



CORRIGENDUM 1

(Issued on 24.04.2019)

TO

REQUEST FOR PROPOSAL (RFP)

FOR

**PROCUREMENT OF SERVICES FOR CONFIGURATION / CUSTOMIZATION
AND MAINTENANCE OF SAP HRMS APPLICATION ON TIME & MATERIAL
(T&M) BASIS**

Ref: SBI/GITC/HRMS/2019/2020/583 dated: 02.04.2019

**STATE BANK OF INDIA,
HRMS DEPARTMENT, GLOBAL IT CENTRE
BELAPUR RAILWAY STATION BUILDING,
TOWER # 7, 4TH FLOOR,
CBD BELAPUR,
NAVI MUMBAI 400614.**

Schedule of Events:

Sr. No.	RFP Page No. / Point No.	Original Schedule	Revised Schedule
1.	35 / 5 - Clarifications to queries raised at pre-Bid meeting will be provided by the Bank.	On 15.04.2019	On 23.04.2019
2.	35 / 6 - Last date and time for Bid submission	15.00 Hrs. on 25.04.2019	15.00 Hrs. on 06.05.2019
3.	36 / 8 - Date and Time of opening of Technical Bids	16.00 Hrs. on 25.04.2019	16.00 Hrs. on 06.05.2019

RFP For procurement of Services:

Sr. No.	RFP Page No. / Point No. /	Original Clause	Revised Clause
1.	23 / 30 (iii)	Right to Audit: iii. Service Provider shall, whenever required by the Bank, furnish all relevant information, records/data to such auditors and/or inspecting officials of the Bank/Reserve Bank of India and or any regulatory authority. The Bank reserves the right to call and/or retain for any relevant material information /reports including audit or review reports undertaken by the service provider (e.g., financial, internal control and security	Right to Audit: iii. Service Provider shall, whenever required by the Bank, furnish all relevant information, records/data to such auditors and/or inspecting officials of the Bank/Reserve Bank of India and or any regulatory authority. The Bank reserves the right to call and/or retain for any relevant material information /reports including audit or review reports undertaken by the service provider (e.g., financial, internal control and security reviews) and findings made on Selected Bidder in conjunction with the services provided to the



		reviews) and findings made on Selected Bidder in conjunction with the services provided to the Bank.	Bank. However, Service Provider shall not be obligated to provide records / data not related to services under this RFP (e.g. internal cost break-ups, etc.)
2.	24 / 33	<p>Limitation of liability:</p> <p>i. For breach of any obligation mentioned in this RFP, subject to obligations mentioned in this clause, in no event Service Provider shall be liable for damages to the Bank arising under or in connection with this Agreement for an amount exceeding the total Cost of the Project. Service provider will ensure Bank's data confidentiality and shall be responsible for liability arising in case of breach of any kind of security and/or leakage of confidential customer/Bank's related information to the extent of loss so caused.</p>	<p>Limitation of liability:</p> <p>i. For breach of any obligation mentioned in this RFP, subject to obligations mentioned in this clause, in no event Service Provider shall be liable for damages to the Bank arising under or in connection with this Agreement for an amount exceeding the total Cost of the Project. Service provider will ensure Bank's data confidentiality and shall be responsible for liability arising in case of breach of any kind of security and/or leakage of confidential customer/Bank's related information to the extent of loss so caused. Neither Party shall be responsible or liable to the other Party for any indirect, consequential or incidental losses, damages or claims including loss of profit, loss of business or revenue.</p>

3.	26 / 38	<p>Patent Rights/Intellectual Property Rights:</p> <ul style="list-style-type: none"> i. For any licensed software used by the finally selected L1 Vendor for performing services for the Bank, the Vendor shall have the right as well as the right to license for the outsourced services. Any license or IPR violation on the part of Vendor/ Subcontractor should not put the Bank at risk. The Bank reserves the right to audit the license usage of the Vendor. ii. The Vendor shall, at its own expenses without any limitation, defend and indemnify the Bank against all third party claims or infringements of Intellectual Property Rights including patent, trademark, copyright, trade secret or industrial design rights arising from use of the products or any part thereof in India or abroad. iii. The Vendor shall expeditiously extinguish any such claims and shall have full rights to defend itself there from. If the Bank is required to 	<p>INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP:</p> <ul style="list-style-type: none"> i. All data or information supplied by the Bank to Service Provider and/or its employee, agent or sub-contractor in connection with the provision of Services by Service Provider shall remain the property of the Bank or its licensors. ii. In connection with the provision of Services under this Agreement, it is not required from Service Provider to license and/or supply third party materials, including any third party software, hardware, tools, content, graphics or other materials (collectively "Third Party Materials") to the Bank. In the event that a portion of the Services requires the use of Third Party Materials, the Bank already has or will license or acquire such Third Party Materials directly from the third party provider, and shall ensure that it has the right to provide Service Provider with access to and/or use of such Third Party Materials in the provision of Services performed by Service Provider. All Third Party Materials are subject to the terms and conditions of the applicable license or other agreement between the Bank and
----	---------	---	---



		<p>pay compensation to a third party resulting from such infringement(s), the Vendor shall be fully responsible therefore, including all expenses and court and legal fees.</p> <p>iv. The Bank will give notice to the Vendor of any such claim without delay, provide reasonable assistance to the Vendor in disposing of the claim, and shall at no time admit to any liability for or express any intent to settle the claim.</p>	<p>the applicable third party provider and Service Provider, its employee, agent, representative or sub-contractor shall comply with the terms and conditions of access and uses of such Third Party Materials under applicable agreements.</p> <p>iii. Without the Bank's prior written approval, Service provider shall not, in performing the Services, use or incorporate, link to or call or depend in any way upon, any software or other intellectual property that is subject to an Open Source or Copy-left license or any other agreement that may give rise to any third-party claims.</p> <p>iv. Service Provider shall, at its own expenses without any limitation, defend and indemnify the Bank against all third party claims or infringements of Intellectual Property Rights including patent, trademark, copyright, trade secret or industrial design rights arising from use of the Deliverables or any part thereof in India or abroad.</p> <p>v. Service provider shall expeditiously extinguish any such claims and shall have full rights to defend itself there from. If the Bank is required to</p>
--	--	---	---



			<p>pay compensation to a third party resulting from such infringement(s), Service Provider shall be fully responsible therefore, including all expenses and court and legal fees.</p> <p>vi. The Bank will give notice to Service Provider of any such claim without delay, provide reasonable assistance to Service provider in disposing of the claim, and shall at no time admit to any liability for or express any intent to settle the claim.</p> <p>vii. All Work Product prepared by Service Provider in performing the Services shall become and remain the sole and exclusive property of the Bank and all Intellectual Property Rights in such Work Product shall vest with the Bank. Any Work Product, of which the ownership or the Intellectual Property Rights do not vest with the Bank under law, shall automatically stand assigned to the Bank as and when such Work Product is created and Service Provider agrees to execute all papers and to perform such other acts as the Bank may deem necessary to secure its rights herein assigned by Service Provider. Any work</p>
--	--	--	---



			<p>made under this Agreement or respective Purchase Order shall be deemed to be 'work made for hire' under any Indian/U.S. or any other applicable copyright laws.</p> <p>viii. The Intellectual Property Rights on the software code, copyright and source code for various applications/ interfaces developed under this RFP and any other component/ framework/ middleware used/ developed as pre-built software assets to perform the Services, shall belong to the Bank and the Bank shall have complete and unrestricted rights on such property.</p>
<p>4.</p>	<p>31 / 42 (i) / Termination for Default:</p>	<p>i. The Bank, without prejudice to any other remedy for breach of Contract, by a written notice of not less than 30 (thirty) days sent to the Vendor, may terminate the Contract in whole or in part:</p> <p>a. If the Vendor fails to deliver and perform any or all the Services within the period(s) specified in the Contract, or within any extension thereof granted</p>	<p>i. The Bank may, without prejudice to any other remedy for breach of Agreement, written notice of not less than 30 (thirty) days sent to the Service Provider, terminate the Contract in whole or in part:</p> <p>a. If the Service Provider fails to deliver any or all the obligations within the time period specified in the Contract or any extension thereof granted by the Bank;</p> <p>b. If the Service Provider fails to perform any other</p>



		<p>by the Bank; or</p> <p>b. If the vendor fails to perform any other obligation(s) under the contract; or</p> <p>c. Laxity in adherence to standards laid down by the Bank; or</p> <p>d. Discrepancies/deviations in the agreed processes and/or Services.; or</p> <p>e. Violations of terms and conditions stipulated in this RFP.</p>	<p>obligation(s) under the Contract;</p> <p>c. Violations of any terms and conditions stipulated in the RFP;</p> <p>d. On happening of any termination event mentioned herein above in this RFP</p> <p>Prior to providing a written notice of termination to Service Provider under clause 42 (i) a to d, the Bank shall provide Service Provider with a written notice of 30 (thirty) days to cure any breach of the Agreement. If the breach continues or remains unrectified after expiry of cure period, the Bank shall have right to initiate action in accordance with above clause.</p>
5.	31 / 42 (i) / Termination for Default:	<p>vi. In the event of failure of the Service Provider to render the Services or in the event of termination of agreement or expiry of term or otherwise, without prejudice to any other right, the Bank at its sole discretion may make alternate arrangement for getting the Services contracted with another vendor. In such case, the Bank shall give prior notice to the existing Service</p>	<p>vi. In the event of failure of the Service Provider to render the Services or in the event of termination of agreement or expiry of term or otherwise, without prejudice to any other right, the Bank at its sole discretion may make alternate arrangement for getting the Services contracted with another vendor. In such case, the Bank shall give prior notice to the existing Service Provider. The existing</p>



		<p>Provider. The existing Service Provider shall continue to provide services as per the terms of contract until a 'New Service Provider' completely takes over the work. During the transition phase, the existing Service Provider shall render all reasonable assistance to the new Service Provider within such period prescribed by the Bank, at no extra cost to the Bank, for ensuring smooth switch over and continuity of services. If existing vendor is breach of this obligation, they shall be liable for paying a penalty of as provided in Part-II, (Schedule of Events, Sr. No 20) on demand to the Bank, which may be settled from the payment of invoices or Performance Bank Guarantee for the contracted period or by invocation of Performance Bank Guarantee.</p>	<p>Service Provider shall continue to provide services as per the terms of contract until a 'New Service Provider' completely takes over the work. During the transition phase, the existing Service Provider shall render all reasonable assistance to the new Service Provider within such period prescribed by the Bank, at no extra cost to the Bank, for ensuring smooth switch over and continuity of services, provided where transition services are required by the Bank or New Service Provider beyond the term of this Agreement, reasons for which are not attributable to Service Provider, payment shall be made to Service Provider for such additional period on the same rates and payment terms as specified in this RFP. If existing vendor is breach of this obligation, they shall be liable for paying a penalty of as provided in Part-II, (Schedule of Events, Sr. No 20) on demand to the Bank, which may be settled</p>
--	--	--	--

			from the payment of invoices or Performance Bank Guarantee for the contracted period or by invocation of Performance Bank Guarantee.
6.	37 – Schedule of Events – Tender Fee	11. Amount Rs. 10,000/- (Rs. Twenty Five Thousand Only.) Non-refundable by means of a DD or Bankers' Cheque payable at Mumbai in favour of State Bank of India	11. Amount Rs. 10,000/- (Rs. Ten Thousand Only.) Non-refundable by means of a DD or Bankers' Cheque payable at Mumbai in favour of State Bank of India
7.	48 – Annexure C – Technical Evaluation Matrix	Experience of midway takeover of a Project and successful completion RFP for procurement of Services	Experience of takeover of a Project and successful completion RFP for procurement of Services from an incumbent vendor

Assumptions while quoting:

Sr. No.	RFP Page No. / Point No. / Clause	Original Clause	Amendment / New Clause
1.	51 / Annexure – E Assumptions while quoting	d. Resources who work for minimum eight hours in a day, only will be considered for full man-day.	d. Resources who work for minimum eight hours in a day, only will be considered for full man-day. The resources will have to work for eight hours excluding lunch / dinner / refreshment break. However, there will be no extra payment for working beyond eight hours.
2.	51 / Annexure – E Assumptions while quoting	I. Final selection of the successful bidder would be through Reverse Auction Process and the contract would be given to L1 vendor discovered. In case the vendor ranked L1 expresses its inability	I. Final selection of the successful bidder would be through Reverse Auction Process and the contract would be given to L1 vendor discovered.

		to meet the terms stipulated in this RFP/ unable to enter into the contract with Bank, the Bank may award the contract to L2 bidder, provided L2 bidder matches the price of L1.	
3.	51 / Annexure – E Assumptions while quoting	New clause	n. If required, the Bank may call the resources to work on Saturdays / Sundays / Bank Holidays and the man-day rate for working on these days will be same as discovered in the Reverse Auction.
4.	51 / Annexure – E Assumptions while quoting	New clause	o. Additional resources, if required, will be hired at the same rate during the contract period.
5.	52 / Annexure – E Assumptions while quoting	The resource deployment by the Bidder for development of services should be done on need basis	The resource deployment by the Bidder for development of services would be done on need basis, however, minimum 20 resources would be required including Basis support.
6.	59 / Annexure F – Indicative Commercial Bid		Revised Annexure F Attached.
7.	87 / Annexure M – Service Level Agreement		Revised Annexure M Attached.

Annexure-F

Indicative Commercial Bid

The indicative commercial Bid needs to contain the information listed hereunder in a sealed envelope bearing the identification – “**Indicative Commercial Bid for Procurement of SERVICES FOR CONFIGURATION / CUSTOMIZATION AND MAINTENANCE OF SAP HRMS APPLICATION ON TIME & MATERIAL (T&M) BASIS**”.

Name of the Bidder:**Monthly Staffing/Deployment**

The rate of resources will be calculated for a man-month taking into account 24 man-days per month.

Cost for 5 years will be considered for the purpose of arriving @ L1 vendor.

Bank will decide on the overall team size and skill sets depending on the requirements from time to time. However, minimum 20 resources would be required including Basis support.

Type of Resources	Number Resources	Rate of resources (Cost per Man-Month)	Cost for 5 years = (Cost per Man-month * 60)
Project Management	1		
Functional Payroll / OM	2		
Functional HR/PMS	1		
Functional Time	1		
Functional ESS/MSS	3		
Functional FICO	1		
Workflow Lead	1		
Portal / UI5 Lead	1		
Portal / UI5 Consultants	2		



ABAP/ ABAP Data Source / Webdynpro / FIORI /UI5 Lead	1		
ABAP/Webdynpro / FIORI /UI5	12		
SAP BOBJ / Lumira / Webi	1		
SAP BODS	1		
SyBase IQ DB Admin & Developer	1		
Basis Support L1 *	4		
Basis Support L2 *	4		
Basis Support L3 *	4		
Total	41		

* Three tier (L1, L2, L3) support of Basis has to be provided 24/7 onsite.

Breakup of Taxes and Duties

Sr. No.	Name of activity/Services	Tax 1	Tax 2	Tax 3
		Mention Name of Tax		
		GST %		
1.	Provide IT resources on T&M basis			
Grand Total				

Signature

Seal of Company

ANNEXURE-M

Service Level Agreement

**HRMS Department
State Bank Global IT Centre, Navi Mumbai**

Commencement Date:

Date of Expiry:

Contents

1.	DEFINITIONS & INTERPRETATION	16
2.	SCOPE OF WORK	20
3.	FEES /COMPENSATION	20
4.	LIABILITIES/OBLIGATION.....	23
5.	REPRESENTATIONS &WARRANTIES	24
6.	GENERAL INDEMNITY.....	26
7.	CONTINGENCY PLANS.....	27
8.	TRANSITION REQUIREMENT	27
9.	LIQUIDATED DAMAGES.....	28
10.	RELATIONSHIP BETWEEN THE PARTIES	28
11.	SUB CONTRACTING.....	29
12.	INTELLECTUAL PROPERTY RIGHTS	29
13.	INSTALLATION.....	31
14.	INSPECTION AND AUDIT	31
15.	SECURITY AND CONFIDENTIALITY	32
16.	OWNERSHIP	35
17.	TERMINATION CLAUSE	35
18.	DISPUTE REDRESSAL MACHANISM & GOVERNING LAW.....	39
19.	POWERS TO VARY OR OMIT WORK.....	41
20.	NO WAIVER OF BANK RIGHTS OR SERVICE PROVIDER'S LIABILITY	42
21.	LIMITATION OF LIABILITY	42
22.	FORCE MAJEURE.....	43
23.	NOTICES	44
24.	GENERAL TERMS & CONDITIONS	44



This agreement (“Agreement”) is made at..... (Place) on this ----- day of _____ 2018.

BETWEEN

State Bank of India, constituted under the State Bank of India Act, 1955 having its Corporate Centre and Central Office at State Bank Bhavan, Madame Cama Road, Nariman Point, Mumbai-21 and its HRMS Department at Belapur Railway Station Building, Tower # 7, 4th floor, CBD Belapur, Navi Mumbai - 400614, hereinafter referred to as “**the Bank**” (which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors in title and assigns) of the First Part:

AND

.....^{1a}
private/public limited company/LLP/Firm ~~<strike off whichever is not applicable>~~incorporated under the provisions of the Companies Act, 1956/ Limited Liability Partnership Act 2008/ Indian Partnership Act 1932 ~~<strike off whichever is not applicable>~~, having its registered office at hereinafter referred to as “**Service Provider/ Vendor**”, which expression shall mean to include its successors in title and permitted assigns of the Second Part:

WHEREAS

A. “The Bank” is carrying on business in banking in India and overseas and is desirous to avail services for configuration / customization and maintenance of SAP HRMS application on time & material (T&M) basis

B. Service Provider in the business of providing², and has agreed to providing the Services as mentioned in Request for Proposal (RFP) No. dated issued by the Bank along with its clarifications/ corrigenda, referred hereinafter as a “RFP” and same shall be part of this Agreement.

¹Name & Complete Address (REGISTERED OFFICE) of the service Provider,
²Brief mentioning of service providers experience in providing the services required by the Bank.

NOW THEREFORE, in consideration of the mutual covenants, undertakings and conditions set forth below, and for other valid consideration the acceptability and sufficiency of which are hereby acknowledged, the Parties hereby agree to the following terms and conditions hereinafter contained:-

1. DEFINITIONS & INTERPRETATION

1.1 Definition

Certain terms used in this Agreement are defined hereunder. Other terms used in this Agreement are defined where they are used and have the meanings there indicated. Unless otherwise specifically defined, those terms, acronyms and phrases in this Agreement that are utilized in the information technology services industry or other pertinent business context shall be interpreted in accordance with their generally understood meaning in such industry or business context, unless the context otherwise requires/mentions, the following definitions shall apply:

- A. 'The Bank' shall mean the State Bank of India (including domestic branches and foreign offices) and subsidiaries. *< Strike of whichever is inapplicable >*
- B. "Code" shall mean computer programming code contained in the Software. If not otherwise specified, Code shall include both Object Code and Source Code which means programming languages, including all comments and procedural code, and all related development documents (e.g., flow charts, schematics, statements of principles of operations, end-user manuals, architecture standards, and any other specifications that are used to create or that comprise the Code). Code shall include Maintenance Modifications and Enhancements in the Software.
- C. "Confidential Information" shall have the meaning set forth in Clause 15.
- D. "Deficiencies" shall mean non satisfactory outcome of the Services which has resulted in deviation from the desired outcome and has thereby caused loss to a Party of this Agreement.

- E. “Documentation” will describe in detail and in a completely self-contained manner how the user may access and use the (name of the Software/ maintenance services) ~~<Strike off whichever is Inapplicable>~~,³ such that any reader of the Documentation can access, use and maintain all of the functionalities of the Software, without the need for any further instructions. ‘Documentation’ includes, user manuals, installation manuals, operation manuals, design documents, process documents, technical manuals, functional specification, software requirement specification, on-line tutorials/CBTs, system configuration documents, system/database administrative documents, debugging/diagnostics documents, test procedures, Review Records/ Test Bug Reports/ Root Cause Analysis Report, list of all Product components, list of all dependent/external modules and list of all documents relating to traceability of the Product as and when applicable etc.
- F. “Intellectual Property Rights” shall mean, on a worldwide basis, any and all: (a) rights associated with works of authorship, including copyrights & moral rights; (b) Trade Marks; (c) trade secret rights; (d) patents, designs, algorithms and other industrial property rights; (e) other intellectual and industrial property rights of every kind and nature, however designated, whether arising by operation of law, contract, license or otherwise; and (f) registrations, initial applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force (including any rights in any of the foregoing).
- G. “Open Source or Copy left license” shall mean a license of a computer program in which the source code is available to the general public for use and/or modification from its original design.
- H. “Project Cost” means the price payable to the Service Provider under the Agreement for the full and proper performance of its contractual obligations.

³ Name of Software

- I. "Project Documents" shall mean all the plans, drawings and specifications used while bidding and all other documents necessary to complete all work.
- J. "Request for Proposal (RFP)" shall mean RFP NO. 583 dated 02.04.2019 along with its clarifications/ corrigenda issued by the Bank time to time.
- K. "Revision control procedure" shall mean the procedure for management of changes to documents, software programs, and other collections of information made during this engagement.
- L. "Root Cause Analysis Report" shall mean a report addressing a problem or non-conformance, in order to get to the 'root cause' of the problem, which thereby assists in correcting or eliminating the cause, and prevent the problem from recurring.
- M. 'Services' shall mean and include the Services offered by Service Provider more particularly described in Clause 2 of this Agreement. 'Services' shall also include the implementation services, training services and maintenance Services ~~<Strike off whichever is Inapplicable>~~ and other obligation of the Service Provider to be provided under this Agreement.
- N. "Software" shall mean (a) the software product(s) described in this Agreement; (b) all maintenance, modifications and enhancements that are provided to the Bank; (c) the Code contained in or otherwise related to each of the foregoing; and (d) the Documentation.
- O. "Test Bug Reports" shall mean a report providing the details as to the efficiency of software in relation with reporting and resolution of any bug.
- P. "Deliverables/ Work Product" shall mean all work product generated by Service Provider solely or jointly with others in the performance of the Services, including, but not limited to, any and all information, notes, reports, material, drawings, records, diagrams, formulae, processes, technology, firmware, software, know-how, designs, ideas, discoveries, inventions, improvements, copyrights, trademarks, trade secrets and other Intellectual Property Rights.

1.2 Interpretations:

1.2.1 Reference to a person includes any individual, firm, body corporate, association (whether incorporated or not) and authority or agency (whether government, semi government or local).

1.2.2 The singular includes the plural and vice versa.

1.2.3 Reference to any gender includes each other gender.

1.2.4 The provisions of the contents table, headings, clause numbers, italics, bold print and underlining is for ease of reference only and shall not affect the interpretation of this Agreement.

1.2.5 The Schedules, Annexures and Appendices to this Agreement shall form part of this Agreement.

1.2.6 A reference to any documents or agreements (and, where applicable, any of their respective provisions) means those documents or agreements as amended, supplemented or replaced from time to time provided they are amended, supplemented or replaced in the manner envisaged in the relevant documents or agreements.

1.2.7 A reference to any statute, regulation, rule or other legislative provision includes any amendment to the statutory modification or re-enactment or, legislative provisions substituted for, and any statutory instrument issued under that statute, regulation, rule or other legislative provision.

1.2.8 Any agreement, notice, consent, approval, disclosure or communication under or pursuant to this Agreement is to be in writing.

1.2.9 The terms not defined in this agreement shall be given the same meaning as given to them in the RFP. If no such meaning is given technical words shall be understood in technical sense in accordance with the industrial practices.

1.3 Commencement, Term & Change in Terms

1.3.1 This Agreement shall commence from its date of execution mentioned above/ deemed to have commenced from _____ (Effective Date).

1.3.2 This Agreement shall be in force for a period of _____ year(s) from Effective Date, unless terminated by the Bank by notice in writing in accordance with the termination clauses of this Agreement.

1.3.3 The Bank shall have the right at its discretion to renew this Agreement in writing, for a further term of _____ years on the mutually agreed terms & conditions.

1.3.4 Either Party can propose changes to the scope, nature or time schedule of services being performed under this Service Level Agreement. Such changes can be made upon mutually accepted terms & conditions maintaining the spirit (Purpose) of this Service Level Agreement.

2. SCOPE OF WORK

The scope and nature of the work which the Service Provider has to provide to the Bank (Services) is described in **Annexure-A**.

3. FEES /COMPENSATION

3.1 Professional fees

3.1.1 Service Provider shall be paid fees and charges in the manner detailed in hereunder, the same shall be subject to deduction of income tax thereon wherever required under the provisions of the Income Tax Act by the Bank.

Rate Card for providing Resources on T&M basis on following rates as per the category of requisite resources:

Type of Resources	Number Resources	Rate of resources (Cost per Man-Month)	Cost for 5 years = (Cost per Man-month * 60)
Project Management	1		



Functional Payroll / OM	2		
Functional HR/PMS	1		
Functional Time	1		
Functional ESS/MSS	3		
Functional FICO	1		
Workflow Lead	1		
Portal / UI5 Lead	1		
Portal / UI5 Consultants	2		
ABAP/ ABAP Data Source / Webdynpro / FIORI /UI5 Lead	1		
ABAP/Webdynpro / FIORI /UI5	12		
SAP BOBJ / Lumira / Webi	1		
SAP BODS	1		
SyBase IQ DB Admin & Developer	1		
Basis Support L1 *	4		
Basis Support L2 *	4		
Basis Support L3 *	4		
Total	41		

3.2 All duties and taxes (excluding⁴ _____ or any other tax imposed by the Government in lieu of same), if any, which may be levied, shall be borne by the Service Provider and Bank shall not be liable for the same. All expenses, stamp duty and other charges/ expenses in connection with execution of this Agreement shall be borne by Service Provider. _____ <insert tax payable by the Bank> or any other tax

⁴ Please determine the applicability of the taxes.

imposed by the Government in lieu of same shall be borne by the Bank on actual upon production of original receipt wherever required.

3.3 Service Provider shall provide a clear description quantifying the service element and goods element in the invoices generated by them.

3.4 Payments

3.4.1 The Bank will pay properly submitted valid invoices within reasonable period but not exceeding 30 (thirty) days after its receipt thereof. All payments shall be made in Indian Rupees.

3.4.2 The Bank may withhold payment of any charges that it disputes in good faith, and may set-off penalty amount and any other amount which Service provider owes the Bank against charges payable to Service provider under this Agreement.

3.5 Performance Guarantee and Penalties

3.5.1 The Service Provider has to furnish a performance guarantee for an amount of Rs. _____ from a Scheduled Commercial Bank other than State Bank of India in a format provided/ approved by the Bank.

3.5.2 The performance guarantee is required to protect the interest of the Bank against delay in supply/installation and or the risk of unsuccessful implementation of the project, or performance of the material or services sold, which may warrant invoking of performance guarantee. In case any act of the Service Provider results in imposition of liquidated damages then also the Bank reserves the right to invoke the performance guarantee.

3.5.3 If at any time during performance of the Contract, the Service Provider shall encounter unexpected conditions impeding timely completion of the Services under the Agreement and performance of the services, the Service Provider shall promptly notify the Bank in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable, after receipt of

the Service Provider's notice, the Bank shall evaluate the situation and may at its discretion extend the Service Provider's time for performance, in which case the extension shall be ratified by the Parties by amendment of the Agreement.

- 3.5.4 Performance of the obligations under the Agreement shall be made by the Service Provider in accordance with the time schedule⁵ specified in this Agreement.
- 3.5.5 The Service Provider shall be liable to pay penalty at the rate mentioned in Annexure 'F' in respect of any delay beyond the permitted period in providing the Services.
- 3.5.6 Subject to Clause 17 of this Agreement, any unexcused delay by the Service Provider in the performance of its Contract obligations shall render this Agreement to be terminated.
- 3.5.7 No penalty shall be levied in case of delay(s) in deliverables or performance of the contract for the reasons not attributable to the Service Provider. On reaching the maximum of penalties specified the Bank reserves the right to terminate the Agreement.

4. LIABILITIES/OBLIGATION

4.1 The Bank's Duties /Responsibility(if any)

- (i) Processing and Authorizing invoices
- (ii) Approval of Information
- (iii)
- (iv)
- (v)

4.2 Service Provider Duties

- (i) Service Delivery responsibilities
 - (a) To adhere to the service levels documented in this Agreement.
 - (b) Service provider, if permitted to sub-contract, shall *ensure that* Service provider personnel and its subcontractors will abide by all

⁵ Please ensure that the time scheduled is suitably incorporated in the Agreement.



reasonable directives issued by the Bank, including those set forth in the Bank’s then-current standards, policies and procedures (to the extent applicable), all on-site rules of behavior, work schedules, security procedures and other standards, policies and procedures as established by the Bank from time to time.

(c) Service Provider agrees and declares that it shall be the sole responsibility of Service Provider to comply with the provisions of all the applicable laws, concerning or in relation to rendering of Services by Service Provider as envisaged under this Agreement.

(d)

(e)<the concerned dept. may add duties depending on the nature of agreement>

(ii) Security Responsibility

(a) To maintain the confidentiality of the Bank's resources and other intellectual property rights.

(b).....

(c).....

5. REPRESENTATIONS &WARRANTIES

5.1 Service Provider warrants that the technical quality and performance of the Services provided will be consistent with the mutually agreed standards.

5.2 Service Provider warrants that at the time of delivery the customized / modified Software or its component is free from malware, free from any obvious bugs, and free from any covert channels in the code (of the versions of the applications/software being delivered as well as any subsequent versions/modifications delivered) and free from top ten OWASP vulnerabilities of applications/software arising out of faulty design, workmanship, etc. during the contractual period.

5.3 Service Provider represents and warrants that its personnel shall be present at the Bank premises or any other place as the bank may direct, only for the Services and follow all the instructions provided by the Bank;

Act diligently, professionally and shall maintain the decorum and environment of the Bank; Comply with all occupational, health or safety policies of the Bank.

- 5.4 Service Provider warrants that it shall be solely liable and responsible for compliance of applicable Labour Laws in respect of its employee, agents, representatives and sub-contractors and in particular laws relating to terminal benefits such as pension, gratuity, provided fund, bonus or other benefits to which they may be entitled and the laws relating to contract labour, minimum wages, etc., and the Bank shall have no liability in this regard.
- 5.5 Each Party represents and warrants that it has all requisite power and authorization to enter into and perform this Agreement and that nothing contained herein or required in the performance hereof conflict or will conflict with or give rise to a breach or default under, or permit any person or entity to terminate, any contract or instrument to which the party is bound.
- 5.6 Service Provider warrants the Bank against any license or IPR violations on its part or on the part of subcontractor, wherever permitted, in use of any technology /software /product for performing services or developing software for the Bank as part of this Agreement.
- 5.7 Service Provider shall perform the Services and carry out its obligations under the Agreement with due diligence, efficiency and economy, in accordance with generally accepted techniques and practices used in the industry and with professional standards recognized by international professional bodies and shall observe sound management practices. It shall employ appropriate advanced technology and safe and effective equipment, machinery, material and methods.
- 5.8 The Service Provider has the requisite technical and other competence, sufficient, suitable, qualified and experienced manpower/personnel and expertise in providing the Services to the Bank.
- 5.9 The Service Provider shall duly intimate to the Bank immediately, the changes, if any in the constitution of the Service Provider.



5.10 The Services and Deliverables provided by the Service Provider to the Bank do not violate or infringe any patent, copyright, trademarks, trade secrets or other Intellectual Property Rights of any third party.

5.11 The Service Provider shall ensure that all persons, employees, workers and other individuals engaged by or sub-contracted by the Service Provider in rendering the Services under this Agreement have undergone proper background check, police verification and other necessary due diligence checks to examine their antecedence and ensure their suitability for such engagement. No person shall be engaged by the Service Provider unless such person is found to be suitable in such verification and the Service Provider shall retain the records of such verification and shall produce the same to the Bank as when requested.

5.12 During the contract period if any customized version of software or any component thereof is supplied by Service Provider is inoperable or suffers degraded performance not due to causes external to the software, Service provider shall, at the Bank's request, promptly replace the customized software or specified component with new software of the same type and quality. Such replacement shall be accomplished without any adverse impact on the Bank's operations within agreed time frame.

5.13

5.14<any other additional warranty can be incorporated>

6. GENERAL INDEMNITY

6.1 Service Provider agrees and hereby keeps the Bank indemnified against all claims, actions, loss, damages, costs, expenses, charges, including legal expenses (Attorney, Advocates fees included) which the Bank may suffer or incur on account of (i) Service Provider's breach of its warranties, covenants, declarations or obligations; or (ii) breach of Confidentiality Obligations mentioned under this Agreement; or (iii) any

willful misconduct and grossly negligent acts on the part of employees, agents, representatives or subcontractors of Service Provider. Service Provider agrees to make good the loss suffered by the Bank.

6.2 The Service provider shall indemnify and keep fully and effectively indemnified the Bank against any fine or penalty levied on the Bank for improper payment of tax for the reasons attributable to the Service provider.

6.3 The Service provider hereby undertakes the responsibility to take all possible measures, at no cost, to avoid or rectify any issues which thereby results in non-performance of customizations made in the SAP software by Service Provider within reasonable time. The Bank shall report as far as possible all material defects to the Service provider without undue delay. The Service provider also undertakes to co-operate with other service providers thereby ensuring expected performance covered under scope of work. Nothing contained in this Agreement shall impair the Bank's right to claim damages without any limitation for an amount equal to the loss suffered for non-performance of customizations made by Bidder in the SAP software.

7. .CONTINGENCY PLANS.

7.1 The Service provider shall arrange and ensure proper data recovery mechanism, attrition plan and other contingency plans to meet any unexpected obstruction to the Service Provider or any employees or sub-contractors of the service provider in rendering the Services or any part of the same under this Agreement to the Bank. The Service Provider at Banks discretion shall co-operate with the bank in case on any contingency.

8. TRANSITION REQUIREMENT

In the event of failure of the Service Provider to render the Services or in the event of termination of agreement or expiry of term or otherwise, without prejudice to any other right, the Bank at its sole discretion may make alternate arrangement for getting the Services contracted with another

vendor. In such case, the Bank shall give prior notice to the existing Service Provider. The existing Service Provider shall continue to provide services as per the terms of contract until a 'New Service Provider' completely takes over the work. During the transition phase, the existing Service Provider shall render all reasonable assistance to the new Service Provider within such period prescribed by the Bank, at no extra cost to the Bank, for ensuring smooth switch over and continuity of services, provided where transition services are required by the Bank or New Service Provider beyond the term of this Agreement, reasons for which are not attributable to Service Provider, payment shall be made to Service Provider for such additional period on the same rates and payment terms as specified in this RFP. If existing vendor is breach of this obligation, they shall be liable for paying a penalty @ rate of 10% of the contract value on demand to the Bank, which may be settled from the payment of invoices or performance guarantee for the contracted period. Transition & Knowledge Transfer plan is mentioned in Annexure H.

9. LIQUIDATED DAMAGES

If the Service Provider fails to deliver product and/or perform any or all the Services within the stipulated time, schedule as specified in this Agreement, the Bank may, without prejudice to its other remedies under the Agreement, and unless otherwise extension of time is agreed upon without the application of liquidated damages, deduct from the Project Cost, as liquidated damages a sum equivalent to 0.5 % of total Project cost for delay of each week or part thereof maximum up to 5 % of total Project cost. Once the maximum deduction is reached, the Bank may consider termination of the Agreement.

10. RELATIONSHIP BETWEEN THE PARTIES

10.1 It is specifically agreed that the Service Provider shall act as independent service provider and shall not be deemed to be the Agent of the Bank except in respect of the transactions/services which give rise

to Principal - Agent relationship by express agreement between the Parties.

10.2 Neither the Service Provider nor its employees, agents, representatives, Sub-Contractors shall hold out or represent as agents of the Bank.

10.3 None of the employees, representatives or agents of Service Provider shall be entitled to claim any absorption or any other claim or benefit against the Bank.

10.4 This Agreement shall not be construed as joint venture. Each Party shall be responsible for all its obligations towards its respective employees. No employee of any of the two Parties shall claim to be employee of other Party.

10.5 All the obligations towards the employees of a Party including that on account of personal accidents occurred while working in the premises of the other Party shall be with the respective employer and not on the Party in whose premises the accident occurred.

11. SUB CONTRACTING

As per the scope of this Agreement, Sub-contracting is not permitted.

12 INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP

12.1 All data or information supplied by the Bank to Service Provider and/or its employee, agent or sub-contractor in connection with the provision of Services by Service Provider shall remain the property of the Bank or its licensors.

12.2 In connection with the provision of Services under this Agreement, it is not required from Service Provider to license and/or supply third party materials, including any third party software, hardware, tools, content, graphics or other materials (collectively "Third Party Materials") to the Bank. In the event that a portion of the Services requires the use of Third Party Materials, the Bank already has or will license or acquire such Third Party Materials directly from the third party provider, and shall ensure that it has

the right to provide Service Provider with access to and/or use of such Third Party Materials in the provision of Services performed by Service Provider. All Third Party Materials are subject to the terms and conditions of the applicable license or other agreement between the Bank and the applicable third party provider and Service Provider, its employee, agent, representative or sub-contractor shall comply with the terms and conditions of access and uses of such Third Party Materials under applicable agreements.

12.3 Without the Bank's prior written approval, Service provider shall not, in performing the Services, use or incorporate, link to or call or depend in any way upon, any software or other intellectual property that is subject to an Open Source or Copy-left license or any other agreement that may give rise to any third-party claims.

12.4 Service Provider shall, at its own expenses without any limitation, defend and indemnify the Bank against all third party claims or infringements of Intellectual Property Rights including patent, trademark, copyright, trade secret or industrial design rights arising from use of the Deliverables or any part thereof in India or abroad.

12.5 Service provider shall expeditiously extinguish any such claims and shall have full rights to defend itself there from. If the Bank is required to pay compensation to a third party resulting from such infringement(s), Service Provider shall be fully responsible therefore, including all expenses and court and legal fees.

12.6 The Bank will give notice to Service Provider of any such claim without delay, provide reasonable assistance to Service provider in disposing of the claim, and shall at no time admit to any liability for or express any intent to settle the claim.

12.7 All Work Product prepared by Service Provider in performing the Services shall become and remain the sole and exclusive property of the Bank and all Intellectual Property Rights in such Work Product shall vest with the Bank. Any Work Product, of which the ownership or the Intellectual Property Rights do not vest with the Bank under law, shall automatically

stand assigned to the Bank as and when such Work Product is created and Service Provider agrees to execute all papers and to perform such other acts as the Bank may deem necessary to secure its rights herein assigned by Service Provider. Any work made under this Agreement or respective Purchase Order shall be deemed to be 'work made for hire' under any Indian/U.S. or any other applicable copyright laws.

12.8 The Intellectual Property Rights on the software code, copyright and source code for various applications/ interfaces developed under this RFP and any other component/ framework/ middleware used/ developed as pre-built software assets to perform the Services, shall belong to the Bank and the Bank shall have complete and unrestricted rights on such property.

13 INSTALLATION

Service provider will install the software/support the Bank in installation of the software developed into the Bank's production, disaster recovery, testing and training environment, if required.

14 INSPECTION AND AUDIT

14.1 It is agreed by and between the parties that the Service Provider shall get itself annually audited by internal/external empaneled Auditors appointed by the Bank/ inspecting official from the Reserve Bank of India or any regulatory authority, covering the risk parameters finalized by the Bank/ such auditors in the areas of products (IT hardware/ software) and services etc. provided to the Bank and the vendor shall submit such certification by such Auditors to the Bank. The vendor and or his / their outsourced agents /sub – contractors (if allowed by the Bank) shall facilitate the same. The Bank can make its expert assessment on the efficiency and effectiveness of the security, control, risk management, governance system and process created by the Service Provider. The Service Provider shall, whenever required by such Auditors, furnish all relevant information, records/data to them. All costs for such audit shall be borne by the Bank.

14.2 Where any deficiency has been observed during audit of the Service Provider on the risk parameters finalized by the Bank or in the certification submitted by the Auditors, it is agreed upon by the Service Provider that it shall correct/ resolve the same at the earliest and shall provide all necessary documents related to resolution thereof and the auditor shall further certify in respect of resolution of the deficiencies. It is also agreed that the Service Provider shall provide certification of the auditor to the Bank regarding compliance of the observations made by the auditors covering the respective risk parameters against which such deficiencies observed.

14.3 Service Provider further agrees that whenever required by the Bank, it will furnish all relevant information, records/data to such auditors and/or inspecting officials of the Bank/ Reserve Bank of India and or any regulatory authority required for conducting the audit. The Bank reserves the right to call and/or retain for any relevant material information/ reports including audit or review reports undertaken by the Service Provider (e.g., financial, internal control and security reviews) and findings made on the Service Provider in conjunction with the services provided to the Bank. However, Service Provider shall not be obligated to provide records / data not related to services under this Agreement (e.g. internal cost break-ups)

15 SECURITY AND CONFIDENTIALITY

15.1 "Confidential Information" mean all information which is material to the business operations of either party or its affiliated companies, designated as being confidential or which, under the circumstances surrounding disclosure out to be treated as confidential, in any form including, but not limited to, proprietary information and trade secrets, whether or not protected under any patent, copy right or other intellectual property laws, in any oral, photographic or electronic form, whether contained on computer hard disks or floppy diskettes or otherwise without any limitation whatsoever. Without prejudice to the generality of the foregoing, the Confidential Information shall include all

information about the party and its customers, costing and technical data, studies, consultants reports, financial information, computer models and programs, software Code, contracts, drawings, blue prints, specifications, operating techniques, processes, models, diagrams, data sheets, reports and other information with respect to any of the foregoing matters. All and every information received by the parties and marked confidential hereto shall be assumed to be confidential information unless otherwise proved. It is further agreed that the information relating to the Bank and its customers is deemed confidential whether marked confidential or not.

15.2 All information relating to the accounts of the Bank's customers shall be confidential information, whether labeled as such or otherwise.

15.3 All information relating to the infrastructure and Applications (including designs and processes) shall be deemed to be Confidential Information whether labeled as such or not. Service provider personnel/resources responsible for the project are expected to take care that their representatives, where necessary, have executed a Non-Disclosure Agreement to comply with the confidential obligations under this Agreement.

15.4 Each party agrees that it will not disclose any Confidential Information received from the other to any third parties under any circumstances without the prior written consent of the other party unless such disclosure of Confidential Information is required by law, legal process or any order of any government authority. Service provider, in this connection, agrees to abide by the laws especially applicable to confidentiality of information relating to customers of Banks and the banks per-se, even when the disclosure is required under the law. In such event, the Party must notify the other Party that such disclosure has been made in accordance with law; legal process or order of a government authority.

15.5 Each party, including its personnel, shall use the Confidential Information only for the purposes of achieving objectives set out in this

Agreement. Use of the Confidential Information for any other purpose shall constitute breach of trust of the same.

15.6 Each party may disclose the Confidential Information to its personnel solely for the purpose of undertaking work directly related to the Agreement. The extent of Confidential Information disclosed shall be strictly limited to what is necessary for those particular personnel to perform his/her duties in connection with the Agreement. Further each Party shall ensure that each personnel representing the respective party agree to be bound by obligations of confidentiality no less restrictive than the terms of this Agreement.

15.7 The non-disclosure obligations herein contained shall not be applicable only under the following circumstances:

- (i) Where Confidential Information comes into the public domain during or after the date of this Agreement otherwise than by disclosure by receiving party in breach of the terms hereof.
- (ii) Where any Confidential Information was disclosed after receiving the written consent of disclosing party.
- (iii) Where if receiving party is requested or required by law or by any Court or governmental agency or authority to disclose any of the Confidential Information, then receiving party will provide the other Party with prompt notice of such request or requirement prior to such disclosure.
- (iv) Where any Confidential Information was received by the receiving party from a third party which does not have any obligations of confidentiality to the other Party.
- (v) Where Confidential Information is independently developed by receiving party without any reference to or use of disclosing party's Confidential Information.

15.8 Receiving party undertakes to promptly notify disclosing party in writing any breach of obligation of the Agreement by its employees or representatives including confidentiality obligations. Receiving party acknowledges that monetary damages may not be the only and / or a

sufficient remedy for unauthorized disclosure of Confidential Information and that disclosing party shall be entitled, without waiving any other rights or remedies, to injunctive or equitable relief as may be deemed proper by a Court of competent jurisdiction.

15.9 Service provider shall abide with the Bank's IT and IS policy in key concern areas relevant to the project. Specific requirements will be shared as and when required.

15.10 Service provider shall ensure to filter all phishing / spamming / overflow attacks in order to ensure availability and integrity on continuous basis. Service Provider shall also implement any enhanced solutions mandated by security requirements for any / all types of Software/ support.

15.11 The security aspect of the solution/Software will be comprehensively reviewed periodically by the Bank, and Service Providers shall carryout modifications / updates based on the security review recommendations on case to case basis.

15.12 The Service Provider shall not, without the Bank's prior written consent, make use of any document or information received from the Bank except for purposes of performing the services and obligations under this Agreement.

15.13 Any document received from the Bank shall remain the property of the Bank and shall be returned (in all copies) to the Bank on completion of the Service Provider's performance under the Agreement.

15.14 Upon expiration or termination of the Agreement, all the Bank's proprietary documents, customized programs partially or wholly completed and associated documentation, or the Bank's materials which are directly related to any project under the Agreement shall be delivered to the Bank or at the Bank's written instruction destroyed, and no copies shall be retained Service provider without the Bank's written consent.

16 OWNERSHIP

- 16.1 Service provider will provide source code for every version of the Software supplied or customized/developed specifically for the Bank, without any cost to the Bank, and it will be treated as the property of the Bank.
- 16.2 The source code /object code /executable code and compilation procedures of the Software solution made under this Agreement are the proprietary property of the Bank and as such Service provider shall make them available to the Bank after successful User Acceptance Testing.
- 16.3 Service provider agrees that the Bank owns the entire right, title and interest to any inventions, designs, discoveries, writings and works of authorship, including all Intellectual Property Rights, copyrights. Any work made under this Agreement shall be deemed to be 'work made for hire' under any Indian/U.S. or any other applicable copyright laws.
- 16.4 Service provider shall ensure proper change management process covering impact assessment, requirement and solution documents detailing changes made to the Software for any work order, in addition to enabling the programmers identify and track the changes made to the source code. The source code will be delivered in appropriate version control tool maintained at the Bank's on site location.
- 16.5 Service provider shall adhere to revision control procedure of the Bank to maintain required documentation and configuration files as well as Source Code. Necessary backup and restoration of the revision control software related information will be handled by the service team as per the approved backup policy of the Bank.
- 16.6 For each application developed by Service provider on Software, including third party software before the platform become operational, Service Provider shall deliver all documents to the Bank, which include coding standards, user manuals, installation manuals, operation manuals, design documents, process documents, technical manuals, and other documents, if any, as per work order.
- 16.7 Service Provider shall also provide documents related to Review Records/ Test Bug Reports/ Root Cause Analysis Report, details and

documentation of all product components, details and documentation of all dependent/ external modules and all documents relating to traceability of the Software supplied/ customized under this Agreement before its production release.

16.8 All Software programs supplied/developed, program documentation, system documentation and testing methodologies along with all other information and documents (other than tools being proprietary to Service provider) and used for customized Software developments shall be the exclusive property of the Bank.

16.9 The Intellectual Property Rights on the Software Code, copyright and source code for various applications/ interfaces developed under this Agreement, and any other component/ framework/ middleware used/ developed as pre-built software assets to deliver the solution, shall belong to the Bank and the Bank shall have complete and unrestricted rights on such property. However, Service Provider shall hold All Intellectual Property rights in any pre-built software *per se*, except for those which have been assigned under this Agreement.

16.10 All information processed by Service provider during Software development/ customization, implementation & maintenance belongs to the Bank. Service Provider shall not acquire any other right in respect of the information for the license to the rights owned by the Bank. Service Provider will implement mutually agreed controls to protect the information. Service Provider also agrees that it will protect the information appropriately. Failure to protect information may attract civil, criminal, or administrative penalties.

17 TERMINATION CLAUSE

17.1 The Bank may, without prejudice to any other remedy for breach of Agreement, written notice of not less than 30 (thirty) days sent to the Service Provider, terminate the Contract in whole or in part:

- a. If the Service Provider fails to deliver any or all the obligations within the time period specified in the Contract or any extension thereof granted by the Bank;

- b. If the Service Provider fails to perform any other obligation(s) under the Contract;
- c. Violations of any terms and conditions stipulated in the RFP;
- d. On happening of any termination event mentioned herein above in this RFP

Prior to providing a written notice of termination to Service Provider under clause 17.1 (i) a to d, the Bank shall provide Service Provider with a written notice of 30 (thirty) days to cure any breach of the Agreement. If the breach continues or remains unrectified after expiry of cure period, the Bank shall have right to initiate action in accordance with above clause.

17.2 The Bank, by written notice of not less than 90 (ninety) days sent to the Service Provider, may terminate the Agreement, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Bank's convenience, the extent to which performance of the Service Provider under the Agreement is terminated, and the date upon which such termination becomes effective.

17.3 In the event the bank terminates the Agreement in whole or in part for the breaches attributable to the Service Provider, the Bank may procure, upon such terms and in such manner, as it deems appropriate, software or services similar to those undelivered and Service Provider shall be liable to the Bank for any excess costs for such similar software or services. However, Service provider, in case of part termination, shall continue the performance of the Agreement to the extent not terminated.

17.4 In the event of termination of the Agreement, Service Provider shall be entitled to receive payment for the Services rendered (delivered) up to the effective date of termination.

17.5 The Bank shall have a right to terminate the Agreement immediately by giving a notice in writing to Service Provider in the following eventualities:

- (i) If any Receiver/Liquidator is appointed in connection with the business of the Service Provider or Service Provider transfers substantial assets in favor of its creditors or any orders / directions are issued by any Authority / Regulator which has the effect of suspension of the business of Service

Provider.

- (ii) If Service Provider applies to the Court or passes a resolution for voluntary winding up of or any other creditor / person files a petition for winding up or dissolution of Service Provider.
- (iii) If any acts of commission or omission on the part of Service Provider or its agents, employees, sub-contractors or representatives, in the reasonable opinion of the Bank tantamount to fraud or prejudicial to the interest of the Bank or its employees.

17.6 In the event of the termination of the Agreement Service Provider shall be liable and responsible to return to the Bank all records, documents, data and information including Confidential Information pertains to or relating to the Bank in its possession.

17.7 In the event of termination of the Agreement for material breach by Service Provider, Bank shall have the right to give suitable publicity to the same including advising the Indian Bank's Association.

17.8 Upon termination or expiration of this Agreement, all rights and obligations of the Parties hereunder shall cease, except such rights and obligations as may have accrued on the date of termination or expiration; the obligation of indemnity; obligation of payment; confidentiality obligation; Governing Law clause; Dispute resolution clause; and any right which a Party may have under the Applicable Law.

18 DISPUTE REDRESSAL MACHANISM & GOVERNING LAW

18.1 All disputes or differences whatsoever arising between the parties out of or in connection with this Agreement (including dispute concerning interpretation) or in discharge of any obligation arising out of the Agreement (whether during the progress of work or after completion of such work and whether before or after the termination of this Agreement, abandonment or breach of this Agreement), shall be settled amicably.

18.2 If the parties are not able to solve them amicably within 30 (thirty) days after dispute occurs as evidenced through the first written

communication from any Party notifying the other regarding the disputes, either Party [the Bank or Service Provider] shall give written notice to other party clearly setting out there in, specific dispute(s) and/or difference(s), and shall be referred to a sole arbitrator mutually agreed upon, and the award made in pursuance thereof shall be binding on the Parties.

- 18.3 In the absence of consensus about the single arbitrator, the dispute may be referred to an arbitration panel; one to be nominated by each Party and the said arbitrators shall nominate a presiding arbitrator, before commencing the arbitration proceedings. The arbitration shall be settled in accordance with the applicable Indian Laws and the arbitration shall be conducted in accordance with the Arbitration and Conciliation Act, 1996.
- 18.4 Service Provider shall continue work under the Agreement during the arbitration proceedings, unless otherwise directed by the Bank or unless the matter is such that the work cannot possibly be continued until the decision of the arbitrator is obtained.
- 18.5 Arbitration proceeding shall be held at (Place of Arbitration), India, and the language of the arbitration proceedings and that of all documents and communications between the parties shall be in English.
- 18.6 This Agreement shall be governed by laws in force in India. Subject to the arbitration clause above, all disputes arising out of or in relation to this Agreement, shall be subject to the exclusive jurisdiction of the courts at Mumbai only.
- 18.7 In case of any change in applicable laws that has an effect on the terms of this Agreement, the Parties agree that the Agreement may be reviewed, and if deemed necessary by the Parties, make necessary amendments to the Agreement by mutual agreement in good faith, in case of disagreement obligations mentioned in this clause shall be observed.

19 POWERS TO VARY OR OMIT WORK

19.1 No alterations, amendments, omissions, additions, suspensions or variations of the work (hereinafter referred to as variation) under the Agreement shall be made by Service provider except as directed in writing by Bank. The Bank shall have full powers, subject to the provision herein after contained, from time to time during the execution of the Agreement, by notice in writing to instruct Service Provider to make any variation without prejudice to the Agreement. Service Provider shall carry out such variations and be bound by the same conditions, though the said variations occurred in the Agreement documents. If any suggested variations would, in the opinion of Service Provider, if carried out, prevent them from fulfilling any of their obligations under the Agreement, they shall notify the Bank, thereof, in writing with reasons for holding such opinion and Bank shall instruct Service Provider to make such other modified variation without prejudice to the Agreement. Service Provider shall carry out such variations and be bound by the same conditions, though the said variations occurred in the Agreement documents. If Bank confirms their instructions Service Provider's obligations will be modified to such an extent as may be mutually agreed. If such variation is substantial and involves considerable extra cost, any agreed difference in cost occasioned by such variation shall be mutually agreed between the parties. In any case in which Service Provider has received instructions from the Bank as to the requirement of carrying out the altered or additional substituted work, which either then or later on, will in the opinion of Service Provider, involve a claim for additional payments, such additional payments shall be mutually agreed in line with the terms and conditions of the order.

19.2 If any change in the work is likely to result in reduction in cost, the parties shall agree in writing so as to the extent of reduction in payment to be made to Service Provider, before Service provider proceeding with the change.

20 NO WAIVER OF BANK RIGHTS OR SERVICE PROVIDER'S LIABILITY

Neither any payment sign-off/payment by the Bank for acceptance of the whole or any part of the work, nor any extension of time/possession taken by the Bank shall affect or prejudice the rights of the Bank against Service Provider, or relieve Service Provider of their obligations for the due performance of the Agreement, or be interpreted as approval of the work done, or create liability on the Bank to pay for alterations/ amendments/ variations, or discharge the liability of Service Provider for the payment of damages whether due, ascertained, or certified or not or any sum against the payment of which they are bound to indemnify Bank nor shall any such certificate nor the acceptance by them of any such paid on account or otherwise, affect or prejudice the rights of the Service Provider, against the Bank.

21 LIMITATION OF LIABILITY

21.1 For breach of any obligation mentioned in this Agreement, subject to clause 21 .3, in no event Service Provider shall be liable for damages to the Bank arising under or in connection with this Agreement for an amount exceeding the total Project Cost.

21.2 Service provider will ensure Bank's data confidentiality and shall be responsible for liability arising in case of breach of any kind of security and/or leakage of confidential customer/Bank's related information to the extent of loss so caused.

21.3 The limitations set forth in Clauses 21.1 shall not apply with respect to:

- (i) claims that are the subject of indemnification pursuant to infringement of third party Intellectual Property Rights,
- (ii) damage(s) occasioned by the gross negligence or willful misconduct of Service Provider,
- (iii) damage(s) occasioned by Service Provider for breach of Clause 15⁶,

⁶Please see Clause 15 'Security and Confidentiality'

- (iv) Regulatory or statutory fines imposed by a Government or Regulatory agency for non-compliance of statutory or regulatory guidelines applicable to the Bank, provided such guidelines were brought to the notice of Service Provider.

22 FORCE MAJEURE

- 22.1 Notwithstanding anything else contained in the Agreement, neither Party shall be liable for any delay in performing its obligations herein if and to the extent that such delay is the result of an event of Force Majeure.
- 22.2 For the purposes of this clause, 'Force Majeure' means and includes wars, insurrections, revolution, civil disturbance, riots, terrorist acts, public strikes, hartal, bundh, fires, floods, epidemic, quarantine restrictions, freight embargoes, declared general strikes in relevant industries, Vis Major Act of Government, impeding reasonable performance of the Service Provider and / or sub-contractor but does not include any foreseeable events, commercial considerations or those involving fault or negligence on the part of the party claiming Force Majeure.
- 22.3 If Force Majeure situation arises, the non-performing Party shall promptly notify to the other Party in writing of such conditions and the cause(s) thereof. Unless otherwise agreed in writing, the non-performing Party shall continue to perform its obligations under the Agreement as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.
- 22.4 If the Force Majeure situation continues beyond 30 (thirty) days, either Party shall have the right to terminate the Agreement by giving a notice to the other Party. Neither Party shall have any penal liability to the other in respect of the termination of this Agreement as a result of an event of Force Majeure. However, Service Provider shall be entitled to receive payments for all services actually rendered up to the date of the termination of this Agreement.



23 NOTICES

23.1 Any notice or any other communication required to be given under this Agreement shall be in writing and may be given by delivering the same by hand or sending the same by prepaid registered mail, postage prepaid, telegram or facsimile to the relevant address set forth below or such other address as each Party may notify in writing to the other Party from time to time. Any such notice given as aforesaid shall be deemed to be served or received at the time upon delivery (if delivered by hand) or upon actual receipt (if given by postage prepaid, telegram or facsimile).

23.2 A notice shall be effective when it is delivered or on the effective date of the notice, whichever is later.

23.3 The addresses for Communications to the Parties are as under.

(a) In the case of the Bank

. The Deputy General Manager (IT-HRMS),
State Bank Of India,
HRMS Department,
Tower # 7, 4th Floor,
Belapur Railway Station Building, CBD Belapur,
Navi Mumbai 400614.

(b) In case of service provider

.....
.....
.....

23.4 In case there is any change in the address of one Party, it shall be promptly communicated in writing to the other Party.

24 GENERAL TERMS & CONDITIONS

24.1 TRAINING: Service Provider shall train designated Bank officials on the configuration, operation/ functionalities, maintenance, support & administration for Software, application architecture and components, installation, troubleshooting processes of the proposed Services as mentioned in this Agreement < *Strike of whichever is inapplicable*>.

24.2 PUBLICITY: Service Provider may make a reference of the Services rendered to the Bank covered under this Agreement on Service provider's Web Site or in their sales presentations, promotional materials, business plans or news releases etc., only after prior written approval from the Bank.

24.3 SUCCESSORS AND ASSIGNS: This Agreement shall bind and inure to the benefit of the Parties, and their respective successors and permitted assigns.

24.4 NON-HIRE AND NON-SOLICITATION: During the term of this Agreement and for a period of one year thereafter, neither Party shall (either directly or indirectly through a third party) employ, solicit to employ, cause to be solicited for the purpose of employment or offer employment to any employee/s of the other Party, or aid any third person to do so, without the specific written consent of the other Party. However, nothing in this clause shall affect the Bank's regular recruitments as per its recruitment policy and not targeted to the employees of Service provider.

24.5 SEVERABILITY: The invalidity or unenforceability of any provision of this Agreement shall not in any way effect, impair or render unenforceable this Agreement or any other provision contained herein, which shall remain in full force and effect.

24.6 MODIFICATION: This Agreement may not be modified or amended except in writing signed by duly authorized representatives of each Party with express mention thereto of this Agreement.

24.7 ENTIRE AGREEMENT: The following documents along with all addenda issued thereto shall be deemed to form and be read and construed as integral part of this Agreement and in case of any contradiction between or among them the priority in which a document would prevail over another would be as laid down below beginning from the highest priority to the lowest priority:

- (i) This Agreement;
- (ii) Annexure of Agreement;



(iii) Purchase Order No. _____ dated _____; and

(iv) RFP

24.8 PRIVACY: Neither this Agreement nor any provision hereof is intended to confer upon any person/s other than the Parties to this Agreement any rights or remedies hereunder.

24.9 DUE AUTHORISATION: Each of the undersigned hereby represents to the other that she/ he is authorized to enter into this Agreement and bind the respective parties to this Agreement.

24.10 COUNTERPART: This Agreement may be executed in duplicate and each copy is treated as original for all legal purposes.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date and day first mentioned above.

**State Bank of India
Provider**

.....**Service**

**By:
Name:
Designation:
Date:**

**By:
Name:
Designation:
Date:**

WITNESS:

1.

1.

2.

2.

ANNEXURE-A

DELIVERABLES/SCOPE OF WORK

1. Description of Deliverables:

[Identify each individual component of the Deliverables, including equipment and software, by name and version.]

2. Specifications, Performance Standards, and Functional Requirements:

[Include here all of the specifications, performance standards, and functional requirements for the Deliverables that are important to the Bank. Be certain to include run and operator response times (if applicable) which are part of the Acceptance criteria discussed in this agreement.]

2.1 Service Provider undertakes and warrants to provide technical support with resolution time frame as per the matrix given below:

<i>Severity</i>	<i>Description</i>	<i>Response Time</i>	<i>Resolution time</i>
<i>Critical</i>			
<i>High/Major</i>			
<i>Medium/</i>			
<i>Low/Minor</i>			
<i>Very Low/Cosmetic</i>			

3. Documentation:

[Identify here all user manuals and other documentation concerning the Software.]

4. Place of Service⁷

⁷Brief description of place of service



1.	_____
2.	_____

5. Standard Services

Standard services to be delivered under this agreement are illustratively listed below:-

<i>The details of services, their responsibilities and availability to be described----</i>	
1.....	
2.....	

6. Maintenance/ Upgrades

6.1 Service Provider shall maintain and upgrade the Software during the warranty and support period so that the Software shall, at all times during the warranty and support period, meet or exceed the specifications in the Project Documents and the performance requirements as set forth in this Agreement. Service provider shall, at no cost to the Bank, promptly correct any and all errors, Deficiencies and defects in the Software.

6.2 Service Provider shall have the operational maintenance obligations (e.g., telephone support, problem resolution, on-site services) as mentioned in Annexure A. *<kindly add operational maintenance obligation with deliverables>*

7. Correction of Deficiencies in Deliverables

7.1 If Service provider is unable to correct all Deficiencies preventing acceptance of a deliverable or meet the performance requirements, for which Service provider is responsible within the timelines as mentioned in this Agreement, the Bank may at its discretion:

- a) Without prejudiced to the Bank’s other rights under this Agreement, allow Service provider to continue its efforts to make corrections; or

- b) Accept the deliverable with its Deficiencies and reach agreement with Service provider on an equitable reduction to Service provider's charges for developing such deliverable to reflect the uncorrected Deficiencies; or
- c) Terminate this Agreement for cause in accordance with Clause 17 (except that the Bank is under no obligation to provide Service provider any further opportunity to cure) and recover its damages as set forth in this Agreement.

8. Service Milestones⁸

Milestones ⁹ related to in-scope services and/or components includes <Strike off whichever is not applicable>:-		
Service Category	Milestone	Duration (in months/weeks/days/hours)
Development <Strike off if not applicable>	<Brief description of milestone>	<mention the duration >
Delivery	<Brief description of milestone>	<mention the duration >
Installation	<Brief description of milestone>	<mention the duration >
Configuration	<Brief description of milestone>	<mention the duration >
User Acceptance Testing	<Brief description of milestone>	<mention the duration >
Documentation	<Brief description of milestone>	<mention the duration >
Training	<Brief description of milestone>	<mention the duration >

⁸ The Purpose of this clause is identify any assumption made for this agreement.

⁹Assumptions may include items including how the services will be used in future, projected growth rates that may impact how services are to be delivered and future changes that were considered but not included in the agreement



Live in Production	<i><Brief description of milestone></i>	<i><mention the duration ></i>
-----------------------	---	--------------------------------------

- 9. Risk Management
 - a. Service Provider shall identify and document the risk in delivering the Services. Service Provider shall identify the methodology to monitor and prevent the risk, and shall also document the steps taken to manage the impact of the risks.
 - b. Service Request¹⁰

ANNEXURE-B

INFRASTRUCTURE MANAGEMENT METRICS *<strike off which ever in not applicable>*

- (a) Service metric for Recovery Time objective (RTO) *<strike off if not applicable>*

SL no.	Service level category	Service level object	Measurement range/criteria
1.	RTO during disaster for shifting to <i><Place></i> DC	<i><.....></i> (Requirement to be filled by the concerned dept.)/ 4 hours <i><strike off which ever in not applicable></i>	<i><.....><to be filled in by the concerned dept. depending on the criticality of service></i>

- (b) SLA for Recovery Point Objective *<strike off if not applicable>*

SL no.	Service level category	Service level object	Measurement range/criteria

¹⁰The purpose of this clause is to document the process and timeframe for responding to the service requests.



1.	RPO during disaster for shifting to <Place>	<.....> (Requirement to be filled by the concerned dept.)/ 99.999% of PR site data recovery><strike off which ever in not applicable>	<.....><to be filled in by the concerned dept. depending on the criticality of service>
----	---	---	---

(c) INFRASTRUCTURE SUPPORT METRICS <strike off if not applicable>

Activities		Severity	Response Time (mins)	Resolution Time (mins)	Measurement Criteria
Operational Task	Details				
<to be filled in by the concerned dept. depending on the criticality of service>	Level 1	<.....><to be filled in by the concerned dept. depending on the criticality of service>
	Level 2	.....	.....
	Level ....n	.....	.....
<to be filled in by the concerned dept. depending on the criticality of service>	Level 1	>
	Level 2	.....	.....
	Level.....n	.....	.....

ANNEXURE-C

APPLICATION DEVELOPMENT & MAINTENANCE METRIC.

Impact Level	Description/Measure	Response Time	Resolution Time
Level 1	Low impact	<to be filled in by the concerned dept. depending on the criticality of service>	<to be filled in by the concerned dept. depending on the criticality of service>



Level 2	Medium impact	<to be filled in by the concerned dept. depending on the criticality of service>	<to be filled in by the concerned dept. depending on the criticality of service>
.....		
Level.....	Highest impact	<to be filled in by the concerned dept. depending on the criticality of service>	<to be filled in by the concerned dept. depending on the criticality of service>

Urgency Level	Description/Measure	Response time	Resolution time
Level 1		<to be filled in by the concerned dept. depending on the criticality of service>	<to be filled in by the concerned dept. depending on the criticality of service>
Level 2		<to be filled in by the concerned dept. depending on the criticality of service>	<to be filled in by the concerned dept. depending on the criticality of service>
.....			
Level.....	To be performed on top priority	<to be filled in by the concerned dept. depending on the criticality of service>	<to be filled in by the concerned dept. depending on the criticality of service>

<Priorities are to be filled in by the concerned dept. depending on the criticality of service>

	Urgency Level				
		Level 1	Level 2		Level n
IMPACT	Level 1	Priority A	Priority A		Priority C
	Level 2	Priority A	Priority B		Priority D
	....		Priority J	Priority K	Priority L



	Level.....	Priority L	Priority M	Priority N	Priority O
--	------------	------------	------------	------------	------------

ANNEXURE-D

SERVICE DESK SUPPORT METRIC *<strike off if not applicable>*

SL no.	Service level category	Service level object	Measurement range/criteria	
1.	Call type level 1, <i><strike off which ever in not applicable></i>	<i><.....(requirement)/ call escalated by SBI service desk toservice provider’s team><strike off which ever in not applicable></i>	<i><.....><to be filled in by the concerned dept. depending on the criticality of service></i>	
	Call type level 12, <i><strike off which ever in not applicable></i>	<i><.....(requirement)/ call escalated by sib service desk toservice provider’s team><strike off which ever in not applicable></i>	<i><.....><to be filled in by the concerned dept. depending on the criticality of service></i>	
Report Name		Interval	Recipient	Responsible

SERVICE LEVEL REPORTING/ FREQUENCY¹¹ *<strike off if not applicable>*

<Describe the service level reporting frequency and methodology>

¹¹The purpose of this section is to document reports used to measure service levels. These reports must align with the service measurement and should support these measurements.



SERVICE REVIEW MEETING¹² *<strike off if not applicable>*

Service Review meeting shall be held annually/ half yearly. The following comprise of the Service Review Board:

- President,
- Members.....

ANNEXURE-E

ESCALATION MATRICS¹³ *<strike off if not applicable>*

¹²The purpose of this section to describe the frequency of meeting and composition of service review board.

¹³ To ensure that the service beneficiary receives senior management attention on unresolved issues, the service provider operates a problem escalation procedure in order that any unresolved problems are notified to the service provider management personnel on a priority basis dependent upon the impact and urgency of the problem.



Service level Category	Response/Resolution Time	Escalation thresholds			
		Escalation Level 1		Escalation.....	
		Escalation to	Escalation Mode	Escalation to	Escalation Mode
Production Support		<Name, designation contact no.>			
Service Milestones		<Name, designation contact no.>			
Infrastructure Management		<Name, designation contact no.>			
Application Development & Maintenance		<Name, designation contact no.>			
Service Desk Support		<Name, designation contact no.>			

ANNEXURE-F

< Under mentioned are proposed penalty metrics, they are required to be customized by the concerned dept.><strike off whichever is not applicable>

PENALTY FOR NON PERFORMANCE OF SLA



Service level category	SLA Measure	Penalty Calculation
Application Uptime/Downtime/ RTO/RPO <strike off whichever is not applicable>	<delay in minutes / hours /days>< to be provided by the dept.>	
Delivery Schedule	<Delay (in working days)>< to be provided>	
Installation	<delay in minutes / hours /days>< to be provided by the dept.>	
User Acceptance Testing	<delay in minutes / hours /days>< to be provided by the dept.>	
Live in Production	<delay in minutes / hours /days>< to be provided by the dept.>	
Periodical training	<Delay (in working days)>< to be provided>	.....<For each resource not trained>
Source Code	<Delay (in working days)>< to be provided>	
Non-availability of staff		
Reports/		

PENALTY FOR EVERY ITEMS, Penalty at the rates given below:

Category of defect	Service Area	Penalty
Minor		
Medium		



Major		
Critical		

PENALTY FOR NON PERFORMANCE AT HELP DESK

Service Area	SLA measurement	Penalty % on billable amount for the specified activity		Calculate penalty on
		0 %	5% (for every 1% shortfall from the stipulated service level)	
Help Desk	Time taken for resolution of calls (99.9% of the calls should be resolved within the stipulated response time)	More than or equal to 99.9 % of service level	Less than 99.9 % of service level	<i><to be provided by the dept.,></i>

ANNEXURE G

NON-DISCLOSURE AGREEMENT

THIS RECIPROCAL NON-DISCLOSURE AGREEMENT (the "Agreement") is made at Mumbai between:

_____ constituted under the _____ Act,
 _____ having its Corporate Centre at _____
 _____ (hereinafter referred to as "Bank" which expression includes its successors and assigns) of the ONE PART;



And

_____ (hereinafter referred to as "_____") which expression shall unless repugnant to the subject or context thereof, shall mean and include its successors and permitted assigns) of the OTHER PART;

And Whereas

1. _____ is carrying on business of providing _____, has agreed to _____ for the Bank and other related tasks.

2. For purposes of advancing their business relationship, the parties would need to disclose certain valuable confidential information to each other. Therefore, in consideration of covenants and agreements contained herein for the mutual disclosure of confidential information to each other, and intending to be legally bound, the parties agree to terms and conditions as set out hereunder.

NOW IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES AS UNDER

1. **Confidential Information and Confidential Materials:**

- (a) "Confidential Information" means non-public information that Disclosing Party designates as being confidential or which, under the circumstances surrounding disclosure ought to be treated as confidential. "Confidential Information" includes, without limitation, information relating to installed or purchased Disclosing Party software or hardware products, the information relating to general architecture of Disclosing Party's network, information relating to nature and content of data stored within network or in any other storage media, Disclosing Party's business policies, practices, methodology, policy design delivery, and information received from others that Disclosing Party is obligated to treat as confidential. Confidential Information disclosed to Receiving Party by any Disclosing Party Subsidiary and/ or agents is covered by this agreement
- (b) Confidential Information shall not include any information that: (i) is or subsequently becomes publicly available without Receiving Party's breach of any obligation owed to Disclosing party; (ii) becomes known to Receiving Party prior to Disclosing Party's disclosure of such information to Receiving Party; (iii) became known to Receiving Party from a source other than Disclosing Party

other than by the breach of an obligation of confidentiality owed to Disclosing Party; or (iv) is independently developed by Receiving Party.

- (c) “Confidential Materials” shall mean all tangible materials containing Confidential Information, including without limitation written or printed documents and computer disks or tapes, whether machine or user readable.

2. Restrictions

- (a) Each party shall treat as confidential the Contract and any and all information (“confidential information”) obtained from the other pursuant to the Contract and shall not divulge such information to any person (except to such party’s own employees and other persons and then only to those employees and persons who need to know the same) without the other party’s written consent provided that this clause shall not extend to information which was rightfully in the possession of such party prior to the commencement of the negotiations leading to the Contract, which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this clause). Receiving Party will have executed or shall execute appropriate written agreements with its employees and consultants specifically assigned and/or otherwise, sufficient to enable it to comply with all the provisions of this Agreement. If the Contractor shall appoint any Sub-Contractor then the Contractor may disclose confidential information to such Sub-Contractor subject to such Sub Contractor giving the Customer an undertaking in similar terms to the provisions of this clause.
- (b) Receiving Party may disclose Confidential Information in accordance with judicial or other governmental order to the intended recipients (as detailed in this clause), provided Receiving Party shall give Disclosing Party reasonable notice prior to such disclosure and shall comply with any applicable protective order or equivalent. The intended recipients for this purpose are:
- (1) The statutory auditors of the Customer and
 - (2) Regulatory authorities regulating the affairs of the Customer and inspectors and supervisory bodies thereof
- (c) The foregoing obligations as to confidentiality shall survive any termination of this Agreement
- (d) Confidential Information and Confidential Material may be disclosed, reproduced, summarized or distributed only in pursuance of Receiving Party’s business relationship with Disclosing Party, and only as otherwise provided hereunder. Receiving Party agrees to segregate all such Confidential Material from the confidential material of others in order to prevent mixing.



- (e) Receiving Party may not reverse engineer, decompile or disassemble any software disclosed to Receiving Party.

3. **Rights and Remedies**

- (a) Receiving Party shall notify Disclosing Party immediately upon discovery of any unauthorized use or disclosure of Confidential Information and/ or Confidential Materials, or any other breach of this Agreement by Receiving Party, and will cooperate with Disclosing Party in every reasonable way to help Disclosing Party regain possession of the Confidential Information and/ or Confidential Materials and prevent its further unauthorized use.
- (b) Receiving Party shall return all originals, copies, reproductions and summaries of Confidential Information or Confidential Materials at Disclosing Party's request, or at Disclosing Party's option, certify destruction of the same.
- (c) Receiving Party acknowledges that monetary damages may not be the only and / or a sufficient remedy for unauthorized disclosure of Confidential Information and that disclosing party shall be entitled, without waiving any other rights or remedies (as listed below), to injunctive or equitable relief as may be deemed proper by a Court of competent jurisdiction.
 - a. Suspension of access privileges
 - b. Change of personnel assigned to the job
 - c. Financial liability for actual, consequential or incidental damages
 - d. Termination of contract
- (d) Disclosing Party may visit Receiving Party's premises, with reasonable prior notice and during normal business hours, to review Receiving Party's compliance with the term of this Agreement.

4. **Miscellaneous**

- (a) All Confidential Information and Confidential Materials are and shall remain the property of Disclosing Party. By disclosing information to Receiving Party, Disclosing Party does not grant any expressed or implied right to Receiving Party to disclose information under the Disclosing Party patents, copyrights, trademarks, or trade secret information.
- (b) Any software and documentation provided under this Agreement is provided with RESTRICTED RIGHTS.
- (c) Neither party grants to the other party any license, by implication or otherwise, to use the Confidential Information, other than for the limited purpose of

evaluating or advancing a business relationship between the parties, or any license rights whatsoever in any patent, copyright or other intellectual property rights pertaining to the Confidential Information.

- (d) The terms of Confidentiality under this Agreement shall not be construed to limit either party's right to independently develop or acquire product without use of the other party's Confidential Information. Further, either party shall be free to use for any purpose the residuals resulting from access to or work with such Confidential Information, provided that such party shall maintain the confidentiality of the Confidential Information as provided herein. The term "residuals" means information in non-tangible form, which may be retained by person who has had access to the Confidential Information, including ideas, concepts, know-how or techniques contained therein. Neither party shall have any obligation to limit or restrict the assignment of such persons or to pay royalties for any work resulting from the use of residuals. However, the foregoing shall not be deemed to grant to either party a license under the other party's copyrights or patents.
- (e) This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. It shall not be modified except by a written agreement dated subsequently to the date of this Agreement and signed by both parties. None of the provisions of this Agreement shall be deemed to have been waived by any act or acquiescence on the part of Disclosing Party, its agents, or employees, except by an instrument in writing signed by an authorized officer of Disclosing Party. No waiver of any provision of this Agreement shall constitute a waiver of any other provision(s) or of the same provision on another occasion.
- (f) In case of any dispute, both the parties agree for neutral third party arbitration. Such arbitrator will be jointly selected by the two parties and he/she may be an auditor, lawyer, consultant or any other person of trust. The said proceedings shall be conducted in English language at Mumbai and in accordance with the provisions of Indian Arbitration and Conciliation Act 1996 or any Amendments or Re-enactments thereto.
- (g) Subject to the limitations set forth in this Agreement, this Agreement will inure to the benefit of and be binding upon the parties, their successors and assigns.
- (h) If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.
- (i) All obligations created by this Agreement shall survive change or termination of the parties' business relationship.

5. **Suggestions and Feedback**



- (a) Either party from time to time may provide suggestions, comments or other feedback to the other party with respect to Confidential Information provided originally by the other party (hereinafter “feedback”). Both party agree that all Feedback is and shall be entirely voluntary and shall not in absence of separate agreement, create any confidentially obligation for the receiving party. However, the Receiving Party shall not disclose the source of any feedback without the providing party’s consent. Feedback shall be clearly designated as such and, except as otherwise provided herein, each party shall be free to disclose and use such Feedback as it sees fit, entirely without obligation of any kind to other party. The foregoing shall not, however, affect either party’s obligations hereunder with respect to Confidential Information of other party.

Dated this _____ day of _____ 2018 at _____
 (Month) (Place)

For and on behalf of _____

Name		
Designation		
Place		
Signature		

For and on behalf of _____

Name		
Designation		
Place		
Signature		

ANNEXURE H

Transition & Knowledge Transfer Plan

1. Introduction

- 1.1 This Annexure describes the duties and responsibilities of the SERVICE PROVIDER and the STATE BANK OF INDIA to ensure proper transition of services and to ensure complete knowledge transfer.

2. Objectives

- 2.1 The objectives of this annexure are to:
- (1) ensure a smooth transition of Services from the SERVICE PROVIDER to a New/Replacement SERVICE PROVIDER or back to the STATE BANK OF INDIA at the termination or expiry of this Agreement;
 - (2) ensure that the responsibilities of both parties to this Agreement are clearly defined in the event of exit and transfer; and
 - (3) Ensure that all relevant Assets are transferred.

3. General

- 3.1 Where the STATE BANK OF INDIA intends to continue equivalent or substantially similar services to the Services provided by the SERVICE PROVIDER after termination or expiry the Agreement, either by performing them itself or by means of a New/Replacement SERVICE PROVIDER, the SERVICE PROVIDER shall ensure the smooth transition to the Replacement SERVICE PROVIDER and shall co-operate with the STATE BANK OF INDIA or the Replacement SERVICE PROVIDER as required in order to fulfil the obligations under this annexure.

- 3.2 The SERVICE PROVIDER shall co-operate fully with the STATE BANK OF INDIA and any potential Replacement SERVICE PROVIDERS tendering for any Services, including the transfer of responsibility for the provision of the Services previously performed by the SERVICE PROVIDER to be achieved with the minimum of disruption. In particular:

- 3.2.1 during any procurement process initiated by the STATE BANK OF INDIA and in anticipation of the expiry or termination of the Agreement and irrespective of the identity of any potential or actual Replacement

SERVICE PROVIDER, the SERVICE PROVIDER shall comply with all reasonable requests by the STATE BANK OF INDIA to provide information relating to the operation of the Services, including but not limited to, hardware and software used, inter-working, coordinating with other application owners, access to and provision of all performance reports, agreed procedures, and any other relevant information (including the configurations set up for the STATE BANK OF INDIA and procedures used by the SERVICE PROVIDER for handling Data) reasonably necessary to achieve an effective transition, provided that:

- 3.2.1.1 the SERVICE PROVIDER shall not be obliged to provide any information concerning the costs of delivery of the Services or any part thereof or disclose the financial records of the SERVICE PROVIDER to any such party;
 - 3.2.1.2 the SERVICE PROVIDER shall not be obliged to disclose any such information for use by an actual or potential Replacement SERVICE PROVIDER unless such a party shall have entered into a confidentiality agreement; and
 - 3.2.1.3 whilst supplying information as contemplated in this paragraph 3.2.1 the SERVICE PROVIDER shall provide sufficient information to comply with the reasonable requests of the STATE BANK OF INDIA to enable an effective tendering process to take place but shall not be required to provide information or material which the SERVICE PROVIDER may not disclose as a matter of law.
- 3.3 In assisting the STATE BANK OF INDIA and/or the Replacement SERVICE PROVIDER to transfer the Services the following commercial approach shall apply:
- (1) Where the SERVICE PROVIDER does not have to utilize resources in addition to those normally used to deliver the Services prior to termination or expiry, the SERVICE PROVIDER shall make no additional Charges. The STATE BANK OF INDIA may reasonably request that support and materials already in place to provide the Services may be redeployed onto work required to effect the transition

provided always that where the STATE BANK OF INDIA agrees in advance that such redeployment will prevent the SERVICE PROVIDER from meeting any Service Levels, achieving any other key dates or from providing any specific deliverables to the STATE BANK OF INDIA, the STATE BANK OF INDIA shall not be entitled to claim any penalty or liquidated damages for the same.

- (2) where any support and materials necessary to undertake the transfer work or any costs incurred by the SERVICE PROVIDER are additional to those in place as part of the proper provision of the Services the STATE BANK OF INDIA shall pay the SERVICE PROVIDER for staff time agreed in advance at the rates agreed between the parties and for materials and other costs at a reasonable price which shall be agreed with the STATE BANK OF INDIA.

3.4 If so required by the STATE BANK OF INDIA, on the provision of no less than months' notice in writing, the SERVICE PROVIDER shall continue to provide the Services or an agreed part of the Services for a period not less thanmonth and not exceeding months beyond the date of termination or expiry of the Agreement. In such event the STATE BANK OF INDIA shall reimburse the SERVICE PROVIDER for such elements of the Services as are provided beyond the date of termination or expiry date of the Agreement on the basis that:

- (1) materials and other costs will be charged at a reasonable price which shall be agreed between the Parties; and/or
- (2) Any other fees agreed between the Parties at the time of termination or expiry.

3.5 The SERVICE PROVIDER shall provide to the STATE BANK OF INDIA an analysis of the Services to the extent reasonably necessary to enable the STATE BANK OF INDIA to plan migration of such workload to a Replacement SERVICE PROVIDER provided always that this analysis involves providing performance data already delivered to the STATE BANK OF INDIA as part of the performance monitoring regime.

- 3.6 The SERVICE PROVIDER shall provide such information as the STATE BANK OF INDIA reasonably considers to be necessary for the actual Replacement SERVICE PROVIDER, or any potential Replacement SERVICE PROVIDER during any procurement process, to define the tasks which would need to be undertaken in order to ensure the smooth transition of all or any part of the Services.
- 3.7 the SERVICE PROVIDER shall make available such Key Personnel who have been involved in the provision of the Services as the Parties may agree to assist the STATE BANK OF INDIA or a Replacement SERVICE PROVIDER (as appropriate) in the continued support of the Services beyond the expiry or termination of the Agreement, in which event the STATE BANK OF INDIA shall pay for the services of such Key Personnel on a time and materials basis at the rates agreed between the parties.
- 3.8 The SERVICE PROVIDER shall co-operate with the STATE BANK OF INDIA during the handover to a Replacement SERVICE PROVIDER and such co-operation shall extend to, but shall not be limited to, inter-working, coordinating and access to and provision of all operational and performance documents, reports, summaries produced by the SERVICE PROVIDER for the STATE BANK OF INDIA, including the configurations set up for the STATE BANK OF INDIA and any and all information to be provided by the SERVICE PROVIDER to the STATE BANK OF INDIA under any other term of this Agreement necessary to achieve an effective transition without disruption to routine operational requirements.

4. Replacement SERVICE PROVIDER

- 4.1 In the event that the Services are to be transferred to a Replacement SERVICE PROVIDER, the STATE BANK OF INDIA will use reasonable endeavors to ensure that the Replacement SERVICE PROVIDER co-operates with the SERVICE PROVIDER during the handover of the Services.

5. Subcontractors

5.1 The SERVICE PROVIDER agrees to provide the STATE BANK OF INDIA with details of the Subcontracts used in the provision of the Services. The SERVICE PROVIDER will not restrain or hinder its Subcontractors from entering into agreements with other prospective service providers for the delivery of supplies or services to the Replacement SERVICE PROVIDER.

6. Transfer of Configuration Management Database

6.1 **6 (six)** months prior to expiry or within **2 (two)** week of notice of termination of this Agreement the SERVICE PROVIDER shall deliver to the STATE BANK OF INDIA a full, accurate and up to date cut of content from the Configuration Management Database (or equivalent) used to store details of Configurable Items and Configuration Management data for all products used to support delivery of the Services.

7. Transfer of Assets

7.1 **6 (six)** months prior to expiry or within **2 (two)** week of notice of termination of the Agreement the SERVICE PROVIDER shall deliver to the STATE BANK OF INDIA the Asset Register comprising:

- (1) a list of all Assets eligible for transfer to the STATE BANK OF INDIA; and
- (2) A list identifying all other Assets, (including human resources, skillset requirement and know-how), that are ineligible for transfer but which are essential to the delivery of the Services. The purpose of each component and the reason for ineligibility for transfer shall be included in the list.

7.2 Within **1 (one)** month of receiving the Asset Register as described above, the STATE BANK OF INDIA shall notify the SERVICE PROVIDER of the Assets it requires to be transferred, (the "Required Assets"), and the STATE BANK OF INDIA and the SERVICE PROVIDER shall provide for the approval of the STATE BANK OF INDIA a draft plan for the Asset transfer.

7.3 In the event that the Required Assets are not located on STATE BANK OF INDIA premises:

- (1) the SERVICE PROVIDER shall be responsible for the dismantling and packing of the Required Assets and to ensure their availability for collection by the STATE BANK OF INDIA or its authorized representative by the date agreed for this;
- (2) any charges levied by the SERVICE PROVIDER for the Required Assets not owned by the STATE BANK OF INDIA shall be fair and reasonable in relation to the condition of the Assets and the then fair market value; and
- (3) For the avoidance of doubt, the STATE BANK OF INDIA will not be responsible for the Assets.

7.4 The SERVICE PROVIDER warrants that the Required Assets and any components thereof transferred to the STATE BANK OF INDIA or Replacement SERVICE PROVIDER benefit from any remaining manufacturer's warranty relating to the Required Assets at that time, always provided such warranties are transferable to a third party.

8. Transfer of Software Licenses

8.1 **6 (six)** months prior to expiry or within **2 (two)** week of notice of termination of this Agreement the SERVICE PROVIDER shall deliver to the STATE BANK OF INDIA all licenses for Software used in the provision of Services which were purchased by the STATE BANK OF INDIA.

8.2 On notice of termination of this Agreement the SERVICE PROVIDER shall, within **2 (two)** week of such notice, deliver to the STATE BANK OF INDIA details of all licenses for SERVICE PROVIDER Software and SERVICE PROVIDER Third Party Software used in the provision of the Services, including the terms of the software license agreements. For the avoidance of doubt, the STATE BANK OF INDIA shall be responsible for any costs incurred in the transfer of licenses from the SERVICE PROVIDER to the STATE BANK OF INDIA or to a Replacement SERVICE PROVIDER provided such costs shall be agreed in advance. Where

transfer is not possible or not economically viable the Parties will discuss alternative licensing arrangements.

- 8.3 Within **1 (one)** month of receiving the software license information as described above, the STATE BANK OF INDIA shall notify the SERVICE PROVIDER of the licenses it wishes to be transferred, and the SERVICE PROVIDER shall provide for the approval of the STATE BANK OF INDIA a draft plan for license transfer, covering novation of agreements with relevant software providers, as required. Where novation is not possible or not economically viable the Parties will discuss alternative licensing arrangements.

9. Transfer of Software

- 9.1 Wherein State Bank of India is the owner of the software, **6 (six)** months prior to expiry or within **2 (two)** weeks of notice of termination of this Agreement the SERVICE PROVIDER shall deliver, or otherwise certify in writing that it has delivered, to the STATE BANK OF INDIA a full, accurate and up to date version of the Software including up to date versions and latest releases of, but not limited to:

- (a) Source Code (with source tree) and associated documentation;
- (b) application architecture documentation and diagrams;
- (c) release documentation for functional, technical and interface specifications;
- (d) a plan with allocated resources to handover code and design to new development and test teams (this should include architectural design and code 'walk-through');
- (e) Source Code and supporting documentation for testing framework tool and performance tool;
- (f) test director database;
- (g) test results for the latest full runs of the testing framework tool and performance tool on each environment; and

10. Transfer of Documentation

10.1 **6 (six)** months prior to expiry or within **2 (two)** weeks of notice of termination of this Agreement the SERVICE PROVIDER shall deliver to the STATE BANK OF INDIA a full, accurate and up-to date set of Documentation that relates to any element of the Services as defined in Annexure A.

11. Transfer of Service Management Process

11.1 **6 (six)** months prior to expiry or within **2 (two)** weeks of notice of termination of this Agreement the SERVICE PROVIDER shall deliver to the STATE BANK OF INDIA:

- (a) a plan for the handover and continuous delivery of the Service Desk function and allocate the required resources;
- (b) full and up to date, both historical and outstanding Service Desk ticket data including, but not limited to:
 - (1) Incidents;
 - (2) Problems;
 - (3) Service Requests;
 - (4) Changes;
 - (5) Service Level reporting data;
- (c) a list and topology of all tools and products associated with the provision of the Software and the Services;
- (d) full content of software builds and server configuration details for software deployment and management; and
- (e) Monitoring software tools and configuration.

12. Transfer of Knowledge Base

12.1 **6 (six)** months prior to expiry or within **2 (two)** week of notice of termination of this Agreement the SERVICE PROVIDER shall deliver to the STATE BANK OF INDIA a full, accurate and up to date cut of content from the knowledge base (or equivalent) used to troubleshoot issues

arising with the Services but shall not be required to provide information or material which the SERVICE PROVIDER may not disclose as a matter of law.

13. Transfer of Service Structure

13.1 **6 (six)** months prior to expiry or within **2 (two)** weeks' notice of termination of this Agreement the SERVICE PROVIDER shall deliver to the STATE BANK OF INDIA a full, accurate and up to date version of the following, as a minimum:

- (a) archive of records including:
 - (1) Questionnaire Packs;
 - (2) project plans and sign off;
 - (3) Acceptance Criteria; and
 - (4) Post Implementation Reviews.
- (b) Program plan of all work in progress currently accepted and those in progress;
- (c) latest version of documentation set;
- (d) Source Code (if appropriate) and all documentation to support the services build tool with any documentation for 'workarounds' that have taken place;
- (e) Source Code, application architecture documentation/diagram and other documentation;
- (f) Source Code, application architecture documentation/diagram and other documentation for Helpdesk; and
- (g) Project plan and resource required to hand Service Structure capability over to the new team.

14. Transfer of Data

14.1 In the event of expiry or termination of this Agreement the SERVICE PROVIDER shall cease to use the STATE BANK OF INDIA Data and, at the request of the STATE BANK OF INDIA, shall destroy all such copies

of the STATE BANK OF INDIA Data then in its possession to the extent specified by the STATE BANK OF INDIA.

14.2 Except where, pursuant to paragraph 14.1 above, the STATE BANK OF INDIA has instructed the SERVICE PROVIDER to destroy such STATE BANK OF INDIA Data as is held and controlled by the SERVICE PROVIDER, 1 (one) months prior to expiry or within 1 (one) month of termination of this Agreement, the SERVICE PROVIDER shall deliver to the STATE BANK OF INDIA:

- (1) An inventory of the STATE BANK OF INDIA Data held and controlled by the SERVICE PROVIDER, plus any other data required to support the Services; and/or
- (2) A draft plan for the transfer of the STATE BANK OF INDIA Data held and controlled by the SERVICE PROVIDER and any other available data to be transferred.

15. Training Services on Transfer

15.1 The SERVICE PROVIDER shall comply with the STATE BANK OF INDIA's reasonable request to assist in the identification and specification of any training requirements following expiry or termination. The purpose of such training shall be to enable the STATE BANK OF INDIA or a Replacement SERVICE PROVIDER to adopt, integrate and utilize the Data and Assets transferred and to deliver an equivalent service to that previously provided by the SERVICE PROVIDER.

15.2 The provision of any training services and/or deliverables and the charges for such services and/or deliverables shall be agreed between the parties.

15.3 Subject to paragraph 15.2 above, the SERVICE PROVIDER shall produce for the STATE BANK OF INDIA's consideration and approval 6 (six) months prior to expiry or within 10 (ten) Working Days of issue of notice of termination:

- (1) A training strategy, which details the required courses and their objectives;

- (2) Training materials (including assessment criteria); and
- (3) A training plan of the required training events.

15.4 Subject to paragraph 15.2 above, the SERVICE PROVIDER shall schedule all necessary resources to fulfil the training plan, and deliver the training as agreed with the STATE BANK OF INDIA.

15.5 SERVICE PROVIDER shall provide training courses on operation of licensed /open source software product at STATE BANK OF INDIA's _____ Premises, at such times, during business hours as STATE BANK OF INDIA may reasonably request. Each training course will last for _____ hours. STATE BANK OF INDIA may enroll up to _____ of its staff or _____ employees of the new/replacement service provider in any training course, and the SERVICE PROVIDER shall provide a hard copy of the Product (licensed or open sourced) standard training manual for each enrollee. Each training course will be taught by a technical expert with no fewer than Years of experience in operating software system. SERVICE PROVIDER shall provide the training without any additional charges.

16. Transfer Support Activities

16.1 **6 (six)** months prior to expiry or within **10 (ten)** Working Days of issue of notice of termination, the SERVICE PROVIDER shall assist the STATE BANK OF INDIA or Replacement SERVICE PROVIDER to develop a viable exit transition plan which shall contain details of the tasks and responsibilities required to enable the transition from the Services provided under this Agreement to the Replacement SERVICE PROVIDER or the STATE BANK OF INDIA, as the case may be.

16.2 The exit transition plan shall be in a format to be agreed with the STATE BANK OF INDIA and shall include, but not be limited to:

- (1) a timetable of events;
- (2) resources;
- (3) assumptions;

- (4) activities;
- (5) responsibilities; and
- (6) Risks.

16.3 The SERVICE PROVIDER shall supply to the STATE BANK OF INDIA or a Replacement SERVICE PROVIDER specific materials including but not limited to:

- (a) Change Request log;
- (b) entire back-up history; and
- (c) Dump of database contents including the Asset Register, problem management system and operating procedures. For the avoidance of doubt this shall not include proprietary software tools of the SERVICE PROVIDER which are used for project management purposes generally within the SERVICE PROVIDER's business.

16.4 The SERVICE PROVIDER shall supply to the STATE BANK OF INDIA or a Replacement SERVICE PROVIDER proposals for the retention of Key Personnel for the duration of the transition period.

16.5 On the date of expiry the SERVICE PROVIDER shall provide to the STATE BANK OF INDIA refreshed versions of the materials required under paragraph 16.3 above which shall reflect the position as at the date of expiry.

16.6 The SERVICE PROVIDER shall provide to the STATE BANK OF INDIA or to any Replacement SERVICE PROVIDER within **14 (fourteen)** Working Days of expiry or termination a full and complete copy of the Incident log book and all associated documentation recorded by the SERVICE PROVIDER till the date of expiry or termination.

16.7 The SERVICE PROVIDER shall provide for the approval of the STATE BANK OF INDIA a draft plan to transfer or complete work-in-progress at the date of expiry or termination.

17. Use of STATE BANK OF INDIA Premises

- 17.1 Prior to expiry or on notice of termination of this Agreement, the SERVICE PROVIDER shall provide for the approval of the STATE BANK OF INDIA a draft plan specifying the necessary steps to be taken by both the SERVICE PROVIDER and the STATE BANK OF INDIA to ensure that the STATE BANK OF INDIA's Premises are vacated by the SERVICE PROVIDER.
- 17.2 Unless otherwise agreed, the SERVICE PROVIDER shall be responsible for all costs associated with the SERVICE PROVIDER's vacation of the STATE BANK OF INDIA's Premises, removal of equipment and furnishings, redeployment of SERVICE PROVIDER Personnel, termination of arrangements with Subcontractors and service contractors and restoration of the STATE BANK OF INDIA Premises to their original condition (subject to a reasonable allowance for wear and tear).