

1. Draft Master Service Agreement

The following are the general terms and conditions proposed to be included in the Agreement. However, these terms and conditions are not exhaustive and SEBI reserves the right to add, delete, modify or alter all or any of these terms and conditions in any manner, as deemed necessary by SEBI. SEBI also reserves the right to add, delete, modify or alter all or any of these terms and conditions in any manner, subject to any law of the land or directives issued by Government of India or the Central Vigilance Commission from time to time as the case may be.

The Solution Provider, selected for setting up of “Implementation of Data Analytics Projects and Building of Data Models at SEBI”, will have to enter into an agreement directly with SEBI. The agreement shall contain various terms and conditions relating to payment, delivery, installation & operationalization, training, commissioning & acceptance, support during periods of warranty & maintenance, liability and penalty due to delay in performance responsibilities, etc. All the diagrams, drawings, specifications and other related literature & information, provided by the Solution Provider under the total solution and agreed to by SEBI, shall also form a part of the agreement.

The bill of material containing item-wise details in respect of all products, covered under the “Implementation of Data Analytics Projects and Building of Data Models at SEBI” solution , offered by the Solution Provider, must be furnished along with the prices thereof, as per the terms and conditions contained in this document. The Solution Provider shall undertake to ensure that the prices are reasonable and in the range of prices for similar / same products available in the market.

If any irregularity or any defect is detected anytime in respect of the above, SEBI shall have the right to take appropriate action against the Solution Provider, as deemed fit by SEBI.

All correspondences and other documents pertaining to the agreement/ contract shall be in English. The Agreement shall be governed and interpreted in accordance with the Indian laws.

1 Definitions

All definitions and meanings terms used in this Agreement will be as per the Request for Proposal (“RFP”) document.

2. Standards

The goods/products/services, supplied under this Agreement shall conform to the standards mentioned in the Technical Specification or agreed between SEBI and the Solution Provider, and when no applicable standard is mentioned, the goods/products shall be supplied under the authoritative and appropriate international standards of the goods/products and such standards shall be the latest issued by the institutions concerned.

3. Prices

4. The price shall be exclusive of all taxes and SEBI will pay applicable taxes at the time of payment.

No escalation in price quoted shall be permitted for any reason whatsoever. Prices quoted shall be firm till the complete execution of the agreement including Warranty & Support, and AMC for **<Duration of the project>**. Prices when quoted both in figures as well as in words have any discrepancy between the rates given in figures and in words, the rates given in words shall be considered.

5. Performance Bank Guarantee

The Solution Provider shall at his own cost and expense furnish within 30 (Thirty) business days from the effective date, an unconditional and irrevocable performance bank guarantee for *<Value of Performance Bank Guarantee in Percentage>* of Rs. _____/- (Rupees _____ only) in favor of SEBI, from a scheduled commercial Bank towards the due and punctual performance and fulfillment of this agreement in the format prescribed in **Appendix VIII** of RFP. This Performance Bank Guarantee shall be valid till the end of the warranty Period under this Agreement.

The Performance bank guarantee shall contain a claim period of 3 (Three) months ("Claim Period") from the last date of validity ("validity date"). The performance bank guarantee may be discharged by SEBI upon being satisfied that there has been due performance of the obligations by the solution partner.

6. Taxes and Duties

1. The Successful Solution Provider shall be entirely responsible to pay all the taxes including but not limited to goods and services tax, corporate tax and income tax, duties, fee, toll, royalty tax, etc. in connection with the installation of the systems and the provisions of the services necessary for the successful implementation and maintenance of the supplied system.
2. Wherever the laws and regulations require deduction of such taxes at the source of the payment, SEBI shall effect such deductions from the payment due to the Solution Partner. The remittance of the amount so deducted and issuance of certificate for such deductions shall be made by SEBI as per the laws and regulations in force.
3. Any reduction/increase in taxes and duties affected on or after date of submission of bid up to date of successful completion of warranty shall be passed on to and borne by SEBI.

7. Project Plan and Acceptance Tests

The selected Bidder ("Solution Provider") shall provide a Project plan to SEBI within one week of the signing of the Agreement. This Project Plan shall detail the tasks that has to be carried out and completed on various scheduled dates including the acceptance testing. The Solution Provider shall submit weekly report on the progress of the project and also the status as on the scheduled date and actual date of each activity detailing any deviations to the SEBI's project

manager. An Acceptance Test Plan (“ATP”), identifying the tests proposed to be conducted, along with Test scripts would be prepared and submitted to SEBI by the Solution Provider. The Project Plan and the ATP shall not be considered complete and final unless the same have been reviewed and accepted by SEBI.

The errors found during the Acceptance Testing by SEBI shall be promptly rectified by the Solution Provider. The Acceptance of all the goods or products as well as services under the Agreement shall be deemed to have taken place when the Solution Provider, in accordance with the agreement, has completed their supply, installation and successful commissioning and SEBI thereafter certified to the Solution Provider in writing the SEBI’s acceptance of the Systems. The SEBI’s acceptance certificate of the supplied goods/products shall in no way release the Solution Provider from any of its warranty obligations under the agreement.

8. Dispute Resolution

- i. All disputes and differences of any kind, whatsoever, between the Solution Provider and SEBI, arising out of or in relation to the construction, meaning, operation or effect interpretation of the agreement, or breach thereof shall be settled amicably. If, however, the Parties are not able to resolve any dispute or differences amicably, the same shall be referred to the sole arbitrator if mutually agreed upon, failing which, one arbitrator to be appointed by each Party to the dispute, and the third arbitrator to be appointed by the two arbitrators and such arbitration shall be in accordance with the provision of the Arbitration and Conciliation Act, 1996, or any statutory modification or re-enactment thereof for the time being in force. The award made in pursuance thereof shall be binding on the Parties. The seat and venue of the arbitration shall be in Mumbai.
- ii. The Solution Provider shall continue to work under the agreement during the arbitration proceedings unless otherwise directed by the Arbitrator or by SEBI in writing, or unless the matter is such that, in the opinion of the arbitrator/arbitrators, the works cannot possibly be continued until the decision of the arbitrator/arbitrators, as the case may be, is obtained.

9. Notices

- i. Notice or other communications given or required to be given under this Agreement shall be in writing and shall be hand-delivered with acknowledgement thereof, or transmitted by pre-paid registered post by reputed courier to the address of the receiving party by the other in writing, provided such change of address has been notified at least 10 (ten) days prior to the date on which such notice has been given under the terms of this Agreement.
- ii. Any notice or other communications shall be deemed to have been validly delivered on date of delivery if hand-delivered; if sent by registered post or by reputed courier, then on the expiration of 7 (seven) days from the date of posting. All notices, requests, demands and other communications under this agreement or in connection herewith shall be given to or made upon the respective parties as follows:

To SEBI :

<Officer/DC in charge of the project>
Securities and Exchange Board of India
SEBI Bhavan,
Plot No. C4-A, "G Block"
Bandra Kurla Complex
Bandra (East) - 400 051
India

To Solution Provider:

<address of Solution Provider>

to such other person or addresses as any of the Parties shall have notified to the others.

10. Confidentiality

- a. The Solution Provider acknowledges that as a result of the Services that the Solution Provider is providing here-under, the Solution Provider may have access to the Confidential Information and proprietary (which shall include but not be limited to any business, commercial or financial information of SEBI or any information, documentation, data and other materials related to SEBI's business and operations) of SEBI that is or has been disclosed to the Solution Provider by SEBI and marked as confidential when disclosed in writing and when disclosed orally, identified as confidential at the time of disclosure and submitted in writing to the Solution Provider within 7 (seven) Business Days of such disclosure.
- b. Confidential Information does not include information which:
 - (i) is publicly available at the time of its disclosure; or becomes publicly available following disclosure; or
 - (ii) is already known to or was in the possession of the Solution Provider prior to execution of this Agreement; or
 - (iii) is disclosed to the Solution Provider by a third party, which party is not bound by any obligation of confidentiality; or
 - (iv) is or has been independently developed by the Solution Provider without using the Confidential Information or deriving from the Confidential Information of SEBI;
 - (v) is required to be disclosed with the prior consent of SEBI.
 - (vi) is required to be disclosed pursuant to any requirement/ guidelines/ direction/ order issued by regulatory, government, statutory bodies/ authorities.
- c. Similarly, SEBI agrees that during the course of this Agreement, SEBI may receive or come into possession of information that is confidential/proprietary to the Solution Provider (including but not limited to information relating to software, trade secrets, know-

how/ technical data, research, products, software services, development, inventions, processes, engineering techniques, strategies, etc.) and that SEBI shall not disclose or divulge such confidential/ proprietary information of the Solution Provider to any third parties or make use or allow others to make use thereof either for its own benefit or for the benefit of others, directly or indirectly, and that the terms and conditions herein above set out with respect of the confidential information of SEBI, shall apply mutatis mutandis to the Solution Provider's confidential/ proprietary information.

- d. The confidentiality obligations of the Parties herein shall continue for the term of this Agreement and for a period of 2 (two) years thereafter.
- e. The Parties agree that they shall not permit the duplication or disclosure of Confidential Information of other Party, to any person (other than an employee, agent or representative of that Party who needs such information for the specific purpose of performance of obligations under this Agreement). Any document, other than this Agreement itself, shall remain the property of the disclosing Party and all copies thereof shall be returned to such disclosing Party on termination of this Agreement or upon earlier request by disclosing Party.
- f. The receiving Party understands and acknowledges that the disclosure of, or failure to adequately protect Confidential Information of disclosing Party, would result in irreparable harm to disclosing party. In addition to monetary damages, disclosing Party shall be entitled to any and all equitable remedies, including but not limited to injunctive relief, in the event the receiving party discloses or fails to protect the Confidential Information.

11. Indemnities

- a. The Solution Provider shall be liable to indemnify SEBI, at its own cost and expenses, against all losses/damages, which SEBI may suffer on account of violation by the Solution Provider of any or all national/international trade laws, norms, standards, procedures etc. in relation to provision of services and deliverable under this Agreement.
- b. Each Party shall be solely responsible for and shall indemnify and keep SEBI, its employees, agents, officers and directors indemnified and harmless from and against all costs (including but not limited to litigation expenses and attorney's fees), expenses, losses, liabilities, fines, penalties, damages, claims, demands, actions or proceedings whatsoever for arising out :
 - (i) any death or personal injury caused by any act or omission of the Solution Provider, its employees or agents;
 - (ii) any third party claims for infringement of a copyright, patent, trademark or other intellectual property right of any third party including claims made by agents of the Solution Provider against SEBI for any breach committed by the Solution Provider in relation to such third parties;

- (iii) any claims arising out of the breach of any applicable laws by the Solution Provider, its employees or agents;
- (iv) any claims arising out of breach of the terms and conditions of confidentiality, non-disclosure, non-solicitation and related terms and conditions.

Notwithstanding the foregoing; Solution Provider shall not be obliged to indemnify SEBI if the claim mentioned therein arises out of any:

- (i) use of the services, deliverable, developed materials and other materials provided to SEBI by Solution Provider in a manner or purpose not intended by the Project Plan or against specific instructions of the Solution Provider, or
 - (ii) use of the services, deliverable, developed materials and other materials provided to SEBI by the Solution Provider in conjunction with third party materials of services if the claim of infringement would not have arisen in the absence of such use, or
 - (iii) use of the services, deliverable, developed materials and other materials provided to SEBI by the Solution Provider that are being designed or made to specifications to the order of SEBI, or
 - (iv) if the infringement is occasioned by a modification to the services, deliverable, developed materials and other materials provided to SEBI by the Solution Provider.
- c. SEBI will defend, indemnify and hold the Solution Provider harmless from and against all losses, damages or costs arising out of or resulting from any action by a third party against the Solution Provider that is based upon any claim that the possession or use of any material supplied by SEBI in connection with the Services under this Agreement infringe a patent, copyright or other proprietary right or violate a trade secret of such third party and or for any loss, injury, claim or damage resulting from any death or injury to any person or property of the Solution Provider arising out of the use or possession of the equipment or location of SEBI by the Solution Provider or its personnel.

12. Intellectual Property Rights

- i. All Custom Software/customizations developed and furnished solely and exclusively for SEBI under this Agreement, shall be deemed a work made for hire, for the sole benefit of and belonging exclusively to SEBI. All rights, title and interest in and to such Custom Software/customizations and all copies thereof, in whatever medium (and including all Moral Rights thereto) throughout the world shall become owned exclusively by SEBI. Intellectual property and Source Code in the deliverables/software developed under this Agreement vest with SEBI upon the delivery and acceptance of deliverables and the receipt of payment by Solution Provider.

- ii. The Solution Provider and its employees and agents expressly waive any and all moral rights in the Custom Software, and any elements thereof, created, performed, contributed or prepared by the Solution Provider and its employees and agents pursuant to this Agreement. SEBI shall have the exclusive right to obtain and hold in its own name, all the Intellectual Property Rights in such Custom Software.
- iii. The Solution Provider shall give SEBI all reasonable assistance required to perfect the foregoing rights to the Custom Software/customizations, including (but not limited to) directing its employees to execute all applications for patents, trademarks, and/or copyrights, domestic and foreign, assignments and other papers necessary to secure and enforce rights related to any Custom Software.
- iv. SEBI acknowledges that in performing Services under this Agreement, the Solution Provider may use the Solution Provider's proprietary materials including without limitation any software (or any part or component thereof) tools, methodologies, processes, ideas, know-how and technology or any improvements, enhancements, modifications or customization thereto (Solution Provider Pre-Existing IP).
- v. Notwithstanding anything to the contrary contained in this Agreement, the Solution Provider shall continue to retain all the ownership rights, title and interests to all Solution Provider Pre-Existing IP and nothing contained herein shall be construed as preventing or restricting the Solution Provider from using Solution Provider Pre-Existing IP in any manner. To the extent that any Solution Provider Pre-Existing IP or a portion thereof is incorporated or contained in a Deliverable under this Agreement, the Solution Provider hereby grants to SEBI a fully paid-up, irrevocable, non-exclusive, license for non-commercial use throughout the territory of India to access, replicate and use any Solution Provider Pre-Existing IP (in connection with the Deliverables and only as part of the Deliverables in which they are incorporated or embedded) which are (a) embedded in the Systems; or (b) necessary for the proper utilization of the SEBI "Implementation of Data Analytics Projects and Building of Data Models at SEBI", provided by the Solution Provider, including all inventions, designs and marks, embodied therein in perpetuity.
- vi. The foregoing license does not authorize SEBI to :
 - separate Solution Provider Pre-Existing IP from the Deliverable in which they are incorporated for creating a standalone product for marketing to others; or
 - independently sell, lease, exchange, mortgage, pledge, license, sub license, assign or in any other way convey, transfer or alienate the Solution Provider Pre-Existing IP in favour of any person (either for commercial consideration or not (including by way of transmission), and/or reverse compile or in any other way arrive at or attempt to arrive at the source code of the Solution Provider Pre-Existing IP.

- vii. Notwithstanding anything to the contrary set forth anywhere else in the RFP or the Agreement,, the Solution Provider shall not use any third party or the Solution Provider's proprietary software in the implementation of the **"Implementation of Data Analytics Projects and Building of Data Models at SEBI"** that is not available to SEBI in the market on reasonable commercial terms. The Solution Provider shall identify all software and hardware that is necessary for the proper performance of the **"Implementation of Data Analytics Projects and Building of Data Models at SEBI"** clearly to SEBI prior to execution of this Agreement.
- viii. All the Intellectual Property Rights in the third party software used in providing services including those forming part of or incorporated into the deliverables referred to above shall remain with the respective third party owners/ the Solution Provider's licensor and SEBI shall have user rights in accordance with end user license agreement (EULA) as applicable to use of such software.
- ix. If any of the Deliverables is held or is believed by the Solution Provider to infringe third party intellectual property rights, the Solution Provider shall have the option, at its expense, to:
- modify the Deliverables so as to make it non-infringing, or
 - obtain for SEBI a license to continue using the Deliverables.

13. Non Solicitation

Neither Party shall, without the consent of the other Party, employ or offer to employ (whether under a contract of service or under a contract for services) any person engaged or previously engaged by the other in a technical or managerial capacity in relation to the Project, during the subsistence of this Agreement and until a period of 24 (twenty four) months has expired after the termination or expiry of this Agreement.

For the avoidance of doubt, this restriction applies only to those employees who are connected with the Services performed under this Agreement. The clause does not prevent hiring based on responses by employees to public advertisement on any media that are not specifically targeted at the other Party's employees.

14. Force Majeure

- i. The Solution Provider or SEBI shall not be responsible for delays or non-performance of any or all contractual obligations, caused by war, revolution, insurrection, civil commotion, riots, mobilizations, strikes, blockade, acts of God, epidemics, fire, flood, obstructions of navigation by ice of Port of dispatch, acts of Government or public enemy or any other event beyond the control of either Party, which directly, materially and adversely affect the performance of any or all such contractual obligations.

- ii. Provided either Party shall immediately upon the occurrence of such a cause notify the other in writing of such causes. Unless otherwise directed by SEBI in writing, the Solution Provider shall continue to perform his obligations under this Agreement as far as possible, and shall seek all means for performance of all other obligations, not prevented by the Force Majeure event.
- iii. In the event that the said Force Majeure event exceeds 15 (fifteen) days, SEBI shall have the option of terminating this Agreement upon reasonable advance written notice to the Solution Provider. However, the Solution Provider shall be entitled to receive payments for all services and deliverables rendered up to the date of the termination of this Agreement.
- iv. If the performance in whole or in part or any obligation under this Agreement is prevented or delayed by any reason of Force Majeure for a period exceeding 90 (Ninety) days, either party may at its option terminate the contract without any financial repercussion on either side.

15. Publicity

- i. Neither Party shall use any name, mark or symbol of the other in any publicity release or advertising material or for any other purpose whatsoever without securing the prior written consent of the other.
- ii. Neither Party shall use the other Party's name or refer to the other Party directly or indirectly in any media release, public announcement or public disclosure relating to this Agreement or their subject matter, including in any promotional or marketing materials, customer lists, referral lists or business presentations without written consent from the other Party for each such use or release.

16. Waiver

No forbearance, indulgence or relaxation's by any Party at any time to require performance of any provision of this Agreement shall in any way affect, diminish or prejudice the right of such Party to require performance of that provision and any waiver by any Party or any breach of any provisions of this Agreement shall not be construed as a waiver or an amendment of the provisions itself, or a waiver of any right under or arising out of this Agreement.

17. Non-Assignment

The Solution Provider shall not assign in a manner contrary to the terms of this Agreement deal with all/ or any of its rights and obligations under this Agreement without the prior written consent of SEBI.

18. Severability

If any part, provision, representation or warranty of this Agreement is found to be invalid, illegal or unenforceable under the applicable law, then only that part, provision, representation or warranty shall be deemed to be deleted as if it never formed part of this Agreement as long as such invalidity, illegality or unenforceability subsists. However,

the Parties shall, in good faith, strive to achieve the commercial meaning of such deleted part, provision, representation or warranty under the applicable law.

19. Shipment of Goods

<Applicable for Hardware Component>

- i. The Solution Provider shall provide such packing of the goods/products as is required to prevent any damage or deterioration during transit to their final destination as indicated in this Agreement and SEBI shall not be responsible for any loss, misplacement of the goods or products. The packing, crating and/or boxing shall be sufficient to withstand, without limitation, rough or improper handling during transit and open storage. Packing case size and weights shall always take into consideration the remoteness of the goods'/products' final destination and the absence of heavy handling facilities at all points.
- ii. Each case, packing or box shall be plainly marked to designated official of SEBI and will include inside a copy of the corresponding packing list identifying the contents, duly authenticated. All the goods or products under this Agreement shall be air freighted by the Solution Provider.
- iii. The components of Total Solution as indicated in Annexure'___' to this Agreement shall be delivered to at the office of
<address>
- iv. The components of total solution as indicated in Annexure '___' to this Agreement would be delivered at the office of
<address>
- v. Sealed packs shall be opened only in the presence of authorized officials of SEBI. Each case, packing or box shall include inside a copy of the corresponding packing list identifying the contents. While unpacking the goods/products, the Solution Provider shall check physical availability of items as per the packing list.
- vi. The accessories (utilities, packaged software, etc. including complete set of manuals) as given by the principals' should be delivered with the hardware.
- vii. SEBI shall certify the acceptance of the delivered material in accordance with Bill of Materials after checking and inspecting the same.
- viii. Delivery of Products shall be deemed to have been made when the contents of the cases, boxes or packages are witnessed together by SEBI and the Solution Provider or their representatives, to be identical to those listed in the packing list included therein, installed and verified the internal components. However, this proof of delivery to the final destination shall in no way absolve or release the Solution Provider from the performance of his warranty obligations under this Agreement.

20. Delivery, Installation and Commissioning

- i. The Total Solution shall have a complete licensed copy of all the software/hardware/networking/security components.
- ii. The Solution Provider shall furnish certified true copies of all back to back license/support agreements entered into by the Solution Provider for providing Total Solution under this Agreement and ensure that the same are valid and in force during the term of this Agreement.
- iii. All the goods or products under this Agreement shall be delivered to the final destination specified by SEBI in this regard and all the costs till the time the goods or products are delivered shall be borne by the Solution Provider. The breakup costs of delivery costs like storage, loading, unloading, etc. shall be included in the Agreement Price. All the documents like Invoice, Packing list, Guarantee Certificates, Solution Provider' inspection reports, Insurance certificate, certificate of origin, etc. shall be provided by the Solution Provider to SEBI. The Solution Provider shall also be responsible for the goods/products until their acceptance by SEBI.
- iv. The Solution Provider shall be responsible for installation and commissioning of the Systems including cabling and other related activities such as unpacking, uncarting, inspection etc. for which SEBI shall provide the required space. While unpacking and installation, the Solution Provider shall check physical availability of items as per the packing list. Delivery of goods or products shall be deemed to have been made when the contents are installed and components are witnessed together by SEBI and the Solution Provider or their representatives, to be identical to those listed in the packing list included therein. Delivery shall be considered complete only after items are accepted by SEBI. Further, the proof of delivery to the final destination shall in no way absolve/release the Solution Provider from the performance of his warranty obligations under this Agreement.
- v. The Solution Provider shall number the systems as indicated by SEBI, at the time of installation and commissioning.
- vi. Installation and configuration of the systems at site(s), including unpacking of cartons/boxes, shall be the responsibility of the Solution Provider.
- vii. SEBI reserves the right to install third party software/hardware or any other products in the systems as mutually agreed between the parties. In such case, there shall be no change in the warranty terms of the existing system as provided by the Solution Provider.
- viii. If SEBI desires to relocate the data centre for SEBI "Implementation of Data Analytics Projects and Building of Data Models at SEBI" to any other location during the implementation/post implementation, the Solution Provider shall assist in de-installation and re-installation of entire solution. However, this exercise may be on chargeable basis, which shall be reasonable. SEBI reserves the right to shift systems to new locations within the country and the Solution Provider hereby agrees to assist SEBI during such process. The risks

and costs of relocation shall be borne by SEBI and in such a case, there shall be no change in the warranty terms. In addition to above, the Solution Provider shall provide necessary assistance and detailed guidelines to SEBI to set up a level 3 data centre at the identified location. SEBI shall bear the responsibility of setting and maintaining the data centre.

ix. The Solution Provider shall not encourage or partake in software piracy in any manner.

21. Reference to Expert Committee¹

All disputes and differences concerning Deliverable and changes of any kind, whatsoever, between the Solution Provider and SEBI, shall be referred to an Expert Committee and the decision of the Expert Committee will be final and binding on the Parties.

The Expert Committee appointed under this clause shall:

- i. make a determination based upon the information made available by the Parties;
- ii. make a determination having regard to the obligations of the Parties under this Agreement;
- iii. notify the Parties in writing of their decision within 10 (ten) Business Days of referral of the dispute;

Expert Committee shall act as experts not as arbitrators and the cost of the Expert Committee's determination shall be borne equally by the Parties;

The Solution Provider shall continue to work under the Agreement during the reference to Expert Committee unless otherwise directed by the Expert Committee or by SEBI in writing, or unless the matter is such that the works cannot possibly be continued until the decision of the Expert Committee, is obtained;

If the dispute is not resolved in the above mentioned resolution phases, then the dispute shall be referred to Arbitration.

22. Insurance

- a. The Solution Provider shall fully insure each and every goods or products supplied under the total solution against all risks including terrorism, riots and civil commotion, up to the point of installation or up to 30 days from actual delivery date, whichever is earlier, with an insurance company/corporation.
- b. The goods supplied under this Agreement shall be fully insured in Indian Rupees naming SEBI as the beneficiary. The Solution Provider shall submit insurance documents along with the delivery of corresponding products to SEBI.
- c. In case of any loss or damage occurs, the Solution Provider should be responsible for initiating and pursuing claims and settlement and simultaneously also make arrangements for repair and/or replacement of any damaged item/s.
- d. The sum assured shall be 125% of the goods supplied.

¹ **"Expert Committee"** means and comprise of independent experts in the field of information technology and finance as appointed by the parties within 2 (two) weeks from Effective Date

23. Correspondences

SEBI and the Solution Provider shall nominate a Project Manager each immediately on acceptance of the order, whom shall be the single point of contact for the project at Mumbai. However, for escalation purpose, details of other persons shall also be given. The project manager nominated by the Solution Provider should have prior experience in implementing similar systems in the past.

24. Change Management Procedure <Officer may remove this section if not applicable>

- i. During the course of implementation, it may be found that certain functionalities have been missed out in the Requirement Gathering Phase. The Solution Provider shall be required to incorporate these functionalities as part of this project. SEBI estimate that effort for such functionalities would be <changes to be implemented at no additional cost to SEBI, in percentage terms> of the total effort estimated for the implementation of the project and the Solution Provider shall provide these services at no additional charge to SEBI. Solution Provider shall be responsible for collation of all such enhancement requests submitted by SEBI. Change Control Requests (CCR) for enhancements shall be generated by SEBI clearly defining the functionality and desired calendar time for the implementation. The Solution Provider shall provide SEBI with a written estimate of the effort necessary for the implementation of the requested enhancements. Upon approval by SEBI, the Solution Provider shall prioritize development and carry out implementation of the enhancements in a controlled and efficient fashion.
- ii. Any enhancement effort in addition to the enhancement estimates as mentioned in clause 23.i shall be provided on a time and materials basis at the rates agreed by the parties in this regard and also referred to Annexure '___' of this agreement.
- iii. The Solution Provider shall provide details of effort estimation methodology followed internally to calculate the effort estimates including the tools and strategy used.
- iv. The Solution Provider shall also provide a detailed post-implementation post go-Live change management system including but not limited to:
 - Change request procedures
 - Software development/customization
- v. Documentation which includes design details, test cases executed vulnerability analysis etc. in addition to the user documentation.
- vi. In order to ascertain the road map of the proposed solution, the Solution Provider shall submit an assessment of following items but not limited to:
 - extent of customization and integration possible
 - available and proposed APIs
 - ability to include new features

25. Project Management and Correspondences

- i. SEBI shall designate certain positions within Solution Provider's staff as key Solution Provider's personnel and no Solution Provider's personnel shall be designated as a key Solution Provider's personnel unless SEBI's approval is obtained. The Solution Provider shall also, before commencement of each Phase of the Project, identify and designate the key personnel (lead resources) for such Phase.
- ii. The Solution Provider shall provide SEBI with the resumes of all personnel it proposes to staff as key Solution Provider's personnel and SEBI shall have the right to approve or reject such personnel in its sole and absolute discretion.
- iii. The Solution Provider shall not change any key Solution Provider's personnel approved by SEBI without the prior written approval of SEBI, which shall not be unreasonably withheld. However, no such approval shall be required in case of death, illness, retirement or resignation of such key Solution Provider personnel.
- iv. Prior to replacement of key Solution Provider's personnel, the Solution Provider should provide to SEBI the resumes of at least two (2) alternate members of its staff who have the same or better experience than the person who is being replaced and any replacement shall happen only once SEBI has approved the replacement personnel and such replacement personnel have had reasonable time to acquaint himself/herself with the functions being discharged by the present incumbent of the key Solution Provider's personnel position.
- v. The Solution Provider's personnel assigned to these positions shall be committed to the SEBI "Implementation of Data Analytics Projects and Building of Data Models at SEBI" project at least for a period of twenty four (24) months at any given time and the Solution Provider shall also intimate SEBI in advance of any leave proposed to be taken by its key personnel for a minimum period of six (6) months from the date on which completion of the Project.
- vi. Each key Solution Provider's personnel shall execute a Confidentiality and Non-Disclosure Agreement as also an Undertaking inter alia undertaking that they shall not disclose any information acquired while dealing with the Project which is confidential in nature to anybody including their relatives and shall intimate SEBI or the Solution Provider before they or their relatives access the securities market during the implementation period of the Project.
- vii. SEBI and the Solution Provider shall each allocate a full time Project Manager who will interact with each other in the implementation of the Project and all other related matters.
- viii. SEBI's Project Manager shall be available to the Solution Provider at all reasonable times in matters connected to the assignment and shall be the single point contact in the matters related to the assignment. The Solution Provider's Project Manager shall have the

responsibility and the necessary authority to deal with all day-to-day matters under this Agreement on behalf of the Solution Provider.

26. Deemed Acceptance

- a. In case SEBI (i) does not provide any review comments within the below mentioned period and/or (ii) starts using the Deliverables/ Systems in a live production environment after the below mentioned period, then the Deliverables/Systems shall be deemed to be unconditionally and absolutely accepted by SEBI whether SEBI provides such acceptance certificate to the Solution Provider or not and the Solution Provider shall be entitled to receive the charges due on acceptance.

Sl. No	Type of Acceptance	Deemed Acceptance Period
A.	Intermediate acceptance which are not linked to payment terms	<No of days> Business Days
B.	Acceptance at the end of each milestone (where payment would be involved)	<No of days> Business Days
C.	Final Acceptance	<No of days> Business Days

- b. If any acceptance test fails at any stage, then it shall be repeated from the beginning, after the Solution Provider rectifies the problem, to comply with the specifications agreed upon by both the Parties and certify that the solution delivered for acceptance test is per the specifications. The deemed acceptance period would in such case recommence from the date of such certification.

27. Representation and Warranties

1. The Solution Provider represents and warrants to SEBI as under:
- that the Solution Provider has the experience and the technical know-how to undertake the Project and provide the Services under this Agreement.
 - that the Solution Provider has a valid license for the all software which form an integral part of the Total Solution.
 - The Services and the Systems, Products or any software provided, do not infringe, and shall not infringe or cause the infringement of, the proprietary rights of any third party.
 - The Service and the System shall utilize current and proven technologies.
 - The Services to be provided hereunder shall be performed with qualified personnel in accordance with the applicable time schedules (or otherwise in a timely manner).
 - The Services and Systems shall be provided in a good and workman like manner, in accordance with the applicable Technical Specifications and Acceptance Criteria and at least at the same level and with the same degree of accuracy, quality, completeness, responsiveness and cost effectiveness which are consistent with good industry standards.

- vii. The Systems, Products or software provided hereunder properly interface with other systems, properly interface with each other, perform together as an integrated system and, as an integrated system, meet the warranties in this Agreement, including but not limited to the meeting of the Technical Specifications.
 - viii. The Systems provided hereunder shall function as designed and be fit for the purpose for which they have been provided and will be otherwise be free of errors and defects that interrupt systems operations or otherwise negatively impact normal operations or business processes.
 - ix. During the term of this Agreement, the Services, Systems and any software provided shall not contain or introduce any viruses, bugs or disabling Codes. In the event of any such virus being introduced into SEBI's systems, the Solution Provider shall use its best efforts to minimize the impact of such virus.
2. All the Hardware and Software supplied under this Agreement shall be covered under Warranty for the duration of the **<warranty period>** years commencing from the date of acceptance of the total solution.
 3. The Solution Provider shall undertake to maintain the Total Solution for a minimum period of **<AMC Period>** from the date of the expiry of the warranty period, with price break-up for each year. However, SEBI reserves right to enter into AMC for one or more years after Warranty at the finalized price and terms. If the Solution Provider fails to offer AMC for **<AMC Period>**, then the Bid is liable for rejection.
 4. SEBI reserves the right to enter into AMC for part or full project/items. During AMC period if a particular product/hardware/software/component/services is discontinued or removed from the AMC contract, SEBI shall not pay the corresponding amount reserved for that components/product/service, etc.
 5. SEBI represents and warrants to Solution Provider that all material or information provided by it to the Solution Provider in connection with or for the purposes of this Agreement are either owned by it or under proper license and the use and possession thereof by SEBI in connection with or for the purposes of this Agreement will not Infringe the rights of any third parties.

28. Maintenance

The scope of work for the maintenance period shall include:

1. The correction of any defects that may arise from the design or workmanship or from any act or omission of the Solution Provider that may develop under normal use of the supplied Systems. Normal operating environmental conditions shall be specified in the Agreement. On receiving the notification from SEBI, the Solution Provider shall carry out the repair / replace the defective systems as per the SLA's mentioned in the RFP/Purchase order (PO) document. This will be done at no extra cost to SEBI. Failure to remedy the defects within the period specified in this Agreement, may involve remedial action by SEBI at the Solution Provider'

risk and expense and without prejudice to any rights that SEBI may have against the Solution Provider under this Agreement.

2. The provision of Emergency Maintenance Support including providing support and remedial services for problems that render the “Implementation of Data Analytics Projects and Building of Data Models at SEBI” unavailable or unresponsive; resolving any issues and correcting errors within the proposed products /solutions irrespective of the source of such problem; and working closely with SEBI to provide timely problem resolution and contingency planning for the Enterprise SOC and NOC.
3. Corrective maintenance
4. Preventive maintenance
5. Enhancement Services: The Solution Provider shall provide Enhancement Services as per the agreed Change Management Procedure. The Solution Provider shall work with SEBI to package maintenance patches and enhancements into releases based on SEBI’s business and technical priorities. Solution Provider may include, in each release, emergency maintenance fixes, and/or critical bug fixes available but not yet implemented. In the case of a release containing maintenance patches and enhancements, only the portion of the release that would otherwise have constituted an Enhancement will be treated as an Enhancement, unless otherwise approved by SEBI.
6. Production Support and continuous improvement support: Solution Provider shall correct all problems with the “Implementation of Data Analytics Projects and Building of Data Models at SEBI” in all the environments and shall minimize the impact on the total solution, SEBI and the authorized users of the solutions.
7. Fixation of bugs and patches, upgrades, updates, releases, versions of application software and system software, also carry out its implementation
8. The offer must give commitment to provide maintenance at the price quoted for <AMC Period> (mention rates separately for each of the <AMC Period>) from the date of expiry of three-year warranty.
9. Replacement equipment shall be covered under warranty for a three-month period, or the time remaining in the Warranty Period for the item replaced, whichever is greater. The Warranty Period for replacement Software shall be identical to the initial warranty period for the defective Software unless otherwise specified in the agreement/ contract. During the Warranty Period, the Solution Provider will provide at no additional cost to SEBI all Product and documentation updates, releases, upgrades, patches, bug fixes etc. of all products including system software within 15 days of their availability.

10. The AMC payment shall be released quarterly in arrears. SEBI reserves the right to enter into AMC for part or full project/items.
11. As a part of the maintenance agreement/ contract, the Solution Provider shall provide software updates, releases, upgrades, version upgrades, versions etc. of all the Application Software, System Software, Custom Software and any other software included in the Products and also carry out its implementation.
12. SEBI may decide to outsource the maintenance of the systems to a third-party or SEBI may decide to perform the maintenance in-house. In such case, the Solution Provider shall undertake to provide to the persons / agencies, authorized by SEBI for the purpose, requisite maintenance training, technical know-how kits, and expert assistance on terms mutually agreed upon between SEBI and the Solution Provider.
13. The Solution Provider acknowledges that the “Implementation of Data Analytics Projects and Building of Data Models at SEBI” performs a very important function and that its continued availability of all of the functionality plays an integral role in the effective discharge of roles and functions of SEBI. Hence the Solution Provider agrees that the services provided by the Solution Provider in relation to the technical support and maintenance shall be subject to a service level agreement and appropriate service level commitments. The Solution Provider agrees that in the event that the Solution Provider defaults in meeting such agreed service level commitments, in addition to the other remedies that SEBI has (such as Liquidated Damages), SEBI shall also be entitled to Service level credits as may be agreed to between the Parties.

29. Solution Provider’s Obligations

- i. The following forms illustrative obligations of the Solution Provider. These are not exhaustive.
- ii. The Solution Provider shall be solely responsible for the performance and completion of all his obligations.
- iii. The Solution Provider shall abide by the job safety, insurance, customs and immigration measures prevalent and laws in force in India, and shall indemnify SEBI and keep SEBI harmless at all times against all demands or responsibilities arising from accidents or loss of life, the cause of which is the Solution Provider’s negligence. The Solution Provider shall pay all indemnities arising from such incidents and shall not hold SEBI responsible or obligated.
- iv. The Solution Provider shall be responsible for and obligated to conduct all contracted activities with due care and diligence, in accordance with this Agreement and using state-of-the-art methods and economic principles, and exercising all reasonable means to achieve the performance specified in this Agreement.
- v. The Solution Provider shall be obliged to give sufficient support to SEBI’s staff, work closely with SEBI’s staff, act within its own authority, and abide by directives issued by SEBI that are consistent with the terms of the Agreement. The Solution Provider

shall be responsible for managing the activities of its personnel and any sub-contracted personnel, and will hold itself responsible for any misdemeanours.

- vi. The Solution Provider shall appoint an experienced Representative to manage its performance of the Agreement/ contract within 15 (fifteen) days of signing of the Agreement. The Representative shall be authorized to accept orders and notices on behalf of the Solution Provider, and to generate notices and commit the Solution Provider to specific courses of action within the scope of this Agreement.
- vii. The Representative may be replaced only with the prior written consent of SEBI. The Solution Provider shall be solely responsible for the performance of the Agreement to the satisfaction of SEBI.
- viii. SEBI shall designate certain positions within the Solution Provider's staff as key personnel. The Solution Provider's personnel assigned to these positions shall be committed to the "Implementation of Data Analytics Projects and Building of Data Models at SEBI" project for a minimum period of 24 months from the date on which they commence work for SEBI under this project. No Solution Provider's personnel shall be staffed as key Solution Provider's personnel unless SEBI's approval is obtained. The Solution Provider must provide SEBI with the resumes of all personnel it proposes to staff as key Solution Provider's personnel and SEBI shall have the right to approve or reject such personnel in its sole and absolute discretion. The Solution Provider shall not change any key Solution Provider's personnel approved by SEBI without the prior written approval of SEBI, which shall not be unreasonably withheld. Prior to replacement of key Solution Provider's personnel, the Solution Provider shall provide the SEBI the resumes of at least 2 (two) alternate members of its staff who have the same or better experience than the person who is being replaced and any replacement shall happen only once SEBI has approved the replacement personnel and such replacement personnel have had reasonable time to acquaint himself/herself with the functions being discharged by the present incumbent of the key Solution Provider's personnel position.
- ix. The Solution Provider shall always send trained and experienced engineers to provide services at required locations of SEBI. Their name, contact address and phone nos. shall be advised in writing to SEBI.
- x. Whenever any designated personnel of the Solution Provider is leaving his job, the Solution Provider shall immediately inform the same on receipt to give prior information about this to SEBI.
- xi. The Solution Provider's engineer(s) shall always work on SEBI networks & devices from SEBI premises and shall never enter into SEBI network from any other public or private network under any circumstance.
- xii. The Solution Provider's engineer(s) shall not change the password of network, security devices / applications software / tools without the knowledge of SEBI's IT Team. In case they are aware about any password(s), they shall not share it with anyone other than SEBI's team without prior written approval from SEBI's Team.
- xiii. If necessary, SEBI may escalate the call to higher authorities of the Solution Provider. In that case, the Solution Provider shall put their maximum efforts and deploy their best

resources to resolve the calls at the earliest possible time frame at all locations and ensure appropriate uptime.

- xiv. The Solution Provider shall be responsible for any or all act of its employees that may result in security breach in respect of SEBI network.
- xv. The Solution Provider shall assign personnel of appropriate qualifications and experience to perform the services in order to fulfil its obligations.
- xvi. The Solution Provider shall designate one of its personnel as the Project Manager, to interact with the Designated Customer Support Contact from SEBI for the purposes of getting approvals, progress report, discussing and resolving issues, arranging meetings, etc.
- xvii. The Solution Provider shall exercise requisite control and supervision over its personnel in the course of rendering the services and make best efforts to ensure that the services are rendered in a continuous and uninterrupted manner.
- xviii. The Solution Provider shall always respect the confidentiality of all information given to it by SEBI and shall not divulge such information to any third party or other units without the prior written consent of SEBI.
- xix. The Solution Provider shall promptly install/implement the corrected licensed software and/or maintenance releases provided at the Designated Location(s) of SEBI at no additional cost or fees or expenses.
- xx. The Solution Provider shall undertake regular preventive maintenance of the licensed software.
- xxi. All bug fixations / modifications / enhancements relating to the licensed software shall be done by the Solution Provider in a time bound manner as per the SLA. The Solution Provider shall adopt a common, smooth, timely and effective and satisfactory bug/enhancement handling mechanism. The Solution Provider agrees that the errors resulting from the licensed software shall not be attributed to alleged misuse, improper use, alteration or damage by users. The Solution Provider shall compensate SEBI such financial loss suffered by SEBI if the Solution Provider fails to fix bugs, provide the modifications / enhancements / customization as required by SEBI as per the terms and conditions of this Agreement and to meet the services level agreements as will be entered into by the Solution Provider with SEBI.
- xxii. The Solution Provider is obliged to work closely with SEBI's staff, act within its own authority and abide by directives / instructions issued by SEBI from time to time. The Solution Provider will abide by the job safety measures prevalent in India and will free / indemnify Purchaser from all demands or responsibilities arising from accidents or loss of life, the cause of which is the Solution Provider's negligence. The Solution Provider shall pay all indemnities arising there from and shall not hold SEBI responsible or obligated.
- xxiii. The Solution Provider shall be required to develop, maintain and manage the proposed services to enable SEBI to meet its requirements. It shall be the Solution Provider's responsibility to ensure compliance to the requirements of the continued operation of the intended services in accordance with and in strict adherence to the terms of this Bid,

the RFP and this Agreement.

- xxiv. In addition to the aforementioned, the Solution Provider shall ensure that the Solution Provider's Team is competent, professional and possesses the requisite qualifications and experience appropriate to the task they are required to perform under this Agreement. The Solution Provider shall ensure that the Services are performed through the best efforts of the Solution Provider's Team, in accordance with the terms hereof and as per Acceptance Criteria. Nothing in this Agreement shall be considered to relieve the Solution Provider from its liabilities or obligations under this Agreement to provide the Services in accordance with the SEBI's directions and requirements and as stated in this Agreement and the Bid to the extent accepted by the SEBI and the Solution Provider shall be liable for any non-performance, non-compliance, breach or other loss and damage resulting either directly or indirectly by or on account of its Team.
- xxv. All personnel so employed/engaged by the Solution Provider shall all times be the employees of the Solution Provider under all statutes and in case any dispute arises between such personnel and the Solution Provider, it shall be resolved and settled between them. The Solution Provider agrees and undertakes that in no way the Solution Provider shall involve SEBI in any of their grievances and/or disputes. The Solution Provider undertakes to indemnify SEBI against any and all claims, proceedings, actions, damages, losses, costs and expenses arising out of a) such grievances or disputes b) noncompliance of applicable law c) non-payment / delays in payment of dues of its employees d) settlement / payments of any claim or penalty or dues pertaining to employees of the Solution Provider d) cost of litigation, proceeding including fees of legal professionals engaged by SEBI for defending or responding or pursuing such litigation / proceedings. The Solution Provider shall maintain all books and records as are required to be maintained under the applicable rules, regulations and laws including muster roll, wage register, leave register etc. and the Solution Provider shall be solely and personally responsible and liable for the breach of any or all of the statutory obligations in respect of all its employees etc. engaged under this Agreement and SEBI shall in no way be held responsible for any breach committed by the Solution Provider in this regard. During the terms of this Agreement as well as after expiry / termination of this Agreement, SEBI shall not have any privity of contract with designated employees of the Solution Provider.
- xxvi. SEBI shall not be held liable or responsible for any claim (monetary or otherwise), damage (of any kind) or liability suffered by the Solution Provider and/or its employees, employed / engaged for providing services under this Agreement. The Solution Provider undertakes that no claim / dispute shall be raised against SEBI by contractors or employees engaged by the Solution Provider.
- xxvii. The Solution Provider shall supply to the SEBI, at least 10 (ten) days prior to the effective date of commencement of works/services or kick-off meeting whichever is earlier, an organization chart showing the proposed organization/manpower to be established by the Solution Provider for execution of the work/facilities/services including the identities and Curriculum-Vitae of the key personnel to be deployed. The Solution Provider shall inform SEBI in writing in advance, of any revision or alteration

of such organization charts.

- xxviii. The Solution Provider shall provide necessary supervision during the site preparation and installation of the equipment at the Data Centre and as long thereafter as SEBI may consider necessary for the proper fulfillment of the Solution Provider's obligations under this Agreement. The Solution Provider or his competent and authorized representative(s) shall be constantly present at the whole time for supervision. The Solution Provider shall authorize the Supervisor or his representative to receive directions and instructions (if any) from SEBI's Representative.
- xxix. The Solution Provider shall be responsible for the deployment, transportation, accommodation and other requirements of all its employees required for the execution of the work and for all costs/charges in connection thereof or incidental thereto.
- xxx. The Solution Provider shall provide and deploy, on the Site for carrying out the work, only those manpower resources who are skilled and experienced in their respective trades and who are competent to execute or manage/supervise the work in a proper and timely manner.
- xxxi. SEBI's Representative may at any time object to and require the Solution Provider to remove forthwith from the site a supervisor or any other authorized representative or employee of the Solution Provider or any person(s) deployed by Solution Provider, if, in the opinion of SEBI's Representative the person in question has misconducted himself or his deployment is otherwise considered undesirable by SEBI's Representative. The Solution Provider shall forthwith remove and shall not again deploy the person in question at the work site without the prior written consent of SEBI's Representative.
- xxxii. SEBI's Representative may at any time direct the Solution Provider to remove from the work / Site the Solution Provider's supervisor or any other authorized representative including any employee of the Solution Provider or any person(s) deployed by the Solution Provider for professional incompetence or negligence or for being deployed for work for which he is not suited. The Solution Provider shall take necessary steps to remove that person from deployment on the work, which the Solution Provider shall then forthwith do and shall not again deploy any person so objected to on the work or on the sort of work in question (as the case may be) without the written consent of SEBI's Representative.
- xxxiii. The Solution Provider shall maintain backup personnel and shall promptly provide replacement of every person removed, pursuant to this section, with an equally competent substitute from the pool of backup personnel.
- xxxiv. In case of change in its team composition owing to attrition, the Solution Provider shall ensure a reasonable amount of time-overlap in activities to ensure proper knowledge transfer and handover/takeover of documents and other relevant materials between the outgoing and the new member. The exiting team member should be replaced with an equally competent substitute from the pool of backup personnel. The Solution Provider shall ensure that the project or services should not be adversely affected due to any change in team deployed / engaged to provide Services under this Agreement.
- xxxv. The Solution Provider shall comply with the provision of all laws including Information

Technology Act (as amended), labour laws, rules, regulations and notifications issued there under from time to time. The Solution Provider shall comply with all norms relating to data protection including any law or rules or regulations that may be in force during the term of this Agreement. All safety and labour laws enforced by statutory agencies and by SEBI shall be applicable in the performance of this Agreement and Solution Provider shall abide by these laws.

- xxxvi. The Solution Provider shall promptly but not later than two days, report to the SEBI any evidence, which may indicate or is likely to lead to an abnormal or dangerous situation and shall take all necessary emergency control steps to avoid such abnormal situations.
 - xxxvii. The Solution Provider shall also adhere to all security requirement/regulations of the SEBI during the execution of the work.
 - xxxviii. The Solution Provider and its employees shall ensure to obtain permissions for bringing or using any electrical equipment, portable devices etc. from SEBI.
 - xxxix. The Solution Provider and its employees shall always adhere to internal security and safety policies of SEBI.
 - xl. The Solution Provider shall put all efforts to ensure that no Computer Virus is introduced onto SEBI's or any user's computer equipment or systems by any act, omission or negligence of the Solution Provider or its employees. The User shall mean any entity using services, software, systems etc. provided by SEBI or licensed to SEBI.
- Access to the SEBI Data Centre should be strictly restricted in the following manner:**
- a) No access to any person except one explicitly authorized by SEBI shall be allowed entry. Even if granted, access shall be restricted to the pertaining equipment of SEBI only and access to any other equipment must be strictly precluded by necessary means, locks, video surveillance, etc.
 - b) No access to any person (even if authorized by SEBI) shall be allowed without being unaccompanied by a security staff at all times during his/her presence in the Data Centre area and subject to recorded video surveillance.
 - c) No access to any employee of the Solution Provider, except the essential staff who have genuine work- related need, shall be given. All such access shall be logged in a loss-free manner for permanent record with unique biometric identification of the employee to avoid misrepresentations or mistakes.

30. Agreement/ contract Amendments

Any change made in any clause or clauses of this Agreement which shall modify the purview of this Agreement within the validity and currency of this Agreement shall be deemed as an Amendment. Such an Amendment can and shall be made and be deemed legal only when the Parties to this Agreement provide their written consent about the Amendment, subsequent to which the Amendment shall be duly signed by the Parties and shall be construed as a part of this Agreement. The details of the procedure for Amendment may also be specified in the Amendment.

31. Applicable Law and Jurisdiction

The law governing this Agreement shall be the laws of India and the Courts in Mumbai shall have exclusive jurisdiction to adjudicate any dispute(s) that may arise in connection or in relation to this Agreement including its interpretation thereof, irrespective of the place of the cause of action and rights and liabilities of the Parties hereto.

32. Governing Language

All correspondences and other documents pertaining to this Agreement shall be in English only.

33. Limitation of Liability

i. The Solution Provider shall be excused and not be liable or responsible for any delay or failure to perform the Services or failure of the Services or a Deliverable under this Agreement to the extent that such delay or failure has arisen as a result of any delay or failure by SEBI or its employees or agents or third party service providers to perform any of its duties and obligations as set out in this Agreement. In the event that the Solution Provider is delayed or prevented from performing its obligations due to such failure or delay on the part of or on behalf of SEBI, then the Solution Provider shall be allowed an additional period of time to perform its obligations and unless otherwise agreed the additional period shall be equal to the amount of time for which the Solution Provider is delayed or prevented from performing its obligations due to such failure or delay on the part of or on behalf of SEBI. Such failures or delays shall be brought to the notice of SEBI, immediately within 2 (two) days of occurrence such failures or delays and subject to mutual agreement with SEBI, the Solution Provider shall take such actions as may be necessary to correct or remedy the failures or delays and maintain record of all such incidents.

ii. Notwithstanding anything contained in this Agreement the total cumulative liability of either party arising from or relating to this Contract shall not exceed the total amount paid to the Solution Provider by SEBI under this Agreement (excluding the taxes, reimbursements etc.) during the **12 months** prior to the claim date that gives rise to such liability (as of the date the liability arose); provided, however, that this limitation shall not apply to any liability for damages arising from (a) willful misconduct or (b) indemnification against third party claims for infringement.

34. Extension of Bank Guarantees

The Solution Provider shall be responsible for extending the validity date and claim period of all the bank guarantees as and when it is due on account of incompleteness of work under guarantees. SEBI shall invoke the guarantee before expiry of validity if work is not completed and the guarantee is not extended, accordingly.

35. Stamp Duty

The stamp duty and any other incidental charges payable on this Agreement shall be borne and paid by the Solution Provider.

36. Order of Precedence

It is understood by the Parties that certain technical statements made in other documents may be additive and not considered conflicting or ambiguous. The order of Precedence shall be as follows:

- (i) The terms and conditions of this Agreement and the appendices attached to this Agreement;
- (ii) SEBI's Request For Proposal dated <Date of RFP>; Clarifications to the RFP issued by SEBI; Other Communications carried out through paper, email and, written submissions in meetings held for the purpose of this project;
- (iii) Solution Provider's Proposal dated <Date of RFP>; Solution provider's addendum

For the avoidance of doubt, the most recent document takes precedence in the event of ambiguity or conflict between the Contract Documents.

37. Exit Management / Transition Support

1. During the acceptance test, the Solution Provider shall provide at least two expert personnel at the site on a full time basis, in addition to such other personnel as may be deployed at the site by the Solution Provider for performance of this Agreement. These personnel shall be responsible for all transition supports, necessary to complete the acceptance test on the Systems. The details of the transition support shall be specified in the agreement/ contract
2. In the event that the SEBI decides to award the AMC (4th, 5th, 6th, 7th year) to any third party, the Solution Provider shall provide detailed termination assistance services to SEBI and/or a successor Solution Provider on termination/expiry of the AMC which shall enable SEBI/the successor Solution Provider to assume AMC responsibilities without any deterioration in the service levels.
3. The Solution Provider shall provide a comprehensive exit management/transition out plan to ensure smooth transfer of the services so as to continue to meet SEBI's business requirements in a way that minimizes unplanned business interruptions.
4. The Solution Provider shall include a project plan ("Transition Project Plan") indicating the tasks, timeframes, resources, and responsibilities associated with the transition activities.
5. The Solution Provider shall ensure that all the documentation required for smooth transition including configuration documents are kept up to date and is made available to SEBI at regular intervals as well as during the exit management process.

38. Sole Point of Contact:

Irrespective of whether or not the Solution Provider is the sole provider of the services and the systems that comprise the SEBI "Implementation of Data Analytics Projects and Building of Data Models at SEBI", the Solution Provider / lead Solution Provider in case of consortium shall be liable to SEBI for the provision of the "Implementation of Data Analytics Projects and Building of Data Models at SEBI" as contracted between SEBI and itself. The Solution Provider shall not be allowed to rely on failure by a third party (whether a consortium member or a subcontractor) to provide any hardware, software or services to excuse itself from a delay or a failure to discharge its obligations under this agreement/ contract.

39. Reporting Progress of the Project

The Successful Solution Provider shall monitor progress of all the activities specified in the program of works and submit free of cost weekly progress report about various aspect of the works/Services to the SEBI including hindrance if any. The Successful Solution Provider shall provide inventory details at the end of each month as per SEBI format.

40. Adherence to safety procedures, rules, regulations and restriction

1. The Solution Provider shall comply with the provision of all laws including labour and industrial laws, rules, regulations and notifications issued there under from time to time. All safety and labour and industrial laws enforced by statutory agencies and by SEBI shall be applicable in the performance of this Agreement and the Solution Provider shall abide by these laws. The Solution Provider shall indemnify and keep indemnified and hold harmless the SEBI for any loss, damage, claims, costs, charges, expenses, etc. arising out of and/or suffered on account of actions, litigations, proceedings, suits, arising out of breach of the above laws.
2. The Solution Provider shall take all measures necessary or proper to protect the personnel, work and facilities and shall observe all reasonable safety rules and instructions.
3. The Solution Provider shall also adhere to all security requirement/regulations of the SEBI during the execution of the work.

41. Termination

- a. It is agreed, without prejudice to any other remedy available in case of default on the part of either Party in the performance of this Agreement or in the discharge of any contractual obligations arising out of this Agreement, that either Party may terminate this Agreement if the other Party commits substantial breach of its obligations including but not limited to payment and such breach is not corrected within 30 (thirty) days from the date of receipt, by the defaulting Party, of a written notice of intended termination from the other Party, provided however that this period may be extended for an additional period of 30 (thirty) days, if the defaulting Party, has taken necessary steps to cure such breach under advice to the other Party.
- b. SEBI may at any time terminate this Agreement if the Solution Provider:
 - i. has winding-up or insolvency proceedings commenced against it which are not withdrawn within 14 (fourteen) days of such commencement;
 - ii. is placed in voluntary liquidation or has a receiver, receiver and manager or other administrator nominated by a creditor or creditors appointed in respect of its assets;
 - iii. enters into or proposes to enter into any scheme of arrangement or any composition for the benefit of its creditors, save for the purpose of solvent reconstruction;
 - iv. becomes subject to any event analogous to, or enters into any arrangement analogous to, any of those events or arrangements referred to in paragraphs above;
 - v. has change in its ownership or control so as to materially impede its ability to discharge its obligations under this agreement; or,

- vi. is not able to perform any or all of its contractual obligations pursuant to Force Majeure.
- c. In the event of this Agreement being terminated, SEBI shall be liable to make complete payments of the amount due under this Agreement up to the effective date of termination for which services (including parts thereof) have been rendered by the Solution Provider and such committed costs for software licenses and hardware that Solution Provider has incurred for provision of services to SEBI under this Agreement as per Payment for deliverables clause. In case SEBI suspends or keeps on hold the Project for any reason whatsoever, SEBI shall be liable to make payments for the services rendered by the Solution Provider till the effective date of such suspension or withholding of project.
- d. Forthwith on the expiry or earlier termination of this Agreement, each Party shall, return to the other party all documents and materials, belonging to the other party with regard to this Agreement, or shall at the option of the disclosing party destroy under written certification all documents or materials in connection with this Agreement in a manner under the written certification of the key personnel of SEBI as well as Solution provider that its subsequent retrieval by whatever means is rendered impossible.

42. Conflict Of Interest

The Solution Provider shall disclose to the SEBI in writing, all actual and potential conflicts of interest that exist, arise or may arise (either for the Solution Provider or the Solution Provider's team) in the course of performing the Services as soon as practical after it becomes aware of that conflict.

43. Entire Agreement

This Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof and thereof. This Agreement supersedes all prior or simultaneous representations, discussions, negotiations, letters, proposals, agreements and understandings between the parties hereto with respect to the subject matter hereof, whether written or oral. Each Party acknowledges that it has not relied on or been induced to enter into this Agreement by a representation or warranty other than those expressly set out in this Agreement. To the extent permitted by applicable law, a Party is not liable to another Party in contract or tort or in any other way for a representation or warranty that is not set out in this Agreement.

44. Audits

SEBI can, at any time, conduct any third party inspections / audits during the tenure of this Agreement. The Solution Provider must make all necessary changes (for the in scope devices /applications) as mentioned by the results of these audits. SEBI shall incur the cost of appointment of a third party for audit. The Solution Provider shall ensure that the findings of the audit are successfully closed by the bidder within a mutually agreed timeline.