



**REQUEST FOR PROPOSAL
FOR PROCUREMENT
OF SOFTWARE CONFIGURATION MANAGEMENT SOLUTION
AND SERVICES FOR BASE24 APPLICATION ON HP NONSTOP SYSTEM**

Ref: SBI/GITC/ATM/2017/2018/412 11/08/2017

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Part-1

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1. INVITATION TO BID:

State Bank of India (herein after referred to as '**SBI/the Bank**') is having its Corporate Centre at Mumbai, various other offices (LHOs/ Head Offices /Zonal Offices/Global Link Services, Global IT Centre, etc. of State Bank of India and branches/other offices, other exchange companies in 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 procurement of:

- i. Software Configuration Management Solution and Services for BASE24 Application on HP Nonstop System.
- ii. In order to meet the Software Solution/ service requirements, the Bank proposes to invite tenders from eligible vendors as per details/**scope of work** mentioned in **Annexure-E** of this RFP document.
- iii. Bidder shall mean any entity (i.e. juristic person) who meets the **eligibility criteria given in Annexure-B** of this RFP and willing to provide the Software Solution/ service as required in this bidding document. The interested Bidders who agree to all the terms and conditions contained in this document may submit their Bids with the information desired in this bidding document (Request for Proposal).
- iv. Address for submission of Bids, contact details including email address for sending communications are given in given in part II of this RFP document.
- v. The purpose of SBI behind this RFP is to seek a detailed technical and commercial proposal for procurement of the Software Solution/ service desired in this document. The proposed Software Solution/ service must integrate with Bank's existing infrastructure seamlessly.
- vi. This 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 document before submission of Bids to avoid any chance of elimination. The eligible Bidders desirous of taking up the project for supply of proposed Software Solution/ service 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 Software Solution/ service adhering to Bank's requirements outlined in this RFP.

2. Disclaimer:

- i. The information contained in this RFP document or information provided subsequently to Bidder(s) whether verbally or in documentary form/email by or on behalf of State Bank of India (Bank), is subject to the terms and conditions set out in this RFP document.
- ii. This RFP is not an offer by State Bank of India, but an invitation to receive responses from the eligible Bidders. No contractual obligation whatsoever shall arise from the RFP process unless and until a formal contract is signed and executed by duly authorized official(s) of State Bank of India with the selected Bidder.
- iii. The purpose of this RFP is to provide the Bidder(s) with information to assist preparation of their Bidproposals. 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 Applicant or 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 issue of this RFP does not imply that the Bank is bound to select a Bidder or to appoint the Selected Bidder or Concessionaire, as the case may be, for the Project and the Bank reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever.
- vii. The Bidder is expected to examine all instructions, forms, terms and specifications in the bidding Document. Failure to furnish all information required by the bidding Document or to submit a Bid not substantially responsive to the bidding Document in all respect will be at the Bidder's risk and may result in rejection of the Bid.

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) and subsidiaries.
- ii. **"Bidder/Service Provider/System Integrator"** 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"** means the agreement entered into between the Bank and the Vendor, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- v. **"Vendor/Service Provider"** is the successful Bidder found eligible as per eligibility criteria set out in this RFP, whose technical Bid has been accepted and who has emerged as L1 Bidder as per the selection criteria set out in the RFP and to whom notification of award has been given by the Bank.
- vi. **"The Contract Price/Project Cost"** means the price payable to the Vendor under the Contract for the full and proper performance of its contractual obligations.
- vii. **Software Solution/ Services/ System – "Software Solution" or "Services" or "System"** means all software products, services, scope of work and deliverables to be provided by a Bidder as described in the RFP and include services ancillary to the development of the solution, such as installation, commissioning, integration with existing systems, provision of technical assistance, training, certifications, auditing and other obligation of the Vendor covered under the RFP.

- viii. **Annual Maintenance Contract (AMC)** - It would be the annual cost of maintenance of Software Solution / Service.

4. Scope of Work:

As given in **Annexure-E** of this document.

5. Eligibility and Technical Criteria:

- i. Bid is open to all Bidders who meet the eligibility and technical criteria as given in **Annexure-B& Annexure-C** of this document. The Bidder has to submit the documents substantiating eligibility criteria as mentioned in this RFP document.

(a) If any Bidder submits Bid on behalf of Principal/OEM, the same Bidder shall not submit a Bid on behalf of another Principal/OEM under the RFP.

(b) Either the Bidder on behalf of Principal/OEM or Principal/OEM itself is allowed to Bid, however both cannot Bid simultaneously.

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 of the bidding Document may notify the Bank in writing **strictly as per the format given in Annexure-O** at the address/by e-mail given in part II of this document within the date/time mentioned in the schedule of events.
- ii. A pre-Bid meeting will be held 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. SBI 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 bidding Document, 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. SBI, 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 addressed 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 the 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 Bidding document:

- i. The Bidder must thoroughly study/analyze and properly understand the contents of this RFP document, its meaning and impact of the information contained therein.
- ii. Failure to furnish all information required in the bidding document or submission of Bid not responsive to the bidding documents in any respect will be at the Bidder's risk and responsibility and the same may finally result in rejection of its Bid. SBI has made considerable effort to ensure that accurate information is contained in this RFP and is supplied solely as guidelines for Bidders.

- iii. 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 contained in RFP and its addenda, if any.
- iv. 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.
- v. The information provided by the Bidders in response to this RFP will become the property of SBI and will not be returned. Incomplete information in Bid document may lead to non-consideration of the proposal.

9. Earnest Money Deposit (EMD):

- i. The Bidder shall furnish EMD for the amount and validity period mentioned in Part II of this document.
- ii. EMD is required to protect the Bank against the risk of Bidder's conduct.
- iii. The EMD may be in the form of a Demand Draft or Pay Order or Bank Guarantee [on the lines of **Annexure-G**], issued by a Scheduled Commercial Bank in India, other than State Bank of India, drawn in favour of State Bank of India payable at Mumbai. In case, SBI is the sole Banker for the Bidder, a Letter of Comfort from SBI would be acceptable.
- iv. Any Bid not accompanied by EMD for the specified amount as mentioned elsewhere in the RFP will be rejected as non-responsive.
- v. The EMD of the unsuccessful Bidders shall be returned within 2 weeks from the date of Bid finalisation.
- vi. The EMD of successful Bidder will be discharged upon the Bidder signing the Contract and furnishing the Performance Bank Guarantee for the amount and validity as mentioned in Part II of this RFP which should be strictly on the lines of format placed at **Annexure-H**.
- vii. No interest is payable on EMD.
- viii. The EMD may be forfeited:-
 - 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 sign the contract or furnish Performance Bank Guarantee, within the specified time period in the RFP/Purchase Order.
- ix. If EMD is forfeited 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.

10. Bid Preparation and submission:

- i. The Bid is to be submitted in two separate envelopes. One of the envelope is to be prominently marked as **Technical Proposal for supply of Software Configuration Management Solution and Services for BASE24 Application on HP Nonstop System in response to the RFP No. _____ dated _____.** This envelope should contain following documents and **properly sealed**:
 - (a) Bid covering letter/Bid form on the lines of **Annexure-A** on Bidder's letter head.
 - (b) Earnest Money Deposit (EMD) as specified in this document.
 - (c) A letter on Bidder's letterhead: -
 - (i) Mentioning details of EMD submitted, technical competence and experience of the Bidder
 - (ii) Certifying that the period of the validity of the Bid is as per terms of this RFP.
 - (iii) Confirming that the Bidder has quoted for all the items/services mentioned in this RFP in their commercial Bid.
 - (iv) Confirming that they agree with all the terms and conditions mentioned in the RFP.
 - (v) Specific response with supporting documents in respect of Eligibility Criteria as mentioned in **Annexure-B** and **technical eligibility criteria on the lines of Annexure-C.**
 - (d) Bidder's details as per **Annexure-D** on Bidder's letter head.
 - (e) Bidder should provide licensing details of Software / Database / Middleware / Operating System / Third Party Software etc
 - (f) Any deviations sought from technical criteria/specifications given in RFP.
 - (g) Audited balance sheets and profit and loss account statement for last three years

- (h) A copy of board resolution or power of attorney showing that the signatory has been duly authorized to sign the Bid document.
- (i) Detailed explanation of functioning of Software Solution.
- ii. A second sealed envelope prominently marked as **Indicative Price Proposal for supply of Software Configuration Management Solution and Services for BASE24 Application on HP Nonstop System in response to the RFP No. _____ dated _____**. This envelope should contain **only indicative price Bid strictly on the lines of Annexure-F**. The Indicative Price must include all the price components mentioned. Prices are to be quoted in Indian Rupees only.
- iii. Bidders may please note:
 - a. The Bidder should quote for the entire package on a single responsibility basis for Software Solution/ services it proposes to supply.
 - b. A soft copy (Word format) on a CD should also be kept in a separate envelope within the envelope of technical Bid. Voluminous documents should be submitted only on CDs.
 - c. While submitting the Technical Bid, literature on the Software Solution/ service should be segregated and kept together in one section / lot in a separate envelope.
 - d. Care should be taken that the Technical Bid shall not contain any price information. Such proposal, if received, will be rejected.
 - e. 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 and stamped with the official stamp of the Bidder. Board resolution authorizing representative to Bid and make commitments on behalf of the Bidder is to be attached.
 - f. Bids are liable to be rejected if only one (i.e. Technical Bid or Indicative Price Bid) is received.
 - g. Prices quoted by the Bidder shall remain fixed for the period specified in part II of this document and shall not be subjected to variation on any account, including exchange rate fluctuations and custom duty. **A Bid submitted with an adjustable price quotation will be treated as non-responsive and will be rejected.**

- h. 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 or the price quoted.
- i. The Bidder may also be asked to give presentation for the purpose of clarification of the Bid.
- j. The Bidder must provide specific and factual replies to the points raised in the RFP.
- k. The Bid shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to bind the Bidder to the Contract.
- l. All the enclosures (Bid submission) shall be serially numbered with rubber stamp of the participating Bidder. The person or persons signing the Bids shall initial all pages of the Bids, except for un-amended printed literature.
- m. Any inter-lineation, erasures or overwriting shall be valid **only** if they are initialled by the person signing the Bids.
- n. The Bid document shall be spirally bound.
- o. The Bank reserves the right to reject Bids not conforming to above.
- p. The two NON-WINDOW envelopes shall be put together and sealed in an outer NON-WINDOW envelope.
- q. All the envelopes shall be addressed to the Bank and deliver at the address given in Part-II of this RFP and should have name and address of the Bidder on the cover.
- r. If the envelope is not sealed and marked, the Bank will assume no responsibility for the Bid's misplacement or its premature opening.

11. Deadline for Submission of Bids:

- a. Bids must be received by the Bank at the address specified and by the date and time mentioned in the "Schedule of Events".
- b. 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.
- c. In case the Bank extends the scheduled date of submission of

Biddocument, the Bids shall be submitted by the time and date rescheduled. All rights and obligations of the Bank and Bidders will remain the same.

- d. Any Bid received after the deadline for submission of Bids prescribed, will be rejected and returned unopened to the Bidder.

12. Modification and Withdrawal of Bids:

- a. The Bidder may modify or withdraw its Bid after the Bid's submission, provided that written notice of the modification, including substitution or withdrawal of the Bids, is received by the Bank, prior to the deadline prescribed for submission of Bids.
- b. A withdrawal notice may also be sent by email, but followed by a signed confirmation copy, not later than the deadline for submission of Bids.
- c. No modification in the Bid shall be allowed, after the deadline for submission of Bids.
- d. 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 by the Bidder on the Bid Form. Withdrawal of a Bid during this interval may result in the forfeiture of EMD submitted by the Bidder
- e. Withdrawn Bids, if any, will be returned unopened to the Bidders.

13. Period of Validity of Bids:

- a. Bids shall remain valid for 180 days from the date of reverse auction. A Bid valid for a shorter period is liable to be rejected by the Bank as non-responsive.
- b. 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 Bank will not forfeit its EMD. However, any extension of validity of Bids will not entitle the Bidder to revise/modify the Bid document.
- c. The Bank reserves the right to call for fresh quotes at any time during the Bid validity period, if considered, necessary.

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 SBI. The Bidders shall be deemed to license, and grant all rights to SBI, to reproduce the whole or any portion of their product for the purpose of evaluation, to disclose the contents of submission to other Bidders and to disclose and/ or use the contents of submission as the basis for RFP process.

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 available in part II of this document. The technical Bids will be opened in the presence of representatives of the Bidders who choose to attend the same. 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. Proposals 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 commercial Bid opening and further RFP evaluation process.
- iii. The Bank will examine the Bids to determine whether they are complete, required formats have been furnished, the documents have been properly signed, EMD 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 bidding Document. For purposes of these Clauses, a responsive Bid is one, which conforms to all the terms and conditions of the bidding Document 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 Software Solution/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. Technical Evaluation:

- i. Technical evaluation will include technical information submitted as per technical Bid format, demonstration of proposed Software Solution/services, reference calls and site visits, wherever required. The Bidder may highlight the noteworthy/superior features of their Software Solution/ services. The Bidder will demonstrate/substantiate all claims made in the technical Bid to the satisfaction of the Bank, the capability of the Software Solution/ services to support all the required functionalities at their cost in their lab or those at other organizations where similar Software Solution/ services is in use.
- 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 post Bid clarification at the initiative of the Bidder shall be entertained.
- v. The evaluation will also take into account:
 - a. Software Solution/ services offered by the Bidder to any noticeable bank in India/other countries. The Bidder should furnish the details.
 - b. Does the proposed Software Solution handles the projected volumes and offers a proven solution to meet the requirements
 - c. Does the Software Solution offered by the Bidder is a complete system as a project and has not integrated with third party solutions.
 - d. Upgradation (s) assurance by the Bidder as per requirement of the Bank for the duration of the project. In case of upgradations, the Bank will have right to renegotiate the rates (depending upon prevailing rates) and go in for higher configurations (as per technological developments at that time)
 - e. Capability of the proposed solution to meet future requirements outlined in the RFP.
 - f. Support on open platforms and solution based on latest technology (both software and hardware).

- g. Bidder support facilities: Support requirement like online support/ email support/ offline support, time period
- h. Bidder will support the Bank as required in peak days of business (month-end and start of the month) and during switching over process from PR to DR and vice versa.
- i. Bids meeting the eligibility criteria & having complied with the mandatory points of Technical Bid (i.e. F or C or T) and attain minimum score of 70% (154/220) through the aforesaid process shall be qualified for commercial bid opening & evaluation / Reverse Auction.

17. Evaluation of Price Bids and Finalization:

- i. The envelope containing the Commercial Bids of only those Bidders, who are short-listed after technical evaluation, would be opened.
- ii. All the Bidders who qualify in the evaluation process shall have to participate in the online reverse auction to be conducted by Bank's authorized service provider on behalf of the Bank, details of which are given in Part II of this RFP document.
- iii. Shortlisted Bidders shall be willing to participate in the reverse auction process and must have a valid digital signature certificate. Such Bidders will be trained by Bank's authorized service provider for this purpose. Bidders shall also be willing to abide by the e-business rules for reverse auction framed by the Bank / Authorised service provider. The details of e-business rules, processes and procedures will be provided to the short-listed Bidders.
- iv. The L1 Bidder will be selected on the basis of net total of the price evaluation as quoted in the Reverse Auction..
- v. The successful Bidder is required to provide price confirmation and price breakup strictly on the lines of **Annexure-F** within 48 hours of conclusion of the Reverse Auction, failing which Bank may take appropriate action.
- vi. Errors, if any, in the price breakup format will be rectified as under:
 - (a) If there is a discrepancy between the unit price and total price which is obtained by multiplying the unit price with quantity, the unit price shall prevail and the total price shall be corrected unless it is a lower figure. If the Bidder does not accept the correction of errors, the Bid will be rejected.

- (b) If there is a discrepancy in the unit price quoted in figures and words, the unit price in figures or in words, as the case may be, which corresponds to the total Bid price for the Bid shall be taken as correct.
- (c) If the vendor has not worked out the total Bid price or the total Bid price does not correspond to the unit price quoted either in words or figures, the unit price quoted in words shall be taken as correct.
- (d) The Bidder should quote for all the items/services desired in this RFP. In case, prices are not quoted by any Bidder for any specific product and / or service, for the purpose of evaluation, the highest of the prices quoted by other Bidders participating in the bidding process will be reckoned as the notional price for that service, for that Bidder. However, if selected, at the time of award of Contract, the lowest of the price(s) quoted by other Bidders (whose Price Bids are also opened) for that service will be reckoned. This shall be binding on all the Bidders. However, the Bank reserves the right to reject all such incomplete Bids.

18. Contacting the Bank:

- i. No Bidder shall contact the Bank on any matter relating to its Bid, from the time of opening of Price 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 Bidder's Bid.

19. Award Criteria:

- i. Bank will notify successful Bidder (**L1**) in writing by 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 (wherever applicable), Performance Bank Guarantee for the amount and validity as desired in part II and strictly on the lines of format given at **Annexure-N** of this document together with acceptance of all terms and conditions of RFP.
- iii. Copy of board resolution or power of attorney showing that the signatory has been duly authorized to sign the acceptance letter, contract and NDA should be submitted.
- iv. The notification of award will constitute the formation of the Contract.

- v. The successful Bidder shall be required to enter into a contract/ SLA with the Bank, within 30 days of award of the tender or within such extended period as may be decided by the Bank.
- vi. Until the execution of a formal contract, the Bid document, together with the Bank's notification of award and the vendor's acceptance thereof, would constitute a binding contract between the Bank and the successful Bidder.
- vii. The contract/ agreement will be based on Bidder's offer document with all its enclosures, modifications arising out of negotiation /clarifications etc and will include SLA, project plan – phases & milestones and schedule, copies of all necessary documents, licenses, certifications etc
- viii. 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.
- ix. 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 EMD and/or PBG.
- x. Upon notification of award to the L1Bidder, the Bank will promptly notify the award of contract to the successful Bidder on the Bank's website. The EMD of each unsuccessful Bidder will be discharged and returned.

20. Powers to Vary or Omit Work:

- 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 is substantial and involves considerable extra cost. Any agreed difference in cost occasioned by such variation shall be added to or deducted from the contract price 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 contract price, before the finally selected Bidder(s) proceeds with the change. In all the above cases, in the event of a disagreement as to the reasonableness of the said sum, the decision of the Bank shall prevail.

21. No Waiver of Bank Rights or Successful Bidder's Liability:

Neither any sign-off, nor any payment by the Bank for acceptance of the whole or any part of the work, nor any extension of time, nor any possession taken by the Bank shall affect or prejudice the rights of Bank against the finally selected Bidder(s), or relieve the finally selected Bidder(s) of his obligations for the due performance of the contract, or be interpreted as approval of the work done, or create liability in the Bank to pay for alterations/ amendments/ variations, or discharge the liability of the successful Bidder(s) for the payment of damages whether due, ascertained, or certified or not or any sum against the payment of which he is bound to indemnify the Bank nor shall any such certificate nor the acceptance by him of any such amount paid on account or otherwise affect or prejudice the rights of the successful Bidder against Bank.

22. Contract Amendments:

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, 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. Performance Bank Guarantee:

- i. Performance Bank Guarantee [PBG] of the amount with validity period specified in Part II of this RFP strictly on the format at **Annexure-His** to be submitted by the finally selected Bidder. The PBG 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. Purchase Order will be released only after receipt of the Performance Bank Guarantee. In case, SBI is the sole Banker for the Bidder, a Letter of Comfort from SBI may be accepted.
- ii. The PBG is required to protect the interest of the Bank against the risk of non-performance of the successful Bidder in respect of successful implementation of the project which may warrant invoking of PBG, also if any act of the supplier results in imposition of Liquidated Damages then also the Bank reserves the right to invoke the PBG.

25. System Integration Testing & User Acceptance Testing

The Vendor should integrate the software with the existing systems as per requirement of the Bank and carry out thorough system integration testing.

System integration testing will be followed by user acceptance testing, plan for which has to be submitted by the Vendor to the Bank. The UAT includes functional tests, resilience tests, benchmark comparisons, operational tests, load tests etc. SBI staff / third Party Vendor designated by the Bank will carry out the functional testing. This staff / third party vendor will need necessary on-site training for the purpose and should be provided by the Vendor. Vendor should carry out other testing like resiliency/benchmarking/load etc. Vendor should submit result log for all testing to the Bank.

On satisfactory completion of the aforementioned tests, the User Acceptance Test (UAT) letter will be issued to the vendor by the competent authority on the line of **Annexure-I**.

26. Services:

Following services as part of the warranty and AMC/ATS/S&S period and shall be provided by the selected bidder service Solution provider:

- i. All professional services necessary to successfully implement the proposed Software Solution will be part of the RFP/contract. These services include, but are not limited to, Project Management, Training, Deployment methodologies etc
- ii. The Bidder should also submit as part of technical Bid an overview of Project Management approach of the proposed product.
- iii. Bidder should ensure that vendor's key personnel with relevant skill-sets are available to the Bank.
- iv. Bidder should ensure that the quality of methodologies for delivering the services, adhere to quality standards/timelines stipulated therefor.
- v. Bidder shall be willing to transfer skills to relevant personnel from the Bank and the vendor providing the customization services for BASE24 software to the Bank, by means of training and documentation.
- vi. Bidder shall provide and implement patches/ upgrades/ updates for hardware/ software/ Operating System / Middleware etc as and when released by the Vendor/ OEM or as per requirements of the Bank. Bidder should bring to notice of the Bank all releases/ version changes.
- vii. Bidder shall obtain a written permission from the Bank before applying any of the patches/ upgrades/ updates. Bidder has to support older versions of the hardware/ software/ Operating System/Middleware etc in case the Bank chooses not to upgrade to latest version.
- viii. Bidder shall provide maintenance support for Hardware/ Software/ Operating System/ Middleware over the entire period of contract.
- ix. All product updates, upgrades & patches, solution to the observed VA&PT be provided by the Bidder/ Vendor free of cost during warranty and AMC/ ATS/ S&S period.
- x. Finding of vulnerability assessment/penetration test of security/performance as also findings of audit observations whenever intimated by bank in writing or through email.

- xi. Bidder shall provide legally valid Software Solution. The detailed information on license count and type of license shall also be provided to the Bank.
- xii. The Bidder shall keep the Bank explicitly informed atleast one year prior the end of support dates on related products/hardware/firmware and should ensure support during warranty and AMC/ATS/S&S.

27. Warranty and Annual Maintenance Contract:

- i. The selected Bidder shall support the Software Solution for a period of four years (one year warranty and three years AMC) as specified in Scope of work in this RFP from the **date of acceptance of the Software Solution** by State Bank of India.
- ii. During the warranty and AMC period (if desired), the Bidder will have to undertake comprehensive support of the Software Solution supplied by the Bidder and all new versions, releases, and updates for all standard software to be supplied to the Bank at no additional cost. During the support period, the Bidder shall maintain the Software Solution to comply with parameters defined for acceptance criteria and the Bidder shall be responsible for all costs relating to labour, spares, maintenance (preventive and corrective), compliance of security requirements and transport charges from and to the Site (s) in connection with the repair/ replacement of the Software Solution, which, under normal and proper use and maintenance thereof, proves defective in design, material or workmanship or fails to conform to the specifications, as specified.
- iii. During the support period (warranty and AMC, if desired), the vendor shall ensure that services of professionally qualified personnel are available for providing comprehensive on-site maintenance of the Software Solution and its components as per the Bank's requirements. Comprehensive maintenance shall include, among other things, day to day maintenance of the Software Solution as per the Bank's policy, reloading of firmware/software, compliance to security requirements, etc. when required or in the event of system crash/malfunctioning, arranging and configuring facility as per the requirements of the Bank, fine tuning, system monitoring, log maintenance, etc. The Bidder shall provide services of an expert engineer at SBI GITC, Belapur or at other locations wherever required, whenever it is essential. In case of failure of Software Solution, the Bidder shall ensure that Software Solution is made operational to the full satisfaction of the Bank within the given timelines.

- iv. Warranty/ AMC (if opted) for the system software/ off-the shelf software will be provided to the Bank as per the general conditions of sale of such software.
- v. Support (Warranty/ AMC, if opted) would be on-site and comprehensive in nature and must have back to back support from the OEM/Vendor. The vendor will warrant products against defects arising out of faulty design etc. during the specified support period.
- vi. In the event of system break down or failures at any stage, protection available, which would include the following, shall be specified.
 - a. Diagnostics for identification of systems failures
 - b. Protection of data/ Configuration
 - c. Recovery/ restart facility
 - d. Backup of system software/ Configuration
- vii. Prompt support shall be made available as desired in this RFP during the support period at the locations as and when required by the Bank.
- viii. The Bidder shall be agreeable for on-call/on-site support during peak weeks (last and first week of each month) and at the time of switching over from PR to DR and vice-versa. No extra charge shall be paid by the Bank for such needs, if any, during the support period.
- ix. Bidder support staff should be well trained to effectively handle queries raised by the customers/employees of the Bank.
- x. Updated escalation matrix shall be made available to the Bank once in each quarter and each time the matrix gets changed.

28. Compliance with IS Security Policy:

The Vendor shall have to comply with Bank's IT & IS Security policy in key concern areas relevant to the RFP, details of which will be shared with the finally selected Bidder. Some of the key areas are as under:

- i. Responsibilities for data and application privacy and confidentiality
- ii. Responsibilities on system and software access control and administration
- iii. Custodial responsibilities for data, software, hardware and other assets of the Bank being managed by or assigned to the Vendor
- iv. Physical Security of the facilities
- v. Physical and logical separation from other customers of the Vendor
- vi. Incident response and reporting procedures

- vii. Password Policy of the Bank
- viii. Data Encryption/Protection requirements of the Bank.
- ix. In general, confidentiality, integrity and availability must be ensured.

29. Penalties:

As mentioned in **Annexure-J** of this RFP.

30. Right to Verification:

The Bank reserves the right to verify any or all of the statements made by the Bidder in the tender 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.

31. Purchase Price:

- i. Total cost of Software Solution with support (warranty and AMC, if desired) would be the Total Cost of Ownership (TCO) and has to be quoted in commercial Bid.
- ii. Bidders should ensure that exchange rate fluctuations, changes in import duty/other taxes should not affect the rupee value of commercial Bid over the validity period defined in this RFP.
- iii. The order will be placed for total Cost of "Software Solution/services/warranty and AMC/ATS/S&S.
- iv. The applicable TDS will be deducted at the time of payment of invoices.
- v. Terms of payment are given in Part-II of this RFP document.
- vi. Prices payable to the Vendor as stated in the Contract shall be firm and not subject to adjustment during performance of the Contract, irrespective of reasons whatsoever, including exchange rate fluctuations, any upward revision in duties, charges, etc.
- vii. The Bidder will pass on to the Bank, all fiscal benefits arising out of reductions, if any, in Government levies viz. sales tax, excise duty, custom duty, etc. or the benefit of discounts if any announced in respect of the cost of the items for which orders have been placed during that period.

32 Inspection and Quality Control Tests

- i. The Bank reserves the right to carry out pre-shipment factory / godown inspection by a team of Bank officials or demand a demonstration of the product on a representative model at Bidder's place.
- ii. The Inspection and Quality Control tests before evaluation, prior to shipment of goods and at the time of final acceptance would be as follows:
 - a) In the event of the Software Solution failing to pass the acceptance test, as per the specifications given, a period not exceeding two weeks will be given to rectify the defects and clear the acceptance test, failing which, the Bank reserves the right to cancel the Purchase Order.
 - b) The inspection and quality control tests may also be conducted at the point of delivery and / or at the goods' final destination. Reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors, at no charge to the Bank. In case of failure by the Vendor to provide necessary facility / equipment at its premises, all the cost of such inspection like travel, boarding, lodging & other incidental expenses of the Bank's representatives to be borne by the Vendor.
 - c) Nothing stated herein above shall in any way release the Vendor from any warranty or other obligations under this contract.
- iii. The Bank's right to inspect, test the product/ solution after delivery of the same to the Bank and where necessary reject the products/solution which does not meet the specification provided by the Bank. This shall in no way be limited or waived by reason of the products/ solution having previously being inspected, tested and passed by the Bank or its representative prior to the products/ solution shipment from the place of origin by the Bank or its representative prior to the installation and commissioning.
- iv. Nothing stated hereinabove shall in any way release the Vendor from any warranty or other obligations under this contract.
- v. System integration testing and User Acceptance testing will be carried out as per requirement of the Bank.

33. Right to Audit:

- i. The Selected Bidder (Service Provider) has to get itself annually audited by internal/ external empanelled Auditors appointed by the Bank/

inspecting official from the Reserve Bank of India or any regulatory authority, covering the risk parameters finalized by the Bank/ such auditors in the areas of products (IT hardware/ software) and services etc. provided to the Bank and the Service Provider is required to submit such certification by such Auditors to the Bank. The 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 the Service Provider. The 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.

- ii. Where any deficiency has been observed during audit of the Service Provider on the risk parameters finalized by the Bank or in the certification submitted by the Auditors, the 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 the 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 shall, whenever required by the Bank, furnish all relevant information, records/data to such auditors and/or inspecting officials of the Bank/Reserve Bank of India and or any regulatory authority. The Bank reserves the right to call and/or retain for any relevant material information /reports including audit or review reports undertaken by the service provider (e.g., financial, internal control and security reviews) and findings made on Selected Bidder in conjunction with the services provided to the Bank.

34. Subcontracting:

- i. As per scope of the RFP, subcontracting is prohibited. However, if the Bidder subsequently wishes to sub-contract the scope of work, it will have to obtain specific written permission from the Bank before contracting any work to subcontractors. Bank at its own discretion may permit or deny the same.
- ii. In case subcontracting is permitted by the Bank, the contracting vendor will be responsible for all the services provided to the Bank regardless of

which entity is conducting the operations. The contracting vendor is also responsible for ensuring that the sub-contractor comply with all security requirements of the contract and the Bank can obtain independent audit report for the same. In such a case, the Bidder shall provide subcontracting details to the Bank and if require, Bank may evaluate the same.

35. Validity of Agreement:

The Agreement/ SLA will be valid for the period up to end of support period including AMC, if opted. The Bank reserves the right to terminate the Agreement as per the terms of RFP.

36. Limitation of liability:

- i. For breach of any obligation mentioned in this RFP, subject to obligations mentioned in this clause, in no event Service Provider shall be liable for damages to the Bank arising under or in connection with this agreement for an amount exceeding the total Cost of the Project. Service provider will ensure Bank's data confidentiality and shall be responsible for liability arising in case of breach of any kind of security and/or leakage of confidential customer/Bank's related information to the extent of loss so caused.
- ii. The limitations set forth herein shall not apply with respect to:
 - a) claims that are the subject of indemnification pursuant to IPR infringement,
 - b) damage(s) occasioned by the gross negligence, fraud or willful misconduct of Service Provider,
 - c) damage(s) occasioned by Service Provider for breach of Confidentiality Obligations,
 - d) When a dispute is settled by the Court of Law in India.
 - e) 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.

37. Confidentiality:

- i. Bidder acknowledges and agrees that all tangible and intangible information obtained, developed or disclosed including all documents, contract, purchase order to be issued, data papers and statements and

trade secret of the Bank relating to its business practices and their competitive position in the market place provided to the selected Bidder by the Bank in connection with the performance of obligations of Bidder under the purchase order to be issued, in part or complete shall be considered to be confidential and proprietary information (“Confidential Information”) and shall not be disclosed to any third party/published without the written approval of the Bank.

- ii. The Confidential Information will be safeguarded and Bidder will take all the necessary action to protect it against misuse, loss, destruction, alterations or deletions thereof. In the event of a breach or threatened breach by Bidder of this section, monetary damages may not be an adequate remedy; therefore, Bank shall be entitled to injunctive relief to restrain Bidder from any such breach, threatened or actual.
- iii. Any document, other than the Contract itself, shall remain the property of the Bank and shall be returned (in all copies) to the Bank on completion of the Vendor’s performance under the Contract, if so required by the Bank.

38. Delay in the Vendor’s Performance:

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

39. Vendor’s obligations:

- i. The Vendor 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. The Vendor 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. The Vendor 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 the Vendor's negligence. The Vendor will pay all indemnities arising from such incidents and will not hold the Bank responsible or obligated.
- iv. The Vendor is responsible for managing the activities of its personnel or sub-contracted personnel (where permitted) and will hold itself responsible for any misdemeanors.
- v. Vendor shall provide necessary training from the OEM to the designated SBI officials the vendor providing the customization services for BASE24 software to the Bank on the configuration, operation/ functionalities, maintenance, support & administration for Software Solution, installation, troubleshooting processes of the proposed solution.
- vi. The Vendor shall treat as confidential all data and information about SBI, 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 **Annexure-N** of this document.

40. Technical Documentation:

- i. The Vendor shall deliver the following documents to the Bank for every software including third party software before software/ service become operational, which includes, user manuals, installation manuals, operation manuals, design documents, process documents, technical manuals, functional specification, software requirement specification, on-line tutorials/ CBTs, system configuration documents, system/database administrative documents, debugging/diagnostics documents, test procedures etc.

- ii. The vendor shall also provide documents related to Review Records/ Test Bug Reports/ Root Cause Analysis Report, list of all Product components, list of all dependent/external modules and list of all documents relating to traceability of the Software Solutionas and when applicable.
- iii. The Vendor shall also provide the MIS reports as per requirements of the Bank.Any level/ version changes and/or clarification or corrections or modifications in the above mentioned documentation should be supplied by the Vendor to the Bank, free of cost in timely manner.

41.Patent Rights/Intellectual Property Rights:

- i. For any licensed software used by the finally selected L1Vendor for performing services or developing software for the Bank, the Vendor shall have the right as well as the right to license for the outsourced services or third party software development.Any license or IPR violation on the part of Vendor/ Subcontractor should not put the Bank at risk. The Bank reserves the right to audit the license usage of the Vendor.
- ii. The Vendor shall, at its own expenses without any limitation, defend and indemnify the Bank against all third party claims or infringements of Intellectual Property Rightsincluding patent, trademark, copyright, trade secret or industrial design rights arising from use of the products or any part thereof in India or abroad. In case of violation/ infringement of patent/ trademark/ copyright/ trade secrete or industrial design, the supplier shall after due inspection and testing get the solution redesigned for the Bank,at no extra cost.
- iii. The Vendor shall expeditiously extinguish any such claims and shall have full rights to defend itself there from. If the Bank is required to pay compensation to a third party resulting from such infringement(s), the Vendor shall be fully responsible therefore, including all expenses and court and legal fees.
- iv. The Bank will give notice to the Vendor of any such claim without delay, provide reasonable assistance to the Vendor in disposing of the claim, and shall at no time admit to any liability for or express any intent to settle the claim.
- v. The Vendor shall grant the Bank a **fully paid-up, irrevocable, non-exclusive, unlimited, perpetual license**throughout the territory of India or abroad to access, replicate and use software provided by the Vendor,

including all inventions, designs and marks embodied therein perpetually. The source code / object code / executable code and compilation procedures of the Software Solution should be placed under an Escrow arrangement as per Annexure L. All necessary documentation in this behalf should be made available to the Bank. In case of Escrow arrangement, complete details and the location and the terms and conditions applicable for escrow must be specified. Any update or upgrade to source code should be informed and brought under Escrow or made available to the Bank.

42. Liquidated Damages:

If the Vendor fails to deliver any or all of the products/ solution or perform the services within the stipulated time schedule as specified in this RFP/ Contract, the Bank may, without prejudice to its other remedies under the Contract, and unless otherwise extension of time is agreed upon without the application of Liquidated Damages, deduct from the Contract Price, as liquidated damages **mentioned in part II (Schedule of Events, SI No 19)**. Once the maximum deduction is reached, the Bank may consider termination of the Contract.

43. Conflict of Interest:

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 (Performance 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 Concession Agreement or otherwise. 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 4A of the Companies Act, 1956. For the purposes of this Clause, indirect shareholding held through one or more intermediate persons shall be computed as follows:

- (i) 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
 - (ii) subject always to sub-clause (i) 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 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 Project.

44. Fraud & Corrupt Practices:

- 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 an Application 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. Without prejudice to the rights of the Bank under Clause 44(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 if such 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, as the case may be.
- iii. For the purposes of this Clause , the following terms shall have the meaning hereinafter, respectively assigned to them:
 - (a) “**corrupt practice**” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Bank who is or has been associated in any manner, directly or indirectly with the bidding Process or the Letter of Authority or has dealt with matters concerning the Concession Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Bank, shall be deemed to constitute influencing the actions of a person connected with the bidding Process); or (ii) engaging in any manner whatsoever,

whether during the bidding Process or after the issue of the Letter of Authority or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the Letter of Authority or the Agreement, who at any time has been or is a legal, financial or technical adviser of the Bank in relation to any matter concerning the Project;

- (b) **“Fraudulent practice”** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the bidding Process
- (c) **“Coercive practice”** means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the bidding Process;
- (d) **“Undesirable practice”** means (i) establishing contact with any person connected with or employed or engaged by the Bank with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the bidding Process; or (ii) having a Conflict of Interest; and
- (e) **“Restrictive practice”** means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the bidding Process.

45. Termination for Default:

- i. The Bank, without prejudice to any other remedy for breach of Contract, by a written notice of not less than 30 (thirty) days sent to the Vendor, may terminate the Contract in whole or in part:
 - a. If the Vendor fails to deliver any or all of the Software Solution and Services within the period(s) specified in the Contract, or within any extension thereof granted by the Bank; or
 - b. If the vendor fails to perform any other obligation(s) under the contract; or
 - c. Laxity in adherence to standards laid down by the Bank; or
 - d. Discrepancies/deviations in the agreed processes and/or Software Solution; or
 - e. Violations of terms and conditions stipulated in this RFP.

- ii. In the event the Bank terminates the Contract in whole or in part for the breaches attributable to the Vendor, the Bank may procure, upon such terms and in such manner as it deems appropriate, Software Solution and Services similar to those undelivered, and the Vendor shall be liable to the Bank for any increase in cost for such similar Software Solution and/or Services. However, the Vendor shall continue performance of the Contract to the extent not terminated.
- iii. If the contract is terminated under any termination clause, the vendor 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 and shall also support the orderly transition to another vendor or to the Bank.
- iv. During the transition, the Vendor shall also support the Bank on technical queries/support on process implementation or in case of software provision for future upgrades.
- v. The Bank's right to terminate the Contract will be in addition to the penalties/liquidated damages and other actions as deemed fit.
- vi. In the event of failure of the Service Provider to render the Services or in the event of termination of agreement or expiry of term or otherwise, without prejudice to any other right, the Bank at its sole discretion may make alternate arrangement for getting the Services contracted with another vendor. In such case, the Bank shall give prior notice to the existing Service Provider. The existing Service Provider shall continue to provide services as per the terms of contract until a 'New Service Provider' completely takes over the work. During the transition phase, the existing Service Provider shall render all reasonable assistance to the new Service Provider within such period prescribed by the Bank, at no extra cost to the Bank, for ensuring smooth switch over and continuity of services. If existing vendor is breach of this obligation, they shall be liable for paying a penalty of **as provided in Part-II, (Schedule of Events, SI No 20)** on demand to the Bank, which may be settled from the payment of invoices or Performance Bank Guarantee for the contracted period or by invocation of Performance Bank Guarantee.

46. Force Majeure:

- i. Notwithstanding the provisions of terms and conditions contained in this RFP, the Vendor shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default, if any, and to the extent that the delay in performance or other failure to perform its obligations under the Contract 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 Act of Government, impeding reasonable performance of the Vendor 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, the Vendor shall promptly notify the Bank in writing of such condition and the cause thereof. Unless otherwise directed by the Bank in writing, the Vendor 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.

47. Termination for Insolvency:

The Bank may, at any time, terminate the Contract by giving written notice to the Vendor, if the Vendor 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 the Vendor, 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.

48. Termination for Convenience:

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

49. Disputes/Arbitration(applicable in case of successful Bidder only):

All disputes or differences whatsoever arising between the parties out of or in connection with this contract or in discharge of any obligation arising out of the Contract (whether during the progress of work or after completion of such work and whether before or after the termination of this contract, abandonment or breach of this contract), shall be settled amicably. If however, the parties are not able to solve them amicably, either party (SBI or Vendor), 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 joint arbitrator; 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. Any appeal will be subject to the exclusive jurisdiction of courts at Mumbai.

The Vendor shall continue work under the Contract 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.

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.

50. Governing Language:

The governing language shall be English.

51. Applicable Law:

The Contract 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.

52. Taxes and Duties:

- a. The Vendor 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 Vendor shall include all such taxes in the contract price.

- b. Prices quoted should be exclusive of all Central / State Government taxes/duties and levies but inclusive of Custom duty as also cost of incidental services such as transportation, road permits, insurance etc. The quoted prices and taxes/duties and statutory levies such as Service tax, GST,VAT/ Sales tax, Excise duty, Custom duty, Octroi, etc. should be specified in the separate sheet (**Annexure-F**).
- c. Custom duty as also cost of incidental services such as transportation, road permits, insurance etc. in connection with delivery of products at site including any incidental services and commissioning, if any, which may be levied, shall be borne by the Vendor and the Bank shall not be liable for the same. Only specified taxes/ levies and duties in the **Annexure-F** will be payable by the Bank on actuals upon production of original receipt wherever required. If any specified taxes/ levies and duties in **Annexure-F** are replaced by the new legislation of Government, same shall be borne by the Bank. The Bank shall not be liable for payment of those Central / State Government taxes, levies, duties or any tax/ duties imposed by local bodies/ authorities, which are not specified by the Bidder in **Annexure-F**
- d. Prices payable to the Vendor as stated in the Contract shall be firm and not subject to adjustment during performance of the Contract, irrespective of reasons whatsoever, including exchange rate fluctuations, any upward revision in Custom duty. The Bidder will pass on to the Bank, all fiscal benefits arising out of reductions, if any, in Government levies viz. custom duty or the benefit of discounts if any announced in respect of the cost of the items for which orders have been placed during that period.
- e. 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.
- f. All expenses, stamp duty and other charges/ expenses in connection with the execution of the Agreement as a result of this RFP process shall be borne by the Vendor.

53. 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 the Vendor. 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 shall relieve the Vendor from his responsibility to pay any tax that may be levied in India on income and profits made by the Vendor in respect of this contract.

- ii. The Vendor'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 the Vendor shall perform such duties in regard to such deductions thereof as may be imposed on him by such laws and regulations.

54. Tender Fee:

The same should be furnished by the Bidders in the form of Demand Draft/ Bankers' Cheque as mentioned in part II. It should be enclosed with Technical Bid. The Bids without tender fee will not be considered valid.

55. Notices:


Any notice given by one party to the other pursuant to this contract shall be sent to other party in writing or by email 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.

For the purpose of all notices, the following shall be the current address:


**Deputy General Manager
IT -ATM Department
State Bank Global IT Centre
2nd, Floor MTNL Building
CBD Belapur-400614**

Part-II

<u>SCHEDULE OF EVENTS</u>		
Sl No	Particulars	Remarks
1	Contact details of issuing department (Name, Designation, Mobile No., Email address for sending any kind of correspondence regarding this RFP)	<p>Name: Sh. Kulin J Mehta Deputy General Manager ATM Department State Bank Global IT Centre 2nd Floor, MTNL Building CBD Belapur-400614 Email: dgmit.atm@sbi.co.in</p> <p>Name: Sh. Ashok Kumar Desig: Chief Manager(Systems) Email: ashok.67@sbi.co.in Phone: 022-27576224</p>
2	Bid Document Availability including changes/amendments, if any to be issued	- RFP may be downloaded from Bank's website https://www.sbi.co.in procurement news from 11.08.2017 to 04.09.2017
3	Last date for requesting clarification	Upto 3.00 p.m on 21.08.2017 All communications regarding points / queries requiring clarifications shall be given by e-mail address given in point at Sr. No. 1 above.
4	Pre - bid Meeting at (venue)	From 11.00 a.m. on 23.08.2017 at ATM Department State Bank Global IT Centre 2 nd Floor, MTNL Building CBD Belapur-400614
5	Clarifications to queries raised at pre-bid meeting will be provided by the Bank.	On 24.08.2017
6	Last date and time for Bid submission	3.00 p.m. on 01.09.2017
7	Address for submission of Bids	Deputy General Manager IT-ATM Department State Bank Global IT Centre 2 nd Floor, MTNL Building CBD Belapur-400614

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8	Date and Time of opening of Technical Bids	4.00 p.m. on 01.09.2017 Authorized representatives of vendors may be present during opening of the Technical Bids. However, Technical Bids would be opened even in the absence of any or all of the vendor representatives.
9	Opening of Commercial Bids	Not applicable
10	Reverse Auction	On a subsequent date which will be communicated to such Bidders who qualify in the Technical Bid.
11	Tender Fee	Amount Rs. 5000/- Non-refundable by means of a DD or Bankers' cheque payable at Mumbai in favour of State Bank of India.
12	Earnest Money Deposit	Rs. 500,000/- Validity period 180 days from the date of Bid opening -
13	Performance Bank Guarantee	10% (Ten Percent) of Purchase Order. PBG should be obtained for 51 months plus claim period of 3 months.
14	Contact details of agency appointed for conducting Reverse Auction	Will be informed subsequently.
15	Delivery schedule/ Timeline for Software Solution:	Delivery of software meeting "feature available" as per RFP within 15 days from the date of issuing of PO. Customizations of software to meet all the remaining features enumerated in the RFP to be achieved within one month from the date of issuance of PO.
16	Terms of payment	License cost and implementation fee will be paid after successful Production roll out and user acceptance test : 100% Warranty/AMC cost half yearly in arrears Training Cost – 100 % after successful completion of training to SBI/Vendor resource.

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		One Resource cost will be payable quarterly in arrears proportionately.
17	Liquidated damages	Liquidated damages will be 0.5 per week or part thereof of Contract Price subject to maximum deduction of 5% of the Contract Price for delay of each week or part thereof.
18	Transition Penalty(Refer Part-1, point No 45sub point no (vi).	Transition penalty will be 10% of the total contract value

ANNEXURES

Annexure	Index
A	Bid form
B	Bidder's Eligibility criteria
C	Technical & functional specifications
D	Bidder details
E	Scope of work
F	Indicative Commercial Bid
G	Format for Bank Guarantee as Earnest Money Deposit
H	Format for submission of Performance Bank Guarantee
I	Format of certificate to be issued by the Bank after successful commissioning and acceptance of the Software Solution and its associated services.
J	Penalties
K	Service Level Agreement
L	Escrow Agreement
M	Non-disclosure Agreement
N	Pre bid Query Format

ANNEXURE-A

BID FORM (TECHNICAL BID)

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

Date: _____

To:
<address of tendering office >

Dear Sir,
Ref: RFP No. SBI:xx:xxdatedddd/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 and we offer to supply, Install, test, commission and support the desired Software Solution detailed in this RFP. We shall abide by the terms and conditions spelt out in the RFP. We shall participate and submit the commercial Bid through online auction to be conducted by the Bank's authorized service provider, on the date advised to us.

2. While submitting this Bid, we certify that:

- The undersigned is authorized to sign on behalf of the VENDOR 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.
- Indicative prices submitted by us have been arrived at without agreement with any other Bidder of this RFP for the purpose of restricting competition.
- The indicative prices submitted by us have not been disclosed and will not be disclosed to any other Bidder responding to this RFP.
- We have not induced or attempted to induce any other Bidder to submit or not to submit a Bid for restricting competition.
- The rate quoted in the indicative *price Bids are as per the RFP* and subsequent pre-Bid clarifications/ modifications/ revisions furnished by the Bank, without any exception.

3. If our offer is accepted, we undertake to complete the formalities for supply, installation, testing and commissioning of the Software Solution within the period specified in this document.
4. We agree to abide by all the Bid terms and conditions, contents of Service Level Agreement as per sample available at **Annexure-K** of this document

and the rates quoted therein for the orders awarded by the Bank up to the period prescribed in the Bid, which shall remain binding upon us.

5. Until a formal contract is prepared and executed, this Bid, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.
6. 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".
7. **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.**
8. **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.**
9. We certify that we have not made any changes in the contents of the RFP document read with its amendments/clarifications provided by the Bank submitted by us in our Bid document.
10. It is further certified that the contents of our Bid are factually correct. We also accept that in the event of any information / data / particulars proving to be incorrect, the Bank will have the right to disqualify us from the Bid.
11. 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.
12. We hereby undertake that our name does not appear in any "Caution" list of RBI / IBA or any other regulatory body for outsourcing activity.
13. 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 jointly and severally responsible for the due performance of the contract.

14. The name(s) of successful Bidder to whom the contract is finally awarded after the completion of bidding process shall be displayed on the website of the Bank and/or communicated to the successful Bidder(s).
15. The commercial bidding process will be through the reverse auction process to be conducted by the Bank or a company authorized by the Bank. We understand that our authorized representative who would participate in the reverse auction process would be possessing a valid digital certificate for the purpose.
16. We hereby undertake and agree to abide by all the terms and conditions stipulated by the Bank in the RFP document.

Dated this ..... day of ..... 201

---

(Signature) (Name)  
(In the capacity of)

Duly authorised to sign Bid for and on behalf of

---

**Seal of the company.**

## Annexure-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:

| S. No. | Eligibility Criteria                                                                                                                                                                                                                                         | Compliance (Yes/No) | Documents to be submitted                                                                                                                                                                      |
|--------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.     | The Bidder must be an Indian firm / company/ organization registered under applicable Act in India.                                                                                                                                                          |                     | Copy of the Partnership deed/Bye Law/ Certificate of Incorporation issued by Registrar of Companies along with Memorandum & Articles of Association and full address of the registered office. |
| 2.     | The Bidder must have an average turnover of minimum <b>Rs.10Crore</b> during last ..... <b>3</b> .....financial year(s).                                                                                                                                     |                     | Copy of the audited Balance Sheet and / or Certificate of the Chartered Accountant for preceding three years.                                                                                  |
| 3.-    | The Bidder should be profitable organization (on the basis of <b>Profit after Tax</b> for at least <b>2</b> out of last <b>3</b> financial years.                                                                                                            |                     | Copy of the audited balance sheets along with profit and loss statement for corresponding years and / or Certificate of the Chartered Accountant                                               |
| 4.     | Bidder <b>or OEM</b> should have experience of minimum 5 years in providing the Software Solution/services.                                                                                                                                                  |                     | <b>Bidder to submit evidence</b>                                                                                                                                                               |
| 5      | Client references and contact details (email/ landline/ mobile) of customers for whom the Bidder <b>or OEM</b> has executed similar projects.<br>(Start and End Date of the Project to be mentioned) in the past (At least 3 client references are required) |                     | 1.<br>2.<br>3.<br><br>Bidder to submit evidence.                                                                                                                                               |
| 6.     | Deployment Methodologies                                                                                                                                                                                                                                     |                     | Documents on deployment framework, tools, templates & utilities to be provided.                                                                                                                |
| 8.     | Project Management Methodologies                                                                                                                                                                                                                             |                     | Profile of project Team / previous Assignments of similar nature / Details project                                                                                                             |




|     |                                                                                                                                                                                                                                                                                                                                  |  |                                                                                                                                                                                        |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |                                                                                                                                                                                                                                                                                                                                  |  | plan to be submitted                                                                                                                                                                   |
| 9.  | Past/present litigations, disputes, if any (Adverse litigations could result in disqualification, at the sole discretion of the Bank)                                                                                                                                                                                            |  | Brief details of litigations, disputes, if any are to be given on Company's letter head. Or Bidder should specifically confirm no past/present litigation exists on their letter head. |
| 10. | Bidders should not have been blacklisted for deficiency in service by any Public Sector Bank during the last 5 years.                                                                                                                                                                                                            |  | Bidder should specifically confirm on their letter head in this regard.                                                                                                                |
| 11. | Bidder should have been in operation for minimum 5 years                                                                                                                                                                                                                                                                         |  | Length of existence of Bidder should be mentioned.                                                                                                                                     |
| 12. | The Bidder/ OEM should have support setup with 4hours of response time.                                                                                                                                                                                                                                                          |  | Bidder should specifically confirm on their letter head in this regard.                                                                                                                |
| 13  | The OEM should be a company and have a support center or <b>a Distributor</b> in India.                                                                                                                                                                                                                                          |  | Bidder should specifically confirm on their letter head in this regard. Duly countersigned by OEM in case the bidder is not the OEM.                                                   |
| 15. | The Bidder should agree to the terms and conditions of Service Level Agreement (format placed at <b>Annexure-K</b> ), should they become L1 in the reverse auction to execute a contract with the Bank.                                                                                                                          |  | Bidder should specifically confirm on their letter head in this regard.                                                                                                                |
| 16. | 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 issued by any of the Department at SBI GITC as on the date of Bid submission. <b>[No change/ addition or deletion to be made by the Bidder to any of the clauses.]</b> |  | Bidder should specifically confirm on their letter head in this regard.                                                                                                                |

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.

Signature

Seal of Company

|                                                                                                                            |                                                                                    |
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## Annexure-C


### Technical & Functional Specifications

|                                          |   |
|------------------------------------------|---|
| Available Fully as part of Solution      | F |
| Will be provided as Customisation        | C |
| Will be provided as Third Party Solution | T |
| Not Feasible                             | N |


|        |                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Note 1 | Applicant need to give one of the above value in column F/C/T/N in the following table as regards to compliance.                                                                                                                                                                                                                                                                                                                    |
| Note2  | Applicant to give supporting technical brochures / documents / presentation etc in support of the undernoted each of the Technical / Functional / Requirement of Solution.                                                                                                                                                                                                                                                          |
| Note 3 | F / C / T / N ' : Any wrong reporting in the column 'F / C / T / N', which subsequently transpired during the pilot testing shall render the Applicant liable to be blacklisted for the future participation in the RFPs/Tenders of the Bank and forfeit the EMD                                                                                                                                                                    |
| Note 4 | Map your module: Applicant to clearly spelt out against each of the Technical/Functional Specifications/Requirement of Solution, the name of the applicant's module where F / C /T have been given in the column F / C /T /N                                                                                                                                                                                                        |
| Note 5 | Mention Page No. of RFP Submitted : Applicant to invariably mention the page number of RFP against each of the Technical / Functional Specification with supporting technical brochures / documents / presentation etc, failing which, it will be at the discretion of the Bank to treat the same as Not Feasible.                                                                                                                  |
| Note 6 | Mandatory : Means Requirements/functionality should either be available Fully as part of the solution [F] or through Customisation [C] or to be provided as Third Party Solution [T].<br>Any comment or caveat or exception or assumption against each of the point or separately will not be considered and Bank reserve the right to treat the same as 'N', which may render the bidder ineligible in the further process of RFP. |

Following high level features should be available in the Solution at the time of first demonstration of Solution to the Bank.

| Sr. No | Required Functionalities/ Features                 | Mandatory | F / C /T /N | Map your Module Name | Give Page No. of RFP Submitted |
|--------|----------------------------------------------------|-----------|-------------|----------------------|--------------------------------|
| 1.     | Software Functionality:                            |           |             |                      |                                |
| 1.1    | Check-in, check-out source files, source libraries | Y         |             |                      |                                |


|                                                                                                                            |                                                                                    |
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| Sr. No | Required Functionalities/ Features                                                                                                                                                               | Mandatory | F / C /T /N | Map your Module Name | Give Page No. of RFP Submitted |
|--------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-------------|----------------------|--------------------------------|
| 1.3    | Create and manage versions of each source library section as a separate file                                                                                                                     | Y         |             |                      |                                |
| 1.4    | Automatic software versioning                                                                                                                                                                    | Y         |             |                      |                                |
| 1.5    | Captures all changes to sources, objects and packages                                                                                                                                            | Y         |             |                      |                                |
| 1.6    | Version control of executable objects , Metadata (i.e., change number, developer, project, type of change, etc.) can be attached to all objects and packages                                     | Y         |             |                      |                                |
| 1.7    | Automate production of executable objects within the tool                                                                                                                                        | Y         |             |                      |                                |
| 1.8    | Manage the compilation process within the tool                                                                                                                                                   | Y         |             |                      |                                |
| 1.9    | The ability to require multiple approvals for package promotions (e.g., Single Point Owner and implementer before going to production state)                                                     | Y         |             |                      |                                |
| 1.10   | Track relationship (referential integrity) between executables and their dependencies/references including compilers and library sections                                                        | Y         |             |                      |                                |
| 1.11   | Ensure guaranteed reproducibility that prevents users from deleting application elements (source, objects, compilers, etc.) used anywhere in an active part of an application in the repository  | Y         |             |                      |                                |
| 1.12   | Provide change request grouping mechanism that includes all the source files to be modified for that request                                                                                     | Y         |             |                      |                                |
| 1.13   | Integration of change requests into release packages                                                                                                                                             | Y         |             |                      |                                |
| 1.14   | Determine the impact of what objects/sources are affected by compilation of any change request group                                                                                             | Y         |             |                      |                                |
| 1.15   | Automate compilation of the elements in a change request                                                                                                                                         | Y         |             |                      |                                |
| 1.16   | Create and manage release packages                                                                                                                                                               | Y         |             |                      |                                |
| 1.17   | Provide facility to list all elements and their versions in the release                                                                                                                          | Y         |             |                      |                                |
| 1.18   | Create customized lifecycle states/environments through which releases are migrated                                                                                                              | Y         |             |                      |                                |
| 1.19   | Manage the release package migration process                                                                                                                                                     | Y         |             |                      |                                |
| 1.20   | Have the ability to incorporate approvals in the migration process                                                                                                                               | Y         |             |                      |                                |
| 1.21   | Track relationship (referential integrity) between executables and release packages                                                                                                              | Y         |             |                      |                                |
| 1.22   | Manage and automate the distribution and installation process                                                                                                                                    | N         |             |                      |                                |
| 2      | Security:                                                                                                                                                                                        |           |             |                      |                                |
| 2.1    | Access model within the SCM tool is configurable in order to enforce appropriate segregation of duties for designated roles in development, test, QA, production, security, change control, etc. | Y         |             |                      |                                |

|                                                                                                                            |                                                                                    |
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| Sr. No | Required Functionalities/ Features                                                                                                                                                                       | Mandatory | F / C /T /N | Map your Module Name | Give Page No. of RFP Submitted |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-------------|----------------------|--------------------------------|
| 2.2    | Configure security based on areas within repository, so that one part can be isolated to specific staff.                                                                                                 | Y         |             |                      |                                |
| 2.3    | Configure security based on specific tasks performed in tool that restricts certain personnel from performing unauthorized tasks.                                                                        | Y         |             |                      |                                |
| 2.4    | Configurable to require developers to use change request ID's for any code modifications.                                                                                                                | Y         |             |                      |                                |
| 3      | Logging/Audit:                                                                                                                                                                                           |           |             |                      |                                |
| 3.1    | Create audit trails for all code management actions (e.g., object level, package level, promotions, etc.)                                                                                                | Y         |             |                      |                                |
| 3.2    | Change history is available for all objects and packages                                                                                                                                                 | Y         |             |                      |                                |
| 3.3    | Create audit trails for all administrative functions (e.g., access management, application configuration, etc.)                                                                                          | Y         |             |                      |                                |
| 3.5    | Provide an audit trail of deployment history (including release contents/versions, who deployed release, confirmation of successful script run, when release was installed, where release was installed) | Y         |             |                      |                                |
| 3.5    | Audit the release package migration process                                                                                                                                                              | Y         |             |                      |                                |
| 4      | Reporting:                                                                                                                                                                                               |           |             |                      |                                |
| 4.1    | Ability to report on all release package contents including code object versions, source, etc                                                                                                            | Y         |             |                      |                                |
| 4.2    | Ability to report on all package promotions and demotions between states (i.e., dev, test, stage, production).                                                                                           | Y         |             |                      |                                |
| 4.3    | Ability to generate a detailed access review of the SCM tool                                                                                                                                             | Y         |             |                      |                                |
| 4.4    | Report on all change requests, all objects within active change requests                                                                                                                                 | N         |             |                      |                                |
| 4.5    | Ability to provide custom reports                                                                                                                                                                        | N         |             |                      |                                |

Signature and Seal of Company

|                                                                                                                            |                                                                                    |
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### Technical Evaluation Matrix :

| Sl. No. | Parameter                                                                                                                      | Weightage/ Points | Description                                                                                                                                                                                                      | Basis of Marks                                                      |
|---------|--------------------------------------------------------------------------------------------------------------------------------|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|
| 1       | Features mentioned in Annexure C                                                                                               | 180               | Each feature :<br>F- 5 marks<br>C- 2 Marks<br>T- 1 Marks<br>N- 0 Marks                                                                                                                                           | Bidders to provide the response as F/C/T/N with supporting document |
| 2.      | Solution should have been deployed at least in three banks globally for BASE24 application on HP Nonstop system                | 20                | 4 points for each Bank :<br><br>3 banks : 12 marks<br>4 banks : 16 marks<br>5 banks : 20 marks                                                                                                                   | Bidder to provide customer reference with contact details.          |
| 3.      | Assessment of the bidder through presentation, demos, site visits and documents submitted in terms of meeting RFP requirements | 10                | Points will be allocated by the Bank based on the feedback on the presentation, demonstration, site visits as explained in RFP                                                                                   |                                                                     |
| 4.      | Additional features in the proposed solution beyond the scope of work as specified in the RFP                                  | 10                | Bidder should clearly demonstrate and substantiate its capability. Points will be allocated by the Bank under this category based on the documents submitted by the bidder and suitability accessed by the Bank. |                                                                     |
|         | Total                                                                                                                          | 220               |                                                                                                                                                                                                                  |                                                                     |

**Annexure-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.     | Particulars of the Authorized Signatory of the Bidder <ul style="list-style-type: none"> <li>a. Name</li> <li>b. Designation</li> <li>c. Address</li> <li>d. Phone Number (Landline)</li> <li>e. Mobile Number</li> <li>f. Fax Number</li> <li>g. Email Address</li> </ul> |         |
|        |                                                                                                                                                                                                                                                                            |         |

Signature and Seal of Company

**Annexure-E**

**Scope of Work**

In order to implement the best practices of the IT industry the Bank wants a software configuration management solution and services for BASE24 application. The Bank needs an end to end solution specifically designed for HP Nonstop systems and BASE24 application. The Bank is using NB54000 with 16 CPUs for production and Disaster Recovery and NS2200 with 2 CPUs for Test environments. The Bank is having multiple test and production environments.

The selected vendor shall supply, implement, integrate, customize, troubleshoot, maintain and manage solution and related infrastructure and provide support to users on day to day basis.

The Bank shall enjoy unlimited perpetual license of the solution and shall be free to deploy unlimited number of instances on different servers, data centres, offices etc. The Solution on all different instances shall be for unlimited number of users, agendas, forums etc.

**Scope of the work also includes the Annexure C.**

**Mandatory technical requirements and support services:**

- The application should pass the Bank's Security Review and User Acceptance Testing. Vendor shall have to ensure timely completion of security review and UAT and closure of vulnerabilities / observations reported. Closing the vulnerabilities in application code or architecture will be the responsibility of the vendor as and when advised.
- Vendor should implement Bank's prescribed security configurations on the Solution provided and its infrastructure. The entire Solution setup shall be subjected to continuous security review and as such vendor must close vulnerabilities from time to time on top priority. Including arrange resources for SCD (Security Configuration Documents) implementation/configuration documents on servers, and deployment of Solution (go-live).
- Further customizations as directed by actual users from time to time will need to be implemented on ongoing basis. Arrangement of Demos and Training to SBI officials and the vendor providing the customization services for BASE24 software to the Bank will be arranged by vendor as and when required.
- The Solution and infrastructure on which it is running must be integrated with Security Operations Centre (SOC), Privileged Identity Management System (PIMS), IT Asset Management (ITAM), IT Service Management (ITSM), Command Centre etc. and other various current and future applications from time to time.



- In case of termination of contract, vendor must extend complete help to migrate data, files, agendas etc. to new application which the Bank may procure. The PBG will be withheld until the same is not done.
- The confidentiality and integrity of the data and information in the Solution must be ensured at all times. Any incident of compromise shall attract highest penalty and other punitive actions by the Bank. Vendor must give utmost comfort to the Bank on above aspects.
- Backup of Solution, infrastructure settings, data, source code etc. should be taken on periodic basis as decided by the Bank.
- Security requirement of the Bank will be shared with the successful bidder. The selected vendor has to implement the first list of incremental customization post procurement within one month from the date of issuing purchase order.

During the warranty period of one year and thereafter during the AMC/ATS/S&S the bidder will have depute one resource onsite who shall broadly carry out the following activities :

- Create/manage user changes
- Create/manage releases
- Package all of the components into the release
- Promote/migrate releases
- Stage releases ready for Prod staff
- Manage catalogue security permissions within the solution using existing NonStop userID's
- Manage environment security permissions
- Manage/administer states and policies
- Manage approver groups/rules
- Perform appropriate backups
- Create new catalogues for new applications
- Modify existing groups/folders in the Solution catalogues
- Manage the database

Resource would be available onsite from Monday to Saturday from 10 am to 6 PM with lunch break of half an hour excluding Indian National Holidays 26.01, 15.08, 02.10 and 25.12. However, the bidder will provide the onsite resource in case of emergency/DR without any additional cost to the bank. The bidder will substitute onsite resource in case of any leaves/absence.

**Entire scope of work and other actionable / deliverables / compliance mentioned in the RFP shall be achieved within the commercials arrived at in the Reverse Auction.**

## Annexure-F

### Indicative Commercial Bid


The indicative commercial Bid needs to contain the information listed hereunder in a sealed envelope bearing the identification – “**Indicative Commercial Bid for Procurement of Software Configuration Management Solution and Services for BASE24 Application**”.

#### Name of the Bidder:

| Sr. No. | Item                                                                                                                                                   | Amount in Rupees | Proportion to Total Cost (in percentage) # |
|---------|--------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--------------------------------------------|
| 1.      | Cost of License Components as per SOW mentioned in RFP                                                                                                 |                  |                                            |
| 2.      | Implementation fee                                                                                                                                     |                  |                                            |
| 3.      | Training Cost                                                                                                                                          |                  |                                            |
| 4.      | Comprehensive Warranty for period of 1 year(s) for Software Solution<br>(This cost should be in the range 12% to 18% p.a. of license cost of software) |                  |                                            |
| 5.      | ATS/AMC/S&S for 3 year(s) after expiry of warranty<br>(This cost should be in the range 12% to 18% p.a. of license cost of software).                  |                  |                                            |
| 6       | Cost of one onsite resource for 4 years.                                                                                                               |                  |                                            |
|         | Total Cost *                                                                                                                                           |                  |                                            |

# The ‘Proportion to Total Cost’ percentage mentioned here will have to be maintained in the final price quote also by the L1Bidder. The percentage should be mentioned in two decimal places. Variation in the final price should not exceed +/- 5%. See illustration at the end.

\* This will be the Total Cost of Ownership (TCO) and should be quoted in the reverse auction.

|                                                                                                                            |                                                                                    |
|----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| RFP for procurement of Software Configuration Management Solution and Services for BASE24 Application on HP Nonstop System |  |
|----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|

#### Breakup of Taxes and Duties

| Sr. No.            | Name of activity/Services | Tax 1               | Tax 2 | Tax 3 |
|--------------------|---------------------------|---------------------|-------|-------|
|                    |                           | Mention Name of Tax |       |       |
|                    |                           |                     |       |       |
| 1.                 |                           |                     |       |       |
| 2.                 |                           |                     |       |       |
| 3.                 |                           |                     |       |       |
| 4.                 |                           |                     |       |       |
| 5.                 |                           |                     |       |       |
| 6.                 |                           |                     |       |       |
| <b>Grand Total</b> |                           |                     |       |       |

Signature

Seal of Company

Illustration for price break of L1 price --'Proportion to Total Cost'

| Particulars                            | Indicative Price Bid Quote (INR) | Proportion to Total Cost (in %age) | L1 Price (INR) | Minimum final price should not be below (INR)* | Maximum final price should not exceed (INR)** |
|----------------------------------------|----------------------------------|------------------------------------|----------------|------------------------------------------------|-----------------------------------------------|
| <b>A</b>                               | <b>B</b>                         | <b>C</b>                           | <b>D</b>       | <b>E</b>                                       | <b>F</b>                                      |
| (a) Item 1                             | 25                               | 13.16                              |                | 9.38                                           | 10.36                                         |
| (b) Item 2                             | 50                               | 26.32                              |                | 18.75                                          | 20.72                                         |
| (c) Item 3                             | 75                               | 39.47                              |                | 28.13                                          | 31.09                                         |
| (d) Item 4                             | 40                               | 21.05                              |                | 15.00                                          | 16.58                                         |
| <b>(e) Grand Total (1 + 2 + 3 + 4)</b> | <b>190</b>                       | <b>100</b>                         | <b>75</b>      |                                                |                                               |

\*Computed as 'C' percentage of 'D' less 5%.

\*\*Computed as 'C' percentage of 'D' plus 5%.

**FORMAT FOR EMD BANK GUARANTEE**

To:

-----

-----

Dear Sir,

**EMD BANK GUARANTEE FOR**

**NAME OF SOFTWARE SOLUTION/ SERVICES TO STATE BANK OF INDIA  
TO MEET SUCH REQUIREMENT AND PROVIDE SUCH SOFTWARE  
SOLUTION/ SERVICES AS ARE SET OUT IN THE RFP NO.SBI:xx:xx DATED  
dd/mm/yyyy**

WHEREAS State Bank of India (SBI), having its Corporate Office at Nariman Point, Mumbai, and Regional offices at other State capital cities in India has invited Request for Proposal to develop, implement and support ..... (name of Software Solution/ Service) as are set out in the Request for Proposal SBI:xx:xx dated dd/mm/yyyy.

2. It is one of the terms of said Request for Proposal that the Bidder shall furnish a Bank Guarantee for a sum of Rs. \_\_\_\_\_/-(Rupees \_\_\_\_\_ Only) as Earnest Money Deposit.

3. M/s. \_\_\_\_\_, (hereinafter called as Bidder, who are our constituents intends to submit their Bid for the said work and have requested us to furnish guarantee in respect of the said sum of Rs. \_\_\_\_\_/-(Rupees \_\_\_\_\_ only)

**4. NOW THIS GUARANTEE WITNESSETH THAT**

We \_\_\_\_\_ (Bank) do hereby agree with and undertake to the State Bank of India, their Successors, assigns that in the event of the SBI coming to the conclusion that the Bidder has not performed their obligations under the said conditions of the RFP or have committed a breach thereof, which conclusion shall be binding on us as well as the said Bidder, we shall on demand by the SBI, pay without demur to the SBI, a sum of Rs. \_\_\_\_\_/-(Rupees \_\_\_\_\_ Only) that may be demanded by SBI. Our guarantee shall be treated as equivalent to the Earnest Money Deposit for the due performance of the obligations of the Bidder under the said conditions, provided, however, that our liability against such sum shall not exceed the sum of Rs. \_\_\_\_\_/-(Rupees \_\_\_\_\_ Only).

5. We also agree to undertake to and confirm that the sum not exceeding Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ Only) as aforesaid shall be paid by us without any demur or protest, merely on demand from the SBI on receipt of a notice in writing stating the amount is due to them and we shall not ask for any further proof or evidence and the notice from the SBI shall be conclusive and binding on us and shall not be questioned by us in any respect or manner whatsoever. We undertake to pay the amount claimed by the SBI within 24 hours from the date of receipt of the notice as aforesaid. We confirm that our obligation to the SBI under this guarantee shall be independent of the agreement or agreements or other understandings between the SBI and the Bidder. This guarantee shall not be revoked by us without prior consent in writing of the SBI.

6. We hereby further agree that –

- a) Any forbearance or commission on the part of the SBI in enforcing the conditions of the said agreement or in compliance with any of the terms and conditions stipulated in the said Bidand/or hereunder or granting of any time or showing of any indulgence by the SBI to the Bidder or any other matter in connection therewith shall not discharge us in any way our obligation under this guarantee. This guarantee shall be discharged only by the performance of the Bidder of their obligations and in the event of their failure to do so, by payment by us of the sum not exceeding Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ Only)
- b) Our liability under these presents shall not exceed the sum of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ Only)
- c) Our liability under this agreement shall not be affected by any infirmity or irregularity on the part of our said constituents in tendering for the said work or their obligations there under or by dissolution or change in the constitution of our said constituents.
- d) This guarantee shall remain in force upto 180 days provided that if so desired by the SBI, this guarantee shall be renewed for a further period as may be indicated by them on the same terms and conditions as contained herein.
- e) Our liability under this presents will terminate unless these presents are renewed as provided herein upto 180 days or on the day when our said constituents comply with their obligations, as to which a certificate in writing by the SBI alone is the conclusive proof, whichever date is later.
- f) Unless a claim or suit or action is filed against us within six months from that date or any extended period, all the rights of the SBI against us under this guarantee shall be forfeited and we shall be released and discharged from all our obligations and liabilities hereunder.

Notwithstanding anything contained hereinabove:

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

Yours faithfully,

For and on behalf of

\_\_\_\_\_  
Authorized official.

(Note: This guarantee will require stamp duty as applicable in the State where it  
is executed and shall be signed by the official(s) whose signature and authority  
shall be verified)

**PERFORMANCE BANK GUARANTEE FORMAT**  
***(TO BE STAMPED AS AN AGREEMENT)***

**THIS PERFORMANCE 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).

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 develop, implement and support ..... (name of Software Solution/ Service) (hereinafter referred to as "**Services**") to SBI in accordance with the Request for Proposal (RFP) No. SBI:xx:xx dated dd/mm/yyyy.

WHEREAS, SBI has agreed to avail the Services from the Service Provider for a period of \_\_\_\_\_ year(s).

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 the Service Provider in providing the Services, in accordance with the RFP/Purchase 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.

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 the Service Provider for rendering Services as mentioned in the RFP, we, the Guarantors, hereby unconditionally and irrevocably guarantee that Service Provider shall fulfill its commitments and obligations in respect of providing the Services as mentioned in the RFP/Agreement and in the event of Service Provider failing to perform / fulfill its commitments / obligations in respect of providing 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 in each of the demands, subject to a cumulative maximum amount of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only).
2. Any notice / communication / demand from SBI to the effect that Service Provider has failed to fulfill its commitments / obligations in respect of rendering the Services 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 the 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 and the SBI can make its claim in one or more events within the total liability of the Guarantor mentioned herein.
- (vi) This Guarantee shall remain in full force and effect for a period of \_\_ years from the date of the issuance i.e. up to \_\_\_\_\_. Unless a claim under this Guarantee is made against us within three (3) months from that date i.e. 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:

- (a) Our liability under this Bank Guarantee shall not exceed Rs...../- (Rupees .....only)
- (b) This Bank Guarantee shall be valid upto.....
- (c) 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 ..... (date which is 3 months after date mentioned at (b) above).

Yours faithfully,

For and on behalf of Bank.

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

**ANNEXURE-I**

**PROFORMA OF CERTIFICATE TO BE ISSUED BY THE BANK  
AFTER SUCCESSFUL COMMISSIONING AND ACCEPTANCE  
OF THE SOFTWARE SOLUTION/ SERVICES**

Date:

M/s.-----

-----

Sub: Certificate of commissioning of Solution

1. This is to certify that the Software Solution as detailed below has/have been successfully installed and commissioned (subject to remarks in Para No. 2) in accordance with the Contract/specifications.

a) Bid No. . \_\_\_\_\_ dated \_\_\_\_\_

b) Description of the Solution \_\_\_\_\_

c) Quantity \_\_\_\_\_

d) Date of commissioning \_\_\_\_\_

e) Date of acceptance test \_\_\_\_\_

2. Details of specifications of Software Solution not yet commissioned and recoveries to be made on that account:

| <u>S.No.</u> | <u>Description</u> | <u>Amount to be recovered</u> |
|--------------|--------------------|-------------------------------|
|--------------|--------------------|-------------------------------|

3. The acceptance test has been done to our entire satisfaction and Staff have been trained to operate the Software Solution.

4. The Vendor has fulfilled his contractual obligations satisfactorily\*

or

The Vendor has failed to fulfill his contractual obligations with regard to the following:

(a)

(b)

(c)

5. The amount of recovery on account of non-supply of Software Solution/Services is given under Para No. 2.
6. The amount of recovery on account of failure of the Vendor to meet his contractual obligations is as indicated in endorsement of the letter.

Signature \_\_\_\_\_

Name \_\_\_\_\_

Designation with stamp \_\_\_\_\_

\* Explanatory notes for filling up the certificates:

- (a) The Vendor has adhered to the time schedule specified in the contract in providing the required Software Solution / Manuals pursuant to Technical Specifications.
- (b) The Vendor has supervised the commissioning of the Software Solution in time i.e., within the period specified in the contract from the date of intimation by the Bank in respect of the installation of the Software Solution.
- (c) Training of personnel has been done by the Vendor as specified in the Contract.
- (d) In the event of Manuals having not been supplied or installation and commissioning of the Software Solution having been delayed on account of the Vendor, the extent of delay should always be mentioned.

## ANNEXURE-J

### Penalties

The selected vendor shall supply, implement, integrate, and customize and roll out the solution and related infrastructure in production with completion of security review, UAT and closure of vulnerabilities / observations in the reports thereof within two months from the date of issuing Purchase Order by the Bank. The scope of first level of customizations for initial launch of application in production will be arrived at within 7 days from the date of Purchase Order.

Non achievement of above shall attract penalty of 1% of value of PO on weekly basis subject to maximum amount of ten (10) percent of the total cost of PO will be charged to vendor.

i. Penalties for uptime SLA shall be as under:

| S. No. | Uptime range<br>(calculated on monthly basis<br>during office hours) | Penalty                                                   |
|--------|----------------------------------------------------------------------|-----------------------------------------------------------|
| 1.     | 99.5%                                                                | No Penalty                                                |
| 2.     | 99.0 to < 99.5                                                       | Rs.10,000/-                                               |
| 3.     | 98.5 to < 99.0                                                       | Rs.15,000/-                                               |
| 4.     | 98.0 to < 98.5                                                       | Rs.20,000/-                                               |
| 5.     | * Less than 98.0                                                     | Rs. 20,000/- + Rs.10000/- for every 0.5 % drop in uptime. |

\* Bank also reserves the right to terminate the contract.

|                                                                                      |                                                                                                                                                                                                              |
|--------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Formula</b><br>Uptime (%) will be calculated as indicated in the adjoining column | <b>Calculation</b><br>Uptime (%) = (Sum of total hours during month – Sum of downtime hours during month)/ Sum of total hours during month x 100.<br><br>Total hours during the month = 24xdays in the month |
| Measurement Interval                                                                 | Monthly                                                                                                                                                                                                      |
| Measurement Tool                                                                     | Based on the system logs the service provider will submit a monthly MIS report as per the bank's demand.                                                                                                     |

| S. No. | Functionality running (calculated on monthly basis during office hours)\$ | Resolution time | Penalty if resolution not done within resolution time                                                                                                            |
|--------|---------------------------------------------------------------------------|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.     | High functionalities-Software Configuration Management Server related     | 30 Mins         | - Rs. 1000 per hour for first two hours<br>- Beyond 2 hours – Rs.2000 per hour<br><br>- Beyond 4 hours – Rs.3000 per hour<br>- Beyond 6 hours – Rs.5000 per hour |
| 2.     | Medium functionalities-Software Configuration Management client related   | 4 hours         | - Rs. 500 per hour for first 2 hours<br>- Beyond 2 hours – Rs.1000 per hour<br>- Beyond 4 hours – Rs.2000 per hour<br>- Beyond 6 hours – Rs.3000 per hour        |
| 3.     | Low functionalities - Reports                                             | 24 hours        | - Rs. 1000 per first 2 days<br>- Beyond 2 days – Rs.1500 per day<br>- Beyond 4 days – Rs.2000 per day<br>- Beyond 6 days – Rs.3000 per day                       |

\$ Above functionalities' list in this section is indicative. Bank will categorize other functionalities in High/Medium/Low severity as per its discretion and the same will be binding on the vendor.

In case the resource is not available onsite X number of hours a penalty equivalent to X\* Rs. 1000/- would be payable by the vendor.

"Notwithstanding anything contained in the Request for Proposal/Service Level Agreement, the service provider hereby agrees and undertake that following losses incurred by the Bank/accrued to the bank, if any on account of reasons attributable to the service provider may be recovered from its invoices/or will be made good by the service provider –

a. Actual loss on account of errors/bugs/deficiencies in development/support activities attributable to the service provider.

b. Any loss accrued to the Bank on account of loss of business during the period of outage of application developed/maintained.

c. Reputational loss due to the reasons attributable to the service provider.

ii. We, \_\_\_\_\_, the service provider understand the provision(s) of penalty and matrix of calculation thereof given in this document. The decision of the Bank shall be final and binding in this regard. Such Penalties shall not restrict the Bank for availing any other remedy/action available in law or in equity.

iii. Actual loss as well as penalties for business loss and reputational loss incurred by the Bank on account of deficiencies in services attributable to the IT Partners will have to be recovered in full with a cap on penalties as follows:-

| Type of penalty                                                        | Cap                                                                                      | Penalty                                                                                                                                                                                                                                            |
|------------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Actual loss                                                            | No cap.                                                                                  | Actual Loss                                                                                                                                                                                                                                        |
| Penalty on account of Reputational loss to the Bank^                   | Additional 10% [per quarter] of Total cost of project i.e., 40% of Total cost of project | [a] State Level newspaper(s) and/or in State level TV channel(s)/discussions in the State Assembly, etc. : 1 %<br>[b] National newspaper(s)/magazines and/or in National TV channel(s) i.e in 2 or more regions/discussions in the Parliament : 2% |
| Penalty on account of Business loss to the Bank^                       | Additional 10% of total cost of project                                                  | 1 % of the total cost of project                                                                                                                                                                                                                   |
| ^ Penalties are over and above the cap on penalties built in the SLAs. |                                                                                          |                                                                                                                                                                                                                                                    |



## SOFTWARE/SERVICE LEVEL AGREEMENT TEMPLATE#

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

*# This document is in the nature of a general template which needs customization depending upon individual contract or service keeping in view aspects like nature/scope of services, roles and responsibilities of the parties and circumstances of each case. Also certain particulars such as place of arbitration, jurisdiction, details of the parties etc. are to be incorporated while finalization of the contract.*

*In this regard, footnotes given in this document may please be referred to.*

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This agreement 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 and Central Office at State Bank Bhavan, Madame Cama Road, Nariman Point, Mumbai-21 and its.....,<sup>1</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 one Part:

AND

.....<sup>2</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>, and hereinafter referred to as “.....”, which expression shall mean to include its successors in title and permitted assigns) of the Other Part:

WHEREAS

A. “The Bank” is carrying on business in banking in India and overseas and is desirous to avail services for .....<sup>3</sup>, and

.....<sup>4</sup>, and

B. ‘.....’<sup>5</sup>, in the business of providing  
.....<sup>6</sup>, has agreed to supply \_\_\_\_\_  
(software) and/or provide resources on .....<sup>7</sup> basis for providing the services of  
.....

<sup>1</sup>Name & Complete Address of the Dept.

<sup>2</sup>Name & Complete Address ( REGISTERED OFFICE) of the service Provider,

<sup>3</sup>Purpose of the Agreement

<sup>4</sup>Any other connected Purpose

<sup>5</sup>Name of the Service Provider

<sup>6</sup>Brief mentioning of service providers experience in providing the services required by the Bank.

<sup>7</sup> Basis on which service provider has agreed

.....<sup>8</sup> and the Bank has agreed to  
engage ‘.....’<sup>9</sup> for such Services, on a .....<sup>10</sup> basis.

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

## 1. DEFINITIONS & INTERPRETATION

### 1.1 Definition

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

- A. ‘The Bank’ shall mean the State Bank of India (including domestic branches and foreign offices), its Associate Banks and subsidiaries:< *Strike of whichever is inapplicable.*>
- B. “Documentation” will describe in detail and in a completely self-contained manner how the User may access and use the ..... (name of the Software/ Maintenance Services)<*Strike off whichever is Inapplicable*>,<sup>11</sup> such that any reader of the Documentation can access, use and maintain all of the functionalities of the ..... (Service)<sup>12</sup>, without the need for any further instructions. ‘Documentation’ includes, user manuals, installation manuals, operation manuals, design documents, process documents, technical manuals, functional specification,

<sup>8</sup>Brief mentioning of the type of service to be provided.

<sup>9</sup>Name of the Service Provider

<sup>10</sup>Exclusive or Non-Exclusive

<sup>11</sup> Name of Software

<sup>12</sup> Name of Software

software requirement specification, on-line tutorials/CBTs, system configuration documents, system/database administrative documents, debugging/diagnostics documents, test procedures, Review Records/ Test Bug Reports/ Root Cause Analysis Report, list of all Product components, list of all dependent/external modules and list of all documents relating to traceability of the Product as and when applicable etc.

- C. ‘Services’ shall mean and include the Services offered by ‘.....’<sup>13</sup>, including but not limited to .....<sup>14</sup> more particularly described in Clause 2 of this Agreement. ‘Services’ shall also include the Implementation Services, Training Services and Maintenance Services etc. and other incidental services and other obligation of the service provider to be provided under this Agreement
- D. “Code” shall mean computer programming code contained in the Software. If not otherwise specified, Code shall include both Object Code and Source Code which means programming languages, including all comments and procedural code, and all related development documents (e.g., flow charts, schematics, statements of principles of operations, end-user manuals, architecture standards, and any other specifications that are used to create or that comprise the Code). Code shall include Maintenance Modifications and Enhancements licensed by the Bank.
- E. “Confidential Information” shall have the meaning set forth in Clause 15.
- F. “Intellectual Property Rights” shall mean, on a worldwide basis, any and all: (a) rights associated with works of authorship, including copyrights & moral rights; (b) Trade Marks; (c) trade secret rights; (d) patents, designs, algorithms and other industrial property rights; (e) other intellectual and industrial property rights of every kind and nature, however designated, whether arising by operation of law, contract, license or otherwise; and (f) registrations, initial applications, renewals,

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<sup>13</sup>Name of the service provider

<sup>14</sup>Description of nature of service in detail.

extensions, continuations, divisions or reissues thereof now or hereafter in force (including any rights in any of the foregoing).

- G. “Software” shall mean (a) the software product(s) described in this agreement; (b) all Maintenance Modifications and Enhancements that are provided to the Bank; (c) the Code contained in or otherwise related to each of the foregoing; and (d) the Documentation.
- H. “Project Documents” shall mean all the plans, drawings and specifications used while bidding and all other documents necessary to complete all work.
- I. “Deficiencies” shall mean non satisfactory outcome of the services which has resulted in deviation from the desired outcome and has thereby cause loss to a party of this agreement.
- J. “Open Source or Copy left license” shall mean a license of a computer program in which the source code is available to the general public for use and/or modification from its original design.
- K. “Revision control procedure” shall mean the procedure for management of changes to documents, software programs, and other collections of information made during this engagement.
- L. “Test Bug Reports” shall mean a report providing the details as to the efficiency of software in relation with reporting and resolution of any bug.
- M. “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.

## 1.2 Interpretations:

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

1.2.2 The singular includes the plural and vice versa.

1.2.3 Reference to any gender includes each other gender.

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

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

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

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

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

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

### 1.3 Commencement, Term & Change in Terms

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

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



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

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

## 2. SCOPE OF WORK

### 2.1 Place of Service<sup>15</sup>

|    |       |
|----|-------|
| 1. | _____ |
| 2. | _____ |

### 2.2 Standard Services

Standard services to be delivered under this agreement are illustratively listed below but are not limited to the following:-

*The details of services, their responsibilities and availability to be described----*

1.....  
2.....

### 2.3 Maintenance/ Upgrades

2.3.1 ..... (Service provider) shall maintain and upgrade the Software during the Warranty Period so that the Software shall, at all times during the Warranty Period, meet or exceed the specifications in the Project Documents and the performance requirements as set forth in this Agreement. .... (Service provider) shall, at no cost

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<sup>15</sup>Brief description of place of service

to the Bank, promptly correct any and all errors, deficiencies and defects in the Software.

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

2.4 Correction of Deficiencies in Deliverables( as mentioned in annexure-A).

2.4.1 If .....(Service provider) is unable to correct all Deficiencies preventing Acceptance of a Deliverable for which .....(Service provider) is responsible after a reasonable number of repeated efforts, the Bank may at its discretion:

- a) Allow .....(Service provider) to continue its efforts to make corrections; or
- b) Accept the Deliverable with its Deficiencies and reach agreement with .....(Service provider) on an equitable reduction to .....(Service provider)'s charges for developing such Deliverable to reflect the uncorrected Deficiencies; or
- c) Terminate this Agreement for cause in accordance with Clause 17<sup>16</sup> (except that the Bank is under no obligation to provide Service provider any further opportunity to cure) and recover its damages as set forth in this agreement.

2.5 Service Milestones<sup>17</sup>

Milestones<sup>18</sup> related to in-scope services and/or components includes <Strike off whichever is not applicable>:-

| Service Category | Milestone | Duration (in months/weeks/days/hours) |
|------------------|-----------|---------------------------------------|
|------------------|-----------|---------------------------------------|

<sup>16</sup>Please see Clause 17 'Termination Clause'

<sup>17</sup>The Purpose of this clause is identify any assumption made for this agreement.

<sup>18</sup>Assumptions may include items including how the services will be used in future, projected growth rates that may impact how services are to be delivered and future changes that were considered but not included in the agreement

|                                               |                                  |                         |
|-----------------------------------------------|----------------------------------|-------------------------|
| Development<br><Strike off if not applicable> | <Brief description of milestone> | <mention the duration > |
| Delivery                                      | <Brief description of milestone> | <mention the duration > |
| Installation                                  | <Brief description of milestone> | <mention the duration > |
| Configuration                                 | <Brief description of milestone> | <mention the duration > |
| User Acceptance Testing                       | <Brief description of milestone> | <mention the duration > |
| Documentation                                 | <Brief description of milestone> | <mention the duration > |
| Training                                      | <Brief description of milestone> | <mention the duration > |
| Live in Production<br>.etc.                   | <Brief description of milestone> | <mention the duration > |

## 2.6 Risk Management

The .....(Service Provider) shall identify and document the risk in delivering the services. .... (Service Provider) shall identify the methodology to monitor and prevent the risk, and shall also document the steps taken to manage the impact of the risks.

## 2.7 Service Request<sup>19</sup>

..... (Service Provider) shall dispense the service request in accordance with terms mentioned in Annexure B under this agreement.

## 2.8 Service Management Tool

<sup>19</sup>The purpose of this clause is to document the process and timeframe for responding to the service requests.

List the tools/applications to be used for service support/service delivery processes, if any, This may also include the customer tools/ applications to be used for provision of service support/service delivery.

1. ...
2. ...
3. ...

## 2.9 Service Complaints<sup>20</sup>

The service complaint shall be addressed to ..... (Designation).

The complaint shall be acknowledged by the ..... (Service provider) in .....Hours.

In case of re-occurrence of the service complaint, the following actions will be taken:

Action 1.....

Action 2.....

## 3. FEES /COMPENSATION

### 3.1 Professional fees

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

3.1.2 .....

3.1.3 .....

3.2 All duties and taxes (excluding/including<sup>21</sup> service tax, VAT or other local taxes) , if any, which may be levied, shall be borne by the Service Provider and Bank shall not be liable for the same.All expenses, stamp duty and other charges/ expenses in connection with execution of this Agreement shall be borne by ..... (Service Provider).

<sup>20</sup> Describe in detail the service complain methodology for the services.

<sup>21</sup> Please determine the applicability of the taxes.

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

#### 3.4 Payments

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

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

#### 3.5 Performance Guarantee and Penalties

3.5.1 The .....(Service Provider)has to furnish a performance guarantee for an amount of Rs. \_\_\_\_\_ from a Scheduled Commercial Bank other than State Bank of India or its Associate Banks in a format provided/ approved by the Bank.

3.5.2 If at any time during performance of the Contract, the .....(Service Provider)shall encounter unexpected conditions impeding timely completion of the Services under the Agreement and performance of the services, the .....(Service Provider)shall promptly notify the Bank in writing of the fact of the delay, it's likely duration and its cause(s). As soon as practicable, after receipt of the .....(Service Provider)'s notice, the Bank shall evaluate the situation and may at its discretion extend the .....(Service Provider)'s time for performance, in which case the extension shall be ratified by the Parties by amendment of the Agreement.

3.5.3 Performance of the obligations under the Agreement shall be made by the Service Provider in accordance with the time schedule<sup>22</sup> specified in this Agreement.

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<sup>22</sup> Please ensure that the time scheduled is suitably incorporated in the Agreement.

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

#### 4. LIABILITIES/OBLIGATION

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

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

##### 4.2 .....(Service Provider)Duties

##### (i) Service Delivery responsibilities

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

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

(ii) Security Responsibility

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

(b).....

(c).....

5. REPRESENTATIONS & WARRANTIES

5.1 ..... (Service Provider) Warrants that the technical quality and  
performance of the Services provided will be consistent with the mutually  
agreed standards. Warranty shall be for a period of ..... (Term) from the  
date of acceptance.

5.2 Any defect found will be evaluated mutually to establish the exact cause of  
the defect. Bank may have direct and separate agreement with .....  
(Service Provider) to provide technical support to the Bank for related  
deficiencies.<strike off if not required><sup>23</sup>

5.3 .....(Service Provider) warrants that the software developed is  
free from malware at the time of sale, free from any obvious bugs, and free  
from any covert channels in the code (of the versions of the  
applications/software being delivered as well as any subsequent  
versions/modifications done) and free from OWASP vulnerabilities of  
applications/software arising out of faulty design, workmanship, etc. during  
the warranty period (up to.....).

5.4 ..... (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

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<sup>23</sup>Please note the following clause can be kept only when there is a Separate Technical support agreement.



environment of the Bank; Comply with all occupational, health or safety policies of the Bank.

- 5.5 ..... (Service Provider) shall assume responsibility under Labour Laws, and also hold the Bank harmless from any loss, expense, damage or personal injury, death and any claim for payment of compensation of its employees, salary, retirement benefits, or any other fringe benefits asserted by an employee of .....(Service Provider), and/or any claim arising out of alleged infringement of intellectual property rights or other proprietary right of any third party arising out of ‘.....(Service Provider)’s.’ performance of Services hereunder.
- 5.6 Each party represents and warrants that it has all requisite power and authorization to enter into and perform this Agreement and that nothing contained herein or required in the performance hereof conflict or will conflict with or give rise to a breach or default under, or permit any person or entity to terminate, any contract or instrument to which the party is bound.
- 5.7 ..... (Service Provider) warrants the Bank against any license or IPR violations on its part or on the part of subcontractor, wherever permitted, in use of any technology /software /product for performing services or developing software for the Bank as part of this Agreement.
- 5.8 The .....(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.
- 5.9 The .....(Service Provider) has the requisite technical and other competence, sufficient, suitable, qualified and experienced manpower/personnel and expertise in providing the Services to the Bank.

- 5.10 The .....(Service Provider) shall duly intimate to the Bank immediately, the changes, if any in the constitution of the .....(Service Provider).
- 5.11 The Services and products provided by the .....(Service Provider) to the Bank do not violate or infringe any patent, copyright, trademarks, trade secrets or other intellectual property rights of any third party.
- 5.12 The .....(Service Provider) shall ensure that all persons, employees, workers and other individuals engaged by or sub-contracted by the .....(Service Provider) in rendering the Services under this Agreement have undergone proper background check, police verification and other necessary due diligence checks to examine their antecedence and ensure their suitability for such engagement. No person shall be engaged by the .....(Service Provider) unless such person is found to be suitable in such verification and the .....(Service Provider) shall retain the records of such verification and shall produce the same to the Bank as when requested.
- 5.13 During the Warranty Period if any software or any component thereof is supplied by.....(Service Provider) is inoperable or suffers degraded performance for more than [\_\_\_\_\_] not due to causes external to the software, .....(Service provider) shall, at the Bank's request, promptly replace the software or specified component with new software of the same type and quality. Such replacement shall be accomplished without any adverse impact on the Bank's operations within agreed time frame.
- 5.14 .....
- 5.15 .....<any other additional warranty can be incorporated>

## 6. GENERAL INDEMNITY

- 6.1 ..... (Service provider) agrees and hereby keeps the Bank indemnified against all claims, actions, loss, damages, reputation loss, costs, expenses, charges, including legal expenses (Attorney, Advocates fees included) which the Bank may suffer or incur directly or indirectly on account

of any misuse of data /information or deficiency in Services or breach on any obligations mentioned in clause 5<sup>24</sup> herein, including without limitation of confidentiality obligations, from any acts of Commission / omission on the part of employees, agents, representatives or Sub-Contractors of Service Provider. .... (Service provider), to make good the loss suffered by the Bank on first demand made by the Bank in this regard which shall be final conclusive and binding on the .....(Service Provider).

6.2 ..... (Service provider) further undertakes to promptly notify the bank in writing any breach of obligation of the agreement by its employees or representatives including confidentiality obligation and in such an event, the Bank will in addition to and without prejudice to any other available remedies be entitled to immediate equitable relief in a Court of competent jurisdiction to protect its interest including injunctive relief.

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

6.4 The ..... (Service provider) hereby undertakes the responsibility to take all possible measures, at no cost, to avoid or rectify any issues which thereby results in non-performance of software within reasonable time. The Bank shall report as far as possible all material defects to the ..... (Service provider) without undue delay. The ..... (Service provider) also undertakes to co-operate with other service providers thereby ensuring expected performance covered under scope of work.

Nothing contained in this agreement shall impair the Bank's right to claim damages without any limitation for an amount equal to the loss suffered for non-performance of software.

## 7. CONTINGENCY PLANS.

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<sup>24</sup>Please See Clause 5 'Representation and Warranties'

7.1 The ..... (Service provider) shall arrange and ensure proper Data Recovery Mechanism, Attrition Plan and other contingency plans to meet any unexpected obstruction to the service provider or any employees or sub-contractors of the service provider in rendering the Services or any part of the same under this Agreement to the Bank. The ..... (Service Provider) at Banks discretion shall co-operate with the bank in case on any contingency.

#### 8. TRANSITION REQUIREMENT

In the event of failure of the Service Provider to render the Services or in the event of termination of agreement or expiry of term or otherwise, without prejudice to any other right, the Bank at its sole discretion may make alternate arrangement for getting the Services contracted with another vendor. In such case, the Bank shall give prior notice to the existing Service Provider. The existing Service Provider shall continue to provide services as per the terms of contract until a 'New Service Provider' completely takes over the work. During the transition phase, the existing Service Provider shall render all reasonable assistance to the new Service Provider within such period prescribed by the Bank, at no extra cost to the Bank, for ensuring smooth switch over and continuity of services. If existing vendor is breach of this obligation, they shall be liable for paying a penalty of Rs. \_\_\_\_\_ on demand to the Bank, which may be settled from the payment of invoices for the contracted period. The Bank may also require the Service Provider to enter into a Transition & Knowledge Transfer Agreement as mentioned in Annexure H

#### 9. LIQUIDATED DAMAGES

9.1 The Bank reserves the right to deduct, as liquidated damages to the extent of ....., in case of non-performance of software or for deficiency in services provided by ..... (Services provided) as per work order or service levels, if any. In such a case, the Bank also reserves the right to levy penalties as per Annexure 'G' notwithstanding the Bank reserving its right to terminate the contract.

10. RELATIONSHIP BETWEEN THE PARTIES

- 10.1 It is specifically agreed that the ..... (Service Provider) shall act as independent service provider and shall not be deemed to be the Agent of the Bank except in respect of the transactions/services which give rise to Principal - Agent relationship by express agreement between the Parties.
- 10.2 Neither the ..... (Service Provider) nor its employees, agents, representatives, Sub-Contractors shall hold out or represent as agents of the Bank.
- 10.3 None of the employees, representatives or agents of ..... (Service Provider) shall be entitled to claim any absorption or any other claim or benefit against the Bank.
- 10.4 This Agreement shall not be construed as joint venture. Each Party shall be responsible for all its obligations towards its respective employees. No employee of any of the two Parties shall claim to be employee of other Party.
- 10.5 All the obligations towards the employees of a Party including that on account of personal accidents occurred while working in the premises of the other Party shall be with the respective employer and not on the Party in whose premises the accident occurred.

11. SUB CONTRACTING

- 11.1 ..... (Service provider) has to obtain written permission from the Bank before contracting any work to subcontractors. Bank at its own discretion may permit or deny the same.
- 11.2 In case of subcontracting permitted, .....(Service Provider) is responsible for all the services provided to the Bank regardless of which entity is conducting the operations. ....(Service Provider) is also responsible for ensuring that the sub-contractor comply with all security/confidentiality requirements and other terms and conditions as applicable to .....(Service provider) mentioned in this

Agreement. Bank reserves the right to conduct independent audit in this regard.

- 11.3 Before engaging Sub-Contractor, the ..... (Service Provider) shall carry out due diligence process on sub-contracting/ sub-contractor to the satisfaction of the Bank and Bank shall have access to such records.
- 11.4 In the event of sub-contracting the ..... (Service Provider) shall ensure that suitable documents including confidentiality agreement are obtained from the sub-contractor and the ..... (Service Provider) shall ensure that the secrecy and faith of Bank's data / processes is maintained.
- 11.5 ..... (Service Provider) shall provide subcontracting details to the Bank and if required, Bank may evaluate the same. Notwithstanding approval of the Bank for sub-contracting, the ..... (Service Provider) shall remain liable to the Bank for all acts/omissions of sub-contractors.
- 11.6 The Bank reserves the right to ask .....(Service Provider) and .....(Service provider) shall change/ amend the clause(s) entered between .....(Service Provider) and Subcontractor for Bank's suitability.

## 12 INTELLECTUAL PROPERTY RIGHTS

- 12.1 For any technology / software / product developed/used/supplied by ..... (Service provider) for performing services or developing software for the Bank as part of this Agreement, .....(service provider) shall have right to use as well right to license for the outsourced services or third party software development. Any license or IPR violation on the part of ..... (Service provider) shall not put the Bank at risk.
- 12.2 Without the Bank's prior written approval, .....(Service provider) will not use or incorporate in performing the Services link to or call or depend in any way upon, any software or other intellectual property that is subject to an Open Source or Copyleft license or any other agreement that

may give rise to any third-party claims or to limit the Bank's rights under this Agreement.

- 12.3 .....(service provider) shall, at their own expenses without any limitation, defend and indemnify the Bank against all third party claims or infringement of Intellectual Property Right, including Patent, trademark, copyright, trade secret or industrial design rights arising from use of the technology / software / products or any part thereof in India or abroad, for software developed as part of this engagement. In case of violation/ infringement of patent/ trademark/ copyright/ trade secret or industrial design, (Service provider) shall, after due inspection and testing, get the solution redesigned for the Bank at no extra cost.
- 12.4 ..... (Service provider) shall expeditiously extinguish any such claims and shall have full rights to defend it there from.
- 12.5 The Bank will give notice to ..... (Service provider) of any such claim without delay/provide reasonable assistance to..... (Service provider) in disposing of the claim, and will at no time admit to any liability for or express any intent to settle the claim.
- 12.6 .....(service provider) hereby grants the Bank a fully paid-up, irrevocable, non-exclusive/exclusive license<strike off whichever is not applicable> throughout the territory of India or abroad to access, replicate, modify and use software developed including its upgraded versions available during the term of this agreement by.....(service provider) as part of this engagement, including all inventions, designs and trademarks embodied therein perpetually.
- 12.7 Software developed as part of this agreement can be put to use in all offices of State Bank of India/ its foreign office/its Associate Banks& subsidiaries.

### 13 INSTALLATION

..... (Service provider) will install the software/support the Bank in installation of the software developed into the Bank's production, Disaster Recovery, Testing and training environment, if required.



## 14 INSPECTION AND AUDIT

14.1 The Bank has the right after providing reasonable notice to inspect, and test the infrastructure, software, and procedures being followed which inter-alia cover security aspect of the service provider for this engagement at any time.

14.2 The Bank may audit..... (Service provider)'s records during normal business hours related to the Services covered under this Agreement.

14.3 ..... (Service provider) shall, whenever required by the Bank, furnish all relevant information, records/data to such Bank's appointed auditors and/or inspecting officials of the Bank/Reserve Bank of India and or any regulatory authority. The Bank reserves the right to call and/or retain for any relevant material information / reports including audit or review reports undertaken by the service provider (e.g., financial, internal control and security reviews) and findings made on ..... (Service provider) in conjunction with the services provided to the Bank.

14.4 Where any deficiency has been observed during audit of the service provider in its processing facilities and operating practices, the Service Provider shall correct/resolve the same at the earliest, and shall provide all necessary documents related to resolution thereof and shall further certify in respect with resolution of the deficiencies.

## 15 SECURITY AND CONFIDENTIALITY

15.1 "Confidential Information" mean all information which is material to the business operations of either party or its affiliated companies, 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, contracts, drawings, blue prints, specifications, operating techniques, processes, models,

diagrams, data sheets, reports and other information with respect to any of the foregoing matters. All and every information received by the parties and marked confidential hereto shall be assumed to be confidential information unless otherwise proved. It is further agreed that the information relating to the Bank and its customers is deemed confidential whether marked confidential or not.

- 15.2 All information relating to the accounts of the Bank's customers shall be confidential information, whether labeled as such or otherwise.
- 15.3 All information relating to the infrastructure and Applications (including designs and processes) shall be deemed to be Confidential Information whether labeled as such or not. .... (Service provider) personnel/resources responsible for the project are expected to take care that their representatives, where necessary, have executed a Non-Disclosure Agreement as per the format attached in the Annexure I provided by the Bank.
- 15.4 Each party agrees that it will not disclose any Confidential Information received from the other to any third parties under any circumstances without the prior written consent of the other party unless such disclosure of Confidential Information is required by law, legal process or any order of any government authority. .... (Service provider), in this connection, agrees to abide by the laws especially applicable to confidentiality of information relating to customers of Banks and the banks per-se, even when the disclosure is required under the law. In such event, the Party must notify the other Party that such disclosure has been made in accordance with law; legal process or order of a government authority.
- 15.5 Each party, including its personnel, shall use the Confidential Information only for the purposes of achieving objectives set out in this Agreement. Use of the Confidential Information for any other purpose shall constitute breach of trust of the same.
- 15.6 Each party may disclose the Confidential Information to its personnel solely for the purpose of undertaking work directly related to the Agreement. The

extent of Confidential Information disclosed shall be strictly limited to what is necessary for those particular personnel to perform his/her duties in connection with the Agreement. Further each party shall ensure that each personnel representing the respective party agree to be bound by the terms of this Agreement.

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

- (i) Where Confidential Information comes into the public domain during or after the date of this Agreement otherwise than by Disclosure by a Party in breach of the terms hereof.
- (ii) Where any Confidential Information was disclosed after receiving the written consent of the other Party.
- (iii) Where if a Party is requested or required by law or by any Court or governmental agency or authority to disclose any of the confidential information, then that 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 Party from a third party which does not have any obligations of confidentiality to the other Party.

15.8 ..... (Service provider) shall abide with the Bank's IT and IS policy in key concern areas relevant to the project. Specific requirements will be shared upfront before the start of the work.

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

15.10 The security aspect of the solution/software will be comprehensively reviewed periodically by the Bank, and..... (Service provider) shall carryout modifications / updates based on the security review recommendations on case to case basis.

- 15.11 The Service Provider shall not, without the Bank's prior written consent, make use of any document or information received from the Bank except for purposes of performing the services and obligations under this Agreement.
- 15.12 Any document received from the Bank shall remain the property of the Bank and shall be returned (in all copies) to the Bank on completion of the Service Provider's performance under the Agreement.
- 15.13 Upon expiration or termination of the Agreement and on all amounts as due and payable to..... (Service provider) under the Agreement having been received by..... (service provider), all proprietary documents, software documentation, programs partially or wholly completed, or 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.

## 16 OWNERSHIP

- 16.1 ..... (Service provider) will provide source code for every version of the product/Software developed specifically for the Bank, without any cost to the Bank, and it will be treated as the Property of the Bank.
- 16.2 The source code /object code /executable code and compilation procedures of the software solution made under this agreement are the proprietary property of the Bank and as such..... (Service provider) shall make them available to the Bank after successful User Acceptance Testing.
- 16.3 ..... (Service provider) agrees that the Bank owns the entire right, title and interest to any inventions, designs, discoveries, writings and works of authorship, including all intellectual property rights, copyrights. Any work made under this agreement shall be deemed to be 'work made for hire' under any Indian/U.S. or any other applicable copyright laws.
- 16.4 ..... (Service provider) shall ensure proper change management process covering Impact assessment, requirement and solution documents detailing changes made to the software for any work order, in addition to enabling the programmers identify and track the changes made to the source

code. The source code will be delivered in appropriate version control tool maintained at the Bank's on site location.

- 16.5 ..... (Service provider) shall adhere to revision control procedure of the Bank to maintain required documentation and configuration files as well as source code. Necessary backup and restoration of the revision control software related information will be handled by the Service team as per the approved backup policy of the Bank.
- 16.6 For each application developed by..... (Service provider) on ..... software, including third party software before the platform become operational, (service provider) shall deliver all documents to the Bank, which include coding standards, user manuals, installation manuals, operation manuals, design documents, process documents, technical manuals, and other documents, if any, as per work order.
- 16.7 ..... (Service provider) shall also provide documents related to Review Records/ Test Bug Reports/ Root Cause Analysis Report, details and documentation of all Product components, details and documentation of all dependent/ external modules and all documents relating to traceability of the software made under this agreement before its production release.
- 16.8 All software programs supplied/developed, program documentation, system documentation and testing methodologies along with all other information and documents (other than tools being proprietary to ..... (Service provider) and used for customized software development shall be the exclusive property of the Bank.
- 16.9 The Intellectual Property Rights on the software code, copyright and source code for various applications/ interfaces developed under this Agreement, and any other component/ framework/ middleware used/ developed as pre-built software assets to deliver the solution, shall belong to the Bank and the Bank shall have complete and unrestricted rights on such property. However, the .....(service provider) shall hold All Intellectual Property rights in any pre-built software *per se* , except for those which have been assigned under this agreement.

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

#### 16---- SOURCE CODE ESCROW AGREEMENT<sup>25</sup>

16.1 The .....(Service Provider) shall deposit the source code and everything required to independently maintain the software, to the source code escrow account and agrees to everything mentioned in 'Annexure - H'

16.2 The ..... (Service provider) shall deposit the latest version of source code in escrow account..... At regular intervals as mentioned in 'Annexure H'

16.3 The Bank shall have the right to get the source code released and will receive no opposition/hindrances from the escrow agent and ..... (Service provider) under the following conditions:-

- (i) In the event wherein the ..... (Service provider) has been declared Insolvent/Bankrupt.
- (ii) In the event wherein the .....(software) development project given to .....(service provider) has been cancelled.
- (iii) In the event wherein the ..... (Service provider) has declared its expressed/written unwillingness to fulfill his contractual obligations.
- (iv).....
- (v).....

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<sup>25</sup> This agreement is to be made wherein the ...service provider... has refused to give ownership over the Software. The user department has to delete inapplicable para.

16.4 .....(Service provider) agree to bear the payment of fees due to the escrow agent.

16.5 The Escrow Agreement shall ipso-facto would get terminated on delivery of Source Code to either of the parties upon the terms & conditions mentioned in 'Annexure -H'.

## 17 TERMINATION CLAUSE

17.1 The Bank, without prejudice to any other remedy for breach of contract, shall have the right to terminate the contract in whole or part, if .....(service provider), at any time, by giving a written notice of at least .....(term of notice) fails to deliver any or all of the deliverables within the period(s) specified in this Agreement, or within any extension thereof granted by the Bank pursuant to conditions of Agreement or if .....(service provider) fails to perform any other obligation(s) under the Agreement provided a cure period of not less than .....(term) is given to .....(service provider) to rectify the defects.

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

17.3 In the event of termination of the Agreement, .....(service provider) shall be entitled to receive payment for the Services rendered (delivered) up to the effective date of termination.

17.4 The Bank may at any time terminate the Agreement without giving written notice to ..... (Service provider), if ..... (Service provider) becomes bankrupt or otherwise insolvent. 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 occurred or will accrue thereafter to the Bank on payment to the .....(Service Provider) for the services rendered.

- 17.5 In the event of the termination of the Agreement..... (Service Provider) shall be liable and responsible to return to the Bank all records, documents, data and information including Confidential Information pertains to or relating to the Bank in its possession.
- 17.6 In the event of termination of the Agreement for material breach by service provider, Bank shall have the right to give suitable publicity to the same including advising the Indian Bank's Association.
- 17.7 Upon termination or expiration of this Agreement, all rights and obligations of the Parties hereunder shall cease, except such rights and obligations as may have accrued on the date of termination or expiration; the obligation of indemnity; obligation of payment ;confidentiality obligation; Governing Law clause; Dispute resolution clause ; and any right which a Party may have under the Applicable Law.

## 18 DISPUTE REDRESSAL MACHANISM & GOVERNING LAW

- 18.1 All disputes or differences whatsoever arising between the parties out of or in connection with this Agreement (including dispute concerning interpretation) or in discharge of any obligation arising out of the Agreement (whether during the progress of work or after completion of such work and whether before or after the termination of this Agreement, abandonment or breach of this Agreement), shall be settled amicably.
- 18.2 If the parties are not able to solve them amicably, either party [SBI or ..... (service provider)] shall give written notice to other party clearly setting out there in, specific dispute(s) and/or difference(s), and shall be referred to a sole arbitrator mutually agreed upon, and the award made in pursuance thereof shall be binding on the parties.
- 18.3 In the absence of consensus about the single arbitrator, the dispute may be referred to an arbitration panel; one to be nominated by each party and the said arbitrators shall nominate a presiding arbitrator, before commencing the

arbitration proceedings. The arbitration shall be settled in accordance with the applicable Indian Laws.

18.4 ..... (Service provider) shall continue work under the Agreement during the arbitration proceedings, unless otherwise directed by the Bank or unless the matter is such that the work cannot possibly be continued until the decision of the arbitrator is obtained.

18.5 Arbitration proceeding shall be held at ..... (Place of Arbitration), India, and the language of the arbitration proceedings and that of all documents and communications between the parties shall be in English.

18.6 This Agreement shall be governed by laws in force in India. Subject to the arbitration clause above, all disputes arising out of or in relation to this Agreement, shall be subject to the exclusive jurisdiction of the courts at .....(place) only.

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

## 19 POWERS TO VARY OR OMIT WORK

19.1 No alterations, amendments, omissions, additions, suspensions or variations of the work (hereinafter referred to as variation) under the Agreement shall be made by..... (Service provider) except as directed in writing by Bank. The Bank shall have full powers, subject to the provision herein after contained, from time to time during the execution of the Agreement, by notice in writing to instruct..... (Service provider) to make any variation without prejudice to the Agreement. .... (Service provider) shall carry out such variations and be bound by the same conditions, though the said variations occurred in the Agreement documents. If any suggested variations would, in the opinion of..... (Service provider), if carried out, prevent them from fulfilling any of their obligations under the Agreement, they shall notify the Bank, thereof, in writing with reasons for

holding such opinion and Bank shall instruct..... (Service provider) to make such other modified variation without prejudice to the Agreement. .... (Service provider) shall carry out such variations and be bound by the same conditions, though the said variations occurred in the Agreement documents. If Bank confirms their instructions..... (Service provider)'s obligations will be modified to such an extent as may be mutually agreed. If such variation is substantial and involves considerable extra cost, any agreed difference in cost occasioned by such variation shall be mutually agreed between the parties. In any case in which..... (Service provider) has received instructions from the Bank as to the requirement of carrying out the altered or additional substituted work, which either then or later on, will in the opinion of..... (Service provider), involve a claim for additional payments, such additional payments shall be mutually agreed in line with the terms and conditions of the order.

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

## 20 NO WAIVER OF BANK RIGHTS OR..... (SERVICE PROVIDER)'S LIABILITY

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

## 21 LIMITATION OF LIABILITY

21.1 For breach of any obligation mentioned in this agreement, subject to clause 21.3, in no event .....(Service Provider) shall be liable for damages to the Bank arising under or in connection with this agreement for an amount exceeding the total cost of the project .

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

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

- (i) claims that are the subject of indemnification pursuant to Clause 12<sup>26</sup>,
- (ii) damage(s) occasioned by the gross negligence or willful misconduct of .....(Service Provider),
- (iii) damage(s) occasioned by .....(Service Provider) for breach of Clause 15<sup>27</sup>,
- (iv) Loss/Damages suffered by the Bank due to Non-Compliance of Statutory or Regulatory Guidelines by Service Provider.
- (v) when a dispute is settled by the Court of Law in India.

## 22 FORCE MAJEURE

22.1 Any failure or delay by either parties in performance of its obligation, to the extent due to any failure or delay caused by fire, flood, earthquake or similar elements of nature, or act of God, war, terrorism, riots, civil disorders, rebellions or revolutions, acts of government authorities or other events beyond the reasonable control of non-performing Party shall not be deemed as default.

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<sup>26</sup> Please see Clause 12 'IPR Indemnification'

<sup>27</sup> Please see Clause 15 'Security and Confidentiality'

- 22.2 If Force Majeure situation arises, the non-performing party shall promptly notify within..... (Term, in days) to the other party in writing of such conditions and the cause(s) thereof. Unless otherwise agreed in writing, the non-performing party shall continue to perform its obligations under the Agreement as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.
- 22.3 If the Force Majeure situation continues beyond 30 days, the either parties shall have the right to terminate the Agreement by giving a notice to the other party. Neither party shall have any penal liability to the other in respect of the termination of this Contract as a result of an event of Force Majeure. However, .....(Service Provider) shall be entitled to receive payments for all services actually rendered up to the date of the termination of this Agreement.

## 23 NOTICES

- 23.1 Any notice or other communication under this Agreement given by either party to the other party shall be deemed properly given if in writing and;
- i. When hand delivered during normal business hours of the recipient, acknowledgment taken.
  - ii. If transmitted by facsimile during normal business hours of the recipient; proof of delivery taken. A copy sent by registered mail/ first class courier, return receipt requested shall follow all fax notices, to any Fax number of..... (Service provider)'s office at Mumbai, or any other place advised by..... (Service provider) to the Bank from time to time.
  - iii. If mailed by registered mail/ first class courier, return receipt requested, within five working days of posting, properly addressed and stamped with the required postage, to the intended recipient at its address specified below its signature at the end of this Agreement.

- 23.2 The Addresses for Communications to the parties are as under.

(a) In the case of the Bank

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

(b) In case of service provider

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

23.3 In case there is any change in the address of one party, it shall be communicated in writing to the other party with in ..... (days).

## 24 GENERAL TERMS & CONDITIONS

24.1 TRAINING: ..... (Service provider) shall train designated Bank officials on the configuration, operation/ functionalities, maintenance, support & administration for software, application architecture and components, installation, troubleshooting processes of the proposed .....(services)as mentioned in this agreement.

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

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

24.4 NON-HIRE AND NON-SOLICITATION: During the term of this Agreement and for a period of one year thereafter, neither party shall (either directly or indirectly through a third party) employ, solicit to employ, cause to be solicited for the purpose of employment or offer employment to any employee/s or sub-contractor/s of the other party, or aid any third person to do

so, without the specific written consent of the other party. However nothing in this clause shall affect the Bank's regular recruitments as per its recruitment policy and not targeted to the employees of..... (Service provider).

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

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

24.7 ENTIRE AGREEMENT: This Agreement, including all Work orders, Exhibits, Annexures, RFP and other documents or communications incorporated herein, represents the entire agreement for the services of .....(description of software) covering.....(short description of the service to be provided), between the parties and supplements all prior negotiations, understandings and agreements, written or oral, relating to the subject matter herein.

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

24.9 EFFECTIVE DATE: This Agreement shall be effective from the date mentioned at the beginning of this Agreement.

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

24.11 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  
Provider**

.....Service

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

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

WITNESS:

1.

1.

2.

2.

**ANNEXURE, SCHEDULE, ETC**



**ANNEXURE-A**

**DELIVERABLES/SCOPE OF WORK**

1. Description of Deliverables:

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

2. Specifications, Performance Standards, and Functional Requirements:

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

2.1 '.....(Service Provider).' Undertakes and warrants to provide technical support with resolution time frame as per the matrix given below:

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

3. Documentation:

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

4. Modifications to Scope Of License:

*[Identify here any modifications to the scope of the License defined in this agreement.]*

## **ANNEXURE-B**

SERVICE METRIC<strike off any of the term, if it is inapplicable>

### 1.1 Service Measure or Service definitions

<Kindly determine, the key business function, process or procedure being measured and reported on and which parties should continuously improve>

### 1.2 Service level objective

<Kindly determine, key specific service component (for example, requirements, defects, test cases) that is to be measured.>


### 1.3 Service Window

<demarcate the time periods during which the service level will be measured. In regard to services, this is focused on the duration of the project or development of life cycle>

### 1.4 Measurement Range/ service-level metric

<Kindly establish measurement criteria of the work that the agreement requires the provider to perform. This measurement is commonly expressed as percentage> <Strike off which ever in not applicable>

| Service- level object | Service level category | Service level time frame                                                      | Service level metric/measurement range    |
|-----------------------|------------------------|-------------------------------------------------------------------------------|-------------------------------------------|
| <Requirement>         | <.....>                | <Project or development life cycle +.....(warranty/per phase/rolling period)> | Low.... %<br>High .... %<br>Average.... % |
| Formula               |                        |                                                                               |                                           |
| Measurement Interval  |                        |                                                                               |                                           |
| Measurement Tool      |                        |                                                                               |                                           |

|                                                                                                                            |                                                                                    |
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| RFP for procurement of Software Configuration Management Solution and Services for BASE24 Application on HP Nonstop System |  |
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(a) Service metric for production support

#### Uptime Metric

| SL no. | Service level category | Service level object | Service window                   | Measurement range/criteria                                                                                  |
|--------|------------------------|----------------------|----------------------------------|-------------------------------------------------------------------------------------------------------------|
| 1.     | <application uptime>   | <requirement>        | <including downtime requirement> | Measurement will be on .....(monthly/quarterly/half yearly/yearly)<strike off which even is not applicable> |
|        |                        |                      |                                  |                                                                                                             |

#### 1.5 Measurement Formula

<Kindly provide description of the mathematical formula used to measure the delivery of a service against the measurement range>

#### 1.6 Data Sources


<Description of type and origin of data that will be collected, where and how it will be stored and who will be responsible>

### ANNEXURE-C

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

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

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


|                                                                                                                            |                                                                                    |
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| RFP for procurement of Software Configuration Management Solution and Services for BASE24 Application on HP Nonstop System |  |
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(b) SLA for Recovery Point Objective<strike off if not applicable>

| SL no. | Service level category                         | Service level object                                                                                                                | Measurement range/criteria                                                              |
|--------|------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1.     | RPO during disaster for shifting to<br><Place> | <.....(requirement to be filled by the concerned dept.)/ 99.999% of PR site data recovery><strike off which ever in not applicable> | <.....><to be filled in by the concerned dept. depending on the criticality of service> |

#### INFRASTRUCTURE SUPPORT METRICS

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


|                                                                                                                            |                                                                                    |
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| RFP for procurement of Software Configuration Management Solution and Services for BASE24 Application on HP Nonstop System |  |
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### ANNEXURE-D

#### APPLICATION DEVELOPMENT & MAINTENANCE METRIC

| Impact Level | Description/Measure | Response Time                                                                    | Resolution Time                                                                  |
|--------------|---------------------|----------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| Level 1      | Low impact          | <to be filled in by the concerned dept. depending on the criticality of service> | <to be filled in by the concerned dept. depending on the criticality of service> |
| Level 2      | Medium impact       | <to be filled in by the concerned dept. depending on the criticality of service> | <to be filled in by the concerned dept. depending on the criticality of service> |
| .....        | .....               |                                                                                  |                                                                                  |
| Level.....   | Highest impact      | <to be filled in by the concerned dept. depending on the criticality of service> | <to be filled in by the concerned dept. depending on the criticality of service> |

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

|                                                                                                                            |                                                                                    |
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| RFP for procurement of Software Configuration Management Solution and Services for BASE24 Application on HP Nonstop System |  |
|----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|

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

| IMPACT | Urgency Level |            |            |            |            |
|--------|---------------|------------|------------|------------|------------|
|        |               | Level 1    | Level 2    |            | Level n    |
|        | Level 1       | Priority A | Priority A |            | Priority C |
|        | Level 2       | Priority A | Priority B |            | Priority D |
|        | ....          |            | Priority J | Priority K | Priority L |
|        | Level.....    | Priority L | Priority M | Priority N | Priority O |

### ANNEXURE-E

SERVICE DESK SUPPORT METRIC <strike off if not applicable>

| SL no. | Service level category                                           | Service level object                                                                                                                 | Measurement range/criteria                                                              |
|--------|------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1.     | Call type<br>level 1, <strike off which ever in not applicable>  | <.....(requirement)/<br>call escalated by sbi service desk to .....service provider's team><strike off which ever in not applicable> | <.....><to be filled in by the concerned dept. depending on the criticality of service> |
|        | Call type<br>level 12, <strike off which ever in not applicable> | <.....(requirement)/<br>call escalated by sbi service desk to .....service provider's team><strike off which ever in not applicable> | <.....><to be filled in by the concerned dept. depending on the criticality of service> |

SERVICE LEVEL REPORTING/ FREQUENCY<sup>28</sup> <strike off if not applicable>

<Describe the service level reporting frequency and methodology>

<sup>28</sup> The purpose of this section is to document reports used to measure service levels. These reports must align with the service measurement and should support these measurements.

SERVICE REVIEW MEETING<sup>29</sup> <strike off if not applicable>

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


- President,
- Members.....

| Report Name | Interval | Recipient | Responsible |
|-------------|----------|-----------|-------------|
|             |          |           |             |
|             |          |           |             |

**ANNEXURE-F**

ESCALATION MATRICS<sup>30</sup> <strike off if not applicable>

<sup>29</sup>The purpose of this section to describe the frequency of meeting and composition of service review board.

|                                                                                                                            |                                                                                    |
|----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| RFP for procurement of Software Configuration Management Solution and Services for BASE24 Application on HP Nonstop System |  |
|----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|


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

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<sup>30</sup> To ensure that the service beneficiary receives senior management attention on unresolved issues, the service provider operates a problem escalation procedure in order that any unresolved problems are notified to the service provider management personnel on a priority basis dependent upon the impact and urgency of the problem.

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|                                                                                                                            |                                                                                    |
|----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| RFP for procurement of Software Configuration Management Solution and Services for BASE24 Application on HP Nonstop System |  |
|----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|

### ANNEXURE-G

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

#### PENALTY FOR NON PERFORMANCE OF SLA

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

|                                                                                                                            |                                                                                    |
|----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| RFP for procurement of Software Configuration Management Solution and Services for BASE24 Application on HP Nonstop System |  |
|----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|

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

| Category of defect | Service Area | Penalty |
|--------------------|--------------|---------|
| Minor              |              |         |
| Medium             |              |         |
| Major              |              |         |
| Critical           |              |         |

PENALTY FOR NON PERFORMANCE AT HELP DESK

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

## ANNEXURE H

### 1. Introduction

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

### 2. Objectives

2.1 The objectives of this annexure are to:

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

### 3. General

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

3.2 The SERVICE PROVIDER shall co-operate fully with the STATE BANK OF INDIA and any potential Replacement SERVICE PROVIDERs tendering for any Services, including the transfer of responsibility for the provision of the

Services previously performed by the SERVICE PROVIDER to be achieved with the minimum of disruption. In particular:

3.2.1 during any procurement process initiated by the STATE BANK OF INDIA and in anticipation of the expiry or termination of the Agreement and irrespective of the identity of any potential or actual Replacement SERVICE PROVIDER, the SERVICE PROVIDER shall comply with all reasonable requests by the STATE BANK OF INDIA to provide information relating to the operation of the Services, including but not limited to, hardware and software used, inter-working, coordinating with other application owners, access to and provision of all performance reports, agreed procedures, and any other relevant information (including the configurations set up for the STATE BANK OF INDIA and procedures used by the SERVICE PROVIDER for handling Data) reasonably necessary to achieve an effective transition, provided that:

3.2.1.1 the SERVICE PROVIDER shall not be obliged to provide any information concerning the costs of delivery of the Services or any part thereof or disclose the financial records of the SERVICE PROVIDER to any such party;

3.2.1.2 the SERVICE PROVIDER shall not be obliged to disclose any such information for use by an actual or potential Replacement SERVICE PROVIDER unless such a party shall have entered into a confidentiality agreement; and

3.2.1.3 whilst supplying information as contemplated in this paragraph 3.2.1 the SERVICE PROVIDER shall provide sufficient information to comply with the reasonable requests of the STATE BANK OF INDIA to enable an effective tendering process to take place but shall not be required to provide information or material which the SERVICE PROVIDER may not disclose as a matter of law.

3.3 In assisting the STATE BANK OF INDIA and/or the Replacement SERVICE PROVIDER to transfer the Services the following commercial approach shall apply:

- (1) where the SERVICE PROVIDER does not have to utilise resources in addition to those normally used to deliver the Services prior to termination or expiry, the SERVICE PROVIDER shall make no additional Charges. The STATE BANK OF INDIA may reasonably request that support and materials already in place to provide the Services may be redeployed onto work required to effect the transition provided always that where the STATE BANK OF INDIA agrees in advance that such redeployment will prevent the SERVICE PROVIDER from meeting any Service Levels, achieving any other key dates or from providing any specific deliverables to the STATE BANK OF INDIA, the STATE BANK OF INDIA shall not be entitled to claim any penalty or liquidated damages for the same.
- (2) where any support and materials necessary to undertake the transfer work or any costs incurred by the SERVICE PROVIDER are additional to those in place as part of the proper provision of the Services the STATE BANK OF INDIA shall pay the SERVICE PROVIDER for staff time agreed in advance at the rates agreed between the parties and for materials and other costs at a reasonable price which shall be agreed with the STATE BANK OF INDIA in as described in .....

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

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

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

3.6 The SERVICE PROVIDER shall provide such information as the STATE BANK OF INDIA reasonably considers to be necessary for the actual Replacement SERVICE PROVIDER, or any potential Replacement SERVICE PROVIDER during any procurement process, to define the tasks which would need to be undertaken in order to ensure the smooth transition of all or any part of the Services.

3.7 the SERVICE PROVIDER shall make available such Key Personnel who have been involved in the provision of the Services as the Parties may agree to assist the STATE BANK OF INDIA or a Replacement SERVICE PROVIDER (as appropriate) in the continued support of the Services beyond the expiry or termination of the Agreement, in which event the STATE BANK OF INDIA shall pay for the services of such Key Personnel on a time and materials basis at the rates agreed between the parties.

3.8 The SERVICE PROVIDER shall co-operate with the STATE BANK OF INDIA during the handover to a Replacement SERVICE PROVIDER and such co-operation shall extend to, but shall not be limited to, inter-working, co-ordinating and access to and provision of all operational and performance documents, reports, summaries produced by the SERVICE PROVIDER for the STATE BANK OF INDIA, including the configurations set up for the STATE BANK OF INDIA and any and all information to be provided by the SERVICE PROVIDER to the STATE BANK OF INDIA under any other term

of this Agreement necessary to achieve an effective transition without disruption to routine operational requirements.

#### **4. Replacement SERVICE PROVIDER**

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

#### **5. Subcontractors**

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

#### **6. Transfer of Configuration Management Database**

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

#### **7. Transfer of Assets**

7.1 .....months prior to expiry or within..... week of notice of termination of the Agreement the SERVICE PROVIDER shall deliver to the STATE BANK OF INDIA the Asset Register comprising:

- (1) a list of all Assets eligible for transfer to the STATE BANK OF INDIA; and

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

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

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

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

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

## **8. Transfer of Software Licenses**

8.1 ..... months prior to expiry or within ..... week’s notice of termination of this Agreement the SERVICE PROVIDER shall deliver to the



STATE BANK OF INDIA all licences for Software used in the provision of Services which were purchased by the STATE BANK OF INDIA.

8.2 On notice of termination of this Agreement the SERVICE PROVIDER shall, within ..... week of such notice, deliver to the STATE BANK OF INDIA details of all licences for SERVICE PROVIDER Software and SERVICE PROVIDER Third Party Software used in the provision of the Services, including the terms of the software license agreements. For the avoidance of doubt, the STATE BANK OF INDIA shall be responsible for any costs incurred in the transfer of licences from the SERVICE PROVIDER to the STATE BANK OF INDIA or to a Replacement SERVICE PROVIDER provided such costs shall be agreed in advance. Where transfer is not possible or not economically viable the Parties will discuss alternative licensing arrangements.

8.3 Within ..... month of receiving the software licence information as described above, the STATE BANK OF INDIA shall notify the SERVICE PROVIDER of the licences it wishes to be transferred, and the SERVICE PROVIDER shall provide for the approval of the STATE BANK OF INDIA a draft plan for licence 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, ..... months prior to expiry or within ..... weeks' notice of termination of this Agreement the SERVICE PROVIDER shall deliver, or otherwise certify in writing that it has delivered, to the STATE BANK OF INDIA a full, accurate and up to date version of the Software including up to date versions and latest releases of, but not limited to:

- (a) Source Code (with source tree) and associated documentation;
- (b) application architecture documentation and diagrams;

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

#### **10. Transfer of Documentation**

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

#### **11. Transfer of Service Management Process**

11.1 ..... months prior to expiry or within ..... weeks' notice of termination of this Agreement the SERVICE PROVIDER shall deliver to the STATE BANK OF INDIA:

- (a) a plan for the handover and continuous delivery of the Service Desk function and allocate the required resources;
- (b) full and up to date, both historical and outstanding Service Desk ticket data including, but not limited to:
  - (1) Incidents;
  - (2) Problems;
  - (3) Service Requests;
  - (4) Changes;
  - (5) Service Level reporting data;

- (c) a list and topology of all tools and products associated with the provision of the Softwares 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 ..... months prior to expiry or within ..... weeks notice of termination of this Agreement the SERVICE PROVIDER shall deliver to the STATE BANK OF INDIA a full, accurate and up to date cut of content from the knowledge base (or equivalent) used to troubleshoot issues arising with the Services but shall not be required to provide information or material which the SERVICE PROVIDER may not disclose as a matter of law.

## **13. Transfer of Service Structure**

13.1 ..... months prior to expiry or within ..... week's notice of termination of this Agreement the SERVICE PROVIDER shall deliver to the STATE BANK OF INDIA a full, accurate and up to date version of the following, as a minimum:

- (a) archive of records including:
  - (1) Questionnaire Packs;
  - (2) project plans and sign off;
  - (3) Acceptance Criteria; and
  - (4) Post Implementation Reviews.
- (b) 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 the SERVICE PROVIDER shall cease to use the STATE BANK OF INDIA Data and, at the request of the STATE BANK OF INDIA, shall destroy all such copies of the STATE BANK OF INDIA Data then in its possession to the extent specified by the STATE BANK OF INDIA.

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

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

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

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

and Assets transferred and to deliver an equivalent service to that previously provided by the SERVICE PROVIDER.

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

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

- (1) A training strategy, which details the required courses and their objectives;
- (2) Training materials (including assessment criteria); and
- (3) a training plan of the required training events.

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

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

## 16. Transfer Support Activities

16.1 ..... months prior to expiry or within .....Working Days of issue of notice of termination, the SERVICE PROVIDER shall assist the STATE

BANK OF INDIA or Replacement SERVICE PROVIDER to develop a viable exit transition plan which shall contain details of the tasks and responsibilities required to enable the transition from the Services provided under this Agreement to the Replacement SERVICE PROVIDER or the STATE BANK OF INDIA, as the case may be.

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

- (1) a timetable of events;
- (2) resources;
- (3) assumptions;
- (4) activities;
- (5) responsibilities; and
- (6) risks.

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

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

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

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

16.6 The SERVICE PROVIDER shall provide to the STATE BANK OF INDIA or to any Replacement SERVICE PROVIDER within .....Working Days of expiry or termination a full and complete copy of the Incident log

book and all associated documentation recorded by the SERVICE PROVIDER during the ..... months prior to the date of expiry or termination.

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

#### **17. Use of STATE BANK OF INDIA Premises**

17.1 Prior to expiry or on notice of termination of this Agreement, the SERVICE PROVIDER shall provide for the approval of the STATE BANK OF INDIA a draft plan specifying the necessary steps to be taken by both the SERVICE PROVIDER and the STATE BANK OF INDIA to ensure that the STATE BANK OF INDIA's Premises are vacated by the SERVICE PROVIDER.

17.2 Unless otherwise agreed, the SERVICE PROVIDER shall be responsible for all costs associated with the SERVICE PROVIDER's vacation of the STATE BANK OF INDIA's Premises, removal of equipment and furnishings, redeployment of SERVICE PROVIDER Personnel, termination of arrangements with Subcontractors and service contractors and restoration of the STATE BANK OF INDIA Premises to their original condition (subject to a reasonable allowance for wear and tear).

IN WITNESS WHEREOF, the parties hereto have caused this annexure to be executed by their duly authorized representatives as of .....day of .....

**State Bank of India**

**Service Provider**

**By:**

**By:**

**Name:**

**Name:**

**Designation:**

**Designation:**

**Date:**

**Date:**

WITNESS:

1.

1.

2.

2.



**ANNEXURE - L**

DATED.....DAY OF.....20...

ESCROW AGREEMENT

BETWEEN

*[insert name of escrow agent]*

("Escrow Agent")

-AND-

STATE BANK OF INDIA

("Principal")

-AND-

*I[nsert name of supplier]*

("Supplier")

*[This Agreement is a DRAFT provided only for the purposes of furthering negotiations between the parties. The Department at their end may make changes/ customisation and updates depending upon individual contract/service.]*

RECITALS:

This AGREEMENT dated.....day of..... is between *insert name of agent*  
("Escrow Agent")

AND

State Bank of India (“Principal”)

AND

*insert name of software owner* (“Supplier”)

- A. WHEREAS Supplier has agreed vide agreement dated ..... to license to the Principal the use of certain software.
- B. Supplier and principal have already entered into Annual Support and Maintenance services Agreement dated ..... pursuant to the Software License Agreement for providing maintenance and support services in respect of the Software Applications on the terms and conditions set out therein.
- C. Supplier has agreed to deposit the “Source Code ” (as defined hereinafter) with the Escrow Agent for being made available to the principle on the occurrence/happening of any event of default as specified in this Software Escrow Agreement.
- D. The Supplier and the Principal have agreed to appoint an escrow agent and the Escrow Agent has agreed to act as escrow agent and to hold the Source Code to the Software on the following terms and conditions.

#### AGREED TERMS:

### 1. INTERPRETATION AND DEFINITIONS

1.1 In this Agreement unless the contrary is clearly intended:

- 1.1.1 “Licence Agreement” means the agreement between the Supplier and the Principal as mentioned in clause A;
- 1.1.2 “Commencement Date” means the date mentioned in the Recital of this agreement ;
- 1.1.3 “Escrow Fee” means the fee set out in clause 6 of this Agreement.;
- 1.1.4 “Software” means the software, including software tools, described in License Agreement;
- 1.1.5 “Source Code” means the Software, including software tools, expressed in human-readable language which is necessary for the

understanding, maintaining, modifying, correcting and enhancing of the Software specified in License Agreement;

1.1.6 “Supporting Material” means all of the material and data developed and used in and for the purpose of creating the software including but not limited to compiled object code, tapes, operating manuals and other items listed in License Agreement or Master Service Agreement.

1.1.7 Other terms defined in the Agreement have the same meaning in this Agreement.

1.2 In this Agreement unless the contrary intention appears:

1.2.1 the Clause headings are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer;

1.2.2 a cross reference to a Clause number is a reference to all its Sub-clauses;

1.2.3 words in the singular number include the plural and vice versa;

1.2.4 words importing a gender include any other gender;

1.2.5 a reference to a person includes a partnership and a body, whether corporate or otherwise;

1.2.6 a reference to a Part, Clause, Sub-clause or Paragraph in this Agreement is a reference to a Part, Clause, Sub-clause or Paragraph of this Agreement as the case may be, and a reference to a Part, Clause, Sub-clause or Paragraph in a Schedule or Annexure is a reference to a Part, Clause Sub-clause or Paragraph in the Schedule or Annexure unless expressed explicitly therein as referring to the Agreement;

1.2.7 where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;

1.2.8 monetary references are references to Indian currency;

1.2.9 references to natural persons include corporations and vice versa; and

1.2.10 The plural includes the singular and vice versa.

1.3 Where an obligation is imposed on a party under this Agreement, that obligation shall be deemed to include an obligation to ensure that no act, error

or omission on the part of the party's employees, agents or sub-contractors or their employees or agents occurs which prevent the discharge of that party's obligation.

## 2. DURATION

This Agreement commences on the Commencement Date and continues until either the Source Code is released in accordance with this Agreement, or this Agreement is terminated under Clause 9.

## 3. APPOINTMENT OF ESCROW AGENT

The Escrow Agent is appointed jointly by the Principal and the Supplier to hold, retain and deal with the Source Code in accordance with the terms of this Escrow Agreement.

## 4. SUPPLIER'S OBLIGATIONS

4.1 The Supplier must deliver to the Escrow Agent .....<sup>31</sup> copy of the Source Code, within .....<sup>32</sup> days of the date of this Escrow Agreement.

4.2 Within .....<sup>33</sup> of the Supplier making any Upgrade or New Release in relation to the Software available to the Principal, the Supplier must deliver to and deposit with the Escrow Agent, one copy of the Source Code for that Upgrade or New Release (or where appropriate, the Source Code for the whole of the Software including that Upgrade or New Release.

4.3 If the Source Code is lost, stolen, damaged or destroyed after delivery to the Escrow Agent the Supplier must deliver another copy of the Source Code as soon as practicable after notification of the loss, theft, damage or destruction.

4.4 All copies of Source Code delivered to and deposited with the Escrow Agent must be clearly labelled with the name of the Supplier, the name of the

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<sup>31</sup>Please Specify number of copies required, Generally it is One(1) copy of source code.

<sup>32</sup> Please specify the number of days.

<sup>33</sup> Please specify the number of days.

Principal, a description of the Source Code (for example where Source Code for an Upgrade only is delivered) and the date.

4.5 The Supplier warrants that all Source Code delivered to and deposited with the Escrow Agent will be free from any virus or device which would prevent it being used for the understanding, maintaining, modifying, correcting or enhancing of the Software, or which would prevent or impede a thorough and effective verification of the Source Code.

4.6 The Supplier further warrants that all Source Code delivered to and deposited with the Escrow Agent will be an accurate and complete expression of the Software (in its then current version) in human readable language.

## 5. ESCROW AGENT'S OBLIGATIONS

5.1 The Escrow Agent must accept delivery of the Source Code on the date of delivery and hold the Source Code on trust, on the terms and conditions of this Agreement.

5.2 The Escrow Agent must take all necessary steps to ensure the preservation, care, maintenance, safe custody and security of the Source Code while it is in the possession, custody or control of the Escrow Agent, including storage and in a secure receptacle and in an atmosphere which does not harm the Source Code.

5.3 The Escrow Agent must provide written confirmation to both the Supplier and the Principal of all items deposited and released pursuant to this Agreement.

5.4 If the Source Code is lost, stolen, destroyed or damaged while it is in the possession, custody or control of the Escrow Agent, the Escrow Agent must:

5.4.1 immediately notify the Supplier and the Principal;

5.4.2 at its own expense fully co-operate in the replacement of the lost, damaged or destroyed Source Code; and

5.4.3 fully indemnify the Supplier and the Principal in respect of costs and expenses incurred as a result of such loss, damage or destruction.

5.5 The Escrow Agent is not obliged to determine the nature, completeness, or accuracy of any Source Code lodged with it.

## 6. ESCROW FEE AND EXPENSES

The Supplier must pay the Escrow Fee annually in advance, the first payment being due .....<sup>34</sup> days after the date of this Agreement and fees for subsequent years being due on each anniversary of the date of this Agreement. The annual Escrow Fee shall be Rs.....(*In words*)

## 7. TESTING AND VERIFICATION

7.1 The Principal may analyse and conduct such tests in relation to the Source Code as the Principal considers reasonably necessary, to verify that the Source Code deposited pursuant to this Agreement accords with the description of the Source Code in this Agreement or as represented by the Supplier.

7.2 The Principal may engage an independent assessor to undertake analysis and tests of the Source Code on the Principal's behalf.

7.3 The costs of the independent verification must be borne by the Principal, unless the verification demonstrates that the Source Code does not accord with its description in this Agreement or with the Supplier's representations, in which case the costs of the independent verification must be borne by the Supplier.

7.4 The Supplier consents to the release of the Source Code to the Principal or the Principal's agent for the purposes of testing and verification under this clause.

## 8. RELEASE OF THE SOURCE CODE

8.1 The Escrow Agent must not release, or allow access to, the Source Code except in accordance with the provisions of this Agreement.

8.2 The Escrow Agent must release the Source Code to the Principal in not less than .....<sup>35</sup> business days after receipt of a written request signed by or on behalf of the Principal and accompanied by a Statutory Declaration by an officer of the Principal declaring that:

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<sup>34</sup> Please specify number of days.

<sup>35</sup> Please specify number of days.

- 8.2.1 the Principal has the right to terminate the Agreement for breach by the Supplier; or
- 8.2.2 Supplier is wound up, or ordered wound up, or has a winding up petition ordered against it, or assigns all or a substantial part of its business or assets for the benefit of creditors, or permits the appointment of a receiver for the whole or substantial part of its business or assets, or otherwise ceases to conduct its business in the normal course, or files a voluntary petition in bankruptcy or an involuntary petition in bankruptcy is filed against the Supplier which is not dismissed within 60 days thereafter; or
- 8.2.3 Supplier files a voluntary petition in bankruptcy or insolvency; or
- 8.2.4 Supplier discontinues business because of insolvency or bankruptcy, and no successor assumes Supplier's Software maintenance obligations or obligations mentioned in the License Agreement; or
- 8.2.5 Supplier has admitted in writing its inability to honour, due to reasons attributable to itself, its obligations under the Software Maintenance and Support Agreement or obligations mentioned in the License Agreement in respect of the Deposit Material; or
- 8.2.6 Supplier has expressed in writing its unwillingness to render due to the reasons attributable to itself any services to be required to rendered under the Software Maintenance and Support Agreement or obligations mentioned in the License Agreement in respect of the Deposit Material; or
- 8.2.7 Supplier dissolves or ceases to function as a going concern or to conduct its operation in the normal course of business or intends and conveys its intention to do so.
- 8.2.8 Supplier/Owner (or its successor) defaults in its obligation to provide maintenance services (except when the Principal fails to pay maintenance fees under any agreement by virtue of which maintenance services to be provided is not in place, expires and is not renewed with in time) as required by the License Agreement, or any agreement by virtue of which maintenance services are to be provided, and fails to

cure such default within two weeks after receiving written notice of the default from Principal. The notice must describe the default and the action which Principal believes is necessary to cure the default. If more than two weeks is reasonably required to complete the cure, Supplier/Owner (or its successor) shall have such additional time (not to exceed two months) as is reasonably needed, provided that Owner (or its successor) is diligent in completing the cure.

8.3 The Principal must provide a copy of the written request and accompanying a notice to the Supplier at the same time, and by the same method of delivery, as it is provided to the Escrow Agent.

8.4 The Escrow Agent must release the Source Code to the Supplier not later than .....(....) business days after receipt of a written request signed by or on behalf of the Supplier and accompanied by a Statutory Declaration by an officer of the Supplier declaring that the Supplier has terminated the Agreement for breach by the Principal.

8.5 The Supplier must provide a copy of the written request and accompanying approval letter from the Principal at the same time, and by the same method of delivery, as it is provided to the Escrow Agent.

8.6 .....

8.7 .....<any other condition may be added by the dept. at there end.>

## 9. TERMINATION

9.1 This Software Escrow Agreement shall remain in force until the termination/expiry of the Software License Agreement and / or the Software Maintenance & Support Agreement or unless terminated under the terms of this Software Escrow Agreement. Upon the termination or expiry of the Software License Agreement or the Software Maintenance & Support Agreement, this Software Escrow Agreement shall automatically stand terminated.



9.2 The Principal and the Supplier may jointly terminate this Agreement on ..... (.....) days notice in writing to the Escrow Agent.

9.3 If this Agreement is terminated pursuant to this clause , the Escrow Agent must deal with the Source Code in accordance with written directions endorsed by both the Supplier and the Principal.

9.4 If this Agreement is terminated under this clause and the effective date of termination is other than an anniversary of the date of this Agreement, the Escrow Agent must within .....(...) days of the date of termination make a pro rata refund to the Principal of any Escrow Fees paid in advance.

## 10.CONFIDENTIALITY

10.1 No party shall, except as permitted by this Escrow Agreement, make public or disclose to any person any information about this Escrow Agreement or the Source Code.

10.2 The Escrow Agent must not reproduce the Source Code or cause it to be reproduced unless the Escrow Agent reasonably believes that reproduction of the Source Code is necessary to carry out the Escrow Agent's obligations under this Escrow Agreement.

10.3 The obligations under this clause shall survive the termination or expiry of this Escrow Agreement.

10.4 Escrow agent shall regard, preserve and keep as secret and confidential all the Source Code including Supporting Materials deposited under this Agreement. In maintaining confidentiality hereunder the Escrow agent agrees and warrants that it shall, either on its own account or jointly with or for any other person, firm, company or any other entity, without obtaining the written consent of the supplier:

- I. Not disclose, transmit, reproduce or make available the Source Code including Supporting Materials or any part thereof to the Principal prior to the occurrence/happening of any of the events listed in this Agreement

- II. Not disclose, transmit, reproduce or make available the Source Code including Supporting Materials or any part thereof to any person firm, company or any other entity other than its directors, partners, advisers, agents or employees, who need to know the same for the purpose of holding, preserving, safe custody and security of the Source Code including Supporting Materials;
- III. use at least the same degree of care in safeguarding the Source Code including Supporting Materials as it uses for its own confidential documents and information of like importance and such degree of care shall be atleast that which is reasonably calculated to prevent such inadvertent disclosure;
- IV. keep the Source Code including Supporting Materials and any copies thereof secure and in such a way so as to prevent unauthorised access by any third party;
- V. bind each of its directors, partners, advisers, agents or employees so involved to hold, preserve and protect the Source Code including Supporting Materials in the manner prescribed in this Agreement;
- VI. upon discovery of any disclosure or suspected disclosure of the Source Code including Supporting Materials, to promptly inform the supplier and the principal of such disclosure in writing and immediately return to the principal all the Source Code including Supporting Materials, including any and all copies thereof.

## 11.INSURANCE

- 11.1 The Escrow Agent must, be insured in respect of potential liability, loss or damage arising at common law or under any statute in respect of claims for property damage, personal injury, public liability and professional indemnity relevant to the performance of the Escrow Agent's obligations pursuant to this Agreement.
- 11.2 The Escrow Agent must produce evidence on demand, to the satisfaction of the Licensee or Licensor as the case may be, of the insurance effected and maintained in accordance with this clause.

## 12.INDEMNITY

12.1 Escrow Agent agrees and undertakes to indemnify and hold the Supplier and Principal harmless from any loss, damage, claims, liabilities, charges, costs, or expense (including reasonable attorneys' fees), that may arise or be caused or result by reason of any breach, failure, delay, impropriety or irregularity on its part to observe, adhere to, abide by or comply with any of the terms and conditions of this Agreement, and to defend, at its own expense any suits, action, claim, litigation or other proceedings brought against any party and/or its directors, officers, agents, servants, affiliates, and employees, or any of them, on account thereof, and to pay all expenses and satisfy all judgments which may be incurred by or rendered against them in connection therewith.

12.2 The Escrow Agent indemnifies the other parties against any action, claim or demand by the Escrow Agent's servants, employees or agents or their personal representatives or dependents arising out of the performance of this Agreement.

## 13.COMPLIANCE WITH LAWS

The Escrow Agent must comply with the provisions of any relevant Statutes, Regulations, By-Laws and the requirements of any Central, State or local authority in carrying out its obligations under this Agreement.

## 14.DISPUTE RESOLUTION & APPLICABLE LAW

14.1 In the event of any dispute between the Parties relating to this Agreement or the Escrow, they shall first seek to settle the dispute by mutual agreement. If they have not reached a settlement within one month, then any disputing Party may thereafter submit the dispute to arbitration, and if so submitted, such dispute shall be finally settled by arbitration conducted in accordance with the Indian Arbitration and Conciliation Act, 1996. Any arbitration, whether involving Escrow agent or not shall be conducted in .....<sup>36</sup>India. The

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<sup>36</sup> Please specify the place of arbitration.

language of arbitration shall be English. The institution of any arbitration proceeding hereunder shall not relieve any Party of its obligation to make payments under this Agreement. The decision by the arbitrator shall be binding and conclusive upon the Parties, their successors, assigns and trustees and they shall comply with such decision in good faith.

14.2 This Agreement is governed by and must be construed in accordance with the laws from time to time in force in the Union of India and the parties agree that the courts of laws at mumbai have jurisdiction to entertain any action in respect of, or arising out of this Agreement.

#### 15. FORCE MAJEURE.

Except for obligations to make payment, no Party shall be liable for any failure to perform arising from causes beyond its control, including, but not limited to, fire, storm, flood, earthquake, explosion, accident, theft, terrorism, acts of public enemies, war, insurrection, sabotage, illness, labor disputes or shortages, product shortages, failure or delays in transportation, inability to secure materials, parts or equipment, acts of God, or acts of any governmental authority or agency thereof.

#### 16. AUDIT RIGHTS:

At the Principal's written request, but not more frequently than annually, Escrow agent shall furnish the Principal and Supplier with a written certificate signed by its authorized representative certifying that Escrow agent is in full compliance with the terms of this Agreement. The Supplier and Principal reserves the right to audit Escrow agent's activities with regard to the Source Code including Supporting Materials no more than twice annually at their own expense. The Principal and Supplier shall schedule any audit at least thirty (30) days in advance. Any such audit shall be conducted during regular business hours at Escrow agent's facilities and shall not unreasonably interfere with the Escrow agent's business activities.

#### 17. VARIATION AND WAIVER

- 17.1 No variation of this Agreement is binding unless it is in writing and signed by all parties.
- 17.2 No right under this Agreement is waived or deemed to be waived except by notice in writing signed by the party having the benefit of that right.
- 17.3 A waiver by one party of a breach of a provision of this Agreement does not constitute a waiver in respect of any other breach of the same or any other provision of this Agreement.
- 17.4 No forbearance, delay or indulgence granted by one party to another will be construed as a waiver of the first party's rights under this Agreement.

## 18.ASSIGNMENT AND SUB-CONTRACT

- 18.1 Neither the Principal nor the Supplier may assign their rights under this Agreement without the prior written consent of the other.
- 18.2 The Escrow Agent may not assign its rights nor subcontract its obligations under this Agreement without the prior written consent of the Supplier and the Principal.

## 19.SEVERABILITY

If any provision of this Agreement is held invalid, unenforceable or illegal, the offending provision shall be severed from this Agreement and the remaining parts of this Agreement remain in full force and effect.

## 20.NOTICES

- 20.1 Notices must be in writing, signed by or on behalf of the party giving notice, sent to the addresses mentioned below

.....

.....

.....

..... (Escrow Agent)

.....  
.....  
.....  
.....(Principal)

.....  
.....  
.....  
.....(Supplier)

- and:
- 20.1.1 delivered by hand (in which case the notice is deemed to have been received upon delivery);
  - 20.1.2 sent by pre-paid ordinary post (in which case the notice is deemed to have been received three (3) business days after posting); or
  - 20.1.3 sent by facsimile (in which case the notice is deemed to have been received upon receipt by the sender of confirmation of successful transmission).
  - 20.1.4 A party may change its address for service of notices by written notice to the other parties.

Agreed to and accepted by:

|                           |                       |
|---------------------------|-----------------------|
| ..... (“supplier” Agent”) | .....(“Escrow Agent”) |
|---------------------------|-----------------------|

|                                                                                                                |                                                                            |
|----------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| <p>By (signature):_____</p> <p>(signature):_____</p> <p>Name: _____</p> <p>Title:_____</p> <p>Email: _____</p> | <p>By _____</p> <p>Name :_____</p> <p>Title: _____</p> <p>Email: _____</p> |
|----------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|

State Bank of India (“Principal”)

By (signature): \_\_\_\_\_

Name of Department: \_\_\_\_\_

Title: \_\_\_\_\_

Email: \_\_\_\_\_

**ANNEXURE-M**

**NON-DISCLOSURE AGREEMENT**

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

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

And

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

And Whereas

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

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

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

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

- (a) "Confidential Information" means non-public information that Disclosing Party designates as being confidential or which, under the circumstances surrounding disclosure ought to be treated as confidential. "Confidential



Information” includes, without limitation, information relating to installed or purchased Disclosing Party software or hardware products, the information relating to general architecture of Disclosing Party’s network, information relating to nature and content of data stored within network or in any other storage media, Disclosing Party’s business policies, practices, methodology, policy design delivery, and information received from others that Disclosing Party is obligated to treat as confidential. Confidential Information disclosed to Receiving Party by any Disclosing Party Subsidiary and/ or agents is covered by this agreement

- (b) Confidential Information shall not include any information that: (i) is or subsequently becomes publicly available without Receiving Party’s breach of any obligation owed to Disclosing party; (ii) becomes known to Receiving Party prior to Disclosing Party’s disclosure of such information to Receiving Party; (iii) became known to Receiving Party from a source other than Disclosing Party other than by the breach of an obligation of confidentiality owed to Disclosing Party; or (iv) is independently developed by Receiving Party.
- (c) “Confidential Materials” shall mean all tangible materials containing Confidential Information, including without limitation written or printed documents and computer disks or tapes, whether machine or user readable.

## 2. **Restrictions**

- (a) Each party shall treat as confidential the Contract and any and all information (“confidential information”) obtained from the other pursuant to the Contract and shall not divulge such information to any person (except to such party’s own employees and other persons and then only to those employees and persons who need to know the same) without the other party’s written consent provided that this clause shall not extend to information which was rightfully in the possession of such party prior to the commencement of the negotiations leading to the Contract, which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this clause). Receiving Party will have executed or shall execute appropriate written agreements with its employees and consultants specifically assigned and/or otherwise, sufficient to enable it to comply with all the provisions of this Agreement. If the Service Provider shall appoint any Sub-Contractor then the 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.
- (b) Receiving Party may disclose Confidential Information in accordance with judicial or other governmental order to the intended recipients (as detailed in

this clause), provided Receiving Party shall give Disclosing Party reasonable notice prior to such disclosure and shall comply with any applicable protective order or equivalent. The intended recipients for this purpose are:

- (1) the statutory auditors of the Bank and
- (2) regulatory authorities regulating the affairs of the Bank and inspectors and supervisory bodies thereof
- (c) The foregoing obligations as to confidentiality shall survive any termination of this Agreement
- (d) Confidential Information and Confidential Material may be disclosed, reproduced, summarized or distributed only in pursuance of Receiving Party's business relationship with Disclosing Party, and only as otherwise provided hereunder. Receiving Party agrees to segregate all such Confidential Material from the confidential material of others in order to prevent mixing.
- (e) Receiving Party may not reverse engineer, decompile or disassemble any software disclosed to Receiving Party.

### 3. **Rights and Remedies**

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

- (d) Disclosing Party may visit Receiving Party's premises, with reasonable prior notice and during normal business hours, to review Receiving Party's compliance with the term of this Agreement.

#### 4. **Miscellaneous**

- (a) All Confidential Information and Confidential Materials are and shall remain the property of Disclosing Party. By disclosing information to Receiving Party, Disclosing Party does not grant any expressed or implied right to Receiving Party to disclose information under the Disclosing Party patents, copyrights, trademarks, or trade secret information.
- (b) Any document provided under this Agreement is provided with RESTRICTED RIGHTS.
- (c) Neither party grants to the other party any license, by implication or otherwise, to use the Confidential Information, other than for the limited purpose of evaluating or advancing a business relationship between the parties, or any license rights whatsoever in any patent, copyright or other intellectual property rights pertaining to the Confidential Information.
- (d) The terms of Confidentiality under this Agreement shall not be construed to limit either party's right to independently develop or acquire product without use of the other party's Confidential Information. Further, either party shall be free to use for any purpose the residuals resulting from access to or work with such Confidential Information, provided that such party shall maintain the confidentiality of the Confidential Information as provided herein. The term "residuals" means information in non-tangible form, which may be retained by person who has had access to the Confidential Information, including ideas, concepts, know-how or techniques contained therein. Neither party shall have any obligation to limit or restrict the assignment of such persons or to pay royalties for any work resulting from the use of residuals. However, the foregoing shall not be deemed to grant to either party a license under the other party's copyrights or patents.
- (e) This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. It shall not be modified except by a written agreement dated subsequently to the date of this Agreement and signed by both parties. None of the provisions of this Agreement shall be deemed to have been waived by any act or acquiescence on the part of Disclosing Party, its agents, or employees, except by an instrument in writing signed by an authorized officer of Disclosing Party. No waiver of any provision of this Agreement shall constitute a waiver of any other provision(s) or of the same provision on another occasion.

- (f) In case of any dispute, both the parties agree for neutral third party arbitration. Such arbitrator will be jointly selected by the two parties and he/she may be an auditor, lawyer, consultant or any other person of trust. The said proceedings shall be conducted in English language at Mumbai and in accordance with the provisions of Indian Arbitration and Conciliation Act 1996 or any Amendments or Re-enactments thereto.
- (g) Subject to the limitations set forth in this Agreement, this Agreement will inure to the benefit of and be binding upon the parties, their successors and assigns.
- (h) If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.
- (i) All obligations created by this Agreement shall survive change or termination of the parties' business relationship.

**5. Suggestions and Feedback**

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2017 at \_\_\_\_\_  
(month) (place)

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

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

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



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

**ANNEXURE-N**

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

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