

TENDER NO. 29005/2017/NGMA

Dated: 25<sup>th</sup> July, 2019

Cost of Tender Document: Rs. 200/-

DETAILED TENDER DOCUMENT  
FOR

National Gallery of Modern Art

Government of India

Ministry of Culture

Jaipur House, New Delhi -110003

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National Gallery of Modern Art  
Government of India  
Ministry of Culture  
Jaipur House, New Delhi -110003

TENDER NO. 29005/2017/NGMA

Dated: 25<sup>th</sup> July, 2019

### NOTICE INVITING TENDER (NIT)

Sealed Tenders are invited from reputed caterers having proven experience and ability in preparation and serving of food for managing a cafeteria on license basis situated inside the premises of National Gallery of Modern Art, Jaipur House, New Delhi-110003. The license shall be valid for a period of five (5) years. The Terms and Conditions and other related aspects are outlined in the Tender Document.

The Tender Document can be obtained from the Account Branch at National Gallery of Modern Art, Jaipur House, New Delhi-110003.

Earnest Money Deposit (EMD)

Rs. 50,000- (Payable in the form of a Demand Draft drawn in favour of 'Drawing & Disbursing Officer' National Gallery of Modern Art, New Delhi).

Issue of tender Documents

Between 11.00 A.M. and 5.00 P.M.

On any working day within 14 days of the date of publication of the notice on e-procurement portal, office website [www.ngma.gov.in](http://www.ngma.gov.in). The tender form containing the detailed specifications, eligibility criteria, terms & condition, etc. may be obtained from the cashier of this office against payment of Rs. 200/- in the form of cash or Demand Draft drawn in favor of Drawing & Disbursing Officer, National Gallery of Modern Art payable at New Delhi on any working day except holidays between 10 A.M. to 5 P.M. The tender documents may also be download from the website of NGMA <http://www.ngmaindia.gov.in> and requisite amount of Rs. 200/- may be deposited in the form of Demand Draft as mentioned above, alongwith the tender.

Pre Bid meeting

on the 2<sup>nd</sup> August 2019 at 11.00 A.M. in NGMA

Last Date/ Time of receipt

Up to 3.00 P.M. on 21<sup>st</sup> day of notice

Date/Time of opening

Between 4.00 pm and 5.00 pm on 21<sup>st</sup> day of notice.

Any Clarification may be sought on Phone- 011-23386208



(Ritu Sharma)  
Director

**National Gallery of Modern Art**  
Government of India  
Ministry of Culture  
Jaipur House, New Delhi -110003

TENDER NO: 29005/2017/NGMA

DATED: 25<sup>th</sup> July, 2019

**TENDER FORM FOR OPERATING CAFETERIA ON LICENSE BASIS AT NATIONAL GALLERY OF MODERN ART**

**Description of the Tender**

Operating cafeteria on license basis for a period of 5 (five) years at National Gallery of Modern Art, Jaipur House, New Delhi -110003.

The License period shall be initially for five years term from commencement date with an annual escalation of 10% from the 2<sup>nd</sup> year of the commencement date and thereafter another term of five (5) years extendable or with provision of right of first refusal (ROFR) clause in future tender subject to past performance. An annual escalation of 25% shall be applicable over the License fee paid for the immediately preceding year. The License fee will be payable annually in two instalment, in advance for the every 6 months.

**NOTE:**

1. The document contains 50 Pages.
2. The Technical and Financial Bids shall be duly filled in and submitted in original.
3. The Bids should be signed on all pages by the Applicant under seal.
4. All information to be written legibly; where figures are furnished, these are to be written in words also, within brackets.
5. Attach separate sheets wherever necessary.

### 3.Key Terms

Following words and terms used in this document shall, unless the context requires otherwise, have the following meaning.

- (a) **“Applicant’ or ‘Tenderer’ or ‘Bidder’** means the person submitting the Tender pursuant to the NIT.
- (b) **‘Cafeteria’** means the cafeteria at NGMA, New Delhi.
- (c) **‘Chairman’** is the Head and Head of Department (HoD) of National Gallery of Modern Art.
- (d) **‘Commencement Date’** means a date, mentioned in the letter of award, and in absence of a specified date in the letter of award, the date of the letter of award, from which the license granted to the License for operation of the Cafeteria is intended to commence.
- (e) **‘Committee’** means the committee established by NGMA under the chairman to administer and manage the tender process under the NIT.
- (f) **‘EMD’** mean the Earnest Money Deposit of Rs.50, 000/- (Rupees Fifty Thousand Only) to be deposited by the Applicant.
- (g) **‘License Agreement’** means the agreement to be executed between the License and NHM for award of license to the License to operate the Cafeteria.
- (h) **‘License’ or ‘Agency’** means the individual/agency selected for award of license to operate the Cafeteria.
- (i) **‘License Fee’** is the annual fee paid by the Licensee to the Licensor.
- (j) **‘Licensed Premises’** means the basement -1 Level defining the Cafeteri of NGMA and covering and furnished area of approximately 4672 sq.ft. (including kitchen area).
- (k) **‘Licensor’** means National Gallery of Modern Art.
- (l) **NGMA’** means National Gallery of Modern Art.
- (m) **‘NIT’** means the Notice Inviting Tender for operation of the Cafeteria at NGMA.
- (n) **‘Tender’** means the formal offer to undertake the work.
- (o) **‘Term’** means the term commencing from the Commencement Date, until the termination of the license awarded to the License to operate the Cafeteria.
- (p) **‘HOD NGMA’** means Head of Department of NGMA,

#### 4. Terms and Conditions

- I. Terms and Conditions for submission of the tender
  - 1.1 No Tenderer shall be a close relative of any employee of NGMA, nor shall any Tenderer be associated with an employee of NGMA or their close relatives as proprietor/partner/share holder/ director and the like.
  - 1.2 The successful Tenderer shall be required to enter into a License Agreement with NGMA, governing the Terms and Conditions of the license on judicial stamp paper as per Clause XIII below.
  - 1.3 The Tender should accompany a demand draft of Rs. 50,000/- (Rupees Fifty Thousand Only) in favor of Drawing & Disbursing Officer National Gallery of Modern Art, New Delhi drawn on any nationalized bank towards EMD. This EMD shall refunded to unsuccessful Tenderers for which no interest shall be payable.
  - 1.4 The successful Tenderer shall submit the following documents and payments within days from the date of placement of the work order.
    - 1.4.1 Duplicate copy of the work order dully signed by the Tenderer as a token of acceptance of the service contract.
    - 1.4.2 Original copy of the License Agreement/deed of license governing the Terms and Conditions of the Contract on non-judicial stamp paper as per Clause XIII below.
    - 1.4.3 Security deposit as contained in Clause XIV of the Terms and Conditions for rendering the services for operating the Cafeteria.
  - 1.5 The successful Tenderer shall pay an annual license fee as per Clause 30.25 under Miscellaneous and General Terms for Tendering of Services in Operating Cafeteria.
  - 1.6 The Cafeteria shall be kept open on all days of the year other than Holi and Diwali festival days during the prescribed hours of functioning from 10.00 A.M. to 07.00 P.M. only. No parking facility will be available for visitors outside the National Gallery of Modern Art.
  - 1.7 Dinning and Serving of food areas are Centrally Air conditioned and kitchen is well-equipped. The Bidders are requested to quote the rate accordingly.
  - 1.8 Furniture and light fixture will be arranged by the bidder.

## II. Eligibility

- 2.1. An applicant shall be a private or Government owned legal entity, or any combination of them in the form of association including joint venture (JV) with the formal intent (as evidenced by a letter of intent), to enter into an agreement or under an existing agreement. In the case of consortium/JV, all parties shall be jointly and severally liable and there shall be no limit on the number of partners.
- 2.2. An Applicant shall submit, directly or indirectly, only one application in the tendering process, either individually as an applicant or as a partner of a JV. An applicant who submits or participants in more than one application will cause all the applications in which the Applicant has participated to be disqualified.
- 2.3. The applicant should not be debarred or black-listed by CBI or any Government Department or Public Sector Undertaking Departments like Railways, Defence, Tourism, Civil Aviation or other Department of Government of India and any State Government.
- 2.4. Applicants and all parties constituting the Applicant shall provide such evidence of their continued eligibility as required.
- 2.5. The Applicant should meet the following criteria;
  - 2.5.1 The Applicant should possess at least 5 years experience in operating a restaurant.
  - 2.5.2 The Applicant should be presently operating a minimum of 2 stand- alone restaurants at different locations, but should not be a fast food chain offering essentially the same standard menu at different locations.
  - 2.5.3 In the case of consortium/JV, if all parties constituting the Applicant collectively meet the criteria as laid down above, they shall be eligible.

## III Pre-Bid Conference

A pre-bid conference for interested applicants shall be held at the office of the Director General of National Gallery of Modern Art, at 3 PM on the 7<sup>th</sup> day from the date of the notice, where any clarification required regarding the Terms and Conditions shall be provided to interested applicants.

## IV Earnest Money Deposit (EMD)

- 4.1 The Technical Bid should be accompanied by EMD of Rs. 50,000/- in the form of demand draft. EMD in any other form will not be accepted.
- 4.2 Tenders not accompanied by EMD are liable to be summarily rejected.
- 4.3 EMD of unsuccessful applicants will be returned without interest after the finalization of the tender.

## V. Submission of Tender Form



Tender form should be filled up in all respects and returned by the Applicant duly signed on each page of the original Tender form including the pages containing the terms and conditions and should be properly sealed. The Tender consists of two parts as given below.

## **5.1 Part I- Technical Bid**

5.1.1 The Technical Bid shall be filled in as per Annexure; 1, 2,3,4,5 hereof. Information required in the Technical Bid must be furnished; else the bid is liable to be rejected.

5.1.2 The following documents must accompany the Technical Bid:-

a) *Certificate of furnishing correct information*

*The applicant shall furnish a certificate (See Annexure 5) to the effect that correct information has been furnished in the Tender and the Applicant shall be solely responsible for furnishing misleading, wrong or false information in the Tender. Furnishing of misleading, wrong or false information may lead to the cancellation of the Bid.*

b) *A letter of authorization duly authorizing the signatory to participant and sign the Tender documents on the letterhead of the Applicant.*

c) *A declaration on no-judicial stamp paper of Rs.100/- duly attested by Notary Public to the effect that the Applicant is not debarred or black-listed by CBI or any Government Department or Public sector undertaking, departments like railways, Defence, Tourism, Civil Aviation or other Department of Government of India and any State Government.*

d) *EMD*

e) *Copies of financial statement (balance sheets, including all related notes, and income statements) for the last 5 financial years to demonstrate.*

- *Average annual restaurant turnover; and*
- *Minimum average turnover in India of Rs.2 Crore in the core business of operating restaurant in the last 3 completed financial years.*

*Financial statements shall also include Profit & Loss Accounts along with all schedules indicating the break-up of their revenue from various sources separately. In the absence of details in Profit and Loss Account, a separate schedule showing bifurcation of revenue, duly certified by a Chartered Accountant, shall be submitted.*

- *Reflect the financial situation of the Applicant. Or partner to a consortium.JV, and not its affiliate companies;*
- *Be audited by a Chartered Accountant.*
- *Be complete, including all notes to the Financial Statements; and*
- *Correspond to accounting periods already completed and audited statements for partial periods shall be requested or accepted.*

- f) *A sample menu for staff meals.*
- g) *A sample menu for the cafeteria.*
- h) *Any relevant information or document which applicant(s) may consider appropriate for a cafeteria of the NGMA, including documents evidencing their expertise/experience/ideas related to regional Indian cuisines and their contemporary interpretation, other than for which Tender has been invited by NGMA.*

5.1.3 The Technical Bid as prescribed should be filled in original and should be sealed in a separate cover. The Technical Bid should be superscribed as **‘TENDER FOR CAFETERIA AT NGMA –TECHNICAL BID’**.

## **5.2 Part II-Financial Bid**

- 5.2.1 The Financial Bid (Annexure 6) should contain the quote for the license fee offered.
- 5.2.2 The rate should be clearly indicated in words and figures. Whenever there is discrepancy between words and figures, the higher among them shall apply.
- 5.2.3 There should not be any over-writing/cutting in the rates tendered. Any term and condition other than those mentioned in the NIT shall not be considered and shall be rejected forthwith.
- 5.2.4 The Financial Bid as prescribed should be filled in original and should be sealed in a separate cover. The Financial Bid should be superscribed as **“TENDER FOR CAFETERIA AT NGMA FINANCIAL BID”**.

## **5.3 Technical and Financial Bids: Format for submission**

- 5.3.1 The Tender comprising the Technical and Financial Bids should be signed by the authorized signatory. The authority letter authorizing the authorized signatory shall be on the letterhead of the bidding organization and should accompany the Technical Bid.
- 5.3.2 The applicant shall indicate the number of documents submitted for the Technical and Financial Bids. The applicant should sign/initial each page of the documents submitted for the Technical and Financial Bids.
- 5.3.3 The Technical and Financial Bids should be in separate sealed envelopes marked as above and addressed to THE DIRECTOR GENERAL, NATIONAL GALLERY OF MODERN ART, JAIPUR HOUSE, NEW DELHI-110003. The Tenders containing Technical and Financial Bids in separate sealed envelopes as above should be submitted in a sealed outer cover superscribed as **“TENDER FOR CAFETERIA AT NGMA- TECHNICAL BID AND FINANCIAL BID”**.

## **VI. Amendment of Tender Documents**

At any time prior to the deadline for submission of documents, the HOD may amend the tender documents by issuing an addendum. Any addendum issued shall form part of the tender documents and may be obtained from the office of NGMA during office hours.

## **VII. Cost of Application**

The Applicant shall bear all costs associated with the preparation and submission of Tender. NGMA shall not be responsible or liable for those costs, regardless of the outcome of the tendering process.

#### **VIII. Language of Application**

All correspondence and documents relating to the Tender shall be written in English. Supporting documents and printed literatures that are part of the application may be in another language provided they are accompanied by an accurate translation of the relevant Passage in English, in which cases, for purpose of interpretation of the Bid, the translation shall be considered.

#### **IX. Last Date**

- 9.1 The Last date and time for receipt of Tender shall be up to 3pm on the 21<sup>st</sup> day from the publication of the notice. The tender received after the stipulated date and time will not be considered and rejected summarily.
- 9.2 NGMA will not accept any responsibility or grant any relaxation of time for any postal delay in the submission of tender.

#### **X Opening of Tender and Evaluation thereof**

- 10.1 The tender received will be opened by a Committee under the Chairmanship of HOD (NGMA)
- 10.2 Tender in unsealed condition or without the required documentation and certification are liable to be rejected summarily. Tenders not conforming to the requirements mentioned in the Terms and Conditions above or not accompanied by EMD are liable to be summarily rejected.
- 10.3 Before finalizing the list of technically qualified Bidders, the Committee may arrange to inspect the existing restaurant of the Applicants.
- 10.4 Thereafter, Technical Bids shall be evaluated and a list of technically-qualified Applicants will be prepared by the committee.
- 10.5 In awarding the contract, NGMA shall not be bound by the highest Financial Bid. The decision shall be taken based on the credentials, technical qualifications and the price bid, taken together, with weights of 65:35 respectively for technical and financial bids. The decision of HOD (NGMA) shall be final and binding on all applicants.
- 10.6 The Technical and Financial bids will be opened at 4.00 pm on the 23<sup>rd</sup> day from the publication of the notice.

#### **XI. False Information**

- 11.1 In the event of false, misleading or wrong information furnished by the Applicant, the EMD in respect of such applicants shall be forfeited. Further, during the performance of the contract if it is detected that the contract has been obtained by furnishing false, misleading or wrong information in the Tender, the contract is liable to be terminated and performance,

security and other payments due to NGMA shall be forfeited and the agency is liable to be blacklisted for a period up to three years.

- 11.2 If the successful applicant fails to sign the License Agreement within stipulated time or after signing the contract fails to perform any contractual obligation, his/her EMD shall be forfeited. Depending upon the gravity of violation/ omission, the applicant is liable to be blacklisted for a period up to 3 years, without prejudice to any other remedy that the committee may have under existing law.

## **XII. Acceptance and withdrawal**

- 12.1 The decision to accept any tender shall entirely rest with the Chairman of the Committee, HOD NGMA, who reserves the right to accept or reject any or all Tenders without assigning any reason whatsoever. There is no obligation on the part of the HOD (NGMA) to communicate in any way with rejected applicants. After acceptance of the Tender by HOD (NGMA), the applicant shall have no right to withdraw his tender or claim highest price. Tender with incomplete information is liable for rejection.

- 12.2 If any applicant does not accept any of these conditions, his/her tender shall not be considered.

## **XIII. License Agreement**

- 13.1 The successful applicant(s) (hereinafter referred to as License) shall execute an agreement for the fulfillment of the contract on Rs.100/- non-judicial stamp paper within 7 (seven) days from the date of acceptance of the Tender. The Agreement shall clearly specify the rights and obligations of the license and NGMA with respect to the running of the Cafeteria.
- 13.2 The incidental expenses of execution of License Agreement shall be borne by the License.

## **XIV. Security Deposit**

The Licensee shall deposit to NGMA an additional sum equivalent to 20% of the annual license fee for the entire period of the tender as '**Security Deposit**' for the due and complete performance of the provision of these Terms and Conditions and the License Agreement. This deposit shall be made in the form of a bank draft favoring 'DDO, NGMA, New Delhi' and no interest will be paid on the deposit for the entire period the Licenser retains it. This deposit is refundable subject to adjustments at the time of normal expiry of the term of the Contract.

## **XV. Implementation Schedule**

The License is expected to fully operationalize service of the Cafeteria within 8 (eight) weeks of the award of contract.

## **XVI. Termination for Default**

- 16.1 HOD (NGMA) , without prejudice to any other remedy for breach of Contract, by written notice of default sent to the License, may terminate the License Agreement in the following circumstances:

- 16.1.1 If the selected License fails to fully operationalize the Cafeteria within the time period specified in the License Agreement, or within any extension thereof granted by HOD (NGMA).
- 16.1.2. If the selected Licensee fails to deliver any or all services contracted to be delivered under the license Agreement; or
- 16.1.3. If the Licensee, in the judgment of HOD (NGMA), has engaged in corrupt or fraudulent practice in competing for or in executing Contract.

## **XVII. Use of Premises**

- 17.1 The License shall occupy and use the premises for the purpose of running the Cafeteria so as to provide amenities and facilities to the visitors and staff of NGMA.
- 17.2 Any signage/advertisement/branding shall be decided and displayed only by NGMA. The License shall not display any signage/ advertising /branding shall not be used by the License for any other purpose or at any other place.
- 17.3 The Licensee shall not display, exhibit or offer for sale any products, goods or other articles or provide services, which are outside the ambit of the agreed range of products, or services between NGMA and the Licensee or which are repugnant to good morals or are of an indecent, immoral or other improper character. In coming to any determination required under this claim, it is expressly agreed that the decision of NGMA shall be conclusive and absolutely binding and shall not be subject to dispute or review.
- 17.4 The Licensee shall not be entitled to allow any other person(s) to occupy the premises in its stead or to use any part thereof without the written permission of HOD (NGMA).

## **XVIII. Compliance**

- 18.1. The Licensee shall abide by all rules and regulations, by-laws and guidelines that NGMA may, from time, make or adopt or amend for the care, protection and administration of NGMA and the general welfare and comfort of its visitors and employees.
- 18.2. The Licensee and its employees and agents shall be bound to comply with any instructions issued by NGMA from time to time.
- 18.3. The Licensee will, during the continuance of this agreement, insure against any claim for workmen's compensation or otherwise of all persons employed by him in connection with his business.

## **XIX. Control and Supervision**

- 19.1. The overall control and superintendence of the said licensed premises shall remain vested with NGMA , whose officers and agents shall at all times have the absolute right of entry into the said premises and be entitled to inspect the Cafeteria premises for its bonafide use, its state of repairs and compliance with the terms and conditions of the License Agreement, without disruption of the normal functioning of the cafeteria.

- 19.2. The Licensee shall deposit duplicate keys of the premises with NGMA whenever it is so demanded and permit NGMA to make use of the keys during any emergency. The License shall not remove or replace the lock on any door or change the locking device or any door of the licensed premises.
- 19.3 The License shall maintain a complaint book in a prominent place in the premises and in such a way that it is easily accessible to any person who wishes to record any complaint and the said book shall be open for inspection by the concerned officer of NGMA.

## **XX. Additions and Alterations**

No addition/alteration at the Licensed Premises may be undertaken without the prior approval of NGMA. Layout and design of any proposed addition/alteration shall require prior written approval of NGMA.

## **XXI. Maintenance**

- 21.1 The License will keep and maintain the Licensed Premised and the area in and around the Licensed Premises in a clean, hygienic, proper and decent condition; and shall not suffer the premises to be held in a bad state of repair and outlook during the currency of the License Agreement. Further, the Licensee shall not in any manner injure the wall, floor or other structure of the building, nor shall it cause any kind of hindrance or obstruction in the use thereof by NGMA in any manner whatsoever.
- 21.2. If the Licensed Premises are not maintained in clean condition by the Licensee, NGMA shall have powers to get the premises cleaned at the risk and cost of the Licensee and recover liquidated damages at the rate of Rs.500/- per day for each default up to 7 days and thereafter Rs.1000/- per day and can take other actions including termination of the license.
- 21.3 In the event of any damages being caused to the Licensed Premises, intentionally or otherwise, by the Licensee, or his/her/its employees or invitees or customers, NGMA shall be entitled to repair the damage or make the requisite replacement and call upon the Licensee to reimburse the cost thereof, which the Licensee undertakes to pay forthwith on demand.
- 21.4 The Licensee shall not store or bring or keep in the premises heavy articles so as to injure or damage the licensed premises or keep goods of combustible or inflammable nature, except as reasonably required by the Licensee for performing services under the License Agreement.

## **XXII. Employees**

- 22.1 The Licensee shall employ only such employees who are experienced. The Licensee will ensure that the staff engaged shall observe highest standards of courtesy, manners and professionalism while dealing with visitors and customers of the cafeteria and NGMA.
- 22.2. The Licensee shall employ only such staff as shall have good character and be well behaved and skillful in their business. NGMA shall be at liberty to forbid the employment of any person whom it may consider undesirable. The staff employed shall conform to such direction as may be issued by NGMA in respect of time, stay and the points or routes of

entry to and exit from the premises and in respect of the use of toilets and washrooms. The cafeteria manager shall also have the character of all persons employed by him verified by the police to the satisfaction of NGMA before the employment.

- 22.3. The Licensee shall immediately remove any employee from the Licensed Premises if any employee misbehaves, causes nuisance, or is considered to be undesirable by NGMA representative. NGMA shall be at liberty to request the Licensee to replace or change any employee or other staff within 48 hours time, if so needed, upon which request Licensee shall forthwith replace such employees or staff.

### **XXIII. Compensation or Concession**

- 23.1 The License will not be entitled to any compensation or concession in payment of the License Fee due to addition of any activity in the Licensed Premises by or on behalf of NGMA or closure of any activity in NGMA.
- 23.2 For breach of any Terms and Conditions of the License, NGMA reserves its right to either terminate the license, or recover compensation from the licensee for the damage suffered on breach (up to the limit of the security deposit deposited by the Licensee).

### **XXIV. Duration, Termination and Renewal**

- 24.1 The duration of the License shall be for period of 5 years from the date of award.
- 24.2. The License period shall be initially for five years term from commencement date with an annual escalation of 10% from the 2nd year of the commencement date and thereafter another term of five (05) years extendable or with provision of Right of first refusal (ROFR) clause in future tender subject to past performance. An annual escalation of 25% shall be applicable over the License fee paid for the immediately preceding year. The License Fee will be payable annually in Two instalment, in advance for every 6 months.
- 24.3 NGMA shall have the right to terminate the License by giving 90 days notice in writing without assigning any reason therefore, at any time.
- 24.4 The Licensee may also terminate the License by giving 90 days notice in writing.
- 24.5 NGMA reserves the right to decide whether the Licensee will continue to operate the Licensed Premises, if the Licensee suffers a change of control whereby a third party, either directly or indirectly, jointly or on its own, acquires control of 51% or more of the License equity or management control.
- 24.6 NGMA will be entitled automatically to terminate this Agreement on the occurrence of any of the following events:
- 24.6.1 The licensee is in breach of its responsibilities and obligations under this agreement and this has not been rectified after having been given 15 days written notice by NGMA.
- 24.6.2 The Licensee has a winding up or administration order made in relation to it;
- 24.6.3 The Licensee enters into a composition with its creditors pursuant to liquidation proceedings, or in the event that the licensee enters into an arrangement with its creditors for repayment of debt; or

- 24.6.4 If the reputation of NGMA is damaged on account of Licensee's dealings with third parties.
- 24.7 In the event of termination of License as provided hereinabove, NGMA shall always be entitled to and shall have power as its absolute discretion to reoccupy forthwith the Licensed Premises, without notice and without subjecting itself to any liability on that account and notwithstanding any intermediate negotiations or waive of breach thereof.
- 24.8 On expiry of the License period or on termination of the License by NGMA on account of any breach on the part of the Licensee, the Licensee shall deliver the possession of the Licensed Premises in good condition and in peaceful manner along with furniture, fittings, equipments and installations provided by NGMA. Further, Licensee shall remove his/their goods and other materials within 3 days from the premises failing which NGMA reserves its right to remove such goods/materials at the cost and risk of the Licensee and demand payment for such removal. If such payment is not made within 10 (ten) days, NGMA shall be at liberty to dispose off the goods/materials of the Licensee by public auction to recover the cost. The Licensee shall not be entitled to raise any objection in such an eventually.
- 24.9. In the event of any default, failure, negligence or breach, in the opinion of NGMA, on the part of the Licensee, in complying with all or any of the conditions of the License, NGMA will be entitled and be at liberty to terminate the license forthwith and resume possession of the Licensed Premises without payment of any compensation or damages and also claim in full or in part the amount deposited by the Licensee for due performance of the Agreement.

## **XXV. Insurance**

At all times during the currency of the License, it shall be the responsibility of the Licensee to obtain insurance coverage in line with standard industry practice, including cover for fire, theft and burglary in respect of all the movable and immovable assts stored or used in the licensed premises and NGMA shall not be responsible for any loss or damage caused to the Licensee or any account whatsoever.

## **XXVI. Indemnity**

- 26.1 Licensee shall indemnify NGMA and hold it harmless from all claims, demands, damages, actions, costs and charges, including against liabilities towards customer or visitors, to which NGMA may become subject, or which it may have to pay or be held liable for, by reason of any injury to persons, reputation or property suffered or sustained by any agent or employee of NGMA or arising out of any activity or negligence or omission of the Licensee or its agents or employees while in or about the Licensed Premises or other Premises of NGMA.
- 26.2. Licensee shall indemnify NGMA against any loss, claim, costs, damages to, or diminution of , its business and goodwill or any third party claims or proceedings brought against the NGMA as a result, direct or indirect, of any prejudicial business practice of the Licensee or any misrepresentation of its relationship with the NGMA. This indemnity shall be without prejudice to any other rights and remedies, which the NGMA may have under the law,

## **XXVII. Limitation of Liability**

- 28.1 NGMA shall in no way be liable for any losses or claims arising out of untoward incidents like theft, shoplifting, fire, riots, floods, natural calamities etc.



- 28.2 In case the Licensee suffers any loss on account of it being unable to carry on its business or restrained by NGMA for contravention of any of the terms and conditions, the Licensee shall have no claim on NGMA.

#### **XXIX. Relations with Third Parties**

- 29.1 No Third Party shall have any right against NGMA in connection to the award of the License to the Licensee, or for operation of the Cafeteria.
- 29.2 The Licensee will obtain a Third Party Insurance and a copy of this should be submitted to NGMA.

#### **XXX. Miscellaneous and General Terms for Tendering of Services in Operating Cafeteria**

- 30.1 The Cafeteria shall serve food items, including snacks, soft drinks, tea, and coffee in specified areas.
- 30.2 The Licensee shall ensure that regional Indian cuisines are properly represented.
- 30.3 NGMA will permit the Licensee to use a specified space for Cafeteria.
- 30.4 The Licensee shall pay an Annual License Fee (the offer to be made in the Financial Bid), to NGMA for use of Cafeteria Premises and other facilities provided by NGMA for operation of the Cafeteria. The License fee will be payable annually in 2 installments, in advance for every 6 months.
- 30.5 In addition, the Licensee shall pay for the electricity and water charges as per actual consumption, as and when due. For this purpose, separate energy meter and water meter will be provided by NGMA to the Cafeteria. The water and electricity will be supplied to the Licensee from NGMA's source, and for which the NGMA shall take reasonable care to maintain adequate supply. However, NGMA shall not be liable for any damage or loss which may be caused by and deficiency in water or electric supply and the License shall not be eligible for any remission or compensation on such account. The supply from respective sources of New Delhi Municipal Corporation (NDMC) to NGMA.
- 30.6 That in the event of failure to pay the annual license fee and other charges by due dates, simple interest @18% per annum will be payable on all delayed payments without prejudice to other rights and remedies of NGMA.
- 30.7 The Licensee shall not use the Licensed Premises, and other facilities provided specifically for the purpose of rendering service of operating the cafeteria, for any purpose other than the culinary purpose agreed upon. The Licensee shall not violate this condition either in part or in whole by any means whatsoever.
- 30.8 The Licensee shall be responsible for procuring and arranging all consumables for its use in relation to operation of the Cafeteria.
- 30.9 NGMA will install the necessary kitchen equipment, including all fittings and fixtures, cooking and cooling equipment, including back-up generator for essential safety of foods, for the smooth functioning and effective delivery of service at the Cafeteria. Licensee shall be responsible for the ongoing maintenance and repair of all equipment, and shall bear all

costs and expenses in relation thereto. In the event of termination of Contract (by Licensee or Licensors), the Licensee will ensure that all equipment is in excellent working order, failing which the Licensors will retain such part or all of the Security Deposit as necessary to repair/replace any damaged equipment.

- 30.10 Food prepared by the Licensee shall be made under good hygienic conditions, and the standard of hygiene shall be strictly maintained. This will be inspected and ascertained by a committee, appointed by NGMA, whose direction will be binding on the Licensee. The Foods shall be fresh, wholesome and of good quality. Licensee shall abide by all applicable laws relating to sale food, hygiene, and safety etc.
- 30.11 The Licensee shall be fully responsible for the cleanliness of the Cafeteria premises, which must be free of insects, mosquitoes, flies, dust and dirt. The appropriate authority shall inspect the Cafeteria premises periodically, NGMA shall have the right to terminate License agreement if the premises are found to be in unsanitary condition.
- 30.12 The establishment of the Licensee shall be separate from the establishment of the NGMA for all purposes and all respects. In no case will any kind of liability of the Licensee be borne or shared by NGMA. The Licensee shall be responsible for indemnifying NGMA for any such past, present or future liabilities.
- 30.13. The Licensee shall not erect or install any temporary structure, or fixture inside the Cafeteria premises or outside, without prior return approval of NGMA.
- 30.14 The Licensee or any of his/ her sales persons shall not sell/consume any hard drinks (such as any alcohol waste drinks, and spirits), or narcotic drugs or other prohibited substance within the premises of NGMA.
- 30.15 In respect of all persons engaged for rendering services directly or indirectly by the Licensee or under Licensee, the Licensee shall be considered as their employer. The Licensee shall also be considered as principle employer under the contract labor (Regulation and Abolition) Act, 1970. The Licensee shall not pay less than the minimum wage as prevalent in the municipal area of New Delhi, and shall abide by applicable laws in deploying persons for carrying out rendering the services for operation and management of the Cafeteria. The Licensee shall have no liability of any kind with regard to employees of NGMA.
- 30.16. The Licensee shall observe duly at all times the provision of child labor ( Prohibition and Regulation) Act, 1986 and any other enactment made in this regard.
- 30.17 The Licensee, for the purpose of fulfilling his obligations, may deploy persons as employees, server, cooks, etc who are medically fit with no contagious diseases, who will wear prescribed uniform, who shall have good character and be fit for work in a museum cafeteria where high quality public service is expected. For such engagements, the Licensee shall submit the names and credentials of his employees duly certified by the local police to NGMA for approval for the sake of security of NGMA. NGMA reserve the right of approval or rejection of any such engagements. Replacement of employees of the Licensee shall be done by following similar formalities by the Licensee. Any recommendation by NGMA for removal of an employee for valid reasons of indecency, misconduct, lack of

integrity etc, shall be binding on the Licensee for immediate compliance and replacement to be made by the Licensee.

- 30.18. While the existing security personnel of NGMA shall remain vigil round the clock on campus the Licensee shall make proper arrangement for the protection of his goods and items from theft/pilferage etc.
- 30.19 The Licensee is liable to pay compensation for any damage to NGMA properties, if caused by him or his staff. The extent of such compensation shall be determined by the authority of NGMA and shall be binding on the Licensee.
- 30.20 The Licensee, including all persons deployed or engaged by the Licensee in any manner, shall abide by the security arrangements of NGMA and shall be liable for search, frisking, scrutiny, physically or otherwise, by the security staff of NGMA. The Licensee and all such persons and his staff shall not reside inside the campus, except in special cases emerging out of exigency, when NGMA authority specifically instructs in writing that such staff members do so temporarily.
- 30.21. The Licensee shall provide working meal for staff at NGMA at a rate to be fixed in advance with the approval of NGMA. The rate for these meals will not be enhanced without the prior approval of NGMA. A sample menu and price proposed for a simple meal, for an average of 30 persons daily, should be included in the application as specified in Annexure 1.
- 30.22 The Licenses shall provide meal and refreshments for participants in programmes organized by NGMA. Rates for these will be fixed in consultation with NGMA.
- 30.23 For services other than that mentioned above (in clause 30.21 and 30.22), the Licensee shall have the freedom to charge rates found suitable by him. However, it is advised that the price of foods and services offered be maintained at reasonable market level. A sample menu and prices proposed should be included in the application.
- 30.24 The balance 50% annual license fee for the first year shall be paid to NGMA within a month from the date of execution of the License Agreement. From the second year onwards.
- 30.25 Until execution of the License Agreement, the Terms and Conditions mentioned in the Tender documents shall constitute a binding contract between the Licensee and NGMA.
- 30.26 The charges for electricity, water and supporting facilities, shall be paid by the Licensee to NGMA on monthly basis starting from one month after the execution of this agreement as per conditions laid down in previous clauses.
- 30.27 The Licensee shall provide decent liveries to the Cafeteria staff.
- 30.28 The Licensee shall comply with each and every requirement of the various local municipal and other statutory authorities for rendering service for running the Cafeteria.
- 30.29 The Licensee is not permitted to assign or in any way transfer the right under this license to any other person or agency.

- 30.30 NGMA shall have full liberty to call for absolute tidiness, cleanliness, maintenance of equipment, furniture, fixture as agreed upon and also to demand neat and clean liveries for those who will be deployed by the Licensee for the services as servers, cooks, etc.
- 30.31 The Licensee, for display of sign boards, rate list etc, will follow the logo, name, branding assigned by NGMA. The specific spaces of NGMA where such display shall be made will also require specific written permission of NGMA.
- 30.32 The Licensee shall not exhibit/display in NGMA any printed or written notice or advertisement of any kind whatsoever without the previous written approval of NGMA. The Licensee will not display any brand identity or logo relating to the licensee.
- 30.33 The Licensee will not be allowed to use the cafeteria premises for parties or occasions other than those than NGMA, may organize.
- 30.34 In keeping with the context and themes of the National Gallery of Modern Art, the cafeteria will celebrate the craft of Indian cooking, with representation of a variety of Indian regional cuisines.
- 30.35 The Licensee will be expected, during special exhibitions held at NGMA, to offer particular foods/menus that are appropriate or related directly to the exhibitions.

#### **XXXI. Standard Safety Clauses**

Licensee shall

- 31.1 Not store combustible material for a period except as may be necessary for the delivery of contracted services.
- 31.2 Install, at his own cost, an adequate number of Fire Extinguishers [of weight/capacity as per standard norms] and ensure that they are in fully functional condition at all times.
- 31.3 Provide battery-operated emergency light.
- 31.4 Not store liquid fuel of any kind.

#### **XXXII. Standard Health Clauses**

- 32.1 The Licensee premises, strictures and installations thereon, shall be kept in clean and sanitary condition by the Licensee to the satisfaction of NGMA.
- 32.2 The officer authorized by NGMA may, without notice, enter the premises at any time and inspect the premises, material instruments and implements etc., used by the Licensee.
- 32.3 All instructions given by the officer authorized or nominated by NGMA or any person working under him to prevent spread of infectious diseases, control and prevention of nuisance from insects, rodents or any other source, shall be carried out by the Licensee and his agents or staff.
- 32.4 The Licensee shall notify to the officer nominated by NGMA if any person working under him is suffering or suspected to be suffering or convalescing from any infectious disease.

The Officer nominated by NGMA may order medical inspection of the sick person or any person who is suspected have been in contract with the person by such agency as he may direct and take any precautionary and preventive measure considered necessary.

- 32.5 The Licensee, his agent and staff, shall not, without consent of the officer nominated by NGMA, interfere with, injure, destroy or render useless any work executed or any material or things placed in, under or upon any land or building, by or under the orders of such Officer, with the object of preventing the breeding or entry of mosquitoes or the maintenance of sanitation.
- 32.6 The Licensee, his agents and servants shall not abuse the water sources and drainage facilities provided in the building so as to create a nuisance or insanitary situation prejudicial to public health.
- 32.7 In the event of any default, failure, negligence or breach in the opinion of the NGMA on the part of the Licensee in complying with either of these conditions specified in foregoing sub-clauses, NGMA will be entitled and at liberty to cancel the license forthwith and resume possession of the premises without payment of any compensation or damages and claim in full or in part the amount deposited by the Licensee for the due performance of the License.

### **XXXIII Fire Prevention Clauses**

- 33.1 The Licensee undertakes not to use gas heating/naked light in the Licensed Premises other than inside the counter/premises/kitchen/restaurant/canteen for which the License has been issued.
- 33.2 The Licensee hereby undertakes to take utmost caution to prevent spillage of oil or other hazardous chemicals in the building. In the event total prevention is not possible without incurring extraordinary expense, the Licensee shall provide suitable bins/trays at appropriate places for collection of such spill, and shall dispose the collected spillage properly to avoid fire hazard or danger or unhygienic condition of the premises.
- 33.3 Licensee shall install, at his own cost, an adequate number of Fire Extinguishers (of weight/capacity as per standard norms for a cafeteria and kitchen of this size) and ensure that they are in fully functional condition at all times.
- 33.4 Licensee shall not to keep or cause any obstruction at the exit and escape routes in the premises under this license.
- 33.5 Licensee shall provide adequate number of wastebins with proper lids, in the appropriate places around the premises under this license.
- 33.6 Licensee shall not obstruct the location of fire points, fire extinguishers, fire hydrants, detectors and other operating points of any fire protection system.
- 33.7 Licensee shall not exceed the loading limits of power sources as specified by NGMA and shall not make any loose or temporary connections in the building.
- 33.8 Licensee shall educate people to be deployed by it to be conversant with emergency and evacuation procedures and handling of portable firefighting equipment.

- 33.9 Licensee shall submit the premises for inspection of fire prevention measures every year, and the Licensee shall comply with the recommendations made by the inspecting officer.
- 33.10 Licensee should have the electrical circuit in the Cafeteria premises tested at least once a year and submit the test report to HOD, NGMA. If any defect is noted, it should be rectified immediately and the compliance report furnished.
- 33.11 No cable should be laid on false-ceiling and partition wall; cable, wherever required, should be encased in metal cable trays.
- 33.12 Miniature circuit breaker and metal clad distribution board should only be used for electrical installations and distribution. ELCB should also be incorporated in the circuit.
- 33.13 Main Switch Board, electric meter, distribution board etc, should not be fixed on any combustible material.
- 33.14 No combustible material should be stored under or close to the electric switch board/distribution board/meters etc; and the approach pathway/corridors to electrical switchboards etc; should be kept clear and free of any obstructions whatsoever.
- 33.15 If in the allotted space no false ceiling has been provided, no false-ceiling work will be undertaken by Licensee without specific approval in writing obtained in advance from NGMA.
- 33.16 If the Licensee plans any false ceiling, its frame and panel etc; should not be made of wood or any such combustible materials. 'Fire retardant' material should be used for this purpose.
- 33.17 Internal partitions and other such notifications are prohibited within the licensed premises, unless written permission is obtained in advance from NGMA.
- 33.18 Wherever a false ceiling is provided, storing of any type of material above the false ceiling is prohibited.
- 33.19 Appropriate housekeeping measures should be undertaken at all the times to keep the premises, and the area leased out around the premises, neat, clean and free from any garbage and disposable materials.

#### **XXXIV. Clarification, Disputes and Settlements**

- 34.1 That in case of any dispute arising between NGMA and the Licensee, in respect of the interpretation, conduct or performance of any terms or conditions of these presents, the same shall be referred to the sole arbitration of a person who may be appointed by NGMA for the purpose, under the provisions of Arbitration & Condition Act, 1996, as amended for time. It will be no bar that Arbitration appointed as aforesaid is or has been an employee of NGMA and he awarded of then arbitration will be challenged or be open to question in any court of law on this account.

- 34.2 Both NGMA and Licensee agree to be bound by the decision of the arbitration and that the decision of the arbitration shall be final and conclusive and not open to any challenge or review. Both the parties hereto expressly agree that the appointment of any person as arbitration would not be invalidated or the decision of the arbitration would not be visited merely on the ground of his/her being associated with NGMA as one of the officers or in any other capacity whatsoever.

#### **XXXV. Jurisdiction**

In case of any dispute where legal action is compelled to be initiated by any of the parties, jurisdiction of the courts shall be New Delhi.

#### **XXXVI. Force Majeure**

- 36.1 Neither party shall be deemed to be in reach of this agreement if failure to comply with the requirement of this agreement is due to circumstances beyond the control of NGMA or Licensee.
- 36.2 If because of any strike or lockout either in NGMA or in the Local area, the Licensee is unable to function or his business is affected, NGMA shall not be liable for any loss which the Licensee may suffer in such an event. However, rebate in the license fee due to natural calamities may be granted as per the merit of the case and policy laid down by NGMA from time to time.

#### **XXXVII. Notices**

Any notice which is required to be given either by the Licensee or NGMA, will be in writing, and will be sent to the address as the recipient may designate by notice at the address provided in the License Agreement. Notice may be delivered by pre-paid post receipted email or facsimile transmission and will be deemed to have been served, if by post three business days after posting and, if by facsimile transmission or email, when dispatched or, if such day of delivery is not a business day, on the next following business day.

#### **XXXVIII. Transferability, Assignment and Sub-Contracting**

The Licensee does not have the right to transfer the benefit of this License Agreement or to delegate any obligations to a third party without the prior written consent of NGMA. The Licensee shall not, unless with the written consent of NGMA, create a sub-contract of any description with regard to this License or any part hereof, nor shall be without such written consent as aforesaid, assign or transfer his license or any part thereof.

**I agree with the terms and conditions mentioned above, and undertake to comply with these at all times during the subsistence of the license granted to me to operate the Cafeteria at National Gallery of Modern Art at New Delhi**

Date\_\_\_\_\_

Authority Signatory\_\_\_\_\_

Place: \_\_\_\_\_

Name \_\_\_\_\_

**5. Schedule of Premises**

<b>Serial No.</b>	<b>Subject</b>	<b>Information</b>
<b>1.</b>	<b>Area</b>	<b>Furnished space approximately 4672 Sq.ft.</b>
<b>2.</b>	<b>Location</b>	<b>Near India Gate New Delhi</b>
<b>3.</b>	<b>Purpose</b>	<b>Operation of Cafeteria</b>



**6. Plan of Premises**

**Plan will be available and site may be seen  
at Pre-Bid Conference on 7<sup>th</sup> Day from Notice**

**TECHNICAL BID****Annexure – 1****7.1 General Information**

Tender No:

1. Name of the applicant
2. Institution
3. Address of the applicant
4. Contact Person
  - Telephone No.
  - Fax No.
  - Email Address
5. No. of Total Staff
6. Year from which the Applicant is in the business of Restaurant Operation
7. Experience
  - a. General Experience in Restaurant
  - b. Specific Restaurant Experience
8. Details of Restaurants/ Cafeterias operated by the Applicant
9. Details of Similar Contracts/Arrangements (as per Annexure – 3)
10. Financial Information (as per Annexure – 3)
11. History of non-performing Contracts
12. Contracts pending litigation
13. Total number of years in Catering Business
 

	5 years of qualify; 1 point for each additional year, up to 10 years
	<b>10</b> <b>Max Score</b>
14. Work with Institutions Private or Government (Provide documents)
 

	15 points for experience with private institutions; 25 points for experience with government Institutions
	<b>40</b> <b>Max Score</b>

- |   |  |                  |
|---|--|------------------|
| 15. Publications in cooking publications<br>(Providing copies)  | 10 points for each publication, up to 4  | <b>Max Score</b> |
| <b>40</b>   |  |                  |
| 16. Awards<br>(Provide documents)   | 5 points for each award, up to 10 awards   | <b>Max Score</b> |
| <b>50</b>   |  |                  |
| 17. Reviews in the media<br>(Provide copies/reference)  | 5 points for each favorable review, up to 10 review (in last 5 years)  | <b>Max Score</b> |
| <b>50</b>   |  |                  |
| 18. Any information / document appropriate for a cafeteria at the NGMA (celebrating 'cooking as craft'), Including those supporting expertise, experience, or ideas, related to regional Indian cuisines and their Contemporary interpretation (Attach separate page/s)                                       | 10 points for proposals on<br>- regional Indian cuisines and their contemporary interpretation (5 points)<br>- celebrating 'cooking as craft' (5 points) | <b>Max Score</b> |
| <b>10</b>   |  |                  |
| 19. Sample Menu for Visitors<br>(Attach separate page/s)  |  |                  |
| 20. Sample Menu for Visitors<br>(Attach separate page/s)<br>Price for menu (based on 30 meals)<br>Of, or equivalent in calories of, items below:<br><br>Rice 200g.; Puri 4 or Chappati 3; Dal 100gm;<br>Curd 100gm; Seasonal Vegetable 100 gm;<br>Small Portion of Salad or Pickle; 1<br>Fresh Fruit or Sweet |  |                  |

I/We have carefully read and understood the terms and conditions of the License as contained in the Tender Document issued by National Gallery of Modern Art (NGMA) including the following:

- a. EMD is liable to be forfeited if on award of License I/we do not accept the award or do not fulfill any of the conditions stipulated in the Tender document, within the prescribed time.
- b. On account of non-acceptance of award or on account of non-completion of Tender conditions within the prescribed time, I/we shall be debarred by NGMA from further participation in Tenders under the control of NGMA for a period of 3 (three) years.

- c. In case the documents submitted by my/our firm along with the Tender are found inadequate/false/incorrect, the Tender of my/our firm will be liable to be rejected without assigning any reason. In addition, NGMA reserves its right to forfeit the EMD of my/our firm and debar my/our firm from participation in any further Tender of NGMA.
- d. NGMA reserves itself the right to reject the conditional offer without assigning any reason thereto.
- e. NGMA does not bind itself to accept the highest or any tender and reserves to itself the right of accepting the whole or any part of the Tender and the Applicant shall be bound to provide the service at the rate quoted.

Signature

Name of Authorized Signatory

Date

Place

Office Seal

Witnessed by:

**21. Note:** - Attach separate sheet wherever necessary

**Annexure-2****7.2 Details of Cafeterias/Restaurants****TENDER NO.**

Location

Name of the Restaurant  
(if part of consortium/JV)

Date of establishment  
Details of cuisines served  
Number of staff

Qualification & experience of key  
Staff  
Turnover (Rs. In Lakhs)  
For last 5 years

Whether on license  
basis?  
If yes, give of licensor.

Signature

Name of Authorized Signatory

Date

Plac

Office Seal

(If there are multiple restaurants and/or cafeteria being operated by the Applicant, information regarding each such cafeteria/restaurant shall be submitted separately. Photocopies of this sheet may be used for this purpose.)

## Annexure – 3

## 7.3 Details of similar Contracts/ Arrangements

Sr. No.	Name & Location of Restaurant	Licensor	Year
1.			
2.			
3.			

Signature

Name of Authorised Signatory

Date

Place

Office Seal

## Annexure - 4

## 7.4 Financial Information (for previous 5 years)

Tender No.

Information from Balance Sheet					
	31.03.2019	31.02.2018	31.03.2017	31.03.2016	31.03.2015
Total Assets					
Total liabilities					
Net worth					
Current Assets					
Current Liabilities					
Information from Income Statement					
	2018-19	2017-18	2016-17	2015-16	2014-15
Revenue from Restaurant Business					
Total Revenue					
Profits Before Taxes					

Signature

Name of Authorised Signatory

Date

Place

Office Seal

Note: In case of Consortium/ JV, information shall be provided in respect of the joint venture and all parties constituting the Applicant.

**Annexure - 5**

**7.5 Certificate**

It is certified that the information furnished herein and as per the documents submitted is true and correct and noting has been concealed or tampered with. I/We have gone through all the Tender Documents and am/are liable to any punitive action, as mentioned in the terms and conditions of the tender, for furnishing false information/documents

Signature

Name of Authorised Signatory

Date

Place

Office Seal



**Annexure – 6****Financial Bid****7.6 License Fee Offer****Tender No.**

The License fee (net of all taxes and duties) for running restaurant is offered as under:-

<b>Amount of Monthly License Fee</b>	
<b>(Amount in Figures)</b>	<b>(Amount in Words)</b>

Signature

Name of Authorized Signatory

Date

Place

Office Seal

## Annexure – 7

**7.7 Pro Forma Bank Guarantee (PBG)**

National Gallery of Modern Art,  
Ministry of Culture  
Government of India  
New Delhi.

Dear Sir,

**PRO FORMA BANK GUARANTEE FOR OPERATING CAFETERIA AT  
NATIONAL GALLERY OF MODERN ART, NEW DELHI.****WHEREAS**

M/s. (name of the applicant), [a company registered under the Companies Act, 1956/a partnership registered under the Indian Partnership Act, 1932/an individual proprietor], and having its office at [address of the applicant], (hereinafter referred to as **“Our Client”** which expression, unless excluded or repugnant to the context or meaning thereof, includes its successors and assigns), has agreed to enter into a contract dated ..... (hereinafter referred to as the **“Contract”**) with you (National Gallery of Modern Art, New Delhi) for operating a cafeteria for a period of 5 (Five) years as detailed in the Contract.

We are aware of the fact that as per the terms of the Contract, M/s. [Name of the Applicant ] is required to furnish an unconditional and irrevocable Bank Guarantee in your favour for an amount of INR ..... (In words and figures) towards due performance of the Contract by our Client.

In consideration of the fact that our client is our valued customer and the fact that s/he/it has entered into the said contract with you, we [name and address of the bank], have agreed to issue this Pro forma Bank Guarantee.

Therefore, we [name and address of the bank] hereby unconditionally and irrevocably guarantee you as under:

In the event Our Client commits any breach/default of its covenants under the Contract, and which has not been rectified by our Client within [...] days of a notice of breach delivered to him, we hereby agree to pay you forthwith on demand such sum/s not exceeding the sum of INR ..... (In words and figures) without any demur.

Notwithstanding anything to the contrary, as contained in the Contract, we agree that your decision as to whether Our Client has made such default/s breach/es as aforesaid and the amount or amounts to which you are entitled by reasons thereof. Subject to the terms and conditions of the Contract, will be binding on us, and we shall not be entitled to ask you to establish your claim or claim under this Pro Forma Bank Guarantee, but will pay the same forthwith on your demand without any protest or demur.

Subject to the terms of the Contract, this Bank Guarantee shall continue and hold good till ..... (Date)

We find ourselves to pay the above sum upon termination of the Contract for reasons solely attributable to Our Client, which virtually empowers you to demand for the payment of the above amount under this Guarantee and we would honor the same without demur.

We hereby expressly waive all our rights:

- a. To pursue legal remedies against National Gallery of Modern Art, New Delhi or any other officer or employee of NGMA, in relation to the Contract or this Bank Guarantee; and
- b. For notice of, acceptance hereof, any action taken or omitted in reliance hereon, any defaults under the Contract and any resentment, demand, protest or any notice of any kind.

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

We specifically confirm that no proof of any amount due to you under the Contract is required to be provided to us in connection with any demand by you for payment under this Guarantee other than your written demand.

Any notice by way of demand or otherwise hereunder may be sent by special courier, telex, fax registered post or other electronic media to our address, as aforesaid and if sent by post, it shall deemed to have been given to us after the expiry of 48 hours when the same has been posted.

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

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

Notwithstanding anything contained hereinabove, our liability under the Pro forma Bank Guarantee is restricted to INR.... (in words and figures) and shall continue to exist, subject to the terms and conditions contained herein, unless a written claim is lodged on us on or before the aforesaid date of expiry of the Guarantee.

We hereby confirm that we have the power/s issue this Guarantee in your favour under the Memorandum and Articles of Association/ Constitution of our Bank and the undersigned is/are the recipient of authority by express delegation of power/s and has/have full power/s to execute this Guarantee under the Power of Attorney issued by the Bank in their favour.

We further agree that the exercise of any of your rights against Our Client to inforce or forbear to enforce or any other indulgence or facility, extended to our constituent to carry out the contractual obligations as per the said Contract, would not release our liability under this Guarantee and that your right against us shall remain in full force and effect, notwithstanding any arrangement that may entered into between you and our constituent, during the entire currency of this guarantee.

Notwithstanding anything contained herein.

Our liability this Pro forma Bank Guarantee shall not exceed INR ..... (in words and figures).

This Pro forma Bank Guarantee shall be valid only up to the tenure of the contract (plus Three months for the Total services in the contract); and we are liable to pay the guarantee amount or part thereof under this Pro forma Bank Guarantee only and only if we receive a written claim or demand on or before ..... (Date)

Any payment made hereunder shall be free and clear of and without deduction for or on account of taxes, levies, imports, charges, duties, fees, deductions or withholding of any nature imports.

This Pro forma Bank Guarantee must be returned to the bank upon its expiry. If the Pro forma Bank Guarantee is not received by the Bank within the above-mentioned period, subject to the terms and conditions contained herein, it shall be deemed to be automatically cancelled.

This Guarantee shall be governed by and construed in accordance with the Indian Laws and we hereby submit to the exclusive jurisdiction of courts at New Delhi for the purpose of any suit or action or other proceedings arising out of this Guarantee or the subject matter hereof brought by you may not be enforced in or by such court.

Dated..... this ..... day

.....2019

Yours faithfully,

(Signature)

For and on behalf of the ..... Bank.

Designation

(Address of the Bank)

Note:

This guarantee will attract Stamp Duty as a security bond.

A duly certified copy of the requisite authority conferred on the official /s to execute the Guarantee on behalf of the Bank should be annexed to this Guarantee for verification and retention thereof as documentary evidence in the matter.

## **LICENSE AGREEMENT**

**FOR OPERATION OF THE CAFETERIA AT NATIONAL GALLERY OF  
MODERN ART (NGMA), JAIPUR HOUSE, INDIA GATE, NEW DELHI- 110003  
BETWEEN  
DIRECTOR GENERAL, NATIONAL GALLERY OF MODERN ART (NGMA),  
JAIPUR HOUSE, INDIA GATE, NEW DELHI- 110003  
AND  
M/S. THE MELTING POT FOOD COMPANY, GREATER KAILASH PART 3,  
NEW DELHI-110048**

License Agreement (hereinafter called the 'Agreement') is made on this

.....  
President of India acting through the Director General and HOD, National Gallery of Modern Art, Jaipur House, India Gate, New Delhi-110003, hereinafter referred to as 'licensor' (which expression shall unless excluded by and repugnant to the context, be deemed to include its administrators, successors in office and assigns) on one part, and on behalf of M/s. .... through Shri..... and hereinafter referred to as 'Licensee' (which expression shall include its successors and assigns as permitted by the owner) on the other part.

Whereas the licensee has agreed to operate the aforesaid Cafeteria of area of approximately 4672 sq.ft. . furnished space efficiently, the licensor agrees and grants the license to operate the said Cafeteria under the following terms conditions:

- I. The License shall furnish an unconditional and irrevocable Pro forma Bank Guarantee (PBG) in the format prescribed in Annexur-7, in favour of NATIONAL GALLERY OF MODERN ART, NEW DELHI, for an amount equal to 1 year's License fee for due performance by Licensee of the Terms and Conditions of the License Agreement.

### **II. Security Deposit**

The Licensee shall deposit to NGMA an additional sum equivalent to 20% of the annual license fee for the entire period of the tender as '**Security Deposit**' for the due and complete performance of the provision of these Terms and Conditions and the License Agreement. This deposit shall be made in the form of a bank draft favoring 'DDO, NGMA, New Delhi' and no interest will be paid on the deposit for the entire period the Licensor retains it. This deposit is refundable subject to adjustments at the time of normal expiry of the term of the Contract.

### **III. Implementation Schedule**

1. The License is expected to fully operationalize service of the Cafeteria within 8 (eight) weeks of the award of contract.
- 1.1. The Cafeteria shall kept open on all days of the year other than Holi and Diwali festival days during the prescribed hours of functioning from 10:00 A.M. to 07 P.M. only. No parking facility will be available for visitors outside the National Gallery of Modern Art, Jaipur House, India Gate, New Delhi-110003.
- 1.2. If the Licensee after signing the contract fails to perform any contractual obligation, depending upon the gravity of violation/omission, the Licensee is liable to blacklisted for a period of 3 years, without prejudice to any other remedy under existing law.

#### **IV. Termination for Default**

- 2.1 HOD (NGMA) , without prejudice to any other remedy for breach of Contract, by written notice of default sent to the License, may terminate the License Agreement in the following circumstances:
- 2.2. If the selected License fails to fully operationalize the Cafeteria within the time period specified in the License Agreement, or within any extension thereof granted by HOD (NGMA).
- 2.3. If the selected Licensee fails to deliver any or all services contracted to be delivered under the license Agreement; or
- 2.4. If the Licensee, in the judgment of HOD (NGMA), has engaged in corrupt or fraudulent practice in competing for or in executing Contract.

#### **V. Use of Premises**

- 3.1 The Licensee shall occupy and use the premises for the purpose of running the Cafeteria so as to provide amenities and facilities to the visitors and staff of NGMA.
- 3.2 Any signage/advertisement/branding shall be decided and displayed only by NGMA. The Licensee shall not display any signage/ advertising /branding other than that decided by NGMA. Such signage/ advertising /branding shall not be used by the Licensee for any other purpose or at any other place.
- 3.3 The Licensee shall not display, exhibit or offer for sale any products, goods or other articles or provide services, which are outside the ambit of the agreed range of products, or services between NGMA and the Licensee or which are repugnant to good morals or are of an indecent, immoral or other improper character. In coming to any determination required under this claim, it is expressly agreed that the decision of NGMA shall be conclusive and absolutely binding and shall not be subject to dispute or review.
- 3.4 The Licensee shall not be entitled to allow any other person(s) to occupy the premises in its stead or to use any part thereof without the written permission of HOD (NGMA).

#### **VI. Compliance**

- 4.1. The Licensee shall abide by all rules and regulations, by-laws and guidelines that NGMA may, from time to time, make or adopt or amend for the care, protection and administration of NGMA and the general welfare and comfort of its visitors and employees.
- 4.2. The Licensee and its employees and agents shall be bound to comply with any instructions issued by NGMA from time to time.
- 4.3. The Licensee will, during the continuance of this agreement, insure against any claim for workmen's compensation or otherwise of all persons employed by him in connection with his business.

## **VII. Control and Supervision**

- 5.1. The overall control and superintendence of the said licensed premises shall remain vested with NGMA, whose officers and agents shall at all times have the absolute right of entry into the said premises and be entitled to inspect the Cafeteria premises for its bonafide use, its state of repairs and compliance with the terms and conditions of the License Agreement, without disruption of the normal functioning of the cafeteria.
- 5.2. The Licensee shall deposit duplicate keys of the premises with NGMA whenever it is so demanded and permit NGMA to make use of the keys during any emergency. The Licensee shall not remove or replace the lock on any door or change the locking device or any door of the licensed premises.
- 5.3. The Licensee shall maintain a complaint book in a prominent place in the premises and in such a way that it is easily accessible to any person who wishes to record any complaint and the said book shall be open for inspection by the concerned officer of NGMA.

## **VIII. Additions and Alterations**

6. No addition/alteration at the Licensed Premises may be undertaken without the prior approval of NGMA. Layout and design of any proposed addition/alteration shall require prior written approval of NGMA.

## **IX. Maintenance**

- 7.1. The Licensee will keep and maintain the Licensed Premises and the area in and around the Licensed Premises in a clean, hygienic, proper and decent condition; and shall not suffer the premises to be held in a bad state of repair and outlook during the currency of the License Agreement. Further, the Licensee shall not in any manner injure the wall, floor or other structure of the building, nor shall it cause any kind of hindrance or obstruction in the use thereof by NGMA in any manner whatsoever.
- 7.2. If the Licensed Premises are not maintained in clean condition by the Licensee, NGMA shall have powers to get the premises cleaned at the risk and cost of the Licensee and recover liquidated damages at the rate of Rs.500/- per day for each default up to 7 days and thereafter Rs.1000/- per day and can take other actions including termination of the license.
- 7.3. In the event of any damages being caused to the Licensed Premises, intentionally or otherwise, by the Licensee, or his/her/its employees or invitees or customers, NGMA shall be entitled to repair the damage or make the requisite replacement and call upon the

Licensee to reimburse the cost thereof, which the Licensee undertakes to pay forthwith on demand.

- 7.4 The Licensee shall not store or bring or keep in the premises heavy articles so as to injure or damage the licensed premises or keep goods of combustible or inflammable nature, except as reasonably required by the Licensee for performing services under the License Agreement.

## **X. Employees**

- 8.1 The Licensee shall employ only such employees who are experienced. The Licensee will ensure that the staff engaged shall observe highest standards of courtesy, manners and professionalism while dealing with visitors and customers of the cafeteria and NGMA.
- 8.2. The Licensee shall employ only such staff as shall have good character and be well behaved and skillful in their business. NGMA shall be at liberty to forbid the employment of any person whom it may consider undesirable. The staff employed shall conform to such direction as may be issued by NGMA in respect of time, stay and the points or routes of entry to and exit from the premises and in respect of the use of toilets and washrooms. The cafeteria manager shall also have the character of all persons employed by him verified by the police to the satisfaction of NGMA before the employment.
- 8.3. The Licensee shall immediately remove any employee from the Licensed Premises if any employee misbehaves, causes nuisance, or is considered to be undesirable by NGMA representative. NGMA shall be at liberty to request the Licensee to replace or change any employee or other staff within 48 hours' time, if so needed, upon which request Licensee shall forthwith replace such employees or staff.

## **XI. Compensation or Concession**

- 9.1 The Licensee will not be entitled to any compensation or concession in payment of the License Fee due to addition of any activity in the Licensed Premises by or on behalf of NGMA or closure of any activity in NGMA.
- 9.2 For breach of any Terms and Conditions of the License, NGMA reserves its right to either terminate the license, or recover compensation from the licensee for the damage suffered on breach (up to the limit of the security deposit deposited by the Licensee).

## **XII. Duration, Termination and Renewal**

- 10.1 The duration of the License shall be for period of 5 years from the date of award.
- 10.2. The License period shall be initially for five years term from commencement date with an annual escalation of 10% from the 2nd year of the commencement date and thereafter another term of five (05) years extendable or with provision of Right of first refusal (ROFR) clause in future tender subject to past performance. An annual escalation of 25% shall be applicable over the License fee paid for the immediately preceding year. The License Fee will be payable annually in Two instalment, in advance for every 6 months.
- 10.3 NGMA shall have the right to terminate the License by giving 90 days' notice in writing without assigning any reason therefore, at any time.



- 10.4 The Licensee may also terminate the License by giving 90 days' notice in writing.
- 10.5 NGMA reserves the right to decide whether the Licensee will continue to operate the Licensed Premises, if the Licensee suffers a change of control whereby a third party, either directly or indirectly, jointly or on its own, acquires control of 51% or more of the License equity or management control.
- 10.6 NGMA will be entitled automatically to terminate this Agreement on the occurrence of any of the following events:
  - 10.6.1 The licensee is in breach of its responsibilities and obligations under this agreement and this has not been rectified after having been given 15 days written notice by NGMA.
  - 10.6.2 The Licensee has a winding up or administration order made in relation to it;
  - 10.6.3 The Licensee enters into a composition with its creditors pursuant to liquidation proceedings, or in the event that the licensee enters into an arrangement with its creditors for repayment of debt; or
  - 10.6.4 If the reputation of NGMA is damaged on account of Licensee's dealings with third parties.
- 10.7 In the event of termination of License as provided hereinabove, NGMA shall always be entitled to and shall have power as its absolute discretion to reoccupy forthwith the Licensed Premises, without notice and without subjecting itself to any liability on that account and notwithstanding any intermediate negotiations or waive of breach thereof.
- 10.8 On expiry of the License period or on termination of the License by NGMA on account of any breach on the part of the Licensee, the Licensee shall deliver the possession of the Licensed Premises in good condition and in peaceful manner along with furniture, fittings, equipments and installations provided by NGMA. Further, Licensee shall remove his/their goods and other materials within 3 days from the premises failing which NGMA reserves its right to remove such goods/materials at the cost and risk of the Licensee and demand payment for such removal. If such payment is not made within 10 (ten) days, NGMA shall be at liberty to disposed off the goods/materials of the Licensee by public auction to recover the cost. The Licensee shall not be entitled to raise any objection in such an eventually.
- 10.9. In the event of any default, failure, negligence or breach, in the opinion of NGMA, on the part of the Licensee, in complying with all or any of the conditions of the License, NGMA will be entitled and be at liberty to terminate the license forthwith and resume possession of the Licensed Premises without payment of any compensation or damages and also claim in full or in part the amount deposited by the Licensee for due performance of the Agreement.

### **XIII. Insurance**

At all times during the currency of the License, it shall be the responsibility of the Licensee to obtain insurance coverage in line with standard industry practice, including cover for fire, theft and burglary in respect of all the movable and immovable assets stored or used in the licensed premises and NGMA shall not be responsible for any loss or damage caused to the License or any account whatsoever.

**XIV. Indemnity**

- 12.1 Licensee shall indemnify NGMA and hold it harmless from all claims, demands, damages, actions, costs and charges, including against liabilities towards customer or visitors, to which NGMA may become subject, or which it may have to pay or be held liable for, by reason of any injury to persons, reputation or property suffered or sustained by any agent or employee of NGMA or arising out of any activity or negligence or omission of the Licensee or its agents or employees while in or about the Licensed Premises or other Premises of NGMA.
- 12.2. Licensee shall indemnify NGMA against any loss, claim, costs, damages to, or diminution of , its business and goodwill or any third party claims or proceedings brought against the NGMA as a result, direct or indirect, of any prejudicial business practice of the Licensee or any misrepresentation of its relationship with the NGMA. This indemnity shall be without prejudice to any other rights and remedies, which the NGMA may have under the law,

**XV. Registration and Permissions**

- 13 The License shall ensure that all such licenses to be applied for by the Licensee, such as Food Safety and Standards Act 2006, and including Sales Tax/VAT/GST, are obtained as may be required under the applicable laws, and shall be solely liable for violations and contraventions respecting its business. NGMA shall in no way be responsible for the non-compliance of any of the laws respecting the business of the License.

**XVI Limitation of Liability**

- 14.1 NGMA shall in no way be liable for any losses or claims arising out of untoward incidents like theft, shoplifting, fire, riots, floods, natural calamities etc.
- 14.2 In case the Licensee suffers any loss on account of it being unable to carry on its business or restrained by NGMA for contravention of any of the terms and conditions, the Licensee shall have no claim no NGMA.

**XVII. Relations with Third Parties**

- 15.1. No Third Party shall have any right against NGMA in connection to the award of the License to the Licensee, or for operation of the Cafeteria.
- 15.2. The Licensee will obtain a Third Party Insurance and a copy of this should be submitted to NGMA.

**XVIII. Miscellaneous and General Terms for Tendering of Services in Operating Cafeteria**

- 16.1 The Cafeteria shall serve food items, including snacks, soft drinks, tea, and coffee in specified areas.
- 16.2. The Licensee shall ensure that regional Indian cuisines are properly represented.

- 16.3 NGMA will permit the Licensee to use a specified space for Cafeteria.
- 16.4 The Licensee shall pay an Annual License Fee (the offer to be made in the Financial Bid), to NGMA for use of Cafeteria Premises and other facilities provided by NGMA for operation of the Cafeteria. The License fee will be payable annually in 2 installments, in advance, every 6 months.
- 16.5 In addition, the Licensee shall pay for the electricity and water charges as per actual consumption, as and when due. For this purpose, separate energy meter and water meter will be provided by NGMA to the Cafeteria. The water and electricity will be supplied to the Licensee from NGMA's source, and for which the NGMA shall take reasonable care to maintain adequate supply. However, NGMA shall not be liable for any damage or loss which may be caused by and deficiency in water or electric supply and the License shall not be eligible for any remission or compensation on such account. The supply form respective sources of New Delhi Municipal Corporation to NGMA.
- 16.6 That in the event of failure to pay the annual license fee and other charges by due dates, simple interest @18% per annum will be payable on all delayed payments without prejudice to other rights and remedies of NGMA.
- 16.7 The Licensee shall not use the Licensed Premises, and other facilities provided specifically for the purpose of rendering service of operating the cafeteria, for any purpose other than the culinary purpose agreed upon. The Licensee shall not violate this condition either in part or in whole by any means whatsoever.
- 16.8. The License to operate the Cafeteria shall be valid for a period of 5 (Five) years from the commencement date, subject to satisfactory operation the Cafeteria, as per the agreed terms and conditions. It may be renewed by NGMA at its sole discretion, and subject to satisfactory compliance of the terms of the License Agreement by the Licensee. The License may be cancelled at any time if the Licensee fails to abide by the terms and conditions of the License Agreement.
- 16.9 The Licensee shall be responsible for procuring and arranging all consumables for its use in relation to operation of the Cafeteria.
- 16.10. NGMA will install the necessary kitchen equipment, including all fittings and fixtures, cooking and cooling equipment, including back-up generator for essential safety of foods, for the smooth functioning and effective delivery of service at the Cafeteria. Licensee shall be responsible for the ongoing maintenance and repair of all equipment, and shall bear all costs and expenses in relation thereto. In the event of termination of Contract (by Licensee or Licensors), the Licensee will ensure that all equipment is in excellent working order, failing which the Licensors will retain such part or all of the Security Deposit as necessary to repair/replace any damaged equipment.
- 16.11 Food prepared by the Licensee shall be made under good hygienic conditions, and the standard of hygiene shall be strictly maintained. This will inspected and ascertained by a committee, appointed by NGMA, whose direction will be binding on the Licensee. The Foods shall be fresh, wholesome and of good quality. Licensee shall be abide by all applicable laws relating to sale food, hygiene, and safety etc.

- 16.12 The Licensee shall be fully responsible for the cleanliness of the Cafeteria premises, which must be free of insects, mosquitoes, flies, dust and dirt. The appropriate authority shall inspect the Cafeteria premises periodically, NGMA shall have the right to terminate License agreement if the premises are found to be in unsanitary condition.
- 16.13 The establishment of the Licensee shall be separate from the establishment of the NGMA for all purposes and all respects. In no case will any kind of liability of the Licensee be borne or shared by NGMA. The Licensee shall be responsible for indemnifying NGMA for any such past, present or future liabilities.
- 16.14. The Licensee shall not erect or install any temporary structure, or fixture inside the Cafeteria premises or outside it, without prior return approval of NGMA.
- 16.15 The Licensee or any of his/ her sales persons shall not sell/consume any hard drinks (such as any alcohol waste drinks, and spirits), or narcotic drugs or other prohibited substance within the premises of NGMA.
- 16.16 In respect of all persons engaged for rendering services directly or indirectly by the Licensee or under Licensee, the Licensee shall be considered as their employer. The Licensee shall also be considered as principle employer under the contract labor (Regulation and Abolition) Act, 1970. The Licensee shall not pay less than the minimum wage as prevalent in the municipal area of New Delhi, and shall abide by applicable laws in deploying persons for carrying out rendering the services for operation and management of the Cafeteria. The Licensee shall have no liability of any kind with regard to employees of NGMA.
- 16.17. The Licensee shall observe duly at all times the provision of child labor (Prohibition and Regulation) Act, 1986 and any other enactment made in this regard.
- 16.18 The Licensee, for the purpose of fulfilling his obligations, may deploy persons as employees, server, cooks, etc who are medically fit with no contagious diseases, who will wear prescribed uniform, who shall have good character and be fit for work in a museum cafeteria where high quality public service is expected. For such engagements, the Licensee shall submit the names and credentials of his employees duly certified by the local police to NGMA for approval for the sake of security of NGMA. NGMA reserve the right of approval or rejection of any such engagements. Replacement of employees of the Licensee shall be done by following similar formalities by the Licensee. Any recommendation by NGMA for removal of an employee for valid reasons of indecency, misconduct, lack of integrity etc, shall be binding on the Licensee for immediate compliance and replacement to be made by the Licensee.
- 16.19. While the existing security personnel of NGMA shall remain vigil round the clock on campus the Licensee shall make proper arrangement for the protection of his goods and items from theft/pilferage etc.
- 16.20 The Licensee is liable to pay compensation for any damage to NGMA properties, if caused by him or his staff. The extent of such compensation shall be determined by the authority of NGMA and shall be binding on the Licensee.

- 16.21 The Licensee, including all persons deployed or engaged by the Licensee in any manner, shall abide by the security arrangements of NGMA and shall be liable for search, frisking, scrutiny, physically or otherwise, by the security staff of NGMA. The Licensee and all such persons and his staff shall not reside inside the campus, except in special cases emerging out of exigency, when NGMA authority specifically instructs in writing that such staff members do so temporarily.
- 16.22. The Licensee shall provide working meal for staff at NGMA at a rate to be fixed in advance with the approval of NGMA. The rate for these meals will not be enhanced without the prior approval of NGMA. A sample menu and price proposed for a simple meal, for an average of 30 persons daily, should be included in the application as specified in Annexure 1.
- 16.23 The Licenses shall provide meal and refreshments for participants in programmes organized by NGMA. Rates for these will be fixed in consultation with NGMA.
- 16.24. The Licensee shall provide meal and refreshments for the faculties, co-institutions/ friends of museum on subsidized rates on the production of MITRAM Card duly signed by Director/ Director General, NGMA. Rates for these will be fixed in consultation with NGMA.
- 16.25 For services other than that mentioned above (in clause 16.22 to 16.24), the Licensee shall have the freedom to charge rates found suitable by him. However, it is advised that the price of foods and services offered be maintained at reasonable market level. A sample menu and prices proposed should be included in the application.
- 16.26 The Licensee shall execute a License Agreement within 7 days from the date of issue of award order giving acceptance of his tender, and pay to NGMA 50% of the annual license fee for the first year in the form of a bank draft favoring 'PAO (Culture), New Delhi' within 15 days from the date of such order, and the balance 50% annual license fee for the first year shall be paid to NGMA within a month from the date of execution of the License Agreement. From the second year onwards, the license fee will be payable annually in 2 (twice yearly) installments, in advance, as detailed in the License Agreement.
- 16.27 The charges for electricity, water and supporting facilities, shall be paid by the Licensee to NGMA on monthly basis starting from one month after the execution of this agreement as per conditions laid down in previous clauses.
- 16.28 The Licensee shall provide decent liveries to the Cafeteria staff.
- 16.29 The Licensee shall comply with each and every requirement of the various local municipal and other statutory authorities for rendering service for running the Cafeteria.
- 16.30 The Licensee is not permitted to assign or in any way transfer the right under this license to any other person or agency.
- 16.31 NGMA shall have full liberty to call for absolute tidiness, cleanliness, maintenance of equipment, furniture, fixture as agreed upon and also to demand neat and clean liveries for those who will be deployed by the Licensee for the services as servers, cooks, etc.

- 16.32 The Licensee, for display of sign boards, rate list etc, will follow the logo, name, branding assigned by NGMA. The specific spaces of NGMA where such display shall be made will also require specific written permission of NGMA.
- 16.33 The Licensee shall not exhibit/display in NGMA any printed or written notice or advertisement of any kind whatsoever without the previous written approval of NGMA. The Licensee will not display any brand identity or logo relating to the licensee.
- 16.34 The Licensee will not be allowed to use the cafeteria premises for parties or occasions other than those that NGMA, may organize.
- 16.35 In keeping with the context and themes of the National Gallery of Modern Art, the cafeteria will celebrate the craft of Indian cooking, with representation of a variety of Indian regional cuisines.
- 16.36 The Licensee will be expected, during special exhibitions held at NGMA, to offer particular foods/menus that are appropriate or related directly to the exhibitions.

#### **XIX. Standard Safety Clauses**

Licensee shall

- 17.1 Not store combustible material for a period except as may be necessary for the delivery of contracted services.
- 17.2 Install, at his own cost, an adequate number of Fire Extinguishers [of weight/capacity as per standard norms] and ensure that they are in fully functional condition at all times.
- 17.3 Provide battery-operated emergency light.
- 17.4 Not store liquid fuel of any kind.

#### **XX. Standard Health Clauses**

- 18.1 The Licensee premises, strictures and installations thereon, shall be kept in clean and sanitary condition by the Licensee to the satisfaction of NGMA.
- 18.2 The officer authorized by NGMA may, without notice, enter the premises at any time and inspect the premises, material instruments and implements etc., used by the Licensee.
- 18.3 All instructions given by the officer authorized or nominated by NGMA or any person working under him to prevent spread of infectious diseases, control and prevention of nuisance from insects, rodents or any other source, shall be carried out by the Licensee and his agents or staff.
- 18.4 The Licensee shall notify to the officer nominated by NGMA if any person working under him is suffering or suspected to be suffering or convalescing from any infectious disease. The Officer nominated by NGMA may order medical inspection of the sick person or any person who is suspected have been in contract with the person by such agency as he may direct and take any precautionary and preventive measure considered necessary.

- 18.5 The Licensee, his agent and staff, shall not, without consent of the officer nominated by NGMA, interfere with, injure, destroy or render useless any work executed or any material or things placed in, under or upon any land or building, by or under the orders of such Officer, with the object of preventing the breeding or entry of mosquitoes or the maintenance of sanitation.
- 18.6 The Licensee, his agents and servants shall not abuse the water sources and drainage facilities provided in the building so as to create a nuisance or insanitary situation prejudicial to public health.
- 18.7 In the event of any default, failure, negligence or breach in the opinion of the NGMA on the part of the Licensee in complying with either of these conditions specified in foregoing sub-clauses, NGMA will be entitled and at liberty to cancel the license forthwith and resume possession of the premises without payment of any compensation or damages and claim in full or in part the amount deposited by the Licensee for the due performance of the License.

## **XXI Fire Prevention Clauses**

- 19.1 The Licensee undertakes not to use gas heating/naked light in the Licensed Premises other than inside the counter/premises/kitchen/restaurant/canteen for which the License has been issued.
- 19.2 The Licensee hereby undertakes to take utmost caution to prevent spillage of oil or other hazardous chemicals in the building. In the event total prevention is not possible without incurring extraordinary expense, the Licensee shall provide suitable bins/trays at appropriate places for collection of such spill, and shall dispose the collected spillage properly to avoid fire hazard or danger or unhygienic condition of the premises.
- 19.3 Licensee shall install, at his own cost, an adequate number of Fire Extinguishers (of weight/capacity as per standard norms for a cafeteria and kitchen of this size) and ensure that they are in fully functional condition at all times.
- 19.4 Licensee shall not to keep or cause any obstruction at the exit and escape routes in the premises under this license.
- 19.5 Licensee shall provide adequate number of waste bins with proper lids, in the appropriate places around the premises under this license.
- 19.6 Licensee shall not obstruct the location of fire points, fire extinguishers, fire hydrants, detectors and other operating points of any fire protection system.
- 19.7 Licensee shall not exceed the loading limits of power sources as specified by NGMA and shall not make any loose or temporary connections in the building.
- 19.8 Licensee shall educate people to be deployed by it to be conversant with emergency and evacuation procedures and handling of portable firefighting equipment.
- 19.9 Licensee shall submit the premises for inspection of fire prevention measures every year, and the Licensee shall comply with the recommendations made by the inspecting officer.

- 19.10 Licensee should have the electrical circuit in the Cafeteria premises tested at least once a year and submit the test report to HOD, NGMA. If any defect is noted, it should be rectified immediately and the compliance report furnished.
- 19.11 No cable should be laid on false-ceiling and partition wall; cable, wherever required, should be encased in metal cable trays.
- 19.12 Miniature circuit breaker and metal clad distribution board should only be used for electrical installations and distribution. ELCB should also be incorporated in the circuit.
- 19.13 Main Switch Board, electric meter, distribution board etc, should not be fixed on any combustible material.
- 19.14 No combustible material should be stored under or close to the electric switch board/distribution board/meters etc; and the approach pathway/corridors to electrical switchboards etc; should be kept clear and free of any obstructions whatsoever.
- 19.15 If in the allotted space no false ceiling has been provided, no false-ceiling work will be undertaken by Licensee without specific approval in writing obtained in advance from NGMA.
- 19.16 If the Licensee plans any false ceiling, its frame and panel etc; should not be made of wood or any such combustible materials. 'Fire retardant' material should be used for this purpose.
- 19.17 Internal partitions and other such notifications are prohibited within the licensed premises, unless written permission is obtained in advance from NGMA.
- 19.18 Wherever a false ceiling is provided, storing of any type of material above the false ceiling is prohibited.
- 19.19 Appropriate housekeeping measures should be undertaken at all the times to keep the premises, and the area leased out around the premises, neat, clean and free from any garbage and disposable materials.

## **XXII. Clarification, Disputes and Settlements**

- 20.1 That in case of any dispute arising between NGMA and the Licensee, in respect of the interpretation, conduct or performance of any terms or conditions of these presents, the same shall be referred to the sole arbitration of a person who may be appointed by NGMA for the purpose, under the provisions of Arbitration & Conciliation Act, 1996, as amended from time to time. It will be no bar that Arbitration appointed as aforesaid is or has been an employee of NGMA and he awarded of then arbitration will be challenged or be open to question in any court of law on this account.
- 20.2 Both NGMA and Licensee agree to be bound by the decision of the arbitration and that the decision of the arbitration shall be final and conclusive and not open to any challenge or review. Both the parties hereto expressly agree that the appointment of any person as arbitration would not be invalidated or the decision of the arbitration would not be visited merely on the ground of his/her being associated with NGMA as one of the officers or in any other capacity whatsoever.



**XXIII. Jurisdiction**

- 21** In case of any dispute where legal action is compelled to be initiated by any of the parties, jurisdiction of the courts shall be New Delhi.

**XXIV. Force Majeure**

- 22.1** Neither party shall be deemed to be in breach of this agreement if failure to comply with the requirement of this agreement is due to circumstances beyond the control of NGMA or Licensee.
- 22.2** If because of any strike or lockout either in NGMA or in the Local area, the Licensee is unable to function or his business is affected, NGMA shall not be liable for any loss, which the Licensee may suffer in such an event. However, rebate in the license fee due to natural calamities may be granted as per the merit of the case and policy laid down by NGMA from time to time.

**+XXV. Notices**

- 23** Any notice which is required to be given either by the Licensee or NGMA, will be in writing, and will be sent to the address as the recipient may designate by notice at the address provided in the License Agreement. Notice may be delivered by pre-paid post receipted email or facsimile transmission and will be deemed to have been served, if by post three business days after posting and, if by facsimile transmission or email, when dispatched or, if such day of delivery is not a business day, on the next following business day.

**XXVI. Transferability, Assignment and Sub-Contracting**

- 24** The Licensee does not have the right to transfer the benefit of this License Agreement or to delegate any obligations to a third party without the prior written consent of NGMA. The Licensee shall not, unless with the written consent of NGMA, create a sub-contract of any description with regard to this License or any part thereof, nor shall be without such written consent as aforesaid, assign or transfer his license or any part thereof.

IN WITNESS WHEREOF THE PARTIES HERE TO HAVE SET UNTO THEIR HANDS AND SEALS THE DAY AND YEAR FIRST ABOVE WRITTEN.

For and on behalf of

President of India through

Director General & H.O.D.

NGMA, Ministry of Culture

Jaipur House,

New Delhi-110003

For and on behalf of

M/s.

WITNESS: -

1. ....

2. ....

WITHNESS:-

1. ....

2. ....



National Gallery of Modern Art  
Government of India  
Ministry of Culture  
Jaipur House, New Delhi -110003

TENDER NO. 29005/2017/NGMA

Dated: 25<sup>th</sup> July, 2019

### NOTICE INVITING TENDER (NIT)

Sealed Tenders are invited from reputed caterers having proven experience and ability in preparation and serving of food for managing a cafeteria on license basis situated inside the premises of National Gallery of Modern Art, Jaipur House, New Delhi-110003. The license shall be valid for a period of five (5) years. The Terms and Conditions and other related aspects are outlined in the Tender Document.

The Tender Document can be obtained from the Account Branch at National Gallery of Modern Art, Jaipur House, New Delhi-110003.

Earnest Money Deposit (EMD)

Rs. 50,000- (Payable in the form of a Demand Draft drawn in favour of 'Drawing & Disbursing Officer' National Gallery of Modern Art, New Delhi).

Issue of tender Documents

Between 11.00 A.M. and 5.00 P.M.

On any working day within 14 days of the date of publication of the notice on e-procurement portal, office website [www.ngma.gov.in](http://www.ngma.gov.in). The tender form containing the detailed specifications, eligibility criteria, terms & condition, etc. may be obtained from the cashier of this office against payment of Rs. 200/- in the form of cash or Demand Draft drawn in favor of Drawing & Disbursing Officer, National Gallery of Modern Art payable at New Delhi on any working day except holidays between 10 A.M. to 5 P.M. The tender documents may also be download from the website of NGMA <http://www.ngmaindia.gov.in> and requisite amount of Rs. 200/- may be deposited in the form of Demand Draft as mentioned above, alongwith the tender.

Pre Bid meeting

on the 2<sup>nd</sup> August 2019 at 11.00 A.M. in NGMA

Last Date/ Time of receipt

Up to 3.00 P.M. on 21<sup>st</sup> day of notice

Date/Time of opening

Between 4.00 pm and 5.00 pm on 21<sup>st</sup> day of notice.

Any Clarification may be sought on Phone- 011-23386208



(Ritu Sharma)  
Director