



TERMS OF REFERENCE

FOR

APPOINTMENT OF INDEPENDENT CONSULTANT ('IC')

FOR

Container Freight Station of Punjab State Container and Warehousing Corporation Limited (CONWARE) at Plot 2, Sector 2, Nhava Sheva, Dist. Raigad, Maharashtra



(SECOND CALL)

**Punjab State Container and Warehousing Corporation Limited
SCO 119-120, Sector 17-B, Chandigarh (U.T.) – 160017;
Tel: 0172 – 5197882/ 5197899/ 5197841
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Terms of Reference for Independent Consultant ('IC')

for Container Freight Station of Punjab State Container and Warehousing Corporation Ltd. (CONWARE) at Nhava Sheva, Dist. Raigad, Maharashtra (2nd Call)

Terms of Reference (ToR) for the Selection of Consultancy Firms for providing services as Independent Consultant ('IC') for Container Freight Station (CFS) of Punjab Container and Warehousing Corporation Ltd. (CONWARE) (known as CONWARE CFS) at Dronagiri Node, Plot 2, Sector 2, Navi Mumbai, Nhava Sheva, Maharashtra State on Least Cost Basis (LCB).

Mandating Department: Department of Agriculture through CONWARE (Punjab State Container and Warehousing Corporation Ltd) (hereinafter referred to as the "Corporation"/"CONWARE")

Schedule for Bidding Process

S.N.	Particulars	Date
1.	Date of Issue of TOR	
2.	Last Date / Time of Receipt of Bids (Proposal Due Date)	Upto 3:30 PM on 14.07.2022
3.	Date / Time of Opening of Technical bids	4:30 PM on 14.07.2022
4.	Place of Opening of Bids / Presentation	Online
5.	Date of Opening of Financial Bids	To be intimated later

1. Background and Objectives

1.1. Project Background

Punjab State Container and Warehousing Corporation Ltd (CONWARE), {hereinafter referred to as '**Corporation**'} is a wholly owned company (CIN: U63023CH1995SGC016299) of Government of Punjab incorporated under the Companies Act, 1956/2013 which conducts diversified activities relating to warehousing with the prime objective of establishing / Managing Container Freight Station Facility (CFS) and allied activities under the administrative control of Department of Agriculture and Farmer's Welfare, Punjab.

CONWARE has developed a Customs Notified CFS facility on approx. 26.62 acres of land providing logistics support to export/import (EXIM) containerized trade located in Jawaharlal Nehru (JN) Port's off-dock facilitating area at Navi Mumbai (Plot 2, Sector 2, Dronagiri Node, Nhava Sheva). This land is leased by City and Industrial Development Corporation Maharashtra Ltd. (CIDCO). The CFS facility has been proposed to be given to a private party for its Operation and Management (O&M) by carrying 'permitted activities' as per Applicable laws for 30 years starting 01.02.2022.

CONWARE intends to select and appoint an Independent Consultant (IC) to provide Services related to the 'Structural assessment, review of maintenance and repairs and computation of Annual Consideration payable by the Operator of the CFS Facility of CONWARE. The IC is expected to provide a complete technical and operational due diligence services to CONWARE regarding the Compliances as per the signed agreement of CFS facility and Development of the given CFS facility as per scope of work as defined in this TOR.

CONWARE invites consultancy Firms empaneled with Government Undertakings and Statutory Bodies in technical / commercial domain, to submit their proposals for providing services as Independent Consultant (IC) for the project (the "**Proposals**"). Based on the Financial Proposal submitted, CONWARE will select and appoint the IC on least cost basis. For the avoidance of doubt, Government Undertakings and Statutory Bodies shall include Jawaharlal Nehru Port Trust (JNPT), Indian Ports Association (IPA), National Highways Authority of India (NHAI) / Ministry of Road Transport & Highways (MoRTH), Central Public Works Department (CPWD), RITES, National Building Construction Corporation (NBCC), Government of Punjab, Government owned Consultancy firms, or any other appropriate Government Undertakings as may be deemed fit by the Corporation .

1.2. Project Site Details

- Site Location: Dronagiri (Near JNPT), Navi Mumbai
- Site Area: 1,07,748.72 sq. m. (26.62 acres)
- Buildings Area:
 - Covered Warehouses (2 nos.; G+1): 47465 sq. m. (Total)
 - Office Building (G+4): 4060 sq. m.
 - Other bldgs. (Token office, Gate site, others): 912 sq. m.
- Open Yard (Container yard + Roads): 52700 sq. m.
- The 'CONWARE CFS' is approximately 26.62 acres (107749 sq. m.) site located in close proximity to the Jawaharlal Nehru Port in Navi Mumbai.

Site: Piece of Parcel of land known as Plot No. 2 in Sector no. 2 of Dronagiri node, Nhava Sheva, Taluka Uran, District Raigad, Maharashtra containing by admeasurement 107748.921 sq. m. or thereabout and bounded as follows that is to say:

- On or towards the North by 20 mtrs wide Chanel
- On or towards the East by 20 mtrs wide road
- On or towards the South by 20 Mtrs wide road
- On or towards the west by 20 Mtrs wide road

The site is located at a distance of 11 kms from the port area and all the port facilities are within 19 km from Conware CFS, the site is connected to NSICT, JNPT, GTI terminals.

The CFS handled about 91,512 TEUs (Loaded and Stuffed) in the year 2020-21.

In addition to the above, the IC is required to develop an understanding of the salient features and the terms & conditions of the O&M Agreement for the appointment of the Operator for the facility.

1.3. Brief Description of the Bidding Process

The Corporation has adopted online tendering process comprising of single stage two envelope system. The Technical Bid and Financial Bid shall be submitted through the E-tendering Portal <https://eproc.punjab.gov.in> as per the submission requirements prescribed under Section 4 of this TOR.

Eligibility and qualification of the Bidder will be first examined based on the details submitted under Technical Bid with respect to eligibility and qualifications criteria prescribed in this TOR. The Financial Bid under the second envelop shall be opened of only those Bidders whose Technical Bids are responsive to eligibility and qualifications requirements as per this RFP.

2. Definition and Interpretations

The words and expressions beginning with or in capital letters used in this TOR and not defined herein but defined in the O & M Agreement (executed between the Operator and the Authority ("Conware") (for the Operation and Maintenance of Conware CFS) shall have, unless repugnant to the context, the meaning respectively assigned to them in the said O & M Agreement.

References to Articles, Clauses and Schedules in this TOR shall, except where the context otherwise requires, be deemed to be references to the Articles, Clauses and Schedules of the O & M Agreement, and references to Paragraphs shall be deemed to be references to Paragraphs of this TOR.

The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the O & M Agreement shall apply, *mutatis mutandis*, to this TOR.

A copy of the Draft O&M Agreement has been provided along with this TOR for reference purpose, however, the final signed copy of the O&M Agreement shall be provided only to the selected IC.

3. Scope of Work

Technical Functions

- **Assistance during Handover**– The IC is required to assess and document the condition of the facility during the handover of the facility to the new operator. Under this task, the IC would assist the CONWARE and the Operator to carry out the joint inventory inspection and carry out the necessary documentation during the Joint Inventory Inspection. The IC would

carry out verification of assets and inventory assessment of assets that are to be handed over to Operator upon commissioning of Agreement and perform an inventory assessment including compliance of conditions regarding maintenance and upkeep of the inventory of assets.

- **Evaluation and recommendation of Refurbishment and Modification Plans submitted by the Operator**– In accordance with the Agreement, the IC shall responsible to review and vet the plans for modifications given by Operator. The IC shall be responsible to review and vet all building related permissions and to recommend on behalf of the Corporation to whether all permissions are as per guidelines of CIDCO and other guidelines applicable. The IC shall provide a recommendation to CONWARE pertaining to the approval of the proposed refurbishment, modification or development plans and drawings that are submitted by the Operator. The IC shall certify the plan and costing for the purposes of refurbishment work if any. The new construction shall not be less than the area demolished. The IC shall also be responsible for reviewing and recommending the refurbishment work, if any, proposed to be carried out by the Operator. The cost of demolition and deconstruction will be certified by the IC in order to obtain the amount of additional performance security to be provided by the Operator.

Post the completion of the refurbishment, modification or Development as the case maybe, the IC would certify the new structure in accordance with the respective development regulations and verify the approvals from the respective development authorities with regards to building and development control regulations.

- **Structural Audit Report** - The IC shall conduct the structural audit after every 3 (three) years and the Operator has to comply with the modifications/ recommendations provided by the IC (structural audit reports to be provided preferably in the last quarter of that financial year). The IC shall review the work done by the Operator and certify the same.
- **Review and Recommendation of the Maintenance Program submitted by Operator:** The IC shall verify and certify the proposed repairs and maintenance plan submitted by the Operator post the observations listed during the structural audit. The IC shall recommend and certify the timeframe for carrying out the repairs by the Operator and provide a report to CONWARE.
On completion of the agreed timeframe, the IC shall verify and certify the repairs carried out by the operator. If the Operator fails to carry out the repairs within the timeframe, the IC shall recommend the Corporation to claim damages in accordance with the terms of the agreement.
- **Site Inspection:** The IC shall inspect the site during the agreement period of IC at all reasonable times and upon reasonable notice to the Operator and have access to all parts of the project site as per the Agreement.

Commercial Functions

- **Computation of Annual Variable Revenue-** The IC shall check the daily data provided by the operator through their software about the volume handled by CFS and reconcile the statements about the volume of business in terms of TEUs & Tons handled by the CFS. The IC shall on a quarterly basis verify the volume of cargo handled by the Operator in terms of TEUs and Tons and compute the variation and compute the Annual Variable Revenue payable for the quarter. The quarterly demand raised by CONWARE shall be on the basis of the report submitted by the IC. The payment of Annual Variable Revenue shall be revised and adjustments shall be done in next quarterly payment. IC shall verify such volume of business (TEUs / Tons as the case may be) available from software access provided by the

operator against periodic physical inspection of records and inventory of containers, LCL cargo and bulk cargo or as permitted under the prevailing law.

- **Computation of Variable Fees**– As per the conditions of the agreement, the IC shall provide a computation report on the Annual Fixed Fees and Annual Variable Fees in each Operational Year & Financial Year based on the computation of annual escalation of the Annual Fixed Revenue and Annual Variable Revenue that is to be payable by the Operator as per the agreement signed with the Operator.
- **Monitoring ESCROW Account**- The IC shall monitor the escrow account and shall monitor inflows and outflows from escrow account in order to verify whether the terms of the Agreement and ESCROW agreement are being followed or not.
- **Periodic Audit and Verification** - The IC shall inspect periodically or at random the records, documents and data etc. of the Operator and verify the samples or take measurements as per the Operation & Maintenance Agreement

General Functions

- The IC shall certify the occurrence of any such Force Majeure Event; however, the same would be subject to verification by the Corporation.
- To seek explanations from the Operator for delays or non-compliance with the quality control parameters;
- To notify competent Corporation of delays and non-compliances and the explanations relating thereto for any remedial measures to be taken in this behalf.
- Perform such functions as may be provided in the Agreement or authorized by Corporation during the contract period from time to time.
- The Corporation shall require the IC to designate and notify to the Corporation and the Operator up to 2 (two) persons employed in its firm to sign for and on behalf of the IC, and any communication or document required to be signed by the IC shall be valid and effective only if signed by any of the designated persons; provided that the IC may, by notice in writing, substitute any of the designated persons by any of its employees.

Guiding Document

- Apart from above functions, the entire scope of work of IC shall be as per the essence of the main agreement with the Operator for which initially the RFP (Vol. I and II) floated for inviting proposals from bidders, shall be referred to and any other activities incidental thereto shall also form part of the Scope of Work for appointment of the IC.

Term of Engagement of Independent Consultant

- Initially the IC shall be engaged for initial period of 5 (five) years. Corporation reserves the right to extend the period of IC by another 5 (five) years period upon mutually agreed terms and conditions subsequent to expiry of the initial period of 5 (five) years. Moreover, the term of IC may be terminated at any time after 3 months after the exit of Operator in case Operator exercises exit option or is terminated, after final settlement with the Operator is done and the services of IC are no longer required.

4. Instructions to Bidders

4.1. Basic Eligibility Criteria

4.1.1. The bidder

The bidding is open for consultancy Firms empaneled with Government Undertakings and Statutory Bodies in technical / commercial domain. For the avoidance of doubt, Government Undertakings and Statutory Bodies shall include Jawaharlal Nehru Port Trust, Indian Ports Association, National Highways Authority of India / Ministry of Road Transport & Highways, Central Public Works Department, RITES, National Building construction corporation, Government of Punjab, Government owned Consultancy firms, or any other appropriate Government Undertakings as may be deemed fit by the Corporation. Valid Certificate Proof to be provisioned.

Sole Bidder/ Members of the Consortium must be a company / firm/LLP registered in India and under appropriate authority and is in existence for at least 7 (seven) years before the date of issuance of this TOR. Valid Proofs to be enclosed.

4.1.2. Human Resource

Preceding the Proposal Due Date, the bidder (sole bidder / members of the consortium together) must have atleast 20 (twenty) full time professional staff including key technical and financial professionals (with at-least one from financial sector) providing Techno-Financial Services. The bidder must submit the complete list of regular professional staff in their firm in a format giving complete details (name, date of birth, qualifications, experience, vertical, location, contact details etc) verified by the authorized signatory. Valid Proofs to be enclosed

4.1.3. Office in Mumbai/Navi Mumbai

The bidder shall give details of its office located in Mumbai / Navi Mumbai, from where it intends to provide the Consultancy services to the Corporation Valid Proofs to be enclosed. In case, bidder does not have any existing office at these locations, then an undertaking for opening of the office within the state of Maharashtra within 8 (eight) weeks from the date of issuance of Letter of Award (LoA), shall be provided along with the proposal.

4.1.4. Non-Blacklisting/Debarment

The bidder (sole bidder / members of consortium) / its partners/ directors should not be debarred / blacklisted by the any of its client in the last 5 (five) years and an undertaking in this regard shall be submitted by the applicant with the proposal.

4.1.5. Consortium

Since this is a multi-functional assignment, a consortium of upto 2 (two) firms shall be allowed. However, the lead firm has to fulfill the basic eligibility criteria in 4.1.1

4.1.6. Conflict of Interest

Corporation requires that IC provide professional services and impartial advice and at all times hold the Corporation 's interests paramount, strictly avoid conflicts with other Projects or their own corporate interests and act without any consideration for future work. The IC or any of their affiliates, or any of their sub-consultants shall not be recruited, during the period of engagement and 6 months after completion of engagement, for any project / assignment / advisory of any nature, by the Operator of Conware CFS for which the consultants are providing services as IC to the Corporation.

4.2. Technical Eligibility Criteria

Following Technical Eligibility Criteria is required to be fulfilled by the IC duly supported by valid certificates:

4.2.1. Asset Handing over & Taking Over:

The sole bidder / one of the members of consortium should have experience of Handing Over & Taking over assets / project facilities of Government company or private company related to logistics / warehousing / Cargo handling management within or outside India. Experience in Management of International Standard with system control through software is preferred.

4.2.2. Evaluation & Recommendation of Refurbishment of Existing Facilities:

The sole bidder / one of the members of consortium should demonstrate experience in Evaluation of health and safety of all types of Asset, Civil Structure, Mechanical, Electrical & Instrumentation with minimum experience of one location for logistics / warehousing / cargo handling facilities locations within & Outside India.

4.2.3. Structural Audit:

The sole bidder / one of the members of consortium should have experience of structural audit of buildings and infrastructure facilities and should have licensed structural engineer in the team. However, if none of the members of consortium can showcase the experience, they need to hire a structural audit firm as sub-consultants with clear scope described to them in the Agreement signed between the lead firm of the consortium and the structural audit firm. Such a firm shall be mentioned in the technical bid document along with the credentials of the firm. The structure audit firm having experience in auditing warehouse buildings made of RCC structure, would be preferred. The sole bidder / one of the members of the consortium shall have structural engineer (as per the qualification mentioned in the team in subsequent section) who shall verify the structural audit report done by the audit agency and certify and sign the same. The structural audit report should be inclusive of estimated cost of repairs / refurbishment of all the damages including treatment method prescribed in the same.

4.2.4. Repair & Maintenance Review & Recommendation:

The sole bidder/one of the members of consortium should demonstrate experience in Formulation of Preventive Maintenance, Breakdown Maintenance, System development including training to technical support on documentation & Good HSE practices.

4.2.5. System Management, QA/QC, HSE & ISO certification

The sole bidder / one of the members of consortium should have ISO certification for a minimum of 3 years, have HSE policy & Manual from Corporate to all their operating location. Nil Accident Record, QA/QC team for all NDT(Non-Destructive Test) Laboratories. International Standard compliance and its system-based application will be added advantage.

4.2.6. Experience in Financial Assessment and Verification

The sole bidder / one of the members of consortium should have experience in financial audit / financial assessment / verification and certification especially in logistics / warehousing / cargo handling. The bidder should deploy in their team adequate personnel in logistics who shall have the experience in handling volume count for cargo (bulk / containerized)and related reporting for verification of container / TEU volumes and cargo weights based on data provided by the Operator, software data provided by the operator, cross verification on site,

and certifying the same (with / without changes or variation as per the case may be) within the time period prescribed in the agreement (7 days of provision of such data and claim by the Operator).

4.3. Financial Eligibility Criteria

The Bidder shall have an average annual turnover of not less than Rs. 1 (one) crore from the Professional Fees* in last 3 (three) financial years”.

*For the avoidance of doubt, professional fees hereunder refer to fees received by the Bidder for providing Technical or financial advisory services to its clients or any consultancy services involving providing advisory services in the infrastructure sector.

Note: Turnover certificates should be duly certified by the statutory auditor or by a Chartered Accountant.

4.3.1. Revenue collection, Verification, handling of Operation & Management Contract;

The bidder (sole bidder / one of the member of consortium) should have experience of Operation & Maintenance Management of Marine dispatch/port /ware house/CFS location experience on Cargo handling.

Experience of Handling Custom its process including revenue collection, verification, stock tallying, and identification of head-wise revenue generation activities as per prevailing law of Nation & Guidelines. Experience of PSU/Major/Minor/International Locations etc. will have added advantage.

4.3.2. Carrying out Periodical Audit using Software & physical verification:

The bidder (sole bidder / one of the member of consortium) is required to have experience of carrying out Audit of Financial nature, Operational audit, Loss Control audit, System Audit including SAP/Software (known) based reconciliation & audit within & outside India.

4.4. Key Personnel

The Independent Consultant shall form a multi-disciplinary team for undertaking this assignment. The following Key Personnel whose experience and responsibilities are briefly described herein would be considered for evaluation of the Technical Proposal.

No	Position	Education Qualifications	Essential Experience
1	Logistic Expert Cum Team Leader*	B.E. / B. Tech. / Equivalent	10 (ten) years of experience as Logistics Expert in various projects including experience in providing Independent Engineer / Auditor / Consultant services. The Team Leader should have full knowledge of CFS industry, the processes, the business cycle, equipment used in the same, the customs processes and rules & regulations etc.
2	Civil Engineer	Postgraduate in Structural Engineering or equivalent	15 (fifteen) years in structural assessment / audit of buildings including similar buildings like warehouses or godowns and experience in verifying design, drawings and materials are in conformance with Operation Agreement

No	Position	Education Qualifications	Essential Experience
3	Financial Expert	MBA (Finance) or CA	5 (Five) years of experience in financial audit of logistics firms / companies in ports and related operations / firms in CFS or ICD business / warehousing firms / firms in supply chain management etc. He should be conversant in using and evaluating software based outputs and data provided by the Operator.
4	Contract Expert	Graduate in relevant field of engineering or Commerce	10 (Ten) years of experience in O&M and preparation / review of manuals for port projects or Logistic and supply chain projects / similar projects. He / she should have experience in contract management – especially in infrastructure projects.
5	Support Experts / Staff		The IC team should have adequate support experts to perform the functions.

*The Logistics Expert cum Team Leader shall be on full time employment of the Lead Firm and shall be stationed at the CFS Facility as one of the Authorized Signatories of the IC. Valid Proofs to be enclosed

4.5. Proposal

4.5.1. Submission of Proposal

- The bidder firms are required to submit online proposals. The Bidder shall upload the Technical Bid & Financial Bid documents as mentioned in formats of submission on e-tendering website <https://eproc.punjab.gov.in> in the specified formats.

.Written responses to this TOR must be prepared as specified to form, content and sequence as stated in earlier sections of this Terms of Reference. No additions or changes to a proposal shall be allowed after the submittal date. Only the original proposal is to be submitted online without any copy. The Proposal for consultancy services must be uploaded on or before 14/07/2022 up to 15:30hrs. CONWARE will not consider any proposals received after the time specified for receiving the proposals.

The Proposal shall be signed by an Authorized Person on behalf of the firm, who is appointed by way of a power of Attorney in his favour duly executed on a stamp paper of appropriate denomination and supported by a Board Resolution to be submitted along with the proposal by the Applicant firm/ consortium. All the necessary forms and statements for the various provisions explained in this document must be completed, properly signed and submitted with the proposal.

Your written submittal should be addressed to and received by CONWARE at:

The Managing Director

PUNJAB STATE CONTAINER AND WAREHOUSING CORPORATION LIMITED

S.C.0.119-120, Sector 17 B, Chandigarh, 160017

E-Mail ID: punjabconware@yahoo.com

4.5.2. Language

The Proposal and all related correspondence and documents shall be written in English language. And in case of any ambiguity the decision of CONWARE shall be final.

4.5.3. Evaluation of Proposals

- a. The Bidder shall upload the Technical Bid and the Financial Bid documents on e-tendering website <https://eproc.punjab.gov.in> in the specified formats.
- b. CONWARE shall open the Proposals at a time, date and venue specified in this Schedule for Bid and in the presence of the Applicants who choose to attend. The "Technical Proposal" shall be opened first.
- c. Proposals for which a notice of withdrawal has been submitted in accordance with the provisions of this TOR document not be opened.
- d. Prior to evaluation of Proposals, CONWARE will determine whether each Proposal is responsive to the requirements of this TOR.
- e. CONWARE reserves the right to reject any Proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the CONWARE in respect of such Proposals.
- f. CONWARE would subsequently examine and evaluate Proposals in accordance with the Selection Process specified in this TOR and the criteria set out in this TOR.
- g. After the technical evaluation, CONWARE would prepare a list of shortlisted bidders. List of Shortlisted bidders shall be uploaded on <https://eproc.punjab.gov.in>.
- h. Bidders are advised that selection will be entirely be at the discretion of CONWARE. Bidders will be deemed to have understood and agreed that no explanation or justification on any aspect of the selection process or selection will be given by CONWARE.
- i. Any information contained in the Proposal shall not in any way be construed as binding on CONWARE or the Corporation, its agents, successors or assigns, but shall be binding against the Bidder if the work for consultancy services is awarded to it.
- j. The Corporation reserves the right to annul the entire Bidding Process and may at its sole discretion invite fresh bids without assigning any reason thereof.

4.5.4. Evaluation of Financial Proposal

The bidder shall quote two amounts in the format for financial bid (Form 5):

1. Monthly Fees for 1st Year of engagement
2. Fees per structural assessment or audit.

The fees for 1st year shall be 12 x Fees quoted per month for the 1st year.

The fees for subsequent years shall be escalated by 3% p.a. year on year, over previous years' value, for the engagement period.

For the purpose of evaluation, the following figures of different bidders shall be considered.

Total Quote Q = Sum of Following (to be filled in the Form 4):

1. 1st year's Fees (F1)
2. 2nd Year's Fees (F2 = F1 x 1.03)
3. 3rd Year's Fees (F3 = F2 x 1.03)
4. 4th Years' Fees (F4 = F3 x 1.03)

- 5. 5th Year's Fees (F5 = F4 x 1.03)
- 6. Fees per Structural Audit / Assessment

The bidder whose total quote (Q) is lowest, shall be selected for providing services as IC for the project.

4.5.5. Clarifications

- a. To facilitate evaluation of Proposals, CONWARE may, at its sole discretion, seek clarifications from any Applicant(s) regarding its Proposal such clarification(s) shall be provided within the time specified by CONWARE for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.
- b. In case an Applicant does not provide clarifications sought as per the clause 4.5.3 (a) above within the specified time, its Proposal shall be liable to be rejected. In case the Proposal is not rejected, CONWARE may proceed to evaluate the Proposal by construing the particulars requiring clarification to the best of its understanding, and the Applicant shall be barred from subsequently questioning such interpretation of CONWARE.

4.5.6. Miscellaneous

The Selection Process shall be governed by, and construed in accordance with, the laws of India and the Courts at Chandigarh shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Selection Process.

CONWARE, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:

- (a.)suspend and/or cancel the Selection Process and/or amend and/or supplement the Selection Process or modify the dates or other terms and conditions relating thereto;
- (b.)consult with any Applicant in order to receive clarification or further information;
- (c.)retain any information and/or evidence submitted to CONWARE by, on behalf of and/or in relation to any Applicant; and/or
- (d.)Independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Applicant.

It shall be deemed that by submitting the Proposal, the Applicant agrees and releases CONWARE, the Corporation , their employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder, pursuant hereto and/or in connection herewith and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or future.

5. Deliverables and Timelines for IC

The IC shall be appointed initially for a period of 5 years. The following would be deliverables and timeline for IC:

Deliverable	Period Due	Timelines
Joint Inventory Assessment	Once prior to the commencement of the Operation Period And at the time of Termination/	To be submitted 7 days from the completion of the Joint Inventory Assessment

	Completion/ exercise of Option to exit by the Operator from the Agreement	
Review and Certification of Refurbishments, Modification or Development Plan and certification of costing	As and when submitted by the Operator	Report to be submitted within 15 days from the receipt of the Refurbishments, Modification or Development Plan from the Operator
Certification of Completion of Refurbishments, Modification or Development	As and when submitted by the Operator	Report to be submitted within 15 days from the receipt completion notice of Refurbishments, Modification or Development by the Operator
Structural Audit Report	Once every 3 years commencing 3 years from appointment of Operator	Report to be submitted 30 days from the commencement of structural audit.
Review of Maintenance Program	On discussion and finalization with the Operator post the completion of structural audit	Report to be submitted within 15 days from the receipt of the Maintenance Program from the Operator
Assessment of the variation of the Quarterly installment of the Annual Variable Revenue	Every Quarter from the commencement of Operations by the Operator	To be computed and shared with the Corporation within 7 days from the end of the previous financial quarter
Computation of the Annual Escalation in the Annual Fees	Every year from the commencement of Operations by the Operator	To be computed and shared with the Corporation within 14 days from the end of the financial year.
Computation of Termination Payments	At the time of Termination of O & M Agreement	To be computed within 15 days from the date of demand raised by the Operator to the Corporation.

For the avoidance of doubt, unless otherwise specified in the O & M Agreement or its Schedules, the IC shall within a period of not more than 15 (Fifteen) days submit his comments / recommendations with the Corporation as well as the Operator, on the submissions made by the Operator.

6. General Terms & Conditions

6.1. Payments to the IC

It is to be noted here, that though the IC has been appointed by the Corporation, the payment to the IC pertaining to its Fees, Costs and Expenses incurred shall be borne equally by Corporation as well as the Operator. For the avoidance of doubt the IC shall raise its quarterly Invoices in the name of the Corporation i.e. CONWARE.

The payment to IC shall be made by the Corporation.

6.2. Authorized Signatories

The Corporation shall require the IC to designate and notify to the Corporation and the Operator up to 2 (two) persons employed in its firm to sign for and on behalf of the IC, and any communication or document required to be signed by the IC shall be valid and effective only if signed by any of such Authorized Signatory; provided that the IC may, by notice in writing, substitute any of the aforementioned Authorized Signatory by any of its employees.

6.3. Dispute Resolution

If either Party disputes any advice, instruction, decision, direction or award of the IC, or, as the case may be, the assertion or failure to assert jurisdiction, the Dispute shall be resolved in accordance with the Dispute Resolution Procedure as set out under Clause 32.1.

6.4. Interim Arrangement

In the event that the Corporation does not appoint an IC, or the IC so appointed has relinquished its functions or defaulted in discharge thereof, the Corporation may, in the interim, designate and authorize any person to discharge the functions of the IC in accordance with the provisions of the O & M Agreement, save and except that such person shall not exercise any functions relating to review, comment, approval or inspection as specified in the O & M Agreement for and in respect of the IC, and such functions shall be discharged as and when an IC is appointed in accordance with the provisions of the O & M Agreement. Provided, however, that nothing contained in this Clause 6.4 shall in any manner restrict the rights of the Corporation to enforce compliance of the provisions of the O & M Agreement.

6.5. Termination of Services

The services of the Independent Consultant can be terminated during the engagement period on grounds of performance and compliances to the scope of work. The services of IC can also be terminated if the services are no longer required owing to exit of operator / termination of operator.

6.6. Review of Performance of Independent Consultant

The Corporation may at any time from time to time at its sole discretion, without assigning any reason, review/ inspect the reports and recommendations provided by the IC and seek such additional information as may be deemed fit by the Corporation , in order to provide necessary clarifications and explanations. Upon successful completion of such review or inspection, the Corporation may ask the IC to provide necessary clarifications/ justification and remedies if any.

The performance of the IC shall be reviewed periodically, by the Corporation. In case the Operator has any grievance or observations about the performance of the IC, it shall communicate the same to the Corporation in written form along with appropriate reasons. The Corporation shall communicate the same to the IC and seek clarifications on the issues raised by the Operator. Upon receipt of clarifications from the IC, if found satisfactory to the Corporation, the Corporation may at its own discretion take further necessary actions thereafter. In the event of change in IC, the Corporation shall communicate the Operator in writing about the same.

Formats

FORM 1: Covering Letter

To

Managing Director,
PUNJAB STATE CONTAINER &
WAREHOUSING CORPORATION LIMITED (CONWARE),
S.C.0.119-120, Sector 17,
Chandigarh – 160 017

Subject: Selection of Independent Consultant (IC) for Punjab CONWARE Container Freight Station at Nhava Seva, Dist. Raigad, Maharashtra (2nd Call)

Dear Sir,

1. With reference to the TOR Document for the captioned Project, I/we, having examined all relevant documents and understood their contents, hereby submit our Proposal for selection as IC for the same. The Proposal is unconditional and unqualified.
2. Processing Fee of Rs. **10,000/- (Rupees Ten thousand)** has been made throughreference no. _____, Dated..... issued by _____ in favour of Punjab State Container & Warehousing Corporation Limited (enclosed).
3. Bid Security of Rs. **1,00,000/- (Rupees One Lac)** has been made has been made throughreference no . _____, Dated..... issued by _____ in favour of State Container & Warehousing Corporation Limited (enclosed).
4. All information provided in the Proposal is true and correct and all documents accompanying such Proposal are true copies of their respective originals.
5. This statement is made for the express purpose of Selection of Independent Consultant (IC) for Punjab CONWARE Container Freight Station at Nhava Sheva, Dist. Raigad, Maharashtra.
6. I/We shall make available to CONWARE any additional information it may deem necessary or require for supplementing or authenticating the Proposal.
7. I/We acknowledge the right of CONWARE to reject our application without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
8. I/We certify that in the last 5 (five) years, we/ any of the consortium members have neither failed to perform on any contract, and never been penalized by any arbitral or judicial Client or a judicial pronouncement or arbitration award against the Applicant, nor have been expelled from any project or contract nor have had any contract terminated for breach on our part.
9. I/We declare that:
 - (a) I/We have examined and have no reservations to the TOR Documents, including any Addendum thereto, issued by CONWARE;
 - (b) I/We do not have any conflict of interest in accordance with provisions of the TOR Document;

(c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in the TOR document, in respect of any tender or Terms of Reference issued by or any agreement entered into with the Corporation or any other public sector enterprise or any government, Central or State; and

(d) I/We hereby certify that we have taken steps to ensure that inconformity with the provisions of the TOR, no person acting for us or on our behalf will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.

(e) I/We hereby declare that if appointed as the IC, all the members of our Consortium shall be jointly and severally liable to fulfill all the obligations enumerated in this TOR document and Agreement.

10. I/We understand that you may cancel the Selection Process at any time and that you are neither bound to accept any Proposal that you may receive nor to select the Applicant, without incurring any liability to the Applicant in accordance with the provisions of this TOR document.

11. I/We declare that we/any member of the consortium, are/is not a Member of any other Consortium applying for Selection of the IC for Punjab Conware CFS at Nhava Sheva, Maharashtra.

12. I/We certify that we have not been convicted by a Court of Law or indicted or otherwise have adverse orders passed against us by a regulatory Corporation which would cast a doubt on our ability to undertake the Consultancy for the Project or which relates to a grave offence that outrages the moral sense of the community.

13. I/We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.

14. I/We further certify that no investigation by a regulatory Corporation is pending either against the company or against our Associates or against our CEO or any of our Directors/Partners/ Managers/employees.

15. I/We hereby irrevocably waive any right or remedy, which we may have at any stage at law or howsoever otherwise, arising to challenge or question any decision taken by State Government / Punjab State Container & Warehousing Corporation Limited (CONWARE) in connection with the Selection of the Independent Consultant (IC) for Punjab Conware CFS or in connection with the Selection Process itself in respect of the above mentioned Project.

16. I/We agree and understand that the proposal is subject to the provisions of this TOR document. In no case, shall I/we have any claim or right of whatsoever nature if the Consultancy for the Project is not awarded to me/us or our proposal is not opened or rejected.

17. I/We agree to keep this offer valid for a period of 180 (One hundred and Eighty) days or for a longer period on any further extension being sought by CONWARE, from the proposal due date specified in the TOR.

18. In the event of my/our firm/ consortium being selected as the IC, I/we agree to enter into an Agreement in accordance with the provisions of the TOR. We agree not to seek any changes in the aforesaid form and agree to abide by the same.

19. I/We have studied the TOR and all other documents carefully and also surveyed the Project site. We understand that except to the extent as expressly set forth in the Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by CONWARE or in respect of any matter arising out of or concerning or relating to the Selection Process including the award of Consultancy.

20. I/We agree and undertake to abide by all the terms and conditions of the TOR Document. In witness thereof, I/we submit this Proposal under and in accordance with the terms of the TOR Document.

21. I/We have an office in Mumbai / Navi Mumbai area / agree and confirm to open a office in Mumbai / Navi Mumbai and an undertaking in this regard is attached.

22. An undertaking regarding non blacklisting as required under clause 4.1.4 of this TOR document is attached.

Yours faithfully,

(Signature, name and designation of the Authorized Signatory)

(Name and seal of the Applicant)

FORM 2: Power of Attorney for Authorized Signatory

(On a Stamp Paper of relevant value)

POWER OF ATTORNEY

Know all men by these present, we _____ (name and address of the registered office) do hereby constitute, appoint and authorize Mr. /Ms. _____ (name and address of residence) who is presently employed with us and holding the position of _____ as our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our Proposal for the Project.

We hereby agree to ratify all acts, deeds and things lawfully done by our said attorney pursuant to this Power of Attorney and that all acts deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us.

Executant
Signature of Attorney
(Name, Title and Address of the Attorney)

Attested

Executant

Notes:

1. To be executed by the Applicant/ Members in case of a Consortium.
2. 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 executants (s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.
3. Also, where required, the executants(s) should submit for verification the extract of the charter documents and documents such as a 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.
4. The Bidder shall submit consortium agreement signed between the consortium members.

FORM 3: Letter of Undertaking

Dated:

To,
The Managing Director
PUNJAB STATE CONTAINER &
WAREHOUSING CORPORATION LIMITED (CONWARE),
S.C.0.119-120, Sector 17,
Chandigarh – 160017

Subject: Selection of Independent Consultant (IC) for Punjab CONWARE Container Freight Station at Nhava Sheva, Dist. Raigad, Maharashtra (2nd Call)

We hereby agree and undertake as under:

(i) That, notwithstanding any conditions, whether implied or mentioned in our Proposal, we agree to the terms and conditions as contained in the TOR document provided to us.

(ii) That, we confirm that our office is located in the State of Maharashtra at the below mentioned address:

(iii) That if, we are selected for the Project, then, we shall open our office within the state of Maharashtra within 8 (eight) weeks from the date of issuance of Notice of Award (NoA).

We hereby represent and confirm that our proposal is unconditional.

Dated this..... Day of..... 202_

Name of the Applicant

Signature of the Authorized Person

Name of the Authorized Person

FORM 4: Financial Bid

Dated:

To

Managing Director,
PUNJAB STATE CONTAINER
& WAREHOUSING CORPORATION LIMITED (CONWARE),
S.C.0.119-120, Sector 17, Chandigarh – 160017

Subject: Financial Bid for “Selection of Independent Consultant (IC) for Punjab CONWARE Container Freight Station at Nhava Seva, Dist. Raigad, Maharashtra”. (2nd Call)

Dear Sir,

In terms of the provisions of the Terms of Reference, our financial bid for the subject cited assignment is as follows:

S.No.	Name of work	Fee (INR)	GST / taxes	Total Fee (INR)
		(without GST/ applicable taxes)	as applicable presently	with GST / applicable taxes
		In figures & in words	In figures & in words	In figures & in words

2. We undertake our financial bid as unconditional.

Dated this..... Day of..... 202_

Name of the Applicant
Signature of the Authorized Person
Name of the Authorized Person

Form 5: Financial Bid

Dated:

To

Managing Director
PUNJAB STATE CONTAINER &
WAREHOUSING CORPORATION LIMITED (CONWARE)
S.C.0.119-120, Sector 17,
Chandigarh – 160017

Subject: Financial Bid Break up for “Selection of Independent Consultant (IC) for Punjab CONWARE Container Freight Station at Nhava Seva, Dist. Raigad, Maharashtra” (2nd Call)

Sir,

In terms of provisions of Terms of Reference, our financial bid for the subject cited assignment is as follows:-

S.N.	Particulars		
1	Monthly Fees	Monthly Fees (L.S.) for 1 st years (A) Rs _____	1 st Years' Fees (12 months) (B) = A X 12
2	Fees for Structural Audit		Rs _____ per audit / report (to be quoted)

We undertake our financial bid as unconditional.

Dated this Day of 2022

Name of the Applicant

Signature of the Authorized Person

Name of the Authorized Person