ related Company to receiving party and other information which the disclosing party identifies in writing or otherwise as confidential before or within thirty days after disclosure to the receiving party.

Confidential Information means Information consists of certain specifications, designs, plans, systems, technology, manufacturing process, drawings, software, prototypes and/or technical information and all information & knowledge regardless of form of storage relating to or developed in connection with Business purpose and for any businesses, prices, products, markets, promotions, strategies, plans, customers, suppliers or employees of disclosing party or related Company or intellectual property owned or used by disclosing party or a related Company or licensed to the disclosing party or related Company and all copies and derivatives containing such information, that may be disclosed to other another for and during the business purpose, which a party considers confidential Information.

Confidential Information may be in any form or medium, tangible or intangible, and may be communicated / disclosed in writing, orally, or through visual observation or learnt or accessed by or by any other means to receiving party by the disclosing party. Information shall be subject to this Agreement, if it is in tangible form, only if clearly marked as proprietary as confidential, when disclosed to the receiving party or, if not in tangible form, its proprietary nature must first be announced, and it must be reduced to writing and furnished to the receiving party within thirty (30) days of the initial disclosure. The term 'affiliate' shall mean any person or entity controlled by or under common control with a party. The related company in relation to a party means:

- (a) that party's subsidiaries, holding companies and any other subsidiaries of that party's holding companies;
- (b) a company or joint venture in which a party has an equity interest, and which is or may be involved in providing a telecommunications or internet access service; and
- (c) in case of M/s

2. _____ and BSNL hereby agree that at during the Confidentiality Period:~

- (a) The receiving party shall use information only for the business purpose and for the purpose of evaluating and negotiating such potential arrangements shall hold information in confidence using the same degree of care as it normally exercises to protect its own proprietary information, but not less than reasonable care, taking into account the nature of the information, and shall grant access to information only to its employees who have a need to know, but only to the extent necessary to carry out the business purpose of this project as defined in Internet Data center Bid document, shall cause its employees to comply with the provisions of this Agreement applicable to the receiving party, shall reproduce information only to the extent essential to fulfilling the purpose, and shall prevent disclosure of information to third parties take all action reasonably necessary to maintain the confidentiality of the other party confidentiality in branch, secure the other party's confidentiality in practice against theft, loss or unauthorized disclosure. The receiving party may, however, disclose the information to its consultants and contractors, related company with a need to know; provided that by doing so, the receiving party agrees to bind those consultants and contractors/ related company to terms at least as restrictive as those stated herein, advise them of their obligations, and indemnify the disclosing party for any breach of those obligations.
- (b) Upon the disclosing party's request, and or at the time documents and other materials are no longer required in connection with business purpose, the receiving party shall either return to the disclosing party all information or shall certify to the disclosing party that all media containing information have been destroyed. Provided, however, that an archival copy of the information may be retained in the files of the receiving party's counsel, solely for the purpose of proving the contents of the information.

- (c) That the receiving party take reasonable steps to enforce the confidentiality obligations imposed or required to be imposed by this agreement, including diligent by prosecuting at its own cost, any breach or threatened breach of such confidentiality obligations by a person to whom it has disclosed confidential information of the other party
- (d) Neither party shall make any public announcement or press release the fact that the discussion is taking place between the parties or existence or content of this Agreement.

3. The foregoing restrictions on each party's use or disclosure of information shall not apply to information that the receiving party can demonstrate :

- (a) was independently developed by or for the receiving party/ or its affiliated or related company without reference to the information or was received without restrictions; or
- (b) has become generally available to the public without breach of confidentiality obligations of the receiving party; or
- (c) was in the receiving party's possession without restriction or was known by the receiving party without restriction at the time of disclosure; or
- (d) *is the subject of a subpoena or other legal or administrative/ demand or Rules or Regulations of Regulator or appropriate authority, provided however that the receiving party has given the disclosing party prompt notice of such demand for disclosure and the receiving party reasonably cooperates with the disclosing party's efforts to secure an appropriate protective order; or***
- (e) is disclosed with the prior consent of the disclosing party; or
- (f) was in its possession or known to it by being in its use or being recorded in its files or computers or other recording media prior to receipt from the disclosing party and was not previously acquired by the receiving party from the disclosing party under an obligation of confidence' or
- (g) the receiving party obtains or was available from a source other than the disclosing party without breach by the receiving party or such source of any obligation of confidentiality or non-use towards the disclosing party.

The party seeking the benefit of above exceptions shall bear the burden of proving its existence.

4. Each party agrees not to remove any of the other party's confidential information from the premises of the disclosing party without the disclosing party's prior written approval. Each party agrees to exercise extreme care in protecting the confidentiality of any Confidential information which is removed, only with the disclosing party's prior written approval, from the disclosing party's premises. Each party agrees to comply with all terms & conditions the

disclosing party may impose upon any such approved removal, such as conditions that the removed confidential information and all copies must be returned by a certain date, and that no copies are to be made off of the premises.

5. Each party, as a receiving party acknowledges that neither the disclosing party nor any of its representatives has made nor makes any representations or warranty, express, or implied as accuracy or completeness of the confidential information of the disclosing party and arises that it must make its own assessment of the confidential information.

6. Upon the disclosing party's request, the receiving party will promptly return to the disclosing party all tangible items containing or consisting of the disclosing party's Confidential Information all copies thereof.

7. Each party recognizes and agrees that all of the disclosing party's confidential information is owned solely by the disclosing party (or its licensors) affiliated/ related company and that the unauthorized disclosure or use of such confidential information would cause irreparable harm and significant injury, the degree of which may be difficult to ascertain. Accordingly, each party agrees that the disclosing party will have the right to obtain or seek specific performance or an immediate injunction enjoining any breach or threatened breach of this Agreement, as well as the right to pursue any and all other rights and remedies available at law or in equity for such a breach.

8. Access to information hereunder shall not preclude an individual who has seen such information for the purposes of this Agreement from working on future projects for the receiving party / affiliated / related company which relate to similar subject matters, provided that such individual does not make reference to the information and does not copy the substance of the information during the confidentiality period. Furthermore, nothing contained herein shall be construed as imposing any restriction on the receiving party's / its affiliated / related company's disclosure or use of any general learning, skills or know-how developed by the receiving party's personnel under this Agreement, if such disclosure and use would be regarded by a person of ordinary skill in the relevant area as not constituting a disclosure or use of the information.

9. As between the parties, all information shall remain the property of the disclosing party. By disclosing information or executing this agreement, the disclosing party does not grant any license, explicitly or implicitly, under any trademark, patent, copyright, mask work protection right, trade secret or any other intellectual property right. THE DISCLOSING PARTY DISCLAIMS ALL WARRANTIES REGARDING THE INFORMATION, INCLUDING ALL WARRANTIES WITH RESPECT TO INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS AND ALL WARRANTIES AS TO THE ACCURACY OR UTILITY OF SUCH INFORMATION. Execution of this Agreement and the disclosure of information pursuant to this agreement does not constitute or imply any commitment, promise, or inducement by either party or its affiliated/ related companies to make any purchase or sale, or to enter into any additional agreement of any kind.

10. Either party's failure to enforce any provision, right or remedy under this agreement shall not constitute a waiver of such provision, right or remedy.

11. Each party shall pay and bear all costs and expenses incurred by it in connection with the preparation for, the performance of, and participation into the Discussion providing in format under this Agreement.

12. Nothing contained in this Agreement may construe as restricting either party to enter into any further negotiation or agreement with third party regarding the same subject matter as the business purpose.

13. (a) The Disclosing Party warrants that it has all necessary rights to disclose lawfully the Confidential Information and the Confidential Information has not been provided in breach of any other agreement or arrangement with third parties. The Disclosing Party indemnifies the Recipient against liability for third party claims on that basis.

(b) Each party warrants that it is a corporation with full corporate power and authority to enter into and do all things necessary for the performance of this agreement. Each signatory to this agreement warrants that he or she is authorized to sign on behalf of the corporation for whom he or she acts.

(c) Each party agrees to comply with all applicable Laws and Regulations including but not limited to laws and regulations relating to export and re-export of technical data documentation and / or providing insofar as they relate to the information disclosed under this Agreement.

14. Except for the covenants herein, nothing under this Agreement or in the act of disclosing Confidential Information will constitute or imply a binding obligation between the Parties if in the future, the Parties elect to enter into a business relationship, both Parties will execute a separate written Agreement.

15. **Severance** : If any of the provisions contained in this Agreement shall be declared invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired.

16. **Notice**: Any notice required or permitted to be given under this Agreement shall be given in writing by personal delivery, certified or registered mail, or facsimile and shall be addressed to the nominated addresses set forth below or such other address as either Party has notified the other Party in accordance with this Article.

(i) If to BSNL:

Attention: Mr./Ms : PGM (EB-MH))

Address: Bharat Sanchar Nigam Limited CO

O/o CGMT MH Circle`
5th floor, B wing,
BSNL Admin Bldg, Juhu Rd,
Santacruz (W), Mumbai- 400054

(ii) If to M/s _____:
Attention: Mr./Ms. _____
Address: _____
Fax: _____

17. This Agreement and Internet data center EOI document attached hereto constitutes the entire agreement of the parties with respect to the parties' respective obligations in connection with information disclosed hereunder and supersedes all prior oral and written agreements and discussions with respect thereto. The parties can amend or modify this Agreement only by a writing duly executed by their respective authorized representatives. Neither party shall assign this Agreement without first securing the other party's written consent.

18. Deleted

19. The Receiving Party take all reasonable steps to notify the Disclosing Party immediately if Confidential Information is disclosed in violation of the provisions of this Agreement or is otherwise lost or unaccounted for. Furthermore, the Receiving Party will take all reasonable steps to notify the Disclosing Party promptly of any actual or attempted use or possession of any Confidential Information by any unauthorized person or entity which may become known to it and extend reasonable cooperation to the Disclosing Party in any investigation or action against any such persons or entities.

20. Notwithstanding anything to the contrary in this Non-Disclosure and Confidentiality Agreement, if the Receiving Party learns that it is or may be required by applicable court order, law or regulation to disclose any Confidential Information, then the Receiving Party will (i) attempt to obtain a protective order or other appropriate relief in lieu of Disclosing such Confidential Information, (ii) as promptly as possible after learning of a possible disclosure requirement, and in any case prior to making disclosure take reasonable steps to notify the Disclosing Party of the disclosure requirement so that the Disclosing Party may seek a protective order or other appropriate relief, (iii) provide such cooperation and assistance as the Disclosing Party may reasonably request in any effort by the Disclosing Party to obtain such relief, and (iv) take reasonable steps to limit the amount of Confidential Information so disclosed and to protect its confidentiality.

21. This Agreement will be construed in interpreted and applied and governed in accordance with the laws of India and jurisdiction of Court at New Delhi, India.

22. All the disputes, differences, controversies / differences of opinions, breaches and violation arising from or related to the agreement arises out of this Agreement between parties then same shall be resolved by mutual discussions / reconciliations in good faith.

If the dispute, difference, controversies / differences of opinion, breaches and violation arising from or related to the agreement cannot be resolved within 60(sixty) days of commencement of reconciliations / discussions, then such question, dispute or difference (except as to the matters, the decision to which is specifically provided under this agreement) shall be referred to the sole arbitration of the CMD, BSNL or in case his designation is changed or his office is abolished, then in such cases to the sole arbitration of the officer for the time being entrusted (whether in addition to his own duties or otherwise) with the functions of the CMD, BSNL or by whatever designation such an officer may be called (hereinafter referred to as the said officer), and if the CMD or the said officer is unable or unwilling to act as such, then to the sole arbitration of some other person appointed by the CMD or the said officer. There will be no objection to any such appointment on the ground that the arbitrator is a BSNL employee or Government Servant or that he has to deal with the matter to which the agreement relates or that in the course of his duties as a Government Servant or BSNL employee, he has expressed his views on all or any of the matters in dispute. In the event of such an arbitrator to whom the matter is referred, being transferred or vacating his office or neglecting his work or being unable to act for any reason whatsoever, the CMD, BSNL or the said officer shall appoint another person to act as an 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.

The Arbitration and Conciliation Act, 1996 and the rules made there under or any statutory modification or reenactment there of or any rules made thereof shall be deemed to apply to the arbitration proceeding under this clause.

The Arbitration proceeding shall be in English language. The Venue of the arbitration proceeding shall be the office of the CMD, BSNL, New Delhi, India or such other places as the arbitrator may decide.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers or representatives.

FOR AND ON BEHALF OF

NAME : _____

DESIGNATION: _____

DATE : _____

FOR AND ON BEHALF OF

BHARAT SANCHAR NIGAM LIMITED

NAME : _____

DESIGNATION: _____

DATE : _____

Witness

1.

2.

Witness

1.

2.

SECTION II

Terms and Conditions and Scope of work

1. **IDCs locations** : The applicant should have at least 2 data centers of minimum area 25,000 Square feet each in India.
 - 1.1. IDC shall not be having any geographical boundaries as far as the end customers are concerned.
 - 1.2. Orders from end customers shall be in the name of BSNL.
 - 1.3. BSNL shall be at liberty to empanel more such partners in future depending on business requirements with the help on any Data Center Services provider.

2. **Duration of the contract period**
 - 2.1. Duration of contract is 5 years from the date of signing of agreement. After 5 years, contract may be extended on yearly basis on mutually agreed terms and conditions.

3. **Scope of the work**
 - 3.1. Scope of the contract is to provide data center services as under on revenue share basis.
 - a) Colocation (Rack / Cage Space)
 - b) Hoisting (Shared as well as dedicated)
 - c) Managed IT services
 - d) Cloud services
 - e) Any other service coming under the umbrella of IDC services

 - 3.2. All CAPEX for hardware and software and any other items, required to provide Data center service to end customer will be responsibility of DCSP.

 - 3.3. End customer prices and revenue share between DCSP and BSNL shall be fixed up on case to case basis depending on the market conditions. A governing body with representations from BSNL and partner DCSP shall be constituted for the purpose of deciding offerings to end customers.

 - 3.4. Revenue on account of bandwidth charges for the connectivity booked with BSNL by end customer shall be retained completely by BSNL. DCSP shall be eligible for the revenue

share on the datacenter services part only, which will be decided as per 3.3 above taking into consideration the License fee to be paid by BSNL for the services.

3.5. DCSP shall ensure to provide the services from the IDCs so set up within the ambit of government rules and regulations only, applicable from time to time. Any monitoring system required for meeting such requirements shall be provided by Data center Service Provider.

3.6. Further scope of work has been defined under Technical Specifications, in Section-III.

4. Proposal Form

4.1. The bidder firm shall comply with all the provisions mentioned in this document & sign each page under stamp of firm as a mark of acceptance of all conditions contained herein.

4.2. All pages of the Proposal shall be serially numbered, indicated in an index.

4.3. Additional/ ambiguous conditions are not permissible and shall render the proposal liable for rejection.

5. DOCUMENTS ESTABLISHING FIRM'S ELIGIBILITY AND QUALIFICATION

5.1. The Company/ Firm is required to furnish the following documents in the technical proposal:

- (i) Current and valid ISO 9001 or SEI-CMMI Level 4 certificate (s)
- (ii) Tier -3 / 4 certification of Data center
- (iii) Certificate of Incorporation/ Registration.
- (iv) Copy of Articles and Memorandum of Association or Partnership deed or proprietorship deed as the case may be.
- (v) Details of the firm along with List of Directors on the Board of the Company with their address(es), contact telephone numbers, DIN etc. (**Section-VI**)
- (vi) Board's resolution in favour of authorized signatory.
- (vii) Attestation of the signature of the authorized signatory by the company bankers.
- (viii) Certificates regarding eligibility conditions as per NIT.
- (ix) Audited results of last two financial years (FY 2018-19, FY 2019-20)
- (x) Bid security, as per the details given in the Notice Details.
- (xi) Any other certificate(s) as per the EOI requirements.

5.2. The application shall be addressed to BSNL at the following address:

PGM (EB-MH)
Bharat Sanchar Nigam Limited CO
O/o CGMT MH Circle `
5th floor, B wing,
BSNL Admin Bldg, Juhu Rd,
Santacruz (W), Mumbai- 400054

5.3. The Proposal shall be sent by registered post or delivered in person on the address mentioned above.

5.4. **Venue of Bid proposal / application opening:** The proposal (bid) from interested eligible firms/ companies delivered in person on the day of bid opening shall be accepted in the EB-MH Section at the following address only which is the same as the venue of bid proposal opening. The BSNL shall not be responsible if the bids are delivered elsewhere. Bids will be opened at the following address:

5Th floor, B Wing, BSNL Admin Bldg, Juhu Rd, Santacruz(w), Mumbai-54

6. **Bid Security/ Performance Bank Guarantee (PBG):**

6.1. The bidder shall have to pay bid security of Rs. 1 Lakh.

6.2. Performance guarantee shall be valid for contract period plus 6 months if paid on case to case basis. PBG shall have to be renewed accordingly if contract is extended.

6.3. The bidder shall ensure that performance bank guarantee (PBG) is send to the BSNL directly by the issuing bank under Registered Post (A.D). In exceptional circumstances where the PBG is submitted by the bidder to the BSNL, the bidder shall ensure that an unstamped duplicate copy of the PBG is send immediately by the bank direct to the BSNL by Registered Post (A.D).

7. **Penalty**

7.1. **Operational Performance and SLAs-** BSNL and DCSP have to meet SLAs as agreed with different customers for their respective part. Operational performance, Quality of service and also penalty for failing to meet prescribed benchmarks and SLAs, will be assessed customer to customer basis & decided every month based on agreed SLA parameters. Penalties arising out for not meeting SLAs agreed with respective customers shall be borne by DCSP for reasons attributable to their part. BSNL will bear the penalties for reasons attributable to BSNL part of responsibility in that particular customer contract.

8. PAYMENT TERMS

- 8.1. BSNL shall do front ending for invoicing the customers and collection of payments.
- 8.2. Revenue share as decided on case to case basis will be paid to the DCSP after completion Month / Quarter / Year on the basis of billing cycle agreed with the customer.
- 8.3. The revenue share amount shall be arrived after deducting SLA penalties if any. Revenue share to DCSP shall be paid in arrears , even if the customer payment to BSNL is in advance.

9. FORCE MAJEURE

- 9.1. If, at any time, during the continuance of this contract, the performance in whole or in part by either party of any obligation under this contract is prevented or delayed by reasons of any war or hostility, acts of the public enemy, civil commotion, sabotage , fires, floods, explosions, epidemics, quarantine restrictions, strikes, lockouts or act of God (hereinafter referred to as events) provided notice of happenings of any such eventuality is given by either party to the other within 21 days from the date of occurrence thereof, neither party shall by reason of such event be entitled to terminate this contract nor shall either party have any claim for damages against other in respect of such non-performance or delay in performance, and deliveries under the contract shall be resumed as soon as practicable after such an event come to an end or cease to exist, and the decision of the Purchaser as to whether the deliveries have been so resumed or not shall be final and conclusive. Further that if the performance in whole or part of any obligation under this contract is prevented or delayed by reasons of any such event for a period exceeding 60 days, either party may, at its option, terminate the contract.

10. INITIAL TERM, LOCK IN PERIOD, EXIT CLAUSE AND RENEWAL,

- 10.1. Duration of contract is 5 years from the date of signing of agreement. After 5 years, contract may be extended on yearly basis on mutually agreed terms and conditions.
 - i) Given the nature of services proposed under this EOI, the terms and conditions of the agreement shall survive beyond the termination period and up to the expiry of term of end customer contract(s) as extant on the date of expiry of this agreement, for the remaining period of such terms in customer contracts.
 - ii) DCSP's Exit during the agreement period shall carry a penalty in the form of the sum of all consequential damages, if any that arise on account of pre mature closure of as on date service contracts that BSNL would have entered into with its customers.

- iii) If DCSP exits after agreement period, it will be liable to pay BSNL the sum of all such expenses that BSNL will be required to incur on servicing all existing customer contracts, for the remaining period of their agreements. In such case, these contracts may be serviced through alternate means /partners, at risk and cost of the DCSP, and the sum of expenses on executing such arrangement, if any, and difference of Revenue share (in case of the same being lower for BSNL in the new engagement), shall be payable by DCSP to BSNL. In case DCSP offers to continue to discharge the existing liabilities for all current customer contracts till expiry of their term, but refrain from taking up any new business, then the same shall be acceptable to BSNL on existing terms and conditions.
- iv) No penalty / damages / compensation shall be payable by either party before expiry of agreement period, if exit is made under the following circumstances:
 - a) the order of any Government (Central/State) or any statutory body
 - b) in Force Majeure event

10.2. Extension of agreement beyond Five years shall be at mutually negotiated terms and conditions, and the DCSP must intimate BSNL in writing before expiry of fifth year of contract about its intention regarding continuation of agreement beyond five years.

11. Termination of contract due to non-performance (default)

11.1. The BSNL may, without prejudice to any other remedy for breach of contract, by written notice of default, sent to the bidder, terminate this contract in whole or in part

- a) If the bidder fails to deliver any or all of the goods and perform services within the time period(s) as specified in the contract, or any extension thereof granted by the BSNL;
- b) If the bidder fails to perform any other obligation(s) under the Contract; and

11.2. If the bidder, in either of the above circumstances, does not remedy his failure within a period of 15 days (or such longer period as the purchaser may authorize in writing) after receipt of the default notice from the BSNL.

11.3. DCSP's Exit during the lock-in period shall carry a penalty in the form of the sum of all consequential damages, if any that arise on account of pre mature closure of as on date service contracts that BSNL would have entered into with its customers. DCSP shall be liable to pay BSNL the sum of all such expenses that BSNL will be required to incur on servicing all existing customer contracts. In such case, these contracts may be serviced through alternate means /partners, at risk and cost of the DCSP, and the sum of expenses on executing such arrangement, if any, and difference of Revenue share (in case of the same being lower for BSNL in the new engagement), shall be payable by DCSP to BSNL.

11.4. In the event the BSNL terminates the contract in part, the bidder shall continue the performance of the contract to the extent not terminated.

12. TERMINATION FOR INSOLVENCY

12.1. The Purchaser (BSNL) may at any time terminate the Contract by giving written notice to the DCSP, without compensation to the DCSP. If the bidder becomes bankrupt or otherwise insolvent as declared by the competent court provided that such termination shall not prejudice or affect any right of action or remedy which has accrued or shall accrue thereafter to the purchaser (BSNL).

13. ARBITRATION

13.1. 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 arbitration of the CMD, BSNL or in case his designation is changed or his office is abolished, then in such cases to the sole arbitration of the officer for the time being entrusted (whether in addition to his own duties or otherwise) with the functions of the CMD, BSNL or by whatever designation such an officer may be called (hereinafter referred to as the said officer), and if the CMD or the said officer is unable or unshalling to act as such, then to the sole arbitration of some other person appointed by the CMD or the said officer. The agreement to appoint an arbitrator shall be in accordance with the Arbitration and Conciliation Act 1996. There shall be no objection to any such appointment on the ground that the arbitrator is a Government Servant or that he has to deal with the matter to which the agreement relates or that in the course of his duties as a Government Servant he has expressed his views on all or any of the matters in dispute. The award of the arbitrator shall be final and binding on both the parties to the agreement. In the event of such an arbitrator to whom the matter is originally referred, being transferred or vacating his office or being unable to act for any reason whatsoever, the CMD, BSNL or the said officer shall appoint another person to act as an 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.

13.2. The arbitrator may from time to time with the consent of both the parties enlarge the time frame for making and publishing the award. Subject to the aforesaid, 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.

13.3. The venue of the arbitration proceeding shall be the office of the CMD, BSNL, New Delhi or such other places as the arbitrator may decide.

14. SET OFF

- 14.1. Any sum of money due and payable to the bidder (including security deposit refundable to him) under this contract may be appropriated by the purchaser or the BSNL or any other person(s) contracting through the BSNL and set off the same against any claim of the Purchaser or BSNL or such other person or person(s) for payment of a sum of money arising out of this contract or under any other contract made by the bidder with the Purchaser or BSNL or such other person(s) contracting through the BSNL.

15. INDEMNIFICATION

- 15.1. Applicant has to give an indemnity bond as per Section IX along with the technical bid.

16. Court Jurisdiction:-

- (i) Any dispute arising out of the EOI/bid document/ evaluation of bids/issue of APO shall be subject to the jurisdiction of the competent court at the place from where the NIT/EOI has been issued.
- (ii) Where a Applicant has not agreed to arbitration, the dispute/claims arising out of the Contract/PO entered with him shall be subject to the jurisdiction of the competent Court at the place from where Contract/PO has been issued. Accordingly, a stipulation shall be made in the contract as under.

“This Contract is subject to jurisdiction of Court at Mumbai only”.

Section -III

IDC Technical details and service offerings

1. An Introduction to Internet Data Centers

- 1.1. The Internet has grown tremendously over the last few years with the result that organizations across the world are increasing their use of web-based services and products. For many organizations, the Internet has become a crucial aspect of their business and hence the reliability of the Internet service has become critical.
- 1.2. The advent of the Internet brought with it a huge requirement in terms of providing for underlying Internet Infrastructure. Faced with the need to establish a presence on the Web rapidly, organizations found that they not only lacked the know-how but also the physical space in which to install and manage their servers and other equipment. They also realized that monitoring the systems and provisioning for technical personnel on a 24*7 basis was a huge burden. More importantly, however, providing for the network scalability necessary to address peak periods of unpredictable and highly variable web demand became extremely expensive for many companies. Although some companies have chosen to address their requirements in-house and to maintain complete control over their Internet Infrastructure, the pressures of provisioning IT Infrastructure have led others to consider outsourcing their e-business infrastructure requirements.
- 1.3. A Data Center is a facility where customer can outsource the management and day-to-day operations of your Web sites or other IP connected applications. Customer can purchase the server hardware, rack space, bandwidth and network equipment. In addition, customer get a secure place to physically house your equipment--a secured cage, cabinet or room with regulated power, dedicated Internet connection, security, and fire detection/suppression.

2. Data Center Infrastructure Details

- 2.1. Internet Data Centers (IDCs) provide the physical environment necessary to keep your servers up and running 24 hours a day, 7 days a week. The Data Centers combine around-the-clock systems management with onsite personnel trained in the areas of networking, Internet, and systems management. The result is a physical and technical

environment, affording customers the reliability and flexibility needed to outsource their mission-critical system or application operation needs.

- 2.2. BSNL plans empanel the Data Center Service Providers, who is having minimum two Data Centers in India. These IDC shall be in pairs so that they can also act as disaster recovery center to each other and provide DR services for customers.

2.3. **Network**

- 2.3.1. A network linking between pair of data centers shall be provided with sufficient bandwidth. The network topology would be designed to ensure redundancy allowing uninterrupted flow of data across the network. The network architecture shall be designed to provide scalability to handle exponential customer growth and would be well positioned to offer the highest level of service to its government and corporate customers.

- 2.3.2. With the help of its sophisticated Network Management tools shall continuously monitor Bandwidth usage and can advise the customer on the usage pattern thereby facilitating Bandwidth upgrades at the right time.

2.3.3. Redundant network

The network design would be fault tolerant and highly redundant and is capable of handling the load.

2.3.4. **Network Monitoring**

Network Operating Centre (NOC) should be in place. This NOC shall monitor the network performance and also to do traffic analysis. This shall cover all the servers hosted at the Data Center.

2.4. **Service Level Agreements**

BSNL and partner DCSP shall enter into a Service Level Agreement with the customer. The SLA shall commit guarantees on Uptime. The details of the SLA would be worked out on case to case and need basis.

2.5. **Data Center indicative details**

Indicative (but not exhaustive data center technical details and requirement are in this section.

2.5.1. Typical constituents of IDC are: Reception lobby, Security operation center Network Operation Center Conference Room Managed Servers, Electrical room, Raised floor area, UPS / Genset / DC Power Plant, Customer work area, private cages, customer co-location area, Security, Fire Detection & Suppression, meeting rooms, racks etc.

2.5.2. **Infrastructure:** Data center Facilities are to be designed with raised floors, Precision air-conditioning with accurate temperature and humidity control systems with separate cooling zones. Data centers so set up must have range of physical security features, including state-of-the-art smoke detection and fire suppression systems, motion sensors, and 24x7 secured access with biometric & proximity card readers, as well as video camera surveillance and security breach alarms. Following are some of the requirements:

- i. State of the Art Infrastructure like Precision controlled Cooling Systems, Power Conditioning equipment, multiple generators etc
- ii. A highly secure environment
- iii. A 24 x 7 Help Desk providing round the clock Service
- iv. Deployment of sophisticated network management tools that ensures pro-active monitoring of network and helps identify problem areas with minimal loss of time
- v. Deployment of high-performance management tools

2.5.3. **Power configuration:** The Available Power supply shall be in redundant mode at each stage of power distribution system. BSNL shall provide DG Set in minimum N+1 configuration. Bidder shall provide UPS in N+N configuration and with a battery backup of minimum 1 hour for each UPS.

2.5.4. **Fire detection and Control:** The Fire Alarm System with microprocessor based fire alarm panel with analogue addressable type detectors shall be provided. A combination of Photoelectric and Ionization smoke detectors shall be considered in the data center area to cater to entire spectrum of smoke for additional safety. The Fire fighting mechanism considered is a FM-200 Gas Based System for the Data Center which shall be controlled through the building management systems.

2.5.5. **Air Conditioning & Temperature and Humidity control**

The features and specifications for the air-conditioning systems in all the Data Centers are as follows:

- i. Air supply: Precision A/C: 20 C \pm 1 C
- ii. Temperature control: Through Building Automation System & Microprocessor control panels & 3 way valves. The building management systems shall control the entire air-conditioning on the PC network.
- iii. Humidity maintenance: RH – not exceeding 60%
- iv. Dust Filtering: 5 microns
- v. The data center shall be equipped with Backup AC Systems redundancy in case of failure / maintenance.

2.5.6. **Security:** The data center represents a concentrated collection of mission-critical enterprise computing resources that must be protected physically and logically. Indicative guidelines for limited access control are as below:

2.5.6.1. **Access** (via card access system or lock combination) shall be granted to specific individuals who routinely require physical access to the Data Center to perform work functions. This shall include:

- (a) Application support staff whose responsibilities require that they perform system functions on servers that can only be performed at the physical server location.
- (b) Work in the Data Center shall be limited to those occasions when physical access to the hardware is necessary. The Data Center shall not be accessible for application work that can be done outside the Data Center.
- (c) Other Information Systems staff whose work function routinely requires work in the Data Center.
- (d) The customer shall be required to specifically approve access for specific individuals in both of the above categories.

2.5.6.2. **Controlled Access** (escorted access) shall be granted to others whose work function requires occasional access to the Data Center. These individuals shall be granted access and escorted into the Data Center by Computer Operations staff. Sign-in is required. This access group would include:

- a) Vendor maintenance and system engineering staff.
- b) Other Information Systems staff.
- c) building management and maintenance staff under supervision.
- d) Other appropriate individuals accompanied by known staff as defined above.

2.5.6.3. The following are proposed for the various security features in each area of the Data center Facility:

Building Security Features

- i. Security provided 24x7x365
- ii. Entry to the IDC via a Single entrance.

POP and NOC Security Features

- iii. NOC and IDC should preferably be physically located in the same premises but logically separated for better control and management.
- iv. Entry into the NOC would be restricted to Network Personnel only and in some cases to personnel from the clients who have authorized access.
- v. The access control system to provide Centralized Alarms, Alarm history and Reports and Database of all users, etc.

2.5.6.4. To sum up, the Data Center security Features include:

- i. IDC entry restricted to Customers and Administrators.
- ii. Entry into IDC via biometrics, Magnetic Cards.
- iii. Video Cameras are proposed in the data center with the pan, tilt and zoom facility wherever required to maintain surveillance of the protected areas. The control station shall consist of a console of monitors from where the entire facility can be monitored.
- iv. Necessary interlocks with access, intrusion, and fire systems are proposed to immediately display any emergency on monitors. All the events shall be recorded in the time-lapse video- cassette recorders for investigation and analysis.
- v. All employees of the Data Center Team are required to sign confidentiality agreement with the company.

2.5.6.5. In addition, with these IDCs it shall be possible to provide following services to the customers:

- (a) Secured Rack (Lock and Key) & optional – Punching Card.
- (b) Steel Meshed Cages – where entry is restricted to a Single customer
- (c) Modular Racks used to provide a Vault kind of a setup, where access can be restricted to only the space ordered by the customer.

2.5.7. System infrastructure

It shall be possible to offer following services to the customers:

2.5.7.1. Flexibly sized housing options (Rack Configuration) to allow Data Centers to become virtual extensions of the corporate enterprise. This provides for easy Scaling of customer's Internet operations with the growth of customers business.

2.5.7.2. From dedicated racks and shared cabinets to premium server hosting real estate options, not only gives customer the secured, scalable resources to house their network. BSNL can also provide customer with dedicated project management to coordinate and manage a successful installation.

2.5.7.3. Server Rack & Server Cabinet: For businesses with smaller space requirements, scalable racks and enclosed cabinets allow customers to store and manage their

equipment offsite and enjoy the unequivocal advantages of state-of-the-art security and personal peace of mind.

i. The Server Rack features:

- High-strength aluminum shelves
- Standard 19" racks
- Flexible half or full sizes

ii. The Server Cabinet features include:

- Secure front-locking door
- Ventilation Fans

2.5.7.4. BSNL IDC are proposed for the ultimate space flexibility for customers with rack mountable equipment and/or a large number of servers, storage and other components. This would be a separate area, which can be cordoned using Steel Mesh walls and Key-Lock Sliding access door. Another option of High Strength Aluminum racks, which is scalable from half to full size capacity, is also proposed.

3. Indicative Data Center Service Offerings

3.1. It shall be possible to offer the following services to customers from the IDCs, as and when customer demand is there in a timeframe decided mutually by BSNL & Data center service provider with the respective customer, depending on the feasibility.

3.2. Proposed offerings of the Internet Data Center (IDCs) are as follows:

- i. Hosting (Shared as well as dedicated)
- ii. Co-location
- iii. Managed IT Services
- iv. Cloud Services
- v. Disaster Recovery
- vi. Any other service coming under the umbrella of IDC services

Section-IV

Details about the Firm (Applicant)

Sl	Details Required	Response from the Applicant
1	Full Name of the firm (in capital letters)	
2	Address of the Firm	
3	Contact No. of the firm	
4	Details of the authorized signatory	Name: _____ Designation: _____ Phone: _____ Mobile: _____ e-mail: _____ Address: _____ _____ _____
5	Type of firm (Proprietary)	

	/Partnership/Ltd. /Pvt. Ltd.)	
6	Income Tax Account No /PAN number (Latest income tax clearance Certificate to be attached with Proposal)	
7	Board of Directors	1. _____ 2. _____ 3. _____ 4. _____ 5. _____

I hereby certify that the above-mentioned particulars are true and correct.

Signature
Designation & seal of Firm
Name & full Address of the Firm.
.....
.....

Section V

DEED OF INDEMNITY

This **DEED OF INDEMNITY** is executed on this the _____, by

1. <<**Name of the Bidder**>>, a company registered under the Companies Act, 1956 and having its registered office at <<Address of the Bidder>> acting through << Authorized Signatory>> is hereinafter, for the purposes of this Deed of Indemnity, be collectively referred to as '**Data Center Service Providers' or 'DCSP'** is authorized representative, authorized to execute this Deed of Indemnity on behalf of the **Data Center Service Providers or DCSP**. {Here Data Center Service Provider "DCSP" and Bidder are the same entity}.

TO AND IN FAVOUR OF

Bharat Sanchar Nigam Limited, through the Chief General Manager MH Circle, BSNL, Mumbai (hereinafter referred to as the Purchaser which expression shall unless repugnant to the context or meaning thereof mean and be deemed to include its authorized representatives and permitted assigns) **On the Other Part**.

WHEREAS

- (a) The Purchaser had invited bids *vide* their EOI No CGMT/MH/EB-MH/OPEN IDC POLICY /EOI/2020-21/ 03 Dated / 07/2020 (hereinafter referred to as 'EOI') for the purpose of setting up own operate Internet Data Center (IDCs) in BSNL.
- (b) The DCSP (Bidder) had submitted its proposal dated ____ (hereinafter referred to as the 'Bid') for the provision of such services in accordance with its proposal as set out in its Bid and in accordance with the terms and conditions of the EOI.
- (c) The EOI Document requires the DCSP (Bidder) to indemnify the Purchaser against all third party claims of infringement of patent, trademark or industrial design rights arising from use of goods or any part thereof in the mentioned work.
- (d) The Bidder has in order to comply with the terms of the EOI agreed to execute the Deed of Indemnity on such terms and conditions more fully mentioned below.

NOW THIS DEED OF INDEMNITY WITNESSETH AS FOLLOWS:

1. The DCSP (Bidder) shall, in consideration of the Purchaser making payment under and in accordance with the EOI Document, hereby agrees to indemnify the Purchaser against any costs, loss, damages, and claims from third parties or liabilities suffered by the Purchaser and directly arising out of the following reasons:

- a. Any illegal or unauthorized use (piracy) or in connection with any claim or proceedings relating to any breach or violation of any permission/license terms or infringement of any Intellectual Property Rights by the DCSP (Bidder) or any sub-contractor during the course of performance of the Services.
 - b. Any litigation arising out with the original software solution provider in case of bundled software for which separate licenses would otherwise have been required.
 - c. The DCSP (Bidder) shall protect, defend, indemnify and hold harmless to BSNL and its employees, officers, Directors, agents or representatives from and against any and all liabilities, damages, fines, penalties and cost (including legal costs and disbursements) arising from:
 - I. Any breach of any statute, regulation, direction, orders or standards from any governmental body, agency or regulator issued with respect to the product/services being supplied/provided under this EOI.
 - II. Any claim made by third parties arising out of the use of the services of BSNL being provided using the equipment supplied under the EOI to the extent these are attributable solely to the poor quality or non-compliance of the products/services to the respective specifications.
 - III. Any claims arising from the customers or other service providers in connection with interruptions or degradation of Services due to non-availability of services beyond the stipulated time frame as contained in AMC and solely attributable to the bidder of the product and services under this EOI.
 - IV. Any claim that the equipment/ services or any value addition component offered and supplied by the bidder in this EOI, infringe any patent, trademarks or copyrights of any third party.
2. This Deed of Indemnity shall stand terminated on expiry of or early termination of the contract period as envisaged in the above said EOI requirement.
 3. The Deed of Indemnity shall constitute the entire indemnity provided by the DCSP (Bidder) for the indemnities asked for vide Section IVE Clause 27.3.1 and Section III D Clause 3 of the said EOI.
 4. This Deed of Indemnity shall be governed by and construed in accordance with Indian law.

(Authorized Signatory)

Date:

Place:

<< Name of the Bidder >>

Witness 1:

Witness 2:

Section- VI

PERFORMANCE SECURITY GUARANTEE (PBG) BOND

In consideration of the BSNL having agreed to exempt _____ (hereinafter called 'the said contractor(s)') from the demand under the terms and conditions of an agreement/(Purchase Order) No..... dated. Made between... ..and..... For.....for the supply(hereinafter called "the said agreement"), of security deposit for the due fulfillment by the said Agreement, on production of the bank guarantee for.....we, (name of the bank)

(here in after refer to as the "the bank") at the request of _____ (contractor(s)) do hereby undertake to pay to the BSNL amount not exceeding _____ against any loss or damage caused to or suffered or would be caused to or suffered by the government by reason of any breach by the said Contractor(s) of any of the terms or conditions contained in the said Agreement.

2 We (name of the bank) _____ do hereby undertake to pay the amounts due and payable under this guarantee without any demure, merely on a demanded from the BSNL stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by the BSNL by reason of breach by the said contractor(s)' of any of the terms or conditions contained in the said Agreement or by reason of the contractor(s)' failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee where the decision of the BSNL in these counts shall be final and binding on the bank. However, our liability under this guarantee shall be restricted to an amount not exceeding _____

3. We undertake to pay to the BSNL any money so demanded not withstanding any dispute or disputes raised by the contractor(s)/supplier(s) in any suit or proceeding pending before any court or tribunal relating thereto our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be valid discharge of our liability for payment there under and the contractor (S)/suppliers (S) shall have no claim against us for making such payment.

4. We (Name of the bank) _____ further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said agreement and that it shall continue to be enforceable till all the dues of the BSNL under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till _____ (office/Department) Ministry of _____ certifies that the terms and conditions of the said Agreement have been fully or properly carried out by the said contractor(s) and accordingly discharges this guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before the expiry of TWO/TWO AND HALF/THREE

YEARS (actual period as specified in P.O.) from the date hereof, we shall be discharged from all liabilities under this guarantee thereafter.

5. We(Name _____ of _____ the _____ bank) _____ further

Agree with the BSNL that the BSNL shall have the fullest liberty without our consent and without affecting in any manner our obligations there under to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said contractor (S) from time to time or to postpone for any time or from time to time any of the powers exercisable by the BSNL against the said Contractor(s) and to forbear or enforce any of the terms and conditions relating to the said agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Contractor(s) or for any forbearance, act or omission on the part of the BSNL or any indulgence by the BSNL to the said Contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.

6. This guarantee shall not be discharged due to the change in the constitution of the Bank or the Contractor(s)/supplier(s).

7. We (name of the bank) _____ lastly undertake not to revoke this guarantee during its currency except with the previous consent of the BSNL in writing.

Dated the _____ day of _____
For _____ (Indicate the name of bank)

AGREEMENT PERFORMA

(To be furnished on Rs.100/- stamp paper)

To be executed on non-judicial stamp worth Rs.100/- and continuation sheets on ledger papers and two copies on ordinary paper to be submitted neatly type-written sheets on one side of the paper in single line spacing.

AGREEMENT

AGREEMENT with M/s For providing Internet Data Centers (IDCs) services in BSNL on Revenue Share basis for BSNL customers.

This agreement is signed on the by and between **BHARAT SANCHAR NIGAM LIMITED**, a company registered under the Companies Act 1956 having its Registered office at Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, Janpath, New Delhi-110001 & Corporate office at Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, Janpath, New Delhi-110001 acting through the CGMT Maharashtra Telecom Circle, Mumbai – 400 054. (herein after called **BSNL** which expression shall, unless repugnant to the context, include its successors in business, administrators, liquidators and assigns or legal representatives) of the FIRST PARTY

AND

M/s, a company registered under the Companies Act 1956, having its registered office acting through Mr. / Ms., (Designation), the authorized signatory (hereinafter called as data center Service Provider or **DCSP**), which expression shall, unless repugnant to the context, include its successors in business, administrators, liquidators and assigns or legal representatives) of the SECOND PARTY.

WHEREAS

1. BSNL is a telecom service provider licensed to provide various kinds of DATA SERVICES within India.
2. The BSNL is desirous of appointing Data Center Service Provider (hereinafter referred as DCSP) to provide Internet Data Centers (IDCs) services to BSNL customers on Revenue Share basis. The DCSP has approached BSNL for authorizing it to act as its Empanelled DCSP for providing Data Centre Services to BSNL customers.
3. The DCSP has requested to sign an agreement for providing Data Centre Services to BSNL customers whereupon and in pursuance to the said request, BSNL has agreed to sign this Agreement with the DSCP for providing Data Centre Services to BSNL customers as per terms and conditions given in EOI document No. CGMT/MH/EB-MH/OPEN IDC POLICY /EOI/2020-21/ 03 Dated

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In consideration of the due observance & performance of all the terms and conditions mentioned in this agreement along with the EOI terms and condition issued vide Number CGMT/MH/EB-MH/OPEN IDC POLICY /EOI/2020-21/ 03 Dated _____ which is part and parcel of this agreement, BSNL and the M/Sagree to sign agreement for providing Data Centre Services to BSNL customers.
2. It shall be valid for a period of **Five Years** from the date of signing unless revoked earlier. Further extensions will be considered as per the provisions of EOI.
3. M/sand BSNL hereby agrees and unequivocally undertakes to fully comply with all terms and conditions stipulated in EOI without any deviation or reservations of any kind, unless mutually agreed between the parties at any given time.
4. The laws of land as promulgated/modified/amended or replaced from time to time shall govern this Agreement. BSNL reserves the right to appoint more than one DCSP in the circle.
5. This Agreement shall not be amended or modified or altered or changed in any way except in writing and duly executed by the authorized representative of each party.
6. The Agreement is a confidential document. M/sand BSNL shall not divulge any part of this Agreement either through oral or written communication or through any other mode to any third party.
7. The DCSP agreed to submit a Performance bank Guarantee (PBG) of Rs. _____ (in words) _____ as a security towards due observance and performance of terms & conditions of this Agreement. This bank Guarantee shall be valid for _____ from the date of signing of this Agreement. The DCSP agrees to renew the PBG from time to time till expiry of agreement or till BSNL is satisfied that the terms & conditions of said agreement have been fully and properly carried out by the DCSP. Without prejudice to its rights of any other remedy, on failure of the DCSP to provide services under this agreement or in case of any breach in terms and conditions of the Agreement, BSNL shall en-cash / forfeit the said Performance bank Guarantee.
8. BSNL reserves the right to provide such services on its own or to enter into Agreement with other parties / persons / service providers for providing similar services from time to time in future without any restriction on number of persons / parties / DCSPs , the DCSP shall have no objection whatsoever. DCSP agrees to adherence to this provision and the same is a material obligation of this Agreement.
9. All terms and condition as mentioned in EOI for vide number CGMT/MH/EB-MH/OPEN IDC POLICY /EOI/2020-21/ 03 Dated _____ is valid and forms part of this agreement.

In witness whereof the parties hereto have caused this Agreement to be executed through their respective authorized representatives on theday of, 20__.
-S/d-

Signed for and on behalf of **BSNL** by
GM (EB-MH), 5/B, BSNL Admin Bldg, Santa Cruz (W), Mumbai – 400 054.

-S/d-

Signed on behalf of **M/s** , by **Shri**, the authorized signatory and holder of General Power of Attorney dated.....executed in accordance with the Resolution dated..... passed by the Board of Directors of the company.

In the presence of Witnesses:

Signature
Name
Occupation
Address

Signature
Name
Occupation
Address

Place
DATE

Place
DATE