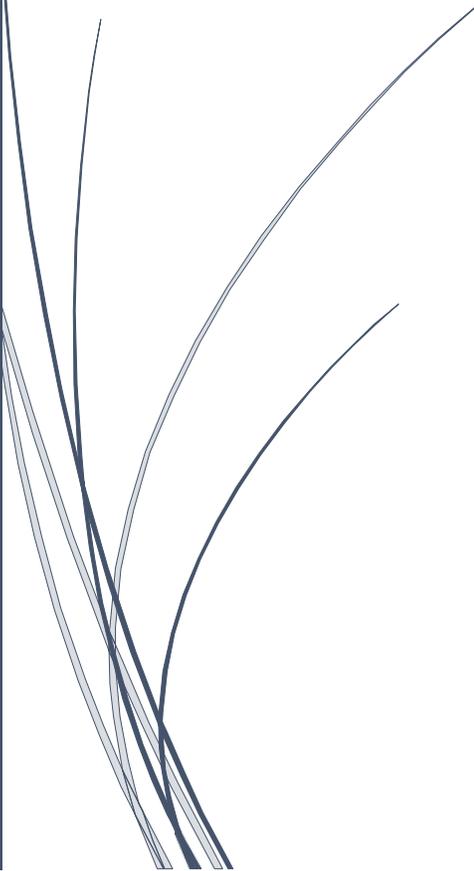
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October 2020

Request for Proposal

(RFP :302/29/2017- NFHM) Preventive
Conservation of Film Content at NFAI

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National Film Archive of India,
Ministry of Information and
Broadcasting,
Government of India
Law College Road,
Pune – 411 004.

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Abbreviations

CVC – Central Vigilance Commission

FIAF – International Federation of Film Archives

Gol – Government of India

NFAI – National Film Archive of India

NFHM – National Film Heritage Mission

PMC – Project Monitoring Committee

RFP – Request for Proposal

Note:

Films in this RFP constitutes both Picture and Sound Negative (Black & White and Colour), Dupe Negatives, Inter Positive / Master Positive, and Release Prints (Black & White and Colour)

Definitions

- a. "Employer" means the National Film Archive of India who has invited Bids for Preventive Conservation of Film Content at NFAI and with which the selected Agency / Organization / Consortium signs the Contract for the Services and to which the selected Agency / Organization shall provide services as per the Terms and Conditions and Scope of Work of the contract.
- b. "Contract" means the Contract signed by the Parties and all the documents attached to the contract.
- c. "Project Specific Information" means such part of the Instructions to Agency / Organization / Consortium used to reflect specific project and assignment conditions.
- d. "Day" means calendar day.
- e. "Government" means the Government of India.
- f. "LoI" means the Letter of Invitation sent by the Employer to the selected Agency / Organization / Consortium.

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- g. "Personnel" means professionals and support staff provided by the Agency / Organization and assigned to perform Services or any part thereof;
- h. "Foreign Personnel" means such professionals and support staff who at the time of being provided had their domicile outside India
- i. "Domestic Personnel" means such professionals and support staff who at the time of being provided had their domicile in India
- j. "Proposal" means the Technical Proposal and the Commercial Proposal.
- k. "RFP" means the Request for Proposal prepared by the Employer for the selection of Agency / Organization, based on the SRFP.
- l. "SRFP" means the Standard Request for Proposals, which may be used by the Agency / Organization as a guide for the preparation of the RFP.
- m. "Assignment / Job" means the work to be performed by the Agency / Organization pursuant to the Contract.
- n. "Bidder" means a Single bidder or a Consortium as the case may be

1 Schedule details

Sr. No	Particulars	Remarks
1	Cost of the RFP to be paid in form of a Demand Draft from any scheduled commercial bank in name of "Administrative Officer, NFAI" payable at Pune	Rs. 10,000 /-
2	Release of RFP	October 09, 2020
3	Submission of queries	October 16, 2020; by 5pm
4	Clarification meeting with agencies	October 21, 2020; 11 AM
6	Last date for submission of RFP response	November 05, 2020, upto 3 PM
7	Opening of Technical Proposal	November 05, 2020, at 4 PM
8	Presentation of qualified agencies	To be intimated later
9	Opening of Commercial Proposal	To be intimated later
10	Correspondence details	Shri. Santosh Ajmera, IIS. Officer on Special Duty, National Film Heritage Mission, Contact – (020) 25671569 Email ID - osdnfhm@gmail.com
11	Submission details	National Film Archive of India,

Request for Proposal for Preventive Conservation of Film Content at NFAI

Sr. No	Particulars	Remarks
		Law College Road, Pune – 411 004

2 Letter to be Submitted

<< On the letter head of the Prime Bidder>>

Dear

1. The National Film Archive of India, Ministry of Information and Broadcasting, Government of India (hereinafter called “Employer”) is executing the National Film Heritage Mission, NFHM.
2. The employer seeks to engage an Organization / Agency to provide services for “Preventive Conservation of Film Content at NFAI Pune.”
3. More details of the services are provided in the Scope of Work in this RFP
4. An Organization / Agency will be selected under the Combined Quality Cum Cost Based System (CQCCBS) and procedures described in this RFP.
5. The RFP includes the following documents:
 - a. Section 1 - Schedule
 - b. Section 2 – Letter to be submitted
 - c. Section 3 – Preamble / Introduction
 - d. Section 4 - Instructions to bidders
 - e. Section 5 – Scope of Work
 - f. Section 6 – Pre-qualification
 - g. Section 7 and 8 – Technical and Commercial evaluation
 - h. Section 9 – Details to be submitted by bidder
 - i. Section 10 – Commercial format
 - j. Section 11 - Annexure
6. We understand that we have to inform in writing to “Officer on Special Duty, NFHM, National Film Archive of India, Law College Road, Pune”, upon receipt:
 - a. That we have received the RFP document; and
 - b. That we will submit the Proposal by the date & time indicated in the RFP

Yours sincerely,

[insert: Signature, name, and title of Client's representative]

3 Preamble

The National Film Archive of India (NFAI) was established in February, 1964 as a media unit of the Ministry of Information & Broadcasting, Government of India. The mission of NFAI is to safeguard the heritage of Indian Cinema for posterity and act as a Center for dissemination of healthy film culture in the country. NFAI has a very large collection of filmic and non-filmic material belonging to every period and era of Indian cinema.

NFAI has a collection of approx. 1,32,000 film reels, 1,50,000 photos, 22,000 posters, 13,000 song booklets, 3,000 pamphlets, 1,00,000 press clippings, and 29,000 books.

NFAI encourages and promotes research and academic activities related to every aspect of Cinema. It assigns monographs about eminent Indian filmmakers and pioneering film personalities, research fellowships on themes pertaining to Indian cinema, and audio visual history recordings of senior artists and technicians. It has published a number of such projects till date. As part of its activities related to disseminating film culture, NFAI has a Distribution Library which supplies films to various film societies, educational institutions and cultural organizations in the country. It also conducts special screening programs across the country and is a major source of films for international film festivals in India and abroad.

4 Instruction to Bidders

4.1 Completeness of Response

Bidders are advised to study all instructions, forms, terms and conditions, requirements and other information in the RFP document carefully. Bidders submitting their Bids shall be deemed to have done so after careful study and examination of the RFP document and with full understanding of its implications.

The response to this RFP should be full and complete in all respects. Failure to furnish all information as required by the RFP or the submission of a Proposal not substantially responsive to the RFP in every respect will be at the Bidder's risk and may result in rejection of their Proposal.

4.2 Proposal Preparation Costs

The Bidder is responsible for all costs incurred in connection with participation in this process, including, but not limited to, costs incurred in the conduct of informative and other due diligence activities, participation in meetings / discussions / presentations, preparation of Proposal, providing any additional information required by NFAI to facilitate the evaluation process, and in negotiating a definitive contract or all such activities related to the Bid process. NFAI will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

This RFP does not commit NFAI to award a contract or to engage in negotiations. Further, no reimbursable cost may be incurred in anticipation of award or for preparing this Bid. All materials submitted by the Bidder would become the property of NFAI and may be returned completely at their sole discretion.

4.3 Signing of Communication with the NFAI

All communications to NFAI including this RFP and the Bid documents shall be signed on each page by the authorized representative of the bidder and Power of Attorney as prescribed in Annexure 11.1 thereby authorizing the representative to sign the documents related to the bid should be submitted along with the Bid response. **All the pages in the bid response / any communication with NFAI shall be numbered, signed by authorized representative and stamped.**

4.4 Amendment of RFP Document

At any time prior to the last date for receipt of Bid response, NFAI may, for any reason, whether at their own initiative or in response to a clarification requested by a prospective Bidder, modify the RFP document through an amendment. The amendment will be published on the NFAI website (www.nfaipune.gov.in) and it shall be the responsibility of the Bidders to be vigilant about the updates uploaded by NFAI on their website.

In order to accord a reasonable time to the prospective Bidders to take the amendment into account for preparing their Bids, NFAI may, at their discretion, extend the last date for the receipt of Bids. The Bidders are allowed to resubmit their Bid, if required, after such amendments (but within the last date and time for submission of the Bids). If NFAI

Request for Proposal for Preventive Conservation of Film Content at NFAI

deems it appropriate to revise any part of this RFP or to issue additional data to clarify any provision of this RFP, they may issue a supplement / amendment / corrigendum to this RFP. Any such corrigendum shall be deemed to be incorporated into the RFP by this reference.

4.5 NFAI's right to modify submission deadline

NFAI may, in exceptional circumstances and at their discretion, extend the deadline for submission of Proposals by issuing a corrigendum on the NFAI website (www.nfaipune.gov.in). In such a scenario, all rights and obligations of the project and the Bidders previously subject to the original deadline will thereafter be subject to the extended deadline.

4.6 NFAI's right to terminate the process

NFAI may terminate the RFP process at any time without assigning any reason what so ever. NFAI makes no commitments, express or implied, that this process will result in a business transaction with anyone. This RFP does not constitute an offer by NFAI.

4.7 Submission of Responses

The Bidders should submit their responses in the format given in this document as hard copies in a sealed envelope. The hardcopy of the RFP should also be in a single sealed envelope, clearly marked as “**Response to RFP for Preventive Conservation of Film Collection at NFAI from << Name of the Bidder / Prime Bidder in case of consortium>>**”. This should not consist of any Commercial Proposal. The envelope should indicate the complete address and contact details of the Bidder to enable the return of the unopened bids in case it is declared “late”. The Original Proposal shall be prepared in indelible ink and should contain no interlineations or overwriting, unless necessary to correct errors made by the bidder itself.

The correspondence for any technical queries pertaining to this RFP and submission of Bid response must be made at the following address:

Officer on Special Duty, NFHM

National Film Archive of India,

Law College Road,

Pune – 411 004.

4.8 Conflict of Interest

- i. NFAI requires that Agencies / Organizations should provide professional, objective, and impartial advice and at all times hold the NFAI's and NFHMs interests paramount and strictly avoid conflicts with other Assignment / jobs or their own corporate interests.
- ii. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, NFAI shall be entitled to forfeit and appropriate the Bid Security / EMD or Performance Security, as the case may be, as mutually agreed to genuine pre-estimated loss and damage likely to be suffered and incurred by NFAI and not by way of penalty for, inter alia, the time, cost and effort of NFAI, including consideration of such Bidder's proposal, without prejudice to any other right or remedy that may be available to NFAI under the Bidding documents and/or otherwise. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the Bidding process, if:
 - a. The Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate, is less than 5% (five per cent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in sub-section (72) of section 2 of the Companies Act, 2013. For the purposes of this Clause, indirect

Request for Proposal for Preventive Conservation of Film Content at NFAI

shareholding held through one or more intermediate persons shall be computed as follows:

- i. Where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "Subject Person") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and
 - ii. Subject always to sub-clause above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or
- b. A constituent of such Bidder is also a constituent of another Bidder; or
 - c. Such Bidder, its Member or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, its Member or Associate, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or
 - d. Such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
 - e. Such Bidder, or any Associate thereof, has a relationship with another Bidder, or any Associate thereof, directly or through common third party / parties, that puts either or both of them in a position to have access to each other's information about, or to influence the Bid of either or each other; or
 - f. Such Bidder or any Associate thereof has participated as a consultant to the Employer in the preparation of any documents, design or technical specifications of the proposed Scope of Work.

Request for Proposal for Preventive Conservation of Film Content at NFAI

- iii. If any legal, financial or technical adviser of NFAI in relation to the Project is engaged by the Bidder, its Members or any Associate thereof, as the case may be, in any manner for matters related to or incidental to such Scope of Work of this RFP during the Bidding Process

4.9 Cost of Bidding

The Bidders shall be responsible for all costs associated with the preparation of their Bids and their participation in the Bidding Process. NFAI will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

4.10 Site visit and verification of information

Bidders are encouraged to submit their respective Bids after visiting the NFAI premises in Pune where the work is proposed to be carried out. The NFAI Pune premise is divided into 2 phases, where Phase 1 is the Administrative Office with some storage vaults, checking rooms etc. and Phase 2 has a dedicated non-filmic material storage facility and Film Vaults. Bidders may at their own expense visit the site and ascertain for themselves the site conditions, location, surroundings, climate, availability of power, water and other utilities for carrying out the said work, access to the site, handling and storage of materials, applicable laws and regulations, and any other matter considered relevant by them. It shall be deemed that by submitting a Bid, the Bidder has:

- i. Made a complete and careful examination of the Bidding documents and the Sites (Phase I and Phase II);
- ii. Received all relevant information as requested to NFAI;
- iii. Accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of the NFAI relating to any of the matters referred to above;
- iv. Satisfied itself about all matters, things and information including matters referred hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the RFP and performance of all of its obligations thereunder;
- v. Acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the RFP or ignorance of any of the matters referred to

Request for Proposal for Preventive Conservation of Film Content at NFAI

hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from NFAI

- vi. Acknowledged that it does not have a Conflict of Interest; and
- vii. Agreed to be bound by the undertakings provided by it under and in terms hereof.

NFAI shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP, or the Bidding Process, including any error or mistake therein or in any information or data given by them.

4.11 Verification and Disqualification

NFAI reserves the right to verify all statements, information and documents submitted by the Bidder in response to this RFP or the Bidding Documents and the Bidder shall, as and when required by NFAI, make available all such information, evidence and documents which may be necessary for such verification. Any such verification, or absence of such verification, by NFAI shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of NFAI thereunder.

NFAI reserves the right to reject any Bid and forfeit the Bid Security if:

- i. At any time, a material misrepresentation is made or uncovered, or
- ii. The Bidder does not provide, within the time specified by NFAI, the supplemental information sought by NFAI for evaluation of the Bid.

Such misrepresentation / improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium and each Member will be disqualified / rejected. If such disqualification / rejection occurs after the Bids have been opened and the Highest Bidder gets disqualified / rejected, NFAI reserves the right to take appropriate action and select the Bidder as per Government procedure

4.12 Pre-bid conference

Pre-Bid conference of the bidders shall be convened at the designated date, time and place as mentioned in Schedule 1. A maximum of 3 representatives per organization shall be allowed to participate in the Pre-Bid conference. An authorization letter for the representatives attending the Pre-Bid conference duly signed and stamped by the

Request for Proposal for Preventive Conservation of Film Content at NFAI

authorized signatory of the organization has to be submitted before attending the Pre-Bid Conference.

The interested Bidder have to submit the queries as per the format mentioned in Annexure 11.4 and before the time stipulated as mentioned in Schedule 1. Queries submitted beyond the stipulated time may not be considered by NFAI. Bidders submitting their queries in any other format shall not be accepted at all by NFAI.

4.13 Clarifications

- i. Bidders requiring any clarification on the RFP may notify NFAI, in writing, by e-mail as per the correspondence details mentioned in this RFP. They should send in their queries on or before the submission of queries date and time as mentioned in the Schedule 1.
- ii. NFAI shall endeavor to respond to the questions raised or clarifications sought by the Bidders. However, NFAI reserves the right to not respond to any question or provide any clarification, at its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring NFAI to respond to any question or to provide any clarification.
- iii. NFAI may also on its own accord, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by NFAI shall be deemed to be part of the Bidding Documents / this RFP. Verbal clarifications and information given by NFAI or its employees or representatives shall not, in any way or manner be binding on NFAI.

4.14 Amendment of RFP

At any time prior to the bid submission date, NFAI may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of addendum / corrigendum. Any addendum / corrigendum issued hereunder will be in writing and shall be uploaded on the NFAI website and also sent to the Bidders submitting their queries / attending the pre-bid meeting. In order to afford the Bidders a reasonable time for taking an addendum / corrigendum into account, or for any other reason, NFAI may, in its sole discretion, extend the due date for bid submission.

4.15 Preparation of Bids

The Bidder shall provide all the information sought under this RFP. NFAI will evaluate only those Bids that are received in the required format and are complete in all respects.

The Bidder is expected to submit 1 (one) copy in original including all the supporting documents in original (as per the requirement of NFAI) and shall be typed or written in indelible ink and signed by the authorized signatory of the Bidder who shall also initial each page. All alterations, omissions, additions or any other amendments made to the Bid shall be numbered and initialed by the person signing the Bid. This shall be a 3 covers system (sealed and signed) where:

- 1 First cover shall contain the original of the checklist as per Annexure 11.3, pre-qualification documents, tender fee and cover should be clearly marked as the "Pre-qualification documents"
- 2 Second cover shall contain original technical proposal document and cover should be clearly marked as the "Technical Proposal"
- 3 Third cover shall contain original commercial proposal document, cover should be sealed and clearly marked as the "Commercial Proposal"

All three covers shall be in a one large cover, sealed, signed and clearly marked as **“Response to RFP for Preventive Conservation of Film Content at NFAI from << Name of the Bidder / Prime Bidder in case of consortium>>”**.

Note: Commercial proposal should be in third cover only and any deviation will lead to disqualification of the bidder.

4.16 Proposal response

No single bidder / any member of the consortium shall submit more than one Bid for the Project. A Bidder bidding individually or as a member of a Consortium shall not be entitled to submit another bid either individually or as a member of any Consortium, as the case may be.

The Bidder / Prime Bidder of the Consortium should submit a Power of Attorney as per the format at Appendix 11.1, authorizing the signatory of the Bid to commit the Bidder and

Request for Proposal for Preventive Conservation of Film Content at NFAI

in case the Bidder is a Consortium, the Members thereof should furnish a Power of Attorney in favour of the Prime Bidder in the format in Appendix 11.2.

The documents including this RFP and all attached documents, provided by NFAI are and shall remain or become the property of NFAI and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for the preparation and submission of their Bid.

4.17 Late Bids

Bids received by NFAI after the specified time on the bid submission date shall not be eligible for consideration and shall be summarily rejected.

4.18 Modifications / Substitution / Withdrawal of Bids

The Bidder may modify, substitute or withdraw their Bid after submission, provided that a written notice of the modification, substitution or withdrawal is received by NFAI prior to the Bid submission date. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid submission date and time.

The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in writing to NFAI with the envelopes being additionally marked as “MODIFICATION”, “SUBSTITUTION” or “WITHDRAWAL”, as appropriate.

Any alteration / modification in the Bid or additional information supplied subsequent to the bid submission date, unless the same has been expressly sought for by NFAI, shall be disregarded.

4.19 Tender Opening

NFAI shall open the Bids as per the date and time mentioned in the Schedule 1 and in the presence of the Bidders who choose to attend. The Bid responses submitted by the Bidders shall be evaluated on the basis of the pre-qualification criteria as mentioned in Section 0 and Bidders failing to meet the same shall be summarily rejected.

4.20 Bid Validity

The offer submitted by the Bidders should be valid for minimum period of 180 days from the date of submission of their Bids.

4.21 Incomplete Bids

Initial scrutiny of the Bid responses shall be done and if in case of any Bidders submitting incomplete Bids as per the criteria mentioned below shall be treated as non-responsive:

- Bid response not submitted as per the format specified in the RFP document
- Bid response received without the Letter of Authorization / Power of Attorneys
- Bid response found to suppress the details
- Bid response submitted with incomplete information, subjective, conditional and/or partial offer is submitted
- Bid response submitted without the documents requested in the checklist
- Bid response non-compliant with any of the clauses stipulated in the RFP
- Bid response with lesser validity period as stipulated
- Bid response submitted without tender fee and EMD

4.22 Right to Accept Any Proposal and To Reject Any or All Proposal(s)

NFAI reserves the right to accept or reject any Proposal, and to annul the Bidding Process and reject all Proposals at any time prior to Award of Contract, without incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders of the grounds of the action taken by NFAI.

4.23 Notification of Award

Prior to the expiration of the validity period, NFAI will notify the successful Bidder in writing or by fax or email, that their Proposal has been accepted. In case the bidding process is not completed within the stipulated period, NFAI, would request the Bidders to extend the validity period of the Bid.

The Notification of Award will constitute the formation of the contract. Upon the successful Bidder furnishing of Performance Bank Guarantee, NFAI will notify each unsuccessful bidder and return their EMD.

4.24 Contract Finalization and Award

NFAI shall reserve the right to negotiate with the Bidders whose proposal has been ranked best value bid on the basis of Technical and Commercial Evaluation to the proposed Project, as per the guidance provided by CVC. On this basis the Contract Agreement would be finalized for award and signing.

4.25 Earnest Money Deposit (EMD)

- a) Bidders shall submit, along with their Bids, EMD of Rs. 50 Lacs only, in the form of a Bank Guarantee (in the format specified in Annexure 11.7) issued by any Scheduled bank in favour of “Administrative Officer, NFAI”, payable at Pune, and should be valid for 6 months from the submission date of the Bidders Bids.
- b) EMD of all unsuccessful Bidders would be refunded by NFAI within one month of the Bidder being notified of being unsuccessful. The EMD, for the amount mentioned above, of the successful Bidder would be returned upon the submission of Performance Bank Guarantee as per the format provided in Annexure 11.8
- c) The EMD amount is interest free and will be refundable to the unsuccessful Bidders without any interest accrued on it.
- d) The Bid / Proposal submitted without EMD, as mentioned above, will be summarily rejected.
- e) The EMD may be forfeited
 - i. If a Bidder withdraws it's Bid during the period of Bid validity.
 - ii. In case of a successful Bidder, if the Bidder fails to sign the Contract in accordance with this RFP.

4.26 Performance Bank Guarantee

NFAI will require the selected Bidder to provide a Performance Bank Guarantee, within 15 days from the Notification of Award, for a value equivalent to 10% of the Total Cost of the Contract. The Performance Guarantee should be valid for the entire duration of the project. The Performance Guarantee should contain a claim period of 15 days from the last date of validity (after the last date of validity). The selected Bidder shall be responsible for extending the validity date and claim period of the Performance Guarantee at least 2 months before the expiry of its validity. In case the selected bidder fails to submit the renewed performance guarantee before 20 days of expiry of its validity, NFAI at its

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discretion shall invoke the performance bank guarantee without giving any notice what so ever to the bidder. In case the selected bidder fails to discharge their contractual obligations during the period or NFAI incurs any loss due to bidder's negligence in carrying out the project implementation as per the agreed terms & conditions, NFAI may at its discretion shall invoke Performance Bank Guarantee.

In addition to the PBG, the Bidders are also required to **submit a valid Bank Guarantee of the 110% for any advance made to the Selected Bidder** which shall be valid till the work under the advance is successfully completed.

In case the contract is terminated due to default on the part of the selected bidder, the Mobilization Advance shall be deemed as interest bearing advance with an interest rate of 10% to be compounded quarterly, which shall be recovered from the Bidder.

4.27 Signing of Contract

After NFAI notifies the successful Bidder that its Proposal has been accepted, NFAI shall enter into a Contract, incorporating all clauses, Pre-Bid clarifications and the Proposal of the Bidder between NFAI and the successful Bidder. The Draft Legal Agreement is provided as a separate document as a template in Annexure 11.15 and the same shall be signed with the selected Bidder. The Legal Agreement is a draft and NFAI may finalize the same after legal consultations, and for the benefit of the project, and it shall be binding on the Bidder.

4.28 Failure to Agree with the Terms and Conditions of the RFP

Failure of the successful Bidder to agree with the Draft/after legal consultations the Legal Agreement and Terms & Conditions of the RFP shall constitute sufficient grounds for the annulment of the Award, in which event NFAI may award the Contract to the next best value Bidder or call for new proposals from the interested bidders.

In such a case, NFAI shall invoke the EMD and the Performance Bank Guarantee of the successful bidder.

4.29 Project time period

The work has to be completed within maximum of 13 months after the award of contract. The Bidder is supposed to deploy sufficient professionals and trained manpower who would be able to complete the work, with proper Quality Checks as per international

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standards well within the stipulated time frame. In order to ensure timely completion of the project, the selected Bidder has to deploy requisite equipment's in good working condition, necessary to carry out work, within 30 days of issuance of award letter.

4.30 Force Majeure

An event which is beyond the reasonable control of the bidder, is not foreseeable, is unavoidable and not brought about by or at the instance of the bidder claiming to be affected by such events and which has caused the non-performance or delay in performance, and which makes a bidder's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other extreme adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the bidder invoking Force Majeure to prevent), confiscation or any other action by Government agencies shall be termed as Force Majeure. Force Majeure shall not include:

- i. Any event which is caused by the negligence or intentional action of the Bidder / Consortium member or by such their sub agencies (if any) or agents or employees,
- ii. Any event which a Bidder / Consortium member could have taken into account at the time of the execution of the project and avoid or overcome in the carrying out of its obligations.
- iii. Shall not include insufficiency of funds or inability to make any payment to fulfill any of its obligations for execution of the work shall not be considered to be a breach of, or default insofar as such inability arises from an event of Force Majeure, provided that the Bidder / Consortium member affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the scope of work as mentioned in this RFP.

5 Scope of Work

As a part of Preventive Conservation of films at NFAI, the bidder has to arrest the decay in films by repairing its damages, to prolong the life of film on film. Bidder is expected to incorporate necessary international best practices and established technologies, for the process. Following are list of activities to be carried out:

1. Analysis of Film condition assessment report and suggestions for necessary adoption of technologies for preventive conservation
2. Arresting decay and repairing damages in the film reels
3. Rearrangement of film reels as per international standards
4. Cataloging, meta-tagging and detailed technical information

5.1 Detailed scope of work

As a part of Film collection assessment, NFAI has categorized existing film reels into following types,

- a. Category C: Red sticker – Extremely damaged, repairable and physical restoration
- b. Category B: Amber sticker – Damaged and needs immediate attention
- c. Category A: Green sticker – Generally good and needs minor repair

Detailed report is prepared about the condition of film reels with extent of chemical-physical damages.

5.2 Analysis of Film condition assessment report and suggestions for necessary adoption of technologies

- a. The Bidder shall analyze the report of film collection assessment at NFAI
- b. The Bidder should compare various film formats available for a particular Movie & take decision accordingly in consultation with NFAI technical team
- c. The Bidder shall prepare a detailed presentation / activity report for each category of film / each film reel, based on the international practices for preventive conservation.
- d. These activities to be documented in detail as per requirement of the project.

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5.3 Arresting decay and repairing damages in the film reels

- a. The bidder is expected to carry out repair work in Category 'B' and Category 'C' film reels
- b. The Bidder has to undertake necessary actions to arrest further damage to film reels and restore reel back to its near original condition through various internationally accepted and adopted technologies / methodologies.
- c. The bidder is expected to repair chemical / physical damages, emulsion damages and any other such damages, in the film reel to the extent possible, which would ensure the scanning / digitizing of the reel in future as per requirement of NFAI.
- d. Ultrasonic film cleaning should be done for film reels which are suitable for the process, before arranging it in the storage facilities.

Note: The proposal should incorporate details about bidder's approach for various type of damages. This would be given weightage during the technical stage. The format for kind reference,

Extent of damages → Necessary tests on film reels → technological usage → international support / assistance → expert's intervention → Corrective action

5.4 Rearrangement of film reels as per international standards

- a. Rearrangement of film reels as per condition of storage facilities, as per FIAF guidelines, in order to prolong life of film on film.
- b. The bidder is expected to justify and document their activity related to re-arrangement of film reels.
- c. Bidder shall take necessary actions regarding rearrangement of film reels as per its own evaluation and due consultation with NFAI.
- d. Additionally, acetate film reels which have reached the point of autocatalytic decay or beyond, need to be segregated from the other acetate reels by placing them in separate storage location in consultation with NFAI. Such degrading acetate reels need to be kept in frozen storage with corrective actions.
- e. Also, nitrate reels need to be segregated according to stages of decomposition specified by Kodak. Nitrate reels with advanced decomposition stage need to be placed in separate vault in consultation with NFAI.
- f. Adoption of necessary tests / international standards while carrying out re-arrangement, so that no further damage happens to the film reel.

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- g. All kind of rearrangements in the placement of film reels as per requirement of the project has to be carried out by the Bidder

Note: The proposal should incorporate detailed approach towards rearrangement of film reels in the storage vaults including the list of the technical equipment's, intervention of international experts etc. This would carry marks in the technical proposal.

5.5 Cataloging, meta-tagging and detailed technical information

- a. Bidder is expected to carry out complete cataloging, reel wise meta-tagging of information in the cataloging software as provided by NFAI.
- b. Bidder is expected to record (AV recording and Photographs) important steps in the process of preventive conservation for documentation purposes. The camera-persons to be provided by NFAI.
- c. Bidder is expected to record all information related to technical/physical reel wise data, extent of damages, necessary corrections made, technologies adopted etc. in the cataloging software.

Note:

- i. NFAI, as part of film collection assessment, has prepared a cataloguing software that may be accessed by the selected vendor for necessary information and updation.

5.6 Placing of leaders and pasting RFID tags

- a. Bidder shall procure leaders and paste them on beginning and end of the reel. The length of leader at the beginning and end of the reel is to be 15 feet respectively.
- b. Bidder is expected to paste RFID tags on the beginning, end of the reel and on the cans.
- c. Bidder shall be responsible for procurement of RFID tags and leaders and configuring the same with the existing cataloguing software at NFAI.
- d. Cost towards procurement of RFID tags and leaders shall be borne by the bidder.

5.7 Preservation of reels using molecular sieves and other technologies

- i. The bidder has to carry out necessary steps using molecular sieves and other technologies for preservation of films
- ii. It shall be responsibility of the bidder to procure molecular sieves (of International standard

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quality) and other relevant technologies proposed at their own cost.

5.8 Important information for the bidder

- a. The Bidder has to bring in renowned / reputed expertise to independently handle each category of films as mentioned in the scope of work.
- b. Bidder is expected to bring in full time international experts for undertaking various category of work who will have proper technical knowledge for Preventive Conservation and know-how to handle damaged films.
- c. The Bidder should bring necessary equipment required for preventive conservation process (necessary equipment list is attached for kind reference; this list is indicative and not exhaustive; bidder has to suggest appropriate equipment required for the project, which would be considered for evaluation of bids.
- d. Bidder is expected to carry out all necessary and applicable tests such as Photographic Activity Test, Abrasion Sensitivity Test, Air Pollutant Sensitivity Test, High Humidity Sensitivity Test, Light Fastness Test, pH and Alkaline reserve Test, Colorant Migration Test etc. which may be necessary as a part of preventive conservation of film reels.

Note: This list is indicative and the Bidder may suggest as per industry standards and prevalent practices

- e. The bidder is expected to justify and document his/her activities and processes adopted for each film reel.
- f. The bidder is expected to follow all international / ISO standards wherever applicable.

5.9 Indicative list of equipment

- a. Ultra-sonic cleaning machine with chemical filter
- b. Film repair equipment
- c. Film Checking and analyzing equipment
- d. Acid Detecting strips etc.
- e. Molecular Seives and archival moisture proof sealed laminated bags
- f. Humidifying and Dehumidifying Equipment
- g. Special Safety Equipment to Handle Nitrate Film
- h. Film Rejuvenation Machine
- i. RH controlled Frost Free Freezers if necessary.
- j. All Necessary International technologies

- k. Note: All the equipment need to be of latest make/model

6 Pre-Qualification

The Organization / Agency fulfilling the following Pre-Qualification criteria only needs to submit their responses. Only the organizations / agencies fully satisfying the Pre-Qualification criteria shall be considered for further evaluation. The Pre-Qualification criteria shall be as mentioned below:

Sr. No	Criteria	Supporting document
1	<p>A Single Entity / a Consortium of entities is allowed where each entity should be registered as per the relevant Act in India or globally. In case of a Consortium, the prime bidder should be registered in India.</p> <p>Note:</p> <ol style="list-style-type: none"> 1. The consortium cannot be more than 3 members (including Prime Bidder) 2. All members of the consortium should be jointly and severally liable for execution of the work. 	<ol style="list-style-type: none"> a. Copy of Certificate of Incorporation or equivalent, b. A duly notarized / registered Memorandum of Understanding signed between Prime Bidder and all the consortium members c. Certificate of compliance by the Prime bidder and its associated parties as per Annexure 11.16 <p><i>MOU should clearly mention detailed roles and responsibilities of the Prime Bidder and its Consortium members.</i></p>
2	<p>A Single Entity / any member of consortium should have a minimum 5 Years of experience in undertaking the work related to Preventive Conservation of Films (Acetate, Polyester and Nitrate) as on date of submission of the RFP.</p>	<ol style="list-style-type: none"> a. Work orders / completion certificate (wherever available) in the name of the bidder showing work experience of past 5 years (2014 to 2019). b. Work order should clearly state start date of the project and should be signed by the issuing authority.

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Sr. No	Criteria	Supporting document
		<p>c. Work orders from sister organization and/or parent organisations and/or group organizations/companies shall not be considered.</p> <p>d. For each work order, a Project citation format as per Annexure 11.10 needs to be submitted</p>
3	<p>A Single Entity / any member of the consortium should have a minimum turnover of Rs. 5 Crores in each of the last three financial years (FY 2018-19, 2017-18 and 2016-17).</p> <p>Note: In case the reports are in languages other than that of English, a proper English translation has to be provided. The whole and sole responsibility of the correctness of the translation shall be with the Bidder only.</p>	<p>Following details need to be provided for each member of the consortium, separately.</p> <p>a. A letter (on the letter head) from the practicing Chartered Accountant duly signed & stamped and clearly mentioning the turnover details for a Single Entity / all members of the Consortium (in case of consortium) each year in the last three financial years (FY 2018- 19, 2017-18 and 2016-17).</p> <p>b. Copy of the audited Profit and Loss Statement for Single Entity / all the members of the consortium including Prime Bidder (in case of consortium)</p>

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Sr. No	Criteria	Supporting document
		for each of the last three financial years (FY 2018- 19, 2017-18 and 2016-17).
4	A Single Entity / all members of the consortium should not be blacklisted by any State Govt. or Central Govt. department and organization in India and abroad as on date of submission of this bid	Self-certification by the Single Entity / Prime Bidder and all members of consortium (in case of consortium) on their respective letter head duly signed and stamped by the authorized signatory <i>(Letters from all the members of the consortium are mandatory)</i>
5	The Single Entity / Consortium should have minimum 15 nos. of necessary technical manpower who have worked on Preventive Conservation and related work as on date of submission of this bid.	<ul style="list-style-type: none"> a. Letter on the letter head of the Single Entity / Prime Bidder (in case of a consortium) signed by HR Head mentioning the name and experience details of the technical manpower. b. CV of the proposed technical manpower as per Annexure 11.13

Note: Any document in other than English language should be translated to English language by the Bidder. The whole and sole responsibility of the correctness of the translation shall be with the Bidder only.

7 Evaluation of the organizations / agencies

The evaluation of the Bidders shall be done in 3 stages where the Bidders shall be first evaluated against the Pre-Qualification criteria. Only those bidders fully satisfying the Pre-Qualification criteria shall be considered for further Technical and Commercial evaluations.

The Bidders who fully satisfy the Pre-Qualification criteria shall be evaluated as per the evaluation criteria mentioned in Section 8. Only those Bidders who score a **minimum of 70 marks** in the Technical Evaluation shall be considered for further evaluation. The NFAI reserves the right to relax/increase the minimum marks required in Technical Evaluation for consideration for further evaluation depending upon the number of qualifying Bidders. The bids shall be evaluated using the Combined Quality Cum Cost Based system (CQCCBS) selection method as mentioned below:

- i. The bidders qualifying the criteria above, shall be selected based on CQCCBS method where the technical quality of the proposal will be given a weightage of 80%.
- ii. The proposal with the lowest quote will be given a financial score of 100 and the other proposals shall be given a financial score that is inversely proportional to their respective quotes
- iii. The commercial proposal shall be allocated weight of 20%. For working out the combined score, NFAI will use the following formula:

Total points = $T (w) \times T (s) + F (w) \times LEC / EC$, where

- T (w) stands for weight of the Technical Score
 - T (s) stands for Technical Score
 - F (w) stands for weight of the Commercial Proposal
 - EC stands for Evaluated Cost of the Commercial Proposal
 - LEC stands for Lowest Evaluated Cost of the Commercial Proposal
- iv. The proposals will be ranked in terms of total points scored. The proposal with the highest total points will be considered for award of contract.
 - v. The evaluation committee/ representatives may do a site visit, if required.

8 Technical evaluation criteria

The Technical Proposal shall be evaluated based on the following criteria –

#	Main criteria	Sub criteria	Max. Marks
1	Profile of the bidder	i. Profile of the organization including size, experience, reputation ii. Past experience of similar work done for professional / international film archives of repute.	20
2	International knowledge partner / expert with work experience of minimum 5 years in Preventive Conservation	Involvement of international expert(s) / specialist(s) in the field. Note: <ul style="list-style-type: none"> • The involvement of expert has to be for project execution • MoU or an Agreement or a letter from such experts clearly mentioning their work, roles & responsibilities and level of involvement at NFAI Pune. 	15
3	Project team	Proposed team: <ul style="list-style-type: none"> ▪ Project Manager – Should be from the International Film Archive of repute having relevant experience of more than 5 years ▪ Proposed teams: <ul style="list-style-type: none"> ○ Material handling team – with Nitrate, Acetate and Polyester based films ○ Film repair team 	20

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#	Main criteria	Sub criteria	Max. Marks
		<ul style="list-style-type: none"> ○ Film re-arrangement team including vault storage expert ○ Film cataloging team <p><i>Note: The teams would be evaluated based on the profile, involvement level (onsite at NFAI premises).</i></p>	
4	Equipment's and Processes	<ul style="list-style-type: none"> • List of equipment's, utility, make etc. clearly indicating the deployment for the project. • Detailed procedure / processes for arresting film decay, film repair, re-arrangement of film reels in storage facilities, cataloging etc. <p><i>(As per international / adopted practices)</i></p>	15
5	Presentation / Approach and methodology	<p>The bidders presentation would be evaluated on following criteria.</p> <ul style="list-style-type: none"> i. Understanding of the project scope and requirements – 25% weightage ii. Capability and Commitment level towards the project including the timelines - 25% weightage iii. Approach and workflows proposed for carrying out various tasks - 25% weightage iv. Overall solution proposed covering a case study / Proof of concept, 	20

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#	Main criteria	Sub criteria	Max. Marks
		presentation / demonstration – Here the bidder is expected to showcase near to real videos, photos/documentation of the work being carried out by them earlier etc. – 25% weightage	
6	Actual Work Output	<p>Note:</p> <ul style="list-style-type: none"> • The Bidder shall be given five film reels to showcase the repair work to NFAI officials • The Evaluation shall be based on the output quality of the film reel provided • It shall be expected for the Bidder to mention the processes, technique, repair work carried out on the reels • The repair work, if needed, will be carried out in presence of NFAI's professional team. 	10

Note:

The bidders would need to submit documents to substantiate the evaluation criteria. The documentation to substantiate similar projects need to be either work orders or completion certificates or client letters stating satisfactory work.

The Evaluation Committee constituted by NFAI shall evaluate the technical bids based on proposal, documents submitted and presentations to arrive at the technical score.

It is to be noted that the decision of the Evaluation Committee in the evaluation of responses to the RFP shall be final. No correspondence with the Evaluation Committee regarding the evaluation process shall be entertained. The Evaluation Committee reserves the right to reject any or all proposals on the basis of any deviations. Concealment or contradiction of facts would be held otherwise and liable for strict action. Any such incidence gives NFAI complete right to reject the claim of the bidder at any stage, even after the completion of tendering process, without even a formal notice.

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Each of the responses shall be evaluated to validate compliance of the bidders according to the criteria as per format and supporting documents mentioned against each clause.

Conditional proposals won't be considered for evaluation purpose.

9 Details to be submitted by the bidder

The bidder is expected to submit the following as part of the bid

1. RFP Fees of Rs. 10,000 /- as per Section 1
2. Brief company profile (along with Annexure 11.9)
3. Documents as needed for highlighting compliance to the Pre-Qualification criteria as per Section 11.3
4. Detailed documents regarding technical evaluation criteria and copy of the presentation as per Section 11.4
5. Any other document which can help NFAI in ascertaining the credentials and credibility of the organization / Consortium members.

10 Commercial Bid Format

The bidder is expected to submit the commercial proposal as per the format prescribed in Annexure 11.14. **The commercials submitted by the bidder should be excluding all taxes. The bidder should intimate the kind of tax that is applicable for each line item.** These numbers are indicative and are liable to change and the payment would be done as per the actuals. The rate per unit quoted by the Bidder shall be used to arrive at the final payment in such cases. The commercials shall comprise of the following activities:

1. Analysis of Film condition assessment report and suggestions for necessary adoption of technologies
2. Arresting decay / further damage and repairing damages in the film reels
3. Rearrangement of film reels as per international standards
4. Cataloging, meta-tagging and detailed technical information

The commercials for the Point “Arresting the decay and repairing damages in film reels” have to be submitted on the basis of following assumptions regarding the number of reels in ‘B’ and ‘C’ category as:

- i. Acetate film reels – 52,223 (Fifty Two Thousand Two Hundred and Twenty-Three)
- ii. Polyester film reels – 7,581 (Seven Thousand Five Hundred and Eighty-one)
- iii. Nitrate film reels – 753 (Seven Hundred and Fifty-Three)

Whereas, the Point 1, Point 3, and Point 4 viz. “Analysis of Film condition assessment report and suggestions for necessary adoption of technologies”, “Rearrangement of film reels as per international standards”, “Cataloging, meta-tagging and detailed technical information” respectively shall be for all the category of films viz. Category A, Category B and Category C for an indicative number of reels at 150,000.

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Note: These numbers are indicative and are liable to change and the payment would be done as per the actuals. The rate per unit quoted by the bidder shall be used to arrive at the final commercial figure in such cases.

In case of any numerical omissions, errors, etc. in commercials written in figures, the commercials written in words shall be considered as final. The commercials have to be submitted as per the table below:

Sr. No	Particulars	Indicative Units	Per unit rate	Total
(A)	(B)	(C)	(D)	(E = C X D)
1	Arresting decay / further damage and film repair for Category 'B' films			
1.1	Acetate	41,572		
1.2	Polyester	7,366		
1.3	Nitrate	390		
2	Arresting decay / further damage and film repair for Category 'C' films			
2.1	Acetate	10,651		
2.2	Polyester	215		
2.3	Nitrate	363		
3	Assessment of report, Rearrangement of material in existing vaults as per international standards	Lump sum		
4	GST	As applicable		
Grand Total (excluding GST)				
Grand Total (including GST)				

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Sr. No	Particulars	Indicative Units	Per unit rate	Total
(A)	(B)	(C)	(D)	(E = C X D)
Grand Total in Words (excluding GST)				
Grand Total in Words (including GST)				
<hr/>				
<hr/>				

Note:

- i. This rate per unit shall be considered for commercial calculation to be paid to the selected Bidder
- ii. The payment to the Bidder shall be made on the actual work performed by the Selected Bidder as per the quoted unit rates.
- iii. These rates shall be effective and valid throughout the contract period
- iv. The indicative units mentioned above are only for bidding purposes. The actual units will be based on completion of the film assessment work
- v. For evaluation of scores (Section 7), commercial value quoted under Grand Total in Words (excluding GST) will be considered.

10.1 Payment milestones

Sr. No	Milestone	Payment in percentage terms
1.	On signing of the contract	20%
2.	On mobilization of resources and commissioning of all the necessary equipment's at NFAI premises	10%
3.	On successful completion of the actual work (to be calculated on the basis of the unit rate)	65% of the due payment calculated on the basis of the actual work and payable on bi-monthly basis to be paid at the end of every two months
4.	On successful completion of the entire work, rework, and final acceptance of the work by NFAI	Remaining payment

Note:

Successful completion of the work constitutes of the following:

- a. Arresting decay and film repair of film reels in the B and C Categories and bringing them close to original condition
- b. Bidders are required to submit a valid Bank Guarantee of the 110% for any advance made to the Selected Bidder which shall be valid till the work under the advance is successfully completed.
- c. All payments will be done as per GFR Rules.

11 Annexure

11.1 Power of attorney for authorization of a representative for signing of the bid

<<On Rs. 500 Stamp paper>>

Know all men by these presents, We, (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr. / Ms (Name), son/daughter/wife of and presently residing at, who is presently employed with us/ the Prime Bidder of our Consortium and holding the position of, as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for the Project proposed or being developed by the (the "Employer") including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders' and other conferences and providing information / responses to the Employer, representing us in all matters before the Employer, signing and execution of all contracts and undertakings consequent to acceptance of our bid, and generally dealing with the Employer in all matters in connection with or relating to or arising out of our bid for the said Project and/or upon award thereof to us.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE,, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF, 20.....

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For.....

(Signature, name, designation and address)

Witnesses:

- 1.
- 2.

Accepted

Notarised

(Signature, name, designation and address of the Attorney)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution / power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.*

11.2 Power of Attorney for Prime Bidder of Consortium

<<On Rs. 500 Stamp paper>>

Whereas the (the “Employer”) has invited bids from open market for the technically and financially qualified agencies and for the Project (the “Project”).

Whereas,, and (collectively the “Consortium”) being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposals and other connected documents in respect of the Project, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Prime Bidder with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium’s bid for the Project and its execution. We also understand and accept that all members of the consortium shall be jointly and severally liable for the execution of the work.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, having our registered office at, M/s., having our registered office at, and M/s., having our registered office at, (hereinafter collectively referred to as the “Principals”) do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s, having its registered office at, being one of the Members of the Consortium, as the Prime Bidder and true and lawful attorney of the Consortium (hereinafter referred to as the “Attorney”) and hereby irrevocably authorise the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the Contract, during the execution of the Project, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the

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submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, accept the Letter of Award, participate in bidders' and other conferences, respond to queries, submit information / documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and / or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium's bid for the Project and/ or upon award thereof is entered into with the Employer.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us / Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF, 20....

For
(Signature, Name & Title)

For
(Signature, Name & Title)

For
(Signature, Name & Title)

(Executants)

(To be executed by all the Members of the Consortium)

Witnesses:

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1.

2.

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.*

11.3 Checklist of the documents to be submitted in pre-qualification stage

#	Criteria	Supporting document	Submitted (Yes / No)	Proposal page number
1	Covering letter	As per the format mentioned in section 2		
2	Bid processing fee	Demand Draft for Rs. 10,000		
3	EMD	As per the format mentioned in Annexure 11.7		
4	Power of Attorney authorizing the signing of the bid	As per the format mentioned in Annexure 11.1		
5	Power of Attorney for Prime Bidder of the Consortium	As per the format mentioned in Annexure 11.2		
6	Witness details and signatures for the Power of Attorneys	Note of Annexure 11.1 and Annexure 11.2		
7	<i>For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and</i>	Note of Annexure 11.1 and Annexure 11.2		

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#	Criteria	Supporting document	Submitted (Yes / No)	Proposal page number
	<p><i>notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.</i></p>			
8	<p>A Single Entity / a Consortium of entities is allowed where each entity should be registered as per the relevant Act in India or globally. In case of a Consortium, the</p>	<p>a. Copy of Certificate of Incorporation or equivalent, b. A duly notarized / registered Memorandum of Understanding signed between</p>		

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#	Criteria	Supporting document	Submitted (Yes / No)	Proposal page number
	<p>prime bidder should be registered in India.</p> <p>Note:</p> <ol style="list-style-type: none"> 1. The consortium cannot be more than 3 members (including Prime Bidder) 2. All members of the consortium should be jointly and severally liable for execution of the work. 	<p>Prime Bidder and all the consortium members</p> <p><i>MOU should clearly mention detailed roles and responsibilities of the Prime Bidder and its Consortium members.</i></p>		
9	<p>A Single Entity / any member of consortium should have a minimum 5 Years of experience in undertaking the work related to Preventive Conservation of Films (Acetate, Polyester and Nitrate) as on</p>	<ol style="list-style-type: none"> a. Work orders / completion certificate (wherever available) in the name of the bidder showing work experience of past 5 years (2014 to 2019). b. Work order should clearly state start 		

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#	Criteria	Supporting document	Submitted (Yes / No)	Proposal page number
	date of submission of the RFP.	<p>date of the project and should be signed by the issuing authority.</p> <p>c. Work orders from sister organization and/or parent organisations and/or group organizations/companies shall not be considered.</p> <p>d. For each work order, a Project citation format as per Annexure 11.10 needs to be submitted</p>		
10	A Single Entity / any member of the consortium should have a minimum turnover of Rs. 5 Crores in each of the last three financial years (FY 2018-19,	<p>Following details need to be provided for each member of the consortium, separately.</p> <p>a. A letter (on the letter head) from the practicing Chartered Accountant duly</p>		

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#	Criteria	Supporting document	Submitted (Yes / No)	Proposal page number
	<p>2017-18 and 2016-17).</p> <p>Note: In case the reports are in languages other than that of English, a proper English translation has to be provided. The whole and sole responsibility of the correctness of the translation shall be with the Bidder only.</p>	<p>signed & stamped and clearly mentioning the turnover details for a Single Entity / all members of the Consortium (in case of consortium) each year in the last three financial years (FY 2018-19, 2017-18 and 2016-17).</p> <p>Copy of the audited Profit and Loss Statement for Single Entity / all the members of the consortium including Prime Bidder (in case of consortium) for each of the last three financial years (FY 2018-19, 2017-18 and 2016-17).</p>		
11	A Single Entity / all members of the consortium should	Self-certification by the Single Entity / Prime Bidder and all members of		

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#	Criteria	Supporting document	Submitted (Yes / No)	Proposal page number
	not be blacklisted by any State Govt. or Central Govt. department and organization in India and abroad as on date of submission of this bid	consortium (in case of consortium) on their respective letter head duly signed and stamped by the authorized signatory <i>(Letters from all the members of the consortium are mandatory)</i>		
12	The Single Entity / Consortium should have minimum 15 nos. of necessary technical manpower who have worked on Preventive Conservation and related work as on date of submission of this bid.	<p>a. Letter on the letter head of the Single Entity / Prime Bidder (in case of a consortium) signed by HR Head mentioning the name and experience details of the technical manpower.</p> <p>b. CV of the proposed technical manpower as per Annexure 11.13</p>		

11.4 Compliance Sheet for Technical Proposal

#	Criteria	Sub Criteria	Submitted (Yes / No)	Proposal page number
1	Profile of the bidder	i. Profile of the organization including size, experience, reputation ii. Past experience of similar work done for professional / international film archives of repute.		
2	International knowledge partner / expert with work experience of minimum 5 years in Preventive Conservation	Involvement of international expert(s) / specialist(s) in the field. Note: <ul style="list-style-type: none"> • The involvement of expert has to be for project execution • MoU or an Agreement or a letter from such experts clearly mentioning their work, roles & responsibilities and level of involvement at NFAI Pune. 		

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#	Criteria	Sub Criteria	Submitted (Yes / No)	Proposal page number
3	Project team	<p>Proposed team:</p> <ul style="list-style-type: none"> i. Project Manager – Should be from the International Film Archive of repute having relevant experience of more than 5 years ii. Proposed teams: <ul style="list-style-type: none"> • Material handling team – with Nitrate, Acetate and Polyester based films • Film repair team • Film re-arrangement team including vault storage expert • Film cataloging team <p><i>Note: The teams would be evaluated based on the profile, involvement level (onsite at NFAI premises).</i></p>		
4	Equipment's and Processes	<ul style="list-style-type: none"> i. List of equipment's, utility, make etc. clearly indicating the 		

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#	Criteria	Sub Criteria	Submitted (Yes / No)	Proposal page number
		<p>deployment for the project.</p> <p>ii. Detailed procedure / processes for arresting film decay, film repair, re-arrangement of film reels in storage facilities, cataloging etc.</p>		
5	Presentation / Approach and methodology	<p>The bidders presentation would be evaluated on following criteria.</p> <p>i. Understanding of the project scope and requirements – 25% weightage</p> <p>i. Capability and Commitment level towards the project including the timelines - 25% weightage</p> <p>ii. Approach and workflows proposed for carrying out various tasks - 25% weightage</p>	Presentation copy to be submitted to NFAI after the presentation is made by the bidder	

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#	Criteria	Sub Criteria	Submitted (Yes / No)	Proposal page number
		iv. Overall solution proposed covering a case study / Proof of concept, presentation / demonstration – Here the bidder is expected to showcase near to real videos, photos/documentation of the work being carried out by them earlier etc. – 25% weightage		

11.6 Comprehensive Preventive Conservation inspection report (Sample format)

The detailed activities carried out for Analysis of the report

Confirm the categorization of the damages (physical, chemical or any other) into following sub-categories:

- i. Damage due to high / low moisture content
- ii. Damage due to fungus / white powder
- iii. Damage due to storage conditions (Temperature & Humidity)
- iv. Colour Dye Fading in Colour Negatives and Prints
- v. Damage due to Vinegar Syndrome
- vi. Any other major damages

Note:

- 1 Use of internationally accepted scientific methodologies to find the extent of damage caused is a must. The bidder also has to change the damaged/rusted film cans with brand-new plastics cans. NFAI shall be providing requisite cans.
- 2 The Bidder should ensure that all the staff working on the project shall have adequate insurance cover and NFAI shall not be held responsible for any consequences arising thereof

Only the staff who have handled Nitrate film reels shall be handling Nitrate film reels. The Bidder has to ensure complete adherence to this.

11.6.1 Preventive Conservation Inspection Report - For Film

Film details:

Date of arrival of material _____ Inspected by _____

Last inspected on _____ Vault number _____

Material details:

Type of material: Acetate / Polyester / Nitrate

Title _____

Unique number _____ Accession number _____

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Film Gauge

8 mm

16 mm

35 mm

70 mm

Condition assessment details:

Type of tests _____
Conducted _____

Test reports _____

Recommendations

Comments

Signatures

Filled by _____ Date _____

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Checked by _____ Date _____
Verified by _____ Date _____

11.6.2 Preventive Conservation Inspection Report - For Film Vaults

Vault details:

Film Vault No. _____ Film Vault Location _____

Vault details:

Type of material stored: Acetate / Polyester / Nitrate

Film Vault temperature (degree centigrade)

Film Vault humidity (relative humidity in %)

Vault Condition Assessment

Type of tests _____
Conducted _____

Test reports _____

Recommendations

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Comments

Signatures

Filled by _____

Date _____

Checked by _____

Date _____

Verified by _____

Date _____

11.7 Bank Guarantee format

<<On Rs. 500 Stamp paper>>

To,
Administrative Officer,
National Film Archive of India (NFAI),
Law College road,
Pune - 411004

Whereas <<Name of the bidder>> (hereinafter called 'the Bidder') has submitted the bid for Submission of RFP # <<RFP Number>> dated <<Date>> for <<Name of the assignment>> (hereinafter called "the Bid") to NFAI.

Know all Men by these presents that we <<Name of the Bank>> having our office at <<Address>> (hereinafter called "the Bank") are bound unto the NFAI (hereinafter called "the Employer") in the sum of Rs.<<Amount in figures>> (Rupees<<Amount in words>> only) for which payment well and truly to be made to the said Employer, the Bank binds itself, its successors and assigns by these presents. Sealed with the Common Seal of the said Bank this <<Date>>

The conditions of this obligation are:

- a. If the Bidder having its bid withdrawn during the period of bid validity specified by the Employer in the RFP #; or
- b. If the Bidder, having been notified of the acceptance of its bid by the Employer during the period of validity of bid
 - i. Withdraws his participation from the bid during the period of validity of bid document; or
 - ii. Fails or refuses to participate in the subsequent Tender process after having been short listed;

We undertake to pay to the Employer up to the above amount upon receipt of its first written demand, without the Employer having to substantiate its demand, provided that in its demand the Employer will note that the amount claimed by it is due to it owing to the

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occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to <<insert date>> and including <<extra time over and above mandated in the RFP #>> from the last date of submission and any demand in respect thereof should reach the Bank not later than the above date.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN:

- a. Our liability under this Bank Guarantee shall not exceed Rs. <<Amount in figures>> (Rupees <<Amount in words>> only)
- b. This Bank Guarantee shall be valid upto <<insert date>>)
- c. It is condition of our liability for payment of the guaranteed amount or any part thereof arising under this Bank Guarantee that we receive a valid written claim or demand for payment under this Bank Guarantee on or before <<insert date>>) failing which our liability under the guarantee will automatically cease.

(Authorized Signatory of the Bank)

Seal:

Date:

11.8 Performance Bank Guarantee

<<On Rs. 500 Stamp paper>>

To,

Administrative Officer,

National Film Archive of India (NFAI),

Law College road,

Pune - 411004

Whereas, <<name of the bidder / prime bidder and address>> (hereinafter called “the bidder”) has undertaken, in pursuance of contract no. <Insert Contract No.> dated. <Date> to provide Implementation services for <<name of the assignment>> to NFAI (hereinafter called “the employer”)

And whereas it has been stipulated by in the said contract that the bidder shall furnish you with a bank guarantee by a recognized bank for the sum specified therein as security for compliance with its obligations in accordance with the contract;

And whereas we, <Name of Bank> a banking company incorporated and having its head /registered office at <Address of Registered Office> and having one of its office at <Address of Local Office> have agreed to give the supplier such a bank guarantee.

Now, therefore, we hereby affirm that we are guarantors and responsible to you, on behalf of the bidder, up to a total of Rs.<Insert Value> (Rupees <Insert Value in Words> only) and we undertake to pay you, upon your first written demand declaring the bidder to be in default under the contract and without cavil or argument, any sum or sums within the limits of Rs. <Insert Value> (Rupees <Insert Value in Words> only) as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the bidder before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the contract to be performed there under or of any of the contract documents which may be

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made between you and the Bidder shall in any way release us from any liability under this guarantee and we hereby waive notice of any such change, addition or modification.

This Guarantee shall be valid until <<Insert Date>>)

Notwithstanding anything contained herein:

- a. Our liability under this Bank Guarantee shall not exceed Rs. <<Amount in figures>> (Rupees <<Amount in words>> only)
- b. This Bank Guarantee shall be valid upto <<insert date>>)
- c. It is condition of our liability for payment of the guaranteed amount or any part thereof arising under this Bank Guarantee that we receive a valid written claim or demand for payment under this Bank Guarantee on or before <<insert date>>) failing which our liability under the guarantee will automatically cease.

(Authorized Signatory of the Bank)

Seal:

Date:

11.9 Details of the bidder / prime bidder

Sr. No	Particulars	Details
1	Name and address	
2	Incorporation status of the firm (public limited / private limited, etc.)	
3	Year of establishment	
4	ROC reference number	
5	Name, Address, email, Phone nos. and Mobile Number of Contact Person	

11.10 Project citation format

Relevant projects	
General information	
Name of the project	
Client for which the project was executed	
Name and contact details of the client	Name: _____ Designation: _____ Email: _____ Contact: _____
Project details	
Description of the project	
Scope of services	
Technologies used	
Outcomes of the project	
Other details	
Total cost of the project	
Duration of the project (no. of months, start date, completion date, current status)	

Note: Please provide following with each project citation

- a. Copy of Work Order **or**
- b. Letter from the client to indicate the successful completion of the projects, if any

11.12 Team composition

11.12.1 Project team

Name of Staff with qualification and experience	Area of Expertise	Position Assigned	Task Assigned	Time committed for the engagement

11.12.2 International Experts

#	Name of the Expert	Involvement for the NFAI project in number of days	Onsite involvement (at NFAI premises) in %	Offsite involvement in %	Responsibilities	Number of trips to India
					Onsite: 1. 2. 3... Offsite: 1. 2. 3....	

11.13 Curriculum Vitae Format

Photo	Name			
	Position:			
	Date of Birth			
	Education:		•	
4. Employment Record	From	To	Company	Position Held
5. Brief Profile	•			
8. Countries of Work Experience				
9. Languages	•			
10. Work Undertaken that Best Illustrates Capability to Handle the Task Assigned				
<p>Nature of Work:</p> <p>Year:</p> <p>Location:</p> <p>Company:</p> <p>Position Held:</p> <p>Main features:</p> <p>•</p> <p>Activities Performed:</p>				

•

Certification

I, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience. I understand that any willful misstatement described herein may lead to my disqualification or dismissal, if engaged.

Date _____

Signature of staff member

Day / Month / Year

11.14 Commercial Proposal Format

Date: _____,

Officer on Special Duty,
National Film Heritage Mission,
National Film Archive of India,
Law College Road,
Pune – 411 004.

Subject: Submission of the Commercial bid for Film Collection Assessment

Dear Sir,

We, the undersigned, offer to provide the services for <<Title of Implementation Services>> in accordance with your Request for Proposal dated <<Date>> and our Proposal (Technical and Commercial Proposals). Our attached Commercial Proposal is for the sum of <<Rs..... , Amount in words and figures>>. This amount is inclusive of the all taxes.

a. PRICE AND VALIDITY

All the prices mentioned in our bid response are in accordance with the terms as specified in the RFP documents. We hereby confirm that our prices include all taxes. We understand that the actual payment would be made as per the existing indirect tax rates during the time of payment.

b. UNIT RATES

We have indicated in the relevant forms enclosed, the unit rates and total amount for the purpose of account of payment as well as for price adjustment in case of any increase to / decrease from the scope of work under the contract.

c. COMPLIANCE

We declare that all the services shall be performed strictly in accordance with the bid documents, all of which have been detailed out exhaustively in the following

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in our bid. We accept NFAI can delete any line item of the commercial proposal.

Further we agree that additional conditions, if any, found in the bid documents, other than those stated in deviation schedule, shall not be given effect to.

d. TENDER PRICING

We further confirm that the prices stated in our bid are in accordance with your Scope of Work included in RFP documents

e. QUALIFYING DATA

We confirm having submitted the information as required by you in your bid document. In case you require any other further information/documentary proof in this regard before evaluation of our bid response, we agree to furnish the same in time to your satisfaction

f. BID PRICE

We declare that our Bid Price is for the entire scope of the work as specified in the <Refer Section No.>. These prices are indicated in Commercial Bid attached with our Tender as part of the Tender.

g. PERFORMANCE BANK GUARANTEE

We hereby declare that in case the contract is awarded to us, we shall submit the Performance Bank Guarantee (as per Annexure 11.8) of the RFP document # .

Our Commercial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the contract period.

We hereby declare that our bid response is made in good faith, without collusion or fraud and the information contained in the bid response is true and correct to the best of our knowledge and belief.

We understand that our bid response is binding on us and that you are not bound to accept bids you receive.

Thanking you,

Yours sincerely,

Authorized Signature:

Name and Title of Signatory:

Name of Firm: _____

Address: _____

11.15 Draft Agreement copy

CONTRACT FOR FILM COLLECTION ASSESSMENT SERVICES

Between

**National Film Archive of India, Ministry of Information and Broadcasting,
Government of India.**

And

[Name of the Bidder / Prime Bidder]

Dated

I. Form of Contract

This CONTRACT (hereinafter called the "Contract") is made on the [day] day of the month of [month], [year], between the President of India acting through Director, of National Film Archive of India, Ministry of Information and Broadcasting, Government of India, (office address), (hereinafter called the "Employer"), of the First Part and, [name of Bidder / prime bidder] (hereinafter called the "Agency") of the Second Part.

WHEREAS

(a) the Agency, having represented to the "Employer" that he has the required professional skills, personnel and technical resources, has offered to provide in response to the Tender Notice dated _____ issued by the Employer ;

(b) the "Employer" has accepted the offer of the Agency to provide the services on the terms and conditions set forth in this Contract.

NOW, THEREFORE, IT IS HEREBY AGREED between the parties as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:

The General Conditions of Contract;

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The Special Conditions of Contract;

The following Appendices:

Appendix A: Description of Services

Appendix B: Reporting Requirements

Appendix C: Staffing schedule

Appendix D: Cost Estimates

Appendix E: Duties of the “Employer”

Appendix F: Duties of the Agency

The mutual rights and obligations of the “Employer” and the Agency shall be as set forth in the Contract, in particular:

- a) the Agency shall carry out and complete the Services in accordance with the provisions of the Contract; and
- b) the “Employer” shall make payments to the Agency in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

Signed by -----

In presence of

1. For and on behalf of the President of India

[Name of “Employer”]

(Witnesses)

(i)

[Authorized Representative]

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(ii)

2. For and on behalf of [name of Agency]

In presence of

(Witnesses)

(i)

(ii)

[Authorized Representative]

[Note: If the Agency consists of more than one entity, all these entities should appear as signatories, e.g., in the appear as signatories, eg, in the following manner:]

3. For and on behalf of each of the
Members of the Agency.

[name of member]

[Authorized Representative]

4. [name of member]

[Authorized Representative]

II. General Conditions of Contract

1. GENERAL PROVISIONS

1.1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- a) "Applicable Law" means the laws and any other instruments having the force of law in India for the time being.
- b) "Agency" means any private or public entity that will provide the Services to the "Employer" under the Contract.
- c) "Contract" means the Contract signed by the Parties and all the attached documents listed in its Clause 1, which is this General Conditions (GC), the Special Conditions (SC), and the Appendices.
- d) "Day" means calendar day.
- e) "Effective Date" means the date on which this Contract comes into force and effect pursuant to Clause GC 2.1.
- f) "Foreign Currency" means any currency other than the currency of the "Employer's" country.
- g) "GC" means these General Conditions of Contract.
- h) "Government" means the Government of India
- i) "Local Currency" means Indian Rupees.
- j) "Member" means any of the entities that make up the joint venture/consortium/association; and "Members" means all these entities.
- k) "Party" means the "Employer" or the Agency, as the case may be, and "Parties" means both of them.
- l) "Personnel" means professionals and support staff provided by the Agency or by any Sub-Agency and assigned to perform the Services or any part thereof; "Foreign Personnel" means such professionals and support staff who at the time of being so provided had their domicile outside the Government's country; "Local Personnel" means such professionals and support staff who at the time of being so provided had their domicile inside the Government's country; and "Key

Personnel” means the Personnel referred to in Clause GC 4.2(a).

- m) “Reimbursable expenses” means all assignment-related costs [such as travel, translation, report printing, secretarial expenses, subject to specified maximum limits in the Contract].
- n) “SC” means the Special Conditions of Contract by which the GC may be amended or supplemented.
- o) “Services” means the work to be performed by the Agency pursuant to this Contract, as described in Appendix A hereto.
- p) “Sub-Agency/s” means any person or entity to whom/which the Agency subcontracts any part of the Services.
- q) “Third Party” means any person or entity other than the “Employer”, or the Agency.
- r) “In writing” means communicated in written form with proof of receipt.

1.2 Relationship between the Parties

Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the “Employer” and the Agency. The Agency, subject to this Contract, has complete charge of Personnel and Sub-Agency/s, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 Law Governing Contract:

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the applicable laws of India.

1.4 Headings: The headings shall not limit, alter or affect the meaning of this Contract.

1.5 Notices

1.5.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered post to such Party at the address specified in the SC.

1.5.2 A Party may change its address for notice hereunder by giving the other Party notice in writing of such change to the address specified in the SC.

1.6 Location: The Services shall be performed at such locations as are specified in **Appendix A** hereto and, where the location of a particular task is not so specified, at such locations, as the “Employer” may approve.

1.7 Authority of PRIME BIDDER: In case the Agency consists of a joint venture/consortium/ association of more than one entity, the Members hereby authorize the entity specified (Lead Agency) in the SC to act on their behalf in exercising all the Agency’s rights and obligations towards the “Employer” under this Contract, including without limitation the receiving of instructions and payments from the “Employer”. However, each member or constituent of Consortium of Agency shall be jointly and severally liable for all obligations of the Agency under the Contract.

1.8 Authorized Representatives: Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the “Employer” or the Agency may be taken or executed by the officials specified in the SC.

1.9 Taxes and Duties: The Agency, Sub-Agency/s and Personnel shall be liable to pay such direct and indirect taxes, duties, fees and other impositions levied under the applicable laws of India.

1.10 Fraud and Corruption

1.10.1 Definitions: It is the Employer’s policy to require that Employers as well as Agency observe the highest standard of ethics during the execution of the Contract. In pursuance of this policy, the Employer defines, for the purpose of this provision, the terms set forth below as follows:

(i) “corrupt practice” means the offering, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the selection process or in contract execution;

(ii) “fraudulent practice” means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract;

(iii) “collusive practices” means a scheme or arrangement between two or more Agencies,

with or without the knowledge of the Employer, designed to establish prices at artificial, noncompetitive levels;

(iv) “coercive practices” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract;

1.10.2 Measures to be taken by the Employer

(a) The Employer may terminate the contract if it determines at any time that representatives of the Agency were engaged in corrupt, fraudulent, collusive or coercive practices during the selection process or the execution of that contract, without the Agency having taken timely and appropriate action satisfactory to the Employer to remedy the situation;

(b) The Employer may also sanction against the Agency, including declaring the Agency ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the Agency has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, an Employer-financed contract;

1.10.3 Commissions and Fees

At the time of execution of this Contract, the Agency shall disclose any commissions or fees that may have been paid or are agreed to be paid to agents, representatives, or commission agents with respect to the selection process or execution of the contract. The information disclosed must include at least the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee.

2. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

2.1 Effectiveness of Contract: This Contract shall come into force and effect on the date (the “Effective Date”) of the “Employer’s notice to the Agency instructing the Agency to begin carrying out the Services. This notice shall confirm that the conditions precedent and effectiveness conditions, if any, listed in the SC have been met.

2.2 Termination of Contract for Failure to Become Effective: If this Contract has not become effective within such time period after the date of the Contract signed by the Parties as specified in the SC, either Party may, by not less than twenty one (21) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

2.3 Commencement of Services: The Agency shall begin carrying out the Services not later than the number of days after the Effective Date specified in the SC.

2.4 Expiration of Contract: Unless terminated earlier pursuant to Clause GC 2.9 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SC.

2.5 Entire Agreement: This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any other statement, representation, promise or agreement not set forth herein.

2.6 Modifications or Variations:

(a) Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to Clause GC 7.2 here of, however, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

(b) In cases of substantial modifications or variations, the prior written consent of the Employer is required.

2.7 Force Majeure

2.7.1 Definition

(a) For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable and not brought about by or at the instance of the Party claiming to be affected by such events and which has caused the non-performance or delay in performance, and which makes a Party's

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performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other extreme adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Government agencies.

(b) Force Majeure shall not include

(i) any event which is caused by the negligence or intentional action of a Party or by or of such Party's Sub-Agencies or agents or employees, nor

(ii) any event which a diligent Party could reasonably have been expected both to take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.

(c) Subject to clause 2.7.2, Force Majeure shall not include insufficiency of funds or inability to make any payment required hereunder.

2.7.2 No Breach of Contract: The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

2.7.3 Measures to be Taken: (a) A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure. (b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible. (c) Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which

such Party was unable to perform such action as a result of Force Majeure. (d) During the period of their inability to perform the Services as a result of an event of Force Majeure, the Agency, upon instructions by the “Employer”, shall either: (i) demobilize,; or (ii) continue with the Services to the extent possible, in which case the Agency shall continue to be paid proportionately and on prorata basis, under the terms of this Contract. (e) In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clause GC 8.

28 Suspension: The “Employer” may, by written notice of suspension to the Agency, suspend all payments to the Agency hereunder if the Agency fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall allow the Agency to remedy such failure, if capable of being remedied, within a period not exceeding thirty (30) days after receipt by the Agency of such notice of suspension.

29 Termination

2.9.1.1. By the “Employer”: The “Employer” may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (h) of this Clause GC 2.9.1.1

(a) If the Agency fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GC 2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the “Employer” may have subsequently approved in writing.

(b) If the Agency becomes (or, if the Agency consists of more than one entity, if any of its Members becomes and which has substantial bearing on providing Services under this contract) insolvent or go into liquidation or receivership whether compulsory or voluntary.

(c) If the Agency fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 8 hereof.

(d) If the Agency, in the judgment of the “Employer”, has engaged in corrupt or fraudulent practices in competing for or in executing this Contract.

(e) If the Agency submits to the “Employer” a false statement which has a material effect

on the rights, obligations or interests of the “Employer”.

(e) If the Agency places itself in position of conflict of interest or fails to disclose promptly any conflict of interest to the Employer.

(f) If the Agency fails to provide the quality services as envisaged under this Contract. The Project Monitoring Committee (PMC) formulated to monitor the progress of the assignment may make judgment regarding the poor quality of services, the reasons for which shall be recorded in writing. The PMC may decide to give one chance to the Agency to improve the quality of the services.

(g) If, as the result of Force Majeure, the Agency is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

(h) If the “Employer”, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

2.9.1.2 In such an occurrence the “Employer” shall give a not less than thirty (30) days’ written notice of termination to the Agency, and sixty (60) days’ in case of the event referred to in (h).

2.9.2 By the Agency: The Agency may terminate this Contract, by not less than thirty (30) days’ written notice to the “Employer”, in case of the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause GC 2.9.2.

(a) If the “Employer” fails to pay any money due to the Agency pursuant to this Contract and not subject to dispute pursuant to Clause GC 8 hereof within forty-five (45) days after receiving written notice from the Agency that such payment is overdue.

(b) If, as the result of Force Majeure, the Agency is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

(c) If the “Employer” fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 8 hereof.

(d) If the “Employer” is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Agency may have subsequently approved in writing) following the receipt by the

“Employer” of the Agency’s notice specifying such breach.

2.9.3 Cessation of Rights and Obligations: Upon termination of this Contract pursuant to Clauses GC 2.2 or GC 2.9 hereof, or upon expiration of this Contract pursuant to Clause GC 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GC 3.3 hereof, (iii) the Agency’s obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GC 3.6 hereof, and (iv) any right which a Party may have under the Law.

2.9.4 Cessation of Services: Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, the Agency shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Agency and equipment and materials furnished by the “Employer”, the Agency shall proceed as provided, respectively, by Clauses GC 3.9 or GC 3.10 hereof.

2.9.5 Payment upon Termination: Upon termination of this Contract pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, the “Employer” shall make the following payments to the Agency:

(a) If the Contract is terminated pursuant to Clause 2.9.1 (g), (h) or 2.9.2, remuneration pursuant to Clause GC 6.3(h) (i) hereof for Services satisfactorily performed prior to the effective date of termination, and reimbursable expenditures pursuant to Clause GC 6.3(h)(ii) hereof for expenditures actually and reasonably incurred prior to the effective date of termination;

(b) If the agreement is terminated pursuant of Clause 2.9.1 (a) to (f), the Agency shall not be entitled to receive any agreed payments upon termination of the contract. However, the “Employer” may consider to make payment for the part satisfactorily performed on the basis of Quantum Merit as assessed by it, if such part is of economic utility to the Employer. Applicable Under such circumstances, upon termination, the client may also impose liquidated damages as per the provisions of Clause 9 of this agreement. The

Agency will be required to pay any such liquidated damages to client within 30 days of termination date.

2.9.6 Disputes about Events of Termination: If either Party disputes whether an event specified in paragraphs (a) through (g) of Clause GC 2.9.1 or in Clause GC 2.9.2 hereof has occurred, such Party may, within forty-five (30) days after receipt of notice of termination from the other Party, refer the matter to Clause GC 8 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

2.10 OBLIGATIONS OF THE AGENCY

•General

Standard of Performance: The Agency shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Agency shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the “Employer”, and shall at all times support and safeguard the “Employer’s legitimate interests in any dealings with Sub-Agency/s or Third Parties.

•Conflict of Interests: The Agency shall hold the “Employer’s interests paramount, without any consideration for future work, and strictly avoid conflict of interest with other assignments or their own corporate interests. If during the period of this contract, a conflict of interest arises for any reasons, the Agency shall promptly disclose the same to the Employer and seek its instructions.

• Agency not to benefit from Commissions, Discounts, etc.: (a)The payment of the Agency pursuant to Clause GC 6 hereof shall constitute the Agency’s only payment in connection with this Contract and, subject to Clause GC 3.2.2 hereof, the Agency shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Agency shall use its best efforts to ensure that any Sub-Agency/s, as

well as the Personnel and agents of either of them, similarly shall not receive any such additional payment. (b) Furthermore, if the Agency, as part of the Services, has the responsibility of advising the “Employer” on the procurement of goods, works or services, the Agency shall comply with the Employer’s applicable procurement guidelines, and shall at all times exercise such responsibility in the best interest of the “Employer”. Any discounts or commissions obtained by the Agency in the exercise of such procurement responsibility shall be for the account of the “Employer”.

- **Agency and Affiliates Not to Engage in Certain Activities:** The Agency agrees that, during the term of this Contract and after its termination, the Agency and any entity affiliated with the Agency, as well as any Sub-Agency/s and any entity affiliated with such Sub-Agency/s, shall be disqualified from providing goods, works or services (other than said scope of work services) resulting from or directly related to the Agency’s Services for the preparation or implementation of the project.

- **Prohibition of Conflicting Activities:** The Agency shall not engage, and shall cause their Personnel as well as their Sub-Agency/s and their Personnel not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

- **Confidentiality:** Except with the prior written consent of the “Employer”, the Agency and the Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Agency and its Personnel make public the recommendations formulated in the course of, or as a result of, the Services.

- **Insurance to be Taken out by the Agency:** The Agency (i) shall take out and maintain, and shall cause any Sub-Agency/s to take out and maintain insurance, at their (or the Sub-Agency/s’, as the case may be) own cost but on terms and conditions approved by the “Employer”, insurance against the risks, and for the coverages specified in the SC, and (ii) at the “Employer’s request, shall provide evidence to the “Employer” showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid.

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- **Accounting, Inspection and Auditing:** The Agency (i) shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time changes and costs, and the bases thereof, and (ii) shall periodically permit the “Employer” or its designated representative and/or the Employer, and up to five years from expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the “Employer” or the Employer, if so required by the “Employer” or the Employer as the case may be.

- **Agency’s Actions Requiring “Employer’s Prior Approval:** The Agency shall obtain the “Employer’s prior approval in writing before taking any of the following actions:

(a) Any change or addition to the Personnel listed in Appendix C.

(b) Subcontracts: the Agency may subcontract work relating to the Services to an extent and with such experts and entities as may be approved in advance by the “Employer”. Notwithstanding such approval, the Agency shall always retain full responsibility for the Services. In the event that any Sub-Agency/s are found by the “Employer” to be incompetent or incapable or undesirable in discharging assigned duties, the “Employer” may request the Agency to provide a replacement, with qualifications and experience acceptable to the “Employer”, or to resume the performance of the Services itself.

- **Reporting Obligations:** The Agency shall submit to the “Employer” the reports and documents specified in Appendix B hereto, in the form, in the numbers and within the time periods set forth in the said Appendix. Final reports shall be delivered in CD ROM in addition to the hard copies specified in said Appendix.

- **Documents Prepared by the Agency to be the Property of the “Employer”:** All plans, drawings, specifications, designs, reports, other documents and software prepared by the Agency for the “Employer” under this Contract shall become and remain the property of the “Employer”, and the Agency shall, not later than upon termination or expiration of this Contract, deliver all such documents to the “Employer”, together with a detailed inventory thereof. The Agency may retain a copy of such documents, but shall

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not use anywhere, without taking permission, in writing, from the Employer and the Employer reserves right to grant or deny any such request. If license agreements are necessary or appropriate between the Agency and third parties for purposes of development of any such computer programs, the Agency shall obtain the “Employer’s prior written approval to such agreements, and the “Employer” shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned.

• Equipment, Vehicles and Materials Furnished by the “Employer”:

Equipment, vehicles and materials made available to the Agency by the “Employer”, or purchased by the Agency wholly or partly with funds provided by the “Employer”, shall be the property of the “Employer” and shall be marked accordingly. Upon termination or expiration of this Contract, the Agency shall make available to the “Employer” an inventory of such equipment, vehicles and materials and shall dispose of such equipment and materials in accordance with the “Employer’s instructions. While in possession of such equipment, vehicles and materials, the Agency, unless otherwise instructed by the “Employer” in writing, shall insure them at the expense of the “Employer” in an amount equal to their full replacement value.

Equipment and Materials Provided by the Agencies: Equipment or materials brought into the Government’s country by the Agency and the Personnel and used either for the Project or personal use shall remain the property of the Agency or the Personnel concerned, as applicable.

2.10 AGENCYS’ PERSONNEL AND SUB-AGENCY/S

• **General:** The Agency shall employ and provide such qualified and experienced Personnel and Sub-Agency/s as are required to carry out the Services.

• **Description of Personnel:** (a) The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Agency’s Key Personnel are as per the Agency’s proposal and are described in Appendix

C. If any of the Key Personnel has already been approved by the “Employer”, his/her

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name is listed as well.

(b) If required to comply with the provisions of Clause GC 3.1.1 hereof, adjustments with respect to the estimated periods of engagement of Key Personnel set forth in Appendix C may be made by the Agency by written notice to the “Employer”, provided (i) that such adjustments shall not alter the originally estimated period of engagement of any individual by more than 10% or one week, whichever is larger, and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GC 6.1(b) of this Contract. Any other such adjustments shall only be made with the “Employer’s written approval.

(c) If additional work is required beyond the scope of the Services specified in Appendix A, the estimated periods of engagement of Key Personnel set forth in Appendix C may be increased by agreement in writing between the “Employer” and the Agency. In case where payments under this Contract exceed the ceilings set forth in Clause GC 6.1(b) of this Contract, this will be explicitly mentioned in the agreement.

• **Approval of Personnel:** The Key Personnel and Sub-Agency/s listed by title as well as by name in Appendix C are hereby approved by the “Employer”. In respect of other Personnel which the Agency proposes to use in the carrying out of the Services, the Agency shall submit to the “Employer” for review and approval a copy of their Curricula Vitae (CVs). If the “Employer” does not object in writing (stating the reasons for the objection) within twenty-one (21) days from the date of receipt of such CVs, such Personnel shall be deemed to have been approved by the “Employer”.

• **Removal and/or Replacement of Personnel:** (a) Except as the “Employer” may otherwise agree, no changes shall be made in the Personnel. If, for any reason beyond the reasonable control of the Agency, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the Personnel, the Agency shall forthwith provide as a replacement a person of equivalent or better qualifications. (b) If the “Employer”

(i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (ii) has reasonable cause to be dissatisfied

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with the performance of any of the Personnel, then the Agency shall, at the “Employer’s” written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the “Employer”.

(c) Any of the Personnel provided as a replacement under Clauses (a) and (b) above, as well as any reimbursable expenditures (including expenditures due to the number of eligible dependents) the Agency may wish to claim as a result of such replacement, shall be subject to the prior written approval by the “Employer”. The rate of remuneration applicable to a replacement person will be the rate of remuneration paid to the replacement person. Also

(i) the Agency shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid for any of the Personnel provided as a replacement shall not exceed the remuneration which would have been payable to the Personnel replaced.

- **Resident Project Manager:** If required by the SC, the Agency shall ensure that at all times during the Agency’s performance of the Services a resident project manager, acceptable to the “Employer”, shall take charge of the performance of such Services.

2.11 OBLIGATIONS OF THE “EMPLOYER”

- **Assistance and Exemptions:** Unless otherwise specified in the SC, the “Employer” shall use its best efforts to ensure that the Government shall: (a) Provide the Agency, Sub-Agency/s and Personnel with work permits and such other documents as shall be necessary to enable the Agency, Sub-Agency/s or Personnel to perform the Services. (b) Arrange for the Foreign Personnel to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in India.

(c) Issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.

(d) Provide to the Agency, Sub-Agency/s and Personnel any such other assistance as may be specified in the SC.

- **Change in the Applicable Law Related to Taxes and Duties:** If,

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after the date of this Contract, there is any change in the Applicable Laws of India with respect to taxes and duties, which are directly payable by the Agency for providing the services i.e. service tax or any such applicable tax from time to time, which increases or decreases the cost incurred by the Agency in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Agency under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GC 6.1(b).

• **Services, Facilities and Property of the “Employer”:** (a) The “Employer” shall make available to the Agency and its Personnel, for the purposes of the Services and free of any charge, the services, facilities and property described in Appendix E at the times and in the manner specified in said Appendix E. (b) In case that such services, facilities and property shall not be made available to the Agency as and when specified in Appendix E, the Parties shall agree on any time extension that it may be appropriate to grant to the Agency for the performance of the Services .

• **Payment:** In consideration of the Services performed by the Agency under this Contract, the “Employer” shall make to the Agency such payments and in such manner as is provided by Clause GC 6 of this Contract.

• **Counterpart Personnel:** (a) If necessary, the “Employer” shall make available to the Agency free of charge such professional and support counterpart personnel, to be nominated by the “Employer” with the Agency’s advice, if specified in Appendix E. (b) Professional and support counterpart personnel, excluding “Employer’s liaison personnel, shall work under the exclusive direction of the Agency. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Agency that is consistent with the position occupied by such member, the Agency may request the

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replacement of such member, and the "Employer" shall not unreasonably refuse to act upon such request.

2.12 PAYMENTS TO THE AGENCY

- **Total Cost of the Services**

(a) The total cost of the Services payable is set forth in Appendix D as per the Agency's proposal to the Employer and as negotiated thereafter.

(b) Except as may be otherwise agreed under Clause GC 2.6 and subject to Clause GC 6.1(c), payments under this Contract shall not exceed the amount specified in Appendix-D.

(c) Notwithstanding Clause GC 6.1(b) hereof, if pursuant to any of the Clauses GC 4.2 (c) or 5.2 hereof, the Parties shall agree that additional payments shall be made to the Agency in order to cover any necessary additional expenditures not envisaged in the cost estimates referred to in Clause GC 6.1(a) above, the ceiling or ceilings, as the case may be, set forth in Clause GC 6.1(b) above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

- **Currency of Payment:** All payments shall be made in Indian Rupees.[In case the payment is to be made in the currency other than Indian Rupees, the same shall be mentioned instead of Indian Rupees]

- **Terms of Payment** The payments in respect of the Services shall be made as follows:

(a) The Agency shall submit the invoice for payment when the payment is due as per the agreed terms. The payment shall be released as per the work related milestones achieved and as per the specified percentage as per SC 13.

(b) Once a milestone is completed, the Agency shall submit the requisite deliverables as specified in this Contract. The Employer shall release the requisite payment upon acceptance of the deliverables. However, if the Employer fails to intimate acceptance of the deliverables or its objections thereto, within 30 days of receipt of it, the Employer shall release the payment to the Agency without further delay.

(c) **Final Payment:** The final payment as specified in SC 13 shall be made only after the

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final report and a final statement, identified as such, shall have been submitted by the Agency and approved as satisfactory by the "Employer". The Services shall be deemed completed and finally accepted by the "Employer" and the final report and final statement shall be deemed approved by the "Employer" as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the "Employer" unless the "Employer", within such ninety (90) day period, gives written notice to the Agency specifying in detail deficiencies in the Services, the final report or final statement. The Agency shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. Any amount, which the "Employer" has paid or caused to be paid in accordance with this Clause in excess of the amounts actually payable in accordance with the provisions of this Contract, shall be reimbursed by the Agency to the "Employer" within thirty (30) days after receipt by the Agency of notice thereof. Any such claim by the "Employer" for reimbursement must be made within twelve (12) calendar months after receipt by the "Employer" of a final report and a final statement approved by the "Employer" in accordance with the above.

(d) For the purpose of payment under Clause 6.3 (b) above, acceptance means; acceptance of the deliverables by the Employer after submission by the Agency and the Agency has made presentation to the PMC / Employer (Mention this if presentation is required) with / without modifications to be communicated in writing by the Employer to the Agency.

(e) If the deliverables submitted by the Agency are not acceptable to the Employer / PMC, reasons for such non-acceptance should be recorded in writing; the Employer shall not release the payment due to the Agency. This is without prejudicing the Employer's right to levy any liquidated damages under clause 9. In such case, the payment will be released to the Agency only after it re-submits the deliverable and which is accepted by the Employer.

(f) All payments under this Contract shall be made to the accounts of the Agency specified in the SC.

(g) With the exception of the final payment under (c) above, payments do not constitute acceptance of the Services nor relieve the Agency of any obligations hereunder, unless the acceptance has been communicated by the Employer to the Agency in writing and

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the Agency has made necessary changes as per the comments / suggestions of the Employer communicated to the Agency.

In case of early termination of the contract, the payment shall be made to the Agency as mentioned here with: (i) Assessment should be made about work done from the previous milestone, for which the payment is made or to be made till the date of the termination. The Agency shall provide the details of persons reasonably worked during this period with supporting documents. Based on such details, the remuneration shall be calculated based on the man month rate as specified. (ii) A reasonable assessment of the reimbursable and miscellaneous expenses shall be made based on details furnished by the Agency in this regard with supporting documents and based on the assessment of the work done and the respective rates as provided. Wherever such an assessment is difficult, the rates should be arrived at by calculating the amount on pro-rata basis. The total amount payable shall be the amount calculated as per (i) and (ii) above plus any applicable tax.

2.13 FAIRNESS AND GOOD FAITH

- **Good Faith:** The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.
- **Operation of the Contract:** The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause GC 8 hereof.

2.14 SETTLEMENT OF DISPUTES

- **Amicable Settlement:** Performance of the contract is governed by the terms & conditions of the contract, in case of dispute arises between the parties regarding any matter under the contract, either Party of the contract may send a written Notice of Dispute

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to the other party. The Party receiving the Notice of Dispute will consider the Notice and respond to it in writing within 30 days after receipt. If that party fails to respond within 30 days, or the dispute cannot be amicably settled within 60 days following the response of that party, clause GC 8.2 shall become applicable.

- **Arbitration:** In the case of dispute arising upon or in relation to or in connection with the contract between the Employer and the Agency, which has not been settled amicably, any party can refer the dispute for Arbitration under (Indian) Arbitration and Conciliation Act, 1996. Such disputes shall be referred to an Arbitral Tribunal consisting of 3 (three) arbitrators, one each to be appointed by the Employer and the Agency, the third arbitrator i.e Presiding Arbitrator would be Joint Secretary (Films) in the Ministry of I&B.

- a. Arbitration proceedings shall be held in Pune/Delhi in India at the place indicated in SC and the language of the arbitration proceedings and that of all documents and communications between the parties shall be English.
- b. The decision of the majority of arbitrators shall be final and binding upon both parties. The expenses of the arbitrators as determined by the arbitrators shall be shared equally by the Employer and the Agency. However, the expenses incurred by each party in connection with the preparation, presentation shall be borne by the party itself. All arbitration awards shall be in writing and shall state the reasons for the award.

2.15 Liquidated Damages

- The parties hereby agree that due to negligence of act of any party, if the other party suffers losses, damages the quantification of which may be difficult, and hence the amount specified hereunder shall be construed as reasonable estimate of the damages and both the parties agree to pay such liquidated damages, as defined hereunder as per the provisions of this Contract.

The amount of liquidated damages under this Contract shall not exceed [10] % of the total value of the contract as specified in Appendix D.

The liquidated damages shall be applicable under following circumstances:

- (a) If the deliverables are not submitted as per schedule as specified in SC 13, the Agency shall be liable to pay 1% of the total cost of the services for delay of each week or part

thereof.

(b) If the deliverables are not acceptable to the Employer as mentioned in Clause 6.3 (f), and defects are not rectified to the satisfaction of the Employer within 30 days of the receipt of the notice, the Agency shall be liable for Liquidated Damages for an amount equal to [0.5%] of total cost of the services for every week or part thereof for the delay.

2.16 Miscellaneous provisions:

(i) "Nothing contained in this Contract shall be construed as establishing or creating between the Parties, a relationship of master and servant or principal and agent.

(ii) Any failure or delay on the part of any Party to exercise right or power under this Contract shall not operate as waiver thereof.

(iii) The Agency shall notify the Employer/ the Government of India of any material change in their status, in particular, where such change would impact on performance of obligations under this Contract.

(iv) Each member/constituent of the Agency, in case of a consortium, shall be jointly and severally liable to and responsible for all obligations towards the Employer/Government for performance of works/services including that of its Associates/Sub Agency/s under the Contract.

(v) The Agency shall at all times indemnify and keep indemnified the Employer/Government of India against all claims/damages etc. for any infringement of any Intellectual Property Rights (IPR) while providing its services under the Project.

(vi) The Agency shall at all times indemnify and keep indemnified the Employer/Government of India against any claims in respect of any damages or compensation payable in consequences of any accident or injury sustained or suffered by its (the Agency's) employees or agents or by any other third Party resulting from or by any action, omission or operation conducted by or on behalf of the Agency.

(vii) The Agency shall at all times indemnify and keep indemnified the Employer/Government of India against any and all claims by Employees, Workman, Contractors, sub-contractors, suppliers, agent(s), employed engaged or otherwise working for the Contractor, in respect of wages, salaries, remuneration, compensation or

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the like.

(viii) All claims regarding indemnity shall survive the termination or expiry of the Contract.

(ix) It is acknowledged and agreed by all Parties that there is no representation of any type, implied or otherwise, of any absorption, regularization, continued engagement or concession or preference for employment of persons engaged by the (Agency) for any engagement, service or employment in any capacity in any office or establishment of the Government of India or the Employer.

III. Special Conditions of Contract:

(Clauses in brackets { } are optional; all notes should be deleted in final text)

SC Clause	Ref. of GC	Amendments of, and Supplements to, Clauses in the Clause General Conditions of Contract
1.	1.5	The addresses are: 1. "Employer" : Attention : Facsimile : 2. "Agency" : Attention : Facsimile :
2.	1.7	{Lead Partner is [insert name of member]} Note: If the Agency consists of a joint venture/ consortium/ association of more than one entity, the name of the entity whose address is specified in Clause SC 1.6

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		should be inserted here. If the Agency consists only of one entity, this Clause SC 1.8 should be deleted from the SC.
3.	1.8	The Authorized Representatives are: For the “Employer”: For the Agency:
4.	2.1	{The effectiveness conditions are the following: [insert conditions]} Note: List here any conditions of effectiveness of the Contract e.g., approved of the Contract by the Employer, “Employer’s approval of Agency’s proposals for appointment of specified key staff members, effectiveness of Employer Loan, receipt by Agency of advance payment and by “Employer” of advance payment guarantee (see Clause SC 6.4(a)), etc. If there are no effectiveness conditions, delete this Clause SC 2.1 from the SC.
5.	2.2	The time period shall be [insert time period, e.g.: four months].

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6.	2.3	The time period shall be [insert time period, e.g.: four months].
7.	2.4	The time period shall be [insert time period, e.g.: twelve months].
8.	3.4	<p>Limitation of the Agency’s Liability towards the “Employer”</p> <p>{Note: Proposals to introduce exclusions/limitations of the Agency’s liability under the Contract should be carefully scrutinized by Employers/”Employer”s. In this regard the parties should be aware of the Employer’s policy on this matter which is as follows:</p> <ol style="list-style-type: none"> 1. If the Parties agree that the Agency’s liability should simply be governed by the Applicable Laws of India, they should delete this Clause SC 3.4 from the SC. 2. If the Parties wish to limit or to partially exclude the Agency’s liability to the “Employer”, they should note that, to be acceptable to the Employer, any limitation of the Agency’s liability should at the very least be reasonably related to (a) the damage the Agency might potentially cause to the “Employer”, and (b) the Agency’s ability to pay compensation using their own assets and reasonably obtainable insurance coverage. The Agency’s liability should not be limited to less than a multiplier of the total payments to the Agency/s under the Contract for remuneration and reimbursable expenses. A statement to the effect that the Agency/s are liable only for the re-performance of faulty Services is not acceptable to the

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		<p>Employer. Also, the Agency's liability should never be limited for loss or damage caused by the Agency's gross negligence or willful misconduct.</p>
<p>9.</p>	<p>3.5</p>	<p>The risks and the insurance coverage shall be as follows:</p> <p>(Note : Delete/modify whichever is not applicable)</p> <p>(a) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Government's country by the Agency or its Personnel or any Sub-Agency/s or their Personnel, with a minimum coverage of [insert amount and currency];</p> <p>(b) Third Party liability insurance, with a minimum coverage of [insert amount and currency];</p> <p>(c) Professional liability insurance to cover the employer against any loss suffered by the employer due to the professional service provided by the Agency, with a minimum coverage of [insert amount and currency];</p>

		<p>(d) Workers' compensation insurance in respect of the Personnel of the Agency and of any Sub-Agency/s, in accordance with the relevant provisions of the Applicable Laws of India, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and</p> <p>(e) Insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Agency's property used in the performance of the Services, and (iii) any documents prepared by the Agency in the performance of the Services, by theft, fire or any natural calamity.</p> <p>Note: If there are no other actions, delete this Clause SC 3.6. If the Services consist of or include the supervision of civil works, the following action should be inserted: {taking any action under a civil works contract designating the</p>
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		Agency as “Engineer”, for which action, pursuant to such civil works contract, the written approval of the “Employer” as “Employer” is required.}
10.	4.6	{The person designated as resident project manager in Appendix C shall serve in that capacity, as specified in Clause GC 4.6.} Note: If there is no such manager, delete this Clause SC 4.6.
11.	5.1	Note: List here any changes or additions to Clause GC 5.1. If there are no such changes or additions, delete this Clause SC 5.1.
12.	6.1 b	The ceiling in local currency is: [insert amount and currency]
13.	6.3	[Delete whichever is not applicable] 1.For lump-sum contracts payment will be made based on milestones indicated for each activity as below: Activity 1:

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S No	Milestone(Deliverables)	Time period for Submission	Payment for (as % of the total service cost)
1			
2			
3			
4			
Total			
Activity 2:			
S No	Milestone(Deliverables)	Time period for Submission	Payment for (as % of the total service cost)
1			
2			
3			
4			
Total			

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		<p>OR</p> <p>2. For time based contracts remuneration will be paid on monthly basis</p>
14.	8.3	The Arbitration proceedings shall take place in (indicate name of the city) in India.

Binding signature of Employer Signed by _____

(for and on behalf of the President of

India) Binding signature of Contractor Signed by _____

(for and on behalf of _____duly authorized vide Resolution No _____dated _____of the Board of Directors of _____)

In the presence of

(Witnesses)

1.

2.

IV. Appendices

APPENDIX A – DESCRIPTION OF SERVICES

Note: This Appendix will include the final Terms of Reference worked out by the “Employer” and the Agency/s during technical negotiations, dates for completion of various tasks, place of performance for different tasks/activities, specific tasks/activities/outcome to be reviewed, tested and approved by “Employer”, etc.

APPENDIX B - REPORTING REQUIREMENTS

Note: List format, frequency, and contents of reports; persons to receive them; dates of submission; etc. If no reports are to be submitted, state here “Not applicable.”

APPENDIX C – STAFFING SCHEDULE

(Include here the agreed (negotiated staffing schedule including the engagement of sub-contractors, if any)

APPENDIX D – Total COST OF SERVICES IN

(Include here the rates quoted in the Commercial proposal or the negotiated rates, whichever is applicable)

APPENDIX E - DUTIES OF THE “EMPLOYER”

(Include here the list of Services, facilities and property to be made available to the Agency by the “Employer”).

11.16 Certificate of compliance by the Prime bidder and its associated Parties

<<On Company letterhead>>

Certificate of Compliance to Government Orders

Date:_____

This is to inform that, M/s_____ (Prime bidder),M/s_____ (Consortium member(s)), M/s _____ (International Knowledge Partner(s)) and M/s_____ (Manufacturer(s) whose software, hardware, equipment and any other item(s) are proposed in the technical bid of M/s _____(Prime bidder)) are in compliance with order F. No. 6/18/2019-PPD issued by Department of Expenditure via Office Memorandum dated July 23, 2020.

We, M/s_____ (Prime bidder) and M/s _____(Consortium member(s)) understand and accept that if such certification is found to be false, it would be a ground for immediate termination and further legal action in accordance with relevant laws of Government of India.

Name of Authorized signatory: _____

Signature of authorized signatory:_____

Stamp of the Organization (Prime bidder and Consortium member(s))