



**REQUEST FOR PROPOSAL**  
FOR EMPANELMENT OF SERVICE PROVIDERS FOR PROVIDING IT HUMAN  
RESOURCES

**Ref: SBI/GITC/Partner Relationships/2021/2022/810**

**Dated: 09/12/2021**

**IT- PR & BNCC Department**  
**Belapur Railway Station Building,**  
**CBD Belapur, Navi Mumbai**

**Schedule of Events**

<b>Sl No</b>	<b>Particulars</b>	<b>Remarks</b>
1	Contact details of issuing department (Name, Designation, Mobile No., Email and office address for sending any kind of correspondence regarding this RFP)	Name: Mr. Ajit Singh Designation: AGM (IT- PR and BnCC) Email ID: <a href="mailto:ajit.singh23@sbi.co.in">ajit.singh23@sbi.co.in</a> with a copy to Contact Address: DGM (IT PR and BNCC) 4 <sup>Th</sup> floor, Railway Station Building State Bank Global IT Centre, Sector 11, C.B.D. Belapur, Navi Mumbai-400614 Contact Number: 022-27523704, 7710015497
2	Bid Document Availability including changes/amendments, if any to be issued	RFP may be downloaded from Bank's website under procurement news in <a href="https://www.sbi.co.in">https://www.sbi.co.in</a> from 09.12.2021 to 30.12.2021
3	Last date for requesting clarification	Upto 5.00 PM on 15.12.2021 All communications regarding points / queries requiring clarifications shall be given in writing or by e-mail.
4	Pre - bid Meeting at (venue)	From 3.30 PM to 4.30 PM on 16.12.2021 at GITC, Belapur through online meeting
5	Clarifications to queries raised at pre-bid meeting will be provided by the Bank.	On 20.12.2021
6	Last date and time for Bid submission	Upto 3.30 PM on 30.12.2021
7	Address for submission of Bids	M/s E-Procurement Services Private Limited
8	Date and Time of opening of Technical Bids	04.00 PM on 30.12.2021 Authorized representatives of Bidders may be present online during opening of the Technical Bids. However, Technical Bids would be opened even in the



		absence of any or all of Bidders representatives.	
9	Tender Fee	<p>Rs._25,000/- (Twenty five Thousand Rupees)</p> <p>Amount should be deposited in A/c No: 4897932113433 IFSC:_ SBIN0011343 Account Name:_ Subsidy Inward Remittance (If Mode of Transaction is RTGS or SBI to SBI) Account No: 37608352111 IFSC: SBIN0011343 Branch: OAD, GITC, Belapur Account Name: Sys. Sus. Br. Parking Account Tender fee will be non-refundable.</p>	
10	Earnest Money Deposit	<p>NIL</p> <p>In lieu of EMD, Bidders are required to submit Bid Security Declaration as per Technical Bid Form (Appendix-A).</p> <p>Bids without Bid Security Declaration under Technical Bid Form (Appendix-A) shall be summarily rejected</p>	
11	Bank Guarantee	Rs. 10,00,000.00 (Rupee Ten Lakh Only)	Security in form of BG should be valid for 3 (three) years and 3 (three) months from the effective date of the empanelment Contract.
12	Contact details of e-Procurement agency appointed for e-procurement	<p>M/s E-Procurement Technologies Ltd, Ahmedabad Website: <a href="https://etender.sbi/SBI/">https://etender.sbi/SBI/</a> Contact details: khushboo.mehta@eptl.in pooja.shah@eptl.in, jainam@eptl.in Mr. Jainam, Mobile: <b>9328931942, 9510813528</b></p>	

**Part-I**

<b>S.N.</b>	<b>INDEX</b>
1	INVITATION TO BID
2	DISCLAIMER
3	DEFINITIONS
4	SCOPE OF WORK
5	ELIGIBILITY AND TECHNICAL CRITERIA
6	COST OF BID DOCUMENT
7	CLARIFICATIONS AND AMENDMENTS ON RFP/PRE-BID MEETING
8	CONTENTS OF BID DOCUMENTS
9	EARNEST MONEY DEPOSIT (EMD)
10	BID PREPARATION AND SUBMISSION
11	DEADLINE FOR SUBMISSION OF BIDS
12	MODIFICATION AND WITHDRAWAL OF BIDS
13	PERIOD OF BID VALIDITY
14	BID INTEGRITY
15	BIDDING PROCESS/ OPENING OF TECHNICAL BIDS
16	TECHNICAL EVALUATION
17	INTENTIONALLY LEFT BLANK
18	CONTACTING THE BANK
19	AWARD CRITERIA AND AWARD OF CONTRACT
20	POWER TO VARY OR OMIT WORK
21	WAIVER OF RIGHTS
22	CONTRACT AMENDMENT
23	BANK'S RIGHT TO ACCEPT ANY BID AND TO REJECT ANY OR ALL BIDS
24	BANK GUARANTEE
25	INTENTIONALLY LEFT BLANK
26	PENALTIES
27	RIGHT TO VERIFICATION
28	RIGHT TO AUDIT
29	SUB-CONTRACTING
30	VALIDITY OF AGREEMENT
31	LIMITATION OF LIABILITY
32	CONFIDENTIALITY
33	DELAY IN SERVICE PROVIDER'S PERFORMANCE
34	SERVICE PROVIDER'S OBLIGATIONS
35	INTENTIONALLY LEFT BLANK
36	INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP
37	LIQUIDATED DAMAGES
38	CONFLICT OF INTEREST
39	CODE OF INTEGRITY AND DEBARMENT/BANNING
40	TERMINATION FOR DEFAULT
41	FORCE MAJEURE

42	TERMINATION FOR INSOLVENCY
43	TERMINATION FOR CONVENIENCE
44	DISPUTES AND ARBITRATION
45	GOVERNING LANGUAGES
46	APPLICABLE LAW
47	TAXES AND DUTIES
48	TAX DEDUCTION AT SOURCES
49	TENDER FEE
50	EXEMPTION OF TENDER FEE
51	NOTICES

### Part-II

Appendix	Index
A	BID FORM
B	BIDDER'S ELIGIBILITY CRITERIA
C	TECHNICAL EVALUATION MATRIX FOR BIDDERS
D	BIDDER DETAILS
E	CERTIFICATE OF RESOURCES IN INDIA
F	BANK GUARANTEE FORMAT
G	SERVICE LEVEL AGREEMENT
H	NON-DISCLOSURE AGREEMENT
I	PRE BID QUERY FORMAT
J	FORMAT FOR SUBMISSION OF CLIENT REFERENCES
K	PRE CONTRACT INTEGRITY PACT

## 1. INVITATION TO BID:

- i. **State Bank of India** (herein after referred to as '**SBI/the Bank**'), having its Corporate Centre at Mumbai, various other offices (LHOs/ Head Offices /Zonal Offices/Global Link Services, Global IT Centre, foreign offices etc.) of State Bank of India, branches/other offices, Subsidiaries and Joint Ventures available at various locations and managed by the Bank (collectively referred to as **State Bank Group** or '**SBG**' hereinafter). This Request for Proposal (RFP) has been issued by **the Bank** on behalf of **SBG** for empanelment of Service Providers for providing IT Human Resources
- ii. In order to meet the service requirements, the Bank proposes to invite online Bids from eligible Bidders as per criteria mentioned under this RFP.
- iii. Bidder shall mean any entity (i.e. juristic person) who meets the eligibility criteria given in **Appendix-B** of this RFP and willing to provide the Services as required in this RFP. The interested Bidders who agree to all the terms and conditions contained in this RFP may submit their Bids with the information desired in this RFP. Consortium bidding is not permitted under this RFP.
- iv. Address for submission of online Bids, contact details including email address for sending communications are given in Schedule of Events of this RFP.
- v. The purpose of SBI behind this RFP is to seek a detailed technical and commercial proposal for procurement of the **Services** desired in this RFP.
- vi. This RFP document shall not be transferred, reproduced or otherwise used for purpose other than for which it is specifically issued.
- vii. Interested Bidders are advised to go through the entire RFP before submission of online Bids to avoid any chance of elimination. The eligible Bidders desirous of taking up the project for providing of proposed **Services** for SBI are invited to submit their technical and commercial proposal in response to this RFP. The criteria and the actual process of evaluation of the responses to this RFP and subsequent selection of the successful Bidder will be entirely at Bank's discretion. This RFP seeks proposal from Bidders who have the necessary experience, capability & expertise to provide SBI the proposed **Services** adhering to Bank's requirements outlined in this RFP.

## **2. DISCLAIMER:**

- i. The information contained in this RFP or information provided subsequently to Bidder(s) whether verbally or in documentary form/email by or on behalf of SBI, is subject to the terms and conditions set out in this RFP.
- ii. This RFP is not an offer by State Bank of India, but an invitation to receive responses from the eligible Bidders.
- iii. The purpose of this RFP is to provide the Bidder(s) with information to assist preparation of their Bid proposals. This RFP does not claim to contain all the information each Bidder may require. Each Bidder should conduct its own investigations and analysis and should check the accuracy, reliability and completeness of the information contained in this RFP and where necessary obtain independent advices/clarifications. Bank may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information in this RFP.
- iv. The Bank, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form or arising in any way for participation in this bidding process.
- v. The Bank also accepts no liability of any nature whether resulting from negligence or otherwise, howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP.
- vi. The Bidder is expected to examine all instructions, forms, terms and specifications in this RFP. Failure to furnish all information required under this RFP or to submit a Bid not substantially responsive to this RFP in all respect will be at the Bidder's risk and may result in rejection of the Bid.
- vii. The issue of this RFP does not imply that the Bank is bound to select a Bidder or to award the contract to the Selected Bidder, as the case may be, for the Project and the Bank reserves the right to reject all or any of the Bids or Bidders without assigning any reason whatsoever before issuance of issuance of letter for empanelment and/or its acceptance thereof by the successful Bidder as defined in Award Criteria and Award of Contract in this RFP.

### 3. DEFINITIONS:

In this connection, the following terms shall be interpreted as indicated below:

- i. **“The Bank”** ‘means the State Bank of India (including domestic branches and foreign offices), Subsidiaries and Joint Ventures, where the Bank has ownership of more than 50% of voting securities or the power to direct the management and policies of such Subsidiaries and Joint Ventures..
- ii. **“Bidder/Applicant”** means an eligible entity/firm submitting the Bid in response to this RFP.
- iii. **“Bid”** means the written reply or submission of response to this RFP.
- iv. **“The Contract/Agreement”** means the agreement entered into between the Bank and Service Provider, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- v. **“IT Human Resources”** means the human resources of various IT skill sets such as Developer, Support Team Member, Team Lead, Project Manager, Solution Architect, Business Analyst, Enterprise Architect etc.
- vi. **“Vendor/Service Provider”** is the successful Bidder found eligible as per eligibility criteria set out in this RFP, whose technical Bid has been accepted as per the selection criteria set out in the RFP and to whom notification of empanelment has been given by the Bank.
- vii. **“Services”** means all services, scope of work and deliverables to be provided by a Bidder as described in subsequent Request for Quotation (RFQ) issued in pursuant to this RFP and may include provision of technical assistance, training, certifications, auditing and other obligation of Service Provider covered under the respective RFQ..
- viii. **“Deliverables/ Work Product”** shall mean all work product generated by the 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 and trade secrets.



- ix. **“Intellectual Property Rights”** shall mean and include (a) copyrights and all renewals thereof; (b) trademarks, trade names, service marks, service names, logos and corporate names, both primary and secondary, together with all goodwill associated therewith and including, without limitation, all translations, adaptations, combinations and derivations of each of the foregoing, (c) trade secrets and other confidential information (including proposals, financial and accounting data, business and marketing plans, customer and supplier lists and related information); (d) all other intellectual property, including but not limited to design rights, trade names, information technology, domain names; and (e) all registrations and applications for registration, extension or renewal filed anywhere in the world for each of the foregoing.
- x. **“Purchase Order Value”** means the total price agreed to be paid to Vendor under the respective Purchase Order, which may be issued by the Bank in pursuant to RFQ from time to time during the empanelment contract period.

#### 4. SCOPE OF WORK:

The detailed Scope of Work will be provided in the respective RFQ issued in pursuant to this RFP.

The Bank may, at its sole discretion, provide remote access to its information technology system to IT Service Provider through secured Virtual Private Network (VPN) in order to facilitate the performance of IT Services. Such remote access to the Bank’s information technology system shall be subject to the following:

- i. Service Provider shall ensure that the remote access to the Bank’s VPN is performed through a laptop/desktop (“Device”) specially allotted for that purpose by the Service Provider and not through any other private or public Device.
- ii. Service Provider shall ensure that only its authorized employees/representatives access the Device.
- iii. Service Provider shall be required to get the Device hardened/configured as per the Bank’s prevailing standards and policy.
- iv. Service Provider and/or its employee/representative shall be required to furnish an undertaking and/or information security declaration on the Bank’s prescribed format before such remote access is provided by the Bank.
- v. Service Provider shall ensure that services are performed in a physically protected and secure environment which ensures confidentiality and integrity of the Bank’s data and artefacts, including but not limited to information (on customer, account, transactions, users, usage, staff, etc.), architecture (information, data, network, application, security, etc.), programming codes, access configurations, parameter settings, executable

files, etc., which the Bank representative may inspect. Service Provider shall facilitate and/ or handover the Device to the Bank or its authorized representative for investigation and/or forensic audit.

- vi. Service Provider shall be responsible for protecting its network and subnetworks, from which remote access to the Bank's network is performed, effectively against unauthorized access, malware, malicious code and other threats in order to ensure the Bank's information technology system is not compromised in the course of using remote access facility.

#### **5. ELIGIBILITY AND TECHNICAL CRITERIA:**

- i. Bid is open to all Bidders who meet the eligibility and technical criteria as given in **Appendix-B & Appendix-C** of this document. The Bidder has to submit the documents substantiating eligibility criteria as mentioned in this RFP document.
- ii. No Bidder or its associate shall submit more than one Bid for the empanelment under this RFP. A Bidder applying individually or as an associate shall not be entitled to submit another Bid either individually or through associates, as the case may be.

#### **6. COST OF BID DOCUMENT:**

The participating Bidders shall bear all the costs associated with or relating to the preparation and submission of their Bids including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstration or presentations which may be required by the Bank or any other costs incurred in connection with or relating to their Bid. The Bank shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder regardless of the conduct or outcome of the bidding process.

#### **7. CLARIFICATION AND AMENDMENTS ON RFP/PRE-BID MEETING:**

- i. Bidder requiring any clarification on RFP may notify the Bank in writing strictly as per the format given in **Appendix-I** at the address/by e-mail within the date/time mentioned in the Schedule of Events.
- ii. A pre-Bid meeting will be held in person or online on the date and time specified in the Schedule of Events which may be attended by the authorized representatives of the Bidders interested to respond to this RFP.
- iii. The queries received (without identifying source of query) and response of the Bank thereof will be posted on the Bank's website or conveyed to the Bidders.

- iv. The Bank reserves the right to amend, rescind or reissue the RFP, at any time prior to the deadline for submission of Bids. The Bank, for any reason, whether, on its own initiative or in response to a clarification requested by a prospective Bidder, may modify the RFP, by amendment which will be made available to the Bidders by way of corrigendum/addendum. The interested parties/Bidders are advised to check the Bank's website regularly till the date of submission of Bid document specified in the Schedule of Events/email and ensure that clarifications / amendments issued by the Bank, if any, have been taken into consideration before submitting the Bid. Such amendments/clarifications, if any, issued by the Bank will be binding on the participating Bidders. Bank will not take any responsibility for any such omissions by the Bidder. The Bank, at its own discretion, may extend the deadline for submission of Bids in order to allow prospective Bidders a reasonable time to prepare the Bid, for taking the amendment into account. Nothing in this RFP or any addenda/corrigenda or clarifications issued in connection thereto is intended to relieve Bidders from forming their own opinions and conclusions in respect of the matters addresses in this RFP or any addenda/corrigenda or clarifications issued in connection thereto.
- v. No request for change in commercial/legal terms and conditions, other than what has been mentioned in this RFP or any addenda/corrigenda or clarifications issued in connection thereto, will be entertained and queries in this regard, therefore will not be entertained.
- vi. Queries received after the scheduled date and time will not be responded/acted upon.

#### **8. CONTENTS OF BID DOCUMENT:**

- i. The Bidder must thoroughly study/analyse and properly understand the contents of this RFP, its meaning and impact of the information contained therein.
- ii. Failure to furnish all information required in this RFP or submission of Bid not responsive to this RFP in any respect will be at the Bidder's risk and responsibility and the same may finally result in rejection of its Bid. The Bank has made considerable effort to ensure that accurate information is contained in this RFP and is supplied solely as guidelines for Bidders.
- iii. The Bid prepared by the Bidder, as well as all correspondences and documents relating to the Bid exchanged by the Bidder and the Bank and supporting documents and printed literature shall be submitted in English.
- iv. The information provided by the Bidders in response to this RFP will become the

property of the Bank and will not be returned. Incomplete information in Bid document may lead to non-consideration of the proposal.

**9. EARNEST MONEY DEPOSIT (EMD):**

- i. In lieu of EMD, Bidders are required to submit Bid Security Declaration as per Technical Bid Form (Appendix-A). Proposals without Bid Security Declaration under Technical Bid Form (Appendix-A) shall be summarily rejected.
- ii. Bidder(s) shall be considered in breach of Bid Security Declaration :-
  - (a) if a Bidder withdraws his Bid during the period of Bid validity specified in this RFP; or
  - (b) if a Bidder makes any statement or encloses any form which turns out to be false / incorrect at any time prior to signing of Contract; or
  - (c) if the successful Bidder fails to accept Letter of Empanelment and/or sign the Contract with the Bank or furnish Bank Guarantee, within the specified time period in the RFP.
- iii. If Bid Security Declaration is breached for any reasons mentioned above, the concerned Bidder may be debarred from participating in the RFPs floated by the Bank/this department, in future, as per sole discretion of the Bank and other appropriate action may be initiated as per the terms of this RFP.

**10. BID PREPARATION AND SUBMISSION:**

- (a) The Bid is to be submitted on portal of e-Procurement agency for “EMPANELMENT OF SERVICE PROVIDERS FOR PROVIDING IT HUMAN RESOURCES” in response to the RFP NO: SBI/GITC/----- dated :- ----- mentioned below are to be uploaded on portal of e-Procurement agency with digital signature of Authorised signatory: Index of all the documents, letters, bid forms etc. submitted in response to RFP along with page numbers.
- (b) Bid covering letter/Bid form on the lines of **Appendix-A** on Bidder’s letter head.
- (c) Proof of remittance of Tender Fee as specified in this document.
- (d) Specific response with supporting documents in respect of Eligibility Criteria as mentioned in **Appendix-B** and technical eligibility criteria on the lines of **Appendix-C**.
- (e) Bidder’s details as per **Appendix-D** on Bidder’s letter head.
- (f) Audited financial statement and profit and loss account statement as mentioned in Part-II.

- (g) A copy of board resolution along with copy of power of attorney (POA wherever applicable) showing that the signatory has been duly authorized to sign the Bid document.
- (h) If applicable, copy of registration certificate issued by competent authority as mentioned in SI No 2 of Eligibility Criteria under Appendix-B.

**i. Bidders may please note:**

- (a) Care should be taken that the Technical Bid shall not contain any price information. Such proposal, if received, will be rejected.
- (b) The Bid document shall be complete in accordance with various clauses of the RFP document or any addenda/corrigenda or clarifications issued in connection thereto, duly signed by the authorized representative of the Bidder. Board resolution authorizing representative to Bid and make commitments on behalf of the Bidder is to be attached.
- (c) It is mandatory for all the Bidders to have class-III Digital Signature Certificate (DSC) (in the name of person who will sign the Bid) from any of the licensed certifying agency to participate in this RFP. DSC should be in the name of the authorized signatory. It should be in corporate capacity (that is in Bidder capacity).
- (d) If deemed necessary, the Bank may seek clarifications on any aspect from the Bidder. However, that would not entitle the Bidder to change or cause any change in the substances of the Bid already submitted .
- (e) The Bidder may also be asked to give presentation for the purpose of clarification of the Bid.
- (f) The Bidder must provide specific and factual replies to the points raised in the RFP.
- (g) The Bid shall be typed or written and shall be digitally signed by the Bidder or a person or persons duly authorized to bind the Bidder to the Contract.
- (h) All the enclosures (Bid submission) shall be serially numbered.
- (i) Bidder(s) should prepare and submit their online Bids well in advance before the prescribed date and time to avoid any delay or problem during the bid submission process. The Bank shall not be held responsible for any sort of delay or the difficulties faced by the Bidder(s) during the submission of online Bids.
- (j) Bidder(s) should ensure that the Bid documents submitted should be free from virus and if the documents could not be opened, due to virus or otherwise, during Bid opening, the Bid is liable to be rejected.
- (k) The Bank reserves the right to reject Bids not conforming to above.

**11. DEADLINE FOR SUBMISSION OF BIDS:**

- i. Bids must be submitted online on portal of e-Procurement agency by the date and time mentioned in the “Schedule of Events”.
- ii. In the event of the specified date for submission of Bids being declared a holiday for the Bank, the Bids will be received upto the appointed time on the next working day.
- iii. In case the Bank extends the scheduled date of submission of Bid document, the Bids shall be submitted by the time and date rescheduled. All rights and obligations of the Bank and Bidders will remain the same.

**12. MODIFICATION AND WITHDRAWAL OF BIDS:**

- i. The Bidder may modify or withdraw its Bid after the Bid’s submission, provided modification, including substitution or withdrawal of the Bids, is received on e-procurement portal, prior to the deadline prescribed for submission of Bids.
- ii. No modification in the Bid shall be allowed, after the deadline for submission of Bids.
- iii. No Bid shall be withdrawn in the interval between the deadline for submission of Bids and the expiration of the period of Bid validity specified in this RFP. Withdrawal of a Bid during this interval may result in appropriate action as per the terms of this RFP.

**13. PERIOD OF BID VALIDITY:**

- i. Bid shall remain valid for duration of 6 calendar months from Bid submission date.
- ii. In exceptional circumstances, the Bank may solicit the Bidders’ consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. A Bidder is free to refuse the request. However, in such case, the Bid Security Declaration shall not be treated as breached. However, any extension of validity of Bids will not entitle the Bidder to revise/modify the Bid document.

**14. BID INTEGRITY:**

Willful misrepresentation of any fact within the Bid will lead to the cancellation of the contract without prejudice to other actions that the Bank may take. All the submissions, including any accompanying documents, will become property of the Bank. The Bidders shall be deemed to license, and grant all rights to the Bank, to reproduce the whole or any portion of their Bid document for the purpose of evaluation and to disclose the contents of submission for regulatory and legal requirements.

**15. BIDDING PROCESS/OPENING OF TECHNICAL BIDS:**

- i. All the technical Bids received up to the specified time and date will be opened for initial evaluation on the time and date mentioned in the schedule of events. The technical Bids will be opened in the presence of representatives of the Bidders who choose to attend the same on portal of e-Procurement agency. However, Bids may be opened even in the absence of representatives of one or more of the Bidders.
- ii. In the first stage, only technical Bid will be opened and evaluated. Bids of such Bidders satisfying eligibility criteria and agree to comply with all the terms and conditions specified in the RFP will be evaluated for technical criteria/specifications/eligibility. Only those Bids complied with technical criteria shall become eligible for offer of empanelment.
- iii. The Bank will examine the Bids to determine whether they are complete, required formats have been furnished, the documents have been properly signed, Tender Fee for the desired amount and validity period is available and the Bids are generally in order. The Bank may, at its discretion waive any minor non-conformity or irregularity in a Bid which does not constitute a material deviation.
- iv. Prior to the detailed evaluation, the Bank will determine the responsiveness of each Bid to the RFP. For purposes of these Clauses, a responsive Bid is one, which conforms to all the terms and conditions of the RFP in toto, without any deviation.
- v. The Bank's determination of a Bid's responsiveness will be based on the contents of the Bid itself, without recourse to extrinsic evidence.
- vi. After opening of the technical Bids and preliminary evaluation, some or all the Bidders may be asked to make presentations on the Service proposed to be offered by them.
- vii. If a Bid is not responsive, it will be rejected by the Bank and will not subsequently

be made responsive by the Bidder by correction of the non-conformity.

**16. EVALUATION:**

- i. Evaluation will include information submitted as per Bid format, demonstration of proposed Services, reference calls and site visits, wherever required. The Bidder may highlight the noteworthy/superior features of their Services. The Bidder will demonstrate/substantiate all claims made in the Bid along with supporting documents to the Bank.
- ii. During evaluation and comparison of Bids, the Bank may, at its discretion ask the Bidders for clarification on the Bids received. The request for clarification shall be in writing and no change in prices or substance of the Bid shall be sought, offered or permitted. No clarification at the initiative of the Bidder shall be entertained after bid submission date.

**17. INTENTIONALLY LEFT BLANK.**

**18. CONTACTING THE BANK:**

- i. No Bidder shall contact the Bank on any matter relating to its Bid, from the time of opening of Bid to the time, the Contract is awarded.
- ii. Any effort by a Bidder to influence the Bank in its decisions on Bid evaluation, Bid comparison or contract award may result in the rejection of the Bid.

**19. AWARD CRITERIA AND AWARD OF CONTRACT:**

- i. Bank will notify successful Bidder in writing by way of letter or fax/email that its Bid has been accepted. The selected Bidder has to return the duplicate copy of the same to the Bank within **7 working days**, duly Accepted, Stamped and Signed by Authorized Signatory in token of acceptance.
- ii. The successful Bidder will have to submit Non-disclosure Agreement, Bank Guarantee for the amount and validity as desired in this RFP and strictly on the lines of format given in appendix of this RFP together with acceptance of all terms and conditions of RFP.
- iii. Copy of board resolution and power of attorney (POA wherever applicable) showing that the signatory has been duly authorized to sign the acceptance letter, contract and NDA should be submitted.



- iv. The successful Bidder shall be required to enter into a Contract with the Bank and submit the Bank Guarantee, within 30 days from issuance of Letter of empanelment or within such extended period as may be decided by the Bank.
- v. Till execution of a formal contract, the RFP, along with the Bank's notification of award by way of issuance of Letter of empanelment and Service Provider's acceptance thereof, would be binding contractual obligation between the Bank and the successful Bidder.
- vi. The Bank reserves the right to stipulate, at the time of finalization of the Contract, any other document(s) to be enclosed as a part of the final Contract.
- vii. Failure of the successful Bidder to comply with the requirements/terms and conditions of this RFP shall constitute sufficient grounds for the annulment of the award and forfeiture of the BG.
- viii. Upon notification of award to the successful Bidder, the Bank will promptly notify the award of contract to the successful Bidder on the Bank's website..
- ix. The Rate discovery for Scope of Work/ Services to be provided by the Service Provider under the respective RFQ will be done after empanelment by floating a Request for Quotation (RFQ) among empanelled Service Providers through the reverse auction process to be conducted by the Bank or its authorised service provider during empanelment period. The Bank may describe specific eligibility criteria under the respective RFQ as per the Scope of Services. Order No. P-45021/2/2017- B-E-II issued by Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India relating to Public Procurement (Preference to Make in India), Order 2017 and any subsequent amendment/ clarifications thereto will be considered for participation in bidding process and deciding the L1 bidder(s). Also, participating bidders need to sign and submit Pre-Contract Integrity Pact, based on the estimated value at the time of submitting bids in respective RFQs as per – Annexure – N.
- x. Statement of Work (SOW) will be shared in these RFQs mentioning details of Services sought and Payment Terms along with additional clauses as per case to case basis.
- xi. The successful Bidder in the RFQ shall be required to enter a contract with the Bank and submit the required Bank Guarantee, within 30 days of award of the Contract or within such extended period as may be decided by the Bank. The purchase order along with the Statement of Work will form the contract. The stamp duty and other such expenses on such SOW will be borne by the successful bidder in the RFQ.

**20. POWERS TO VARY OR OMIT WORK:**

- i. i. No alterations, amendments, omissions, additions, suspensions or variations of the work (hereinafter referred to as variation) under the contract shall be made by the successful Bidder 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 contract, by notice in writing to instruct the successful Bidder to make any variation without prejudice to the contract. The finally selected Bidder shall carry out such variation and be bound by the same conditions as far as applicable as though the said variations occurred in the contract documents. If any, suggested variations would, in the opinion of the finally selected Bidder, if carried out, prevent him from fulfilling any of his obligations under the contract, he shall notify Bank thereof in writing with reasons for holding such opinion and Bank shall instruct the successful Bidder to make such other modified variation without prejudice to the contract. The finally selected Bidder shall carry out such variation and be bound by the same conditions as far as applicable as though the said variations occurred in the contract documents. If the Bank confirms its instructions, the successful Bidder's obligations shall be modified to such an extent as may be mutually agreed, if such variation involves extra cost. Any agreed difference in cost occasioned by such variation shall be added to or deducted from the respective Purchase Order Value & SOW as the case may be.
- ii. In any case in which the successful Bidder has received instructions from the Bank as to the requirements for carrying out the altered or additional substituted work which either then or later on, will in the opinion of the finally selected Bidders, involve a claim for additional payments, such additional payments shall be mutually agreed in line with the terms and conditions of the order.
- iii. 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 change in respective Purchase Order Value & SOW, before the finally selected Bidder(s) proceeds with the change.

**21. WAIVER OF RIGHTS:**

Each Party agrees that any delay or omission on the part of the other Party to exercise any right, power or remedy under this RFP/respective RFQ will not automatically operate as a waiver of such right, power or remedy or any other right, power or remedy and no waiver will be effective unless it is in writing and signed by the waiving Party. Further the waiver or the single or partial exercise of any right, power or remedy by either Party hereunder on one occasion will not be construed as a bar to a waiver of any successive or other right, power or remedy on any other occasion.

**22. CONTRACT AMENDMENT:**

No variation in or modification of the terms of the Contract shall be made, except by written amendment, signed by the parties.

**23. BANK'S RIGHT TO ACCEPT ANY BID AND TO REJECT ANY OR ALL BIDS:**

The Bank reserves the right to accept or reject any Bid in part or in full or to cancel the bidding process and reject all Bids at any time prior to contract award as specified in Award Criteria and Award of Contract, without incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders of the grounds for the Bank's action.

**24. BANK GUARANTEE:**

- i. Security in form of Bank Guarantee [BG] for the amount with validity period as specified in this RFP strictly on the format at **Appendix-F** is to be submitted by the empanelled Bidder (s). The BG has to be issued by a Scheduled Commercial Bank other than SBI and needs to be submitted within the specified time of receipt of formal communication from the Bank about their Bid finally selected. In case, SBI is the sole Banker for the Bidder, a Letter of Comfort from SBI may be accepted.
- ii. The Bank Guarantee is required to protect interest of the Bank against the risk of Service Provider's failing to perform / fulfil its commitments / obligations in respect of this RFP; failing to enter into a contract with the Bank and submit the required Bank Guarantee under the respective RFQ, within 30 days of award of the contract or within such extended period as may be decided by the Bank or breach of any other terms and conditions of this RFP, which may warrant invoking of Bank Guarantee.

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**26. PENALTIES:**

Penalties will be mentioned in the respective RFQ issued in pursuant to this RFP.

**27. RIGHT TO VERIFICATION:**

The Bank reserves the right to verify any or all of the statements made by the Bidder in the Bid document and to inspect the Bidder's facility, if necessary, to establish to its satisfaction about the Bidder's capacity/capabilities to perform the job.

**28. RIGHT TO AUDIT:**

- i. The Selected Bidder (Service Provider) shall be subject to annual audit by internal/ external 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 services etc. provided to the Bank and Service Provider is required to submit such certification by such Auditors to the Bank. Service Provider 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 Service Provider. Service Provider shall, whenever required by the Auditors, furnish all relevant information, records/data to them. All costs for such audit shall be borne by the Bank. Except for the audit done by Reserve Bank of India or any statutory/regulatory authority, the Bank shall provide reasonable notice not less than 7 (seven) days to Service Provider before such audit and same shall be conducted during normal business hours.
- ii. Where any deficiency has been observed during audit of Service Provider on the risk parameters finalized by the Bank or in the certification submitted by the Auditors, Service Provider 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. The resolution provided by Service Provider shall require to be certified by the Auditors covering the respective risk parameters against which such deficiencies have been observed.
- iii. 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(ies). The Bank reserves the right to call for and/or retain any relevant information /audit reports on financial and security review with their findings undertaken by Service Provider. However, Service Provider shall not be obligated to provide records/data not related to Services under the Agreement (e.g. internal cost breakup etc.).

**29. SUBCONTRACTING:**

As per scope of this RFP, sub-contracting is not permitted.

**30. VALIDITY OF AGREEMENT:**

The Agreement/ SLA will be valid for the period of 3 (three) years. The Bank reserves the right to terminate the Agreement as per the terms of RFP/ Agreement.

**31. LIMITATION OF LIABILITY:**

- i. The maximum aggregate liability of Service Provider under the empanelment Agreement, subject to clause 31 (iii), in respect of any claims, losses, costs or damages arising out of or in connection with this RFP/Agreement shall not exceed Rs. 1000000 (ten lakh rupees). The maximum aggregate liability of Service Provider under the respective RFQ and SOW to be entered in pursuant to such RFQ, subject to clause 31 (iii), in respect of any claims, losses, costs or damages arising out of or in connection with this RFQ/SOW shall not exceed the total Purchase Order Value agreed to be paid under such Purchase Order giving rise to such claims or equivalent to amount of Performance Security in form of Bank Guarantee [BG] submitted by Service Provider in pursuant to respective RFQ, whichever is greater..
- ii. Under no circumstances shall either Party be liable for any indirect, consequential or incidental losses, damages or claims including loss of profit, loss of business or revenue.
- iii. The limitations set forth herein shall not apply with respect to:
  - (a) claims that are the subject of indemnification pursuant to infringement of third party Intellectual Property Right;
  - (b) damage(s) occasioned by the Gross Negligence or Willful Misconduct of Service Provider,
  - (c) damage(s) occasioned by Service Provider for breach of Confidentiality Obligations,
  - (d) 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.

For the purpose of clause 31(iii)(b) “**Gross Negligence**” means any act or failure to act by a party which was in reckless disregard of or gross indifference to the obligation of the party under this Agreement and which causes injury, damage to life, personal safety, real property, harmful consequences to the other party, which such party knew, or would have known if it was acting as a reasonable person, would result from such act or failure to act for which such Party is legally liable.

Notwithstanding the forgoing, Gross Negligence shall not include any action taken in good faith.

**“Willful Misconduct” means** any act or failure to act with an intentional disregard of any provision of this Agreement, which a party knew or should have known if it was acting as a reasonable person, which would result in injury, damage to life, personal safety, real property, harmful consequences to the other party, but shall not include any error of judgment or mistake made in good faith.

### **32. CONFIDENTIALITY:**

Confidentiality obligation shall be as per Non-disclosure agreement and clause 14 of Service Level Agreement placed as Appendix to this RFP.

### **33. DELAY IN SERVICE PROVIDER’S PERFORMANCE:**

- i. Services shall be made by Service Provider within the timelines prescribed in respective RFQ.
- ii. If at any time during performance of the Contract/SOW, Service Provider should encounter conditions impeding timely delivery and performance of Services, Service Provider shall promptly notify the Bank in writing of the fact of the delay, it’s likely duration and cause(s). As soon as practicable after receipt of Service Provider’s notice, the Bank shall evaluate the situation and may, at its discretion, extend Service Providers’ time for performance, in which case, the extension shall be ratified by the parties by amendment of the Contract/ SOW as the case may be.
- iii. Any delay in performing the obligation/ defect in performance by Service Provider may result in imposition of penalty, liquidated damages, invocation of Bank Guarantee and/or termination of Contract (as laid down elsewhere in this RFP document).

### **34. SERVICE PROVIDER’S OBLIGATIONS:**

- i. Service Provider is responsible for and obliged to conduct all contracted activities in accordance with the Contract using state-of-the-art methods and economic principles and exercising all means available to achieve the performance specified in the Contract.
- ii. Service Provider is obliged to work closely with the Bank’s staff, act within its own authority and abide by directives issued by the Bank from time to time and complete implementation activities.

- iii. Service Provider will abide by the job safety measures prevalent in India and will free the Bank from all demands or responsibilities arising from accidents or loss of life, the cause of which is Service Provider's negligence. Service Provider will pay all indemnities arising from such incidents and will not hold the Bank responsible or obligated.
- iv. Service Provider is responsible for activities of its personnel or sub-contracted personnel (where permitted) and will hold itself responsible for any misdemeanours.
- v. Service Provider shall treat as confidential all data and information about the Bank, obtained in the process of executing its responsibilities, in strict confidence and will not reveal such information to any other party without prior written approval of the Bank as explained under 'Non-Disclosure Agreement' in **Appendix-H** of this RFP.

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### **36. INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP:**

- 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.

In connection with the provision of Services under the respective RFQ/SOW, 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 or subcontractor shall comply with the terms and conditions of access and uses of such Third Party Materials under applicable agreements.

- ii. Without the Bank's prior written approval, Service provider will 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 or to

limit the Bank's rights under this RFP/ RFQ.

- iii. Subject to clause 36 (iv) and 36 (v) of this RFP, Service Provider shall, at its own expenses without any limitation, indemnify and keep fully and effectively indemnified the Bank against all costs, claims, damages, demands, expenses and liabilities whatsoever nature arising out of or in connection with all claims of infringement of Intellectual Property Right, including patent, trademark, copyright, trade secret or industrial design rights of any third party arising from the Services or use of the technology / software / products or any part thereof in India or abroad.
- iv. The Bank will give (a) notice to Service Provider of any such claim without delay/provide reasonable assistance to Service Provider in disposing of the claim; (b) sole authority to defend and settle such claim and; (c) will at no time admit to any liability for or express any intent to settle the claim provided that (i) Service Provider shall not partially settle any such claim without the written consent of the Bank, unless such settlement releases the Bank fully from such claim, (ii) Service Provider shall promptly provide the Bank with copies of all pleadings or similar documents relating to any such claim, (iii) Service Provider shall consult with the Bank with respect to the defense and settlement of any such claim, and (iv) in any litigation to which the Bank is also a party, the Bank shall be entitled to be separately represented at its own expenses by counsel of its own selection.
- v. Service Provider shall have no obligations with respect to any infringement claims to the extent that the infringement claim arises or results from: (i) Service Provider's compliance with the Bank's specific technical designs or instructions (except where Service Provider knew or should have known that such compliance was likely to result in an infringement claim and Service Provider did not inform the Bank of the same); or (ii) any unauthorized modification or alteration of the Deliverable (if any) by the Bank.
- vi. 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 shall be deemed to be 'work made for hire' under any Indian/U.S. or any other applicable copyright laws.
- vii. The Intellectual Property Rights on the software code, copyright and source code for various applications/ interfaces developed under the respective RFQ/SOW, 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.

### **37. LIQUIDATED DAMAGES:**

If Service Provider fails to deliver and perform any or all the Services within the stipulated time, schedule as specified in the respective RFQ, the Bank may, without prejudice to its other remedies under the RFP/Agreement/RFQ and unless otherwise extension of time is agreed upon without the application of liquidated damages, deduct from the

respective Purchase Order Value as liquidated damages as defined under the respective RFQ. Once the maximum deduction is reached, the Bank may consider termination of the respective RFQ/Purchase Order/SOW.

### **38. CONFLICT OF INTEREST:**

- i. Bidder shall not have a conflict of interest (the “Conflict of Interest”) that affects the bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Bank shall be entitled to forfeit and appropriate the Bid Security and/or Performance Security (Bank Guarantee), as the case may be, as mutually agreed upon genuine estimated loss and damage likely to be suffered and incurred by the Bank and not by way of penalty for, inter alia, the time, cost and effort of the Bank, including consideration of such Bidder’s proposal (the “Damages”), without prejudice to any other right or remedy that may be available to the Bank under the bidding Documents and/ or the Agreement or otherwise.
- ii. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the bidding Process, if:
  - (a) the Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate, has less than 5% (five per cent) of the subscribed and paid up equity share capital thereof; provided further that

this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 2(72) of the Companies Act, 2013. For the purposes of this Clause, indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the “Subject Person”) shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or

- (b) a constituent of such Bidder is also a constituent of another Bidder; or
  - (c) such Bidder, its Member or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, its Member or Associate, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or
  - (d) such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
  - (e) such Bidder, or any Associate thereof, has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other’s information about, or to influence the Bid of either or each other; or
  - (f) such Bidder or any of its affiliates thereof has participated as a consultant to the Bank in the preparation of any documents, design or technical specifications of the RFP.
- iii. For the purposes of this RFP, Associate means, in relation to the Bidder, a person who controls, is controlled by, or is under the common control with such Bidder (the “Associate”). As used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law or by contract.

### 39. CODE OF INTEGRITY AND DEBARMENT/BANNING:

- i. The Bidder and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the bidding Process. Notwithstanding anything to the contrary contained herein, the Bank shall reject Bid without being liable in any manner whatsoever to the Bidder if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt/fraudulent/coercive/undesirable or restrictive practices in the bidding Process.
- ii. Bidders are obliged under code of integrity to Suo-moto proactively declare any conflicts of interest (pre-existing or as and as soon as these arise at any stage) in RFP process or execution of contract. Failure to do so would amount to violation of this code of integrity.
- iii. Any Bidder needs to declare any previous transgressions of such a code of integrity with any entity in any country during the last three years or of being debarred by any other procuring entity. Failure to do so would amount to violation of this code of integrity.
- iv. For the purposes of this clause, the following terms shall have the meaning hereinafter, respectively assigned to them:
  - (a) “**corrupt practice**” means making offers, solicitation or acceptance of bribe, rewards or gifts or any material benefit, in exchange for an unfair advantage in the procurement process or to otherwise influence the procurement process or contract execution;
  - (b) “**Fraudulent practice**” means any omission or misrepresentation that may mislead or attempt to mislead so that financial or other benefits may be obtained or an obligation avoided. This includes making false declaration or providing false information for participation in a RFP process or to secure a contract or in execution of the contract;
  - (c) “**Coercive practice**” means harming or threatening to harm, persons or their property to influence their participation in the procurement process or affect the execution of a contract;
  - (d) “**Anti-competitive practice**” means any collusion, bid rigging or anti-competitive arrangement, or any other practice coming under the purview of the Competition Act, 2002, between two or more bidders, with or without the

knowledge of the Bank, that may impair the transparency, fairness and the progress of the procurement process or to establish bid prices at artificial, non-competitive levels;

- (e) **“Obstructive practice”** means materially impede the Bank’s or Government agencies investigation into allegations of one or more of the above mentioned prohibited practices either by deliberately destroying, falsifying, altering; or by concealing of evidence material to the investigation; or by making false statements to investigators and/or by threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or by impeding the Bank’s rights of audit or access to information;

**v. Debarment/Banning**

Empanelment/participation of Bidders and their eligibility to participate in the Bank’s procurements is subject to compliance with code of integrity and performance in contracts as per terms and conditions of contracts. Following grades of debarment from empanelment/participation in the Bank’s procurement process shall be considered against delinquent Vendors/Bidders:

**(a) Holiday Listing (Temporary Debarment - suspension):**

Whenever a Vendor is found lacking in performance, in case of less frequent and less serious misdemeanors, the vendors may be put on a holiday listing (temporary debarment) for a period upto 12 (twelve) months. When a Vendor is on the holiday listing, he is neither invited to bid nor are his bids considered for evaluation during the period of the holiday. The Vendor is, however, not removed from the list of empaneled vendors, if any. Performance issues which may justify holiday listing of the Vendor are:

- Vendors who have not responded to requests for quotation/tenders consecutively three times without furnishing valid reasons, if mandated in the empanelment contract (if applicable);
- Repeated non-performance or performance below specified standards (including after sales services and maintenance services etc.);
- Vendors undergoing process for removal from empanelment/participation in procurement process or banning/debarment may also be put on a holiday listing during such proceedings.

**(b) Debarment from participation including removal from empaneled list**

Debarment of a delinquent Vendor (including their related entities) for a period (one to two years) from the Bank’s procurements including removal from empanelment,

wherever such Vendor is empaneled, due to severe deficiencies in performance or other serious transgressions. Reasons which may justify debarment and/or removal of the Vendor from the list of empaneled vendors are:

- Without prejudice to the rights of the Bank under Clause 39(i) hereinabove, if a Bidder is found by the Bank to have directly or indirectly or through an agent, engaged or indulged in any corrupt/fraudulent/coercive/undesirable or restrictive practices during the bidding Process, such Bidder shall not be eligible to participate in any EOI/RFP issued by the Bank during a period of 2 (two) years from the date of debarment.
- Vendor fails to abide by the terms and conditions or to maintain the required technical/operational staff/equipment or there is change in its production/service line affecting its performance adversely, or fails to cooperate or qualify in the review for empanelment;
- If Vendor ceases to exist or ceases to operate in the category of requirements for which it is empaneled;
- Bankruptcy or insolvency on the part of the vendor as declared by a court of law; or
- Banning by Ministry/Department or any other Government agency;
- Other than in situations of force majeure, technically qualified Bidder withdraws from the procurement process or after being declared as successful bidder: (i) withdraws from the process; (ii) fails to enter into a Contract; or (iii) fails to provide performance guarantee or any other document or security required in terms of the RFP documents;
- If the Central Bureau of Investigation/CVC/C&AG or Vigilance Department of the Bank or any other investigating agency recommends such a course in respect of a case under investigation;
- Employs a Government servant or the Bank's Officer within two years of his retirement, who has had business dealings with him in an official capacity before retirement; or
- Any other ground, based on which the Bank considers, that continuation of Contract is not in public interest.
- If there is strong justification for believing that the partners/directors/proprietor/agents of the firm/company has been guilty of violation of the code of integrity or Integrity Pact (wherever applicable), evasion or habitual default in payment of any tax levied by law; etc.

(c) **Banning from Ministry/Country-wide procurements**

For serious transgression of code of integrity, a delinquent Vendor (including their related entities) may be banned/debarred from participation in a procurement process of the Bank including procurement process of any procuring entity of Government of India for a period not exceeding three years commencing from the date of debarment.

**40. TERMINATION FOR DEFAULT:**

- i. The Bank may, without prejudice to any other remedy for breach of Agreement, written notice of not less than 30 (thirty) days, terminate the Agreement/respective Purchase Order/SOW in whole or in part:
  - (a) If Service Provider fails to deliver any or all the obligations within the time period specified in the RFP/Agreement/SOW, or any extension thereof granted by the Bank;
  - (b) If Service Provider fails to perform any other obligation(s) under the RFP/Agreement/SOW;
  - (c) Violations of any terms and conditions stipulated in the RFP/Agreement/SOW;
  - (d) On happening of any termination event mentioned in the RFP/Agreement/SOW.

Prior to providing a written notice of termination to Service Provider under clause 40 (i) (a) to 40 (i) (c), the Bank shall provide Service Provider with a written notice of 30 (thirty) days to cure such breach of the Agreement/respective Purchase Order/SOW. 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.

- ii. In the event the Bank terminates the Contract/respective Purchase Order/SOW in whole or in part for the breaches attributable to Service Provider, the Bank may procure, upon such terms and in such manner as it deems appropriate, Services similar to those undelivered, and subject to limitation of liability clause of this RFP Service Provider shall be liable to the Bank for any increase in cost for such similar Services. However, Service Provider shall continue performance of the Contract to the extent not terminated.
- iii. If the Contract is terminated under any termination clause, Service Provider shall handover all documents/ executable/ Bank's data or any other relevant information to the Bank in timely manner and in proper format as per scope of this RFP/RFQ and shall also support the orderly transition to another vendor or to the Bank.
- iv. During the transition, Service Provider shall also support the Bank on technical queries/support on process implementation.

- v. The Bank's right to terminate the Contract will be in addition to the penalties / liquidated damages and other actions as specified in this RFP/RFQ.
  
- vi. In the event of failure of Service Provider to render the Services under the respective RFQ or in the event of termination of Agreement/SOW 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 the RFQ/SOW 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 respective RFQ/SOW, 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 the respective Purchase Order/SOW. If existing Service Provider is breach of this obligation, they shall be liable for paying a penalty of 10% of the respective Purchase Order Value on demand to the Bank, which may be settled from the payment of invoices or Bank Guarantee for the contracted period or by invocation of Bank Guarantee.

#### **41. FORCE MAJEURE:**

- i. Notwithstanding the provisions of terms and conditions contained in this RFP/RFQ, neither party shall be liable for any delay in in performing its obligations herein if and to the extent that such delay is the result of an event of Force Majeure.
  
- ii. 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, acts of Government in their sovereign capacity, impeding reasonable performance of 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.
  
- iii. If a Force Majeure situation arises, Service Provider shall promptly notify the Bank in writing of such condition and the cause thereof. Unless otherwise directed by the

Bank in writing, Service Provider shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

- iv. If the Force Majeure situation continues beyond 30 (thirty) days, either party shall have the right to terminate the Agreement/ respective SOW by giving a notice to the other party. Neither party shall have any penal liability to the other in respect of the termination of the Agreement/ respective SOW 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 the Agreement/ respective SOW.

#### **42. TERMINATION FOR INSOLVENCY:**

The Bank may, at any time, terminate the Contract/SOW by giving written notice to Service Provider, if Service Provider becomes Bankrupt or insolvent or any application for bankruptcy, insolvency or winding up has been filed against it by any person. In this event, termination will be without compensation to Service Provider, provided that such termination will not prejudice or affect any right of action or remedy, which has accrued or will accrue thereafter to the Bank.

#### **43. TERMINATION FOR CONVENIENCE:**

- i. The Bank, by written notice of not less than 90 (ninety) days, may terminate the Contract/ SOW/ PO, in whole or in part, for its convenience .
- ii. In the event of termination of the Agreement/SOW/PO for the Bank's convenience, Service Provider shall be entitled to receive payment for the Services rendered (delivered) up to the effective date of termination under the respective SOW.

#### **44. DISPUTES / ARBITRATION (APPLICABLE IN CASE OF SUCCESSFUL BIDDER ONLY):**

- i. All disputes or differences whatsoever arising between the parties out of or in connection with the Contract/SOW (including dispute concerning interpretation) or in discharge of any obligation arising out of the Contract/SOW (whether during the progress of work or after completion of such work and whether before or after the termination of the Contract/SOW, abandonment or breach of the Contract/SOW), shall be settled amicably. If however, 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 (SBI or Service Provider), 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. 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 arbitration proceeding shall be conducted in accordance with Arbitration and Conciliation Act 1996 and any amendment thereto. Any appeal will be subject to the exclusive jurisdiction of courts at Mumbai.

- ii. Service Provider shall continue work under the Contract/SOW 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.
- iii. Arbitration proceeding shall be held at Mumbai, India, and the language of the arbitration proceedings and that of all documents and communications between the parties shall be in English.

#### **45. GOVERNING LANGUAGE:**

The governing language shall be English.

#### **46. APPLICABLE LAW:**

The Contract/SOW shall be interpreted in accordance with the laws of the Union of India and shall be subjected to the exclusive jurisdiction of courts at Mumbai.

#### **47. TAXES AND DUTIES:**

- i. Service Provider shall be liable to pay all corporate taxes and income tax that shall be levied according to the laws and regulations applicable from time to time in India and the price Bid by empanelled Service Provider under respective RFQ shall include all such taxes in the quoted price.
- ii. Prices payable to Service Provider under the respective RFQ as stated in the PO/SOW shall be firm and not subject to adjustment during performance of the PO/SOW, irrespective of reasons whatsoever, including exchange rate fluctuations, any upward revision in Custom duty.
- iii. Income / Corporate Taxes in India: The Bidder shall be liable to pay all corporate

taxes and income tax that shall be levied according to the laws and regulations applicable from time to time in India and the price Bid by the Bidder shall include all such taxes in the contract price.

- iv. All expenses, stamp duty and other charges/ expenses in connection with the execution of the Agreement/SOW as a result of this RFP/ respective RFQ process shall be borne by Service Provider. The Agreement/ Contract/ SOW would be stamped as per Maharashtra Stamp Act, 1958 and any amendment thereto.

**48. TAX DEDUCTION AT SOURCE:**

- i. Wherever the laws and regulations require deduction of such taxes at the source of payment, the Bank shall effect such deductions from the payment due to Service Provider under the respective SOW. The remittance of amounts so deducted and issuance of certificate for such deductions shall be made by the Bank as per the laws and regulations for the time being in force. Nothing in the Contract/SOW shall relieve Service Provider from his responsibility to pay any tax that may be levied in India on income and profits made by Service Provider in respect of this Contract/SOW.
- ii. Service Provider's staff, personnel and labour will be liable to pay personal income taxes in India in respect of such of their salaries and wages as are chargeable under the laws and regulations for the time being in force, and Service Provider shall perform such duties in regard to such deductions thereof as may be imposed on him by such laws and regulations.

**49. TENDER FEE:**

Non-refundable Tender Fee should be directly credited to the designated account as mentioned in Schedule of Events. Proof of remittance of Tender Fee in the designated account should be enclosed with the technical bid. The Bids without tender fee will not be considered valid.

**50. EXEMPTION OF TENDER FEE:**

Micro & Small Enterprises (MSE) units and Start-ups\* are exempted from payment of tender fee provided the Services they are offering, are rendered by them. Exemption as stated above is not applicable for providing services, rendered by other companies.

Bidder should submit supporting documents issued by competent Govt. bodies to become eligible for the above exemption.

**Bidders may please note:**

- i. NSIC certificate/ Udyog Aadhar Memorandum/ Udyam Registration Certificate should cover the items tendered to get tender fee exemptions. Certificate/ Memorandum should be valid as on due date / extended due date for Bid submission.
- ii. “Start-up” company should enclose the valid Certificate of Recognition issued by Department for Promotion of Industry and Internal Trade (DPIIT), (erstwhile Department of Industrial Policy and Promotion), Ministry of Commerce & Industry, Govt. of India with the technical bid.
- iii. \*Start-ups which are not under the category of MSE shall not be eligible for exemption of tender fee.
- iv. Bidder who solely on its own, fulfils each eligibility criteria condition as per the RFP terms and conditions and who are having MSE or Start-up company status, can claim exemption for tender fee.
- v. If all these conditions are not fulfilled or supporting documents are not submitted with the technical Bid, then all those Bids without tender fees will be summarily rejected and no queries will be entertained.

**51. NOTICES:**

Any notice given by one party to the other pursuant to this Contract shall be sent to other party in writing or by Fax and confirmed in writing to other Party’s address. The notice shall be effective when delivered or on the notice’s effective date whichever is later.

**Part-II**

**Appendix –A**

**BID FORM (TECHNICAL BID)**

[On Company's letter head]  
(To be included in Technical Bid)

Date: \_\_\_\_\_

To:  
< Address of tendering office >

Dear Sir,  
**Ref: RFP No. SBI:xx:xxdated dd/mm/yyyy**

~~~~~

We have examined the above RFP, the receipt of which is hereby duly acknowledged and subsequent pre-bid clarifications/ modifications / revisions, if any, furnished by the Bank. We shall abide by the terms and conditions spelt out in the RFP. We shall participate and submit the Bid through online process to be conducted by the Bank's authorized service provider, on the date advised to us.

- i. While submitting this Bid, we certify that:
- The undersigned is authorized to sign on behalf of the Bidder and the necessary support document delegating this authority is enclosed to this letter.
  - We declare that we are not in contravention of conflict of interest obligation mentioned in this RFP.
  - We have not induced or attempted to induce any other Bidder to submit or not to submit a Bid for restricting competition.
- ii. We undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will strictly observe the laws against fraud and corruption in force in India namely "Prevention of Corruption Act 1988".
- iii. We undertake that we will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Bank, connected directly or indirectly with the bidding process, or to any person, organisation or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
- iv. We undertake that we will not resort to canvassing with any official of the Bank, connected directly or indirectly with the bidding process to derive any undue advantage. We also

understand that any violation in this regard, will result in disqualification of bidder from further bidding process.

- v. It is further certified that the contents of our Bid are factually correct. We have not sought any deviation to the terms and conditions of the RFP. We also accept that in the event of any information / data / particulars proving to be incorrect, the Bank will have right to disqualify us from the RFP without prejudice to any other rights available to the Bank.
- vi. We certify that while submitting our Bid document, we have not made any changes in the contents of the RFP document, read with its amendments/clarifications provided by the Bank.
- vii. We agree to abide by all the RFP terms and conditions, contents of Service Level Agreement as per template available at Appendix-G of this RFP, which shall remain binding upon us.
- viii. Till execution of a formal contract, the RFP, along with the Bank's notification of award by way of issuance of purchase order and our acceptance thereof, would be binding contractual obligation on the Bank and us.
- ix. We understand that you are not bound to accept the lowest or any Bid you may receive and you may reject all or any Bid without assigning any reason or giving any explanation whatsoever.
- x. We hereby certify that our name does not appear in any "Caution" list of RBI / IBA or any other regulatory body for outsourcing activity.
- xi. We hereby certify that on the date of submission of Bid for this RFP, we do not have any past/ present litigation which adversely affect our participation in this RFP or we are not under any debarment/blacklist period for breach of contract/fraud/corrupt practices by any Scheduled Commercial Bank/ Public Sector Undertaking/ State or Central Government or their agencies/departments.
- xii. We hereby certify that on the date of submission of Bid, we do not have any Service Level Agreement pending to be signed with the Bank for more than 6 months from the date of issue of purchase order.
- xiii. We hereby certify that we have read the clauses contained in O.M. No. 6/18/2019-PPD, dated 23.07.2020 order (Public Procurement No. 1), order (Public Procurement No. 2) dated 23.07.2020 and order (Public Procurement No. 3) dated 24.07.2020 regarding restrictions on procurement from a bidder of a country which shares a land border with India. We further certify that we are not from such a country or if from a country, has been registered with competent authority. We certify that we fulfil all the requirements in this regard and is eligible to participate in this RFP.



- xiv. If our Bid is accepted, we undertake to enter into and execute at our cost, when called upon by the Bank to do so, a contract in the prescribed form and we shall be solely responsible for the due performance of the contract.
  
- xv. We understand that as per clause 9 of the RFP, Bids must be supported by a Bid Security Declaration in lieu of EMD. Accordingly, we furnish this Bid Security Declaration and undertake that (a) we shall not withdraw or modify our bid during the period of Bid validity; (b) if we are considered technically qualified Bidder by the Bank, we shall participate in the auction by logging in, in the reverse auction tool; (c) we have not made any statement or enclosed any form which may turn out to be false/ incorrect at any time prior to signing of Contract; (d) if we are awarded the Contract, we shall accept Purchase Order and/or sign the Contract with the Bank and furnish Bank Guarantee, within the specified time period in the RFP.
  
- xvi. We, further, hereby undertake and agree to abide by all the terms and conditions stipulated by the Bank in the RFP document.

Dated this ..... day of ..... 2021

\_\_\_\_\_

*(Signature)*

*(Name)*

*(In the capacity of)*

Duly authorised to sign Bid for and on behalf of

\_\_\_\_\_ **Seal of the company.**

**Appendix-B****Bidder's Eligibility Criteria**

Bidders meeting the following criteria are eligible to submit their Bids along with supporting documents. If the Bid is not accompanied by all the required documents supporting eligibility criteria, the same would be rejected:

| <b>S. No.</b> | <b>Eligibility Criteria</b>                                                                                                                                                                                                                  | <b>Compliance (Yes/No)</b> | <b>Documents to be submitted</b>                                                                                                                                           |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.            | The Bidder must be an Indian Company/ LLP /Partnership firm registered under applicable Act in India.                                                                                                                                        |                            | Certificate of Incorporation issued by Registrar of Companies and full address of the registered office along with Memorandum & Articles of Association/ Partnership Deed. |
| 2.            | The Bidder must comply with the requirements contained in O.M. No. 6/18/2019-PPD, dated 23.07.2020 order (Public Procurement No. 1), order (Public Procurement No. 2) dated 23.07.2020 and order (Public Procurement No. 3) dated 24.07.2020 |                            | Bidder should specifically certify in <b>Appendix A</b> in this regard and provide copy of registration certificate issued by competent authority wherever applicable.     |
| 3.            | The Bidder must have an average turnover of minimum Rs._500 crore during last 03 (three) financial year(s) i.e. FY18-19, FY 19-20 and FY20-21.                                                                                               |                            | Copy of the audited financial statement for required financial years. (Certificate from statutory auditor for preceding/current FY 20-21 year may be submitted.)           |
| 4.            | The Bidder should be profitable organization on the basis of profit before tax (PBT) for at least 02 (two) out of last 03 (three) financial years mentioned in para 3 above.                                                                 |                            | Copy of the audited financial statement along with profit and loss statement for corresponding years and / or Certificate of the statutory auditor.                        |
| 5.            | Bidder should have experience of minimum 10 years in providing IT Human Resources of various skill sets.                                                                                                                                     |                            | Copy of the order and / or Certificate of completion and/or experience certificate from client for the work.                                                               |
| 6.            | Client references and contact details (email/ landline/ mobile) of customers to whom the Bidder has                                                                                                                                          |                            | Bidder should specifically confirm on their letter head in this regard as per <b>Appendix-J</b>                                                                            |



|     |                                                                                                                                                                                                                                                                               |  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | provided IT Human Resources. in India.<br>(Start and End Date of the Project to be mentioned) in the past (At least 05 client references are required and all must be from BFSI sector )                                                                                      |  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 7.  | Past/present litigations, disputes, if any (Adverse litigations could result in disqualification, at the sole discretion of the Bank)                                                                                                                                         |  | Brief details of litigations, disputes related to product/services being procured under this RFP or infringement of any third party Intellectual Property Rights by prospective Bidder or disputes among Bidder's board of directors, liquidation, bankruptcy, insolvency cases or cases for debarment/blacklisting for breach of contract/fraud/corrupt practices by any Scheduled Commercial Bank/ Public Sector Undertaking / State or Central Government or their agencies/ departments or any such similar cases, if any are to be given on Company's letter head. |
| 8.  | Bidders should not be under debarment/blacklist period for breach of contract/fraud/corrupt practices by any Scheduled Commercial Bank/ Public Sector Undertaking / State or Central Government or their agencies/ departments on the date of submission of bid for this RFP. |  | Bidder should specifically certify in <b>Appendix A</b> in this regard.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 9.  | The Bidder should not have any Service Level Agreement pending to be signed with the Bank for more than 6 months from the date of issue of purchase order.                                                                                                                    |  | Bidder should specifically certify in <b>Appendix A</b> in this regard.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 10. | The Bidder should have minimum 25000 IT Human Resources on its pay roll in India at the time of                                                                                                                                                                               |  | Copy of the Certificate from the HR Head of the Bidder to be provided as per <b>Appendix E</b> on Company's letter head                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

|    |                                                                                                                                                                        |  |                                                                                                              |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------------------------------------------|
|    | submission of Bid excluding those who are working in BPOs                                                                                                              |  |                                                                                                              |
| 11 | The Bidder should have successfully completed a single contract of Rs. 50 Cr or above during any of the last three financial years i.e. FY18-19, FY 19-20 and FY20-21. |  | Copy of the order and / or Certificate of completion and/or experience certificate from client for the work. |

Documentary evidence must be furnished against each of the above criteria along with an index. All documents must be signed by the authorized signatory of the Bidder. Relevant portions, in the documents submitted in pursuance of eligibility criteria, should be highlighted.

**Bidders are also required to submit a brief Boucher on projects handled, their expertise and competencies preferably in PPT/PDF format.**

**Eligibility criteria mentioned at SI No 3 to 5 and 11 in table above are relaxed for Startups subject to their meeting of quality and technical specifications. Bidder to note the followings:**

- i. Start-up” company should enclose the valid Certificate of Recognition issued by Department for Promotion of Industry and Internal Trade (DPIIT), (erstwhile Department of Industrial Policy and Promotion), Ministry of Commerce & Industry, Govt. of India with the technical bid.
- ii. Bidder who solely on its own, fulfils each eligibility criteria condition as per the RFP terms and conditions and who are having Start-up company status, can claim exemption for eligibility criteria mentioned at SI No 3 to 5 and 11 in table above.
- iii. If all these conditions are not fulfilled or supporting documents are not submitted with the technical Bid, then all those Bids will be summarily rejected, and no queries will be entertained.

**Name & Signature of authorised signatory**

**Seal of Company**

**Appendix-C****TECHNICAL EVALUATION MATRIX FOR BIDDERS**

The technical evaluation will be done only for those Bidders who comply with all the criteria listed in 'Bidder's Eligibility Criteria' in Appendix – B.

The parameters used in technical evaluation criteria and their weightages are as follows:

| Sr. No. | Parameters                                                                                             | Maximum Marks | Criteria                                                                                                     |       | Marks |
|---------|--------------------------------------------------------------------------------------------------------|---------------|--------------------------------------------------------------------------------------------------------------|-------|-------|
| 1.      | Number of IT Human Resources on Bidders payroll excluding those working in BPOs)                       | 35            | Range                                                                                                        | Score |       |
|         |                                                                                                        |               | ≥ 25000 & ≤ 30000                                                                                            | 5     |       |
|         |                                                                                                        |               | 30001- & ≤ 35000                                                                                             | 10    |       |
|         |                                                                                                        |               | 35001 & ≤ 40000                                                                                              | 15    |       |
|         |                                                                                                        |               | 40001 & ≤ 50000                                                                                              | 25    |       |
|         |                                                                                                        |               | 50001 and above                                                                                              | 35    |       |
| 2.      | Experience of providing IT Human Resources of various skill sets.                                      | 20            | Range (in years)*                                                                                            | Score |       |
|         |                                                                                                        |               | ≥ 10 Up to 12                                                                                                | 5     |       |
|         |                                                                                                        |               | >12 Up to 15                                                                                                 | 10    |       |
|         |                                                                                                        |               | >15 Up to 19                                                                                                 | 15    |       |
|         |                                                                                                        |               | 19 and above                                                                                                 | 20    |       |
|         |                                                                                                        |               | * Experience shall be reckoned from the date of incorporation of the bidder.                                 |       |       |
| 3.      | Number of client reference for providing IT Human Resources in the BFSI Sector                         | 20            | Clients                                                                                                      | score |       |
|         |                                                                                                        |               | ≥ 5 Up to 7                                                                                                  | 5     |       |
|         |                                                                                                        |               | More than 7 Up to 10                                                                                         | 10    |       |
|         |                                                                                                        |               | 11 and above                                                                                                 | 20    |       |
|         |                                                                                                        |               | Copy of the order and / or Certificate of completion and/or experience certificate from client for the work. |       |       |
| 4.      | Number of successfully completed contract of Rs. 50 Cr or above and above during any of the last three | 25            | Number of contracts                                                                                          | score |       |
|         |                                                                                                        |               | 01 up to 3                                                                                                   | 5     |       |
|         |                                                                                                        |               | More than 3 Up                                                                                               | 10    |       |

|                                                     |     |                      |    |
|-----------------------------------------------------|-----|----------------------|----|
| financial years i.e. FY18-19, FY 19-20 and FY20-21. |     | to 5                 |    |
|                                                     |     | More than 5 up to 10 | 20 |
|                                                     |     | Above 10             | 25 |
|                                                     |     |                      |    |
| Total Marks                                         | 100 |                      |    |

Documentary evidence must be furnished against each of the above criteria along with an index. All documents must be signed by the authorized signatory of the Bidder. Relevant portions, in the documents submitted in pursuance should be highlighted.

Bidders scoring 70%, or more will be empanelled by the Bank for 3 (three) years from the effective date of the Contract. However, the Bank reserves the right to review the empanelled vendors every year based on the eligibility criteria mentioned in Appendix - B and terminate the empanelment of such vendors who do not meet the eligibility criteria. The decision of the Bank will be final in this regard.

**Name & Signature of authorised signatory**

**Seal of Company**

**Appendix-D****Bidder Details**

## Details of the Bidder

| S. No. | Particulars                                                                                                                                                                             | Details |
|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| 1.     | Name                                                                                                                                                                                    |         |
| 2.     | Date of Incorporation and / or commencement of business                                                                                                                                 |         |
| 3.     | Certificate of incorporation                                                                                                                                                            |         |
| 4.     | Brief description of the Bidder including details of its main line of business                                                                                                          |         |
| 5.     | Company website URL                                                                                                                                                                     |         |
| 6.     | Company Pan Number                                                                                                                                                                      |         |
| 7.     | Company GSTIN Number                                                                                                                                                                    |         |
| 8.     | Particulars of the Authorized Signatory of the Bidder<br>a) Name<br>b) Designation<br>c) Address<br>d) Phone Number (Landline)<br>e) Mobile Number<br>f) Fax Number<br>g) Email Address |         |

**Name & Signature of authorised signatory****Seal of Company**

**Appendix-E**

**Certificate of Resources in India**

Date:

To,  
Deputy General Manager  
ITPR & BNCC Department  
SBI GITC  
CBD, Belapur

Dear Sir,

**Ref.: RFP No. :** \_\_\_\_\_ **Dated:** \_\_\_\_\_

This is to certify that we have ..... (count to be mentioned) IT Human Resources on our Company's payroll. This resource count excludes those who are on our payroll but working in BPOs.

**Signature of HR Head of the bidding Company**  
**Seal**

**Appendix-F****BANK GUARANTEE FORMAT**  
***(TO BE STAMPED AS AN AGREEMENT)***

1. THIS BANK GUARANTEE AGREEMENT executed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 201 by \_\_\_\_\_ (Name of the Bank) \_\_\_\_\_ having its Registered Office at \_\_\_\_\_ and its Branch at \_\_\_\_\_ (hereinafter referred to as "the Guarantor", which expression shall, unless it be repugnant to the subject, meaning or context thereof, be deemed to mean and include its successors and permitted assigns) IN FAVOUR OF State Bank of India, a Statutory Corporation constituted under the State Bank of India Act, 1955 having its Corporate Centre at State Bank Bhavan, Nariman Point, Mumbai and one of its offices at \_\_\_\_\_ (procuring office address), hereinafter referred to as "SBI" which expression shall, unless repugnant to the subject, context or meaning thereof, be deemed to mean and include its successors and assigns).
2. WHEREAS M/s \_\_\_\_\_, incorporated under \_\_\_\_\_ Act having its registered office at \_\_\_\_\_ and principal place of business at \_\_\_\_\_ (hereinafter referred to as "Service Provider/ Vendor" which expression shall unless repugnant to the context or meaning thereof shall include its successor, executor & assigns) has agreed to be empaneled as Service Provider for providing IT Human Resources (hereinafter referred to as "Services") to SBI in accordance with the Request for Proposal (RFP) No. **SBI:xx:xx** dated **dd/mm/yyyy**.
3. WHEREAS, SBI has agreed to empanel the Service Provider for a period of \_\_\_\_\_ year(s) subject to the terms and conditions mentioned in the RFP.
4. WHEREAS, in accordance with terms and conditions of the RFP/Purchase order/Agreement dated \_\_\_\_\_, Service Provider is required to furnish a Bank Guarantee for a sum of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only) for due performance of the obligations of Service Provider in accordance with the RFP/empanelment order/Agreement guaranteeing payment of the said amount of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only) to SBI, if Service Provider fails to fulfill its obligations as agreed in RFP/Agreement.
5. WHEREAS, the Bank Guarantee is required to be valid for a total period of \_\_\_\_\_ months and in the event of failure, on the part of Service Provider, to fulfill any of

its commitments / obligations under the RFP/Agreement, SBI shall be entitled to invoke the Guarantee.

AND WHEREAS, the Guarantor, at the request of Service Provider, agreed to issue, on behalf of Service Provider, Guarantee as above, for an amount of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only).

**NOW THIS GUARANTEE WITNESSETH THAT**

1. In consideration of SBI having agreed to entrust Service Provider for fulfilling its commitments and obligations as mentioned in the RFP, we, the Guarantors, hereby unconditionally and irrevocably guarantee that Service Provider shall fulfill its commitments and obligations as mentioned in the RFP/Agreement and in the event of Service Provider failing to perform / fulfill its commitments / obligations Services as mentioned in the RFP/Agreement, we (the Guarantor) shall on demand(s), from time to time from SBI, without protest or demur or without reference to Service Provider and notwithstanding any contestation or existence of any dispute whatsoever between Service Provider and SBI, pay SBI forthwith the sums so demanded by SBI not exceeding Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only).
2. Any notice / communication / demand from SBI to the effect that Service Provider has failed to fulfill its commitments / obligations as mentioned in the Agreement, shall be conclusive, final & binding on the Guarantor and shall not be questioned by the Guarantor in or outside the court, tribunal, authority or arbitration as the case may be and all such demands shall be honoured by the Guarantor without any delay.
3. We (the Guarantor) confirm that our obligation to the SBI, under this Guarantee shall be independent of the agreement or other understandings, whatsoever, between the SBI and Service Provider.
4. This Guarantee shall not be revoked by us (the Guarantor) without prior consent in writing of the SBI.

**WE (THE GUARANTOR) HEREBY FURTHER AGREE & DECLARE THAT-**

- i. Any neglect or forbearance on the part of SBI to Service Provider or any indulgence of any kind shown by SBI to Service Provider or any change in the terms and conditions of the Agreement or the Services shall not, in any way, release or discharge the Bank from its liabilities under this Guarantee.





- ii. This Guarantee herein contained shall be distinct and independent and shall be enforceable against the Guarantor, notwithstanding any Guarantee or Security now or hereinafter held by SBI at its discretion.
- iii. This Guarantee shall not be affected by any infirmity or absence or irregularity in the execution of this Guarantee by and / or on behalf of the Guarantor or by merger or amalgamation or any change in the Constitution or name of the Guarantor.
- iv. The Guarantee shall not be affected by any change in the constitution of SBI or Service Provider or winding up / liquidation of Service Provider, whether voluntary or otherwise
- v. This Guarantee shall be a continuing guarantee during its validity period.
- vi. This Guarantee shall remain in full force and effect for a period of \_\_ year(s) \_\_\_\_\_ month(s) from the date of the issuance i.e. up to \_\_\_\_\_. Unless a claim under this Guarantee is made against us on or before \_\_\_\_\_, all your rights under this Guarantee shall be forfeited and we shall be relieved and discharged from all liabilities there under.
- vii. This Guarantee shall be governed by Indian Laws and the Courts in Mumbai, India alone shall have the jurisdiction to try & entertain any dispute arising out of this Guarantee.

**Notwithstanding anything contained herein above:**

- i. Our liability under this Bank Guarantee shall not exceed Rs \_\_\_\_\_/-  
(Rs. \_\_\_\_\_ only)
- ii. This Bank Guarantee shall be valid upto \_\_\_\_\_
- iii. We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only and only if SBI serve upon us a written claim or demand on or before \_\_\_\_\_

**Yours faithfully,**

**For and on behalf of bank.**

\_\_\_\_\_  
**Authorised official**

Service Level Agreement

**AGREEMENT FOR EMPANELMENT OF SERVICE PROVIDERS FOR  
PROVIDING IT HUMAN RESOURCES**

**BETWEEN**

**STATE BANK OF INDIA, \_\_\_\_\_ 1**

**AND**

\_\_\_\_\_ 2

**Date of Commencement : \_\_\_\_\_ 3**

**Date of Expiry : \_\_\_\_\_**

---

1 Office/ Department/ Branch which is executing the Agreement or the nodal department in the matter.

2 The other Party (Contractor/ Service Provider) to the Agreement

3 Effective Date from which the Agreement will be operative.

This agreement (“Agreement”) is made at \_\_\_\_\_ (Place) on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

BETWEEN

**State Bank of India**, constituted under the State Bank of India Act, 1955 having its Corporate Centre at State Bank Bhavan, Madame Cama Road, Nariman Point, Mumbai-21 and its Global IT Centre at Sector-11, CBD Belapur, Navi Mumbai- 400614 through its \_\_\_\_\_ Department,<sup>4</sup> 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 First Part:

AND

\_\_\_\_\_ <sup>5</sup> a 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

- (i) “The Bank” is carrying on business in banking in India and overseas and desirous to empanel Service Provider to provide IT Human Resources
- (ii) Service Provider is in the business of providing IT Human Resources and has agreed to terms of empanelment as mentioned in the Request of 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.

NOW THEREFORE, in consideration of the mutual covenants, undertakings and conditions set forth below, and for other valid consideration the acceptability and

<sup>4</sup>Name & Complete Address of the Dept.

<sup>5</sup>Name & Complete Address ( REGISTERED OFFICE) of service Provider,

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:

- 1.1.1 'The Bank' shall mean the State Bank of India (including domestic branches and foreign offices), Subsidiaries and Joint Ventures, where the Bank has ownership of more than 50% of voting securities or the power to direct the management and policies of such Subsidiaries and Joint Ventures.
- 1.1.2 "Confidential Information" shall have the meaning set forth in Clause 14.
- 1.1.3 "Deficiencies" shall mean defects arising from non-conformity with the mutually agreed specifications and/or failure or non-conformity in the Scope of the Services as mentioned in respective RFQ/SOW.
- 1.1.4 "Intellectual Property Rights" shall mean and include (a) copyrights and all renewals thereof; (b) trademarks, trade names, service marks, service names, logos and corporate names, both primary and secondary, together with all goodwill associated therewith and including, without limitation, all translations, adaptations, combinations and derivations of each of the foregoing, (c) trade secrets and other confidential information (including proposals, financial and accounting data, business and marketing plans, customer and supplier lists and related information); (d) all other intellectual property, including but not limited to design rights, trade names, information

technology, domain names; and (e) all registrations and applications for registration, extension or renewal filed anywhere in the world for each of the foregoing.).

- 1.1.5 “Purchase Order Value” means the total price agreed to be paid to Vendor under the respective Purchase Order, which may be issued by the Bank in pursuant to RFQ from time to time during the empanelment contract period. .
- 1.1.6 “Request for Proposal (RFP)” shall mean RFP NO. \_\_\_\_\_ dated \_\_\_\_\_ along with its clarifications/ corrigenda issued by the Bank time to time.
- 1.1.7 “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.
- 1.1.8 “Services” means all services, scope of work and deliverables to be provided by a Bidder as described in subsequent Request for Quotation (RFQ) issued in pursuant to the RFP and include provision of technical assistance, training, certifications, auditing and other obligation of Service Provider covered under the respective RFQ..
- 1.1.9 “IT Human Resources” means the human resources of various IT skill sets such as Developer, Support Team Member, Team Lead, Project Manager, Solution Architect, Business Analyst, Enterprise Architect etc.,.
- 1.1.10 “Deliverables/ Work Product” shall mean all work product generated by the 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 and trade secrets.

## 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/ be 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.

## **2. SCOPE OF WORK**

- 2.1 The scope and nature of the work which the Vendor has to provide to the Bank will be described in respective RFQ issued in pursuant to RFP...
- 2.2 The Bank may, at its sole discretion, provide remote access to its information technology system to IT Service Provider through secured Virtual Private Network (VPN) in order to facilitate the performance of IT Services. Such remote access to the Bank's information technology system shall be subject to the following:
- 2.1.1 Service Provider shall ensure that the remote access to the Bank's VPN is performed through a laptop/desktop ("Device") specially allotted for that purpose by the Service Provider and not through any other private or public Device.
  - 2.1.2 Service Provider shall ensure that only its authorized employees/representatives access the Device.
  - 2.1.3 Service Provider shall be required to get the Device hardened/configured as per the Bank's prevailing standards and policy.
  - 2.1.4 Service Provider and/or its employee/representative shall be required to furnish an undertaking and/or information security declaration on the Bank's prescribed format before such remote access is provided by the Bank.
  - 2.1.5 Service Provider shall ensure that services are performed in a physically protected and secure environment which ensures confidentiality and integrity of the Bank's data and artefacts, including but not limited to information (on customer, account, transactions, users, usage, staff, etc.),

architecture (information, data, network, application, security, etc.), programming codes, access configurations, parameter settings, executable files, etc., which the Bank representative may inspect. Service Provider shall facilitate and/ or handover the Device to the Bank or its authorized representative for investigation and/or forensic audit.

- 2.1.6 Service Provider shall be responsible for protecting its network and subnetworks, from which remote access to the Bank's network is performed, effectively against unauthorized access, malware, malicious code and other threats in order to ensure the Bank's information technology system is not compromised in the course of using remote access facility.

### **3. FEES /COMPENSATION**

#### **3.1 Professional fees**

- 3.1.1 Service Provider (if declared successful Service Provider under respective RFQ) shall be paid fees and charges in the manner detailed in respective RFQ/SOW, the same shall be subject to deduction of income tax thereon wherever required under the provisions of the Income Tax Act by the Bank. The remittance of amounts so deducted and issuance of certificate for such deductions shall be made by the Bank as per the laws and regulations for the time being in force. Nothing in the Agreement/ SOW shall relieve Service Provider from his responsibility to pay any tax that may be levied in India on income and profits made by Service Provider in respect of this Agreement/ SOW.

- 3.2 Under the respective SOW, all duties and taxes (excluding GST or any other tax imposed by the Government in lieu of same), if any, which may be levied, shall be borne by 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/ SOW shall be borne by Service Provider. Under the respective SOW, GST or any other tax 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 Under the respective SOW, 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 under the respective SOW. All payments shall be made in Indian Rupees.

3.4.2 The Bank may withhold payment of any product/services that it disputes in good faith and may set-off penalty amount or any other amount which Service Provider owes to the Bank against amount payable to Service provider under this Agreement/SOW. However, before levying penalty or recovery of any damages, the Bank shall provide a written notice to Service Provider indicating the reasons for such penalty or recovery of damages. Service Provider shall have the liberty to present its case in writing together with documentary evidences, if any, within 21 (twenty one) days. Penalty or damages, if any, recoverable from Service Provider shall be recovered by the Bank through a credit note or revised invoices. In case Service Provider fails to issue credit note/ revised invoice, the Bank shall have right to withhold the payment or set-off penal amount from current invoices.

### 3.5 Bank Guarantee and Penalties

3.5.1 Service Provider shall furnish security in the form of Bank Guarantee for an amount of Rs. \_\_\_\_\_ valid for a period of \_\_\_\_year(s) \_\_\_\_month(s) from a Scheduled Commercial Bank other than State Bank of India in a format provided/ approved by the Bank.

3.5.2 The Bank Guarantee is required to protect interest of the Bank against the risk of Service Provider's failing to perform / fulfil its commitments / obligations in respect of this RFP; failing to enter into a contract with the Bank and submit the required Bank Guarantee under the respective RFQ, within 30 days of award of the contract or within such extended period as

may be decided by the Bank or breach of any other terms and conditions of this RFP, which may warrant invoking of Bank Guarantee..

- 3.5.3 If at any time during performance of the contract/SOW, Service Provider shall encounter unexpected conditions impeding timely completion of the Services under the Agreement and performance of the services, Service Provider shall promptly notify the Bank in writing of the fact of the delay, it's likely duration and its cause(s). As soon as practicable, after receipt of Service Provider's notice, the Bank shall evaluate the situation and may at its discretion extend Service Provider's time for performance, in which case the extension shall be ratified by the Parties by amendment of the Agreement/SOW as the case may be.
- 3.5.4 Performance of the obligations under the respective RFQ/SOW shall be made by Service Provider in accordance with the time schedule<sup>6</sup> specified in respective RFQ/SOW.
- 3.5.5 Service Provider shall be liable to pay penalty at the rate mentioned in **respective RFQ/SOW** in respect of any delay beyond the permitted period in providing the Services.
- 3.5.6 No penalty shall be levied in case of delay(s) in deliverables or performance of the contract for the reasons solely and directly attributable to the Bank. On reaching the maximum of penalties specified the Bank reserves the right to terminate the contract.

#### **4. LIABILITIES/OBLIGATION**

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

- (i) Processing and authorising invoices
- (ii) \_\_\_\_\_

##### **4.2 Service Provider Duties**

- (i) Service Delivery responsibilities
  - (a) To adhere to the service levels documented in respective RFQ/SOW.

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<sup>6</sup> Please ensure that the time scheduled is suitably incorporated in the Agreement.



- (b) Service Provider shall *ensure that* Service Provider’s personnel and its sub-contractors (if allowed) will abide by all 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 behaviour, 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/SOW.
- (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 Each of the Parties represents and warrants in relation to itself to the other that:

- 5.1.1 It has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement and has been fully authorized through applicable corporate process to do so.
- 5.1.2 The person(s) signing this Agreement on behalf of the Parties have the necessary authority and approval for execution of this document and to bind his/their respective organization for due performance as set out in this Agreement. It has all necessary statutory and regulatory permissions, approvals and permits for the running and operation of its business.
- 5.1.3 It will provide such cooperation as the other Party reasonably requests in order to give full effect to the provisions of this Agreement.

5.1.4 The execution and performance of this Agreement by either of the Parties does not and shall not violate any provision of any of the existing Agreement with any of the party and any other third party.

## **5.2 Additional Representation and Warranties by Service Provider**

- 5.2.1 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.
- 5.2.2 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.
- 5.2.3 Service Provider shall duly intimate to the Bank immediately, the changes, if any in the constitution of Service Provider.
- 5.2.4 Service Provider warrants that to the best of its knowledge, as on the Effective Date of this Agreement/ respective SOW, the services provided by Service Provider to the Bank under the respective SOW do not violate or infringe any patent, copyright, trademarks, trade secrets or other intellectual property rights of any third party.
- 5.2.5 Service provider shall ensure that all persons, employees, workers and other individuals engaged by or sub-contracted (if allowed) by 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 Service provider unless such person is found to be suitable in such verification and Service Provider shall retain the records of such verification and shall produce the same to the Bank as and when requested.
- 5.2.6 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.

- 5.2.7 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 (if allowed) and in particular laws relating to terminal benefits such as pension, gratuity, provident 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.

## **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) Services Provider's breach of its warranties, covenants, responsibilities or obligations; or (ii) breach of confidentiality obligations mentioned in this Agreement; or (iii) any willful misconduct and gross negligent acts on the part of employees, agents, representatives or sub-contractors (if allowed) of Service Provider. Service Provider agrees to make good the loss suffered by the Bank.

## **7. CONTINGENCY PLANS**

Service Provider shall arrange and ensure proper data recovery mechanism, attrition plan and other contingency plans to meet any unexpected obstruction to Service Provider or any employees or sub-contractors (if allowed) of Service Provider in rendering the Services or any part of the same under the respective SOW to the Bank. 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 Service Provider to render the Services under the respective RFQ or in the event of termination of Agreement/SOW 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 the RFQ/SOW 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 respective RFQ/SOW, 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 the respective Purchase Order/SOW. If existing Service Provider is breach of this obligation, they shall be liable for paying a penalty of 10% of the respective Purchase Order Value on demand to the Bank, which may be settled from the payment of invoices or Bank Guarantee for the contracted period or by invocation of Bank Guarantee. Transition & Knowledge Transfer plan is mentioned in Annexure B.

## **9. LIQUIDATED DAMAGES**

If Service Provider fails to deliver and perform any or all the Services within the stipulated time, schedule as specified in the respective RFQ, the Bank may, without prejudice to its other remedies under the RFP/Agreement/RFQ and unless otherwise extension of time is agreed upon without the application of liquidated damages, deduct from the respective Purchase Order Value as liquidated damages as defined under the respective RFQ. Once the maximum deduction is reached, the Bank may consider termination of the respective RFQ/Purchase Order/SOW.

## **10. RELATIONSHIP BETWEEN THE PARTIES**

10.1 It is specifically agreed that 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 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/ SOW 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 employee(s) of a Party on account of personal accidents while working in the premises of the other Party shall remain with the respective employer and not on the Party in whose premises the accident occurred unless such accidents occurred due to gross negligent act of the Party in whose premises the accident occurred.
- 10.6 For redressal of complaints of sexual harassment at workplace, Parties agree to comply with the policy framed by the Bank (including any amendment thereto) in pursuant to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 including any amendment thereto.

## **11. SUB CONTRACTING**

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

## **12. INTELLECTUAL PROPERTY RIGHTS**

- 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. In connection with the provision of Services under the respective RFQ/SOW, 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 or subcontractor shall comply with the terms and conditions of access and uses of such Third Party Materials under applicable agreements.

12.2 Without the Bank's prior written approval, Service provider will 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 or to limit the Bank's rights under this Agreement/SOW.

12.3 Subject to clause 12.4 and 12.5 of this Agreement, Service Provider shall, at its own expenses without any limitation, indemnify and keep fully and effectively indemnified the Bank against all costs, claims, damages, demands, expenses and liabilities whatsoever nature arising out of or in connection with all claims of infringement of Intellectual Property Right, including patent, trademark, copyright, trade secret or industrial design rights of any third party arising from the Services or use of the technology / software / products or any part thereof in India or abroad.

12.4 The Bank will give (a) notice to Service Provider of any such claim without delay/provide reasonable assistance to Service Provider in disposing of the claim; (b) sole authority to defend and settle such claim and; (c) will at no time admit to any liability for or express any intent to settle the claim provided that (i) Service Provider shall not partially settle any such claim without the written consent of the Bank, unless such settlement releases the Bank fully from such claim, (ii) Service Provider shall promptly provide the Bank with copies of all pleadings or similar documents relating to any such claim, (iii) Service Provider shall consult with the Bank with respect to the defense and settlement of any such claim, and (iv) in any litigation to which the Bank is also a party, the Bank shall be entitled to be separately represented at its own expenses by counsel of its own selection.

12.5 Service Provider shall have no obligations with respect to any infringement claims to the extent that the infringement claim arises or results from: (i) Service Provider's compliance with the Bank's specific technical designs or instructions (except where



Service Provider knew or should have known that such compliance was likely to result in an Infringement Claim and Service Provider did not inform the Bank of the same); or (ii) any unauthorized modification or alteration of the Deliverable (if any) by the Bank.

12.6 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 shall be deemed to be 'work made for hire' under any Indian/U.S. or any other applicable copyright laws.

12.7 The Intellectual Property Rights on the software code, copyright and source code for various applications/ interfaces developed under the respective RFQ/SOW, 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.

### **13. INSPECTION AND AUDIT**

13.1 It is agreed by and between the parties that Service Provider shall be subject to annual audit by internal/external 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 services etc. provided to the Bank and Service Provider shall submit such certification by such Auditors to the Bank. Service Provider 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 Service Provider. 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. Except for the audit done by Reserve Bank of India or any statutory/regulatory authority, the Bank shall provide

reasonable notice not less than 7 (seven) days to Service Provider before such audit and same shall be conducted during normal business hours.

13.2 Where any Deficiency has been observed during audit of Service Provider on the risk parameters finalized by the Bank or in the certification submitted by the Auditors, it is agreed upon by 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 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.

13.3 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(ies). The Bank reserves the right to call for and/or retain any relevant information / audit reports on financial and security reviews with their findings undertaken by Service Provider. However, Service Provider shall not be obligated to provide records/ data not related to Services under the Agreement (e.g. internal cost breakup etc.).

#### **14. CONFIDENTIALITY**

14.1 “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.

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

14.3 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 similar to comply with the confidential obligations under this Agreement.

14.4 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.

14.5 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.

14.6 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.

14.7 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 a receiving party in breach of the terms hereof.
  - (ii) Where any Confidential Information was disclosed after receiving the written consent of the disclosing party.
  - (iii) Where 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.
- 14.8 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.
- 14.9 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.
- 14.10 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 Service Provider's performance under the Agreement.
- 14.11 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 by Service provider without the Bank's written consent.

14.12 The foregoing obligations (collectively referred to as "Confidentiality Obligations") set out in this Agreement shall survive the term of this Agreement and for a period of five (5) years thereafter provided Confidentiality Obligations with respect to individually identifiable information, customer's data of Parties or software in human-readable form (e.g., source code) shall survive in perpetuity.

### **15. Intentionally left blank**

## **16. TERMINATION**

16.1 The Bank may, without prejudice to any other remedy for breach of Agreement, by written notice of not less than 30 (thirty) days, terminate the Agreement/respective Purchase Order/SOW in whole or in part:

- (i) If Service Provider fails to deliver any or all the obligations within the time period specified in the Agreement/SOW, or any extension thereof granted by the Bank;
- (ii) If Service Provider fails to perform any other obligation(s) under the Agreement/SOW;
- (iii) Violations of any terms and conditions stipulated in the RFP/ Agreement/SOW;
- (iv) On happening of any termination event mentioned herein above in this Agreement/SOW.

Prior to providing a written notice of termination to Service Provider under clause 16.1 (i) to 16.1 (iii), the Bank shall provide Service Provider with a written notice of 30 (thirty) days to cure such breach of the Agreement/respective Purchase Order/SOW. 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.

16.2 The Bank, by written notice of not less than 90 (ninety) days, may terminate the Agreement/ SOW/ PO, in whole or in part, for its convenience. In the event of termination of the Agreement/SOW/PO for the Bank's convenience, Service Provider

shall be entitled to receive payment for the Services rendered (delivered) up to the effective date of termination under the respective SOW.

16.3 In the event the Bank terminates the Agreement/respective Purchase Order/SOW in whole or in part for the breaches attributable to Service Provider, the bank may procure, upon such terms and in such manner, as it deems appropriate, Services similar to those undelivered and subject to clause 20 Service Provider shall be liable to the Bank for any increase in costs for such similar Services. However, Service Provider, in case of part termination, shall continue the performance of the Agreement to the extent not terminated.

16.4 The Bank shall have a right to terminate the Agreement/SOW 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 Service Provider or Service Provider transfers substantial assets in favour 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 or 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.
- (iv) Any document, information, data or statement submitted by Service Provider in response to RFP/RFQ, based on which Service Provider was considered eligible or successful, is found to be false, incorrect or misleading.

16.5 In the event of the termination of the Agreement/SOW 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.

16.6 In the event of termination of the Agreement/SOW for material breach, the Bank shall have the right to report such incident in accordance with the mandatory reporting obligations under the applicable law or regulations.

16.7 Upon termination or expiration of this Agreement/SOW, 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.

## **17. DISPUTE REDRESSAL MACHANISM & GOVERNING LAW**

- 17.1 All disputes or differences whatsoever arising between the parties out of or in connection with this Agreement/SOW (including dispute concerning interpretation) or in discharge of any obligation arising out of the Agreement/SOW (whether during the progress of work or after completion of such work and whether before or after the termination of this Agreement/SOW, abandonment or breach of this Agreement/SOW), shall be settled amicably.
- 17.2 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.
- 17.3 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.
- 17.4 Service Provider shall continue work under the Agreement/SOW 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.
- 17.5 Arbitration proceeding shall be held at **Mumbai**, India, and the language of the arbitration proceedings and that of all documents and communications between the parties shall be in English.

17.6 This Agreement/SOW 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.

17.7 In case of any change in applicable laws that has an effect on the terms of this Agreement, the Parties agree that the Agreement/SOW may be reviewed, and if deemed necessary by the Parties, make necessary amendments to the Agreement/SOW by mutual agreement in good faith, in case of disagreement obligations mentioned in this clause shall be observed.

## **18. POWERS TO VARY OR OMIT WORK**

18.1 No alterations, amendments, omissions, additions, suspensions or variations of the work (hereinafter referred to as variation) under the contract shall be made by the 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 contract, by notice in writing to instruct the Service Provider to make any variation without prejudice to the contract. The Service Provider shall carry out such variation and be bound by the same conditions as far as applicable as though the said variations occurred in the contract documents. If any, suggested variations would, in the opinion of the Service Provider, if carried out, prevent him from fulfilling any of his obligations under the contract, he shall notify Bank thereof in writing with reasons for holding such opinion and Bank shall instruct the Service Provider to make such other modified variation without prejudice to the contract. The Service Provider shall carry out such variation and be bound by the same conditions as far as applicable as though the said variations occurred in the contract documents. If the Bank confirms its instructions, the Service Provider's obligations shall be modified to such an extent as may be mutually agreed, if such variation involves extra cost. Any agreed difference in cost occasioned by such variation shall be added to or deducted from the respective Purchase Order Value & SOW as the case may be..

18.2 In any case in which the Service Provider has received instructions from the Bank as to the requirements for carrying out the altered or additional substituted work which either then or later on, will in the opinion of the 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.

- 18.3 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 change in respective Purchase Order Value & SOW, before the Service Provider proceeds with the change.

## **19. WAIVER OF RIGHTS**

Each Party agrees that any delay or omission on the part of the other Party to exercise any right, power or remedy under this Agreement/respective SOW will not automatically operate as a waiver of such right, power or remedy or any other right, power or remedy and no waiver will be effective unless it is in writing and signed by the waiving Party. Further the waiver or the single or partial exercise of any right, power or remedy by either Party hereunder on one occasion will not be construed as a bar to a waiver of any successive or other right, power or remedy on any other occasion.

## **20. LIMITATION OF LIABILITY**

- 20.1 The maximum aggregate liability of Service Provider under the empanelment Agreement, subject to clause 20.3, in respect of any claims, losses, costs or damages arising out of or in connection with this RFP/Agreement shall not exceed Rs. 1000000 (ten lakh rupees). The maximum aggregate liability of Service Provider under the respective RFQ and SOW to be entered in pursuant to such RFQ, subject to clause 20.3, in respect of any claims, losses, costs or damages arising out of or in connection with this RFQ/SOW shall not exceed the total Purchase Order Value agreed to be paid under such Purchase Order giving rise to such claims or equivalent to amount of Performance Security in form of Bank Guarantee [BG] submitted by Service Provider in pursuant to respective RFQ, whichever is greater.
- 20.2 Under no circumstances shall either Party be liable for any indirect, consequential or incidental losses, damages or claims including loss of profit, loss of business or revenue.
- 20.3 The limitations set forth in Clause 20.1 shall not apply with respect to:

- (i) claims that are the subject of indemnification pursuant to Clause 12<sup>7</sup> (infringement of third party Intellectual Property Right);
- (ii) damage(s) occasioned by the Gross Negligence or Willful Misconduct of Service Provider;
- (iii) damage(s) occasioned by Service Provider for breach of Confidentiality Obligations;
- (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.

For the purpose of clause 20.3(ii) “Gross Negligence” means any act or failure to act by a party which was in reckless disregard of or gross indifference to the obligation of the party under this Agreement and which causes injury, damage to life, personal safety, real property, harmful consequences to the other party, which such party knew, or would have known if it was acting as a reasonable person, would result from such act or failure to act for which such Party is legally liable. Notwithstanding the forgoing, Gross Negligence shall not include any action taken in good faith.

“Willful Misconduct” means any act or failure to act with an intentional disregard of any provision of this Agreement, which a party knew or should have known if it was acting as a reasonable person, which would result in injury, damage to life, personal safety, real property, harmful consequences to the other party, but shall not include any error of judgment or mistake made in good faith.

## **21. FORCE MAJEURE**

21.1 Notwithstanding anything else contained in the Agreement/SOW, 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.

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<sup>7</sup> Please see Clause 12 ‘IPR Indemnification’

- 21.2 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, acts of Government in their sovereign capacity, impeding reasonable performance of 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.
- 21.3 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.
- 21.4 If the Force Majeure situation continues beyond 30 (thirty) days, either Party shall have the right to terminate the Agreement/ respective SOW 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/ respective SOW 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/ respective SOW.

## **22. NOTICES**

- 22.1 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).
- 22.2 A notice shall be effective when it is delivered or on the effective date of the notice, whichever is later.
- 22.3 The addresses for Communications to the Parties are as under.
- (a) In the case of the Bank



\_\_\_\_\_  
\_\_\_\_\_  
(b) In case of Service Provider  
\_\_\_\_\_  
\_\_\_\_\_

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

22.5 Addresses for communications under the SOW shall be mentioned in respective SOW.

### **23. GENERAL TERMS & CONDITIONS**

23.1 **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.

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

23.3 **NON-HIRE AND NON-SOLICITATION:** During the term of respective SOW 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 who performed any work in connection with or related to Services under such SOW, 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.

23.4 **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.

23.5 **MODIFICATION:** This Agreement/SOW may not be modified or amended except in writing signed by duly authorized representatives of each party with express mention thereto of this Agreement/SOW.



23.6 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) RFP

23.7 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.

23.8 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.

23.9 COUNTERPART: This Agreement is 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**

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

WITNESS:

- 1.
- 2.

\_\_\_\_\_ **Service Provider**

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

- 1.
- 2.

**ANNEXURE-A**

ESCALATION MATRICS<sup>8</sup> <to be provided under respective SOW as per the applicability>

| 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.> |                 |                 |                 |
| Information Security                  |                          | <Name, designation contact no.> |                 |                 |                 |

<sup>8</sup> To ensure that the service beneficiary receives senior management attention on unresolved issues, service provider operates a problem escalation procedure in order that any unresolved problems are notified to service provider management personnel on a priority basis dependent upon the impact and urgency of the problem.



|                         |  |                                          |  |  |  |
|-------------------------|--|------------------------------------------|--|--|--|
| Service Desk<br>Support |  | <Name,<br>designation<br>contact<br>no.> |  |  |  |
|-------------------------|--|------------------------------------------|--|--|--|

**ANNEXURE-B****Transition & Knowledge Transfer Plan to be entered under respective SOW****1. Introduction**

- 1.1 This Annexure describes the duties and responsibilities of Service Provider and the Bank 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 Service Provider to a New/Replacement SERVICE PROVIDER or back to the Bank 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 Bank intends to continue equivalent or substantially similar services to the Services provided by Service Provider after termination or expiry the Agreement, either by performing them itself or by means of a New/Replacement SERVICE PROVIDER, Service Provider shall ensure the smooth transition to the Replacement SERVICE PROVIDER and shall co-operate with the Bank or the Replacement SERVICE PROVIDER as required in order to fulfil the obligations under this annexure.
- 3.2 Service Provider shall co-operate fully with the Bank and any potential Replacement SERVICE PROVIDERS tendering for any Services, including the transfer of responsibility for the provision of the Services previously performed by Service Provider to be achieved with the minimum of disruption. In particular:
- 3.2.1 during any procurement process initiated by the Bank and in anticipation of the expiry or termination of the Agreement and irrespective of the identity of any potential or actual Replacement SERVICE PROVIDER, Service Provider shall comply with all reasonable requests by the Bank 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 Bank and procedures used by Service Provider for handling Data) reasonably necessary to achieve an effective transition, provided that:

- 3.2.1.1 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 Service Provider to any such party;
  - 3.2.1.2 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 Service Provider shall provide sufficient information to comply with the reasonable requests of the Bank to enable an effective tendering process to take place but shall not be required to provide information or material which Service Provider may not disclose as a matter of law.
- 3.3 In assisting the Bank and/or the Replacement SERVICE PROVIDER to transfer the Services the following commercial approach shall apply:
- (1) where Service Provider does not have to utilise resources in addition to those normally used to deliver the Services prior to termination or expiry, Service Provider shall make no additional Charges. The Bank 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 Bank agrees in advance that such redeployment will prevent Service Provider from meeting any Service Levels, achieving any other key dates or from providing any specific deliverables to the Bank, the Bank 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 Service Provider are additional to those in place as part of the proper provision of the Services the Bank shall pay 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 Bank.

- 3.4 If so required by the Bank, on the provision of no less than 15 (fifteen) days' notice in writing, Service Provider shall continue to provide the Services or an agreed part of the Services for a period not exceeding **6 (Six)** months beyond the date of termination or expiry of the Agreement. In such event the Bank shall reimburse 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) Services for which rates already specified in the Agreement shall be provided on such rates;
  - (2) materials and other costs, if any, will be charged at a reasonable price which shall be mutually agreed between the Parties.
- 3.5 Service Provider shall provide to the Bank an analysis of the Services to the extent reasonably necessary to enable the Bank to plan migration of such workload to a Replacement SERVICE PROVIDER provided always that this analysis involves providing performance data already delivered to the Bank as part of the performance monitoring regime.
- 3.6 Service Provider shall provide such information as the Bank 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 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 Bank 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 Bank shall pay for the services of such Key Personnel on a time and materials basis at the rates agreed between the parties.
- 3.8 Service Provider shall co-operate with the Bank during the handover to a Replacement SERVICE PROVIDER and such co-operation shall extend to, but shall not be limited to, inter-working, co-ordinating and access to and provision of all operational and performance documents, reports, summaries produced by

Service Provider for the Bank, including the configurations set up for the Bank and any and all information to be provided by Service Provider to the Bank 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 Bank will use reasonable endeavors to ensure that the Replacement SERVICE PROVIDER co-operates with Service Provider during the handover of the Services.

**5. Subcontractors**

5.1 Service Provider agrees to provide the Bank with details of the Subcontracts (if permitted by the Bank) used in the provision of the Services. 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 Service Provider shall deliver to the Bank 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 Service Provider shall deliver to the Bank the Asset Register comprising:

- (1) a list of all Assets eligible for transfer to the Bank; 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 Bank shall notify Service Provider of the Assets it requires to be transferred, (the “Required Assets”), and the Bank and Service Provider shall provide for the approval of the Bank a draft plan for the Asset transfer.
- 7.3 In the event that the Required Assets are not located on Bank premises:
- (1) Service Provider shall be responsible for the dismantling and packing of the Required Assets and to ensure their availability for collection by the Bank or its authorised representative by the date agreed for this;
  - (2) any charges levied by Service Provider for the Required Assets not owned by the Bank 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 Bank will not be responsible for the Assets.
- 7.4 Service Provider warrants that the Required Assets and any components thereof transferred to the Bank 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 Service Provider shall deliver to the Bank all licenses for Software used in the provision of Services which were purchased by the Bank.
- 8.2 On notice of termination of this Agreement Service Provider shall, within **2 (two)** week of such notice, deliver to the Bank 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 Bank shall be responsible for any costs incurred in the transfer of licenses from Service Provider to the Bank 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 Bank shall notify Service Provider of the licenses it wishes to be transferred, and Service Provider shall provide for the approval of the Bank 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 Service Provider shall deliver, or otherwise certify in writing that it has delivered, to the Bank 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 Service Provider shall deliver to the Bank 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 Service Provider shall deliver to the Bank:

- (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 Service Provider shall deliver to the Bank 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 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 Service Provider shall deliver to the Bank 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) programme 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 Service Provider shall cease to use the Bank's Data and, at the request of the Bank, shall destroy all such copies of the Bank's Data then in its possession to the extent specified by the Bank.
- 14.2 Except where, pursuant to paragraph 14.1 above, the Bank has instructed Service Provider to destroy such Bank's Data as is held and controlled by Service Provider, **1 (one)** months prior to expiry or within **1 (one)** month of termination of this Agreement, Service Provider shall deliver to the Bank:
- (1) An inventory of the Bank's Data held and controlled by Service Provider, plus any other data required to support the Services; and/or
  - (2) a draft plan for the transfer of the Bank's Data held and controlled by Service Provider and any other available data to be transferred.

#### **15. Training Services on Transfer**

- 15.1 Service Provider shall comply with the Bank'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 Bank 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 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, Service Provider shall produce for the Bank'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, Service Provider shall schedule all necessary resources to fulfil the training plan, and deliver the training as agreed with the Bank.
- 15.5 SERVICE PROVIDER shall provide training courses on operation of licensed /open source software product at Bank's \_\_\_\_\_ Premises, at such times, during business hours as Bank may reasonably request. Each training course will last for \_\_\_\_\_ hours. Bank may enroll up to \_\_\_\_\_ of its staff or \_\_\_\_\_ employees of the new/replacement service provider in any training course, and 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, Service Provider shall assist the Bank 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 Bank, as the case may be.
- 16.2 The exit transition plan shall be in a format to be agreed with the Bank 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 Service Provider shall supply to the Bank 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 Service Provider which are used for project management purposes generally within Service Provider's business.
- 16.4 Service Provider shall supply to the Bank 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 Service Provider shall provide to the Bank refreshed versions of the materials required under paragraph 16.3 above which shall reflect the position as at the date of expiry.
- 16.6 Service Provider shall provide to the Bank 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 Service Provider till the date of expiry or termination.
- 16.7 Service Provider shall provide for the approval of the Bank a draft plan to transfer or complete work-in-progress at the date of expiry or termination.
- 17. Use of Bank Premises**
- 17.1 Prior to expiry or on notice of termination of this Agreement, Service Provider shall provide for the approval of the Bank a draft plan specifying the necessary steps to be taken by both Service Provider and the Bank to ensure that the Bank's Premises are vacated by Service Provider.
- 17.2 Unless otherwise agreed, Service Provider shall be responsible for all costs associated with Service Provider's vacation of the Bank's Premises, removal of equipment and furnishings, redeployment of SERVICE PROVIDER Personnel, termination of arrangements with Subcontractors and service contractors and

restoration of the Bank Premises to their original condition (subject to a reasonable allowance for wear and tear).

XXXX

**NON-DISCLOSURE AGREEMENT**

THIS RECIPROCAL NON-DISCLOSURE AGREEMENT (the “Agreement”) is made at \_\_\_\_\_ 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 Global IT Centre at Sector-11, CBD Belapur, Navi Mumbai- 400614 through its \_\_\_\_\_ Department (hereinafter referred to as “Bank” which expression includes its successors and assigns) of the ONE PART;

And

\_\_\_\_\_ a 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 “\_\_\_\_\_” 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 (the Party receiving the information being referred to as the “Receiving Party” and the Party disclosing the information being referred to as the “Disclosing Party. 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 developed, 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 free from any confidentiality obligations 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 and without confidentiality restrictions on use and disclosure; 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 “Covered Person” which term shall mean employees, contingent workers and professional advisers of a party 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 Covered Person, sufficient to enable it to comply with all the provisions of this Agreement. If Service Provider appoints any Sub-Contractor (if allowed) then Service Provider may disclose confidential information to such Sub-Contractor subject to such Sub

Contractor giving the Bank an undertaking in similar terms to the provisions of this clause. Any breach of this Agreement by Receiving Party's Covered Person or Sub-Contractor shall also be constructed a breach of this Agreement by Receiving Party.

- (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 (provided not restricted by applicable laws) prior to such disclosure and shall comply with any applicable protective order or equivalent. The intended recipients for this purpose are:
- i. the statutory auditors of the either party and
  - ii. government or regulatory authorities regulating the affairs of the parties and inspectors and supervisory bodies thereof
- (c) 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.

3. **Rights and Remedies**

- (a) Receiving Party shall notify Disclosing Party immediately upon discovery of any unauthorized used 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 (including but not limited to as listed below), to injunctive or equitable relief as may be deemed proper by a Court of competent jurisdiction.
- i. Suspension of access privileges
  - ii. Change of personnel assigned to the job
  - iii. 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 sole and 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's patents, copyrights, trademarks, or trade secret information.
- (b) Confidential Information made available is provided "As Is," and disclosing party disclaims all representations, conditions and warranties, express or implied, including, without limitation, representations, conditions or warranties of accuracy, completeness, performance, fitness for a particular purpose, satisfactory quality and merchantability provided same shall not be construed to include fraud or wilful default of disclosing party.
- (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. Nothing in this clause prevents a party from having recourse to a court of competent jurisdiction for the sole purpose of seeking a preliminary injunction or any other provisional judicial relief it considers necessary to avoid irreparable damage. This Agreement shall be governed by and construed in accordance with the laws of Republic of India. Each Party hereby irrevocably submits to the exclusive jurisdiction of the courts of Mumbai.
- (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) The Agreement shall be effective from \_\_\_\_\_ ("Effective Date") and shall be valid for a period of \_\_\_\_\_ year(s) thereafter (the "Agreement Term"). The foregoing obligations as to confidentiality shall survive the term of this Agreement and for a period of five (5) years thereafter provided confidentiality obligations with respect to individually identifiable information, customer's data of Parties or software in human-readable form (e.g., source code) shall survive in perpetuity.

5. **Suggestions and Feedback**

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 \_\_\_\_\_ (Month) 20\_\_ at \_\_\_\_\_(place)



For and on behalf of \_\_\_\_\_

|             |  |  |
|-------------|--|--|
| Name        |  |  |
| Designation |  |  |
| Place       |  |  |
| Signature   |  |  |

For and on behalf of \_\_\_\_\_

|             |  |  |
|-------------|--|--|
| Name        |  |  |
| Designation |  |  |
| Place       |  |  |
| Signature   |  |  |



**Appendix-I****Pre-Bid Query Format**  
**(To be provide strictly in Excel format)**

| <b>Vendor Name</b> | <b>Sl. No</b> | <b>RFP Page No</b> | <b>RFP Clause No.</b> | <b>Existing Clause</b> | <b>Query/Suggestions</b> |
|--------------------|---------------|--------------------|-----------------------|------------------------|--------------------------|
|                    |               |                    |                       |                        |                          |
|                    |               |                    |                       |                        |                          |
|                    |               |                    |                       |                        |                          |
|                    |               |                    |                       |                        |                          |

**Format for Submission of Client References****To whosoever it may concern**

| <b>Particulars</b>                                     | <b>Details</b> |
|--------------------------------------------------------|----------------|
|                                                        |                |
| <b>Client Information</b>                              |                |
| Client Name                                            |                |
| Client address                                         |                |
| Name of the contact person and designation             |                |
| Phone number of the contact person                     |                |
| E-mail address of the contact person                   |                |
| <b>Project Details</b>                                 |                |
| Name of the Project                                    |                |
| Start Date                                             |                |
| End Date                                               |                |
| Current Status (In Progress / Completed)               |                |
| <b>Size of Project</b>                                 |                |
| Value of Work Order (In Lakh) (only single work order) |                |
|                                                        |                |

**Name & Signature of authorised signatory****Seal of Company**

**Appendix-K****PRE CONTRACT INTEGRITY PACT**  
**(TO BE STAMPED AS AN AGREEMENT)**

## General

This pre-Bid pre-contract Agreement (hereinafter called the Integrity Pact) is made on \_\_\_\_ day of the month of \_\_\_\_\_ 201 , between, on the one hand, the State Bank of India a body corporate incorporated under the State Bank of India Act, 1955 having its Corporate Centre at State Bank Bhavan, Nariman Point, Mumbai through its \_\_\_\_\_ Department / Office at Global IT Center at CBD Belapur, \_\_\_\_\_ 400614, (hereinafter called the "BUYER", which expression shall mean and include, unless the context otherwise requires, its successors) of the First Part

## And

M/s \_\_\_\_\_ represented by Shri \_\_\_\_\_, Chief Executive Officer/ Authorised signatory (hereinafter called the "BIDDER/Seller which expression shall mean and include, unless the context otherwise requires, its / his successors and permitted assigns of the Second Part.

WHEREAS the BUYER proposes to procure (Name of the Stores/Equipment/Item) and the BIDDER/Seller is willing to offer/has offered the stores and

WHEREAS the BIDDER is a private company/public company/Government undertaking/partnership/registered export agency, constituted in accordance with the relevant law in the matter and the BUYER is an Office / Department of State Bank of India performing its functions on behalf of State Bank of India.

NOW, THEREFORE,

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to :

- Enabling the BUYER to obtain the desired service / product at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on public procurement; and

- Enabling BIDDERS to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the BUYER will commit to prevent corruption, in any form, by its officials by following transparent procedures.

The parties hereto hereby agree to enter into this Integrity Pact and agree as follows:

**1. Commitments of the BUYER**

- 1.1 The BUYER undertakes that no official of the BUYER, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the BIDDER, either for themselves or for any person, organisation or third party related to the contract in exchange for an advantage in the bidding process, Bid evaluation, contracting or implementation process related to the contract.
- 1.2 The BUYER will, during the pre-contract stage, treat all BIDDERS alike, and will provide to all BIDDERS the same information and will not provide any such information to any particular BIDDER which could afford an advantage to that particular BIDDER in comparison to other BIDDERS.
- 1.3 All the officials of the BUYER will report to the appropriate authority any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.
- 1.4 In case any such preceding misconduct on the part of such official(s) is reported by the BIDDER to the BUYER with full and verifiable facts and the same is prima facie found to be correct by the BUYER, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the BUYER and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the BUYER the proceedings under the contract would not be stalled.

**2. Commitments of BIDDERS**

- 2.1 The BIDDER commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its Bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commit itself to the following:
- 2.2 The BIDDER will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the BUYER, connected directly or indirectly with the bidding process, or to any

- person, organisation or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
- 2.3 The BIDDER further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the BUYER or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the contract or any other contract with State Bank of India for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with State Bank of India.
  - 2.4 Wherever applicable, the BIDDER shall disclose the name and address of agents and representatives permitted by the Bid documents and Indian BIDDERS shall disclose their foreign principals or associates, if any.
  - 2.5 The BIDDER confirms and declares that they have not made any payments to any agents/brokers or any other intermediary, in connection with this Bid/contract.
  - 2.6 The BIDDER further confirms and declares to the BUYER that the BIDDER is the original vendors or service providers in respect of product / service covered in the Bid documents and the BIDDER has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to the BUYER or any of its functionaries, whether officially or unofficially to the award of the contract to the BIDDER, nor has any amount been paid, promised or intended to be paid to any such individual, firm or company in respect of any such intercession, facilitation or recommendation.
  - 2.7 The BIDDER, at the earliest available opportunity, i.e. either while presenting the Bid or during pre-contract negotiations and in any case before opening the financial Bid and before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of the BUYER or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.
  - 2.8 The BIDDER will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, Bid evaluation, contracting and implementation of the contract.
  - 2.9 The BIDDER will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
  - 2.10 The BIDDER shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the BUYER as part of the business relationship, regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The BIDDER also undertakes to exercise due and adequate care lest any such information is divulged.
  - 2.11 The BIDDER commits to refrain from giving any complaint directly or through any

other manner without supporting it with full and verifiable facts.

- 2.12 The BIDDER shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.
- 2.13 If the BIDDER or any employee of the BIDDER or any person acting on behalf of the BIDDER, either directly or indirectly, is a relative of any of the officers of the BUYER, or alternatively, if any relative of an officer of the BUYER has financial Interest/stake in the BIDDER's firm, the same shall be disclosed by the BIDDER at the time of filing of tender. The term 'relative' for this purpose would be as defined in Section 6 of the Companies Act 1956.
- 2.14 The BIDDER shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the BUYER.

### 3. **Previous Transgression**

- 3.1 The BIDDER declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged hereunder or with any Public Sector Enterprise / Public Sector Banks in India or any Government Department in India or RBI that could justify BIDDER's exclusion from the tender process.
- 3.2 The BIDDER agrees that if it makes incorrect statement on this subject, BIDDER can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

### 4. **Earnest Money (Security Deposit)**

- 4.1 While submitting commercial Bid, the BIDDER shall deposit an amount (specified in RFP) as Earnest Money/Security Deposit, with the BUYER through any of the mode mentioned in the RFP / Bid document and no such mode is specified, by a Bank Draft or a Pay Order in favour of State Bank of India from any Bank including SBI . However payment of any such amount by way of Bank Guarantee, if so permitted as per Bid documents / RFP should be from any Scheduled Commercial Bank other than SBI and promising payment of the guaranteed sum to the BUYER on demand within three working days without any demur whatsoever and without seeking any reasons whatsoever. The demand for payment by the BUYER shall be treated as conclusive proof for making such payment to the BUYER.
- 4.2 Unless otherwise stipulated in the Bid document / RFP, the Earnest Money/Security Deposit shall be valid upto a period of five years or the complete conclusion of the contractual obligations to the complete satisfaction of both the BIDDER and the BUYER, including warranty period, whichever is later.
- 4.3 In case of the successful BIDDER a clause would also be incorporated in the Article pertaining to Performance Bond in the Purchase Contract that the

provisions of Sanctions for Violation shall be applicable for forfeiture of Performance Bond in case of a decision by the BUYER to forfeit the same without assigning any reason for imposing sanction for violation of this Pact.

4.4 No interest shall be payable by the BUYER to the BIDDER on Earnest Money/Security Deposit for the period of its currency.

## 5. **Sanctions for Violations**

5.1 Any breach of the aforesaid provisions by the BIDDER or any one employed by it or acting on its behalf (whether with or without the knowledge of the BIDDER) shall entitle the BUYER to take all or any one of the following actions, wherever required:

- (i) To immediately call off the pre contract negotiations without assigning any reason and without giving any compensation to the BIDDER. However, the proceedings with the other BIDDER(s) would continue, unless the BUYER desires to drop the entire process.
- (ii) The Earnest Money Deposit (in pre-contract stage) and/or Security Deposit/Performance Bond (after the contract is signed) shall stand forfeited either fully or partially, as decided by the BUYER and the BUYER shall not be required to assign any reason therefore.
- (iii) To immediately cancel the contract, if already signed, without giving any compensation to the BIDDER.
- (iv) To recover all sums already paid by the BUYER, and in case of an Indian BIDDER with interest thereon at 2% higher than the prevailing Base Rate of State Bank of India, while in case of a BIDDER from a country other than India with interest thereon at 2% higher than the LIBOR. If any outstanding payment is due to the BIDDER from the BUYER in connection with any other contract for any other stores, such outstanding could also be utilized to recover the aforesaid sum and interest.
- (v) To encash the advance bank guarantee and performance bond/warranty bond, if furnished by the BIDDER, in order to recover the payments, already made by the BUYER, along with interest.
- (vi) To cancel all or any other Contracts with the BIDDER. The BIDDER shall be liable to pay compensation for any loss or damage to the BUYER resulting from such cancellation/rescission and the BUYER shall be entitled to deduct the amount so payable from the money(s) due to the BIDDER.
- (vii) To debar the BIDDER from participating in future bidding processes of the BUYER or any of its Subsidiaries for a minimum period of five years, which may be further extended at the discretion of the BUYER.
- (viii) To recover all sums paid, in violation of this Pact, by BIDDER(s) to any middleman or agent or broker with a view to securing the contract.
- (ix) Forfeiture of Performance Bond in case of a decision by the BUYER to forfeit the same without assigning any reason for imposing sanction for violation of this

Pact.

- (x) Intimate to the CVC, IBA, RBI, as the BUYER deemed fit the details of such events for appropriate action by such authorities.

5.2 The BUYER will be entitled to take all or any of the actions mentioned at para 5.1(i) to (x) of this Pact also on the Commission by the BIDDER or any one employed by it or acting on its behalf (whether with or without the knowledge of the BIDDER), of an offence as defined in Chapter IX of the Indian Penal code, 1860 or Prevention of Corruption Act, 1988 or any other statute enacted for prevention of corruption.

5.3 The decision of the BUYER to the effect that a breach of the provisions of this Pact has been committed by the BIDDER shall be final and conclusive on the BIDDER. However, the BIDDER can approach the Independent Monitor(s) appointed for the purposes of this Pact.

6. **Fall Clause**

The BIDDER undertakes that it has not supplied/is not supplying similar product/systems or subsystems at a price lower than that offered in the present Bid in respect of any other Ministry/Department of the Government of India or PSU or any other Bank and if it is found at any stage that similar product/systems or sub systems was supplied by the BIDDER to any other Ministry/Department of the Government of India or a PSU or a Bank at a lower price, then that very price, with due allowance for elapsed time, will be applicable to the present case and the difference in the cost would be refunded by the BIDDER to the BUYER, if the contract has already been concluded.

7. **Independent Monitors**

7.1 The BUYER has appointed Independent Monitors (hereinafter referred to as Monitors) for this Pact in consultation with the Central Vigilance Commission (Names and Addresses of the Monitors to be given).

|  |  |
|--|--|
|  |  |
|--|--|

7.2 The task of the Monitors shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this Pact.



- 7.3 The Monitors shall not be subjected to instructions by the representatives of the parties and perform their functions neutrally and independently.
- 7.4 Both the parties accept that the Monitors have the right to access all the documents relating to the project/procurement, including minutes of meetings. Parties signing this Pact shall not approach the Courts while representing the matters to Independent External Monitors and he/she will await their decision in the matter.
- 7.5 As soon as the Monitor notices, or has reason to believe, a violation of this Pact, he will so inform the Authority designated by the BUYER.
- 7.6 The BIDDER(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the BUYER including that provided by the BIDDER. The BIDDER will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor shall be under contractual obligation to treat the information and documents of the BIDDER/Subcontractor(s) with confidentiality.
- 7.7 The BUYER will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the parties. The parties will offer to the Monitor the option to participate in such meetings.
- 7.8 The Monitor will submit a written report to the designated Authority of BUYER/Secretary in the Department/ within 8 to 10 weeks from the date of reference or intimation to him by the BUYER / BIDDER and, should the occasion arise, submit proposals for correcting problematic situations.
8. **Facilitation of Investigation**  
In case of any allegation of violation of any provisions of this Pact or payment of commission, the BUYER or its agencies shall be entitled to examine all the documents including the Books of Accounts of the BIDDER and the BIDDER shall provide necessary information and documents in English and shall extend all possible help for the purpose of such examination.
9. **Law and Place of Jurisdiction**  
This Pact is subject to Indian Law. The place of performance and jurisdiction is the seat of the BUYER.
10. **Other Legal Actions**  
The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.



**11. Validity**

11.1 The validity of this Integrity Pact shall be from date of its signing and extend upto 5 years or the complete execution of the contract to the satisfaction of both the BUYER and the BIDDER/Seller, including warranty period, whichever is later. In case BIDDER is unsuccessful, this Integrity Pact shall expire after six months from the date of the signing of the contract, with the successful Bidder by the BUYER.

11.2 Should one or several provisions of this Pact turn out to be invalid; the remainder of this Pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intentions.

12. The parties hereby sign this Integrity Pact at \_\_\_\_\_ on \_\_\_\_\_

For BUYER  
Name of the Officer.  
Designation  
Office / Department / Branch  
State Bank of India.

For BIDDER  
Chief Executive Officer/  
Authorised Signatory  
Designation

Witness

1

2

Witness

1.

2.

**Note: This agreement will require stamp duty as applicable in the State where it is executed or stamp duty payable as per Maharashtra Stamp Act, whichever is higher.**