PROFESSIONAL SERVICE AGREEMENT

**This PROFESSIONAL SERVICE AGREEMENT** hereinafter referred to as the “Agreement” is made at ………………………………….. effective as of this day i.e.……………..(Effective Day), is entered into by and between:

## PARTIES:

The parties to this Agreement are having

it’s principal place of business at Archies William U.S. …………………………………………………………, hereinafter referred to as “The Contractor or Service Provider“, (the expression, unless otherwise repugnant to any Law of the land shall include professional performing of Service(s) being tactical and operational in nature within a Service Provider capacity).

## AND

……….., s/ o………………., aged about……….. years, resident of ....................................................., India, bearing P A N ................... , A a d h a a r

Number ..................................................... is hereinafter referred to as **“The Client(s) or Consultant(s)”**, (the expression, unless otherwise repugnant to any Law of the land includes providing exper- tise and strategic advice for consideration and decision making within the capacity of individual Consultant(s) only).

## RECITALS:

1. The Client(s) or Consultant(s) is an expert in the field of environ- mental protection service and rendering Service(s) in the capacity of a Client(s) or Consultant(s) only.
2. The **Client(s) or Consultant(s)** is/are in possession of a sus- pected shielded entity which may contain precious unknown rare earth material and it is presumed to discharge some special proper- ties hereinafter referred to as “**The Material**“, which being an ances- tral property is in his/their possession since long time and the same has been solemnly affirmed as well as declared in an Affidavit and handed over in original to The Contractor or Service Provider which has been enclosed as ‘Enclosure - C’.
3. The Client(s) or Consultant(s) has approached The Contractor or Service Provider and wishes to avail/retain the Service(s) of The Con- tractor or Service Provider in the area of The Contractor's or Service Provider's expertise for ascertaining the subject matter in relation to “**The Material**“ as per the served written Letter of Intent along with the Scope of Services which has been enclosed as ‘Enclosure - A’ and ‘Enclosure - B’ respectively on the term(s) and condition(s) here- inafter set forth.
4. The Contractor or Service Provider desires to provide Service(s) such as Survey, Inspection, Background radiation checking, Contami- nation checking, Testing, Detection, Sampling, Analysis, Identifica- tion, Safety case preparation, Compliance(s), Storage/Transfer, Dis- posal, Shutter check and area surveys in the field of radiation protec- tion and safety to The Client(s) or Consultant(s) as may be required to ascertain the subject matter in relation to “**The Material**“ in it’s own opinion and expertise, as stated in the served and acknowledged written Letter of Acceptance along with the General Terms & Condi- tions and Standard Operating Procedure (SOP) which has been en- closed as ‘Enclosure - D’, ‘Enclosure - E’ and ‘Enclosure - G’ respec-

tively on such term(s) and condition(s).

1. “Exhibit - A” & “Exhibit - B” and “Enclosures - A to ….” are part of this Agreement and the Agreement along with the “Exhibits” and “Enclosures” shall be construed complete in all respects and aspects.
2. All the agreed term(s) and condition(s) are applicable for the project at ……………………, India, bearing project reference no

… All the mutually agreed covenants are valid, executable,

with all term(s) and condition(s) including the “Exhibits”, on and from Effective Date.

**NOW THEREFORE**, in consideration of the promise(s), mutual covenant(s) contained herein and other good and valuable considera- tion, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree and decide as follows:

## SERVICE(S):

* + 1. Scope of Service(s)

In compliance with all term(s) and condition(s) of this Agreement, the Contractor or Service Provider will perform those Service(s) pre- set by The Client(s) or Consultant(s) in writing with respect to The Contractor's or Service Provider's product(s) separately hired, pur- chased by The Client(s) or Consultant(s) ("The Contractor's or Ser- vice Provider's Commercially - Available Service(s)") as set forth in one or more supplemental document(s) (hereinafter referred to as “Scope of Service(s)"), attached hereto as **Exhibit - A** and as amended and/or supplemented from time to time by the mutual writ- ten agreement of the parties and incorporated herein by reference. The Service(s) Scope will be, at a minimum, a written document that:

1. References this Agreement.
2. Describes the Service(s) to be performed (and if said Service(s) shall include the creation of object code, such ob- ject Code is defined herein as “Deliverable”).
3. Specifies the corresponding rate schedule or other fee infor- mation and is signed by both parties or is issued by one party and signed by the other party.
4. The Contractor or Service Provider will use commercially rea- sonable effort(s) to complete the Service(s) by the applicable date(s) as set forth in the attachment ("Target Date or Due Date”). As a material inducement to The Client(s) or Consul- tant(s) entering into this Agreement, the Contractor or Service Provider represents and warrants that The Contractor or Ser-

vice Provider is a provider of certain specialised Service(s) and The Contractor or Service Provider is experienced in perform- ing the work and service(s) as contemplated herein and in light of such status and experience, the Contractor or Service Provider covenants that it shall follow the highest professional standards in performing the work and service(s) as required hereunder and that all material(s) will be of good quality and fit for the purpose intended. For the purposes of this Agree- ment, the phrase “highest professional standard(s)” shall mean those standard(s) of practice as recognised by one or more first-class Firm(s)/Organisation(s)/Company(s) perform- ing similar work under similar circumstances.

* + 1. The Contractor's or Service Provider's Proposal

The Scope of Service(s) shall include The Contractor’s or Service Provider’s proposal which shall be incorporated herein by this refer- ence as though fully set forth herein. In the event of any inconsisten- cy between the term(s) of such proposal and this Agreement, the term(s) of this Agreement shall govern.

* + 1. Compliance with Law

All Service(s) rendered hereunder shall be provided in accordance with all ordinance(s), resolution(s), statute(s), rule(s) and regulation(s) of The Client(s) or Consultant(s) and any National, State or Local governmental agency having jurisdiction in effect at the time Service(s) is/are being rendered.

* + 1. License(s), Permit(s), Fee(s) and Assessment(s)

The Contractor or Service Provider shall obtain at it’s sole cost and expense all such license(s), permit(s) and approval(s) as may be re- quired by Law for the performance of the Service(s) as required by this Agreement. The Contractor or Service Provider shall have the sole Obligation(s) to pay for any fee(s), assessment(s) and taxes, plus applicable penalties and interest, which may be imposed by Law and arise from or are necessary for The Contractor’s or Service Provider’s performance of the Service(s) required by this Agreement and shall indemnify, defend and hold The Client(s) or Consultant(s) harmless against any such fee(s), assessment(s), taxes penalties or interest levied, assessed or imposed against The Client(s) or Consul- tant(s) hereunder.

* + 1. Familiarity with Work

By executing this Agreement, the Client(s) or Consultant(s) and the Contractor or Service Provider warrants that both

1. have thoroughly investigated and understood the Scope of Service(s) to be rendered and accordingly performed.
2. fully understands the difficulties and restrictions attending performance of the Service(s) under this Agreement. Should The Contractor or Service Provider discover any latent or un- known condition(s), which will materially affect the perfor- mance of the Service(s) hereunder, the Contractor or Service Provider shall immediately inform The Client(s) or Consultant(s) of such fact(s) and shall not proceed except at The Contractor's or Service Provider's risk until written in- struction(s) are received from the Contract Officer.
	* 1. Care of Work

The Contractor or Service Provider shall adopt reasonable method(s) during the life of this Agreement to provide continuous protection to the work, the equipment(s), material(s), paper(s), document(s), plan(s), studies and/or other component(s) thereof to prevent losses or damage and shall be responsible for all such damages, to person(s) or property, until acceptance of the work by The Client(s) or Consultant(s), except such losses or damages as may be caused due to the self negligence of the Client(s) or Consultant(s).

* + 1. Additional Statement of Work

The Client(s) or Consultant(s) if they require, may request The Con- tractor or Service Provider for certain additional Service(s) which shall be in addition to the Service(s) as enumerated in the Pro-forma Invoice as well as in this Agreement. In the event of any such re- quirement, Article 1.7.1 shall govern.

* + - 1. Request for Additional Service(s)

The Client(s) or Consultant(s) may request The Contractor or Service Provider for certain additional service(s), which shall be in addition to the Service(s) as required and agreed previously, either by sending a request through mail from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the request shall be deemed to be received, on the date of the communication made earlier to this effect.

* + - 1. Assessing the Request

In the event of a request received from The Client(s) or Consultant(s) as per Article 1.7.1, the Contractor or Service Provider shall assess the request made and shall convey the acceptance or rejection of the request made for certain additional service(s). The same may be conveyed by The Contractor or Service Provider by either sending mail from the recognised mail id as per Article 21(b) or by the service of hard copy or both. In case of both, the request shall be deemed to be received, on the date of the communication made earlier to this effect.

* + - 1. Impact of Assessment

In the event of acceptance either wholly or partly, of the request re- ceived from The Client(s) or Consultant(s) as per Article 1.7.1, the Contractor or Service Provider shall be liable for completing the re- quest by using reasonable effort(s) and accommodating the request but in case, if The Contractor or Service Provider fail(s) to provide such additional Service(s) as requested from The Client(s) or Consul- tant(s) under Article 1.7.1, then that failure shall not be treated as default of The Contractor or Service Provider as per Article 12.3 and neither The Contractor or Service Provider be liable to indemnify The Client(s) or Consultant(s) as per Article 18(b) or under any other term(s) and condition(s) of this Agreement.

In the event of rejection either wholly or partly, of the request re- ceived from The Client(s) or Consultant(s) as per Article 1.7.1, the Contractor or Service Provider shall intimate the same via an email from the recognised mail id as per Article 21(b) or by the service of hard copy or both. In case of both, the reply shall be deemed to be received, on the date of receipt of, the communication made earlier to this effect.

The decision of The Contractor or Service Provider in relation to ac- ceptance or rejection either wholly or partly, of the request(s) made by The Client(s) or Consultant(s), as per Article 1.7.1, shall be solely and wholly the decision of The Contractor or Service Provider and the decision shall be final and binding.

* + - 1. Additional Cost and Payment Terms

In the event of acceptance either wholly or partly, of the request re- ceived from The Client(s) or Consultant(s) as per Article 1.7.1, the Contractor or Service Provider may charge The Client(s) or Consul- tant(s) for such additional work along with payment terms shall be intimated upfront to The Client(s) or Consultant(s) by either sending mail from the recognised mail id as per Article 21(b) or by the service of hard copy or both. In case of both, the request shall be deemed to be received, on the date of the communication made earlier to this effect.

* + - 1. Approval of such Additional Cost and Payment Terms

In the event of acceptance of such additional cost and payment terms by The Client(s) or Consultant(s) as made by The Contractor or Ser- vice Provider as per Article 1.7.4, the Client(s) or Consultant(s) shall be required to convey such acceptance by either sending mail from the recognised mail id as per Article 21(b) or by the service of hard copy or both. In case of both, the acceptance shall be deemed to be received, on the date of the communication made earlier to this ef- fect.

* + - 1. Payment of such Additional Cost as per Payment Terms

After the acceptance of such additional cost and payment terms by The Client(s) or Consultant(s) as per Article 1.7.5, the Client(s) or Consultant(s) shall be required to make the payment as per the payment terms and after receiving the complete payment or as per the decided and agreed term(s) in this regard, the Contractor or Ser- vice Provider shall proceed for performing such additional statement of work as per Article 1.7.

The payment shall be completed only after the same has been credit- ed to the bank account of The Contractor or Service Provider in case of transfer via online modes like RTGS/NEFT etc or payment being made by Cheque or any other Instrument drawn on any Bank/Finan- cial institution in this regard.

The Contractor or Service Provider shall not start / perform the re- quired additional Service(s) as per Article 1.7, until and unless ap- proval is received from the Client(s) or Consultant(s) as per Article

1.7.5 and if the Contractor or Service Provider starts / performs the required additional Service(s) as per Article 1.7 without approval from the Client(s) or Consultant(s) as per Article 1.7.5, then the Con- tractor or Service Provider cannot obligate the Client(s) or Consul-

tant(s) for making the payment either in whole or part at any given point of time.

* + - 1. Execution of Additional Statement of Work

After the acceptance of such additional statement of work as re- quested by the Client(s) or Consultant(s) as per Article 1.7, either wholly or partly and after getting the payment as per Article 1.7.6, the Contractor or Service Provider shall give an acknowledgement to convey the due date of performing the required additional Service(s) as per Article 1.7, by either sending mail from the recognised mail id as per Article 21(b) or by the service of hard copy or both. In case of both, the acknowledgement shall be deemed to be received, on the date of the communication made earlier to this effect.

The due date as per this Article may / may not be the same as the Target Date or Due Date for performing such additional statement of work as requested by the Client(s) or Consultant(s) as per Article 1.7 and the same may be as agreed and decided by the parties.

* + - 1. Withdrawal of the Request

The request made by the Client(s) or Consultant(s) as per Article 1.7, may be withdrawn by the Client(s) or Consultant(s) by giving an in- timation in writing at any point of time before the online credit is re- ceived by the Contractor or Service Provider and in the case payment is made by Cheque, then before such cheque is deposited in the bank account of the Contractor or Service Provider.

In case the payment has been made by Cheque, then the Client(s) or Consultant(s) shall intimate the non deposit of such cheque on the same day of issue of the cheque.

In case, the cheque has been deposited by The Contractor or Service Provider due to non receipt of any communication from The Client(s) or Consultant(s), then it shall be The duty of the Client(s) or Consul- tant(s) to honour the said cheque, otherwise The Contractor or Ser- vice Provider shall be at liberty to take Legal Recourse as per Law.

The business hours of the Organization are from IST 10:00 hours to 19:00 hours. If any intimation is received beyond the said hours, then the same shall be considered to be received on the next busi- ness day. Any deviation from the above is subject to acceptance at the sole discretion of The Contractor or Service Provider and the de- cision of The Contractor or Service Provider shall be final and binding in this regard. The acceptance shall be in written mode only.

* + 1. Further Responsibilities of Parties

Both parties agree to use reasonable care and diligence to perform their respective Obligation(s) under this Agreement. Both parties fur- ther agree to act in good faith to execute required instrument(s), prepare required document(s) and take required action(s) as may be of reasonable necessity to carry out the purposes of this Agreement. Unless hereafter specifically stated, neither party shall be responsible either directly or indirectly for the duty/liability pertaining to other(s).

* + 1. Location of the Project i.e. The Site Address

The Location of the Project i.e. The Site Address applicable for this Agreement is , India.

* + - 1. Changing the Location of the Project i.e. The Site Address

Both parties agree to the fact that the Location of the Project i.e. the Site Address is one of the integral part of this Agreement and also that The Contractor or Service Provider shall be able to provide the required Service(s) only if gets certain minimum facilities as required for performing the Service(s). The Client(s) or Consultant(s) also agree and acknowledge the fact that it is their indispensable respon- sibility to provide workable environment to The Contractor or Service Provider for performing their required Service(s) under this Agree- ment.

The parties mutually agree for changing the Location of the Project

i.e. The Site Address only once during the term of this Agreement by following the procedure mentioned in Article 1.9.2.

* + - 1. Procedure for Changing

The Client(s) or Consultant(s) shall request in writing mentioning valid and acceptable reason(s) for such change, by giving clear notice at-least before 24 (Twenty Four) hours of the scheduled tenure for performance and completion of the service(s) as enumerated in “Ex- hibit - A”, by either through mail communication(s) from the recog- nised mail id as mentioned in Article 21(b) or by following the proce- dure as per Article 22(b) or both. In cases of both, the communica- tion(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier simultaneously to this effect.

The business hours of the Organisation are from IST 10:00 hours to 19:00 hours on business days excluding holiday(s) granted under the Negotiable Instruments Act, 1881, (as amended up to date) or State Government declared holiday(s) applicable for the state where The Contractor’s or Service Provider’s usual place of business is located as per Article 22(a) in this regard. In case where The Contractor or Ser- vice Provider is not able to operate it’s office because of any accept- able reason(s), which is beyond the control of The Contractor or Ser- vice Provider, then The Contract Officer shall examine the genuine- ness of the fact(s) and circumstance(s) and the Contract Officer shall decide the matter accordingly. The Contract Officer’s determination shall be final and conclusive upon the parties to this Agreement. If any intimation is received beyond the said hours, then the same shall be considered to be received on the next business day. Any deviation from the above is subject to acceptance at the sole discretion of The Contractor or Service Provider and the decision of The Contractor or Service Provider shall be final and binding in this regard. The accep- tance of deviation by The Contractor or Service Provider shall be in written mode only.

* + - 1. Assessing the Request and Communication of the Assessment

In the event of a request made by The Client(s) or Consultant(s) as per Article 1.9.2, the Contractor or Service Provider shall assess the reasonability and genuineness of the request made and if The Con- tractor or Service Provider is satisfied by the reason(s) then it shall accept the request and give a confirmation of acceptance of the re- quest preferably in the same manner of the request. In the event of acceptance of request, only the Location of the Project i.e. The Site Address shall be changed for the given date and time in relation to performance of required Service(s) as enumerated in “Exhibit - A”.

If The Contractor or Service Provider is not satisfied by the reason(s) then it shall reject the request and give an intimation of the same preferably in the same manner of the request. In such a case, The Client(s) or Consultant(s) shall be compulsorily required to perform it’s duties and responsibilities as per this Agreement failing which The Contractor or Service Provider shall be at liberty to proceed as per the provision(s) of this Agreement.

## THE CLIENT(S) OR CONSULTANT(S) DUTIES AND RE- SPONSIBILITIES:

The Client(s) or Consultant(s) will make available in a timely manner for The Contractor's or Service Provider's use, at no charge to The Contractor or Service Provider, all technical data, workable facilities, program(s), file(s), documentation, test data, sample output, or oth- er information, resources and personnel as required by The Contrac- tor or Service Provider and as set forth in the applicable document(s) for the performance of Service(s). The Client(s) or Consultant(s) will be responsible for and assumes the risk of any issue(s) or problem(s) resulting from the content, accuracy, completeness, competence, or consistency of all The Client(s) or Consultant(s) workable facilities, program(s), file(s), documentation, test data, sample output, or oth- er information, resource(s) and personnel supplied by The Client(s) or Consultant(s) either directly or indirectly. It is the duty and re- sponsibility of The Client(s) or Consultant(s) that The Client(s) or Consultant(s) will provide, at no charge to The Contractor or Service Provider “**The Material**“ at the Client’s or Consultant’s facilities preferably in a non-residential area as The Contractor or Service Provider requires for performing the Service(s).

## INTERDEPENDENCIES - THE CLIENT(S) OR CONSUL- TANT(S) AND THIRD PARTY(S) DELAYS:

The Client(s) or Consultant(s) acknowledges that meeting the Target Date or Due Date is contingent upon timely completion of activity(s) by The Client(s) or Consultant(s) as contemplated by the parties un- der this Agreement including, without limitation, those activity(s) designated to The Client(s) or Consultant(s) in Article-2 above and/or in the applicable Scope of Service(s) document **("The Client(s) or Consultant(s) Obligation(s)")**. The Client(s) or Consultant(s) will immediately advise The Contractor or Service Provider in writing, by either through mail communication(s) from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Arti- cle 22(b) or both. In cases of both, the communication(s) shall be d e e m e d t o b e r e c e i ve d a n d s e n t , o n t h e d a t e o f t h e communication(s) made earlier simultaneously to this effect, as soon as it becomes aware of any development(s) that may delay comple- tion of a scheduled Deliverable including, without limitation, the Client’s or Consultant’s failure or inability to perform The Client(s) or Consultant(s) Obligation(s). The Target Date or Due Date (which is only in actual) may be equitably adjusted by the parties (but in no event, not generally, less than a day-for-day adjustment) in writing, by either through mail communication(s) from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In cases of both, the communication(s) shall be

d e e m e d t o b e r e c e i ve d a n d s e n t , o n t h e d a t e o f t h e communication(s) made earlier simultaneously to this effect, in the event of: (a) any delay caused by the Client’s or Consultant’s failure or inability to perform The Client(s) or Consultant(s) Obligation(s);

(b) any delay due to the Client’s or Consultant’s request for any par- ticular change or changes (whether pursuant to a Change Order or otherwise); (c) any delay due to a third party's act either directly or indirectly, failure to act or delay in performing any Obligation(s) whatsoever; or (d) any other delay incurred as a result of the Client’s or Consultant’s action(s) and/or omission(s).

No such delay will relieve or suspend the Client’s or Consultant’s Obligation(s) to pay The Contractor or Service Provider under Article-

4 and in addition to such payment Obligation(s), the Client(s) or

Consultant(s) will pay for any and all cost(s) and expense(s) incurred by The Contractor or Service Provider relating to re-staffing as a re- sult of any delay caused by and because of The Client(s) or Consul- tant(s) either directly or indirectly.

The provision(s) of this Article shall not be applicable in cases where the Third Party’s is/are the direct or indirect beneficiaries of The Client(s) or Consultant(s) in relation to this Agreement and any/all such event(s) shall be construed as violation of Article 27.13 of this Agreement. In the happening of any such event, The Contractor or Service Provider shall be relieved from performing their part under this Agreement and The Contractor or Service Provider shall be at liberty to proceed as per Article 18 of the Agreement.

## FEES AND PAYMENT:

* + 1. Fees and Expenses

The Client(s) or Consultant(s) will pay The Contractor or Service Provider fees as set forth in Article 4.3 read with **Exhibit - B ("Fees")**. Such fees assume that the Service(s) shall commence within one hundred and eighty days (180) days from the Pro-forma Invoice generating date. If the Service(s) do not commence on or before the date that is one hundred and eighty days (180) days after the Pro-forma Invoice generating date, because of the failure on the part of The Client(s) or Consultant(s) to fulfil its Obligation(s) and not due to change in any Law for the time being in force or because of condition(s) as stated in Article 5.2, such fee(s) will automatically be adjusted to The Contractor's or Service Provider's then-current rate(s) and fee(s) for such service(s). The Client(s) or Consultant(s) will reimburse The Contractor or Service Provider for all further rea- sonable cost(s) and expense(s) incurred by The Contractor or Service Provider in it’s performance of the Service(s) under this Agreement

including but not limited to consultancy, reasonable travel and lodg- ing expense(s). In the event of any particular change or changes in work and any additional service(s), subject to the consideration of The Contractor or Service Provider, the Client(s) or Consultant(s) shall be liable to pay additional charge(s) as asked by The Contractor or Service Provider in all manner.

* + 1. Payment

Unless otherwise set forth, any payment schedule in “**Exhibit-B** “, the Client(s) or Consultant(s) will make the full payment under this Agreement in INR within fifteen (15) calendar days after the date of The Contractor's or Service Provider's final invoice. In case of late payment or non payment within the above time frame, the Client(s) or Consultant(s) will be liable to pay The Contractor or Service Provider interest on the overdue amount at the rate of one and one half percent (1.5%) per month or the maximum rate allowed under Law, whichever is less, for each month, or partial month, calculated from the date such payment was due until the date paid. The Client(s) or Consultant(s) will reimburse The Contractor or Service Provider for all cost(s) incurred by The Contractor or Service Provider (including The Contractor’s or Service Provider’s consultancy charges, reasonable attorneys' fees, collection fee(s), court cost(s), if any) in connection with any collection effort(s) made in relation to or arising out of this Agreement.

* + 1. Security Deposit
			1. Amount

The Client(s) or Consultant(s) is required to pay and has paid an up- front Security Deposit towards the service charge(s) of an amount equalling to INR (₹) 000,000.00/- (Rupees …………) only, inclusive of all the taxes as applicable, against an estimated incurring cost, not in actual valuation, generated in pro-forma invoice raised by The Con- tractor or Service Provider and as acknowledged by The Client(s) or Consultant(s) which has been enclosed as ‘Enclosure - F’, through Account Payee Cheque(s) and/or Demand Draft(s) bearing number

……… dated drawn or made in favor of The Organisation and/or

online transfer like RTGS etc or by furnishing an appropriate financial Bank guarantee with all such term(s) as mutually agreed and set above or any other mode as required under the Agreement apart from cash. The Security Deposit shall only be created after the reali- sation of the above Account Payee Cheque(s) and/or Demand Draft(s) or of the credit of transfers made or such confirmation as may be required from Bank(s) giving the financial guarantee.

* + - 1. Payment Terms

The entire amount as estimated by The Contractor or Service Provider as per Article 4.3.1, which is inclusive of all the applicable taxes needs to be paid upfront by The Client(s) or Consultant(s).

The Client(s) or Consultant(s) shall not make partial payment of the Security Deposit, until and unless the same has been requested by The Client(s) or Consultant(s) and subsequently approved by The Contractor or Service Provider. The request and approval shall specif- ically be in written mode, by either communicating through mail from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the com- munication(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier to this effect.

* + - 1. Payment Mode

The Security Deposit has been created by The Client(s) or Consul- tant(s) either by directly remitting the said amount to The Contractor or Service Provider through online transfer like RTGS etc or by fur- nishing an appropriate financial Bank guarantee with all such term(s) as mutually agreed and set forth or any other mode as required un- der this Article.

The payment towards creation of Security Deposit has been made by The Client(s) or Consultant(s) by the way of Account Payee Cheque(s) and/or Demand Draft(s) bearing number ……… which can be encashed or endorsed by The Contractor or Service Provider at any time before its validity and The Client(s) or Consultant(s) shall be liable to honour the said Cheque(s). In any instance of dishonour or non-credit of the Instrument(s) issued in this regard, the Contractor or Service Provider shall be at liberty to take Legal Recourse as avail- able in Law.

The Security Deposit has been initiated for creation by The Client(s) or Consultant(s) by the use of multiple methods as mentioned above.

The Client(s) or Consultant(s) shall not holdback or cause to be hold- back either directly or indirectly, the above payment under any mode(s) for any reason(s) whatsoever under any given circum- stance(s) and in case of any dispute, the parties shall deal with it as per the Agreement.

* + - 1. Payment Realisation

In case the payment has been made by either directly remitting the said amount to The Contractor or Service Provider through online transfer like RTGS etc or by furnishing an appropriate financial Bank guarantee with all such term(s) as mutually agreed and set forth or any other mode as required under Article 4.3.3, then the date of credit of such amount shall be taken as date of receipt or the Date of confirmation when any such confirmation may be required from Bank(s) giving the financial guarantee. In case the payment has been made by Cheque(s) and/or Bank Draft(s), the payment shall be con- firmed to be received only after realisation of the Cheque(s) and/or Bank Draft(s).

In cases, where the payment is being made by using multiple meth- ods as mentioned above, then in those cases, the payment shall said to have been received in full, as required under Article 4.3.1, after realisation of the entire amount in full and The Client(s) or Consul- tant(s) shall have indispensable responsibility for making the full payment. In case of any dispute, then the payment (neither in part nor in full) can be withheld or cause to be withheld by The Client(s) or Consultant(s) under any given circumstance(s) for any reason(s) whatsoever, but The Client(s) or Consultant(s) shall be at liberty to proceed as per the provision(s) of this Agreement.

* + - 1. Non realisation/Credit of Payment

In case of non realisation/Credit of the full payment before the Target Date or Due Date as required under Article 4.3.1, solely and wholly because of non-credit of funds due to processing delay or any techni- cal delay by The Contractor’s or Service Provider’s bank or financial institution and not due to the delay caused because of the part of The Contractor or Service Provider, then The Contractor or Service Provider, shall be at liberty to decide, whether or not to proceed with this Agreement and this decision of The Contractor or Service Provider shall be final and binding in this regard. If, the Contractor or Service Provider denies to provide the Service(s), as required under this Agreement, only due to the above reason, then The Contractor or Service Provider shall extend the due date without any extra charge by giving an intimation in written mode i.e. by either commu- nicating through mail from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier to this effect and in case where there is any dispute, then the parties shall decide and act accordingly. The Contractor or Service Provider cannot be held liable for breach of covenant(s) of this Agreement and

thus be subjected to penal provision(s) under any Article of this Agreement for the above act.

The Contractor or Service Provider, shall be bound to perform the Service(s) as required under this Agreement without extending the Target Date or Due Date, if the above payment, is not credited before the Target Date or Due Date, to the account of The Contractor or Service Provider, because of the fault of The Contractor or Service Provider like non-deposit of the Instrument(s) with the banker or fi- nancial institution and not due to the fault of the banker or financial institution.

The Client(s) or Consultant(s) shall be required to ensure that the Security Deposit is successfully created after realisation of the Cheque(s) and/or Bank Draft(s), before the Target Date or Due Date otherwise The Contractor or Service Provider, shall not be bound to perform the Service(s) as required under this Agreement without ex- tending the Target Date or Due Date. If The Contractor or Service Provider, extends the Target Date or Due Date because of the above, then The Contractor or Service Provider cannot be held liable for breach of covenant(s) of this Agreement and thus be subjected to penal provision(s) under any Article of this Agreement for the above act.

In case, the Contractor or Service Provider desires to provide the Service(s) as required under this Agreement, then such shall be only done on the basis of good faith and this Act shall not relieve the Client(s) or Consultant(s) from honouring the payment under any cir- cumstance(s) for whatsoever be the reason(s). The Client(s) or Con- sultant(s) shall not holdback or cause to be holdback either directly or indirectly, the above payment under any mode(s) for any reason(s) whatsoever under any given circumstance(s) and in case of any dispute, the parties shall deal with it as per the Agreement. The above payment cannot be said to have been due or liable to be made or made after completion of Service(s) under any circumstance(s) and for any reason(s) whatsoever.

* + - 1. Adjustment of Payment

This Security Deposit will be adjusted with the final invoice after completion of the Service(s) or otherwise be forfeited for failure of Obligation(s) and performance of The Client(s) or Consultant(s), herein The Client(s) or Consultant(s) Obligation(s) as set forth in Ar- ticle - 3 and 12.3.b.

## PERFORMANCE SCHEDULE:

* + 1. Essence of Time

Time is the essence in the performance of this Agreement. Any refer- ence to days means calendar days unless otherwise specifically stat- ed. The Contractor or Service Provider shall commence the Service(s) pursuant to this Agreement upon receipt of a written notice in the procedure enumerated below to proceed and shall perform all Ser- vice(s) within the time period(s). If the schedule calls for the Service(s) to be performed in phases or discrete increments, the Contractor or Service Provider shall not proceed from one phase or increment to the next without written authorisation from The Client(s) or Consultant(s), by either communicating through mail from the recognised mail id as mentioned in Article 21(b) or by fol- lowing the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier to this effect. The Contractor or Service Provider will complete all Service(s) by

…………………………………

* + 1. Force Majeure

The time period(s) specified in the Schedule of Performance of Ser- vice(s) rendered pursuant to this Agreement shall be extended be- cause of any delays due to unforeseeable causes beyond the control and without the fault or negligence of The Contractor or Service Provider or The Client(s) or Consultant(s), including, but not restrict- ed to, Act of God or of the public enemy, unusual severe weather, fire, earthquake, flood, epidemic, quarantine restrictions, riot, strike, freight embargoes, war, litigation and/or act(s) of any governmental agency, the Contractor or Service Provider/The Client(s) or Consul- tant(s) shall immediately on the commencement of such delay notify in writing about the cause of the delay by either communicating through mail from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier to this effect. The Contract Officer shall ascertain the fact(s) and the extent of delay and shall extend the time for performing the Service(s) for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer’s deter- mination shall be final and conclusive upon the parties to this Agree- ment. In no event shall The Contractor or Service Provider be entitled to recover damages against The Client(s) or Consultant(s) and vice- versa for any delay in the performance of this Agreement, however in

such case, the sole remedy being extension of the Agreement pur- suant to this Article.

* + 1. Term

Unless earlier terminated or expired in accordance with the provision(s) of this Agreement, the same shall continue to be in full force and effect until completion of the Service(s) but not exceeding fifteen (15) days from the date hereof, except as otherwise provided in the Schedule of Performance.

Upon the expiration of this Agreement as per this Article, the Con- tractor or Service Provider may proceed as per Article 27.21.

## STANDARD OF PERFORMANCE:

The Contractor’s or Service Provider's Service(s) shall be performed in accordance with generally accepted professional practices and prin- ciples and in a manner consistent with the level of care and skill ordi- narily exercised by members of The Contractor's or Service Provider's profession currently practicing under similar condition(s). Whenever the scope of work requires or permits approval by The Client(s) or Consultant(s), it is understood to be approved solely for the purposes of confirming to the requirements of the scope of work and not ac- ceptance of any other professional or other responsibility for the work. Such approval does not relieve The Contractor or Service Provider of it’s responsibility for complying with the standard of per- formance or Law(s), regulation(s), industry standards, or from liabili- ty for damages caused by negligent act(s), error(s), omission(s), noncompliance with industry standards, or the wilful misconduct of The Contractor or Service Provider or its Sub-Contractor(s). By deliv- ery of completed work, the Contractor or Service Provider certifies that the work conforms to the requirements of this Agreement and all applicable federal, state and local Laws. If The Contractor or Service Provider is required to perform Service(s) which requires a license certification, registration or other similar requirement(s) under Indian Law, the Contractor or Service Provider shall maintain that license, certification, registration or other similar requirement throughout the term of this Agreement. The Contractor or Service Provider shall not maintain the license certification, registration or other similar re- quirement(s) under Indian Law beyond the term of this Agreement unless The Client(s) or Consultant(s) has requested the same and the request has been accepted by The Contractor or Service Provider. The request and approval shall specifically be in written mode, either communicating through mail from the recognized mail id as men- tioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be deemed

to be received and sent, on the date of the communication(s) made earlier to this effect.

## CO-ORDINATION OF WORK:

* + 1. Representative(s) of Parties:
			1. Client(s) or Consultant(s)

The following person(s) of The Client(s) or Consultant(s) is/are here- by designated as being the principal(s) and representative(s) of The Client(s) or Consultant(s) authorised to act in it’s behalf with respect to the work specified herein and make all decision(s) in connection therewith:

**……………………..**

* + - 1. Contractor or Service Provider

The following person(s) of The Contractor or Service Provider is/are hereby designated as being the principal(s) and representative(s) of The Contractor or Service Provider authorised to act in it’s behalf with respect to the work specified herein and make all decision(s) in con- nection therewith:

**……………………..**

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal(s) are not substantial in- ducement for The Client(s) or Consultant(s) to enter into this Agree- ment. Therefore, the foregoing principal(s) shall be responsible dur- ing the term of this Agreement for directing all activity(s) of The Con- tractor or Service Provider by devoting sufficient time to personally supervise the Service(s) hereunder. For the purposes of this Agree- ment, the foregoing principal(s) may be replaced or their responsibili- ties be substantially reduced by The Contractor or Service Provider without the express written approval of The Client(s) or Consultant(s).

* + 1. Non-Prohibition Against Sub-contracting or Assignment

The experience, knowledge, capability and reputation of The Contrac- tor or Service Provider, it’s principal(s) and Employee(s) were not a substantial inducement for The Client(s) or Consultant(s) to enter into this Agreement. Therefore, the Contractor or Service Provider may contract with any other Sub-Contractor(s) and/or entity(s) to perform in whole or in part the Service(s) required hereunder without

the express written approval of The Client(s) or Consultant(s). In ad- dition, either this Agreement or any interest herein may be trans- ferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of Law, whether for the benefit of creditor(s) or oth- erwise, without any approval from The Client(s) or Consultant(s) in any manner i.e. oral or written and/or expressed or implied. In the event of any such unapproved transfer this Agreement shall not be void. The Contractor or Service Provider shall not be liable for breach of any covenant(s) under this Agreement and shall be subjected to any penal provision(s) under this Agreement. No approved transfer shall release The Contractor or Service Provider or any surety of The Contractor or Service Provider of any liability hereunder without the express consent of The Client(s) or Consultant(s).

## WORKPLACE CONDUCT AND BEHAVIOUR:

The Contractor or Service Provider and The Contractor's or Service Provider's officer(s), Employee(s), Agent(s) and Sub-Contractor(s) shall comply with the Client’s or Consultant’s substance-free Work Place Policy, Information and Communication(s) Systems Policy and other rules and regulations governing work place safety, conduct and behaviour, for any portion of the work performed on the premises of The Client(s) or Consultant(s) or using The Client(s) or Consultant(s) facilities or equipment(s).

## OWNERSHIP OF WORK PRODUCT:

Upon delivery, the work product, including without limitation, all orig- inal report(s), writing(s), recording(s), drawing(s), file(s) and de- tailed calculation(s) developed under this Agreement are the property of The Client(s) or Consultant(s). The Contractor or Service Provider agrees that all copyright(s) which arise from creation of the work pursuant to this Agreement shall be vested in The Client(s) or Con- sultant(s) and waives and relinquishes all claim(s) to copyright(s) or other intellectual property right(s) in favour of The Client(s) or Con- sultant(s). The Client(s) or Consultant(s) acknowledges that it’s use of the work product is limited to the purposes contemplated by the scope of work and that The Contractor or Service Provider makes no representation of the suitability of the work product for use in or ap- plication to circumstances not contemplated by the scope of work.

## FORMAT OF DOCUMENT(S):

Document(s) submitted to The Client(s) or Consultant(s) in electronic format shall be formatted according to specifications provided to The Contractor or Service Provider, or if not otherwise specified, in Mi- crosoft Word, Excel, PowerPoint or other Microsoft Office Professional 2007 format as appropriate for the particular work product or, if di- rected by the Contract Officer in Portable Document Format.

## CHANGES IN WORK:

No payment for changed or additional work done by The Contractor or Service Provider shall be made unless the changed or additional work has first been approved in writing by The Client(s) or Consul- tant(s) and the parties have agreed upon the appropriate adjust- ment, if any, to the payment schedule and minimum payable amount for the changed or additional work. The request and subsequent ap- proval shall be either communicating through mail from the recog- nised mail id as mentioned in Article 21(b) or by following the proce- dure as per Article 22(b) or both. In case of both, the communica- tion(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier to this effect. For changed or addi- tional work proposed by The Client(s) or Consultant(s), the same is additionally chargeable subject to the acceptability by The Contractor or Service Provider. An approved change or addition, along with the payment adjustment or further additional payment, if any, will be ef- fective upon an amendment to this Agreement executed by both par- ties. The amendment shall not render ineffective or invalidate unaf- fected portion(s) of this Agreement. All changes in work that increase the amount of payment shall be subject to The Contractor's or Ser- vice Provider's and the Client’s or Consultant’s mutual understanding in good faith.

The payment terms and mode of the above requested and approved further additional payment(s) shall be as per Article 4.3 or as mutual- ly agreed and decided by the parties to this effect. This further ap- proval shall either be communicated through mail from the recog- nised mail id as mentioned in Article 21(b) or by following the proce- dure as per Article 22(b) or both. In case of both, the communica- tion(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier to this effect.

## TERM, TERMINATION OR ABANDONMENT:

* + 1. Term

The term(s) of this Agreement will commence on and from Effective Date i.e. …………………… and will continue to be in effect until and un- less terminated or expired pursuant to the term(s) of this Agreement as per Article 12.2 or as per Article 12.3 or as per Article 27.20 read with Article 27.21.

* + 1. Termination for Cause

Either party may terminate this Agreement upon written notice which shall be either communicated through mail from the recognized mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be d e e m e d t o b e r e c e i ve d a n d s e n t , o n t h e d a t e o f t h e communication(s) made earlier to this effect, if the other party has materially breached any provision(s) of this Agreement and has not cured such breach immediately or within the time as stipulated in the notice, after receiving the written notice from the non-breaching par- ty describing such breach in reasonable detail and stating the non- breaching party's intent to terminate this Agreement if not acted upon on an immediate basis by the breaching party.

1. The Client’s or Consultant’s Rights - The Client(s) or Con- sultant(s) has the right to terminate or abandon any por- tion or all of the work by giving at-least twenty-four (24) hours written notice. The business hours of the Organisa- tion are from IST 10:00 hours to 19:00 hours on business days excluding holiday(s) granted under the Negotiable Instruments Act, 1881, (as amended up to date) or State Government declared holiday(s) applicable for the state where The Contractor’s or Service Provider’s usual place of business is located as per Article 22(a) in this regard. In case where The Contractor or Service Provider is not able to operate it’s office because of any acceptable reason(s), which is beyond the control of The Contractor or Service Provider, then The Contract Officer shall examine the gen- uineness of the fact(s) and circumstance(s) and the Con- tract Officer shall decide the matter accordingly. The Con- tract Officer’s determination shall be final and conclusive upon the parties to this Agreement. If any intimation is received beyond the said hours, then the same shall be considered to be received on the next business day. Any deviation from the above is subject to acceptance at the sole discretion of The Contractor or Service Provider and

the decision of The Contractor or Service Provider shall be final and binding in this regard. The acceptance shall be in written mode only which shall be either communicated through mail from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier to this effect. Upon receipt of a notice of termination, the Contractor or Service Provider shall perform no further work except as specified in the notice by The Client(s) or Consultant(s) and required by The Contractor or Service Provider for termination. Be- fore the date of termination, the Contractor or Service Provider shall deliver to The Client(s) or Consultant(s) all work product, whether completed or not, as on the date of termination and not otherwise previously delivered. The Client(s) or Consultant(s) shall pay The Contractor or Ser- vice Provider for Service(s) performed in accordance with this Agreement till the date of termination. If this Agree- ment provides for payment of a lump sum for all Service(s) or by task and termination occurs before completion of the work or any defined task which according to the perfor- mance schedule was commenced before the notice of ter- mination, the fee for Service(s) performed shall be based on an amount mutually agreed to by The Client(s) or Con- sultant(s) and The Contractor or Service Provider for the portion of work completed in conformance with this Agreement before the date of termination. In addition, the Client(s) or Consultant(s) will reimburse The Contractor or Service Provider for authorised expenses incurred and not previously reimbursed. The Client(s) or Consultant(s) shall not be liable for any fees or costs associated for the termi- nation or abandonment except for the fees and reim- bursement of authorised expenses, payable pursuant to this section.

1. The Contractor's or Service Provider’s Rights - If The Con- tractor or Service Provider is not in default or breach, it may terminate The Contractor's or Service Provider's Obligation(s) to provide further Service(s) under this Agreement upon any time by giving written notice which shall be either communicated through mail from the recognised mail id as mentioned in Article 21(b) or by fol- lowing the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be deemed to be re- ceived and sent, on the date of the communication(s) made earlier to this effect, only in the event of a material

default by The Client(s) or Consultant(s), which default has not been cured within such days as stated in the written notice under this Article.

The non-breaching party in the above case shall be at liberty to pro- ceed as per Article 18 and if the non breaching party is The Contrac- tor or Service Provider then it may also proceed as per Article 27.21.

* + 1. Termination for default

This Agreement may be terminated by either party with proper notice in written mode upon the occurrence of an event of default which shall be either communicated through mail from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be d e e m e d t o b e r e c e i ve d a n d s e n t , o n t h e d a t e o f t h e communication(s) made earlier to this effect.

Each of the following constitutes an event of default for the purposes of this Agreement until and unless specifically requested and agreed for expulsion by and between both the parties to the Agreement by either communicating through mail from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Arti- cle 22(b) or both. In case of both, the communication(s) shall be d e e m e d t o b e r e c e i ve d a n d s e n t , o n t h e d a t e o f t h e communication(s) made earlier to this effect:

1. Default of The Contractor or Service Provider
	1. if The Contractor or Service Provider commits any material dishonest or fraudulent act(s) in the perfor- mance of any of it’s Obligation(s) hereunder or any material misrepresentation hereunder;
	2. if The Contractor or Service Provider persistently fails to perform the Service(s) as required hereunder except due to the non-function or malfunction of re- quired equipment(s) for performing the Service(s) in any manner;
	3. if The Contractor or Service Provider persistently fails to perform the Service(s) as required hereunder except due to acceptable unforeseen loss or misplace of required equipment(s) for performing the Service(s) in any manner and for any reason(s) whatsoever;
	4. if The Contractor or Service Provider otherwise fails to perform or comply with any material term(s), condi- tion(s) or covenant(s) of this Agreement;
2. Default of The Client(s) or Consultant(s)
	1. If The Client(s) or Consultant(s) in addition of the Client’s or Consultant’s Obligation(s) as stated in Article 3, Article 4 or any other provision(s) of this Agreement, fails to enable The Contractor or Service Provider to In- dependently inspect “**The Material**“ as enumerated in this Agreement with or without such precautionary re- striction(s) in relation to safety of The Contractor’s or Service Provider’s personnel as may be recommended and deemed appropriate by The Contractor or Service Provider (the decision of The Contractor or Service Provider shall be final and binding in this regard) or pro- duce “**The Material**“ and provide entry at the proper Location of the Project i.e. The Site Address with mini- mum facility as required for performing Service(s) on the Target Date or Due Date in the time as mentioned hereunder in the scheduled tenure of performance and completion of the service(s) as enumerated in “Exhibit - A”.
	2. If The Client(s) or Consultant(s) changes the Location of the Project i.e. The Site Address without any prior written notice i.e. at least 24 hours before the scheduled tenure of performance and completion of the service(s) as enumerated in “Exhibit - A”. The business hours of The Contractor or Service Provider are from IST 10:00 hrs to 19:00 hrs on business days excluding holiday(s) granted under the Negotiable Instruments Act, 1881, (as amended up to date) or State Government declared hol- iday(s) applicable for the state where The Contractor’s or Service Provider’s usual place of business is located as per Article 22(a) in this regard. In case where The Contractor or Service Provider is not able to operate it’s office because of any acceptable reason(s), which is be- yond the control of The Contractor or Service Provider, then The Contract Officer shall examine the genuineness of the fact(s) and circumstance(s) and the Contract Offi- cer shall decide the matter accordingly. The Contract Of- ficer’s determination shall be final and conclusive upon the parties to this Agreement. Any communication re- ceived beyond the business hours shall be deemed to be received on the next business day. No deviation from the

above is acceptable under any given situation(s) and for whatsoever reason(s).

* 1. If “**The Material**“ found is: non rare earth material, not discharging any special properties and thereafter not requiring extraordinary compliance with/without license as presumed by The Client(s) or Consultant(s), through identification and handling, then the Agreement can be terminated without any further responsibilities of The Contractor or Service Provider.

The non-defaulting party in the above case shall be at liberty to pro- ceed as per Article 18 and if the non breaching party is The Contrac- tor or Service Provider then it may also proceed as per Article 27.21.

* + 1. Return of Material(s)

Upon the expiration or termination of this Agreement as per Article

12.2 or as per Article 12.3 or as per Article 27.20 read with Article 27.21, except as necessary to exercise the right(s) granted by The Contractor or Service Provider to The Client(s) or Consultant(s) or vice versa, pursuant to this Agreement, each party will return promptly or, at the other party's request, which shall be in written mode and shall be either communicated through mail from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the communi- cation(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier to this effect, destroy all document(s) and other tangible objects containing or representing Confidential In- formation of the other party except to the extent that such docu- ment(s) must be retained to satisfy auditing or regulatory require- ments. If requested by the other party in the request made above, each party will provide the other party with written certification of compliance with the foregoing Obligation(s) under this Article 12.4.

* + 1. Survival

Notwithstanding any expiration or termination of this Agreement as per Article 12.2 or as per Article 12.3 or as per Article 27.20 read with Article 27.21, all payment Obligation(s) incurred prior to expira- tion or termination as per Article 12.2 or as per Article 12.3 or as per Article 27.20 read with Article 27.21 will survive and the following provision(s) will continue to be in effect or force: Articles 6, 8, 9, Sub-Article—12.4 of Article 12, 13 and Sub-Article 16.2 of Article 16. All other right(s) granted under this Agreement will cease upon expi- ration or termination of this Agreement as per Article 12.2 or as per Article 12.3 or as per Article 27.20 read with Article 27.21.

## CONFIDENTIAL INFORMATION:

* + 1. Definition of Confidential Information

Confidential Information means any information disclosed under this Agreement by either party ("Disclosing Party") to the other party ("Receiving Party") that: (a) is in written, graphic, machine readable or other tangible form and is marked “Confidential", "Proprietary" or in some other manner to indicate it’s confidential nature; (b) oral information disclosed by the Disclosing Party to the Receiving Party pursuant to this Agreement, provided that such information is des- ignated as confidential at the time of disclosure and reduced to a written summary by the Disclosing Party, marked in a manner to indicate it’s confidential nature and delivered to the Receiving Party within ten (10) calendar days after it’s oral disclosure; and (c) in- formation otherwise reasonably expected to be treated in a confi- dential manner under the circumstances of disclosure. Not- withstanding the foregoing, the following information will be deemed as Confidential Information of The Contractor or Service Provider whether or not so designated upon disclosure or confirmed in writing:

1. Pricing information related to The Contractor’s or Service Provider’s charges in relation to providing the service(s);
2. The Contractor’s or Service Provider’s Pre-Existing Technology and The Contractor’s or Service Provider’s Work Product (both being defined in Article 15.1); and
3. Any know-how, design(s), layout(s), configuration(s), method(s), processes, formulae, specification(s), functionality, per- formance data, test result(s) or error or bug information provided by The Contractor or Service Provider to The Client(s) or Consul- tant(s) under this Agreement or otherwise obtained by The Client(s) or Consultant(s) from use or examination of the Deliverable(s).

Confidential Information may also include information of a third par- ty(s) that is in the possession of the Disclosing Party and is dis- closed to the Receiving Party under this Agreement.

Confidential Information will not include any information that:

* 1. was publicly known and made generally available in the public domain any time prior to the disclosure made by the Disclosing Party;
	2. becomes publicly known and made generally available after dis- closure by the Disclosing Party to the Receiving Party through no ac- tion or inaction of the Receiving Party;
	3. was already in the possession of the Receiving Party without con- fidentiality Obligation(s) at the time of disclosure by the Disclosing Party as shown by the Receiving Party's file(s) and record(s) immedi- ately prior to the time of disclosure;
	4. is obtained without confidentiality Obligation(s) by the Receiving Party from third party(s) not resulting to a breach of such third par- ty's Obligation(s) of confidentiality; or
	5. is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information.
		1. Non-Use and Non-Disclosure

The Receiving Party will use the Disclosing Party's Confidential Infor- mation wholly and solely for the purposes of performing it’s Obliga- tion(s) and exercising it’s right(s) under this Agreement. The Receiv- ing Party will not disclose any Confidential Information of the Disclos- ing Party to third parties or to such party's Employee(s), except that, subject to Article 13.4 below, the Receiving Party may disclose the Disclosing Party's Confidential Information to those Employee(s) and the Contractor(s) of the Receiving Party who are required to have the information in order to perform Receiving Party's Obligation(s) and exercise the Receiving Party's right(s) under this Agreement, provid- ed however that such Employee(s) or the Contractor(s) are subjected to a confidentiality agreement with term(s) no less restrictive than those contained herein. If the Receiving Party is required by Law to make any disclosure that is prohibited or otherwise constrained by this Agreement, the Receiving Party will provide the Disclosing Party with prompt written notice by either through mail from the recog- nised mail id as mentioned in Article 21(b) or by following the proce- dure as per Article 22(b) or both. In case of both, the communica- tion(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier to this effect, specifying such re- quirement prior to such disclosure so that the Disclosing Party may seek a protective order or other appropriate relief. Subject to the foregoing sentence(s), the receiving party may furnish that portion (and only that portion) of the Confidential Information that it is Legally compelled or is otherwise Legally required to be disclosed, provided however, that the Receiving Party provides such assistance as the Disclosing Party may reasonably request in writing by either through mail from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In

case of both, the communication(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier to this effect, to obtain such order or other relief at the Disclosing Party's option and expense.

* + 1. Maintenance of Confidentiality

The Receiving Party will use commercially reasonable effort(s) to pre- vent unauthorised use or disclosure of the Disclosing Party's Confi- dential Information. The Receiving Party will ensure that its Employ- ee(s) who have access to Confidential Information of the Disclosing Party have signed a Non-Use and Non-Disclosure Agreement in con- tent, at least as protective of the Disclosing Party's Confidential In- formation as the provision(s) of this Agreement prior to any disclo- sure of the Disclosing Party's Confidential Information to such Em- ployee(s). The Receiving Party will promptly return all copies of the Disclosing Party's Confidential Information as requested by such Dis- closing Party at any time in writing by either communicating through mail from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier to this effect, provid- ed, however, the parties agree that The Contractor's or Service Provider's continued access to the Client’s or Consultant’s Confiden- tial Information which is required for the Service(s) will be deemed as The Client(s) or Consultant(s) Obligation(s).

* + 1. Authorised Disclosure

Notwithstanding any other provision(s) of this Agreement, each party may disclose the term(s) of this Agreement: (a) subject to Article 13.2, in connection with the requirements of an initial public offering or other filing in connection with applicable securities Law; (b) in con- fidence, in connection with a merger or acquisition or proposed merger or acquisition, or the like; (c) in confidence, to accountant(s), bank(s), attorneys' and the financing source(s) including their advi- sor(s); and/or (d) in confidence, in connection with the enforcement of this Agreement or right(s) under this Agreement.

* + 1. Security Plan

If requested by the Contract Officer, the Contractor or Service Provider shall prepare a security plan to assure that information ob- tained from The Client(s) or Consultant(s) or as a consequence of the performance of work is not used for any unauthorised purpose or dis- closed to unauthorised person(s). The Contractor or Service Provider shall advise The Client(s) or Consultant(s) of any request for disclo-

sure of information or of any actual or potential disclosure of infor- mation either by communicating through mail from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be deemed to be received and sent, on the date of the communica- tion(s) made earlier to this effect.

## RECORD(S) AND REPORT(S):

* + 1. Report(s)

The Contractor or Service Provider shall periodically prepare and submit to the Contract Officer such report(s) concerning the perfor- mance of the Service(s) as required by this Agreement or as the Con- tract Officer shall require. The Contractor or Service Provider hereby acknowledges that The Client(s) or Consultant(s) is greatly concerned about the cost of work and Service(s) to be performed pursuant to this Agreement. For this reason, the Contractor or Service Provider agrees that if The Contractor or Service Provider becomes aware of any fact(s), circumstance(s), or event(s) that may or will materially increase or decrease the cost of the work or Service(s) contemplated herein, the Contractor or Service Provider shall promptly notify the Contract Officer of the said fact(s), circumstance(s), or event(s) and the estimated increased or decreased cost related thereto.

* + 1. Record(s)

The Contractor or Service Provider shall keep and require its Sub- Contractor(s) to keep, such book(s) and record(s) as shall be neces- sary to perform the Service(s) required under this Agreement and enable the Contract Officer to evaluate the performance of such ser- vice(s). The Contract Officer shall have full and free access to such book(s) and record(s) at all times during normal business hours of The Client(s) or Consultant(s), including the right to inspect, copy, audit and make record(s) and transcripts from such record(s). Such record(s) shall be maintained for a minimum period of three (3) years following completion of the Service(s) hereunder and The Client(s) or Consultant(s) shall have access to such record(s) in the event of any audit requirement. The record(s) may be kept for a longer time if required under any regulatory Obligation(s) or Court order or otherwise.

* + 1. Ownership of Document(s)

All drawing(s), specification(s), report(s), record(s), document(s) and other material(s) prepared by The Contractor or Service Provider, it’s Employee(s), Sub-Contractor(s) and Agent(s) in the performance of this Agreement shall be the property of The Client(s) or Consultant(s) and shall be delivered to The Client(s) or Consultant(s) upon request of the Contract Officer or expiration or termination of this Agreement as per Article 12.2 or as per Article 12.3 or as per Article 27.20 read with Article 27.21 and The Contractor or Service Provider shall have no claim for further employment or additional compensation as a re- sult of the exercise by The Client(s) or Consultant(s) of it’s full right(s) of ownership on the document(s) and material(s) hereunder. Any use of such completed document(s) for other project(s) and/or use of incomplete document(s) without specific written authorisation by The Contractor or Service Provider by either communicating through mail from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier to this effect, will be at the Client’s or Consultant’s sole risk and without lia- bility to The Contractor or Service Provider and The Client(s) or Con- sultant(s) shall indemnify The Contractor or Service Provider for all damages resulting there from. The Contractor or Service Provider may retain copies of such document(s) for it’s own use. The Contrac- tor or Service Provider shall have an unrestricted right to use the concepts embodied therein. All Sub-Contractor(s) shall provide for assignment to The Client(s) or Consultant(s) of any document(s) or material(s) prepared by them and in the event The Contractor or Service Provider fails to secure such assignment, the Contractor or Service Provider shall indemnify The Client(s) or Consultant(s) for all damages resulting there from.

## PROPRIETARY RIGHTS:

* + 1. Definitions of Proprietary Rights
1. “The Contractor's or Service Provider's Intellectual Property Rights" means all current and future worldwide patent(s) and patent applications (including, without limitation, all reissue(s), division(s), renewal(s), extension(s), continuation(s) including continuation(s)-in-part), invention(s) (whether patentable or not), copyright(s) (including, without limitation, right(s) in au- diovisual work(s) and moral right(s)), trade secret(s), trade- mark(s), service mark(s), trade name(s) and all other intellec- tual property right(s) and proprietary right(s), whether arising

under the Indian Law(s), or any other Country, State or Juris- diction.

1. ”**The Contractor's or Service Provider's Pre-Existing Tech- nology**" means any Technology (defined below) made, con- ceived, or reduced to practice by The Contractor or Service Provider or it’s Sub-Contractor(s) or Agent(s) prior to or inde- pendent of this Agreement and all modification(s), enhance- ment(s) and derivative works thereof, including all Intellectual Property Rights in and to any of the foregoing.
2. “**The Contractor's or Service Provider's Work Product**" means any Technology made, conceived, or reduced to practice by The Contractor or Service Provider or it’s Sub-Contractor(s) or Agent(s) during performance of the Service(s) (but exclud- ing all The Contractor's or Service Provider's Pre-Existing Tech- nology) and all modification(s), enhancement(s) and derivative works thereof, including all Intellectual Property Rights in and to any of the foregoing.
3. “**The Contractor's or Service Provider's Technology**" means all invention(s) (whether patentable or not), discoveries, liter- ary work(s) and other works of authorship (including, without limitation, software in object code and source code format), design(s), know-how, idea(s) and information.

## DELIVERABLE(S):

* + 1. Rights and Use restrictions
1. Rights

Subject to the term(s) and condition(s) of this Agreement, the Contractor or Service Provider grants The Client(s) or Consultant(s) a limited, non-transferable (subject to Article 27.8), non-sub licensable, nonexclusive right, on The Contractor's or Service Provider' s Intellectual Property Rights in the Deliverable(s) (excluding all The Contractor's or Service Provider's Commercially Available Software), to use and reproduce the De- liverable(s) wholly and solely for being used or utilised in the in- ternal business of The Client(s) or Consultant(s) and in conjunc- tion with the Client’s or Consultant’s right to use the Commercially Available Software of The Contractor or Service Provider, as au- thorised by The Contractor or Service Provider in writing by either communicating through mail from the recognised mail id as men- tioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be

deemed to be received and sent, on the date of the communica- tion(s) made earlier to this effect and to be used solely for so long as The Client(s) or Consultant(s) is authorised to use such Con- tractor's or Service Provider's Commercially Available Software. Except as expressly granted in this paragraph, the Contractor or Service Provider retains all right, title and interest in and to all The Contractor's or Service Provider's Pre-Existing Technology, the Contractor' s or Service Provider' s Work Product and Deliverable(s), including all Intellectual Property Rights therein.

1. Use Restrictions

The Client(s) or Consultant(s) shall not by it’s own-self and/or through any Affiliate(s) and/or Agent(s) and/or Third party(s) nei- ther directly or indirectly:

1. decompile, disassemble, reverse engineer, or otherwise at- tempt to -
	1. derive source code and/or underlying ideas and/or algo- rithm( s) and/ or structure and/ or component from the Deliverable(s) and/or
	2. defeat and/or avoid and/or bypass and/or remove and/or deactivate and/or otherwise circumvent any software protection mechanism(s) in the Deliverable(s), including without limitation any such mechanism used to restrict or control the functionality of the Deliverable(s) (except that the foregoing provision(s) shall not apply to the extent that such activity(s) may not be prohibited under any applicable Law(s) or Rule(s) or Regulation(s) or Notif- ication(s) or Guideline(s) or Court Order(s) or Otherwise);
2. sell, lease, license, sublicense, distribute or otherwise provide to any third party(s) or any other person the Deliverable(s), in whole or in part;
3. modify or create derivative work(s) of the Deliverable(s);
4. use or reproduce the Deliverable(s), except as specifically permitted under this Agreement;
5. use the Deliverable(s) to provide processing Service(s) to any third party(s) and/or otherwise use the Deliverable(s) on a service bureau basis.

The Client(s) or Consultant(s) shall not remove and/or alter and/ or cover or make any application and/or take any patent, copy- right, trademark or other proprietary notice(s) and/or label(s) and/or mark(s) of The Contractor or Service Provider or it’s licen- sor(s) on or in the Deliverable(s) and The Client(s) or Consultant(s) shall reproduce such notice(s) and/or label(s) and/ or mark(s) on any copies of the Deliverable that The Client(s) or Consultant(s) make in connection within the Client’s or Consul- tant’s permitted use of the Deliverable(s) pursuant to Article 16.1

(a). The Client(s) or Consultant(s) shall promptly notify The Con- tractor or Service Provider of any unauthorised use and/or disclo- sure and/or reproduction and/or distribution of the Deliverable(s), which comes to the Client’s or Consultant’s attention and/or which The Client(s) or Consultant(s) reasonably suspects. The Client(s) or Consultant(s) is solely responsible for obtaining all equipment(s) and the compatibility thereof with the Deliverable(s) and for paying all fees including, without limitation, all taxes and any related cost(s) and/or fee(s), necessary to use the Deliver- able(s).

* + 1. Client(s) Material(s)

Subject to the term(s) and condition(s) of this Agreement, the Client(s) or Consultant(s) grants The Contractor or Service Provider and it’s Sub-Contractor(s) and Agent(s) a limited, non transferable (subject to Article 27.8), fully paid, royalty-free, non-sub licensable, nonexclusive right during the term of this Agreement to use and/or reproduce and/or modify and/or prepare derivative work(s) and/or perform and/or display and/or transmit and/or make, have made and import any pre-existing Technology provided by The Client(s) or Con- sultant(s) to The Contractor or Service Provider or it’s Sub-Contrac- tor(s) or Agent(s) in connection with the performance of the Service(s) under this Agreement as necessary or useful to perform the Service(s). Except as expressly set forth in this Article-16.2, the Client(s) or Consultant(s) retains all right and/or title and/or interest in and to any Client(s) material(s), including all The Client(s) or Con- sultant(s) pre-existing Intellectual Property Rights.

## LIMITED WARRANTIES AND DISCLAIMER:

* + 1. Limited Warranty

With respect to each Deliverable, the Contractor or Service Provider warrants to The Client(s) or Consultant(s) that, for a period of one hundred and eighty (180) days, after the date of delivery of such De- liverable to The Client(s) or Consultant(s) ("Deliverable Warranty Pe- riod"), such Deliverable will substantially confirm to any applicable functional specification(s) for such Deliverable that are described in the applicable Scope of Service(s) in “Exhibit - A” or any Change Or- der thereto. If any Deliverable does not perform as expressly war- ranted in this Article 17.1, the Client(s) or Consultant(s) will notify The Contractor or Service Provider in writing by either communicat- ing through mail from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier to this effect and The Contractor or Service Provider will, at it’s sole option and expense: (a) replace or modify such Deliverable with a Deliver- able that performs as expressly warranted in this Article 17.1; or (b) if The Contractor or Service Provider determines that the foregoing is not commercially reasonable, accept return of such Deliverable (if applicable) and refund to The Client(s) or Consultant(s) the fees paid by The Client(s) or Consultant(s) associated with such Deliverable under this Agreement. The foregoing limited warranty does not cover repair or replacement of or refund(s) for any Deliverable if the non- conformity to such limited warranty is caused, in whole or in part, by:

(i) alteration and/or modification and/or correction other than by The Contractor or Service Provider; (ii) software, hardware or interfacing not provided or specified in the applicable Service Specs by The Con- tractor or Service Provider; (iii) abuse and/or misuse and/or improper installation; or (iv) a change to the Client’s or Consultant’s computing environment that would affect the specific Deliverable. The foregoing provision(s) of this Article 17.1 states the entire liability and Obliga- tion(s) of The Contractor or Service Provider including the exception(s) thereof and the exclusive remedy to The Client(s) or Consultant(s) and The Contractor or Service Provider, with respect to any breach of the limited warranty as stated in this Article 17.1.

* + 1. Disclaimer

Except for the limited warranty as set forth in Article 17.1, the Con- t ra c t o r o r S e r v i c e P r o v i d e r d o e s n o t m a ke a ny o t h e r representation(s), warranties or condition(s) of any kind, whether oral or written, whether express, implied, or arising by statute, cus- tom, course of dealing or trade usage, with respect to the subject

matter of this Agreement, in connection with this Agreement. The Contractor or Service Provider specifically disclaims any and all im- plied warranties or condition(s) of merchantability, fitness for a par- ticular purpose and non-infringement. The Contractor or Service Provider does not warrant that the Deliverable(s) or any Service(s) provided under this Agreement will meet the Client’s or Consultant’s requirement(s), that the operation of the Deliverable(s) will be unin- terrupted or error free, or that defect(s) in the Deliverable(s) will be corrected.

* + 1. Limitation of Liability

Except for any breach of Article 14 or Article 16, in no event will ei- ther party be liable for any indirect, special, incidental, consequential, exemplary or punitive damages or cost(s) of procurement of substi- tute goods or Service(s) arising out of or related to this Agreement, including but not limited to damages for lost data, revenue or profits, however caused and arising under any theory of liability, including but not limited to this Agreement or Law of Tort (including product(s) liability, strict liability and negligence) and whether or not such party was or should have been aware or advised of the possibility of such damage.

## INDEMNIFICATION:

1. The Client(s) or Consultant(s) hereby covenants and agrees to in- demnify and save harmless The Contractor or Service Provider, it’s Director(s) and/or Officer(s) and/or Employee(s) and/or Agent(s) and/or Representative(s) (“The Contractor or Service Provider In- demnified Parties”) from and against any claim(s), demand(s), ac- tion(s), causes of action, damage including damages, losses, cost(s), liability(s), expense(s), penalties or fine(s) (including reasonable Le- gal fees) which any of The Contractor or Service Provider Indemni- fied parties may sustain, incur or suffer and/or which any person in- cluding, without limitation, a Subscriber may make or bring against The Contractor or Service Provider Indemnified Party arising directly or indirectly in any way by reason of, out of, in respect of or in con- nection with:
2. Non-fulfilment of any covenant(s) either in part or in full under this Agreement on the part of The Client(s) or Consultant(s);
3. Any incorrectness in or breach of any representation(s) by The Client(s) or Consultant(s) contained in this Agreement;
4. Any act or omission, including, without limitation, any negli- gence or other tortuous act, committed by The Client(s) or Consultant(s) and it’s Director(s) and/or Officer(s) and/or Em- ployee(s) and/or Agent(s) and/or Representative(s) in the per- formance of it’s Obligation(s) under this Agreement;
5. The Service(s) including, without limitation, the operations, administration or provision(s) thereof.
6. In all the events mentioned in Article 18 (a) (i) to (iv) above, the Client(s) or Consultant(s) agrees to compensate The Con- tractor or Service Provider by forfeiture of the amount paid as Security Deposit by The Client(s) or Consultant(s) as per Arti- cle 4.3.
7. The Contractor or Service Provider hereby covenants and agrees to indemnify and save harmless The Client(s) or Consultant(s), it’s Director(s) and/or Officer(s) and/or Employee(s) and/or Agent(s) and/or Representative(s) (“The Client(s) or Consultant(s) Indemnified Parties”) from and against any claim(s), demand(s), action(s), causes of action, damage including damages, losses, cost(s), liability(s), ex- pense(s), penalties or fine(s) (including reasonable Legal fees) which any of The Client(s) or Consultant(s) Indemnified parties may sus- tain, incur or suffer and/or which any person including, without limi- tation, a subscriber may make or bring against The Client(s) or Con- sultant(s) Indemnified Party arising directly or indirectly in any way by reason of, out of, in respect of or in connection with:
	1. Non-fulfilment of any covenant(s) either in part or in full under this Agreement on the part of The Contractor or Service Provider;
	2. Any incorrectness in or breach of any representation(s) by The Contractor or Service Provider contained in this Agreement;
	3. Any act or omission, including, without limitation, any negli- gence or other tortuous act, committed by The Contractor or Service Provider and it’s Director(s) and/or Officer(s) and/or Employee(s) and/or Agent(s) and/or Representative(s) in the performance of it’s Obligation(s) under this Agreement;
	4. Any untruth, inaccuracy or incorrect statement(s) in relation to any of the marketing material(s) prepared and distributed by The Contractor or Service Provider pertaining to the Service(s);
	5. The Service(s) including, without limitation, the operations, administration or provision(s) thereof;
	6. In all the events mentioned in Article 18 (a) (i) to (v) above, the Contractor or Service Provider agrees to compensate The Client(s) or Consultant(s) with the amount equal to twice the amount of Security Deposit paid by The Client(s) or Consul- tant(s) as per Article 4.3.
8. The Client(s) or Consultant(s) shall not be liable or responsible for bodily or personal injury or property damage of any nature whatso- ever that may be suffered or sustained by The Contractor or Service Provider in the performance of this Agreement.
9. The indemnifications set forth in this Article 18 shall survive the termination of this Agreement and for a period of two (2) years thereafter.
10. To the fullest extent permitted by Law, the Client(s) or Consultant(s) shall immediately defend and indemnify The Contractor or Service Provider and it’s director(s) and/or officer(s) and/or Em- ployee(s) from and against all liability(s) regardless of nature or type arising out of or resulting from The Contractor's or Service Provider's performance of Service(s) under this Agreement, or any negligent or wrongful act or omission of The Contractor or Service Provider or The Contractor's or Service Provider's officer(s) and/or Employee(s) and/ or Agent(s) and/or Sub-Contractor(s). Liability(s) subject to the du- ties to defend and indemnify include, without limitation all claim(s), losses, damage and damages, penalties, fine(s) and judgment(s); associated investigation and administrative expenses; defence costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. The Contractor's or Ser- vice Provider's Obligation(s) to indemnify applies unless it is adjudi- cated that it’s liability was caused by the sole active negligence or sole wilful misconduct of an indemnified party. If it is finally adjudi- cated that liability is caused by the comparative active negligence or wilful misconduct of an indemnified party, The Contractor's or Service Provider's indemnification Obligation(s) shall be reduced in proportion to the established comparative liability of the indemnified party.
11. The review, acceptance or approval of The Contractor's or Service Provider's work or work product by any indemnified party shall not affect, relieve or reduce The Contractor's or Service Provider's in- demnification or defence Obligation(s). This Section survives comple- tion of the Service(s) or the termination of this Agreement. The pro- vision(s) of this Article are not limited by and do not affect the provi- sion(s) of this Agreement relating to insurance.

## ACCIDENT REPORTS:

The Contractor or Service Provider shall immediately report (as soon as feasible, but not more than 24 hours) to The Client(s) or Consul- tant(s) of any accident or other occurrence causing injury to person(s) or property(s) during the performance of this Agreement. If required by The Contractor's or Service Provider's Risk Manager, the report shall be made and circulated in writing by either communi- cating through mail from the recognised mail id as mentioned in Arti- cle 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be deemed to be re- ceived and sent, on the date of the communication(s) made earlier to this effect and shall include, at a minimum: (a) the name(s), ad- dress(s) and contact number(s) of the person(s) involved, (b) the name(s), address(s) and contact number(s) of any known witness(s) and (c) the date, time and description of the accident or other occur- rence.

## COVENANT AGAINST CONTINGENT FEES:

The Client(s) or Consultant(s) agrees that it’s Organisation(s) and/or Firm(s) and/or Company(s) and/or LLP(s) and/or any other associa- tion(s) or formation as recognised by the Government for doing busi- ness neither directly or indirectly has employed or retained any other Contractor or Service Provider and/or person(s), other than a bona fide employee working for The Client(s) or Consultant(s), to solicit or secure this Agreement for The Client(s) or Consultant(s) and that The Contractor or Service Provider has not paid or agreed to pay any Or- ganisation(s) and/or Firm(s) and/or Company(s) and/or LLP(s) and/ or any other association(s) or formation as recognised by the Gov- ernment for doing business and/or any other person(s) either directly or indirectly, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift and/or any other consideration con- tingent upon, or resulting from the award or making of this Agree- ment. For breach or violation of this provision, The Contractor or Ser- vice Provider shall have the right to terminate this Agreement with- out liability, or, in it’s discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fees, gift, or contingent fee.

## ELECTRONIC COMMUNICATION(S):

1. Essence and Authenticity of Electronic Communication(s)

The parties to this Agreement understand and acknowledge the fact that Communication(s) via Electronic means plays a very vital part in today’ s scenario and i s now an integral part of daily communication(s). The quickest way for disseminating any informa- tion(s) including sending, receiving or exchanging electronic version(s) of document(s) is via e-mails and/or other mean(s), by using commercially available computer software and Internet access. The parties acknowledge and agree to the fact that the communica- tion(s) via Electronic means shall be the indispensable responsibility of the parties and that they have the ownership or right to use such e-mail id’s and/or other mean(s) and being licensed to communicate via the same.

The parties further acknowledge and agree to the fact that they have the indispensable responsibility for maintaining and keeping the secu- rity and authenticity of the e-mail id’s and/or other mean(s) including it’s password(s) and other data. Neither of the other party shall be deemed to be at fault for breach of security and authentication of the other party.

The Contractor or Service Provider and The Client(s) or Consultant(s) both mutually acknowledge that Internet is occasionally victimised by the creation and dissemination of so-called viruses, or similar de- structive electronic program(s). The Contractor or Service Provider and The Client(s) or Consultant(s) shall view/review the issue(s) raised by these viruses seriously and have invested in document and e-mail scanning software that identifies and rejects files containing known viruses. The Contractor or Service Provider agrees to update it’s system with the software vendor's most current releases at regu- lar intervals. Because of the virus scanning software, the respective computer systems of the parties may occasionally reject a communi- cation. The parties acknowledge that this occurrence is to be expect- ed as part of the ordinary course of business. Because the virus pro- tection industry is generally one or two steps behind new viruses, neither party can guarantee that it’s respective communication(s) and/or document(s) will be virus free. Occasionally, a virus will es- cape and go undetected as it is passes from system to system. Al- though each party will use all reasonable effort(s) to assure that it’s communication(s) are virus free, neither party warrants that it’s doc- ument(s) will be virus free.

Each party agrees to advise the other if it discovers a virus in it’s re- spective system that may have been transmitted while communicat- ing with the other party which shall be deemed to be an unintentional act(s) and shall not entitle either party to claim for any damages arising out of this context under any circumstance(s) for any reason(s) whatsoever.

The parties further agree that the communication(s) received, sent or exchanged between/amongst them, through Electronic Means like email are valid have the capacity to be treated as a modification of this Agreement as requested, approved & subsequently agreed by and between the parties. Apart from the intended covenant(s), no other part of this Agreement shall be treated as modified. The com- munication(s) exchanged by and to the email address mentioned in the “Client(s) Data Sheet” and/or in Article 21(b) shall only and only be treated as valid and any communication(s) so received or sent from or to any other email id, irrespective of the content shall not be acceptable and is liable to be discarded or ignored without the re- quirement of any action and/or prior approval and/or being informed from/to the other party in this regard. Both the parties agree that, no deviation shall be acceptable for any reason whatsoever and in any manner whatsoever.

If, in any case, any of the party becomes aware of the fact that any communication(s) has not been done by them, then the same shall be intimated to the other party(s) at the earliest. In relation to dis- carding the said communication(s), a prudent approach may be taken by the other party(s). If any expense(s) are incurred, which can be directly attributed as a result of such communication(s), then the same shall be reimbursed on actual cost basis. If the outcome of such communication(s) results in having a material effect like cre- ation of any kind of charge and/or liability in financial term(s) either directly or indirectly because of termination, cancellation or resched- uling etc (being inclusive and not limited) under this Agreement, then the same can be dealt by the conduct of meeting(s) in physical pres- ence preferably in the ordinary place of business of the Contractor or Service Provider or in a manner as mutually agreed between/ amongst the parties by following the procedure as laid down in Article 22(b) of this Agreement.

The parties may have to undergo reasonable verification in order to ensure safety from the view point of security. In case there is an ap- prehension which is reasonable and has the capacity to be converted to any danger of whatsoever nature, then the parties shall be re- quired to compulsorily have physical meeting(s) in the ordinary place of business of the Contractor or Service Provider.

1. Recognised Email Id’s

The recognised Email id’s for communication(s) during the term of this Agreement are:

* 1. Contractor or Service Provider: …………………………
	2. Client(s) or Consultant(s): ………………………………..
1. Communication Time

The business hours of The Contractor or Service Provider are from IST 10:00 hours to 19:00 hours on business days. If any intimation is received beyond the said hours or on non business days, then the same shall be considered to be received on the next business day. No deviation from the above is outrightly acceptable under any given situation(s) for whatsoever reason(s).

In case of deviation from the above, the same shall be subjected to acceptance by The Contractor or Service Provider and shall be at the sole discretion of The Contractor or Service Provider. The decision of The Contractor or Service Provider shall be final and binding in this regard. The request and acceptance of deviation shall be in written mode only.

1. Changing the Email Id

The parties understand and agree that there might be a requirement to change the email id as mentioned in Article 21(b) and they also acknowledge the fact that The Contractor or Service Provider being an entity rendering professional service(s) is having a mail id in it’s own domain which might not always be possible and feasible for The Client(s) or Consultant(s). In case, where The Client(s) or Consul- tant(s) use an email address which uses third party’s domain, the authentication and verification required to change the email id shall be reasonable to ensure security of the parties to this Agreement.

The party which desires to change it’s mail id shall be required to send a letter to the other party requesting for changing the email id as mentioned in this Agreement accompanied by an Affidavit only which has been duly sworn in before the Ld. Magistrate of First Class (in original) and the acceptance of such request shall be communi- cated in the same mode by the Other Party.

After, the acceptance of the request, this Agreement shall be treated as modified to this extent only and the changed email id in this re- spect shall be said to have been in force only from the date of such acceptance and all communication(s) therefrom shall be treated as valid. Communication(s) made prior to the date of acceptance from the changed email id or thereafter from the previous email id shall be considered as invalid and shall have no Legal Acceptance or Enforce- ability under any circumstance(s) for whatsoever be the reason(s).

## ADMINISTRATION:

1. Place of Business

The Contractor's or Service Provider's principal place of business along with it’s Agent(s) for rendering of service(s), shall unless oth- erwise being specifically mentioned would be Kolkata only.

1. Notice(s)

No notice, other than a Change Order (SOS), is acceptable under any given circumstances for any reason(s) whatsoever and the Notice(s) required or permitted under the term(s) of this Agreement or re- quired by Law must be in writing and must be delivered either: (a) in person, or (b) by first class registered mail, or air mail, as appropri- ate, posted and fully prepaid to the appropriate address set forth in the preamble to this Agreement, or (c) via facsimile. Notice(s) will be considered to have been given at the time of actual delivery in per- son, one (1) business day after deposit in the mail as set forth above, or upon receipt of facsimile confirmation. Either party may change it’s address for notice, by notice to the other party given in accordance with this Section. Any notice or instrument required to be given or delivered by Law or this Agreement shall be effective upon receipt thereof and shall be by personal service or delivered by de- positing the same in any Indian Post Office, registered or certified, prepaid postage, addressed to their respective communicating office address(s). Either party may change the address or identity of the person for Notice(s) under this paragraph by written notice to the other party(s) delivered in accordance with this paragraph.

The business hours for this purpose shall mean any business day and within 10:00 hrs to 19:00 hrs. Any communication received beyond the same shall be deemed to have been received on next business day. No deviation from this is acceptable for whatsoever be the rea- son(s) under any given circumstance(s).

1. Contractor’s Executive and Implementation Officer

The Contractor's or Service Provider's executive officer for adminis- tration, signing, executing and implementation of this Agreement on behalf of ......................................... is ............................ who is

also designated as the Contract Officer and in the absence of ............................ any person who has been duly authorised to act on his behalf as decided by The Contractor or Service Provider in this regard without the express or implied approval neither orally nor in writing by The Client(s) or Consultant(s) for whatsoever be the reason(s) under any given circumstance(s).

1. Routine Administrative Communication(s)

Routine administrative communication(s) is required to be in writing only and may be by personal delivery and/or mail and/or facsimile transmission and/or electronic mail as agreed by and between The Contractor or Service Provider and The Client(s) or Consultant(s).

If any communication(s) is done apart from the above, then the same shall be reproduced in writing mode at the earliest by either communicating through mail from the recognised mail id as men- tioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be d e e m e d t o b e r e c e i ve d a n d s e n t , o n t h e d a t e o f t h e communication(s) made earlier to this effect.

## INTEGRATION AND MODIFICATION:

This Agreement represents the entire understanding of the parties as to those matter(s) contained herein. No prior oral or written under- standing shall be of any force or effect with respect to those matter(s) already covered hereunder. This Agreement may not be modified, amended, or altered except in writing by either communi- cating through mail from the recognised mail id as mentioned in Arti- cle 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be deemed to be re- ceived and sent, on the date of the communication(s) made earlier to this effect by the parties to this Agreement. The above shall be d e e m e d t o h a v e b e e n c o m p l i e d i n c a s e o f e l e c t r o n i c communication(s) exchanged by and between the parties until and unless contradictions are made and have a sustainable effect.

## ADVICE OF COUNSEL:

The parties agree that they are aware of their right to be advised by counsel(s) with respect to the negotiation(s), term(s) and condition(s) of this Agreement and that the decision of whether or not to seek the advice of counsel(s) and from whom such advice is to be sought with respect to this Agreement, is a decision which is the sole responsibility of each of the party hereto. Neither of the party shall influence either directly or indirectly any Legal Advisor for the other party. This Agreement has been prepared by keeping all the parties in equal footing and no party(s) have an advantage over the other which is directly or indirectly attributable to their contribution in drafting of this Agreement.

## ENFORCEMENT OF AGREEMENT:

* + 1. Indian Law

This Agreement shall be construed and interpreted both in relation to validity and performance of and by the parties, in accordance with the Laws of India. Legal action(s) concerning any dispute(s), claim(s) or matter(s) arising out of or in relation to this Agreement shall be instituted in the Honourable Court(s) of West Bengal, India.

* + 1. Dispute
			1. In the event of any dispute arising out of or in relation to this Agreement or the breach thereof, only the parties who are signato- ries to this Agreement, will try in all best possibilities to resolve the dispute through amicable settlement within a period of thirty (30) working days from the date when such dispute arises. The aggrieved or affected party shall convey the dispute and/or breach in writing either by communicating through mail from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Arti- cle 22(b) or both. In case of both, the communication(s) shall be d e e m e d t o b e r e c e i ve d a n d s e n t , o n t h e d a t e o f t h e communication(s) made earlier to this effect by the parties to this Agreement. Both the parties specifically agree to the fact that, in case procedure as per Article 22(b) is followed, then the period of thirty (30) working days as mentioned above, shall not include the transit time in delivery of the communication from the end of both the parties.
			2. If any dispute remains unresolved beyond the thirty (30) working days period, then the same shall be submitted to Arbitration and Conciliation Act 1996, as amended till date, to be decided by a sole neutral Arbitrator which is to be appointed by The Contractor or Service Provider. The venue of the arbitration shall be Kolkata, India. The language of the arbitration shall be English. The decision/award of such an arbitrator shall be binding on the parties hereto and en- forceable in any court of competent jurisdiction. The Arbitrator’s fees as payable in this regard shall either be paid equally by the parties to this Agreement or as decided mutually by the parties in this regard. The parties shall decide the same in writing by either communicating through mail from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier to this effect by the parties to this Agreement. Neither of the parties shall apply to any court of competent jurisdiction for preliminary or interim equitable relief, without adhering to this arbitration provision(s).
		2. Retention of Funds

The Contractor or Service Provider hereby authorises The Client(s) or Consultant(s) to deduct from any amount payable to The Contractor or Service Provider (whether or not arising out of this Agreement) (i) any amount the payment of which may be in dispute hereunder or which are necessary to compensate The Client(s) or Consultant(s) for any losses, cost(s), liability(s), or damages suffered by The Client(s) or Consultant(s) and (ii) all amount(s) for which The Client(s) or Consultant(s) may be liable to third parties subject to Article 27.13, by reason of The Contractor's or Service Provider's act(s) or omis- sion(s) in performing or failing to perform The Contractor's or Service Provider's Obligation(s) under this Agreement and not because of The Client(s) or Consultant(s), which was under the knowledge of The Contractor or Service Provider at the time of entering in to this Agreement or when the liability of The Client(s) or Consultant(s) arose (whichever is earlier). No deviation for whatsoever reason(s) shall be accepted in this regard. In the event that any claim is made by a third party(s), the amount or validity of which is disputed by The Contractor or Service Provider, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, the Client(s) or Con- sultant(s) may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of The Client(s) or Consultant(s) to exercise such right to deduct or to withhold shall not, however, affect the Obligation(s) of The Contractor or Service Provider to insure, indem- nify and protect The Client(s) or Consultant(s) as elsewhere provided herein.

* + 1. Waiver

No delay or omission in the exercise of any right or remedy by a non defaulting party on any default shall impair such right or remedy or to be construed as a waiver. A party’s consent to or approval of any act by the other party requiring the party’s consent or approval shall not be deemed to waive or render unnecessary the other party’s con- sent or approval of any subsequent act(s). Any waiver by either party of any default must be in writing by either communicating through mail from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In case of both, the communication(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier to this effect and shall not be treated as a waiver of any other default concerning the same or any other provision(s) of this Agreement under any given circum- stance(s) and for any reason(s) whatsoever.

* + 1. Rights and Remedies are Cumulative

Except with respect to right(s) and remedies expressly declared to be exclusive in this Agreement, the right(s) and remedies of the parties are cumulative and the exercise by either party of one or more of such right(s) or remedies shall not preclude the exercise by it, at the same or different time(s), of any other right(s) or remedies for the same default or any other default by the other party.

* + 1. Legal Action

In addition to any other right(s) or remedies, either party may take Legal action, in Law or in equity, to cure, correct or seek remedy for any default and/or to recover damages for any default and/or to compel specific performance of this Agreement and/or to obtain de- claratory or injunctive relief and/or to obtain any other remedy con- sistent with the purposes of this Agreement.

* + 1. Attorneys' Fees

If any party to this Agreement is required to initiate or defend or be made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether Legal or equitable, shall be entitled to reasonable attorneys' fees. Attorneys' fees shall include attorneys' fees on any appeal and in addition when a party is entitled to attorneys' fees shall also be entitled to all other reasonable cost(s) for investigating such action, taking depositions and discovery and all other necessary cost(s) the court allows which are incurred in such Litigation. All such fees shall be deemed to have

accrued because of commencement of such action and shall be en- forceable and payable whether or not such action is prosecuted to Judgment.

## NON-DISCRIMINATION:

* + 1. Conflict of Interest

No officer(s) and/or employee(s) of The Client(s) or Consultant(s) shall have any financial interest, either direct or indirect, in this Agreement nor shall any such officer(s) and/or employee(s) partici- pate in any decision relating to the Agreement which effects his fi- nancial interest or the financial interest of any corporation, partner- ship or association in which he is, directly or indirectly interested, in violation of any State statute or regulation. The Contractor or Service Provider warrants that it has not paid or given and will not pay or give any third party(s) any money or other consideration for obtain- ing this Agreement.

* + 1. Covenant Against Discrimination

The Contractor or Service Provider covenants that, by and for itself, it’s heir(s), executor(s), assign(s) and all person(s) claiming under or through them, that there shall be no discrimination against or segre- gation of, any person or group of persons on account of race, colour, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. The Contractor or Service Provider shall take affirmative action to insure that applicant(s) are employed and that Employee(s) are treated during employment without regard to their race, colour, creed, religion, sex, marital status, national ori- gin, or ancestry.

## MISCELLANEOUS:

* + 1. Independent Contractor

Neither The Client(s) or Consultant(s) nor any of it’s Employee(s) or associate(s) shall have any control either directly or indirectly over the manner, mode or means by which The Contractor or Service Provider, it’s Agent(s) Sub-Contractor(s) or Employee(s), perform the Service(s) as required herein, except as otherwise set forth herein. The Client(s) or Consultant(s) shall have no voice neither directly or indirectly in the selection, discharge, supervision or control of The Contractor's or Service Provider's Employee(s), servant(s), represen- tative(s), or Agent(s), sub-contractor(s), or in fixing their number, compensation or hours of service. The Contractor or Service Provider shall perform all Service(s) required herein as an independent Con-

tractor or Service Provider of The Client(s) or Consultant(s) and shall remain at all times as to The Client(s) or Consultant(s) a wholly inde- pendent Contractor or Service Provider with only such Obligation(s) as are consistent with that role. The Contractor or Service Provider shall not at any time or in any manner represent that it or any of it’s Agent(s) or Employee(s) are Agent(s) or Employee(s) of The Client(s) or Consultant(s). The Client(s) or Consultant(s) shall not in any way or for any purpose become or be deemed to be a partner of The Con- tractor or Service Provider in it’s business or otherwise or a joint ven- ture or a member of any joint enterprise with The Contractor or Ser- vice Provider.

* 1. Export Control

The Client(s) or Consultant(s) agrees not to export, or re-export, or cause to be re-exported, any of The Contractor's or Service Provider's material(s) or portion thereof, to any country which, according to In- dian Laws The Client(s) or Consultant(s) is or might be prohibited from exporting it’s technology.

* 1. Non-Solicitation

The Client(s) or Consultant(s) acknowledges and agrees that the Em- ployee(s) of The Contractor's or Service Provider's Organisation who perform the Service(s) are valuable assets to the Organisation and are difficult to replace. Accordingly, during the term of this Agree- ment and for a period of one (1) year thereafter, the Client(s) or Consultant(s) shall not solicit, either directly or indirectly, the em- ployment of any Employee(s) of The Contractor's or Service Provider's Organisation without the prior written consent of The Con- tractor or Service Provider. The request and approval shall specifically be in written mode, by either through mail communication(s) from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In cases of both, the communication(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier simultaneously to this ef- fect.

If The Client(s) or Consultant(s) violates this sub-article 27.3, the parties agree that The Client(s) or Consultant(s) shall pay to The Contractor or Service Provider a sum of (₹) 10,00,000.00 (Rupees Ten Lakhs Only) as liquidated damages. The parties further agree that precise monetary damages for the Client’s or Consultant’s viola- tion of this sub-article 27.3 would be difficult to ascertain and that the foregoing sum represents a fair and conservative approximation of cost of recruitment, hiring and training that would be incurred by The Contractor or Service Provider.

* 1. Independent Development

Nothing in this Agreement (including, without limitation, the receipt of information under this Agreement) shall: (a) limit The Contractor or Service Provider Organisation’s development, marketing or distrib- ution of software or other technology involving any functionality or ideas, whether similar to those disclosed by The Client(s) or Consul- tant(s) or otherwise; (b) limit Organisation from undertaking similar effort(s) or discussion(s) with third parties who may compete with The Client(s) or Consultant(s); or (c) create Obligation(s) binding in any way on the Organisation by limiting or restricting the assign- ment(s), activity(s), or training of the Employee(s) of The Contrac- tor’s or Service Provider’s Organisation.

* 1. Sub-Contracting

The Contractor or Service Provider may, in it’s sole discretion, use third party(s) Service to fulfil it’s Obligation(s) under this Agreement without any approval either oral or written and expressed or implied from The Client(s) or Consultant(s) for any reason(s) whatsoever un- der any given circumstance(s) till the term of this Agreement.

* 1. Interpretation

The term(s) of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

* 1. Integration and Amendment

It is understood that there are no oral agreement(s) between the parties hereto affecting this Agreement and this Agreement super- sedes and cancels any and all previous negotiation(s) and/or arrangement(s) and/or agreement(s) and/or understanding(s), if any, by and between the parties, either directly or indirectly and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by execut- ing an instrument in writing either through mail communication(s) from the recognised mail id as mentioned in Article 21(b) or by fol- lowing the procedure as per Article 22(b) or both. In cases of both, the communication(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier simultaneously to this effect.

* 1. Assignment

Neither this Agreement nor any right(s) under this Agreement may be assigned or otherwise transferred by either party, in whole or in part, whether voluntarily or by operation of Law, including by way of sale of asset(s), merger, amalgamation, absorption, consolidation or otherwise, without the prior written consent of the other party either through mail communication(s) from the recognised mail id as men- tioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In cases of both, the communication(s) shall be d e e m e d t o b e r e c e i ve d a n d s e n t , o n t h e d a t e o f t h e communication(s) made earlier simultaneously to this effect. The Contractor or Service Provider will have the right to assign this Agreement without the prior consent in any manner either expressed or implied, in the event of a transfer to The Contractor's or Service Provider's affiliate. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their re- spective successors and assigns. Any assignment in violation of this Article-27.8 will be void - ab - initio.

* 1. Cancellation, Rescheduling and Extension

Pursuant to the Agreement cancelation, rescheduling and extension is equitably not acceptable in any manner.

Under any circumstance(s) for whatsoever be the reason(s), the Client is not entitled to reschedule, cancel, or extend this Agreement.

* 1. Severe-ability

If any provision(s) or portion thereof, of this Agreement is found to be inconsistent, invalid, unlawful or unenforceable to any extent, such provision(s) of this Agreement will not be enforced to the max- imum extent permissible by applicable Law so as not to affect the in- tent of the parties and the remainder of this Agreement will continue in full force and effect. The parties will negotiate in good faith an en- forceable substitute provision(s) for any invalid or unenforceable pro- vision(s) that most nearly achieves the intent and economic effect of such provision(s).

* 1. Construction

If there is a conflict between or amongst any term(s) in the body of this Agreement and any term(s) of the applicable Service(s), the term(s) in the body of this Agreement will prevail with respect to such conflict. This Agreement and any instrument referred to herein or executed and delivered in connection herewith, will not be con-

strued against any party as the principal draftsperson hereof or thereof. The section(s) and paragraph headings used in this Agree- ment are inserted for convenience only and will not affect the mean- ing or interpretation of this Agreement. Unless otherwise expressly stated to the contrary herein, all remedies are cumulative and the exercise of any express remedy by either party herein does not by itself waive such party's right to exercise it’s other right(s) and reme- dies available in Law or in equity.

* 1. Suspension of Service(s)

Notwithstanding any other provision(s) of this Agreement, the Con- tractor or Service Provider may, in it’s sole discretion, suspend Ser- vice(s) and the delivery of a Deliverable if: The Client(s) or Consul- tant(s) materially breaches any of it’s Obligation(s) under this Agreement including, without limitation, failure by The Client(s) or Consultant(s) to pay any amount under this Agreement any time af- ter the date of The Contractor's or Service Provider's invoice thereof; or The Contractor or Service Provider determines that The Client(s) or Consultant(s) may be unable to make any scheduled or expected payment. Any such suspension by The Contractor or Service Provider will not constitute termination of this Agreement or any Scope of Service (and The Client(s) or Consultant(s) will continue to be bound by it’s Obligation(s) under this Agreement) will be deemed to modify the Scheduled Due Date to the same extent as the period of delayed payment, performance or material breach, without penalty to The Contractor or Service Provider; will entitle The Contractor or Service Provider to be reimbursed by The Client(s) or Consultant(s) for any and all costs and expenses incurred by The Contractor or Service Provider in connection with any such suspension; and may be can- celled or revoked in The Contractor's or Service Provider's sole dis- cretion. Without limiting the foregoing, any suspension will be con- sidered a delay caused by The Client(s) or Consultant(s) and shall be subjected to the penal provision under this Agreement.

* 1. No Third Party(s) Beneficiaries

The parties hereto expressly agree that there are no third party(s) beneficiaries of this Agreement. If in case, either of the party be- comes aware of any such incident and has reasonable ground(s) and evidence(s) to believe in the fact not knowing it to be false, then the same shall be considered to be a material breach of this Agreement and the non-defaulting party shall be at liberty to terminate this Agreement and invoke the penal provision(s) under this Agreement. The non-defaulting party shall intimate the defaulting party in writing by either through mail communication(s) from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per

Article 22(b) or both. In cases of both, the communication(s) shall be d e e m e d t o b e r e c e i ve d a n d s e n t , o n t h e d a t e o f t h e communication(s) made earlier simultaneously to this effect stating reason(s) and fact(s) in as much detail(s) as possible.

* 1. Entire Agreement

This Agreement (including the Exhibits and any addenda hereto signed by both parties) constitutes the entire Agreement by forming a part of this Agreement as signed and agreed by and between the parties with respect to the subject matter of this Agreement and su- persedes all previous communication(s), representation(s), under- standing(s) and agreement(s), either oral or written, between the parties with respect to said subject matter. No term(s), provision(s) or condition(s) of any purchase order, acknowledgement or other business form that either party may use in connection with the trans- action(s) contemplated by this Agreement will have any effect on the right(s), duties or Obligation(s) of the parties under, or otherwise modify, this Agreement, regardless of any failure of the receiving par- ty to object to such term(s), provision(s) or condition(s). This Agreement may not be amended, except in writing signed by the par- ties to this Agreement either by personally meeting preferably in the usual place of business of The Contractor or Service Provider or by the exchange of documents either through mail communication(s) from the recognised mail id as mentioned in Article 21(b) or by fol- lowing the procedure as per Article 22(b) or both. In cases of both, the communication(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier simultaneously to this effect.

* 1. Execution

This Agreement may alternatively be executed by facsimile signature or by using any available software either through any application (whether downloadable or otherwise) or online (by the use of the website) for electronically signing by affixing the signature on the document or otherwise by the use of technology, shall be delivered through mail communication(s) from the recognised mail id as men- tioned in Article 21(b). The Agreement once signed by both the par- ties shall deemed to be complete in all respects and aspects and both the parties shall be bound by all the term(s) and condition(s) of this Agreement. In such a case, if either of the party desires, then it may print hard copies for it’s own record after signing from both the par- ties has been completed. The Contractor or Service Provider may send a copy to The Client(s) or Consultant(s) by following the proce- dure as per Article 22(b). The parties also agree and acknowledge that non-forwarding this Agreement in hard copy by The Contractor

or Service Provider after signing as per this Article from both the par- ties shall in no ways invalidate this Agreement under any given cir- cumstance(s) for any reason(s) whatsoever.

The parties further agree that such execution and delivery as per this Article will have the same force and effect as delivery of an original document with original signatures and that each party may use such signatures as evidence of the execution and delivery of this Agree- ment by all parties to the same extent that an original signature could be used.

* 1. Independent Review

Each party hereto declares and represents that by entering this Agreement it has relied and is relying solely upon it’s own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is being made without reliance upon any statement(s) or representation(s) not contained herein of any other party, or any rep- resentative(s), agent(s), or attorneys' of any other party.

* 1. Reinforcement

In the event of request made by The Client(s) or Consultant(s) for reinforcing this Agreement either in part or full, the request shall be reduced in writing and is to be made to The Contractor or Service Provider either by meeting personally or through mail communica- tion(s) from the recognised mail id as mentioned in Article 21(b) or by following the procedure as per Article 22(b) or both. In cases of both, the communication(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier simultaneously to this effect enumerating the request for Reinforcement. The Contrac- tor or Service Provider shall be at sole liberty to accept or reject the request and the decision of The Contractor or Service Provider shall be final and binding in this regard. In case The Contractor or Service Provider accepts the request from The Client(s) or Consultant(s) for Reinforcement, then the same shall be implemented by executing an additional Professional Service Agreement to be called “ Supplemen- tary Professional Service Agreement “containing such term(s) and condition(s) as agreed and decided by and between the parties.

* 1. Expiration

In the event(s) of this Agreement being performed as expected by The Contractor or Service Provider as enumerated in the Scope of Service(s) hereinafter referred to as the “SOS”, as mentioned in **“Ex- hibit - A”,** the Agreement shall be deemed to be complete in all re- spects and shall expire releasing the parties from their Obligation(s) under this Agreement. In case of any dispute in relation to this Arti- cle, the parties shall be required to decide it amicably and if the dis- pute still remains unsolved, then Article 25.2 shall govern.

* 1. Notice of Termination or Expiration and Deemed Acceptability

In the event(s) of this Agreement being expired in term(s) of this Agreement as per Article 5.3 or being terminated in term(s) of this Agreement as per Article 12 or 18 or 27.18 or under any other provi- sion(s) of this Agreement, the Contractor or Service Provider may intimate the same in writing either through mail communication(s) from the recognised mail id as mentioned in Article 21(b) or by fol- lowing the procedure as per Article 22(b) or both. In cases of both, the communication(s) shall be deemed to be received and sent, on the date of the communication(s) made earlier simultaneously to this effect enumerating the release of the parties from their Obligation(s). If no revert is received from The Client(s) or Consultant(s) within a reasonable period but not later than 15 (Fifteen) days from the re- ceipt of Email or Service of Notice whichever is earlier in case of both, then the Expiry of this Agreement shall be deemed to be ac- cepted and confirmed by The Client(s) or Consultant(s) and the par- ties to this Agreement shall be released from their Obligation(s) as per this Agreement. In case where The Client(s) or Consultant(s) is not in conformity with The Contractor or Service Provider in relation to this Article, then Article 25.2 shall govern without any exception(s) for whatsoever be the reason(s).

* 1. Number of Projects

This Agreement is construed with all its clause(s), term(s), condition(s), duties, responsibilities, notice(s) and every fact(s), fig- ure(s) including the “Exhibits” and any addenda, whatever is written and agreed into this Agreement in whole, is valid for this Location of the Project i.e. The Site Address , India.

## SIGNATURES:

The individuals executing this Agreement represent and warrant that they have the Legal capacity and authority to do so on their personal behalf or on behalf of their respective Legal entities being duly autho- rised to act on it’s behalf and they are or have:

1. of sound mind
2. not barred by any Law to enter into the Agreement.
3. entered into this Agreement wilfully with free consent and without any force or coercion or undue influence.
4. read and understood all the term(s) and condition(s) of this Agreement in the manner meant to be understood.
5. satisfied that there has been no fraud or misrepresentation(s) of

any fact(s).

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the following date.

Dated: ………………………………

By: By: (Authorised Signatory) ( )

......................................... (Client(s))

Witnesses:-

1. i) Name and Signature:
	1. Full Address:
	2. Email id:
	3. Phone Number:
2. i) Name and Signature:
	1. Full Address:
	2. Email id:
	3. Phone Number:

## EXHIBIT - A

**SCOPE OF SERVICE(S) (SOS)**

Description of Service(s)

The parties to this Agreement are having

it’s principal place of business at Archies William U.S. …………………………………………………………, hereinafter referred to as “The Contractor or Service Provider“, (the expression, unless otherwise repugnant to any Law of the land shall include professional performing of Service(s) being tactical and operational in nature within a Service Provider capacity).

## AND

……….., s/ o………………., aged about……….. years, resident of ....................................................., India, bearing PAN

………………., Aadhaar Number is

hereinafter referred to as **“The Client(s) or Consultant(s)”**, (the expression, unless otherwise repugnant to any Law of the land in- cludes providing expertise and strategic advice for consideration and decision making within the capacity of individual Consultant(s) only).

## Service(s) to be provided by The Contractor or Service Provider:

1. On site inspection of required record(s), postings and facilities.
2. Survey, Inspection, Background radiation checking, Contamina- tion checking, Testing, Detection, Sampling, Analysis, Identifi- cation, Safety case preparation, Compliance(s), Storage/Trans- fer, Disposal, Shutter check and area surveys of “**The Material**“.
3. Litigation Support, if required.
4. Review of Emergency and Operational Procedures for Compliances.

## Work product to be delivered by The Contractor or Service Provider:

(Check boxes as applicable and set forth details as desired in space provided):

[ ] Oral recommendation(s)/report(s);

[ ] Written report(s):

{ } Daily

{ } Weekly

{ } Monthly

{ } Upon Completion [ ] Other:

{ } Diagram(s), Drawing(s), Schematic(s), etc.

{ } Note(s), Draft(s), Business Paper(s), etc.

**Schedule for Completion of Service(s) Target Date or Due Date** : …………………………………..

**Timing** : 00:00 hrs to 00:00 hrs Completion of the Service(s) by or before: ……………………………….

Report(s) to be delivered to The Client(s) or Consultant(s) by or be- fore: Within Seven (7) business days from the date of completion of service(s).

The Client(s) or Consultant(s) shall not be allowed or permitted to change the Target Date or Due Date and/or the Timing, but change in the Location of the Project i.e. The Site Address is permissible under this Agreement as per Clause 1.9.2 read with 1.9.3 of this Agreement and only upon receiving approval from The Contractor or Service Provider, the change shall be effective and incorporated. Any change(s) on the Target Date or Due Date (outside or during the scheduled tenure of performance) is not permissible under any given circumstance(s) for any reason(s) whatsoever and in that case The Contractor or Service Provider may not allow any change in relation to Location of the Project i.e. The Site Address. The changes pro- posed shall be unanimously applicable to this project only.

## Location of the Project i.e. The Site Address ,

India.

# EXHIBIT- B

**Payment**

The parties to this Agreement are having

it’s principal place of business at Archies William U.S. …………………………………………………………,hereinafter referred to as “The Contractor or Service Provider“, (the expression, unless otherwise repugnant to any Law of the land shall include professional performing of Service(s) being tactical and operational in nature within a Service Provider capacity).

## AND

……….., s/ o………………., aged about……….. years, resident of ....................................................., India, bearing P A N ................... , A a d h a a r

Number ..................................................... is hereinafter referred to as **“The Client(s) or Consultant(s)”**, (the expression, unless otherwise repugnant to any Law of the land includes providing exper- tise and strategic advice for consideration and decision making within the capacity of individual Consultant(s) only).

## Compensation/Fees:

The Client(s) or Consultant(s) is required to pay and has paid an up- front Security Deposit towards the service charge(s) of an amount equalling to INR (₹) 000,000.00/- (Rupees …………) only, inclusive of all the taxes as applicable, against an estimated incurring cost, not in actual valuation, generated in pro-forma invoice raised by The Con- tractor or Service Provider and as acknowledged by The Client(s) or Consultant(s) on or before the agreed and decided date for making the complete payment i.e. …………….

This Security Deposit is to be adjusted with the final invoice. As agreed by both the parties that the total Security Deposit will be cre- ated, handed over to The Contractor or Service Provider and hon- oured by The Contractor or Service Provider.

# ENCLOSURE OF DOCUMENTS

|  |  |  |  |
| --- | --- | --- | --- |
| **No.** | **Document Title** | **Document****Date** | **Issued/Given By and****Received/Acknowledged By** |
|  |  |  |  |
| **A** | Letter of Intent |  | Client(s) or Consultant(s) Contractor or Service Provider |
| **B** | Scope of Service(s) |  | Client(s) or Consultant(s) Contractor or Service Provider |
| **C** | Affidavit(Posession) |  | Client(s) or Consultant(s)Contractor or Service Provider |
| **D** | Letter of Acceptance |  | Contractor or Service ProviderClient(s) or Consultant(s) |
| **E** | General Terms and Conditions |  | Contractor or Service Provider Client(s) or Consultant(s) |
| **F** | Proforma Invoice |  | Contractor or Service Provider Client(s) or Consultant(s) |
| **G** | Standard Operating Procedure |  | Contractor or Service ProviderClient(s) or Consultant(s) |
| **H** | Affidavit by Third Party |  | Client(s) or Consultant(s)Contractor or Service Provider |
| **I** | Affidavit by Client (TP Pay) |  | Client(s) or Consultant(s) Contractor or Service Provider |
| **J** | Affidavit by Client (D Pay) |  | Client(s) or Consultant(s) Contractor or Service Provider |
| **K** | Confirmation of Payment |  | Contractor or Service Provider Client(s) or Consultant(s) |
| **L** | Confirmation of Due Date |  | Contractor or Service ProviderClient(s) or Consultant(s) |
|  |  |  |  |

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