

# Draft Memorandum of Understanding with State Governments on the use of Government eMarketplace

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is entered into on the.....<sup>9th</sup> day of ~~October~~ 2017 on behalf of the President of India represented by Government eMarketplace (GeM), Department of Commerce, Ministry of Commerce & Industries, Government of India, and acting through ~~Adl. CEO, GeM~~ <sup>Adl. CEO, GeM</sup> which expression shall unless it be repugnant to the subject or context thereof, include its successors and assigns of the FIRST PART:

AND

Governor of Uttar Pradesh represented by Principal Secretary, Micro, Small and Medium Entrepreneur & Export Promotion Department, Government of Uttar Pradesh and acting through Principal Secretary, Micro, Small and Medium Entrepreneur & Export Promotion Department, Government of Uttar Pradesh (herein referred to as Government of Uttar Pradesh which expression shall unless it be repugnant to the subject or context thereof, include its successors and assigns) of the SECOND PART

Government eMarketplace (GeM), Department of Commerce and Government of Uttar Pradesh are herein also referred to collectively as the "Parties" and individually as the "Party"

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## **Preamble:**

Procurement of goods and services in right quantity, of right quality, at right time, at right price and from right source is a very important function for any State Government and is required to effective implementation of any Government Scheme. Given the fact that the current procurement methods of public institutions are outdated and suffer from lack of adequate transparency and accountability besides being extremely cumbersome and time consuming, there is a need to usher in structural changes to the entire procurement machinery of the Government. Government eMarketplace set up by Department of Commerce, Government of India is a state-of-the-art public procurement platform that has used technology to remove entry barriers for bonafide sellers and has created a vibrant eMarketplace with a wide range of goods and services. Completely online pre-contract and post-contract management along with digital and time bound payment on GeM, has resulted in significant reduction in prices of goods and services. The total value of procurement of both Central and State Government organizations being upwards of Rs.5 lakh Crore, GeM has a potential to save more than Rs. 50,000 Crore per annum to the Government.

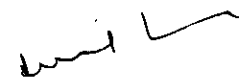
Both the Parties have entered into a bipartite MoU in order to enable the Government of Uttar Pradesh to make use of GeM for procurement of both goods and services.

NOW IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

### **1. Obligation/Commitments:**

1.1 The Government of India to take following measures:

a) Facilitating Government of Uttar Pradesh to onboard GeM



b) Integration of GeM system with the Government of Uttar Pradesh Treasury/payment system in order to facilitate online and time-bound payment to supplier/service providers

c) Facilitate Government of Uttar Pradesh to impart training to its officials on the use of GeM.

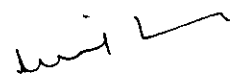
1.2 The Government of Uttar Pradesh to take the following measures:

a) Make changes to the procurement rules of the Government of Uttar Pradesh in line with Rule 149 of General Financial Rules, 2017 of the Government of India

b) The procurement rules/procedures of the Government of Uttar Pradesh shall be amended in such a way that, to the maximum extent possible, they shall be in sync with the procurement rules/procedures of the Government of India.

c) Facilitate registration on GeM of maximum number of supplies & service providers located within the geographical limits of the State of Uttar Pradesh.

d) Organize GeM user training to its officers and staff in the own premises.



e) Depute technical team well versed with the State Government Treasury/Payment system to interact with the GeM team for integration of the two systems

f) Ensure immediate issuance of Provisional Receipt Certificate (PRC) upon receipt of goods/services and Consignee's Receipt sum Acceptance Certificate (CRAC) within 10 days of issuance of PRC, by the Consignee

g) Ensure payment of vendors/service providers within 10 days of issue of CRAC by issue of necessary order/notification (Model OM issued by DoE, MoF, GoI is annexed as Annex A)

h) Till integration of State Treasury with GeM is completed and a PFMS like system is simulated, a special payment system shall be devised. To this effect, the State Government nodal agency shall open a new non-operative current/saving/liquid term account (to be named as State GeM Pool account) in any of the GeM associate banks Or else, the individual State Government buyers can also open separate GeM Pool accounts to collect advance payment from buyer and transfer to supplier account upon receipt of payment instruction to banker through GeM portal. Detailed process is provided in Annex B (Enclosed)

2. Termination clause: Each Party shall have the right to terminate the Memorandum of Understanding by giving (three) months' written notice in writing to the other Party at any time. If the

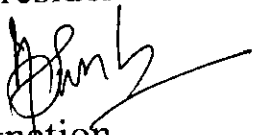
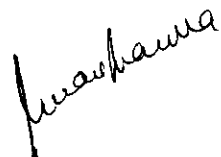
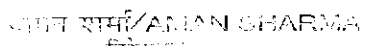
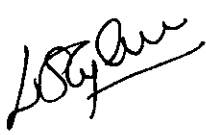
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Memorandum of Understanding is terminated by either Party, steps shall be taken to ensure that the termination does not affect any prior obligation, project or activity already in progress.

3. Amendment clause: The Memorandum of Understanding may be modified or amended by written agreement between the Parties.

It is hereby agreed that this signed MoU can be put in the public domain by any of the signatories.

IN WITNESS, whereof the parties hereto have executed these presents the day, month and year first herein above written.

<p><b>SIGNED AND DELIVERED BY</b> (on behalf of President of India)</p> <p>signature.  Name &amp; Designation Address</p>	<p>In the presence of</p> <p>Witness 1  Signature  Name &amp; Designation Address</p> <p>Witness 2  Signature Name &amp; Designation Address डा.एल.स्टीफन, आई.आर.एस./Dr. L. STEEPHEN, I.R.S. उप सचिव/Deputy Secretary भारत सरकार/Govt. of India वाणिज्य विभाग (पूर्ति) Ministry of Commerce (S.D.) पूर्ति तथा निर्यात विभाग/Ministry of Commerce &amp; D.</p>
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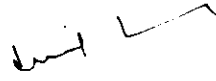


SIGNED AND DELIVERED  
BY  
(on behalf of Governor of Uttar  
Pradesh )

Signature

Name & Designation

Address



( अनिल कुमार )  
प्रमुख सचिव  
सूक्ष्म, लघु एवं मध्यम उद्यम  
तथा निर्यात प्रोत्साहन विभाग  
उ० प्र० शासन

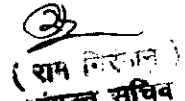
In the presence of

Witness 1

Signature

Name & Designation

Address



( राम निगम )  
संयुक्त सचिव  
सूक्ष्म, लघु एवं मध्यम उद्यम विभाग  
उ० प्र० शासन

Witness 2

Signature

Name & Designation

Address



( पन्ना लाल )  
संयुक्त सचिव  
सूक्ष्म, लघु एवं मध्यम उद्यम तथा  
निर्यात प्रोत्साहन विभाग  
उत्तर प्रदेश शासन

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Annex A

No. F.26/4/2016.PPD  
Government of India  
Ministry of Finance  
Department of Expenditure  
Procurement Policy Division

516, Lok Nayak Bhawan,  
New Delhi Dated 20<sup>th</sup> September, 2016.

OFFICE MEMORANDUM

2017(F) EC  
2017(F) DT

2017(F) EA-Subject: Procedures for payments to Sellers / Suppliers in Government e-  
Marketplace (GeM) reg.

Ref.: OM No. F.26/4/2016.PPD dated 26<sup>th</sup> May 2016 on above subject.

In supersession of the above referred OM dated 26.05.2016 and pursuant to Rule No. 141-A of GFR 2005, the following procedures are prescribed for making payments to the Sellers / Suppliers in GeM which shall be complied and adhered to by all concerned

2. The Government Buyer i.e. the concerned Programme Division or Administrative Unit in a Ministry/ Department will place the Contract / Supply Order /Purchase Order online after taking prior approval of the Competent Authority for procuring a particular Good or Service. Inter-alia, the Contract/ Supply Order /Purchase Order form will also contain the following fields including fields required for payment related processes:

- a. Administrative approval of the Competent Authority indicating the designation of the approving authority,
- b. Approval of Competent Financial Authority indicating designation of the officer; Whether IFD concurrence required? (Yes/No)  
If yes, then IFD Diary No.& Date
- c. Budget Head of Account and Year, Major/Minor/Sub-head/Detailed Head/Object Head as in Detailed Demands for Grants.
- d. Budget availability as on date (Yes/No)
- e. Amount (Contract Value): Rs. .... (Budget to be blocked)
- f. If expenditure is committed for more than a year, the year-wise details - (portal should generate a Liability Register for recording multi-year payment commitments, the format for which is prescribed in Rule 53 of the GFR)

3. When these fields are duly captured, the Buyer will be in a position to place the Order online. The GeM portal will generate a Sanction Order and the Contract Agreement/Supply Order/Purchase Order which will be digitally/e-signed by the Buyer. These documents duly digitally/e-signed by the Buyer will be made available online to the concerned DDO (applicable in PFMS), PAO (applicable in PFMS), Paying Authority (applicable in Payment System of Railways/Defence/Posts/Others

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including PSUs, Municipalities, Educational Institutions, Autonomous Institution, State Government, etc) and Seller/ Supplier. The DDO and PAO/Paying Authority shall have access to the Contract Agreement/Supply Order/Purchase Order online in order to ensure that the Bill is generated at the stage of payment in accordance with the contractual provisions.

4. The GeM portal will send the Sanction Order details to PFMS/Payment System of Railways/ Defence/Posts/Others (Others mean various Government Bodies including PSUs, Municipalities, Educational Institutions, Autonomous Institution, State Government, etc).

5. On issue of Sanction order and placing the Contract/Supply Order/Purchase Order, the amount required from the relevant Budget Head gets blocked in the PFMS/ Budget Accounting System of Railways/ Defence/Posts/Others.

6. Should it be necessary to amend the Contract, such Contract/Supply Order / Purchase Order with due approval of the Competent Authority and acceptance of the Seller/Supplier shall be made available to the Supplier/DDO/PAO/Paying Authority on the GeM portal.

7. Similarly, in the event of complete / partial cancellation of the Contract/Supply Order/Purchase Order the information would be made available to the Seller/Supplier, DDO and PAO/Paying Authority on the GeM portal. In that event, funds so blocked earlier would be released to the extent of cancelled amount.

8. The Programme Division/Administrative Unit in the Ministries/Departments shall periodically review the blocked budget to ensure that funds are utilized within the same financial year.

9. The performance security (if any) under Rule 158 of General Financial Rule 2005, would be obtained from the Seller/Supplier as per Contract/Supply Order/Purchase Order, and their details would be reflected on the GeM portal by the Buyer.

10. On dispatch/delivery of Goods and/or Services, the Seller/Supplier shall prepare an electronic Invoice, digitally/e-signed, on GeM portal and shall submit the same on-line to the Buyer. Gem portal will send an SMS/ email alert to the Buyer, on submission of Invoice. This Invoice will contain mode of dispatch of goods, dispatched/delivered quantity with date and all inclusive price claimed based on digitally/e-signed Contract/Supply Order/Purchase Order data. In case Services are procured, the required data as per Contract/Supply Order/Purchase Order may be incorporated in the Invoice.

11. The Buyer/consignee receives the Goods/Services and issues an online Provisional Receipt Certificate (PRC), within 48 hours, on 'said to contain basis' on the GeM portal with his/her digital signature, mentioning the date of Receipt (From

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this date of receipt mentioned in PRC, the period of ten (10) days for consignee's/buyer's right of rejection and return policy would be applicable).

12. After verification including assessment of quality and quantity and satisfactory installation of machinery and equipment wherever necessary, the Consignee will issue on-line digitally/e-signed Consignee's Receipt & Acceptance Certificate (CRAC) within 10 days of date of receipt indicated in PRC. The CRAC would clearly indicate the Order quantity, rejected quantity (if any, with reasons for rejection including shortages/damaged/unaccepted quality), quantity accepted and cleared for payment. However, if the consignee does not issue CRAC within 10 days, on 11th day from the date of receipt indicated in PRC, GeM System/Portal would auto generate unsigned CRAC which, backed with digitally/e-signed PRC for the corresponding quantity shall be taken as deemed acceptance for payments in lieu of the requirement of digitally/e-signed CRAC. This will be made available on GeM to the Buyer/ Seller and also the concerned DDO (if applicable) and PAO/Paying Authority. The GeM portal would generate a unique serial number for CRAC relating to concerned DDO (if applicable) & PAO/Paying Authority, so that the payments are made *serialim*.

13. After generation of CRAC, the Buyer shall prepare 'Payment advice' on GeM Portal, as under:

(A) For Payment through PFMS requiring DDO functionality:

After generation of CRAC, the Buyer shall prepare 'Payment advice' on GeM Portal, indicating any contractual deductions such as penalties for violation of Service Level Agreement (as applicable)/Liquidated Damages for delayed supplies etc. which will be used by GeM portal to compute the net amount payable for the accepted quantity after factoring in the contractual deduction(s) and generate claims for payments digitally/e-signed by the Buyer. This claim for payment shall be made available to the DDO on GeM Portal and the requisite data will also be pushed online in the PFMS. DDO will log into PFMS and generate the Bill against the said claims and forward the same to the PAO/Paying Authority for payment, after deducting any statutory deductions including TDS as applicable. The DDO shall also be responsible for issuing TDS certificate (as per Income Tax Act, 1961 amended from time to time) to the Seller after release of the payment to the Seller/Supplier.

(B) For Payment through Payment Systems other than PFMS, not requiring DDO functionality:

After generation of CRAC, the Buyer shall prepare 'Payment advice' on GeM Portal, indicating any contractual deductions such as penalties for violation of Service Level Agreement (as applicable)/Liquidated Damages for delayed

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supplies and also statutory deductions including TDS as applicable. The same will be used by GeM portal to compute the net amount payable for the accepted quantity and generate claims for payments digitally/e-signed by the Buyer. This claim for payment shall be made available to the PAO/Paying Authority on GeM Portal for payment, after deducting any statutory deductions including TDS as applicable.

In case the Buying organisation allows direct online payment through the payment gateway integrated with Bank(s) available on GeM Portal, the concerned PAO/Paying Authority shall log into the GeM Portal to process and advice for release of online payment to the Seller /Supplier through the available payment gateway. However, in case the PAO/Paying Authority operates through its own online Payment System, the requisite data will be pushed online in the Payment System of the Buying organisation. PAO/Paying Authority shall log into the Payment System to process the payment advice for release of online payment to the Seller /Supplier. The Buyer shall also be responsible for issuing TDS certificate.

14. After online pre-check of all relevant documents, PAO/Paying Authority shall debit the Government account, releasing the corresponding payment through PFMS /the Payment System of Railways/Defence/Posts/Others to be credited into the bank account of the Seller/Supplier. The payment so released shall be credited to the Seller/Supplier's account within 24 hours (excluding public holidays), by the Bank. SMS alerts shall be sent to the Seller and Buyer after the payment is authorized by PAO/Paying Authority and also after the confirmation of the payment by the Bank. The payment authorization as well as payment confirmation details shall be shared by PFMS /Payment System of Railways/ Defence/Posts/Others on the GeM portal. The PAO/Paying Authority and DDO shall comply with the provisions of General Financial Rules for budget implementation.

(b) In case of return of Bill, if necessary by PAO/Paying Authority, it should be made online with all queries/discrepancies/reasons for rejections indicated in one go with the approval of competent authority, to the DDO/Buyer for the needful corrections at their end.

15. In terms of the provisions of the Information Technology Act 2000 as amended from time to time, digitally/e-signed online documents generated on GeM shall be treated at par with ink-signed documents for release of payment to the Seller/Supplier and no ink signed paper/documents shall be demanded/insisted

16: It is obligatory for payments to be made without any delay for purchases made on GeM. In no case should it take longer than the prescribed timelines. The timelines after Consignee Receipt and Acceptance Certificate (CRAC) issued on-line and digitally/e-signed by consignee, will be two (2) working days for Buyer, one (1) working day for concerned DDO and two (2) working days for concerned

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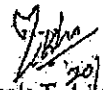
PAO/Paying Authority for triggering payment through PFMS/the Payment System of Railways/Defence/Posts/Others and Banks for crediting to the supplier's account. In case of return of Bills by PAO/Paying authority, the discrepancies should be addressed by concerned Buyer/DDO within one working day and thereafter on re-submission of Bill the PAO / Paying Authority should also not take more than one (1) working day for triggering payment to the supplier/Seller. Any matter needing a resolution will be escalated to the next higher level in each agency (Buyer, DDO and PAO/Paying Authority) where the matter should be resolved within 24 hours. In the entire process, time taken for payment should not exceed ten (10) days including holidays.

17. GeM System/Portal would also have on-line provisions for generating supplementary Invoice(s) for claim/refund of statutory changes in Duties and taxes, if any, as above. A provision for all types of refunds/claims should be available on-line through PFMS /the Payment System of Railways/Defence/Posts/Others.

18. The multi-year liabilities so created as referred to in Para 2(h) above shall be reviewed regularly by the Programme Division/Administrative unit in consultation with the Financial Adviser. The consolidated information on the total committed liabilities, year-wise, shall be submitted by the Financial Adviser to the Budget Division, Department of Economic Affairs, Ministry of Finance for suitably reflecting in the Budget Estimates for the relevant financial year and in the Medium Term Expenditure Framework (MTEF).

19. The above procedures and time lines shall be strictly adhered by the Ministries/Departments.

20. This issues with the approval of Secretary (Expenditure).

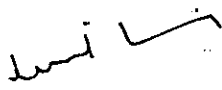

  
(Vinayak T. Likhar)  
Under Secretary to the Govt. Of India  
Tel:-24621305

To,

All the Secretaries and Financial Advisers to Government of India

Copy to:

1. CGA, CGDA, FC/ Railway Board- for information and necessary action.
2. Secretary/Department of Public Enterprises with a request to issue appropriate instructions to Public Sector Undertakings in this regard.
3. Internal circulation: AS (PF-I), JS(FA), JS (Pers.) and JS (PF-II).

## Annexure B

### Design Process Flow

- i) GeM server will be integrated with associated bankers who are willing to design, develop and deploy this new banking product for collecting funds equivalent to cost of procurement from State Government buyer before placement of formal contract through GeM.
- ii) When buyer decides to go for the procurement, GeM portal will advise the buyer to open the account with GeM associate bank for collection of advance payment. This account is a special type of account open as per the MoU where buyer will have no right to debit this account. Thus, the buyer will not have any control once payment has been transferred to this account. In this way, chance of non-availability of fund after supply is eliminated. This system will ensure timely payment to supplier.
- iii) After successful e-bidding/transfer the same in the GeM State pool account with ID tag of bid/RA number. This pooling account is capable of handling unlimited number of wallet/child account uniquely linked with a particular e-bid/RA. The moment money is received in GeM State pool account, associated banker will trigger a message flag to GeM system indicating receipt of fund equivalent to cost of control. Once this flag is 'Y' or Yes, the buyer can place the formal contract. Simultaneously e-bid/RA number associated with child account will be updated with the formal contract number for future transaction where banks will debit this particular child account against payment instructions received from the buyer through GeM portal.
- iv) After completion of the contract, banker will generate MIS for each child (sub-account) for reconciliation by the respective payment and accounts officer of State Government which has given advance fund for procurement through GeM. Buyer will have access to the system for viewing the debit transaction taking place in his account all the time.
- v) Situation may arise where contract is terminated owing to non-supply or rejection or any other reason. In that case buyer can issue instruction for refund of the money or alternatively he can go for fresh e-bidding/RA against this deposit, in this case, a mechanism will be devised at GeM

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end and banking end to replace the previous contract ID with the new contract ID.

- vi) Tax Collection at Source (TCS) in the GST regime, and other deductions. If any, will be managed by buyer himself while making payment to buyer. TCS so collected may be transferred to taxation head on quarterly basis from the account on instruction of buyer by the banker as being done by DGS&D system in case of service tax collection from DGS&D supplier applying for registration with DGS&D.

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