



**REQUEST FOR PROPOSAL  
FOR PROCUREMENT OF BMC ENTERPRISE UNLIMITED LICENSE  
AGREEMENT(ULA) RENEWAL FOR IT SERVICES MANAGEMENT  
APPLICATION**

**Ref: SBI:1148 dated: 28/05/2024**

**Note: This notice is being published for information only and is not an open invitation to quote in this LTE/closed RFP. Participation in this RFP is by invitation only and is limited to the selected vendors. Unsolicited bids will not be considered by the Bank. However, vendors who desire to participate in such tenders in future may contact the Procuring department of the Bank.”**

**PLATFORM ENGINEERING -II DEPARTMENT  
STATE BANK OF INDIA, Global IT Centre,  
First Floor –“A” Wing,  
Sector-11, CBD Belapur,  
Navi Mumbai-400614**

## 1. Schedule of Events

Sl No	Particulars	Remarks
1	Contact details of issuing department (Name, Designation, Mobile No., Email and office address for sending any kind of correspondence regarding this RFP)	Dy. General Manager, Platform Engineering -II Department State Bank of India, Global IT Centre, "A" Wing, First Floor, CBD Belapur, Navi Mumbai-400614 Email ID: agmit.pe2@sbi.co.in, admin.pe2@sbi.co.in Contact Number: 022-27560968
2	Bid Document Availability including changes/amendments, if any to be issued	RFP will be emailed to the authorized channel partners of OEM M/s BMC Software on Date: <b>28.May.2024</b> . It is clarified that unsolicited bids will not be considered by the Bank.
3	Last date for requesting clarification	Upto 05:00 PM (time) on 04 Jun 2024 (date) All communications regarding points / queries requiring clarifications shall be given in writing or by e-mail.
4	Pre - bid Meeting at (venue)	From 11:00 AM (time) to 12:00 noon (time) on 05 Jun 2024 (date) at Platform Engineering -II Department State Bank of India, Global IT Centre, "A" Wing, First Floor, CBD Belapur, Navi Mumbai-400614 (venue) or through online meeting
5	Clarifications to queries raised at pre-bid meeting will be provided by the Bank.	On 07 Jun 2024
6	Last date and time for Bid submission	Up to 05:00 PM on 10 Jun 2024
7	Address for submission of Bids (Please incorporate details of e-Procurement Agency portal wherein online bid has to be submitted)	<a href="https://etender.sbi/SBI/">https://etender.sbi/SBI/</a>

8	Date and Time of opening of Technical Bids	05:30 PM (time) on 10 Jun 2024 (date) Authorized representatives of Bidders may be present online during opening of the Technical Bids. However, Technical Bids would be opened even in the absence of any or all of the Bidder representatives.																				
9	Opening of Indicative Price Bids	Indicative price bid of technically qualified bidders only will be opened on a subsequent date.																				
10	Reverse Auction	On a subsequent date which will be communicated to such Bidders who qualify in the Technical Bid.																				
11	Tender Fee	Not applicable.																				
12	Earnest Money Deposit	<p><b>Rs. 17,00,000.00</b> (INR Seventeen lakh only) Amount should be deposited in</p> <table border="1" data-bbox="879 1077 1399 1464"> <tr> <td data-bbox="879 1077 1023 1124">A/c No.</td> <td data-bbox="1023 1077 1399 1124"><b>4897932113433</b></td> </tr> <tr> <td data-bbox="879 1124 1023 1200">IFSC Code</td> <td data-bbox="1023 1124 1399 1200"><b>SBIN0011343</b></td> </tr> <tr> <td data-bbox="879 1200 1023 1276">Branch Name</td> <td data-bbox="1023 1200 1399 1276">Branch OAD, GITC, Belapur</td> </tr> <tr> <td data-bbox="879 1276 1023 1352">Account Name</td> <td data-bbox="1023 1276 1399 1352">Subsidy Inward Remittance</td> </tr> <tr> <td data-bbox="879 1352 1023 1464">Mode of Transaction</td> <td data-bbox="1023 1352 1399 1464"><b>NEFT and RTGS only</b></td> </tr> </table> <table border="1" data-bbox="879 1507 1399 1904"> <tr> <td data-bbox="879 1507 1023 1554">A/c No.</td> <td data-bbox="1023 1507 1399 1554"><b>37608352111</b></td> </tr> <tr> <td data-bbox="879 1554 1023 1630">IFSC Code</td> <td data-bbox="1023 1554 1399 1630"><b>SBIN0011343</b></td> </tr> <tr> <td data-bbox="879 1630 1023 1706">Branch Name</td> <td data-bbox="1023 1630 1399 1706">Branch OAD, GITC, Belapur</td> </tr> <tr> <td data-bbox="879 1706 1023 1783">Account Name</td> <td data-bbox="1023 1706 1399 1783">System Suspense Branch Parking A/C</td> </tr> <tr> <td data-bbox="879 1783 1023 1904">Mode of Transaction</td> <td data-bbox="1023 1783 1399 1904"><b>Intra-bank transfer (SBI to SBI only)</b></td> </tr> </table> <p><b>Or</b></p>	A/c No.	<b>4897932113433</b>	IFSC Code	<b>SBIN0011343</b>	Branch Name	Branch OAD, GITC, Belapur	Account Name	Subsidy Inward Remittance	Mode of Transaction	<b>NEFT and RTGS only</b>	A/c No.	<b>37608352111</b>	IFSC Code	<b>SBIN0011343</b>	Branch Name	Branch OAD, GITC, Belapur	Account Name	System Suspense Branch Parking A/C	Mode of Transaction	<b>Intra-bank transfer (SBI to SBI only)</b>
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		EMD should be in the form of a bank guarantee. EMD-bank guarantee shall be valid up to 180 days from bid submission date.	
13	Bank Guarantee	5 % of the Total Project Cost	Performance Security in form of BG should be valid for <b>2 year(s) and three months</b> from the <b>effective date</b> of the Contract.
14	Contact details of e-Procurement agency appointed for e-procurement	E-Procurement Technologies Ltd. A-201/208, Wall Street – II, Opp. Orient Club, Ellis bridge, Ahmedabad-380006 Gujarat e-Procurement agency portal <a href="https://etender.sbi/SBI/">https://etender.sbi/SBI/</a> Contact Number: 9904406300, 9510812960, 9265562821, 6354919566	

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## 2. INVITATION TO BID:

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

capability & expertise to provide SBI the proposed Software Solution/ service adhering to Bank's requirements outlined in this RFP.

**DISCLAIMER:**

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

acceptance thereof by the successful Bidder as defined in Award Criteria and Award of Contract in this RFP.

### 3. DEFINITIONS:

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

- i. **“The Bank”** ‘means the State Bank of India (including domestic branches and foreign offices), Subsidiaries and Joint Ventures, where the Bank has ownership of more than 50% of voting securities or the power to direct the management and policies of such Subsidiaries and Joint Ventures.
- ii. **“Bidder/Channel Partner”** means an eligible entity/firm submitting the Bid in response to this RFP.
- iii. **“Bid”** means the written reply or submission of response to this RFP.
- iv. **“The Contract”** means the agreement entered into between the Bank and Service Provider, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- v. **“Total Contract Price/Project Cost/TCO”** means the price payable to Service Provider over the entire period of Contract for the full and proper performance of its contractual obligations.
- vi. **“Vendor/Service Provider”** is the successful Bidder found eligible as per eligibility criteria set out in this RFP, whose technical Bid has been accepted and who has emerged as L1 (lowest in reverse auction) Bidder as per the selection criteria set out in the RFP and to whom notification of award has been given by the Bank.
- vii. **Software Solution/ Services/ System – “Software Solution” or “Services” or “System”** means all software products, services, scope of work and deliverables to be provided by a Bidder as described in the RFP and include services ancillary to the development of the solution, such as installation, commissioning, integration with existing systems, provision of technical assistance, training, certifications, auditing and other obligation of Service Provider covered under the RFP.
- viii. **Annual Maintenance Contract (AMC)** - It would be the annual cost of maintenance of Software Solution / Service.

#### **4. SCOPE OF WORK:**

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

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

- i. Service Provider shall ensure that the remote access to the Bank's VPN is performed through a laptop/desktop ("Device") specially allotted for that purpose by the Service Provider and not through any other private or public Device.
- ii. Service Provider shall ensure that only its authorized employees/representatives access the Device.
- iii. Service Provider shall be required to get the Device hardened/configured as per the Bank's prevailing standards and policy.
- iv. Service Provider and/or its employee/representative shall be required to furnish an undertaking and/or information security declaration on the Bank's prescribed format before such remote access is provided by the Bank.
- v. Service Provider shall ensure that services are performed in a physically protected and secure environment which ensures confidentiality and integrity of the Bank's data and artefacts, including but not limited to information (on customer, account, transactions, users, usage, staff, etc.), architecture (information, data, network, application, security, etc.), programming codes, access configurations, parameter settings, executable files, etc., which the Bank representative may inspect. Service Provider shall facilitate and/ or handover the Device to the Bank or its authorized representative for investigation and/or forensic audit.
- vi. Service Provider shall be responsible for protecting its network and subnetworks, from which remote access to the Bank's network is performed, effectively against unauthorized access, malware, malicious code and other threats in order to ensure the Bank's information technology system is not compromised in the course of using remote access facility.

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

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

- (a) If any Bidder submits Bid on behalf of Principal/OEM, the same Bidder shall not submit a Bid on behalf of another Principal/OEM under the RFP. Bid submitted with option of multiple OEMs shall also be considered bid submitted on behalf of multiple OEM.
- (b) Either the Bidder on behalf of Principal/OEM or Principal/OEM itself is allowed to Bid, however both cannot Bid simultaneously.

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

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

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

- i. Bidder requiring any clarification on RFP may notify the Bank in writing strictly as per the format given in **Appendix-M** at the address/by e-mail within the date/time mentioned in the Schedule of Events.
- ii. A pre-Bid meeting will be held in person or online on the date and time specified in the Schedule of Events which may be attended by the authorized representatives of the Bidders interested to respond to this RFP.
- iii. The queries received (without identifying source of query) and response of the Bank thereof will be posted on the Bank's website or conveyed to the Bidders.
- iv. The Bank reserves the right to amend, rescind or reissue the RFP, at any time prior to the deadline for submission of Bids. The Bank, for any reason, whether, on its own initiative or in response to a clarification requested by a prospective Bidder, may modify the RFP, by amendment which will be made available to the Bidders by way of corrigendum/addendum. The interested parties/Bidders are advised to check the Bank's website regularly till the date of submission of Bid document specified in the Schedule of Events/email and ensure that clarifications / amendments issued by the Bank, if any, have been taken into consideration before submitting the Bid. Such amendments/clarifications, if any, issued by the Bank will be binding on the participating Bidders. Bank will not take any responsibility for any such omissions by the Bidder. The Bank, at its own discretion, may extend the

deadline for submission of Bids in order to allow prospective Bidders a reasonable time to prepare the Bid, for taking the amendment into account. Nothing in this RFP or any addenda/corrigenda or clarifications issued in connection thereto is intended to relieve Bidders from forming their own opinions and conclusions in respect of the matters addresses in this RFP or any addenda/corrigenda or clarifications issued in connection thereto.

- v. No request for change in commercial/legal terms and conditions, other than what has been mentioned in this RFP or any addenda/corrigenda or clarifications issued in connection thereto, will be entertained and queries in this regard, therefore will not be entertained.
- vi. Queries received after the scheduled date and time will not be responded/acted upon.

**8. CONTENTS OF BID DOCUMENT:**

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

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

- i. The Bidder shall furnish EMD for the amount and validity period mentioned in Schedule of Events of this RFP.
- ii. EMD is required to protect the Bank against the risk of Bidder's conduct.

- iii. The EMD should be directly credited to the designated account or it should be in form of Bank Guarantee (as prescribed in **Appendix-P**) issued in favour of State Bank of India by any scheduled commercial bank in India. In case, SBI is the sole banker of the Bidder, a Letter of Comfort from SBI would be acceptable.

If EMD is directly credited to designated account, proof of remittance of EMD in the designated account should be enclosed with the technical bid. However, if EMD is in form of Bank Guarantee, scanned copy of original EMD Bank Guarantee should be uploaded on portal of e-Procurement agency along with technical bid. Original EMD Bank Guarantee should be **delivered through registered post/courier or** given in person to the Bank at the address specified in Schedule of Event Sl. No. 1, within the bid submission date and time for the RFP.

- iv. Any Bid not accompanied by EMD for the specified amount and not submitted to the Bank as mentioned in this RFP will be rejected as non-responsive.
- v. The EMD of the unsuccessful Bidder(s) would be refunded/returned by the Bank within 2 weeks of the Bidder being notified as being unsuccessful.
- vi. The EMD of successful Bidder will be discharged upon the Bidder signing the Contract and furnishing the Bank Guarantee for the amount and validity as mentioned in this RFP, which should be strictly on the lines of format placed at **Appendix-H**.
- vii. No interest is payable on EMD.
- viii. **The EMD may be forfeited: -**
- (a) if a Bidder withdraws his Bid during the period of Bid validity specified in this RFP; or
  - (b) if a technically qualified Bidder do not participate in the auction by not logging in, in the reverse auction tool; or
  - (c) if a Bidder makes any statement or encloses any form which turns out to be false / incorrect at any time prior to signing of Contract; or
  - (d) if the successful Bidder fails to accept Purchase Order and/or sign the Contract with the Bank or furnish Bank Guarantee, within the specified time period in the RFP.

- ix. If EMD is forfeited for any reasons mentioned above, the concerned Bidder may be debarred from participating in the RFPs floated by the Bank/this department, in future, as per sole discretion of the Bank.

## 10. BID PREPARATION AND SUBMISSION:

- i. The Bid is to be submitted separately for technical and Price on portal of e-Procurement agency for **providing** BMC ENTERPRISE UNLIMITED LICENSE AGREEMENT(ULA) RENEWAL FOR IT SERVICES MANAGEMENT APPLICATION in response to the **RFP No. 1148 dated 28/05/2024**. Documents mentioned below are to be uploaded on portal of e-Procurement agency with digital signature of authorised signatory:
- (a) Index of all the documents, letters, bid forms etc. submitted in response to RFP along with page numbers.
  - (b) Bid covering letter/Bid form on the lines of **Appendix-A** on Bidder's letter head.
  - (c) Proof of remittance of EMD (if directly credited in designated account) and Tender Fee as specified in this document. In case, EMD is submitted in form of BG, scanned copy of original BG should be uploaded subject to compliance of requirement mentioned in clause no 11 "*DEADLINE FOR SUBMISSION OF BIDS*" sub-clause (ii)
  - (d) Specific response with supporting documents in respect of Eligibility Criteria as mentioned in **Appendix-B** and technical eligibility criteria on the lines of **Appendix-C**.
  - (e) Bidder's details as per **Appendix-D** on Bidder's letter head.
  - (f) Audited financial statement and profit and loss account statement as mentioned in Part-II.
  - (g) A copy of board resolution along with copy of power of attorney (POA wherever applicable) showing that the signatory has been duly authorized to sign the Bid document.
  - (h) If applicable, scanned copy of duly stamped and signed Pre-Contract Integrity Pact subject to compliance of requirement mentioned in clause no 11 "*DEADLINE FOR SUBMISSION OF BIDS*" sub-clause (ii).
  - (i) If applicable, copy of registration certificate issued by competent authority as mentioned in SI No 2 of Eligibility Criteria under Appendix-B.
- ii. **Indicative Price Bid** for providing of BMC ENTERPRISE UNLIMITED LICENSE AGREEMENT(ULA) RENEWAL FOR IT SERVICES MANAGEMENT APPLICATION in response to the **RFP No. 1148 dated 28/05/2024** should contain only indicative Price Bid strictly on the lines of **Appendix-F**. The Indicative Price must include all the price components mentioned. Prices are to be quoted in Indian Rupees only.



**iii. Bidders may please note:**

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

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

- i. Bids must be submitted online on portal of e-Procurement agency by the date and time mentioned in the “Schedule of Events”.
- ii. Wherever applicable, the Bidder shall submit the original EMD Bank Guarantee and Pre-Contract Integrity Pact together with their respective enclosures and seal it in an envelope and mark the envelope as “Technical Bid”. The said envelope shall clearly bear the name of the project and name and address of the Bidder. In addition, the last date for bid submission should be indicated on the right and corner of the envelope. The original documents should be submitted within the bid submission date and time for the RFP at the address mentioned in Sl No 1 of Schedule of Events, failing which Bid will be treated as non-responsive.
- iii. In case the Bank extends the scheduled date of submission of Bid document, the Bids shall be submitted by the time and date rescheduled. All rights and obligations of the Bank and Bidders will remain the same.
- iv. Any Bid received after the deadline for submission of Bids prescribed, will be rejected and returned unopened to the Bidder.

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

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

## **13. PERIOD OF BID VALIDITY AND VALIDITY OF PRICE QUOTED IN REVERSE AUCTION (RA):**

- i. Bid shall remain valid for duration of 6 calendar months from Bid submission date.
- ii. Price quoted by the Bidder in Reverse auction shall remain valid for duration of 6 calendar months from the date of conclusion of RA.

- iii. In exceptional circumstances, the Bank may solicit the Bidders' consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. A Bidder is free to refuse the request. However, in such case, the Bank will not forfeit its EMD. However, any extension of validity of Bids or price will not entitle the Bidder to revise/modify the Bid document.
- iv. Once Purchase Order or Letter of Intent is issued by the Bank, the said price will remain fixed for the entire Contract period and shall not be subjected to variation on any account, including exchange rate fluctuations and custom duty. A Bid submitted with an adjustable price quotation will be treated as non-responsive and will be rejected.

**14. BID INTEGRITY:**

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

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

- ii. All the technical Bids received up to the specified time and date will be opened for initial evaluation on the time and date mentioned in the schedule of events. The technical Bids will be opened in the presence of representatives of the Bidders who choose to attend the same on portal of e-Procurement agency. However, Bids may be opened even in the absence of representatives of one or more of the Bidders.
- iii. In the first stage, only technical Bid will be opened and evaluated. Bids of such Bidders satisfying eligibility criteria and agree to comply with all the terms and conditions specified in the RFP will be evaluated for technical criteria/specifications/eligibility. Only those Bids complied with technical criteria shall become eligible for indicative price Bid opening and further RFP evaluation process.
- iv. The Bank will examine the Bids to determine whether they are complete, required formats have been furnished, the documents have been properly signed, EMD and Tender Fee for the desired amount and validity period is available and the Bids are generally in order. The Bank may, at its discretion waive any minor non-conformity or irregularity in a Bid which does not constitute a material deviation.

- v. Prior to the detailed evaluation, the Bank will determine the responsiveness of each Bid to the RFP. For purposes of these Clauses, a responsive Bid is one, which conforms to all the terms and conditions of the RFP in toto, without any deviation.
- vi. The Bank's determination of a Bid's responsiveness will be based on the contents of the Bid itself, without recourse to extrinsic evidence.
- vii. After opening of the technical Bids and preliminary evaluation, some or all the Bidders may be asked to make presentations on the Software Solution/service proposed to be offered by them.
- viii. If a Bid is not responsive, it will be rejected by the Bank and will not subsequently be made responsive by the Bidder by correction of the non-conformity.

#### **16. TECHNICAL EVALUATION:**

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

#### **17. EVALUATION OF INDICATIVE PRICE BIDS AND FINALIZATION:**

- i. The indicative price Bid(s) of only those Bidders, who are short-listed after technical evaluation, would be opened.
- ii. All the Bidders who qualify in the evaluation process shall have to participate in the online reverse auction to be conducted by Bank's authorized service provider on behalf of the Bank.

- iii. Shortlisted Bidders shall be willing to participate in the reverse auction process and must have a valid digital signature certificate. Such Bidders will be trained by Bank's authorized e-Procurement agency for this purpose. Bidders shall also be willing to abide by the e-business rules for reverse auction framed by the Bank / Authorised e-Procurement agency. The details of e-business rules, processes and procedures will be provided to the short-listed Bidders.
- iv. The Bidder will be selected as L1 on the basis of net total of the price evaluation as quoted in the Reverse Auction.
- v. The successful Bidder is required to provide price confirmation and price breakup strictly on the lines of **Appendix-F** within 48 hours of conclusion of the Reverse Auction, failing which Bank may take appropriate action.
- vi. Errors, if any, in the price breakup format will be rectified as under:
  - (a) If there is a discrepancy between the unit price and total price which is obtained by multiplying the unit price with quantity, the unit price shall prevail and the total price shall be corrected unless it is a lower figure. If the Bidder does not accept the correction of errors, the Bid will be rejected.
  - (b) If there is a discrepancy in the unit price quoted in figures and words, the unit price in figures or in words, as the case may be, which corresponds to the total Bid price for the Bid shall be taken as correct.
  - (c) If the Bidder has not worked out the total Bid price or the total Bid price does not correspond to the unit price quoted either in words or figures, the unit price quoted in words shall be taken as correct.
  - (d) The Bidder should quote for all the items/services desired in this RFP. In case, prices are not quoted by any Bidder for any specific product and / or service, for the purpose of evaluation, the highest of the prices quoted by other Bidders participating in the bidding process will be reckoned as the notional price for that service, for that Bidder. However, if selected, at the time of award of Contract, the lowest of the price(s) quoted by other Bidders (whose Price Bids are also opened) for that service will be reckoned. This shall be binding on all the Bidders. However, the Bank reserves the right to reject all such incomplete Bids.

## **18. CONTACTING THE BANK:**

- i. No Bidder shall contact the Bank on any matter relating to its Bid, from the time of opening of indicative price Bid to the time, the Contract is awarded.

- ii. Any effort by a Bidder to influence the Bank in its decisions on Bid evaluation, Bid comparison or contract award may result in the rejection of the Bid.

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

- i. Total cost of Software Solution along with cost of all items specified in **Appendix-F** would be the Total Cost of Ownership (TCO)/Total Project Cost and should be quoted by the Bidder(s) in indicative price bid and reverse auction.
- ii. Bank will notify successful Bidder in writing by way of issuance of purchase order through letter or fax/email that its Bid has been accepted. The selected Bidder has to return the duplicate copy of the same to the Bank within **7 working days**, duly Accepted, Stamped and Signed by Authorized Signatory in token of acceptance.
- iii. The successful Bidder will have to submit Non-disclosure Agreement, Bank Guarantee for the amount and validity as desired in this RFP and strictly on the lines of format given in Appendix of this RFP together with acceptance of all terms and conditions of RFP.
- iv. Copy of board resolution and power of attorney (POA wherever applicable) showing that the signatory has been duly authorized to sign the acceptance letter, contract and NDA should be submitted.
- v. The successful Bidder shall be required to enter into a Contract with the Bank and submit the Bank Guarantee, within 30 days from issuance of Purchase Order or within such extended period as may be decided by the Bank.
- vi. Till execution of a formal contract, the RFP, along with the Bank's notification of award by way of issuance of purchase order and Service Provider's acceptance thereof, would be binding contractual obligation between the Bank and the successful Bidder.
- vii. The Bank reserves the right to stipulate, at the time of finalization of the Contract, any other document(s) to be enclosed as a part of the final Contract.
- viii. Failure of the successful Bidder to comply with the requirements/terms and conditions of this RFP shall constitute sufficient grounds for the annulment of the award and forfeiture of the EMD and/or BG.
- ix. Upon notification of award to the successful Bidder, the Bank will promptly notify the award of contract to the successful Bidder on the Bank's website. The EMD of each unsuccessful Bidder will be discharged and returned.

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

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

## **21. WAIVER OF RIGHTS:**

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

## **22. CONTRACT AMENDMENT:**

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

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

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

## **24. BANK GUARANTEE:**

- i. Performance security in form of Bank Guarantee [BG] for the amount with validity period as specified in this RFP strictly on the format at Appendix-H is to be submitted by the finally selected Bidder (s). The BG has to be issued by a Scheduled Commercial Bank other than SBI and needs to be submitted within the specified time of receipt of formal communication from the Bank about their Bid finally selected. In case, SBI is the sole Banker for the Bidder, a Letter of Comfort from SBI may be accepted.
- ii. The Bank Guarantee is required to protect the interest of the Bank against delay in supply/installation and/or the risk of non-performance of the successful Bidder in respect successful implementation of the project, or performance of the material or services sold, or breach of any terms and conditions of the Agreement, which may warrant invoking of Bank Guarantee.

## **25. SYSTEM INTEGRATION TESTING & USER ACCEPTANCE TESTING:**

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

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



should carry out other testing like resiliency/benchmarking/load etc. Service Provider should submit result log for all testing to the Bank.

On satisfactory completion of the afore mentioned tests, the User Acceptance Test (UAT) letter will be issued to Service Provider by the competent authority on the line of **Appendix-I**.

## **26. SERVICES:**

- i. All professional services necessary to successfully implement the proposed Software Solution will be part of the RFP/Contract.
- ii. The Bidder should also submit as part of technical Bid an overview of Project Management approach of the proposed product.
- iii. Bidder should ensure that key personnel with relevant skill-sets are available to the Bank.
- iv. Bidder should ensure that the quality of methodologies for delivering the services, adhere to quality standards/timelines stipulated therefor.
- v. Bidder shall be willing to transfer skills to relevant personnel from the Bank, by means of training and documentation.
- vi. Bidder shall provide and implement patches/ upgrades/ updates for hardware/ software/ Operating System / Middleware etc as and when released by Service Provider/ OEM or as per requirements of the Bank. Bidder should bring to notice of the Bank all releases/ version changes.
- vii. Bidder shall obtain a written permission from the Bank before applying any of the patches/ upgrades/ updates. Bidder has to support older versions of the hardware/ software/ Operating System /Middleware etc in case the Bank chooses not to upgrade to latest version.
- viii. Bidder shall provide maintenance support for Hardware/ Software/ Operating System/ Middleware over the entire period of contract.
- ix. All product updates, upgrades & patches shall be provided by the Bidder/ Service Provider free of cost during warranty and AMC/ ATS/ S&S period.
- x. Bidder shall provide legally valid Software Solution. The detailed information on license count and type of license shall also be provided to the Bank.

- xi. The Bidder shall keep the Bank explicitly informed the end of support dates on related products/hardware/firmware and should ensure support during warranty and AMC/ATS/S&S.

## **27. WARRANTY AND ANNUAL MAINTENANCE CONTRACT:**

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

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

## **28. PENALTIES:**

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

## **29. RIGHT TO VERIFICATION:**

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

## **30. INSPECTION AND TESTING:**

- i. The Bank reserves the right to carry out pre-shipment inspection or demand a demonstration of the product on a representative model at Service Provider's location.

- ii. The inspection and test prior to dispatch of the product/at the time of final acceptance would be as follows:
  - (a) Service Provider shall intimate the Bank before dispatching products for conducting inspection and testing.
  - (b) The inspection and acceptance test may also be conducted at the point of delivery and / or at the products' final destination. Reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors, at no charge to the Bank. In case of failure by Service Provider to provide necessary facility / equipment at its premises, all the cost of such inspection like travel, boarding, lodging & other incidental expenses of the Bank's representatives to be borne by Service Provider.
- iii. The Bank's right to inspect, test the product/ solution after delivery of the same to the Bank and where necessary reject the products/solution which does not meet the specification provided by the Bank. This shall in no way be limited or waived by reason of the products/ solution having previously being inspected, tested and passed by the Bank or its representative prior to the products/ solution shipment from the place of origin by the Bank or its representative prior to the installation and commissioning.
- iv. Nothing stated hereinabove shall in any way release Service Provider from any warranty or other obligations under this contract.
- v. System integration testing and User Acceptance testing will be carried out as per requirement of the Bank.

### **31. RIGHT TO AUDIT:**

- i. The Selected Bidder (Service Provider) shall be subject to annual audit by internal/ external Auditors appointed by the Bank/ inspecting official from the Reserve Bank of India or any regulatory authority, covering the risk parameters finalized by the Bank/ such auditors in the areas of products (IT hardware/ Software) and services etc. provided to the Bank and Service Provider is required to submit such certification by such Auditors to the Bank. Service Provider and or his / their outsourced agents / sub – contractors (if allowed by the Bank) shall facilitate the same The Bank can make its expert assessment on the efficiency and effectiveness of the security, control, risk management, governance system and process created by the Service Provider. The Service Provider shall, whenever required by the Auditors, furnish all relevant information, records/data to them. All costs for such audit shall be borne by the Bank. Except for the audit done by Reserve Bank of

India or any statutory/regulatory authority, the Bank shall provide reasonable notice not less than 7 (seven) days to Service Provider before such audit and same shall be conducted during normal business hours.

- ii. Where any deficiency has been observed during audit of the Service Provider on the risk parameters finalized by the Bank or in the certification submitted by the Auditors, the Service Provider shall correct/resolve the same at the earliest and shall provide all necessary documents related to resolution thereof and the auditor shall further certify in respect of resolution of the deficiencies. The resolution provided by the Service Provider shall require to be certified by the Auditors covering the respective risk parameters against which such deficiencies have been observed.
- iii. Service Provider further agrees that whenever required by the Bank, it will furnish all relevant information, records/data to such auditors and/or inspecting officials of the Bank/Reserve Bank of India and/or any regulatory authority(ies). The Bank reserves the right to call for and/or retain any relevant information /audit reports on financial and security review with their findings undertaken by the Service Provider. However, Service Provider shall not be obligated to provide records/data not related to Services under the Agreement (e.g. internal cost breakup etc.).
- i. Service provider shall grant unrestricted and effective access to a) data related to the outsourced activities; b) the relevant business premises of the service provider; subject to appropriate security protocols, for the purpose of effective oversight use by the Bank, their auditors, regulators and other relevant Competent Authorities, as authorised under law.

### **32. SUBCONTRACTING:**

- ii. As per scope of the RFP, subcontracting is prohibited. However, if the Bidder subsequently wishes to sub-contract the scope of work, it will have to obtain specific written permission from the Bank before contracting any work to subcontractors. Bank at its own discretion may permit or deny the same.
- iii. In case subcontracting is permitted by the Bank, the contracting vendor will be responsible for all the services provided to the Bank regardless of which entity is conducting the operations. The contracting vendor is also responsible for ensuring that the sub-contractor comply with all security requirements of the contract and the Bank can obtain independent audit report for the same. In such a case, the Bidder shall provide subcontracting details to the Bank and if require, Bank may evaluate the same.

- iv. In case of Sub-Contracting (If allowed by the Bank), the Service Provider shall provide the complete details of Services sub-contracted by it Including the details of sub-contractor(s) and/or its agent to the Bank as and when requested.

### **33. VALIDITY OF AGREEMENT:**

The Agreement/ SLA will be valid for the period of two year(s). The Bank reserves the right to terminate the Agreement as per the terms of RFP/ Agreement.

### **34. LIMITATION OF LIABILITY:**

- i. The maximum aggregate liability of Service Provider, subject to below mentioned sub-clause (iii), in respect of any claims, losses, costs or damages arising out of or in connection with this RFP/Agreement shall not exceed the total Project Cost.
- ii. Under no circumstances shall either Party be liable for any indirect, consequential or incidental losses, damages or claims including loss of profit, loss of business or revenue.
- iii. The limitations set forth herein shall not apply with respect to:
- a) claims that are the subject of indemnification pursuant to infringement of third party Intellectual Property Right;
  - b) damage(s) occasioned by the Gross Negligence or Willful Misconduct of Service Provider,
  - c) damage(s) occasioned by Service Provider for breach of Confidentiality Obligations,
  - d) Regulatory or statutory fines imposed by a Government or Regulatory agency for non-compliance of statutory or regulatory guidelines applicable to the Bank, provided such guidelines were brought to the notice of Service Provider.

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

**“Willful Misconduct”** means any act or failure to act with an intentional disregard of any provision of this Agreement, which a party knew or should have known if it

was acting as a reasonable person, which would result in injury, damage to life, personal safety, real property, harmful consequences to the other party, but shall not include any error of judgment or mistake made in good faith.

**35. CONFIDENTIALITY:**

Confidentiality obligation shall be as per Non-disclosure agreement and clause 15 of Service Level Agreement placed as Appendix to this RFP.

**36. DELAY IN SERVICE PROVIDER'S PERFORMANCE:**

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

**37. SERVICE PROVIDER'S OBLIGATIONS:**

- i. Service Provider is responsible for and obliged to conduct all contracted activities in accordance with the Contract using state-of-the-art methods and economic principles and exercising all means available to achieve the performance specified in the Contract.
- ii. Service Provider is obliged to work closely with the Bank's staff, act within its own authority and abide by directives issued by the Bank from time to time and complete implementation activities.
- iii. Service Provider will abide by the job safety measures prevalent in India and will free the Bank from all demands or responsibilities arising from accidents or loss of life, the cause of which is Service Provider's negligence. Service Provider will pay

all indemnities arising from such incidents and will not hold the Bank responsible or obligated.

- iv. Service Provider is responsible for activities of its personnel or sub-contracted personnel (where permitted) and will hold itself responsible for any misdemeanors.
- v. Service Provider shall treat as confidential all data and information about the Bank, obtained in the process of executing its responsibilities, in strict confidence and will not reveal such information to any other party without prior written approval of the Bank as explained under 'Non-Disclosure Agreement' in **Appendix-L** of this RFP.
- vi. Service Provider shall report the incidents, including cyber incidents and those resulting in disruption of service and data loss/ leakage immediately but not later than one hour of detection.
- vii. Service Provider shall abide by the provisions of the DPDP Act, 2023 - 11th August, 2023; CG-DL-E-12082023-248045 as and when the relevant rules and guidelines come into force.

### **38. TECHNICAL DOCUMENTATION:**

- i. Service Provider shall deliver the following documents to the Bank for every software including third party software before software/ service become operational, which includes, user manuals, installation manuals, operation manuals, design documents, process documents, technical manuals, functional specification, software requirement specification, on-line tutorials/ CBTs, system configuration documents, system/database administrative documents, debugging/diagnostics documents, test procedures etc.
- ii. Service Provider shall also provide documents related to Review Records/ Test Bug Reports/ Root Cause Analysis Report, list of all Product components, list of all dependent/external modules and list of all documents relating to traceability of the Software Solution as and when applicable.
- iii. Service Provider shall also provide the MIS reports, data flow documents, data register and data dictionary as per requirements of the Bank. Any level/ version changes and/or clarification or corrections or modifications in the above-mentioned documentation should be supplied by Service Provider to the Bank, free of cost in timely manner.



### 39. INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP:

- i. For any technology / Software / solution developed/used/supplied by Service Provider for performing Services or licensing and implementing Software and solution for the Bank as part of this RFP, Service Provider shall have right to use as well right to license for the outsourced services or third party product. The Bank shall not be liable for any license or IPR violation on the part of Service provider.
- ii. Without the Bank's prior written approval, Service provider will not, in performing the Services, use or incorporate, link to or call or depend in any way upon, any software or other intellectual property that is subject to an Open Source or Copy-left license or any other agreement that may give rise to any third-party claims or to limit the Bank's rights under this RFP.
- iii. Subject to below mentioned sub-clause (iv) and (v) of this RFP, Service Provider shall, at its own expenses without any limitation, indemnify and keep fully and effectively indemnified the Bank against all cost, claims, damages, demands, expenses and liabilities whatsoever nature arising out of or in connection with all claims of infringement of Intellectual Property Right, including patent, trademark, copyright, trade secret or industrial design rights of any third party arising from use of the technology / Software / products or any part thereof in India or abroad, for Software licensed/developed as part of this engagement. In case of violation/infringement of patent/ trademark/ copyright/ trade secret or industrial design or any other Intellectual Property Right of third party, Service Provider shall, after due inspection and testing, without any additional cost (a) procure for the Bank the right to continue to using the Software supplied; or (b) replace or modify the Software to make it non-infringing so long as the replacement to or modification of Software provide substantially equivalent functional, performance and operational features as the infringing Software which is being replaced or modified; or (c) to the extent that the activities under clauses (a) and (b) above are not commercially reasonable, refund to the Bank all amounts paid by the Bank to Service Provider under this RFP/Agreement.
- iv. The Bank will give (a) notice to Service provider of any such claim without delay/provide reasonable assistance to Service provider in disposing of the claim; (b) sole authority to defend and settle such claim and; (c) will at no time admit to any liability for or express any intent to settle the claim provided that (i) Service Provider shall not partially settle any such claim without the written consent of the Bank, unless such settlement releases the Bank fully from such claim, (ii) Service Provider shall promptly provide the Bank with copies of all pleadings or similar documents relating to any such claim, (iii) Service Provider shall consult with the Bank with respect to the defense and settlement of any such claim, and (iv) in any

litigation to which the Bank is also a party, the Bank shall be entitled to be separately represented at its own expenses by counsel of its own selection.

- v. Service Provider shall have no obligations with respect to any infringement claims to the extent that the infringement claim arises or results from: (i) Service Provider's compliance with the Bank's specific technical designs or instructions (except where Service Provider knew or should have known that such compliance was likely to result in an infringement claim and Service Provider did not inform the Bank of the same); (ii) any unauthorized modification or alteration of the Software by the Bank or its employee; (iii) failure to implement an update to the licensed software that would have avoided the infringement, provided Service Provider has notified the Bank in writing that use of the update would have avoided the claim.
- vi. Service Provider shall grant the Bank a fully paid-up, irrevocable, non-exclusive, unlimited, perpetual license throughout the territory of India or abroad to access, replicate and use software provided by Service Provider, including all inventions, designs and marks embodied therein perpetually. The service provider ensures to share the OEM (i.e. BMC Software) Source Code Review certificate periodically for the versions deployed in Bank environment in the format advised by the bank. The Source Code review certificate shall be comprehensively reviewed periodically by the Bank or its authorized representative.

#### **40. LIQUIDATED DAMAGES:**

If the Service Provider fails to deliver product and/or perform any or all the Services within the stipulated time, schedule as specified in this RFP/Agreement, the Bank may, without prejudice to its other remedies under the RFP/Agreement, and unless otherwise extension of time is agreed upon without the application of liquidated damages, deduct from the Project Cost, as liquidated damages a sum equivalent to 0.5% of total Project Cost for delay of each week or part thereof maximum up to 10% of total Project Cost. This is over and above of the penalty clauses as defined in Appendix-J. Once the maximum deduction is reached, the Bank may consider termination of the Agreement.

#### **41. CONFLICT OF INTEREST:**

- i. Bidder shall not have a conflict of interest (the "Conflict of Interest") that affects the bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Bank shall be entitled to forfeit and appropriate the Bid Security and/or Performance Security (Bank Guarantee), as the case may be, as mutually agreed upon genuine estimated loss and damage likely to

be suffered and incurred by the Bank and not by way of penalty for, inter alia, the time, cost and effort of the Bank, including consideration of such Bidder's proposal (the "Damages"), without prejudice to any other right or remedy that may be available to the Bank under the bidding Documents and/ or the Agreement or otherwise.

ii. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the bidding Process, if:

- (a) the Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate, has less than 5% (five per cent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 2(72) of the Companies Act, 2013. For the purposes of this Clause, indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "Subject Person") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or
- (b) a constituent of such Bidder is also a constituent of another Bidder; or
- (c) such Bidder, its Member or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, its Member or Associate, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or

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

**42. CODE OF INTEGRITY AND DEBARMENT/BANNING:**

- i. The Bidder and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the bidding Process. Notwithstanding anything to the contrary contained herein, the Bank shall reject Bid without being liable in any manner whatsoever to the Bidder if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt/fraudulent/coercive/undesirable or restrictive practices in the bidding Process.
- ii. Bidders are obliged under code of integrity to Suo-moto proactively declare any conflicts of interest (pre-existing or as and as soon as these arise at any stage) in RFP process or execution of contract. Failure to do so would amount to violation of this code of integrity.
- iii. Any Bidder needs to declare any previous transgressions of such a code of integrity with any entity in any country during the last three years or of being debarred by any other procuring entity. Failure to do so would amount to violation of this code of integrity.
- iv. For the purposes of this clause, the following terms shall have the meaning hereinafter, respectively assigned to them:

- (a) **“corrupt practice”** means making offers, solicitation or acceptance of bribe, rewards or gifts or any material benefit, in exchange for an unfair advantage in the procurement process or to otherwise influence the procurement process or contract execution;
- (b) **“Fraudulent practice”** means any omission or misrepresentation that may mislead or attempt to mislead so that financial or other benefits may be obtained or an obligation avoided. This includes making false declaration or providing false information for participation in a RFP process or to secure a contract or in execution of the contract;
- (c) **“Coercive practice”** means harming or threatening to harm, persons or their property to influence their participation in the procurement process or affect the execution of a contract;
- (d) **“Anti-competitive practice”** means any collusion, bid rigging or anti-competitive arrangement, or any other practice coming under the purview of the Competition Act, 2002, between two or more bidders, with or without the knowledge of the Bank, that may impair the transparency, fairness and the progress of the procurement process or to establish bid prices at artificial, non-competitive levels;
- (e) **“Obstructive practice”** means materially impede the Bank’s or Government agencies investigation into allegations of one or more of the above mentioned prohibited practices either by deliberately destroying, falsifying, altering; or by concealing of evidence material to the investigation; or by making false statements to investigators and/or by threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or by impeding the Bank’s rights of audit or access to information;

**v. Debarment/Banning**

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

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

Whenever a Vendor is found lacking in performance, in case of less frequent and less serious misdemeanors, the vendors may be put on a holiday listing (temporary

debarment) for a period upto 12 (twelve) months. When a Vendor is on the holiday listing, he is neither invited to bid nor are his bids considered for evaluation during the period of the holiday. The Vendor is, however, not removed from the list of empaneled vendors, if any. Performance issues which may justify holiday listing of the Vendor are:

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

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

Debarment of a delinquent Vendor (including their related entities) for a period (one to two years) from the Bank's procurements including removal from empanelment, wherever such Vendor is empaneled, due to severe deficiencies in performance or other serious transgressions. Reasons which may justify debarment and/or removal of the Vendor from the list of empaneled vendors are:

- Without prejudice to the rights of the Bank under Clause 42" *CODE OF INTEGRITY AND DEBARMENT/BANNING " sub-clause (i)* hereinabove, if a Bidder is found by the Bank to have directly or indirectly or through an agent, engaged or indulged in any corrupt/fraudulent/coercive/undesirable or restrictive practices during the bidding Process, such Bidder shall not be eligible to participate in any EOIRFP issued by the Bank during a period of 2 (two) years from the date of debarment.
- Vendor fails to abide by the terms and conditions or to maintain the required technical/operational staff/equipment or there is change in its production/service line affecting its performance adversely, or fails to cooperate or qualify in the review for empanelment;
- If Vendor ceases to exist or ceases to operate in the category of requirements for which it is empaneled;
- Bankruptcy or insolvency on the part of the vendor as declared by a court of law; or
- Banning by Ministry/Department or any other Government agency;

- Other than in situations of force majeure, technically qualified Bidder withdraws from the procurement process or after being declared as successful bidder: (i) withdraws from the process; (ii) fails to enter into a Contract; or (iii) fails to provide performance guarantee or any other document or security required in terms of the RFP documents;
- If the Central Bureau of Investigation/CVC/C&AG or Vigilance Department of the Bank or any other investigating agency recommends such a course in respect of a case under investigation;
- Employs a Government servant or the Bank's Officer within two years of his retirement, who has had business dealings with him in an official capacity before retirement; or
- Any other ground, based on which the Bank considers, that continuation of Contract is not in public interest.
- If there is strong justification for believing that the partners/directors/proprietor/agents of the firm/company has been guilty of violation of the code of integrity or Integrity Pact (wherever applicable), evasion or habitual default in payment of any tax levied by law; etc.

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

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

**43. TERMINATION FOR DEFAULT:**

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

Prior to providing a written notice of termination to Service Provider under abovementioned sub-clause (i) (a) to (c), the Bank shall provide Service Provider

with a written notice of 30 (thirty) days to cure such breach of the Agreement. If the breach continues or remains unrectified after expiry of cure period, the Bank shall have right to initiate action in accordance with above clause.

- ii. In the event the Bank terminates the Contract in whole or in part for the breaches attributable to Service Provider, the Bank may procure, upon such terms and in such manner as it deems appropriate, software and Services similar to those undelivered, and subject to limitation of liability clause of this RFP Service Provider shall be liable to the Bank for any increase in cost for such similar Software Solution and/or Services. However, Service Provider shall continue performance of the Contract to the extent not terminated.
- iii. If the Contract is terminated under any termination clause, Service Provider shall handover all documents/ executable/ Bank's data or any other relevant information to the Bank in timely manner and in proper format as per scope of this RFP and shall also support the orderly transition to another vendor or to the Bank.
- iv. During the transition, Service Provider shall also support the Bank on technical queries/support on process implementation or in case of software provision for future upgrades.
- v. The Bank's right to terminate the Contract will be in addition to the penalties / liquidated damages and other actions as specified in this RFP.
- vi. In the event of failure of the Service Provider to render the Services or in the event of termination of Agreement or expiry of term or otherwise, without prejudice to any other right, the Bank at its sole discretion may make alternate arrangement for getting the Services contracted with another vendor. In such case, the Bank shall give prior notice to the existing Service Provider. The existing Service Provider shall continue to provide services as per the terms of the Agreement until a 'New Service Provider' completely takes over the work. During the transition phase, the existing Service Provider shall render all reasonable assistance to the new Service Provider within such period prescribed by the Bank, at no extra cost to the Bank, for ensuring smooth switch over and continuity of services, provided where transition services are required by the Bank or New Service Provider beyond the term of this Agreement, reasons for which are not attributable to Service Provider, payment shall be made to Service Provider for such additional period on the same rates and payment terms as specified in this Agreement. If existing Service Provider is breach of this obligation, they shall be liable for paying a penalty of 10% of the total Project Cost on demand to the Bank (over and above of Penalty clauses defined in Appendix-J), which may be settled from the payment of invoices or Bank Guarantee for the contracted period or by invocation of Bank Guarantee.



**44. FORCE MAJEURE:**

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

**45. TERMINATION FOR INSOLVENCY:**

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

**46. TERMINATION FOR CONVENIENCE:**

- i. The Bank, by written notice of not less than 90 (ninety) days, may terminate the Contract, in whole or in part, for its convenience, provided same shall not be

invoked by the Bank before completion of half of the total Contract period (including the notice period).

- ii. In the event of termination of the Agreement for the Bank's convenience, Service Provider shall be entitled to receive payment for the Services rendered (delivered) up to the effective date of termination.

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

- i. All disputes or differences whatsoever arising between the parties out of or in connection with the Contract (including dispute concerning interpretation) or in discharge of any obligation arising out of the Contract (whether during the progress of work or after completion of such work and whether before or after the termination of the Contract, abandonment or breach of the Contract), shall be settled amicably. If however, the parties are not able to solve them amicably within 30 (thirty) days after dispute occurs as evidenced through the first written communication from any Party notifying the other regarding the disputes, either party (SBI or Service Provider), give written notice to other party clearly setting out there in specific dispute(s) and/or difference(s) and shall be referred to a sole arbitrator mutually agreed upon, and the award made in pursuance thereof shall be binding on the parties. In the absence of consensus about the single arbitrator, the dispute may be referred to an arbitration panel; one to be nominated by each party and the said arbitrators shall nominate a presiding arbitrator, before commencing the arbitration proceedings. The arbitration shall be settled in accordance with the applicable Indian Laws and arbitration proceeding shall be conducted in accordance with Arbitration and Conciliation Act 1996 and any amendment thereto. Any appeal will be subject to the exclusive jurisdiction of courts at Mumbai.
- ii. Service Provider shall continue work under the Contract during the arbitration proceedings unless otherwise directed by the Bank or unless the matter is such that the work cannot possibly be continued until the decision of the arbitrator is obtained.
- iii. Arbitration proceeding shall be held at Mumbai, India, and the language of the arbitration proceedings and that of all documents and communications between the parties shall be in English.

**48. GOVERNING LANGUAGE:**

The governing language shall be English.

#### 49. APPLICABLE LAW:

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

#### 50. TAXES AND DUTIES:

- i. Service Provider shall be liable to pay all corporate taxes and income tax that shall be levied according to the laws and regulations applicable from time to time in India and the price Bid by Service Provider shall include all such taxes in the quoted price.
- ii. Prices quoted should be exclusive of GST. All other present and future tax /duties, if any applicable and also cost of incidental services such as transportation, road permits, insurance etc. should be included in the price quoted. The quoted prices and taxes/duties and statutory levies such as GST etc. should be specified in the separate sheet (**Appendix-F**).
- iii. Custom duty as also cost of incidental services such as transportation, road permits, insurance etc. in connection with delivery of products at site including any incidental services and commissioning, if any, which may be levied, shall be borne by Service Provider and the Bank shall not be liable for the same. Only specified taxes/ levies and duties in the **Appendix-F** will be payable by the Bank on actuals upon production of original receipt wherever required. If any specified taxes/ levies and duties in **Appendix-F** are replaced by the new legislation of Government, same shall be borne by the Bank. The Bank shall not be liable for payment of those Central / State Government taxes, levies, duties or any tax/ duties imposed by local bodies/ authorities, which are not specified by the Bidder in **Appendix-F**
- iv. Prices payable to Service Provider as stated in the Contract shall be firm and not subject to adjustment during performance of the Contract, irrespective of reasons whatsoever, including exchange rate fluctuations, any upward revision in Custom duty.
- v. Income / Corporate Taxes in India: The Bidder shall be liable to pay all corporate taxes and income tax that shall be levied according to the laws and regulations applicable from time to time in India and the price Bid by the Bidder shall include all such taxes in the contract price.
- vi. Parties shall fulfil all their respective compliance requirements under the GST law. This shall include (but not be limited to):

- (a) Bank shall pay GST amount after verifying the details of invoice on GSTR 2B on GSTN portal.
  - (b) In case any credit, refund or other benefit is denied or delayed to the Bank due to any non-compliance of GST Laws by the vendor including but not limited to, failure to upload the details of invoice or any other details of the supply of goods or services, as the case may be, as required under GST Law on the appropriate government's goods and services tax network portal, the failure to pay applicable GST to the Government or due to non-furnishing or furnishing of incorrect or incomplete documents by the party, vendor would reimburse the loss to the Bank including, but not limited to, any tax loss or denial of credit, interest and penalty and reasonable fee for contesting the demand. Amount payable under this clause shall survive irrespective of termination of agreement if the demand pertains to the agreement period.
  - (c) In case of any tax demand or denial of ITC or refund or any other benefit by the GST authorities, both the parties may mutually decide whether to contest the matter. In case, it is decided to contest the matter, the vendor is required to deposit the disputed demand including interest and penalty proposed with the other party without waiting for the outcome of the legal proceeding. In case the matter is finally decided in favour of the other party, the other party is required to refund the amount received from the defaulting party without any interest.
- vii. All expenses, stamp duty and other charges/ expenses in connection with the execution of the Agreement as a result of this RFP process shall be borne by Service Provider. The Agreement/ Contract would be stamped as per Maharashtra Stamp Act, 1958 and any amendment thereto.

#### **51. TAX DEDUCTION AT SOURCE:**

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

- iii. Bank will deduct TDS at applicable rate while making payment under GST Act 2017 and Income Tax Act 1961.

**52. TENDER FEE:**

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

**53. EXEMPTION OF EMD AND TENDER FEE:**

As the RFP is among the channel partner of OEM, exemption from payment of EMD is not provided under this RFP.

**54. NOTICES:**

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

## **Part-II**

**Appendix-A**

**BID FORM (TECHNICAL BID)**

[On Company's letter head]

(To be included in Technical Bid)

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

To:

The Deputy General Manager  
Platform Engineering-II Department  
State Bank of India  
"A" Wing, First floor  
Global IT Centre, Sector – 11, CBD Belapur  
Navi Mumbai, 400614

Dear Sir,

**Ref: RFP No. SBI:1148 dated 28/05/2024**

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We have examined the above RFP, the receipt of which is hereby duly acknowledged and subsequent pre-bid clarifications/ modifications / revisions, if any, furnished by the Bank and we offer to supply, Install, test, commission and support the desired Software Solution detailed in this RFP. We shall abide by the terms and conditions spelt out in the RFP. We shall participate and submit the commercial Bid through online auction to be conducted by the Bank's authorized service provider, on the date advised to us.

i. While submitting this Bid, we certify that:

- The undersigned is authorized to sign on behalf of the Bidder and the necessary support document delegating this authority is enclosed to this letter.
- We declare that we are not in contravention of conflict of interest obligation mentioned in this RFP.
- Indicative prices submitted by us have been arrived at without agreement with any other Bidder of this RFP for the purpose of restricting competition.
- The indicative prices submitted by us have not been disclosed and will not be disclosed to any other Bidder responding to this RFP.
- We have not induced or attempted to induce any other Bidder to submit or not to submit a Bid for restricting competition.
- We have quoted for all the products/services mentioned in this RFP in our indicative price Bid.

- The rate quoted in the indicative price Bids are as per the RFP and subsequent pre-Bid clarifications/ modifications/ revisions furnished by the Bank, without any exception.
- ii. We undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will strictly observe the laws against fraud and corruption in force in India namely “Prevention of Corruption Act 1988”.
- iii. We undertake that we will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Bank, connected directly or indirectly with the bidding process, or to any person, organisation or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
- iv. We undertake that we will not resort to canvassing with any official of the Bank, connected directly or indirectly with the bidding process to derive any undue advantage. We also understand that any violation in this regard, will result in disqualification of bidder from further bidding process.
- v. It is further certified that the contents of our Bid are factually correct. We have not sought any deviation to the terms and conditions of the RFP. We also accept that in the event of any information / data / particulars proving to be incorrect, the Bank will have right to disqualify us from the RFP without prejudice to any other rights available to the Bank.
- vi. We certify that while submitting our Bid document, we have not made any changes in the contents of the RFP document, read with its amendments/clarifications provided by the Bank.
- vii. We agree to abide by all the RFP terms and conditions, contents of Service Level Agreement as per template available at **Appendix-K** of this RFP and the rates quoted therein for the orders awarded by the Bank up to the period prescribed in the RFP, which shall remain binding upon us.
- viii. On acceptance of our technical bid, we undertake to participate in Reverse auction by way of login in Reverse auction tool. In case of declaration as successful Vendor on completion of Reverse auction process, we undertake to complete the formalities as specified in this RFP.
- ix. The commercial bidding process will be through the reverse auction process to be conducted by the Bank or a company authorized by the Bank. We understand that our authorized representative who would participate in the reverse auction process would be possessing a valid digital certificate for the purpose.



- x. Till execution of a formal contract, the RFP, along with the Bank's notification of award by way of issuance of purchase order and our acceptance thereof, would be binding contractual obligation on the Bank and us.
- xi. We understand that you are not bound to accept the lowest or any Bid you may receive and you may reject all or any Bid without assigning any reason or giving any explanation whatsoever.
- xii. We hereby certify that our name does not appear in any "Caution" list of RBI / IBA or any other regulatory body for outsourcing activity.
- xiii. We hereby certify that on the date of submission of Bid for this RFP, we **do not have any past/ present litigation which adversely affect our participation in this RFP** or we are not under any debarment/blacklist period for breach of contract/fraud/corrupt practices by any Scheduled Commercial Bank/ Public Sector Undertaking/ State or Central Government or their agencies/departments.
- xiv. We hereby certify that we (participating in RFP as OEM)/ our OEM have a support center and level 3 escalation (highest) located in India.
- xv. We hereby certify that on the date of submission of Bid, we do not have any Service Level Agreement pending to be signed with the Bank for more than 6 months from the date of issue of purchase order.
- xvi. We hereby certify that we have read the clauses contained in O.M. No. 6/18/2019-PPD, dated 23.07.2020 order (Public Procurement No. 1), order (Public Procurement No. 2) dated 23.07.2020 and order (Public Procurement No. 3) dated 24.07.2020 along with subsequent Orders and its amendment thereto regarding restrictions on procurement from a bidder of a country which shares a land border with India. We further certify that we and our OEM are not from such a country or if from a country, has been registered with competent authority (where applicable evidence of valid certificate to be attached). We certify that we and our OEM fulfil all the requirements in this regard and are eligible to participate in this RFP.
- xvii. If our Bid is accepted, we undertake to enter into and execute at our cost, when called upon by the Bank to do so, a contract in the prescribed form and we shall be solely responsible for the due performance of the contract.
- xviii. We undertake that if we withdraw or modify our bid during the period of validity, or if we are awarded the contract and fail to sign the contract, or to submit a security bank guarantee before the deadline defined in the RFP, we will be debarred for the period of time specified in the RFP from being eligible to submit bids for future contracts with the Bank.

xix. We, further, hereby undertake and agree to abide by all the terms and conditions stipulated by the Bank in the RFP document.

Dated this ..... day of ..... 20..

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name)

(In the capacity of)

Duly authorised to sign Bid for and on behalf of

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

**Appendix-B**

**Bidder's Eligibility Criteria**

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

| <b>S. No.</b> | <b>Eligibility Criteria</b>                                                                                                                                                                                                                                              | <b>Compliance (Yes/No)</b> | <b>Documents to be submitted</b>                                                                                                                                           |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.            | The Bidder must be an Indian Company/ LLP /Partnership firm registered under applicable Act in India.                                                                                                                                                                    |                            | Certificate of Incorporation issued by Registrar of Companies and full address of the registered office along with Memorandum & Articles of Association/ Partnership Deed. |
| 2.            | The Bidder (including its OEM, if any) must comply with the requirements contained in O.M. No. 6/18/2019-PPD, dated 23.07.2020 order (Public Procurement No. 1), order (Public Procurement No. 2) dated 23.07.2020 and order (Public Procurement No. 3) dated 24.07.2020 |                            | Bidder should specifically certify in <b>Appendix-A</b> in this regard and provide copy of registration certificate issued by competent authority wherever applicable.     |
| 3.            | The Bidder must have an average turnover of minimum Rs.10.00 crore during last 03 (three) financial year(s) i.e. FY 2021-22, FY 2022-23 and FY 2023-24.                                                                                                                  |                            | Copy of the audited financial statement for required financial years. (Certificate from statutory auditor for preceding three year may be submitted.)                      |
| 4.            | The Bidder should be profitable organization on the basis of profit before tax (PBT) for at least 02 (two) out of last 03 (three) financial years mentioned in para 3 above.                                                                                             |                            | Copy of the audited financial statement along with profit and loss statement for corresponding years and / or Certificate of the statutory auditor.                        |
| 5             | Bidder should have experience of minimum 5 years in providing the Software Solution/services.                                                                                                                                                                            |                            | Copy of the order and / or Certificate of completion of the work. The Bidder should also furnish user acceptance report.                                                   |

|     |                                                                                                                                                                                                                                                                                      |  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6.  | <p>Client references and contact details (email/ landline/ mobile) of customers for whom the Bidder has executed similar projects in India.<br/>(Start and End Date of the Project to be mentioned) in the past (At least 3 client references are required)</p>                      |  | <p>Bidder should specifically confirm on their letter head in this regard as per <b>Appendix-N</b></p> <p><b>Client-1 Name:</b><br/><b>Client-2 Name:</b><br/><b>Client-3 Name:</b></p>                                                                                                                                                                                                                                                                                                                                                                                             |
| 8.  | <p>The bidder should be among authorized channel partners of the OEM to provide the required BMC product license as mentioned in Appendix-C of this RFP.</p>                                                                                                                         |  | <p>The bidder should submit the OEM Manufacturer's Authorization Form (MAF) issued by OEM on its letter head in name of the Bank, which certify / confirm the required authorization.</p>                                                                                                                                                                                                                                                                                                                                                                                           |
| 9.  | <p>Past/present litigations, disputes, if any (Adverse litigations could result in disqualification, at the sole discretion of the Bank)</p>                                                                                                                                         |  | <p>Brief details of litigations, disputes related to product/services being procured under this RFP or infringement of any third party Intellectual Property Rights by prospective Bidder/ OEM or disputes among Bidder's board of directors, liquidation, bankruptcy, insolvency cases or cases for debarment/blacklisting for breach of contract/fraud/corrupt practices by any Scheduled Commercial Bank/ Public Sector Undertaking / State or Central Government or their agencies/ departments or any such similar cases, if any are to be given on Company's letter head.</p> |
| 10. | <p>Bidders should not be under debarment/blacklist period for breach of contract/fraud/corrupt practices by any Scheduled Commercial Bank/ Public Sector Undertaking / State or Central Government or their agencies/ departments on the date of submission of bid for this RFP.</p> |  | <p>Bidder should specifically certify in <b>Appendix-A</b> in this regard.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 11. | <p>The bidder, if participating as Channel Partner of any OEM, then</p>                                                                                                                                                                                                              |  | <p>Bidder should specifically certify in <b>Appendix-A</b> in this regard.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

|                                                                                   |                                                                                                                                                                                                                                                                   |  |                                                                                      |
|-----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------------------|
|                                                                                   | OEM should have a support center and level 3 escalation (highest) located in India.<br>For OEMs, directly participating, the conditions mentioned above for support center remain applicable.                                                                     |  |                                                                                      |
| 12                                                                                | The Bidder should not have any Service Level Agreement pending to be signed with the Bank for more than 6 months from the date of issue of purchase order.                                                                                                        |  | Bidder should specifically certify in <b>Appendix-A</b> in this regard.              |
| 13                                                                                | Confirmation from OEM for acceptance of Appendix-E.                                                                                                                                                                                                               |  | Bidder should submit confirmation on OEM letter head issued in the name of the Bank. |
| 14                                                                                | The Bidder should agree to the all terms and conditions of Service Level Agreement (format placed at Appendix-K), they will execute the agreement in defined time frame as mentioned in the relevant section of the RFP if they become L1 in the reverse auction. |  | Bidder should specifically confirm on their letter head in this regard               |
| 15                                                                                | EMD of the specified amount as mentioned in schedule of events in the form of deposited in bank account mentioned or Bank Guarantee issued by a scheduled commercial Bank.                                                                                        |  | Deposit/Fund transfer to mentioned account evidence Or Bank Guarantee                |
| [No change/ addition or deletion to be made by the Bidder to any of the clauses.] |                                                                                                                                                                                                                                                                   |  |                                                                                      |

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

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

- i. Start-up” company should enclose the valid Certificate of Recognition issued by Department for Promotion of Industry and Internal Trade (DPIIT), (erstwhile Department of Industrial Policy and Promotion), Ministry of Commerce & Industry, Govt. of India with the technical bid.
- ii. Bidder who solely on its own, fulfils each eligibility criteria condition as per the RFP terms and conditions and who are having Start-up company status, can claim

exemption for eligibility criteria mentioned at SI No 3 to 5 in table above.

- iii. If all these conditions are not fulfilled or supporting documents are not submitted with the technical Bid, then all those Bids will be summarily rejected, and no queries will be entertained.

**Name & Signature of authorised signatory**

**Seal of Company**

**Appendix-C**

**Technical & Functional Specifications**

The details of existing entitlement of the BMC Product licenses, New Base for Enterprise Unlimited License Agreement(ULA) and the new product license quantity under ULA has been provided the table below.

**1. License Specifications:**

| Sr. No. | Module                                 | BMC Product                                                                          | Type Of license  | Current Entitlement | New Base of EULA |
|---------|----------------------------------------|--------------------------------------------------------------------------------------|------------------|---------------------|------------------|
| 1       | BMC Helix ITSM                         | BMC Helix ITSM OnPrem - Service Desk Concurrent User License                         | perpetual        | 1500                | <b>500</b>       |
| 2       |                                        | BMC Helix ITSM OnPrem - Service Desk User License                                    | perpetual        | 200                 | 200              |
| 3       |                                        | BMC Helix ITSM OnPrem - Service Optimization Concurrent User License                 | perpetual        | 150                 | 150              |
| 4       |                                        | BMC Helix ITSM OnPrem - Suite Concurrent User License                                | perpetual        | 10                  | 10               |
| 5       |                                        | BMC Helix ITSM OnPrem - Suite User License                                           | perpetual        | 10                  | 10               |
| 6       |                                        | <b>BMC Release Lifecycle Management - License Add-on</b>                             | <b>perpetual</b> | <b>200</b>          | <b>0</b>         |
| 7       |                                        | <b>Tech Data Seamless Data Pump for BMC DSO Solutions - MarketZone</b>               | <b>perpetual</b> | <b>3</b>            | <b>0</b>         |
| 8       | BMC Helix Capacity Optimization (BHCO) | BMC Helix Continuous Optimization OnPrem for Networks Plus                           | perpetual        | 1500                | 1500             |
| 9       |                                        | BMC Helix Continuous Optimization OnPrem for Servers Plus                            | perpetual        | 5000                | 5000             |
| 10      |                                        | BMC Helix Continuous Optimization OnPrem for Storage Plus                            | perpetual        | 1000                | 1000             |
| 11      | BMC Helix Operations Management (BHOM) | <b>TrueSight Event Management Integrator</b>                                         | <b>perpetual</b> | <b>2</b>            | <b>0</b>         |
| 12      |                                        | BMC Helix Operations Management OnPrem - Monitoring and Event Management for Servers | perpetual        | 150                 | 150              |
| 13      |                                        | BMC Helix Operations Management OnPrem - Event Management for Servers                | perpetual        | 7850                | 7850             |

|    |                                                                 |                                                                  |                     |          |              |
|----|-----------------------------------------------------------------|------------------------------------------------------------------|---------------------|----------|--------------|
| 14 |                                                                 | TrueSight Operations Management - Base License                   | perpetual           | 1        | 1            |
| 15 |                                                                 | BMC Helix Operations Management OnPrem -AIOps Add-on for Servers | perpetual           | 0        | <b>1000</b>  |
| 16 | TrueSight Orchestration                                         | TrueSight Orchestration - Adapters License Add-on                | perpetual           | 2        | 2            |
| 17 |                                                                 | TrueSight Orchestration - Development Pack License Add-on        | perpetual           | 1        | 1            |
| 18 |                                                                 | TrueSight Orchestration - Peer License Add-on                    | perpetual           | 3        | 3            |
| 19 |                                                                 | <b>TrueSight Automation Suite - Base License</b>                 | <b>perpetual</b>    | <b>1</b> | <b>0</b>     |
| 20 | SNOW Software Asset Management (Technology Intelligence Bundle) | <b>Snow Spend Optimizer – SAM (SKU- SAM-SO-S)</b>                | <b>Subscription</b> | <b>0</b> | <b>20000</b> |
| 21 |                                                                 | <b>Data Intelligence Service (SKU- DIS)</b>                      | <b>Subscription</b> | <b>0</b> | <b>20000</b> |
| 22 |                                                                 | <b>Snow ITSM Enhancer (SKU- ITSME-S)</b>                         | <b>Subscription</b> | <b>0</b> | <b>20000</b> |

**Name & Signature of authorised signatory**

**Seal of Company**



**Appendix-D**

**Bidder Details**

Details of the Bidder

| S. No. | Particulars                                                                                                                                                                             | Details |
|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| 1.     | Name                                                                                                                                                                                    |         |
| 2.     | Date of Incorporation and / or commencement of business                                                                                                                                 |         |
| 3.     | Certificate of incorporation                                                                                                                                                            |         |
| 4.     | Brief description of the Bidder including details of its main line of business                                                                                                          |         |
| 5.     | Company website URL                                                                                                                                                                     |         |
| 6.     | Company Pan Number                                                                                                                                                                      |         |
| 7.     | Company GSTIN Number                                                                                                                                                                    |         |
| 8.     | Particulars of the Authorized Signatory of the Bidder<br>a) Name<br>b) Designation<br>c) Address<br>d) Phone Number (Landline)<br>e) Mobile Number<br>f) Fax Number<br>g) Email Address |         |
| 9      | Details for EMD Refund (applicable only if EMD is directly credited in designated account):-<br>a) Account No.<br>b) Name of account holder<br>c) Name of Bank<br>d) IFSC Code          |         |

**Name & Signature of authorised signatory**

**Seal of Company**

Appendix-E

**Scope of Work and Payment Schedule**

| Sl No | Area                   | Requirement/Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1     | Description of Product | <p><b>A. Definitions:</b> Below terms are defined to avoid any “doubts” or “errors in understanding” the Scope of work, terms &amp; conditions.</p> <ul style="list-style-type: none"> <li>a. Term “<b>BMC Product Suite</b>” or “<b>BMC Product</b>” or “<b>BMC Market Zone Product</b>” or “Licenses” means the product licenses procured or renewed through this RFP. (referred as “<b><i>BMC Product</i></b>” hereafter). All the components or sub-products supplied as a bundle or say part-and-parcel of the procured or renewed product licenses, will also be covered under the mentioned term “BMC Product Suite” or “BMC Product” or “BMC Market Zone Product”.</li> <li>b. BMC Product version minor and major are defined as below. <ul style="list-style-type: none"> <li>i. Major version means: A.1 to B.1</li> <li>ii. Minor version means: A.1 to A.2</li> </ul> </li> <li>c. Service packs or Patches or Bug Fix for the BMC Products will be treated as minor version.</li> <li>d. <b>Vulnerability:</b> it will have same meaning as generally accepted practices within the software services industry. A weakness in an IT system that can be exploited by an attacker to deliver a successful attack or harm. They can occur through flaws, user error, code error, configuration error and attackers will look to exploit any of them, often combining one or more, to achieve their end goal. All components of the BMC Product i.e., software/ modules/ components of shall be part of the scope for vulnerability assessment and resolution. <ul style="list-style-type: none"> <li>i. The vulnerabilities can be pointed-out or detected by the Bank security solution or by the Bank audit teams or by the Regulatory advisories like CSITE, RBI, etc. or by advisories issued by Government of India. Notwithstanding the OEM has detected the vulnerability or not.</li> <li>ii. The zero-day vulnerabilities/bug/threats are also under the scope of this point.</li> </ul> </li> <li>e. <b>Product Support Services:</b> This is product support purchased by the Bank for the respective BMC Products as mentioned in Appendix-C (License Specification). This includes the support assistance by the OEM by way of</li> </ul> |

|   |                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|---|------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   |                                                | <p>product documentation, knowledge article, assistance for the installation &amp; configuration, issue troubleshooting, bug/patch fix, version upgrade &amp; patch deployment, security configuration or hardening, performance tuning or enhancements so that the products function as expected with best performance in a secure manner. All the underlying components supplied as bundled with the BMC Products in order to install, configure, and operate the BMC product smoothly will also be under the scope of this point.</p> <p><b>B. Deliverables:</b> The bidder has to provide the BMC Product licenses and applicable renewals for the quantities as mentioned in the Appendix-C (License Specification)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 2 | <p><b>Out of scope work and Assumption</b></p> | <p><b>Out of Scope:</b> None</p> <p><b>Assumption:</b> All the BMC products supplied are ensured to be free from any defects, bugs, or vulnerabilities. However, in the unlikely event that any such issues arise in the future, the corrective measures will be provided in a timely and efficient manner in the form of patches or fixes or product resolutions so that the Bank's interests are always safeguarded.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 3 | <p><b>Description of Deliverables</b></p>      | <ol style="list-style-type: none"> <li>1. Provide renewal of licenses under Enterprise Unlimited License Agreement with the highest level of OEM support for the all products as mentioned in the Appendix-C (License Specification) for the entire contract period as mentioned in this RFP.</li> <li>2. All the licenses must be delivered within the 10 days of purchase order issuance.</li> <li>3. All the licenses renewed/procured through this RFP shall be perpetual in nature until-unless mentioned otherwise in this RFP Document.</li> <li>4. All the new licenses and entitlement enhancements for existing licenses through this RFP will be having minimum one-year warranty and ATS/AMC/ S&amp;S fees (if any) will be applicable only after warranty period.</li> <li>5. Shall ensure conversion of licenses in case of the existing procured licenses are split or merged or renamed by OEM during the period of contract. The license conversion shall be done without any additional cost to the Bank and before the End of Life/End of Support declared by the OEM for the respective product.</li> <li>6. In case any of the software/ application/ module/ component name changed by the OEM, the service terms and conditions</li> </ol> |

|                 |                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-----------------|--------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                 |                                                  | <p>defined throughout this RFP will be explicit in nature for the new name as they are for the older names.</p> <ol style="list-style-type: none"> <li>7. The licenses provided should have minimum EOL/EOS life span up to year 2030. All the features and functionality of the procured or renewed licenses should continue.</li> <li>8. Shall provide all the licenses under Enterprise ULA (Unlimited License Agreement) of the solution without any capping or limitation of the usage unless and otherwise explicitly mentioned in this RFP.</li> <li>9. Should ensure the access to the OEM product support services within 3 days from the License delivery.</li> <li>10. The bidder should ensure that all the BMC products software packages, bug fixes, patches, service packs and upgraded version packages are made available and accessible to the Bank immediately as it is released by the OEM.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <p><b>4</b></p> | <p><b>Security / Compliance Requirements</b></p> | <ol style="list-style-type: none"> <li>1. The bidder should comply with Bank’s IS security policy in all key concern areas relevant to the license services. Some of the key areas but not limited to are:             <ol style="list-style-type: none"> <li>a. Responsibilities for data and application privacy and confidentiality</li> <li>b. Responsibilities on system and software access control and administration</li> <li>c. Custodial responsibilities for data, software, hardware, and other assets of the Bank being managed by or assigned to the vendor.</li> <li>d. Physical security of the facilities</li> <li>e. Physical and logical separation from other customers of the vendor</li> <li>f. Incident response and reporting procedures</li> <li>g. Password policy of the Bank</li> <li>h. Data Encryption/Protection requirement of the Bank</li> </ol> </li> <li>2. Provide solution/fixes for the vulnerabilities/security-observation in BMC products, software/ module/ component pointed out by Bank or by any other Government regulatory bodies/authority.             <ol style="list-style-type: none"> <li>a. It can be detected by the Bank security scanning tools, directed by advisories/ security warnings/ security bulletin published by Bank regulators / Govt. Of India bodies/ CSITE, etc.</li> <li>b. For all the reported/identified vulnerabilities in the products, required product fixes should be provided without any additional charges. If any vulnerability cannot</li> </ol> </li> </ol> |

|          |                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|----------|-----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|          |                                               | <p>be closed due to the factors like technology limitation, tool limitation, functionality limitation or OEM dependency etc. should be documented and communicated to the Bank with the supporting evidence, within the maximum 15 days from the day of reporting.</p> <p>c. The bidder should ensure to communicate the Bank well in advance in-case of any product EOL/EOS is declared by the OEM.</p> <p>3. The bidder is required to submit a source code review certificate for BMC products to the Bank on an annual basis or as and when requested by the Bank for the version(s) deployed in the Bank. The certificate should be comprehensive and should contain all the information requested by the Bank related to the security aspects of the BMC products.</p> |
| <b>5</b> | <b>Third-Party Components</b>                 | <p>1. All the components/modules or third-party software's supplied/used as a part of the solution stack by the OEM, the delivery of the new versions/updates, bug/issue fix for the respective components/modules or third-party software's are under the obligation of the bidder without any additional cost to the Bank.</p> <p>2. Any third-party components used by the OEM in the solution stack to run the solution shall be provided with adequate number of licenses to the Bank.</p> <p>3. The Bidder must explicitly list such third-party solutions along with licenses details. Additional licenses shall be provided without any additional cost whenever required during the period of the contract to meet the project growth.</p>                          |
| <b>6</b> | <b>Term of the Project - Project Schedule</b> | The duration of the project shall be 01-June-2024 to 31-May-2026.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>7</b> | <b>Warranty Term</b>                          | The warranty of all the newly procured licenses must be for one year.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>8</b> | <b>Maintenance Term (AMC/ATS/S&amp;S)</b>     | The AMC/ATS/S&S shall be applicable after completion of the warranty period.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>9</b> | <b>Training</b>                               | Arrange for product features session as a part of continuous improvement engagement to update the information about the                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

|           |                                                                                                                                                  | new features/update of the BMC Products and “How to do what” session at least once in 6 months.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |         |                  |                  |   |                                                                                                                                                  |                                                 |    |                                                                                                 |                   |    |                                   |                   |
|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|------------------|------------------|---|--------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|----|-------------------------------------------------------------------------------------------------|-------------------|----|-----------------------------------|-------------------|
| <b>15</b> | <b>Payment Schedule</b>                                                                                                                          | <ol style="list-style-type: none"> <li>1. The payments will be done Indian Rupees (INR) only.</li> <li>2. All the payments are subjected to submission of valid invoices along with relevant SLA compliance report.</li> <li>3. The payment shall be made as per the following payment schedule.</li> </ol> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Sr. No.</th> <th style="width: 60%;">Deliverable/Item</th> <th style="width: 30%;">Payment Schedule</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td>a. Cost of New Licenses as mentioned in Appendix-C (1. License Specification) - BMC Helix Operations Management OnPrem -AIOps Add-on for Servers</td> <td>On Successful delivery of licenses to the Bank.</td> </tr> <tr> <td style="text-align: center;">2.</td> <td>a. ATS/AMC/S&amp;S for New Licenses<br/>b. SNOW Software Asset Management Subscription License (SAM)</td> <td>Yearly in Advance</td> </tr> <tr> <td style="text-align: center;">3.</td> <td>ATS/AMC/S&amp;S for existing Licenses</td> <td>Yearly in Advance</td> </tr> </tbody> </table> | Sr. No. | Deliverable/Item | Payment Schedule | 1 | a. Cost of New Licenses as mentioned in Appendix-C (1. License Specification) - BMC Helix Operations Management OnPrem -AIOps Add-on for Servers | On Successful delivery of licenses to the Bank. | 2. | a. ATS/AMC/S&S for New Licenses<br>b. SNOW Software Asset Management Subscription License (SAM) | Yearly in Advance | 3. | ATS/AMC/S&S for existing Licenses | Yearly in Advance |
| Sr. No.   | Deliverable/Item                                                                                                                                 | Payment Schedule                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |         |                  |                  |   |                                                                                                                                                  |                                                 |    |                                                                                                 |                   |    |                                   |                   |
| 1         | a. Cost of New Licenses as mentioned in Appendix-C (1. License Specification) - BMC Helix Operations Management OnPrem -AIOps Add-on for Servers | On Successful delivery of licenses to the Bank.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |         |                  |                  |   |                                                                                                                                                  |                                                 |    |                                                                                                 |                   |    |                                   |                   |
| 2.        | a. ATS/AMC/S&S for New Licenses<br>b. SNOW Software Asset Management Subscription License (SAM)                                                  | Yearly in Advance                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |         |                  |                  |   |                                                                                                                                                  |                                                 |    |                                                                                                 |                   |    |                                   |                   |
| 3.        | ATS/AMC/S&S for existing Licenses                                                                                                                | Yearly in Advance                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |         |                  |                  |   |                                                                                                                                                  |                                                 |    |                                                                                                 |                   |    |                                   |                   |

**Appendix-F**

**Indicative Price Bid**

The indicative Price Bid needs to contain the information listed hereunder and needs to be submitted on portal of e-Procurement agency.

**Name of the Bidder:** \_\_\_\_\_

**Table-1: Indicative Price**

| Sr. No.       | Item                                                                                                                                                                                          | Per Unit Cost (INR) ^ | Total Amount (INR) ^ | Proportion to Total Cost (in percentage) # |
|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|----------------------|--------------------------------------------|
| <b>1.</b>     | <b>Cost of New Licenses</b><br>(including applicable Comprehensive warranty for period of 1 year) as per the following items mentioned BOQ/BOM given in Appendix-C (1. License Specification) |                       |                      |                                            |
| <b>1.1.</b>   | BMC Helix Operations Management OnPrem -AIOps Add-on for Servers                                                                                                                              |                       |                      |                                            |
| <b>1.2.</b>   | Snow Spend Optimizer – SAM (SKU- SAM-SO-S)                                                                                                                                                    |                       |                      |                                            |
| <b>1.3.</b>   | Data Intelligence Service (SKU- DIS)                                                                                                                                                          |                       |                      |                                            |
| <b>1.4.</b>   | Snow ITSM Enhancer (SKU- ITSME-S)                                                                                                                                                             |                       |                      |                                            |
| <b>2.</b>     | <b>ATS/AMC/S&amp;S for New Licenses</b><br>(This cost should be in the range 15% to 25% p.a. of license cost of software as quoted in S. No. 1.1 above)                                       |                       |                      |                                            |
| <b>2.1.</b>   | BMC Helix Operations Management OnPrem -AIOps Add-on for Servers                                                                                                                              |                       |                      |                                            |
| <b>3.</b>     | <b>ATS/AMC/S&amp;S for Existing Licenses</b>                                                                                                                                                  |                       |                      |                                            |
| <b>3.1.</b>   | <b>BMC Helix ITSM</b>                                                                                                                                                                         |                       |                      |                                            |
| <b>3.1.1.</b> | BMC Helix ITSM OnPrem - Service Desk Concurrent User License                                                                                                                                  |                       |                      |                                            |
| <b>3.1.2.</b> | BMC Helix ITSM OnPrem - Service Desk User License                                                                                                                                             |                       |                      |                                            |
| <b>3.1.3.</b> | BMC Helix ITSM OnPrem - Service Optimization Concurrent User License                                                                                                                          |                       |                      |                                            |
| <b>3.1.4.</b> | BMC Helix ITSM OnPrem - Suite Concurrent User License                                                                                                                                         |                       |                      |                                            |
| <b>3.1.5.</b> | BMC Helix ITSM OnPrem - Suite User License                                                                                                                                                    |                       |                      |                                            |
| <b>3.2.</b>   | <b>BMC Helix Capacity Optimization (BHCO)</b>                                                                                                                                                 |                       |                      |                                            |

|                            |                                                                                      |  |  |  |
|----------------------------|--------------------------------------------------------------------------------------|--|--|--|
| 3.2.1                      | BMC Helix Continuous Optimization OnPrem for Networks Plus                           |  |  |  |
| 3.2.2                      | BMC Helix Continuous Optimization OnPrem for Servers Plus                            |  |  |  |
| 3.2.3                      | BMC Helix Continuous Optimization OnPrem for Storage Plus                            |  |  |  |
| <b>3.3.</b>                | <b>BMC Helix Operations Management (BHOM)</b>                                        |  |  |  |
| 3.3.1                      | BMC Helix Operations Management OnPrem - Monitoring and Event Management for Servers |  |  |  |
| 3.3.2                      | BMC Helix Operations Management OnPrem - Event Management for Servers                |  |  |  |
| 3.3.3                      | TrueSight Operations Management - Base License                                       |  |  |  |
| <b>3.4.</b>                | <b>TrueSight Orchestration</b>                                                       |  |  |  |
| 3.4.1                      | TrueSight Orchestration - Adapters License Add-on                                    |  |  |  |
| 3.4.2                      | TrueSight Orchestration - Development Pack License Add-on                            |  |  |  |
| 3.4.3                      | TrueSight Orchestration - Peer License Add-on                                        |  |  |  |
| <b>Grand Total (TCO) *</b> |                                                                                      |  |  |  |

^ Prices mentioned are exclusive of the applicable taxes (if any).

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

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

**Table-2: Breakup of Taxes and Duties**

| Sr. No. | Item | Tax1                      | Tax2 | Tax3 |
|---------|------|---------------------------|------|------|
|         |      | Mention Name of Tax and % |      |      |
|         |      | GST %                     |      |      |
|         |      |                           |      |      |



|    |                                                                                                                                                                                               |  |  |  |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|--|
| 1. | <b>Cost of New Licenses</b><br>(including applicable Comprehensive warranty for period of 1 year) as per the following items mentioned BOQ/BOM given in Appendix-C (1. License Specification) |  |  |  |
| 2. | <b>ATS/AMC/S&amp;S for New Licenses</b><br>(This cost should be in the range 15% to 25% p.a. of license cost of software <a href="#">as quoted in S. No. 1 above</a> )                        |  |  |  |
| 3. | <b>ATS/AMC/S&amp;S for Existing Licenses</b>                                                                                                                                                  |  |  |  |

**Note:** The successful L1 Bidder after completion of reverse auction, must submit updated Price Table as per the final TCO price quoted in reverse auction, in below format :

**TABLE-3 “Price Confirmation format”**

| Sr. No. | Item                                                                                                                                                                               | Per Unit Cost (INR) | Total Amount (INR) | Proportion to Total Cost (in percentage)\$ |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|--------------------|--------------------------------------------|
| 1.      | <b>Cost of New Licenses</b><br>(including Comprehensive warranty for period of 1 year) as per the following items mentioned BOQ/BOM given in Appendix-C (1. License Specification) |                     |                    |                                            |
| 1.1.    | BMC Helix Operations Management OnPrem -AIOps Add-on for Servers                                                                                                                   |                     |                    |                                            |
| 1.2.    | Snow Spend Optimizer – SAM (SKU- SAM-SO-S)                                                                                                                                         |                     |                    |                                            |
| 1.3.    | Data Intelligence Service (SKU- DIS)                                                                                                                                               |                     |                    |                                            |
| 1.4.    | Snow ITSM Enhancer (SKU- ITSME-S)                                                                                                                                                  |                     |                    |                                            |
| 2.      | <b>ATS/AMC/S&amp;S for New Licenses</b><br>(This cost should be in the range 15% to 25% p.a. of license cost of software <a href="#">as quoted in S. No. 1.1 above</a> )           |                     |                    |                                            |
| 2.1.    | BMC Helix Operations Management OnPrem -AIOps Add-on for Servers                                                                                                                   |                     |                    |                                            |
| 3.      | <b>ATS/AMC/S&amp;S for Existing Licenses</b>                                                                                                                                       |                     |                    |                                            |
| 3.1.    | <b>BMC Helix ITSM</b>                                                                                                                                                              |                     |                    |                                            |
| 3.1.1.  | BMC Helix ITSM OnPrem - Service Desk Concurrent User License                                                                                                                       |                     |                    |                                            |
| 3.1.2.  | BMC Helix ITSM OnPrem - Service Desk User License                                                                                                                                  |                     |                    |                                            |
| 3.1.3.  | BMC Helix ITSM OnPrem - Service Optimization Concurrent User License                                                                                                               |                     |                    |                                            |
| 3.1.4.  | BMC Helix ITSM OnPrem - Suite Concurrent User License                                                                                                                              |                     |                    |                                            |

|                          |                                                                                      |  |  |  |
|--------------------------|--------------------------------------------------------------------------------------|--|--|--|
| 3.1.5.                   | BMC Helix ITSM OnPrem - Suite User License                                           |  |  |  |
| <b>3.2.</b>              | <b>BMC Helix Capacity Optimization (BHCO)</b>                                        |  |  |  |
| 3.2.1.                   | BMC Helix Continuous Optimization OnPrem for Networks Plus                           |  |  |  |
| 3.2.2.                   | BMC Helix Continuous Optimization OnPrem for Servers Plus                            |  |  |  |
| 3.2.3.                   | BMC Helix Continuous Optimization OnPrem for Storage Plus                            |  |  |  |
| <b>3.3.</b>              | <b>BMC Helix Operations Management (BHOM)</b>                                        |  |  |  |
| 3.3.1.                   | BMC Helix Operations Management OnPrem - Monitoring and Event Management for Servers |  |  |  |
| 3.3.2.                   | BMC Helix Operations Management OnPrem - Event Management for Servers                |  |  |  |
| 3.3.3.                   | TrueSight Operations Management - Base License                                       |  |  |  |
| <b>3.4.</b>              | <b>TrueSight Orchestration</b>                                                       |  |  |  |
| 3.4.1.                   | TrueSight Orchestration - Adapters License Add-on                                    |  |  |  |
| 3.4.2.                   | TrueSight Orchestration - Development Pack License Add-on                            |  |  |  |
| 3.4.3.                   | TrueSight Orchestration - Peer License Add-on                                        |  |  |  |
| <b>Grand Total (TCO)</b> |                                                                                      |  |  |  |

**\$:** The ‘Proportion to Total Cost’ percentage mentioned should be maintained as per the Indicative Bid. The percentage should be mentioned in two decimal places. Variation in the final price should not exceed +/- 5%. as per illustration at the end.

**Name & Signature of authorised signatory**

**Seal of Company**

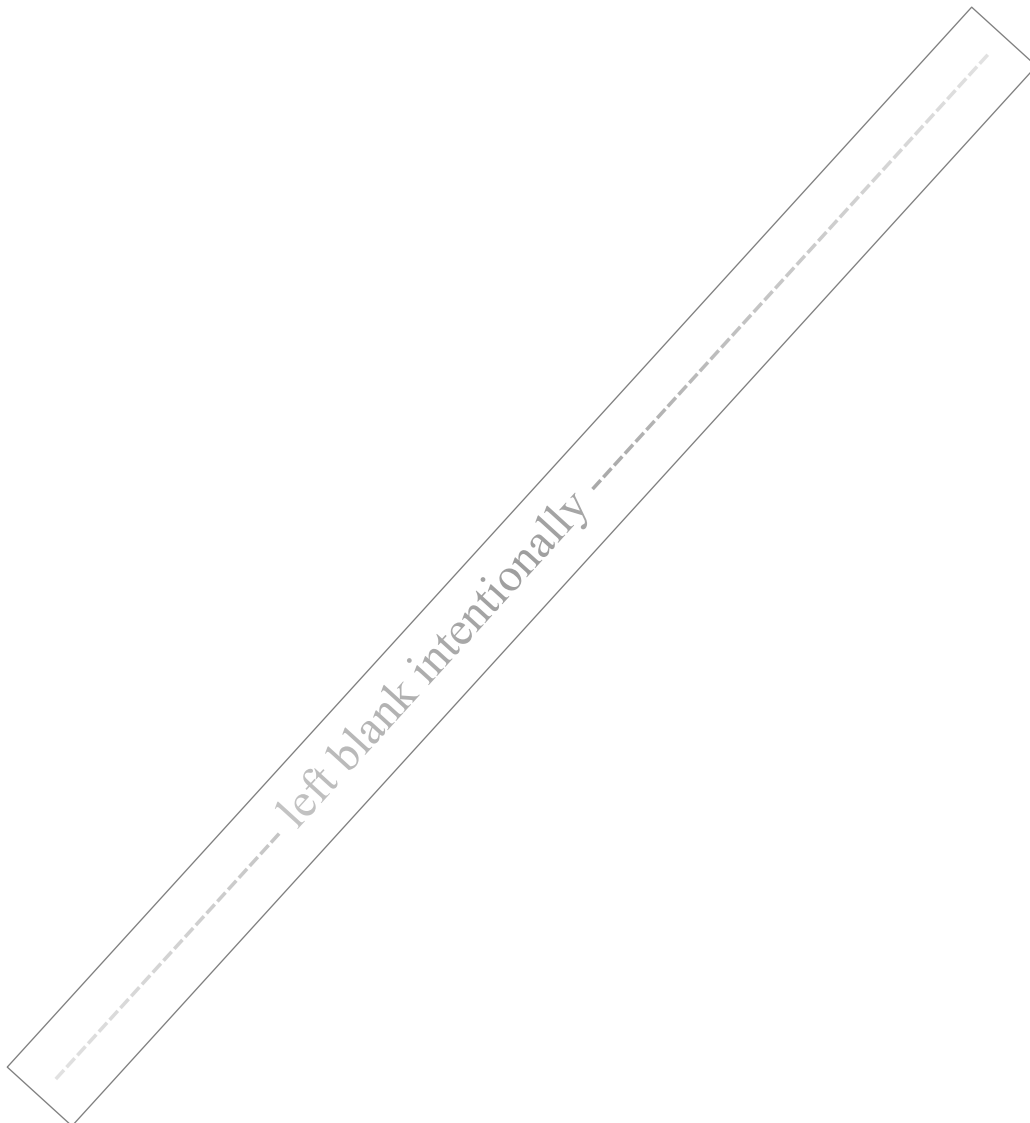
**Illustration**

| <b>Particulars</b>                        | <b>Indicative Price Bid Quote (INR)</b> | <b>Proportion to Total Cost 'G' (in %age) of indicative price bid</b> | <b>Final Price (INR) in reverse auction</b> | <b>Minimum final price should not be below (INR)</b> | <b>Maximum final price should not exceed (INR)</b> |
|-------------------------------------------|-----------------------------------------|-----------------------------------------------------------------------|---------------------------------------------|------------------------------------------------------|----------------------------------------------------|
| <i>A</i>                                  | <i>B</i>                                | <i>C</i>                                                              | <i>D*</i>                                   | <i>E<br/>(95% of D)</i>                              | <i>F<br/>(105% of D)</i>                           |
| Item 1                                    | 25                                      | 13.16                                                                 | 9.87                                        | 9.38                                                 | 10.36                                              |
| Item 2                                    | 50                                      | 26.32                                                                 | 19.74                                       | 18.75                                                | 20.72                                              |
| Item 3                                    | 75                                      | 39.47                                                                 | 29.60                                       | 28.13                                                | 31.09                                              |
| Item 4                                    | 40                                      | 21.05                                                                 | 15.79                                       | 15.00                                                | 16.58                                              |
| <b>Grand Total<br/>(1 + 2 + 3 + 4)= G</b> | <b>190</b>                              | <b>100</b>                                                            | <b>75</b>                                   |                                                      |                                                    |

\* Ideal final price breakup based on final price of INR 75 quoted in the reverse auction.

**Appendix -G**

**This appendix is not applicable for this RFP.**



**Appendix -H**

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

**THIS BANK GUARANTEE AGREEMENT** executed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 201 by \_\_\_\_\_ (Name of the Bank) \_\_\_\_\_ having its Registered Office at \_\_\_\_\_ and its Branch at \_\_\_\_\_ (hereinafter referred to as "the Guarantor", which expression shall, unless it be repugnant to the subject, meaning or context thereof, be deemed to mean and include its successors and permitted assigns) **IN FAVOUR OF** State Bank of India, a Statutory Corporation constituted under the State Bank of India Act, 1955 having its Corporate Centre at State Bank Bhavan, Nariman Point, Mumbai and one of its offices at Platform Engineering -II Department, State Bank of India, Global IT Centre,"A" Wing, First Floor, CBD Belapur, Navi Mumbai-400614 (procuring office address), hereinafter referred to as "**SBI**" which expression shall, unless repugnant to the subject, context or meaning thereof, be deemed to mean and include its successors and assigns).

WHEREAS M/s \_\_\_\_\_, incorporated under \_\_\_\_\_ Act having its registered office at \_\_\_\_\_ and principal place of business at \_\_\_\_\_ (hereinafter referred to as "**Service Provider/ Vendor**") which expression shall unless repugnant to the context or meaning thereof shall include its successor, executor & assigns) has agreed to develop, implement and support \_\_\_\_\_ (name of Software Solution/ Service) (hereinafter referred to as "**Services**") to SBI in accordance with the Request for Proposal (RFP) No. **SBI:1148 dated 28/05/2024.**

WHEREAS, SBI has agreed to avail the Services from the Service Provider for a period of two year(s) subject to the terms and conditions mentioned in the RFP.

WHEREAS, in accordance with terms and conditions of the RFP/Purchase order/Agreement dated \_\_\_\_\_, Service Provider is required to furnish a Bank Guarantee for a sum of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only) for due performance of the obligations of the Service Provider in providing the Services, in accordance with the RFP/Purchase order/Agreement guaranteeing payment of the said amount of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only) to SBI, if Service Provider fails to fulfill its obligations as agreed in RFP/Agreement.

WHEREAS, the Bank Guarantee is required to be valid for a total period of \_\_\_\_\_ months and in the event of failure, on the part of Service Provider, to fulfill any of its commitments / obligations under the RFP/Agreement, SBI shall be entitled to invoke the Guarantee.

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

**NOW THIS GUARANTEE WITNESSETH THAT**

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

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

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

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

**Notwithstanding anything contained herein above:**

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

**Yours faithfully,**

**For and on behalf of bank.**

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

**Appendix -I**

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

Date:

M/s. \_\_\_\_\_

\_\_\_\_\_

Sub: Certificate of delivery, installation and commissioning

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

a) PO No. \_\_\_\_\_ dated \_\_\_\_\_

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

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

d) Date of installation \_\_\_\_\_

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

f) Date of commissioning \_\_\_\_\_

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

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

3. The installation and commissioning have been done to our entire satisfaction and staff have been trained to operate the Software Solution.

4. Service Provider has fulfilled his contractual obligations satisfactorily

or



Service Provider has failed to fulfill his contractual obligations with regard to the following:

- (a)
  - (b)
  - (c)
5. The amount of recovery on account of non-supply of Software Solution/Services is given under Para No. 2 above.

Signature \_\_\_\_\_

Name \_\_\_\_\_

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

## Appendix-J

### Penalties

Penalties as applicable are described as below:

(Same are also listed under Appendix-K : Service Level Agreement- Annexure-F)

1. All the penalties, as applicable, will be applied in parallel on monthly basis.
2. The penalty shall only be applicable if the reasons are attributable to the Bidder.
3. The penalties may be recovered from invoices presented for payment or through credit note or invoking Performance Guarantee submitted.
4. Application of penalties and payments thereof will not relieve the Bidder from the obligation of delivery of services during the valid contract period.
5. A penalty period may spill-over across more than one month (thus multiple invoice), the amounts are deducted in each month invoices as applicable. If the delay approaches to next invoice period, the delay period will be calculated from the actual delay start date and the penalty will be calculated for the next invoice period too.
6. The maximum penalties as described in this Appendix-J, detailed below can be 10% of the total project cost for the whole contract period. Once the maximum penalty deduction is reached, the Bank may consider termination of the Agreement.
7. Penalties:

| S. No | Service level category                                                                                       | Service level object                     | Penalty                             |
|-------|--------------------------------------------------------------------------------------------------------------|------------------------------------------|-------------------------------------|
| 1     | <b>Licenses not delivered within the time frame defined in the RFP (Appendix-E) .</b><br>⇒ <b>Delay: "T"</b> | $1 \text{ days} \leq T < 3 \text{ days}$ | Rs.50,000 per day or part thereof   |
| 2     |                                                                                                              | $3 \text{ days} \leq T < 7 \text{ days}$ | Rs.100,000 per day or part thereof  |
| 3     |                                                                                                              | $T \geq 7 \text{ days}$                  | Rs. 200,000 per day or part thereof |

**Service Level Agreement**

**BETWEEN  
STATE BANK OF INDIA  
AND**

**<Vendor Name>**

**Commencement Date:**

**Date of Expiry:**

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This agreement (“Agreement”) is made at \_\_\_\_\_ (Place) on this \_\_\_\_\_ day of \_\_\_\_\_ 201\_.

BETWEEN

**State Bank of India**, constituted under the State Bank of India Act, 1955 having its Corporate Centre and Central Office at State Bank Bhavan, Madame Cama Road, Nariman Point, Mumbai-21 and its Global IT Centre at Sector-11, CBD Belapur, Navi Mumbai-400614 through its Platform Engineering -II Department, State Bank of India, Global IT Centre, "A" Wing, First Floor, CBD Belapur, Navi Mumbai-400614,<sup>1</sup> hereinafter referred to as "**the Bank**" which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors in title and assigns of the First Part:  
AND

\_\_\_\_\_ <sup>2</sup> a private/public limited company/LLP/Firm ~~<strike off whichever is not applicable>~~ incorporated under the provisions of the Companies Act, 1956/ Limited Liability Partnership Act 2008/ Indian Partnership Act 1932 ~~<strike off whichever is not applicable>~~, having its registered office at ..... hereinafter referred to as "**Service Provider/ Vendor**", which expression shall mean to include its successors in title and permitted assigns of the Second Part:

WHEREAS

- A. "The Bank" is carrying on business in banking in India and overseas and desirous to avail services for BMC ENTERPRISE UNLIMITED LICENSE AGREEMENT(ULA) RENEWAL FOR IT SERVICES MANAGEMENT APPLICATION <sup>3</sup>, and
- B. Service Provider in the business of providing \_\_\_\_\_ <sup>4</sup>, and has agreed to supply \_\_\_\_\_ (Software) and/or providing the Services as mentioned in Request for Proposal (RFP) No. SBI: 1148 dated 28/05/2024 issued by the Bank along with its clarifications/ corrigenda, referred hereinafter as a "RFP" and same shall be part of this Agreement.

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

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

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

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

<sup>4</sup>Brief mentioning of service providers experience in providing the services required by the Bank.

## 1. DEFINITIONS & INTERPRETATION

### 1.1 Definition

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

- 1.1.1 ‘The Bank’ shall mean the State Bank of India (including domestic branches and foreign offices) Subsidiaries and Joint Ventures, where the Bank has ownership of more than 50% of voting securities or the power to direct the management and policies of such Subsidiaries and Joint Ventures.
- 1.1.2 “Code” shall mean computer programming code contained in the Software. If not otherwise specified, Code shall include both Object Code and Source Code which means programming languages, including all comments and procedural code, and all related development documents (e.g., flow charts, schematics, statements of principles of operations, end-user manuals, architecture standards, and any other specifications that are used to create or that comprise the Code). Code shall include Maintenance Modifications and Enhancements in the Software.
- 1.1.3 “Confidential Information” shall have the meaning set forth in Clause 15.
- 1.1.4 “Data Dictionary or Metadata Repository” shall mean a repository of information about data such as meaning, relationships to other data, origin/lineage, usage, business context and format including but not limited to data type, data length, data structure etc., further, it as a collection of columns and tables with metadata.
- 1.1.5 “Deficiencies” shall mean defects arising from non-conformity with the mutually agreed specifications and/or failure or non-conformity in the Scope of Services.

- 1.1.6 “Documentation” will describe in detail and in a completely self-contained manner how the user may access and use the BMC ITSM Product Licenses (name of the Software),<sup>5</sup> such that any reader of the Documentation can access, use and maintain all of the functionalities of the Software, without the need for any further instructions. ‘Documentation’ includes, user manuals, installation manuals, operation manuals, design documents, process documents, data flow documents, data register, technical manuals, functional specification, software requirement specification, on-line tutorials/CBTs, system configuration documents, Data Dictionary, system/database administrative documents, debugging/diagnostics documents, test procedures, Review Records/ Test Bug Reports/ Root Cause Analysis Report, list of all Product components, list of all dependent/external modules and list of all documents relating to traceability of the Product as and when applicable etc.
- 1.1.7 “Intellectual Property Rights” shall mean, on a worldwide basis, any and all: (a) rights associated with works of authorship, including copyrights & moral rights; (b) Trade Marks; (c) trade secret rights; (d) patents, designs, algorithms and other industrial property rights; (e) other intellectual and industrial property rights of every kind and nature, however designated, whether arising by operation of law, contract, license or otherwise; and (f) registrations, initial applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force (including any rights in any of the foregoing).
- 1.1.8 “Open Source or Copyleft license” shall mean a license of a computer program in which the source code is available to the general public for use and/or modification from its original design.
- 1.1.9 “Project Cost” means the price payable to Service Provider over the entire period of Agreement (i.e. Rs. \_\_\_\_\_ <in words>) for the full and proper performance of its contractual obligations.
- 1.1.10 “Project Documents” shall mean all the plans, drawings and specifications used while bidding and all other documents necessary to complete all work.

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<sup>5</sup> Name of Software

- 1.1.11 “Request for Proposal (RFP)” shall mean RFP NO. SBI: 1148 dated 28/05/2024 along with its clarifications/ corrigenda issued by the Bank time to time.
- 1.1.12 “Revision control procedure” shall mean the procedure for management of changes to documents, software programs, and other collections of information made during this engagement.
- 1.1.13 “Root Cause Analysis Report” shall mean a report addressing a problem or non-conformance, in order to get to the ‘root cause’ of the problem, which thereby assists in correcting or eliminating the cause, and prevent the problem from recurring.
- 1.1.14 ‘Services’ shall mean and include the Services offered by Service Provider more particularly described in Clause 2 of this Agreement. ‘Services’ shall also include the delivery of the required BMC Product Licenses as mentioned in the relevant section of the RFP NO. SBI: 1148 dated 28/05/2024 and other obligation of Service Provider to be provided under this Agreement.
- 1.1.15 “Software” shall mean (a) the software product(s) described in this Agreement; (b) all maintenance, modifications and enhancements that are provided to the Bank; (c) the Code contained in or otherwise related to each of the foregoing; and (d) the Documentation.
- 1.1.16 “Test Bug Reports” shall mean a report providing the details as to the efficiency of software in relation with reporting and resolution of any bug.

## **1.2 Interpretations:**

- 1.2.1 Reference to a person includes any individual, firm, body corporate, association (whether incorporated or not) and authority or agency (whether government, semi government or local).
- 1.2.2 The singular includes the plural and vice versa.
- 1.2.3 Reference to any gender includes each other gender.



- 1.2.4 The provisions of the contents table, headings, clause numbers, italics, bold print and underlining is for ease of reference only and shall not affect the interpretation of this Agreement.
- 1.2.5 The Schedules, Annexures and Appendices to this Agreement shall form part of this Agreement.
- 1.2.6 A reference to any documents or agreements (and, where applicable, any of their respective provisions) means those documents or agreements as amended, supplemented or replaced from time to time provided they are amended, supplemented or replaced in the manner envisaged in the relevant documents or agreements.
- 1.2.7 A reference to any statute, regulation, rule or other legislative provision includes any amendment to the statutory modification or re-enactment or, legislative provisions substituted for, and any statutory instrument issued under that statute, regulation, rule or other legislative provision.
- 1.2.8 Any agreement, notice, consent, approval, disclosure or communication under or pursuant to this Agreement is to be in writing.
- 1.2.9 The terms not defined in this agreement shall be given the same meaning as given to them in the RFP. If no such meaning is given technical words shall be understood in technical sense in accordance with the industrial practices.

### **1.3 Commencement, Term & Change in Terms**

- 1.3.1 This Agreement shall commence from its date of execution mentioned above/ be deemed to have commenced from \_\_\_\_\_ (Effective Date).
- 1.3.2 This Agreement shall be in force for a period of \_\_\_\_\_ year(s) from Effective Date, unless terminated by the Bank by notice in writing in accordance with the termination clauses of this Agreement.
- 1.3.3 The Bank shall have the right at its discretion to renew this Agreement in writing, for a further term of three years on the mutually agreed terms & conditions.

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

## 2. SCOPE OF WORK

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

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

2.1.1 Service Provider shall ensure that the remote access to the Bank's VPN is performed through a laptop/desktop ("Device") specially allotted for that purpose by the Service Provider and not through any other private or public Device.

2.1.2 Service Provider shall ensure that only its authorized employees/representatives access the Device.

2.1.3 Service Provider shall be required to get the Device hardened/configured as per the Bank's prevailing standards and policy.

2.1.4 Service Provider and/or its employee/representative shall be required to furnish an undertaking and/or information security declaration on the Bank's prescribed format before such remote access is provided by the Bank.

2.1.5 Service Provider shall ensure that services are performed in a physically protected and secure environment which ensures confidentiality and integrity of the Bank's data and artefacts, including but not limited to information (on customer, account, transactions, users, usage, staff, etc.), architecture (information, data, network, application, security, etc.),

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

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

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

#### **3.1 Professional fees**

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

- 3.2 All duties and taxes (excluding<sup>6</sup> Goods and Services Tax (GST) or any other tax imposed by the Government in lieu of same), if any, which may be levied, shall be borne by Service Provider and Bank shall not be liable for the same. All expenses, stamp duty and other charges/ expenses in connection with execution of this Agreement shall be borne by Service Provider. Goods and Services Tax (GST) or any other tax imposed by the Government in lieu of same shall be borne by the Bank on actual upon production of original receipt wherever required.

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<sup>6</sup> Please determine the applicability of the taxes.

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

### **3.4 Payments**

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

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

3.4.3 Penalty for the preceding month(s), if any, will be deducted from the invoice of that month or from invoice(s) of any of the succeeding month(s)

3.4.4 Payment will be made as per the payment schedule defined in the RFP and after deducting applicable penalties if any.

### **3.5 Bank Guarantee and Penalties**

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

3.5.2 The Bank Guarantee is required to protect the interest of the Bank against delay in supply/installation and/or the risk of non-performance of Service Provider in respect of successful implementation of the project; or

performance of the material or services sold; or breach of any terms and conditions of the Agreement, which may warrant invoking of Bank Guarantee.

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

3.5.4 Performance of the obligations under the Agreement shall be made by Service Provider in accordance with the time schedule<sup>7</sup> specified in this Agreement.

3.5.5 Service Provider shall be liable to pay penalty at the rate mentioned in Annexure 'F' in respect of any delay beyond the permitted period in providing the Services.

3.5.6 Subject to Clause 17 of this Agreement, any unexcused delay by Service Provider in the performance of its Contract obligations shall render this Agreement to be terminated.

3.5.7 No penalty shall be levied in case of delay(s) in deliverables or performance of the contract for the reasons solely and directly attributable to the Bank. On reaching the maximum of penalties specified the Bank reserves the right to terminate the Agreement.

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

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

- (i) Processing and authorising invoices
- (ii) Approval of Information

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<sup>7</sup> Please ensure that the time scheduled is suitably incorporated in the Agreement.

## 4.2 Service Provider Duties

- (i) Service Delivery responsibilities
  - (a) To adhere to the service levels documented in this Agreement.
  - (b) Software solution provided and/or maintained by Service Provider shall be free from OWASP Top 10 vulnerabilities (latest) during the term of Agreement.
  - (c) Service provider shall ensure to filter all phishing / spamming / overflow attacks in order to ensure availability and integrity on continuous basis.
  - (d) Service Provider shall without any additional cost, rectify the vulnerabilities observed by the Bank during security review of Code. The Code shall be comprehensively reviewed periodically by the Bank or its authorized representative.
  - (e) Service Provider shall *ensure that* Service Provider's personnel and its sub-contractors (if allowed) will abide by all reasonable directives issued by the Bank, including those set forth in the Bank's then-current standards, policies and procedures (to the extent applicable), all on-site rules of behaviour, work schedules, security procedures and other standards, policies and procedures as established by the Bank from time to time.
  - (f) Service Provider agrees and declares that it shall be the sole responsibility of Service Provider to comply with the provisions of all the applicable laws, concerning or in relation to rendering of Services by Service Provider as envisaged under this Agreement.
  - (g) Service Provider shall be responsible to provide Data Dictionary in a format provided by the Bank. During the term of this Agreement, such a format may be revised by the Bank as per the requirements. Service Provider shall capture all the fields in Data Dictionary format and keep the same always updated during the term of this Agreement.
  - (h) Service Provider shall report the incidents, including cyber incidents and those resulting in disruption of service and data loss/ leakage immediately but not later than one hour of detection.

- (i) Service Provider shall abide by the provisions of the DPDP Act, 2023 - 11th August, 2023; CG-DL-E-12082023-248045 as and when the relevant rules and guidelines come into force.
  - (j) The service provider ensures to share the OEM (i.e. BMC Software) Source Code Review certificate periodically for the versions deployed in Bank environment in the format advised by the bank. The Source Code review certificate shall be comprehensively reviewed periodically by the Bank or its authorized representative.
  - (k) In addition to the above, additional detailed scope is placed at Annexure-A.
- (ii) Security Responsibility
- (a) To maintain the confidentiality of the Bank's resources and other intellectual property rights.

## **5. REPRESENTATIONS & WARRANTIES**

- 5.1 Service Provider warrants that the technical quality and performance of the Services provided will be consistent with the mutually agreed standards. Warranty (if applicable for any product license) shall be for a period of one year from the date of acceptance.
- 5.2 Any defect found will be evaluated mutually to establish the exact cause of the defect. Bank may have direct and separate agreement with Service Provider to provide technical support to the Bank for related deficiencies.
- 5.3 Service Provider warrants that at the time of delivery the Software or its component is free from malware, free from any obvious bugs, and free from any covert channels in the code (of the versions of the applications/software being delivered as well as any subsequent versions/modifications delivered).
- 5.4 Service Provider represents and warrants that its personnel shall be present at the Bank premises or any other place as the Bank may direct, only for the Services and follow all the instructions provided by the Bank; Act diligently, professionally and shall maintain the decorum and environment of the Bank; Comply with all occupational, health or safety policies of the Bank.

- 5.5 Service Provider warrants that it shall be solely liable and responsible for compliance of applicable Labour Laws in respect of its employee, agents, representatives and sub-contractors (if allowed) and in particular laws relating to terminal benefits such as pension, gratuity, provident fund, bonus or other benefits to which they may be entitled and the laws relating to contract labour, minimum wages, etc., and the Bank shall have no liability in this regard.
- 5.6 Each Party represents and warrants that it has all requisite power and authorization to enter into and perform this Agreement and that nothing contained herein or required in the performance hereof conflict or will conflict with or give rise to a breach or default under, or permit any person or entity to terminate, any contract or instrument to which the party is bound.
- 5.7 Service Provider warrants that it has full right, title and interest in and to all software, copyrights, trade names, trademarks, service marks, logos symbols and other proprietary marks (collectively 'IPR') owned by it (including appropriate limited right of use of those owned by any of its vendors, affiliates or subcontractors) which it provides to the Bank, for use related to the Services to be provided under this Agreement.
- 5.8 Service Provider shall perform the Services and carry out its obligations under the Agreement with due diligence, efficiency and economy, in accordance with generally accepted techniques and practices used in the industry and with professional standards recognized by international professional bodies and shall observe sound management practices. It shall employ appropriate advanced technology and safe and effective equipment, machinery, material and methods.
- 5.9 Service Provider has the requisite technical and other competence, sufficient, suitable, qualified and experienced manpower/personnel and expertise in providing the Services to the Bank.
- 5.10 Service Provider shall duly intimate to the Bank immediately, the changes, if any in the constitution of Service Provider.
- 5.11 Service Provider warrants that to the best of its knowledge, as on the Effective Date of this Agreement, the Software does not violate or infringe any patent,



copyright, trademarks, trade secrets or other Intellectual Property Rights of any third party.

- 5.12 Service Provider shall ensure that all persons, employees, workers and other individuals engaged by or sub-contracted (if allowed) by Service Provider in rendering the Services under this Agreement have undergone proper background check, police verification and other necessary due diligence checks to examine their antecedence and ensure their suitability for such engagement. No person shall be engaged by Service Provider unless such person is found to be suitable in such verification and Service Provider shall retain the records of such verification and shall produce the same to the Bank as when requested.
- 5.13 During the Warranty Period if any software or any component thereof is supplied by Service Provider is inoperable or suffers degraded performance not due to causes external to the software, Service provider shall, at the Bank's request, promptly replace the software or specified component with new software of the same type and quality. Such replacement shall be accomplished without any adverse impact on the Bank's operations within agreed time frame.
- 5.14 It is Service Provider's responsibility to ensure all the required services as detailed in this agreement are delivered to Bank as per the scope and the timelines/schedules defined for the same.
- 5.15 All the penalties as defined in the agreement, will be paid by the services provider whether the reasons are attributable to the OEM ( i.e BMC Software) or Service Provider. Applicable exclusions are as defined in this agreement.

## **6. GENERAL INDEMNITY**

- 6.1 Service provider agrees and hereby keeps the Bank indemnified against all claims, actions, loss, damages, costs, expenses, charges, including legal expenses (Attorney, Advocates fees included) which the Bank may suffer or incur on account of (i) Service Provider's breach of its warranties, covenants, responsibilities or obligations; or (ii) breach of confidentiality obligations mentioned in this Agreement; or (iii) any willful misconduct and gross negligent acts on the part of employees, agents, representatives or sub-

contractors (if allowed) of Service Provider. Service provider agrees to make good the loss suffered by the Bank.

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

## **7. CONTINGENCY PLANS**

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

## **8. TRANSITION REQUIREMENT**

In the event of failure of Service Provider to render the Services or in the event of termination of Agreement or expiry of term or otherwise, without prejudice to any other right, the Bank at its sole discretion may make alternate arrangement for getting the Services contracted with another vendor. In such case, the Bank shall give prior notice to the existing Service Provider. The existing Service Provider shall continue to provide services as per the terms of the Agreement until a 'New Service Provider' completely takes over the work. During the transition phase, the existing Service Provider shall render all reasonable assistance to the new Service Provider within such period prescribed by the Bank, at no extra cost to the Bank, for ensuring smooth switch over and continuity of Services, provided where transition services are required by the Bank or New Service Provider beyond the term of this Agreement, reasons for which are not attributable to Service Provider, payment shall be made to

Service Provider for such additional period on the same rates and payment terms as specified in this Agreement. If existing vendor is breach of this obligation, they shall be liable for paying a penalty of 5% of total project cost i.e. Rs.\_\_\_\_\_ on demand to the Bank, which may be settled from the payment of invoices or bank guarantee for the contracted period. Transition & Knowledge Transfer plan is mentioned in Annexure G.

#### **9. LIQUIDATED DAMAGES**

If Service Provider fails to deliver product and/or perform any or all the Services within the stipulated time, schedule as specified in this Agreement, the Bank may, without prejudice to its other remedies under the Agreement, and unless otherwise extension of time is agreed upon without the application of liquidated damages, deduct from the Project Cost, as liquidated damages a sum equivalent to 0.5 % of total Project cost for delay of each week or part thereof maximum up to 10 % of total Project cost. Once the maximum deduction is reached, the Bank may consider termination of the Agreement.

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

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

occurred unless such accidents occurred due to gross negligent act of the Party in whose premises the accident occurred.

10.6 For redressal of complaints of sexual harassment at workplace, Parties agree to comply with the policy framed by the Bank (including any amendment thereto) in pursuant to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 including any amendment thereto.

## **11. SUB CONTRACTING**

11.1 As per scope of the agreement, subcontracting is prohibited. However, if the Service Provider subsequently wishes to sub-contract the scope of work, it will have to obtain specific written permission from the Bank before contracting any work to subcontractors. Bank at its own discretion may permit or deny the same.

11.2 In case of Sub-Contracting (If allowed by the Bank), the Service Provider shall provide the complete details of Services sub-contracted by it Including the details of sub-contractor(s) and/or its agent to the Bank as and when requested. The contracting vendor will be responsible for all the services provided to the Bank regardless of which entity is conducting the operations. The contracting vendor is also responsible for ensuring that the sub-contractor comply with all security requirements of the contract and the Bank can obtain independent audit report for the same. In such a case, the Service Provider shall provide subcontracting details to the Bank and if require, Bank may evaluate the same.

## **12. INTELLECTUAL PROPERTY RIGHTS**

12.1 For any technology / Software / solution developed/used/supplied by Service provider for performing Services or licensing and implementing Software and solution for the Bank as part of this Agreement, Service Provider shall have right to use as well right to license for the outsourced services or third party product. The Bank shall not be liable for any license or IPR violation on the part of Service Provider.

12.2 Without the Bank's prior written approval, Service provider will not, in performing the Services, use or incorporate, link to or call or depend in any way upon, any software or other intellectual property that is subject to an Open

Source or Copy-left license or any other agreement that may give rise to any third-party claims or to limit the Bank's rights under this Agreement.

12.3 Subject to below mentioned sub-clause 12.4 and 12.5 of this Agreement, Service Provider shall, at its own expenses without any limitation, indemnify and keep fully and effectively indemnified the Bank against all cost, claims, damages, demands, expenses and liabilities whatsoever nature arising out of or in connection with all claims of infringement of Intellectual Property Right, including patent, trademark, copyright, trade secret or industrial design rights of any third party arising from use of the technology / Software / products or any part thereof in India or abroad, for Software licensed/developed as part of this engagement. In case of violation/ infringement of patent/ trademark/ copyright/ trade secret or industrial design or any other Intellectual Property Right of third party, Service Provider shall, after due inspection and testing, without any additional cost (a) procure for the Bank the right to continue to using the Software supplied; or (b) replace or modify the Software to make it non-infringing so long as the replacement to or modification of Software provide substantially equivalent functional, performance and operational features as the infringing Software which is being replaced or modified; or (c) to the extent that the activities under clauses (a) and (b) above are not commercially reasonable, refund to the Bank all amounts paid by the Bank to Service Provider under this Agreement.

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

shall be entitled to be separately represented at its own expenses by counsel of its own selection..

12.5 Service Provider shall have no obligations with respect to any infringement claims to the extent that the infringement claim arises or results from: (i) Service Provider's compliance with the Bank's specific technical designs or instructions (except where Service Provider knew or should have known that such compliance was likely to result in an Infringement Claim and Service Provider did not inform the Bank of the same); (ii) any unauthorized modification or alteration of the Software by the Bank; or (iii) failure to implement an update to the licensed software that would have avoided the infringement, provided Service Provider has notified the Bank in writing that use of the update would have avoided the claim.

12.6 Service provider hereby grants the Bank a *fully paid-up, irrevocable, unlimited, perpetual, non-exclusive* throughout the territory of India or abroad to access, replicate, modify and use Software licensed/developed including its upgraded versions available during the term of this Agreement by Service provider as part of this engagement, including all inventions, designs and trademarks embodied therein perpetually.

12.7 Software licensed/developed as part of this Agreement can be put to use in all offices of the Bank.

### **13. INSTALLATION**

Service provider will enable the OEM product support services to support the Bank in installation of the software developed into the Bank's production, disaster recovery, testing and training environment, if required.

### **14. INSPECTION AND AUDIT**

14.1 It is agreed by and between the parties that Service Provider shall be subject to annual audit by internal/external Auditors appointed by the Bank/ inspecting official from the Reserve Bank of India or any regulatory authority, covering the risk parameters finalized by the Bank/ such auditors in the areas of products (IT hardware/ Software) and services etc. provided to the Bank and Service

Provider shall submit such certification by such Auditors to the Bank. Service Provider and or his / their outsourced agents /sub – contractors (if allowed by the Bank) shall facilitate the same. The Bank can make its expert assessment on the efficiency and effectiveness of the security, control, risk management, governance system and process created by Service Provider. Service Provider shall, whenever required by such Auditors, furnish all relevant information, records/data to them. All costs for such audit shall be borne by the Bank. Except for the audit done by Reserve Bank of India or any statutory/regulatory authority, the Bank shall provide reasonable notice not less than 7 (seven) days to Service Provider before such audit and same shall be conducted during normal business hours.

- 14.2 Where any Deficiency has been observed during audit of Service Provider on the risk parameters finalized by the Bank or in the certification submitted by the Auditors, it is agreed upon by Service Provider that it shall correct/ resolve the same at the earliest and shall provide all necessary documents related to resolution thereof and the auditor shall further certify in respect of resolution of the Deficiencies. It is also agreed that Service Provider shall provide certification of the auditor to the Bank regarding compliance of the observations made by the auditors covering the respective risk parameters against which such Deficiencies observed.
- 14.3 Service Provider further agrees that whenever required by the Bank, it will furnish all relevant information, records/data to such auditors and/or inspecting officials of the Bank/ Reserve Bank of India and/or any regulatory authority (ies). The Bank reserves the right to call for and/or retain any relevant information/ audit reports on financial and security review with their findings undertaken by Service Provider. However, Service Provider shall not be obligated to provide records/data not related to Services under the Agreement (e.g. internal cost break-ups etc.).
- 14.4 Service Provider shall grants unrestricted and effective access to a) data related to the Services; b) the relevant business premises of the Service Provider; subject to appropriate security protocols, for the purpose of effective oversight

use by the Bank, their auditors, regulators and other relevant Competent Authorities, as authorised under law.

## **15. CONFIDENTIALITY**

- 15.1 “Confidential Information” mean all information which is material to the business operations of either party or its affiliated companies, designated as being confidential or which, under the circumstances surrounding disclosure out to be treated as confidential, in any form including, but not limited to, proprietary information and trade secrets, whether or not protected under any patent, copy right or other intellectual property laws, in any oral, photographic or electronic form, whether contained on computer hard disks or floppy diskettes or otherwise without any limitation whatsoever. Without prejudice to the generality of the foregoing, the Confidential Information shall include all information about the party and its customers, costing and technical data, studies, consultants reports, financial information, computer models and programs, software Code, contracts, drawings, blue prints, specifications, operating techniques, processes, models, diagrams, data sheets, reports and other information with respect to any of the foregoing matters. All and every information received by the parties and marked confidential hereto shall be assumed to be confidential information unless otherwise proved. It is further agreed that the information relating to the Bank and its customers is deemed confidential whether marked confidential or not.
- 15.2 All information relating to the accounts of the Bank’s customers shall be confidential information, whether labeled as such or otherwise.
- 15.3 All information relating to the infrastructure and Applications (including designs and processes) shall be deemed to be Confidential Information whether labeled as such or not. Service provider personnel/resources responsible for the project are expected to take care that their representatives, where necessary, have executed a Non-Disclosure Agreement to comply with the confidential obligations under this Agreement.



- 15.4 Each party agrees that it will not disclose any Confidential Information received from the other to any third parties under any circumstances without the prior written consent of the other party unless such disclosure of Confidential Information is required by law, legal process or any order of any government authority. Service provider, in this connection, agrees to abide by the laws especially applicable to confidentiality of information relating to customers of Banks and the banks per-se, even when the disclosure is required under the law. In such event, the Party must notify the other Party that such disclosure has been made in accordance with law; legal process or order of a government authority.
- 15.5 Each party, including its personnel, shall use the Confidential Information only for the purposes of achieving objectives set out in this Agreement. Use of the Confidential Information for any other purpose shall constitute breach of trust of the same.
- 15.6 Each party may disclose the Confidential Information to its personnel solely for the purpose of undertaking work directly related to the Agreement. The extent of Confidential Information disclosed shall be strictly limited to what is necessary for those particular personnel to perform his/her duties in connection with the Agreement. Further each Party shall ensure that each personnel representing the respective party agree to be bound by obligations of confidentiality no less restrictive than the terms of this Agreement.
- 15.7 The non-disclosure obligations herein contained shall not be applicable only under the following circumstances:
- (i) Where Confidential Information comes into the public domain during or after the date of this Agreement otherwise than by disclosure by receiving party in breach of the terms hereof.
  - (ii) Where any Confidential Information was disclosed after receiving the written consent of disclosing party.
  - (iii) Where receiving party is requested or required by law or by any Court or governmental agency or authority to disclose any of the Confidential Information, then receiving party will provide the other Party with prompt notice of such request or requirement prior to such disclosure.

(iv) Where any Confidential Information was received by the receiving party from a third party which does not have any obligations of confidentiality to the other Party.

(v) Where Confidential Information is independently developed by receiving party without any reference to or use of disclosing party's Confidential Information.

15.8 Receiving party undertakes to promptly notify disclosing party in writing any breach of obligation of the Agreement by its employees or representatives including confidentiality obligations. Receiving party acknowledges that monetary damages may not be the only and / or a sufficient remedy for unauthorized disclosure of Confidential Information and that disclosing party shall be entitled, without waiving any other rights or remedies, to injunctive or equitable relief as may be deemed proper by a Court of competent jurisdiction.

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

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

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

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

## **16. OWNERSHIP**

- 16.1 Service Provider will provide OEM Source Code review certificate in bank defined format periodically for every version of the Software supplied or deployed in customized/developed to the Bank, without any cost to the Bank, and it will be treated as the property of the Bank.
- 16.2 Service Provider agrees that the Bank owns the entire right, title and interest to any inventions, designs, discoveries, writings and works of authorship, including all Intellectual Property Rights, copyrights. Any work made under this Agreement shall be deemed to be 'work made for hire' under any Indian/U.S. or any other applicable copyright laws.
- 16.3 The Intellectual Property Rights on the Software Code, copyright and source code for various applications/ interfaces developed under this Agreement, and any other component/ framework/ middleware used/ developed as pre-built software assets to deliver the solution, shall belong to the Bank and the Bank shall have complete and unrestricted rights on such property. However, Service Provider shall hold All Intellectual Property rights in any pre-built software *per se*, except for those which have been assigned under this Agreement.
- 16.4 All information processed by Service Provider during Software development/ customization, implementation & maintenance belongs to the Bank. Service Provider shall not acquire any other right in respect of the information for the license to the rights owned by the Bank. Service Provider will implement mutually agreed controls to protect the information. Service Provider also agrees that it will protect the information appropriately.

## **17. TERMINATION**

- 17.1 The Bank may, without prejudice to any other remedy for breach of Agreement, by written notice of not less than 30 (thirty) days, terminate the Agreement in whole or in part:
- (e) If Service Provider fails to deliver any or all the obligations within the time period specified in the Agreement, or any extension thereof granted by the Bank;
  - (f) If Service Provider fails to perform any other obligation(s) under the Agreement;

- (g) Violations of any terms and conditions stipulated in the RFP;
- (h) On happening of any termination event mentioned herein above in this Agreement.

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

17.2 The Bank, by written notice of not less than 90 (ninety) days, may terminate the Agreement, in whole or in part, for its convenience, provided same shall not be invoked by the Bank before completion of half of the total Contract period (including the notice period). In the event of termination of the Agreement for the Bank's convenience, Service Provider shall be entitled to receive payment for the Services rendered (delivered) up to the effective date of termination.

17.3 In the event the bank terminates the Agreement in whole or in part for the breaches attributable to Service Provider, the Bank may procure, upon such terms and in such manner, as it deems appropriate, software or services similar to those undelivered and subject to clause 21 Service Provider shall be liable to the Bank for any excess costs for such similar software or services. However, Service provider, in case of part termination, shall continue the performance of the Agreement to the extent not terminated.

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

- (i) If any Receiver/Liquidator is appointed in connection with the business of Service Provider or Service Provider transfers substantial assets in favour of its creditors or any orders / directions are issued by any Authority / Regulator which has the effect of suspension of the business of Service Provider.
- (ii) If Service Provider applies to the Court or passes a resolution for voluntary winding up of or any other creditor / person files a petition for winding up or dissolution of Service Provider.

- (iii) If any acts of commission or omission on the part of Service Provider or its agents, employees, sub-contractors or representatives, in the reasonable opinion of the Bank tantamount to fraud or prejudicial to the interest of the Bank or its employees.
- (iv) Any document, information, data or statement submitted by Service Provider in response to RFP, based on which Service Provider was considered eligible or successful, is found to be false, incorrect or misleading.

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

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

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

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

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

18.2 If the parties are not able to solve them amicably within 30 (thirty) days after dispute occurs as evidenced through the first written communication from any Party notifying the other regarding the disputes, either Party [the Bank or Service Provider] shall give written notice to other party clearly setting out

there in, specific dispute(s) and/or difference(s), and shall be referred to a sole arbitrator mutually agreed upon, and the award made in pursuance thereof shall be binding on the Parties.

18.3 In the absence of consensus about the single arbitrator, the dispute may be referred to an arbitration panel; one to be nominated by each Party and the said arbitrators shall nominate a presiding arbitrator, before commencing the arbitration proceedings. The arbitration shall be settled in accordance with the applicable Indian Laws and the arbitration shall be conducted in accordance with the Arbitration and Conciliation Act, 1996.

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

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

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

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

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

19.1 No alterations, amendments, omissions, additions, suspensions or variations of the work (hereinafter referred to as variation) under the Agreement shall be made by Service provider except as directed in writing by Bank. The Bank shall have full powers, subject to the provision herein after contained, from time to time during the execution of the Agreement, by notice in writing to instruct Service Provider to make any variation without prejudice to the Agreement.

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

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

## **20. WAIVER OF RIGHTS**

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

## 21. LIMITATION OF LIABILITY

21.1 The maximum aggregate liability of Service Provider, subject to below mentioned sub-clause 21.3, in respect of any claims, losses, costs or damages arising out of or in connection with this Agreement shall not exceed the total Project Cost.

21.2 Under no circumstances shall either Party be liable for any indirect, consequential or incidental losses, damages or claims including loss of profit, loss of business or revenue.

21.3 The limitations set forth in abovementioned sub-Clause 21.1 shall not apply with respect to:

- (i) claims that are the subject of indemnification pursuant to Clause 12<sup>8</sup> (infringement of third party Intellectual Property Right);
- (ii) damage(s) occasioned by the Gross Negligence or Willful Misconduct of Service Provider;
- (iii) damage(s) occasioned by Service Provider for breach of Confidentiality Obligations ;
- (iv) Regulatory or statutory fines imposed by a Government or Regulatory agency for non-compliance of statutory or regulatory guidelines applicable to the Bank, provided such guidelines were brought to the notice of Service Provider.

For the purpose of above mentioned sub-clause 21.3(ii) “Gross Negligence” means any act or failure to act by a party which was in reckless disregard of or gross indifference to the obligation of the party under this Agreement and which causes injury, damage to life, personal safety, real property, harmful consequences to the other party, which such party knew, or would have known if it was acting as a reasonable person, would result from such act or failure to act for which such Party is legally liable. Notwithstanding the forgoing, Gross Negligence shall not include any action taken in good faith.

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<sup>8</sup> Please see Clause 12 ‘IPR Indemnification’



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

## **22. FORCE MAJEURE**

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

## 23. NOTICES

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

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

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

(a) In the case of the Bank

Deputy General Manager  
Platform Engineering-II Department  
State Bank of India  
Global IT Centre  
Sector-11, CBD Belapur,  
Navi Mumbai, Maharashtra,  
India. PIN-400614

(b) In case of Service Provider

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

## 24. GENERAL TERMS & CONDITIONS

24.1 HANDHOLDING SUPPORT / TRAINING: Service Provider shall train/handhold designated Bank officials on the license downloading from OEM online platform, registration and usage of the online OEM product support services for the proposed Services as mentioned in this Agreement as requested by the Bank.

- 24.2 **PUBLICITY:** Service Provider may make a reference of the Services rendered to the Bank covered under this Agreement on Service provider's Web Site or in their sales presentations, promotional materials, business plans or news releases etc., only after prior written approval from the Bank.
- 24.3 **SUCCESSORS AND ASSIGNS:** This Agreement shall bind and inure to the benefit of the Parties, and their respective successors and permitted assigns.
- 24.4 **NON-HIRE AND NON-SOLICITATION:** During the term of this Agreement and for a period of one year thereafter, neither Party shall (either directly or indirectly through a third party) employ, solicit to employ, cause to be solicited for the purpose of employment or offer employment to any employee(s) of the other Party, or aid any third person to do so, without the specific written consent of the other Party. However, nothing in this clause shall affect the Bank's regular recruitments as per its recruitment policy and not targeted to the employees of Service provider.
- 24.5 **SEVERABILITY:** The invalidity or unenforceability of any provision of this Agreement shall not in any way effect, impair or render unenforceable this Agreement or any other provision contained herein, which shall remain in full force and effect.
- 24.6 **MODIFICATION:** This Agreement may not be modified or amended except in writing signed by duly authorized representatives of each Party with express mention thereto of this Agreement.
- 24.7 **ENTIRE AGREEMENT:** The following documents along with all addenda issued thereto shall be deemed to form and be read and construed as integral part of this Agreement and in case of any contradiction between or among them the priority in which a document would prevail over another would be as laid down below beginning from the highest priority to the lowest priority:
- (i) This Agreement;
  - (ii) Annexure of Agreement;
  - (iii) Purchase Order No. \_\_\_\_\_ dated \_\_\_\_\_; and
  - (iv) RFP: SBI: 1148 dated 28/05/2024

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

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

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

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

**State Bank of India**

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

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

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

WITNESS:

1.

1.

2.

2.

**ANNEXURE-A**

**1. DELIVERABLES/SCOPE OF WORK**

The Service Provider must ensure deliverables and services listed below:

| Sl No | Area                   | Requirement/Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------|------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1     | Description of Product | <p><b>A. Definitions:</b> Below terms are defined to avoid any “doubts” or “errors in understanding” the Scope of work, terms &amp; conditions.</p> <ul style="list-style-type: none"> <li>a. Term “<b>BMC Product Suite</b>” or “<b>BMC Product</b>” or “<b>BMC Market Zone Product</b>” or “Licenses” means the product licenses procured or renewed through this RFP. (referred as “<b><u>BMC Product</u></b>” hereafter). All the components or sub-products supplied as a bundle or say part-and-parcel of the procured or renewed product licenses, will also be covered under the mentioned term “BMC Product Suite” or “BMC Product” or “BMC Market Zone Product”.</li> <li>b. BMC Product version minor and major are defined as below. <ul style="list-style-type: none"> <li>i. Major version means: A.1 to B.1</li> <li>ii. Minor version means: A.1 to A.2</li> </ul> </li> <li>c. Service packs or Patches or Bug Fix for the BMC Products will be treated as minor version.</li> <li>d. <b>Vulnerability:</b> it will have same meaning as generally accepted practices within the software services industry. A weakness in an IT system that can be exploited by an attacker to deliver a successful attack or harm. They can occur through flaws, user error, code error, configuration error and attackers will look to exploit any of them, often combining one or more, to achieve their end goal. All components of the BMC Product i.e., software/ modules/ components of shall be part of the scope for vulnerability assessment and resolution. <ul style="list-style-type: none"> <li>i. The vulnerabilities can be pointed-out or detected by the Bank security solution or by the Bank audit teams or by the Regulatory advisories like CSITE, RBI, etc. or by advisories issued by Government of India. Notwithstanding the OEM has detected the vulnerability or not.</li> <li>ii. The zero-day vulnerabilities/bug/threats are also under the scope of this point.</li> </ul> </li> <li>e. <b>Product Support Services:</b> This is product support purchased by the Bank for the respective BMC</li> </ul> |

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|---|------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   |                                                | <p>Products as mentioned in <b>Annexure-A</b> (License Specification). This includes the support assistance by the OEM by way of product documentation, knowledge article, assistance for the installation &amp; configuration, issue troubleshooting, bug/patch fix, version upgrade &amp; patch deployment, security configuration or hardening, performance tuning or enhancements so that the products function as expected with best performance in a secure manner. All the underlying components supplied as bundled with the BMC Products in order to install, configure, and operate the BMC product smoothly will also be under the scope of this point.</p> <p><b>B. Deliverables:</b> The service provider has to provide the BMC Product licenses and applicable renewals for the quantities as mentioned in the <b>Annexure-A</b> (License Specification)</p>                                                                                                                                                                                                                                          |
| 2 | <p><b>Out of scope work and Assumption</b></p> | <p><b>Out of Scope:</b> None</p> <p><b>Assumption:</b> All the BMC products supplied are ensured to be free from any defects, bugs, or vulnerabilities. However, in the unlikely event that any such issues arise in the future, the corrective measures will be provided in a timely and efficient manner in the form of patches or fixes or product resolutions so that the Bank's interests are always safeguarded.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 3 | <p><b>Description of Deliverables</b></p>      | <ol style="list-style-type: none"> <li>1. Provide renewal of licenses under Enterprise Unlimited License Agreement with the highest level of OEM support for the all products as mentioned in the <b>Annexure-A</b> (License Specification) for the entire contract period as mentioned in this contract.</li> <li>2. All the licenses must be delivered within the 10 days of purchase order issuance.</li> <li>3. All the licenses renewed/procured through the RFP shall be perpetual in nature until-unless mentioned otherwise.</li> <li>4. All the new licenses and entitlement enhancements for existing licenses through the RFP will be having minimum one-year warranty and ATS/AMC/ S&amp;S fees (if any) will be applicable only after warranty period.</li> <li>5. Shall ensure conversion of licenses in case of the existing procured licenses are split or merged or renamed by OEM during the period of contract. The license conversion shall be done without any additional cost to the Bank and before the End of Life/End of Support declared by the OEM for the respective product.</li> </ol> |

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|-----------------|--------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                 |                                                  | <ol style="list-style-type: none"> <li>6. In case any of the software/ application/ module/ component name changed by the OEM, the service terms and conditions defined throughout the RFP will be explicit in nature for the new name as they are for the older names.</li> <li>7. The licenses provided should have minimum EOL/EOS life span up to year 2030. All the features and functionality of the procured or renewed licenses should continue.</li> <li>8. Shall provide all the licenses under Enterprise ULA (Unlimited License Agreement) of the solution without any capping or limitation of the usage unless and otherwise explicitly mentioned in the RFP.</li> <li>9. Should ensure the access to the OEM product support services within 3 days from the License delivery.</li> <li>10. The service provider should ensure that all the BMC products software packages, bug fixes, patches, service packs and upgraded version packages are made available and accessible to the Bank immediately as it is released by the OEM.</li> </ol>                                                                                                                                                                                                                                                                                                              |
| <p><b>4</b></p> | <p><b>Security / Compliance Requirements</b></p> | <ol style="list-style-type: none"> <li>1. The service provider should comply with Bank's IS security policy in all key concern areas relevant to the license services. Some of the key areas but not limited to are:             <ol style="list-style-type: none"> <li>a. Responsibilities for data and application privacy and confidentiality</li> <li>b. Responsibilities on system and software access control and administration</li> <li>c. Custodial responsibilities for data, software, hardware, and other assets of the Bank being managed by or assigned to the vendor.</li> <li>d. Physical security of the facilities</li> <li>e. Physical and logical separation from other customers of the vendor</li> <li>f. Incident response and reporting procedures</li> <li>g. Password policy of the Bank</li> <li>h. Data Encryption/Protection requirement of the Bank</li> </ol> </li> <li>2. Provide solution/fixes for the vulnerabilities/security-observation in BMC products, software/ module/ component pointed out by Bank or by any other Government regulatory bodies/authority.             <ol style="list-style-type: none"> <li>a. It can be detected by the Bank security scanning tools, directed by advisories/ security warnings/ security bulletin published by Bank regulators / Govt. Of India bodies/ CSITE, etc.</li> </ol> </li> </ol> |

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|---|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   |                                               | <p>b. For all the reported/identified vulnerabilities in the products, required product fixes should be provided without any additional charges. If any vulnerability cannot be closed due to the factors like technology limitation, tool limitation, functionality limitation or OEM dependency etc. should be documented and communicated to the Bank with the supporting evidence, within the maximum 15 days from the day of reporting.</p> <p>c. The service provider should ensure to communicate the Bank well in advance in-case of any product EOL/EOS is declared by the OEM.</p> <p>3. The service provider is required to submit a source code review certificate for BMC products to the Bank on an annual basis or as and when requested by the Bank for the version(s) deployed in the Bank. The certificate should be comprehensive and should contain all the information requested by the Bank related to the security aspects of the BMC products.</p> |
| 5 | <b>Third-Party Components</b>                 | <p>1. All the components/modules or third-party software's supplied/used as a part of the solution stack by the OEM, the delivery of the new versions/updates, bug/issue fix for the respective components/modules or third-party software's are under the obligation of the service provider without any additional cost to the Bank.</p> <p>2. Any third-party components used by the OEM in the solution stack to run the solution shall be provided with adequate number of licenses to the Bank.</p> <p>3. The Service provider must explicitly list such third-party solutions along with licenses details. Additional licenses shall be provided without any additional cost whenever required during the period of the contract to meet the project growth.</p>                                                                                                                                                                                                    |
| 6 | <b>Term of the Project - Project Schedule</b> | The duration of the project shall be 01-June-2024 to 31-May-2026.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 7 | <b>Warranty Term</b>                          | The warranty of all the newly procured licenses must be for one year.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 8 | <b>Maintenance Term</b>                       | The AMC/ATS/S&S shall be applicable after completion of the warranty period.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |



|   |                 |                                                                                                                                                                                                                         |
|---|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   | (AMC/ATS/S&S)   |                                                                                                                                                                                                                         |
| 9 | <b>Training</b> | Arrange for product features session as a part of continuous improvement engagement to update the information about the new features/update of the BMC Products and “How to do what” session at least once in 6 months. |

## 2. License Specification Details

License Specifications: (under Enterprise Unlimited License Agreement and entitlement )

| Sr. No. | Module                                 | BMC Product                                                                          | Type Of license | Entitlement |
|---------|----------------------------------------|--------------------------------------------------------------------------------------|-----------------|-------------|
| 1       | BMC Helix ITSM                         | BMC Helix ITSM OnPrem - Service Desk Concurrent User License                         | perpetual       | 500         |
| 2       |                                        | BMC Helix ITSM OnPrem - Service Desk User License                                    | perpetual       | 200         |
| 3       |                                        | BMC Helix ITSM OnPrem - Service Optimization Concurrent User License                 | perpetual       | 150         |
| 4       |                                        | BMC Helix ITSM OnPrem - Suite Concurrent User License                                | perpetual       | 10          |
| 5       |                                        | BMC Helix ITSM OnPrem - Suite User License                                           | perpetual       | 10          |
| 7       | BMC Helix Capacity Optimization (BHCO) | BMC Helix Continuous Optimization OnPrem for Networks Plus                           | perpetual       | 1500        |
| 8       |                                        | BMC Helix Continuous Optimization OnPrem for Servers Plus                            | perpetual       | 5000        |
| 9       |                                        | BMC Helix Continuous Optimization OnPrem for Storage Plus                            | perpetual       | 1000        |
| 10      | BMC Helix Operations Management (BHOM) | BMC Helix Operations Management OnPrem - Monitoring and Event Management for Servers | perpetual       | 150         |
| 11      |                                        | BMC Helix Operations Management OnPrem - Event Management for Servers                | perpetual       | 7850        |
| 12      |                                        | TrueSight Operations Management - Base License                                       | perpetual       | 1           |
| 13      |                                        | BMC Helix Operations Management OnPrem - AIOps Add-on for Servers                    | perpetual       | 1000        |
| 14      | TrueSight Orchestration                | TrueSight Orchestration - Adapters License Add-on                                    | perpetual       | 2           |
| 15      |                                        | TrueSight Orchestration - Development Pack License Add-on                            | perpetual       | 1           |

|    |                                                                 |                                               |              |       |
|----|-----------------------------------------------------------------|-----------------------------------------------|--------------|-------|
| 16 |                                                                 | TrueSight Orchestration - Peer License Add-on | perpetual    | 3     |
| 17 | SNOW-Software Asset Management (Technology Intelligence Bundle) | Snow Spend Optimizer – SAM (SKU-SAM-SO-S)     | Subscription | 20000 |
| 18 |                                                                 | Data Intelligence Service (SKU- DIS)          | Subscription | 20000 |
| 19 |                                                                 | Snow ITSM Enhancer (SKU- ITSME-S)             | Subscription | 20000 |

### 3. Standard Services

- 3.1. All the required services need to be delivered as detailed in the RFP, and the same is listed in the section “Deliverables / Scope of work”.
- 3.2. Service provider shall, at no cost to the Bank, promptly correct any and all, deficiencies and defects in the Software.

### 4. Correction of Deficiencies in Deliverables

- 4.1. If Service provider is unable to correct all Deficiencies preventing acceptance of a deliverable or meet the performance requirements, for which Service provider is responsible within the timelines as mentioned in this Agreement, the Bank may at its discretion:
- 4.1.1. Without prejudiced to the Bank’s other rights under this Agreement, allow Service provider to continue its efforts to make corrections; or
- 4.1.2. Accept the deliverable with its Deficiencies and reach agreement with Service provider on an equitable reduction to Service provider’s charges for developing such deliverable to reflect the uncorrected Deficiencies; or
- 4.1.3. Terminate this Agreement for cause in accordance with Clause 17 (except that the Bank is under no obligation to provide Service provider any further opportunity to cure) and recover its damages as set forth in this Agreement.

### 5. Risk Management

- 5.1.1. Service Provider shall identify and document the risk in delivering the Services. Service Provider shall identify the methodology to monitor and prevent the risk, and shall also document the steps taken to manage the impact of the risks.
- 5.1.2. Service Request: The service provider should ensure that the Bank queries raised regarding the BMC products purchased/renewed through this contract will be acknowledged within 2 working days and must be responded with the required information in 10 working days. In case the information is not readily available due to any technical or operational reasons beyond the control of

service provider , the same shall be communicated to the bank in the defined time frame. The communication can be through letter or email.

**ANNEXURE-B**

**Product Management**

1. The metrics will be as per the scope of work, deliverables and specification as mentioned in the relevant sections in this agreement.
2. Service provider should ensure conversion of licenses in case of the existing procured/renewed licenses are split or merged or renamed by OEM during the period of contract. The license conversion shall be done without any additional cost to the Bank and before the End of Life/End of Support declared by the OEM for the respective product.
3. In case any of the software/ application/ module/ component name changed by the OEM, the service terms and conditions defined throughout this contract will be explicit in nature for the new name as they are for the older names.

**ANNEXURE-C**

**PRODCUT MAINTENANCE**

- a) The service provider must ensure to made enable the OEM product support services to the bank within 3 days from license delivery.
- b) The service provider should ensure to communicate with the Bank well in advance in-case of any product EOL/EOS is declared by the OEM.
- c) The service provider should ensure that all the BMC products software packages, bug fixes, patches, service packs and upgraded version packages are made available and accessible to the Bank immediately as it is released by the OEM.
- d) The service provider is required to submit a source code review certificate for BMC products to the Bank on an annual basis or as and when requested by the Bank for the version(s) deployed in the Bank. The certificate should be comprehensive and should contain all the information requested by the Bank related to the security aspects of the BMC products.
- e) All the components/modules or third-party software's supplied/used as a part of the solution stack by the OEM, the delivery of the new versions/updates, bug/issue fix for the respective components/modules or third-party software's are under the obligation of the service provider without any additional cost to the Bank.

**ANNEXURE-D**

**SERVICE REVIEW MEETING**

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

- DGM(IT-PE-II), SBI GITC Belapur
- Delivery Manager – M/s. -----

The review meeting will be held at SBI premises half yearly.

**ANNEXURE-E**

ESCALATION MATRICS<sup>9</sup> *<strike off if not applicable>*

| Service level Category | Response | Escalation thresholds                        |                 |                 |                 |
|------------------------|----------|----------------------------------------------|-----------------|-----------------|-----------------|
|                        |          | Escalation Level 1                           |                 | Escalation..... |                 |
|                        |          | Escalation to                                | Escalation Mode | Escalation to   | Escalation Mode |
| Product Management     |          | <i>&lt;Name, designation contact no.&gt;</i> |                 |                 |                 |
| Product Maintenance    |          | <i>&lt;Name, designation contact no.&gt;</i> |                 |                 |                 |
| Information Security   |          | <i>&lt;Name, designation contact no.&gt;</i> |                 |                 |                 |

<sup>9</sup> To ensure that the service beneficiary receives senior management attention on unresolved issues, Service Provider operates a problem escalation procedure in order that any unresolved problems are notified to Service Provider management personnel on a priority basis dependent upon the impact and urgency of the problem.

**ANNEXURE-F**

- 1) Description and considerations for the penalties for non-performance of service and required operations:
- a) All the penalties, as applicable, will be applied in parallel on monthly basis.
  - b) The penalty shall only be applicable if the reasons are attributable to the Service provider.
  - c) The penalties may be recovered from invoices presented for payment or through credit note or invoking Performance Guarantee submitted.
  - d) Application of penalties and payments thereof will not relieve the Service provider from the obligation of delivery of services during the valid contract period.
  - e) A penalty period may spill-over across more than one month (thus multiple invoice), the amounts are deducted in each month invoices as applicable. If the delay approaches to next invoice period, the delay period will be calculated from the actual delay start date and the penalty will be calculated for the next invoice period too.
  - f) The maximum penalties as described in this Annexure-F, detailed below can be 10% of the total project cost for the whole contract period. Once the maximum penalty deduction is reached, the Bank may consider termination of the Agreement.
  - g) Penalties:

| S. No | Service level category                                                          | Service level object                     | Penalty                             |
|-------|---------------------------------------------------------------------------------|------------------------------------------|-------------------------------------|
| 1     | <b>Licenses not delivered within the time frame defined in the (Annexure A)</b> | $1 \text{ days} \leq T < 3 \text{ days}$ | Rs.50,000 per day or part thereof   |
| 2     |                                                                                 | $3 \text{ days} \leq T < 7 \text{ days}$ | Rs.100,000 per day or part thereof  |
| 3     |                                                                                 | $T \geq 7 \text{ days}$                  | Rs. 200,000 per day or part thereof |

⇒ **Delay: "T"**



**ANNEXURE G**

**Transition & Knowledge Transfer Plan**

**1. Introduction**

1.1 This Annexure describes the duties and responsibilities of Service Provider and the Bank to ensure proper transition of services and to ensure complete knowledge transfer.

**2. Objectives**

2.1 The objectives of this annexure are to:

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

**3. General**

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

3.2 Service Provider shall co-operate fully with the Bank and any potential Replacement SERVICE PROVIDERS tendering for any Services, including the transfer of responsibility for the provision of the Services previously performed by Service Provider to be achieved with the minimum of disruption. In particular:

3.2.1 during any procurement process initiated by the Bank and in anticipation of the expiry or termination of the Agreement and irrespective of the identity of any potential or actual Replacement SERVICE PROVIDER, Service Provider shall

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

- 3.2.1.1 Service Provider shall not be obliged to provide any information concerning the costs of delivery of the Services or any part thereof or disclose the financial records of Service Provider to any such party;
  - 3.2.1.2 Service Provider shall not be obliged to disclose any such information for use by an actual or potential Replacement SERVICE PROVIDER unless such a party shall have entered into a confidentiality agreement; and
  - 3.2.1.3 whilst supplying information as contemplated in this paragraph 3.2.1 Service Provider shall provide sufficient information to comply with the reasonable requests of the Bank to enable an effective tendering process to take place but shall not be required to provide information or material which Service Provider may not disclose as a matter of law.
- 3.3 In assisting the Bank and/or the Replacement SERVICE PROVIDER to transfer the Services the following commercial approach shall apply:
- (1) where Service Provider does not have to utilise resources in addition to those normally used to deliver the Services prior to termination or expiry, Service Provider shall make no additional Charges. The Bank may reasonably request that support and materials already in place to provide the Services may be redeployed onto work required to effect the transition provided always that where the Bank agrees in advance that such redeployment will prevent Service Provider from meeting any Service Levels, achieving any other key dates or from providing any specific deliverables to the Bank, the Bank shall not be entitled to claim any penalty or liquidated damages for the same.
  - (2) where any support and materials necessary to undertake the transfer work or any costs incurred by Service Provider are additional to those in place as part

of the proper provision of the Services the Bank shall pay Service Provider for staff time agreed in advance at the rates agreed between the parties and for materials and other costs at a reasonable price which shall be agreed with the Bank.

- 3.4 If so required by the Bank, on the provision of no less than 15 (fifteen) days' notice in writing, Service Provider shall continue to provide the Services or an agreed part of the Services for a period not exceeding **6 (Six)** months beyond the date of termination or expiry of the Agreement. In such event the Bank shall reimburse Service Provider for such elements of the Services as are provided beyond the date of termination or expiry date of the Agreement on the basis that:
- (1) Services for which rates already specified in the Agreement shall be provided on such rates;
  - (2) materials and other costs, if any, will be charged at a reasonable price which shall be mutually agreed between the Parties.
- 3.5 Service Provider shall provide to the Bank an analysis of the Services to the extent reasonably necessary to enable the Bank to plan migration of such workload to a Replacement SERVICE PROVIDER provided always that this analysis involves providing performance data already delivered to the Bank as part of the performance monitoring regime.
- 3.6 Service Provider shall provide such information as the Bank reasonably considers to be necessary for the actual Replacement SERVICE PROVIDER, or any potential Replacement SERVICE PROVIDER during any procurement process, to define the tasks which would need to be undertaken in order to ensure the smooth transition of all or any part of the Services.
- 3.7 Service Provider shall make available such Key Personnel who have been involved in the provision of the Services as the Parties may agree to assist the Bank or a Replacement SERVICE PROVIDER (as appropriate) in the continued support of the Services beyond the expiry or termination of the Agreement, in which event the Bank shall pay for the services of such Key Personnel on a time and materials basis at the rates agreed between the parties.
- 3.8 Service Provider shall co-operate with the Bank during the handover to a Replacement SERVICE PROVIDER and such co-operation shall extend to, but

shall not be limited to, inter-working, co-ordinating and access to and provision of all operational and performance documents, reports, summaries produced by Service Provider for the Bank, including the configurations set up for the Bank and any and all information to be provided by Service Provider to the Bank under any other term of this Agreement necessary to achieve an effective transition without disruption to routine operational requirements.

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

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

#### **5. Subcontractors**

5.1 Service Provider agrees to provide the Bank with details of the Subcontracts (if permitted by the Bank) used in the provision of the Services. Service Provider will not restrain or hinder its Subcontractors from entering into agreements with other prospective service providers for the delivery of supplies or services to the Replacement SERVICE PROVIDER.

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

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

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

7.1 ~~6 (six)~~ months prior to expiry or within ~~2 (two)~~ week of notice of termination of the Agreement Service Provider shall deliver to the Bank the Asset Register comprising:

- (1) a list of all Assets eligible for transfer to the Bank; and

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

7.2 Within **1 (one)** month of receiving the Asset Register as described above, the Bank shall notify Service Provider of the Assets it requires to be transferred, (the “Required Assets”), and the Bank and Service Provider shall provide for the approval of the Bank a draft plan for the Asset transfer.

7.3 In the event that the Required Assets are not located on Bank premises:

(1) Service Provider shall be responsible for the dismantling and packing of the Required Assets and to ensure their availability for collection by the Bank or its authorised representative by the date agreed for this;

(2) any charges levied by Service Provider for the Required Assets not owned by the Bank shall be fair and reasonable in relation to the condition of the Assets and the then fair market value; and

(3) for the avoidance of doubt, the Bank will not be responsible for the Assets.

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

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

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

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

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

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

## **9. Transfer of Software**

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

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

## **10. Transfer of Documentation**

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

**11. Transfer of Service Management Process**

11.1 **6 (six)** months prior to expiry or within **2 (two)** weeks of notice of termination of this Agreement Service Provider shall deliver to the Bank:

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

**12. Transfer of Knowledge Base**

12.1 **6 (six)** months prior to expiry or within **2 (two)** week of notice of termination of this Agreement Service Provider shall deliver to the Bank a full, accurate and up to date cut of content from the knowledge base (or equivalent) used to troubleshoot issues arising with the Services but shall not be required to provide information or material which Service Provider may not disclose as a matter of law.

**13. Transfer of Service Structure**

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

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

#### **14. Transfer of Data**

14.1 In the event of expiry or termination of this Agreement Service Provider shall cease to use the Bank's Data and, at the request of the Bank, shall destroy all such copies of the Bank's Data then in its possession to the extent specified by the Bank.

14.2 Except where, pursuant to paragraph 14.1 above, the Bank has instructed Service Provider to destroy such Bank's Data as is held and controlled by Service Provider, **1 (one)** months prior to expiry or within **1 (one)** month of termination of this Agreement, Service Provider shall deliver to the Bank:

- (1) An inventory of the Bank's Data held and controlled by Service Provider, plus any other data required to support the Services; and/or
- (2) a draft plan for the transfer of the Bank's Data held and controlled by Service Provider and any other available data to be transferred.

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



- 15.1 Service Provider shall comply with the Bank's reasonable request to assist in the identification and specification of any training requirements following expiry or termination. The purpose of such training shall be to enable the Bank or a Replacement SERVICE PROVIDER to adopt, integrate and utilize the Data and Assets transferred and to deliver an equivalent service to that previously provided by Service Provider.
- 15.2 The provision of any training services and/or deliverables and the charges for such services and/or deliverables shall be agreed between the parties.
- 15.3 Subject to paragraph 15.2 above, Service Provider shall produce for the Bank's consideration and approval 6 (six) months prior to expiry or within 10 (ten) working days of issue of notice of termination:
- (1) A training strategy, which details the required courses and their objectives;
  - (2) Training materials (including assessment criteria); and
  - (3) a training plan of the required training events.
- 15.4 Subject to paragraph 15.2 above, Service Provider shall schedule all necessary resources to fulfil the training plan, and deliver the training as agreed with the Bank.
- 15.5 SERVICE PROVIDER shall provide training /hand-holding on operation OEM product support services and license delivery platform at Bank's State Bank Global IT Center (GITC) Premises , at such times, during business hours as Bank may reasonably request. Each training/handholding session will last for 4 hours and multiple sessions may be required by the bank with maximum count of 10 session. Bank may enroll up to 40 of its staff or vendor employees of the new/replacement service provider in any training / handholding course, and Service Provider shall provide a hard copy of the Product (licensed or open sourced) standard training manual for each enrollee. Each training course will be taught by a technical expert with no fewer than 2 years of experience in operating BMC Product software system. SERVICE PROVIDER shall provide the 10 onsite training/handholding session without any additional charges.

**16. Transfer Support Activities**

- 16.1 **6 (six)** months prior to expiry or within **10 (ten)** Working Days of issue of notice of termination, Service Provider shall assist the Bank or Replacement SERVICE PROVIDER to develop a viable exit transition plan which shall contain details of the tasks and responsibilities required to enable the transition from the Services provided under this Agreement to the Replacement SERVICE PROVIDER or the Bank, as the case may be.
- 16.2 The exit transition plan shall be in a format to be agreed with the Bank and shall include, but not be limited to:
- (1) a timetable of events;
  - (2) resources;
  - (3) assumptions;
  - (4) activities;
  - (5) responsibilities; and
  - (6) risks.
- 16.3 Service Provider shall supply to the Bank or a Replacement SERVICE PROVIDER specific materials including but not limited to:
- (a) Change Request log;
  - (b) entire back-up history; and
  - (c) dump of database contents including the Asset Register, problem management system and operating procedures. For the avoidance of doubt this shall not include proprietary software tools of Service Provider which are used for project management purposes generally within Service Provider's business.
- 16.4 Service Provider shall supply to the Bank or a Replacement SERVICE PROVIDER proposals for the retention of Key Personnel for the duration of the transition period.
- 16.5 On the date of expiry Service Provider shall provide to the Bank refreshed versions of the materials required under paragraph 16.3 above which shall reflect the position as at the date of expiry.
- 16.6 Service Provider shall provide to the Bank or to any Replacement SERVICE PROVIDER within **14 (fourteen)** Working Days of expiry or termination a full

and complete copy of the Incident log book and all associated documentation recorded by Service Provider till the date of expiry or termination.

16.7 Service Provider shall provide for the approval of the Bank a draft plan to transfer or complete work-in-progress at the date of expiry or termination.

**17. Use of Bank Premises**

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

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

XXXXXX

**NON-DISCLOSURE AGREEMENT**

THIS RECIPROCAL NON-DISCLOSURE AGREEMENT (the “Agreement”) is made at \_\_\_\_\_ between:

State Bank of India constituted under the State Bank of India Act, 1955 having its Corporate Centre and Central Office at State Bank Bhavan, Madame Cama Road, Nariman Point, Mumbai-21 and its Global IT Centre at Sector-11, CBD Belapur, Navi Mumbai- 400614 through its Platform Engineering-II Department (hereinafter referred to as “Bank” which expression includes its successors and assigns) of the ONE PART;

And

\_\_\_\_\_ a private/public limited company/LLP/Firm *<strike off whichever is not applicable>* incorporated under the provisions of the Companies Act, 1956/ Limited Liability Partnership Act 2008/ Indian Partnership Act 1932 *<strike off whichever is not applicable>*, having its registered office at \_\_\_\_\_ (hereinafter referred to as “\_\_\_\_\_” which expression shall unless repugnant to the subject or context thereof, shall mean and include its successors and permitted assigns) of the OTHER PART;

And Whereas

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

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

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

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

- (a) “Confidential Information” means non-public information that Disclosing Party designates as being confidential or which, under the circumstances surrounding disclosure ought to be treated as confidential. “Confidential Information” includes, without limitation, information relating to developed, installed or purchased Disclosing Party software or hardware products, the information relating to general architecture of Disclosing Party’s network, information relating to nature and content of data stored within network or in any other storage media, Disclosing Party’s business policies, practices, methodology, policy design delivery, and information received from others that Disclosing Party is obligated to treat as confidential. Confidential Information disclosed to Receiving Party by any Disclosing Party Subsidiary and/ or agents is covered by this agreement
- (b) Confidential Information shall not include any information that: (i) is or subsequently becomes publicly available without Receiving Party’s breach of any obligation owed to Disclosing party; (ii) becomes known to Receiving Party free from any confidentiality obligations prior to Disclosing Party’s disclosure of such information to Receiving Party; (iii) became known to Receiving Party from a source other than Disclosing Party other than by the breach of an obligation of confidentiality owed to Disclosing Party and without confidentiality restrictions on use and disclosure; or (iv) is independently developed by Receiving Party.
- (c) “Confidential Materials” shall mean all tangible materials containing Confidential Information, including without limitation written or printed documents and computer disks or tapes, whether machine or user readable.

2. **Restrictions**

- (a) Each party shall treat as confidential the Contract and any and all information (“confidential information”) obtained from the other pursuant to the Contract and shall not divulge such information to any person (except to such party’s “Covered Person” which term shall mean employees, contingent workers and professional advisers of a party who need to know the same) without the other party’s written consent provided that this clause shall not extend to information which was rightfully in the possession of such party prior to the commencement of the negotiations leading to the Contract, which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this clause). Receiving Party will have executed or shall execute appropriate written agreements with Covered Person, sufficient to enable it to comply with all the provisions of this Agreement. If the Service Provider appoints any Sub-Contractor (if allowed) then the Service Provider may disclose confidential information to such Sub-Contractor subject to such Sub

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

- (b) Receiving Party may disclose Confidential Information in accordance with judicial or other governmental order to the intended recipients (as detailed in this clause), provided Receiving Party shall give Disclosing Party reasonable notice (provided not restricted by applicable laws) prior to such disclosure and shall comply with any applicable protective order or equivalent. The intended recipients for this purpose are:
  - i. the statutory auditors of the either party and
  - ii. government or regulatory authorities regulating the affairs of the parties and inspectors and supervisory bodies thereof
- (c) Confidential Information and Confidential Material may be disclosed, reproduced, summarized or distributed only in pursuance of Receiving Party's business relationship with Disclosing Party, and only as otherwise provided hereunder. Receiving Party agrees to segregate all such Confidential Material from the confidential material of others in order to prevent mixing.

3. **Rights and Remedies**

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

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

4. **Miscellaneous**

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

waiver of any provision of this Agreement shall constitute a waiver of any other provision(s) or of the same provision on another occasion.

- (f) In case of any dispute, both the parties agree for neutral third party arbitration. Such arbitrator will be jointly selected by the two parties and he/she may be an auditor, lawyer, consultant or any other person of trust. The said proceedings shall be conducted in English language at Mumbai and in accordance with the provisions of Indian Arbitration and Conciliation Act 1996 or any Amendments or Re-enactments thereto. Nothing in this clause prevents a party from having recourse to a court of competent jurisdiction for the sole purpose of seeking a preliminary injunction or any other provisional judicial relief it considers necessary to avoid irreparable damage. This Agreement shall be governed by and construed in accordance with the laws of Republic of India. Each Party hereby irrevocably submits to the exclusive jurisdiction of the courts of Mumbai.
- (g) Subject to the limitations set forth in this Agreement, this Agreement will inure to the benefit of and be binding upon the parties, their successors and assigns.
- (h) If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.
- (i) The Agreement shall be effective from \_\_\_\_\_ ("Effective Date") and shall be valid for a period of \_\_\_\_\_ year(s) thereafter (the "Agreement Term"). The foregoing obligations as to confidentiality shall survive the term of this Agreement and for a period of five (5) years thereafter provided confidentiality obligations with respect to individually identifiable information, customer's data of Parties or software in human-readable form (e.g., source code) shall survive in perpetuity.

5. **Suggestions and Feedback**

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_ (Month) 20\_\_ at \_\_\_\_\_(place)





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

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

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

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

**Appendix-M**

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

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

**Format for Submission of Client References**

**To whosoever it may concern**

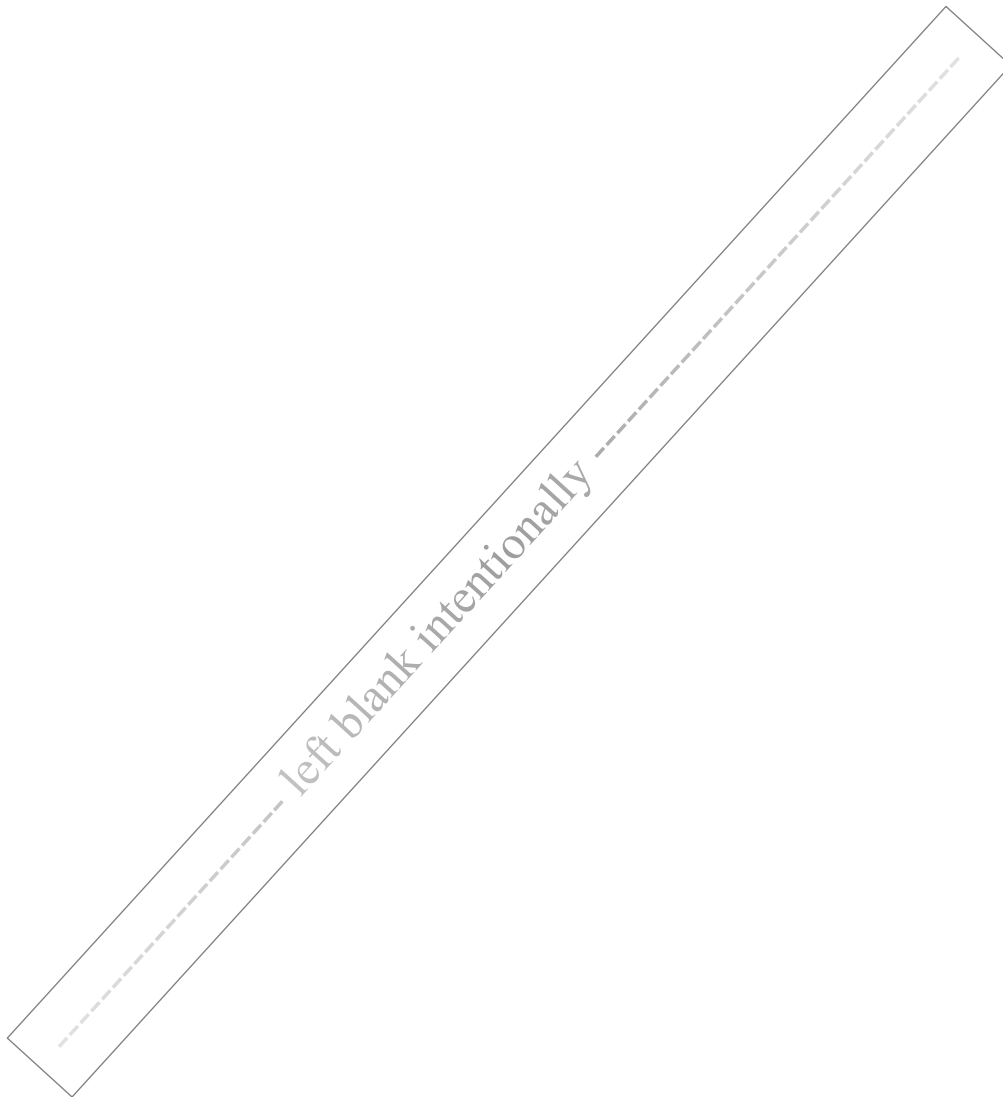
| <b>Particulars</b>                                     | <b>Details</b> |
|--------------------------------------------------------|----------------|
|                                                        |                |
| <b>Client Information</b>                              |              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

**Name & Signature of authorised signatory**

**Seal of Company**

**Appendix-O**

**This appendix is not applicable for this RFP.**



**FORMAT FOR EMD BANK GUARANTEE**

To:  
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**EMD BANK GUARANTEE FOR**

**BMC ENTERPRISE UNLIMITED LICENSE AGREEMENT(ULA) RENEWAL FOR IT SERVICES MANAGEMENT APPLICATION TO STATE BANK OF INDIA TO MEET SUCH REQUIRMENT AND PROVIDE SUCH SOFTWARE SOLUTION/ SERVICES AS ARE SET OUT IN THE RFP NO.SBI:1148 DATED 28/05/2024**

WHEREAS State Bank of India (SBI), having its Corporate Office at Nariman Point, Mumbai, and Regional offices at other State capital cities in India has invited Request for Proposal to develop, implement and support **BMC ENTERPRISE UNLIMITED LICENSE AGREEMENT(ULA) RENEWAL FOR IT SERVICES MANAGEMENT APPLICATION** (name of Software Solution/ Service) as are set out in the Request for Proposal SBI:1148 dated 28/05/2024.

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

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

4. NOW THIS GUARANTEE WITNESSETH THAT

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

5. We also agree to undertake to and confirm that the sum not exceeding Rs. \_\_\_\_\_/-(Rupees \_\_\_\_\_ Only) as aforesaid shall be paid by us without any demur or protest, merely on demand from the SBI on receipt of a notice in writing stating

the amount is due to them and we shall not ask for any further proof or evidence and the notice from the SBI shall be conclusive and binding on us and shall not be questioned by us in any respect or manner whatsoever. We undertake to pay the amount claimed by the SBI, without protest or demur or without reference to Bidder and notwithstanding any contestation or existence of any dispute whatsoever between Bidder and SBI, pay SBI forthwith from the date of receipt of the notice as aforesaid. We confirm that our obligation to the SBI under this guarantee shall be independent of the agreement or agreements or other understandings between the SBI and the Bidder. This guarantee shall not be revoked by us without prior consent in writing of the SBI.

6. We hereby further agree that –

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

Notwithstanding anything contained hereinabove:

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

Yours faithfully,

For and on behalf of

\_\_\_\_\_  
Authorized official of the bank

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

**Appendix-Q**

**This appendix is not applicable for this RFP.**

