

## PURCHASE ORDER STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES

The Purchase Order (defined below) and the following terms and conditions shall form the Agreement between the Supplier and BA Continuum India Private Limited (“BACI”) unless a master agreement is in effect between Supplier and BACI or its affiliates for the Services or Goods purchased, in which event such master agreement shall supersede these terms and conditions. If there is no master agreement, then in the event of any inconsistency between the Purchase Order and these terms and conditions, these terms and conditions shall take precedence.

### 1. Definitions

- 1.1 **Affiliate** – a business entity now or hereafter controlled by, controlling or under common control with a Party. Control exists when an entity owns or controls directly or indirectly at least fifty percent (50%) plus one share of the outstanding equity representing the right to vote for the election of directors or other managing authority of another entity.
- 1.2 **Agreement** – the Purchase Order and these terms and conditions.
- 1.3 **Applicable Law** – all laws, rules, regulations and other legal requirements applicable to the Parties and their Affiliates as and to the extent such laws, rules, regulatory guidance, regulations and legal requirements relate to a Party and the Products or Services.
- 1.4 **BACI Materials** – all materials created and developed for or on behalf of Customer under the Agreement.
- 1.5 **Business Day** – Monday through Friday 0800 hours to 1700 hours local time, excluding days on which Customer is not open for business.
- 1.6 **Confidential Information** – this Agreement and all data, trade secrets, business information, proprietary information and other information of any kind and in whatever form whatsoever or however it may be marked or denominated, including data developed or produced through access to Confidential Information, that a Party (“**Discloser**”) discloses, in writing (including, electronic transfer of information by email, over the internet or otherwise), orally, visually or in any other medium, to the other Party (“**Recipient**”) or to which Recipient obtains access and that relates to Discloser, or, in the case of Supplier, to Customer or Customer Affiliates, or their Representatives, customers, third-party Suppliers or licensors. Confidential Information also includes such other information described in the Agreement as being Confidential Information. A “writing” shall include an electronic transfer of information by email, over the internet or otherwise.
- 1.7 **Control** – when an entity owns or controls directly or indirectly at least fifty percent (50%) plus one share of the outstanding equity representing the right to vote for the election of directors or other managing authority of another entity.
- 1.8 **Customer** – BA Continuum India Private Limited (BACI) or its Affiliates that execute this Purchase Order.
- 1.9 **Delivery Address** – the address for delivery of the Goods and/or Services set out on the Purchase Order or as otherwise agreed between the Parties in writing.
- 1.10 **Delivery Date** – the date(s) for delivery of the Goods and/or Services set out on the Purchase Order or as otherwise agreed between the Parties in writing.
- 1.11 **Goods** – the goods set out on the Purchase Order.
- 1.12 **GST Law** – the India Goods and Services Tax legislation and associated regulations, directives, orders, guidance and other regulatory issuances as implemented in and binding upon each Indian State and Union Territory.
- 1.13 **Intellectual Property Rights** – all intellectual property rights throughout the world, including copyrights, patents, mask works, trademarks, service marks, trade secrets, inventions (whether or not patentable), know how, authors’ rights, rights of attribution, sui generis rights on databases, and other proprietary rights and all applications and rights to apply for registration or protection of such rights.

- 1.14 **Parties** – Customer and Supplier.
- 1.15 **Party** – Customer or Supplier.
- 1.16 **Price** – the price of the Goods and/or Services as agreed by the Parties and set out on the Purchase Order.
- 1.17 **Purchase Order** – the relevant purchase order issued by Customer.
- 1.18 **Representative** – an employee, officer, director, consultant, independent contractor or agent of a Party.
- 1.19 **Services** – the services set out on the Purchase Order.
- 1.20 **Specification** – the specification for the Goods or Services (as appropriate) as set out on the Purchase Order or otherwise agreed between the Parties in writing.
- 1.21 **Supplier** – the supplier whose details are set out on the Purchase Order.
- 1.22 **Time-Sensitive Notice** – any notice provided under this Agreement pursuant to any of the following: Sections entitled “TERMINATION OF THE AGREEMENT” and “CHANGES.”

## **2. Terms for the Supply of the Goods and Services**

- 2.1 Customer orders and Supplier agrees to supply the Goods and/or Services on the terms and conditions of the Agreement.
- 2.2 These terms and conditions shall be deemed incorporated into and made part of each submission.
- 2.3 Each Purchase Order and these terms and conditions shall form a distinct and separate agreement. No variation of it shall be valid unless agreed in writing by the Parties.
- 2.4 Delivery of the Goods and/or Services by the Supplier to Customer shall be deemed conclusive evidence of Supplier's acceptance of the Agreement.
- 2.5 Time of delivery of the Goods and Services shall be of the essence of the Agreement.
- 2.6 The Supplier agrees to provide reasonable assistance to enable Customer to use the Goods and/or Services to their best advantage.
- 2.7 Supplier expressly acknowledges and agrees that the rights of Customer set forth in this Agreement shall inure to all Customer Affiliates and such Affiliates may execute Purchase Orders and purchase/take Goods/Services hereunder. However, Customer shall have no liability nor shall it in any way be responsible for the failure of such entity to perform its obligations under a Purchase Order placed by it.

## **3. Purchase Order**

- 3.1 Customer shall submit the Purchase Order in writing or by electronic means to the Supplier.
- 3.2 The Supplier shall within two (2) days of the date of each Purchase Order respond to each Purchase Order confirming its interest in that Purchase Order, and this shall constitute the acceptance of that Purchase Order for the supply of the Goods and/or Services.
- 3.3 Customer may modify or cancel any Purchase Order that has not been accepted in accordance with Section 3.2 above.
- 3.4 The Supplier acknowledges and agrees that, and shall inform its employees, agents, and subcontractors if relevant, that any personal data furnished by Supplier to Customer, under this Agreement, may be passed to and accessed by Customer's Affiliates who may be located outside of India.

#### **4. Price and Payment**

- 4.1 Unless otherwise specified in the Purchase Order or otherwise agreed between the Parties in writing, the Price of the Goods shall include: (i) secure a proper packing, storage, transport; and (ii) safe delivery to the Delivery Address on the Delivery Date.
- 4.2 Prices shall remain fixed unless otherwise notified in writing of any variation by the Supplier and agreed by Customer.
- 4.3 Unless otherwise set out in the Purchase Order or agreed between the Parties in writing, Customer shall pay to the Supplier not earlier than sixty (60) days after the later of:
- (a) Customer's receipt of accurate and comprehensive details of Supplier's bank account;
  - (b) Customer's receipt of the Goods;
  - (c) Completion of the Services to Customer's satisfaction; and
  - (d) Customer's receipt of a valid, correct and undisputed invoice for the Goods and/or Services from Supplier quoting the Purchase Order number. Invoices shall include and list all applicable sales, use or excise taxes that are a statutory obligation of Customer as separate line items identifying each separate tax category and taxing authority on amounts payable by Customer to Supplier pursuant to the Agreement or any other agreement; or due to any offer which the Supplier may make from time to time.
- 4.4 Supplier agrees that Customer may set off against the Price any payments due to Customer from the Supplier under the Agreement or any other agreement, or due to any offer that the Supplier may make from time to time.
- 4.5 Customer may request monthly statements from Supplier.
- 4.6 If the Goods and/or Services are not delivered on the Delivery Date, Customer may reject the Goods and/or Services in whole or in part without any liability.
- 4.7 In the event any benefits or cost reductions accrue to Supplier due to reduction in tax rates and/or increase in the admissible input tax credit as a result of the GST Law, then Supplier shall pass such benefit or cost reduction to Customer by way of a reduction in pricing charged to Customer. Supplier shall issue to Customer a valid tax invoice for any taxable supply in accordance with the GST Law. In the event of such an adjustment, Supplier shall issue to Customer a credit note/debit note in accordance with the GST Law. Supplier shall fulfill all compliance requirements as required under, and within the time limits specified in, the GST Law. In case of breach, noncompliance or violation of any of these GST Law contract provisions by Supplier, which do or are expected to have an impact on the benefits accruing to Customer under the GST Law, then Customer shall be entitled to recover the amount of such benefits from Supplier along with any applicable interest and penalties.
- 4.8 Supplier shall agree to defend, indemnify and hold harmless Customer and its Affiliates, employees, officers, directors, shareholders, successors and permitted assigns from and against any losses, expenses, damages, costs and liabilities, including reasonable attorneys' fees and expenses incurred in investigation, defense or settlement claim arising from Supplier's breach, negligence or intentional misconduct in the performance of its obligations under the GST Law or under the Agreement or any governing law or regulation relating to the GST Law. Additionally, Customer shall be entitled to recover its own losses, expenses, damages, costs and liabilities (including without limitation interest and penalties) resulting from any such breach, negligence or intentional misconduct, including any instance in which Supplier has collected applicable goods and services taxes from Customer and not deposited the same with the Revenue Government as the result of which Customer loses credits under the GST Law.

#### **5. Delivery, Title and Risk**

- 5.1 The Goods shall be securely and properly packed by Supplier.
- 5.2 Supplier shall deliver the Goods and/or supply the Services to the Delivery Address on the Delivery Date(s).
- 5.3 On delivery, the Supplier shall ensure that the Goods are signed by a duly authorized member of Customer.

- 5.4 Title of the Goods and risk of loss shall not pass to Customer until the Goods are accepted by Customer in accordance with Section 7.
- 5.5 The Supplier shall deliver the Goods with such documentation as is necessary to enable Customer to use the Goods safely and effectively.
- 5.6 If samples and/or proofs are required under a Purchase Order, the Supplier shall not forward quantity shipments until Customer has approved in writing Supplier's samples and/or proofs.

## **6. Warranties and Representations**

- 6.1 The Supplier warrants and represents to Customer that:
- (a) the Goods shall be:
    - (i) of merchantable quality; and
    - (ii) fit for the purposes; and
    - (iii) in accordance with the Specifications; and
    - (iv) of first class materials, workmanship and design; and
  - (b) the Services shall be supplied in accordance with the Specifications.
  - (c) the Supplier, its employees, agents and subcontractors will carry out all of Supplier's obligations under the Agreement with all reasonable skill and care in a timely and professional manner, and using appropriately skilled and experienced personnel and in compliance with all applicable laws;
  - (d) the Supplier shall meet all timelines agreed between the Parties under the Agreement;
  - (e) the Supplier shall maintain sufficient trained and experienced staff to supply the Goods and/or Services under the terms of the Agreement;
  - (f) the Supplier has and shall have the rights and powers to enter into and perform all of its obligations under the Agreement; and that its proposed activities hereunder do not and shall not infringe any laws, regulatory requirements or the rights of any third party;
  - (g) the Supplier holds and shall hold any and all necessary licenses required under and has otherwise complied and shall ensure that its employees, agents and subcontractors shall comply in all respects with the requirements of all applicable statutes, laws, regulations, requirements and codes of practice applicable;
  - (h) the Supplier holds and shall hold any third-party licenses or authorities granted to it to enable it to enter into and perform the Agreement; and
  - (i) Supplier's performance under the Agreement including the Goods/Services provided hereunder, will comply with all applicable and then-current laws, ordinances, rules, regulations, conventions and standards of each and all locations where the Goods/Services are to be delivered, or Supplier's performance is to occur, or that relate in any way to the, licensing, certification, or approval of Services, including, without limitation, the requisite license/registrations under the provisions of the Contract Labour (Regulation & Abolition) Act, 1970, Employee Provident Fund Act, 1952, Employee State Insurance Act, 1948, Workmen's Compensation Act, 1923, and those related to, wages, hours and conditions of employment, occupational safety, discrimination, sexual harassment, immigration, subcontractor selection, and minority owned businesses as applicable to the Supplier. Further, Supplier hereby agrees that on request by Customer, it shall furnish to Customer proof of payment of wages, provident fund, employee state insurance (as applicable) in respect of the Supplier's representative along with relevant returns and proof of having filed relevant individual forms for such representatives. In the event it appears to Customer that Supplier has not made the aforesaid payments, Customer shall have the right to deduct the same from invoices submitted by the Supplier.
- 6.2 Where the Goods or any part of them are manufactured by a third party, the Supplier shall, in addition to the Supplier obligations in the Agreement, pass on to Customer the benefit of any guarantee, condition and warranty granted by the manufacturer in relation to such Goods, and the Supplier shall use its best efforts to pass on to Customer any servicing agreement that the Supplier received from the manufacturer in respect of such Goods.
- 7. Defects**
- 7.1 Customer shall be entitled to reject any of the Goods delivered that are not in accordance with the Specifications and shall not be deemed to have accepted any Goods until such reasonable time to inspect them following the delivery.
- 7.2 If later, any of the Goods are found to be defective or do not comply with any of the warranties or representations set out in Section 6.1 above ("Defective Goods"), Customer may, at its option:

- (a) reject all the Defective Goods or any part of them without any liability; and/or
- (b) require the Supplier to replace such Defective Goods; and/or
- (c) require the Supplier to repair such Defective Goods. Supplier shall replace or repair the Defective Goods within seven (7) days of the date of Customer notification or such other time period as the Parties may agree in writing.

7.3 Upon occurrence of any of the events set out in Section 7.2, the Supplier shall, at Supplier cost and expense:

- (a) collect the Defective Goods from Customer and from the Delivery Address; and
- (b) return the replacement or repaired Goods to Customer to the Delivery Address;

7.4 If any of the Services are not supplied in accordance with the Agreement particularly with the Specification, Customer shall without any liability reject and terminate the Services or any part of them.

7.5 In the event that Customer rejects the Defective Goods pursuant to Section 7.2(a) above or the Services pursuant to Section 7.4 above, the Supplier shall immediately refund any payments made by Customer in respect of such Defective Goods or Services.

## **8. Intellectual Property Rights**

8.1 The Supplier warrants that Supplier's performance of the Agreement and the use of the Goods and Services by the Customer and its Affiliates and/or any materials resulting from it, do not and will not infringe Intellectual Property Rights or any third party's right.

8.2 Where applicable, the Supplier shall:

- (a) assign to Customer with full title guarantee all existing and future copyright and design rights comprised in Customer Materials; and
- (b) agree to assign to Customer, with full title guarantee, at Customer's request, any other Intellectual Property Rights (other than copyright and design rights) in Customer Materials, in India and throughout the world for the whole term of the Intellectual Property Rights, including any extensions or renewals of such Intellectual Property Rights and all statutory or common law rights attached to it.

## **9. Indemnity and Insurance**

9.1 The Supplier will indemnify, defend and hold the Customer and its Affiliates harmless from and against all claims, losses, liabilities, judgments, amounts agreed upon in settlement, costs, expenses (including attorney's fees and costs of investigation) and damages that the Customer and its Affiliates (or any of them) may suffer or incur that arise out of, are in connection with or result from:

- (a) any Goods or Services infringing, violating or misappropriating any Intellectual Property Rights;
- (b) negligent acts or omissions or willful misconduct of the Supplier, its employees, agents, authorized representatives or subcontractors;
- (c) bodily injury (including death) or damage to property caused by, arising out of, connected with or resulting from any Goods or Services or out of the acts, or omissions of the Supplier or any of its officers, directors, servants, employees, agents, authorized representatives, subcontractors or others, whether such act or omission to act be negligent or not, and whether or not such act or omission to act be within or without the scope of employment;
- (d) breach of any of Supplier's obligations or warranties under the Agreement.

9.2 In the event of a claim relating to any actual or alleged infringement, violation or misappropriation of Intellectual Property Rights of any third party, the Supplier will promptly and as required by the Customer:

- (a) procure for the Customer the right to continue using the affected Goods or Services free from any infringement, violation or misappropriation;
- (b) modify the Goods or Services in such a way that it is no longer infringing, violating or misappropriating any Intellectual Property Rights, all without incurring a loss of functionality or performance;
- (c) promptly replace the Goods or Services with other products or services free from infringement, violation or misappropriation of any Intellectual Property Rights of any third person that have the same or better performance/functionality capabilities than the original Goods or Services; or
- (d) accept the return of any affected Goods and (at Customer's option) all or any other Goods included in the same Agreement, at Supplier's expense and promptly refund to the Customer all monies paid in connection with such Goods together with any amounts monies paid in connection with the supply of any Services included in the same Agreement; or

- (e) in the case of Services only, cease the supply of the such Services and promptly refund to the Customer all monies paid in connection with all Services provided under that Agreement, save for those that have been fully performed at that date and for which the benefit can be fully utilized by the Customer, notwithstanding that all Services have not been completed.

9.3 The Supplier shall, at its own expense, secure and maintain in full force and effect, the following minimum insurance coverages with an insurance company that is at least "A" rated by A.M. Best Company or equivalent. All insurance amounts obtained by Supplier in a different currency shall be calculated at the foreign exchange rates for U.S. Dollars published by Customer or other similarly published exchange rates. Coverage requirements shall be maintained in accordance with the minimum requirements of local law if such requirements exceed the amounts specified:

Public Liability	\$2,000,000 (any one occurrence)
Products Liability	\$1,000,000 (any one period of insurance)
Employer's Liability	\$5,000,000 (any one occurrence)

The Supplier shall furnish to Customer the certificates or cover notes providing sufficient evidence of compliance with this section.

9.4 The Supplier shall furnish to Customer the certificates or cover notes providing sufficient evidence of compliance with this section.

9.5 The Supplier shall furnish Customer with renewal certificates so long as the Agreement is in effect.

9.6 The number of claims during the period of insurance shall not be limited.

9.7 The rights and remedies of the Customer, Bank of America and its Affiliates provided in this Section 9 shall not be exclusive and are in addition to any other rights and remedies available at law or in equity.

## **10. Confidentiality**

10.1 All Confidential Information disclosed by Company and any results of processing such Confidential Information or derived in any way therefrom shall at all times remain the property of Company. In furtherance of the foregoing, any confidential or proprietary information, reports or documents generated in connection with the provision of Products or Services by Supplier or its Representatives to Company hereunder shall be deemed Company's Confidential Information.

10.2 Each of the Parties, as Recipient, hereby agrees that it will not, and will cause its Representatives and Affiliates to not disclose Confidential Information of the other Party, other than on a "need to know" basis and then only: (a) to Recipient's employees, officers or directors; (b) to Recipient's Affiliates, subcontractors, independent contractors at any level, agents, advisors, consultants, accountants and insurers, provided that all such persons are subject to a written confidentiality agreement that shall be no less restrictive than the provisions of this section, evidence of which shall be provided to Customer upon request; (c) where applicable, pursuant to any exceptions provided under applicable law; (d) to external examiners; and (e) as otherwise expressly permitted by this Agreement. Unless otherwise authorized by this Agreement, Recipient shall not use or disclose Confidential Information of the other Party for any purpose other than to carry out this Agreement. Recipient shall treat Confidential Information of the other Party with no less care than it employs for its own Confidential Information of a similar nature that it does not wish to disclose, publish or disseminate, but in no event less than a commercially reasonable degree of care.

10.3 Supplier shall have responsibility for and bear all risk of loss or damage to Customer Confidential Information resulting from improper or inaccurate processing of such Confidential Information arising from the negligence or willful misconduct of Supplier, its Affiliates, representatives or subcontractors.

- (a) Subject to the exceptions in this Agreement (including without limitation, exceptions in Section 10.3(b), Supplier shall, at Company's election, return (in the format specified by Company at no additional cost) or destroy, in whole or in part Company Confidential Information (whether in Supplier's possession or its Representatives' or Subcontractors' possession) in accordance with the Company Security Standards upon the expiration of the applicable retention period in the Retention Requirements for Data and Records attached hereto as Schedule entitled "RETENTION AND DESTRUCTION CERTIFICATION" and incorporated by this reference as if fully set forth herein (the "Retention Requirements"). Company may modify, expand or reduce the Retention Requirements from time to time in its sole discretion, and each new version of the Retention Requirements will become effective immediately upon receipt by Supplier. When Supplier destroys Company Confidential Information at a location other than Supplier's facilities, Supplier shall ensure that Company's Confidential Information is transported to the location where Company's Confidential Information is destroyed in a tamper-proof locked container. Supplier shall maintain Records documenting destruction of Company Confidential Information including the procedures, techniques, chain of custody with any third parties, dates and locations where such Company Confidential Information was destroyed and include an Information Certification (as defined below). All such Records will constitute Company Confidential Information. Additionally, no later than thirty (30) calendar days after each anniversary of the Effective Date during the Term, the expiration or termination of this Agreement, and receipt of a request by Company, Supplier shall submit to Company a certification in a form substantially similar to the Schedule entitled "RETENTION AND DESTRUCTION CERTIFICATION" that confirms Supplier's compliance with its retention and destruction obligations (each, an "**Information Certification**").
- (b) Notwithstanding Section 10.3(a), Supplier shall comply with any instructions given by Company to destroy or return Company Confidential Information prior to the expiration of the applicable retention period in the Retention Requirements or retain Company Confidential Information beyond the applicable retention period in the Retention Requirements. Additionally, Supplier will be permitted to retain Confidential Information to the most limited extent necessary to comply with Applicable Law and Supplier's archival or data retention requirements, provided that, as it pertains to Supplier's archival and data retention requirements, Supplier will be permitted to retain Confidential Information only to the extent that such requirements are consistent with terms of this Agreement, the Data Protection Laws and Company Security Standards. With respect to all Confidential Information retained in accordance with this Section 10.3(b), Supplier shall (i) only use and disclose such Confidential Information to the minimum extent necessary to comply with Applicable Law or as directed by Company; (ii) continue to provide Information Certifications in accordance with Section 10.3(a) until all such Confidential Information has been returned or destroyed; and (iii) in accordance with the Company Security Standards, return or destroy, at Company's election, all such Confidential Information promptly following the expiration of the applicable retention requirement and provide an Information Certification.
- 10.4 Upon Company's request, Supplier shall return all Confidential Information and data to Company or to such other party as directed by Company. Supplier shall return all such data either in a reasonable format acceptable to Company, or in any specific format required by Company, at no cost or expense to Company.
- 10.5 Supplier shall maintain records that adequately document the chain of custody of all Company Confidential Information (whether held by Supplier or any third parties permitted to generate or receive Company Confidential Information under this Agreement) and provide such records to Company upon request. Any delegation of the custody, care or control of Company Confidential Information by Supplier to a third party must comply with all requirements in this Agreement, including, without limitation, requirements to obtain Company's prior approval.
- 10.6 To the extent legally permitted, Recipient shall notify Discloser of any actual or threatened requirement of law to disclose Confidential Information promptly upon receiving actual knowledge thereof and shall cooperate with Discloser's reasonable, lawful efforts to resist, limit or delay disclosure. Nothing in this section shall require any notice or other action by Company in connection with requests or demands for Confidential Information by External Examiners.
- 10.7 The obligations of confidentiality in this section shall not apply to any information that (i) Recipient rightfully has in its possession when disclosed to it, free of obligation to Discloser to maintain its confidentiality; (ii) Recipient independently develops without access to Discloser's Confidential Information; (iii) is or becomes known to the public through no fault of the Recipient; or (iv) is rightfully received by Recipient from a third party without the obligation of confidentiality.

- 10.8 Notwithstanding anything above, Company may disclose Confidential Information of Supplier to Company's other service providers for the purpose of further handling, processing, modifying and adapting the Products or Services for use by or for Company or for developing bank processes, conducting analyses and similar internal purposes, provided that such service providers have agreed to observe in substance the obligations of Company set forth in this section.
- 10.9 Notwithstanding the foregoing, the confidentiality provisions in this Agreement do not prevent Representatives and Affiliates from providing information in response to valid and enforceable subpoenas or as otherwise required by law or regulation, for financial reporting, or from using this Agreement to enforce its terms. Nothing in this Agreement prohibits Representatives and Affiliates or other individuals from initiating communications directly with, responding to any inquiry from, volunteering information to, or providing testimony before, any government, law enforcement or Regulator, in connection with any reporting of, investigation into, or proceeding regarding suspected violations of law. Customer does not consent to disclosures that would violate Applicable Law, including information that would reveal the existence or contemplated filing of a suspicious activity report.
- 10.10 Supplier shall not issue any media releases, public announcements or public disclosures relating to the Agreement or use the name or logo of the Customer, the Customer or any of its Affiliates including, without limitation, in promotional or marketing material or on a list of customers unless required by legal, accounting or regulatory requirements beyond the reasonable control of Supplier.

## **11. Termination of the Agreement**

- 11.1 Either Party may by written notice terminate the Agreement if:
- (a) the other Party is in material breach of the Agreement and fails to remedy such breach within five (5) days from the date of notification of such breach from the non-defaulting Party; or
  - (b) a Party is declared insolvent; or
  - (c) a trustee, receiver, administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other Party; or
  - (d) a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other Party or for the making of an administrative order (otherwise than for the purpose of an amalgamation or reconstruction); or
  - (e) any similar or analogous event occurs in relation to the other Party in this or any other jurisdiction.
- 11.2 Customer shall have the right to terminate the Agreement if:
- (a) Supplier undergoes a change of control; or
  - (b) Supplier transfers all, or substantially all, of its assets or common stock or merges with another entity; or
  - (c) the association with the Supplier is considered to be adverse to Customer's business or interests.
  - (d) in providing Goods/Services hereunder, Supplier violates any applicable law or regulation or causes Customer to be in material violation of any law or regulation;
  - (e) Supplier attempts to assign this Agreement in breach of the Agreement; and
  - (f) Supplier either (i) merges with another entity (ii) suffers a transfer involving fifty percent (50%) or more of any class of its voting securities or (iii) transfers all, or substantially all, of its assets; or
  - (g) if Supplier's rating (as per the rating system announced by the government for GST Law compliance) is downgraded (i) to a level where Supplier is "blacklisted" as provided under the GST Law by the applicable taxing authorities or (ii) below a level acceptable to Customer in its sole discretion due to Supplier's noncompliance or its actual or alleged act, failure to act, error, or omission in the performance of its obligations under the GST Law.
- 11.3 Upon such termination:
- (a) Customer shall pay the Supplier all sums due and payable to the Supplier under the Agreement at the date of termination, unless the Agreement is terminated by reason of Supplier default or breach;
  - (b) The Supplier shall immediately refund to Customer any advance payments made by Customer that have not been utilized for any of the Services or for Goods not delivered to Customer.
- 11.4 Upon termination or expiration of the Agreement, Supplier shall immediately return any documents or material property of Customer in Supplier's possession as Customer may direct. Upon failure to do so, Customer shall be entitled to access Supplier's premises to recover such property.

- 11.5 Sections 6, 8, 9, 10, 12, 15 and 16 of this Agreement shall survive the termination of the Agreement or any part of it.
- 11.6 Any termination of the Agreement is without prejudice to any other rights or remedies a Party may be entitled to under the Agreement or at Law. It does not affect any accrued rights or liabilities of either Party or any provision that is expressly or by implication intended to come into force on or continue in force after, termination.
- 11.7 Notwithstanding the above Customer can terminate this Agreement or any Purchase Order under this Agreement for its convenience, without cause, at any time without further charge or expense upon at least thirty (30) calendar days prior written notice to Supplier. Termination of one Purchase Order shall not cause a termination of this Agreement or any other Purchase Order, unless otherwise specified by Customer.

## **12. Audit**

- 12.1 The Supplier shall maintain, at its own cost, financial records for a period of seven (7) years or as otherwise required by law. Customer shall be entitled at its own discretion to conduct at least one audit per calendar year of the Supplier's systems and procedures insofar as they relate to the supply of the Goods and Services. Such Supplier records referenced above may be inspected, audited and copied by Customer, its Representatives or by state agencies having jurisdiction over Customer, during normal business hours and at such reasonable times as Customer and Supplier may determine.

## **13. Review**

- 13.1 Customer may request Supplier to meet on a quarterly basis to review Supplier's performance of its obligations under this Agreement. Both Customer and the Supplier shall ensure that a senior representative attends each meeting on their behalf.

## **14. Micro, Small and Medium Enterprises Development Act, 2006**

- 14.1 Supplier hereby agrees to take the full responsibility of notifying Customer if Supplier is qualified or gets qualified during the Term of this Agreement as a micro, small or medium enterprise as defined under the Micro, Small and Medium Enterprises Development Act, 2006 ("**MSME Act**"). To comply with the above requirement, Supplier is required to notify Customer in writing within fifteen (15) days of applying or getting covered under the ambit of the MSME Act as mentioned above. Supplier further acknowledges that in the event it fails to comply with the aforementioned requirement, Customer shall assume that the Supplier does not fall under the ambit of the MSME Act to the extent provided above.

## **15. General**

- 15.1 All notices or other communications required under this Agreement shall be given to the Parties in writing to the applicable addresses set forth in the Purchase Order, or to such other addresses as the Parties may substitute by written notice given in the manner prescribed in this section as follows: (a) by first class, registered or certified mail, return receipt requested and postage prepaid; (b) overnight express courier; or (c) by hand delivery to such addresses. Such notices shall be deemed to have been duly received (i) five (5) Business Days after the date of dispatch as described above; (ii) one (1) Business Day after being received by an express courier during business hours; or (iii) the same day if by hand delivery. Time-Sensitive Notices shall only be delivered by the methods described in (b) or (c) above. References to "in writing" or "written" include typing and printing but exclude any form of electronic communication unless the reference to a writing or written communication specifically states that electronic communication is permitted. Nothing in the notice requirements of this Agreement shall prevent a Party from sending general communications in relation to this Agreement by electronic mail. The Supplier may not assign, transfer, delegate, subcontract, change or dispose any of the rights or obligations under the Agreement to any third party without Customer's prior written consent. No such assignment, transfer, delegation, subcontract or disposal, even if consented to, shall relieve the Supplier of Supplier's obligations under the Agreement. The Supplier shall procure that any permitted subcontractor enters into a confidentiality agreement as Customer shall require.
- 15.2 If any part, term, provision or clause of the Agreement proves to be invalid or unenforceable, the validity or enforceability of the remaining parts, terms, provisions and clauses will not be affected. The rights and obligations of the Parties will be construed as if the Agreement did not contain the particular invalid or unenforceable part, term, provision or clause.

- 15.3 No delay or failure by either Party to exercise any of its powers, rights or remedies under the Agreement will operate as a waiver of them, or any single or partial exercise of any such powers, rights or remedies preclude any other or further exercise of them. Any waiver to be effective must be in writing.
- 15.4 The Agreement contains all the terms that the Parties have agreed and supersedes all provisions, contracts, arrangements, representations (other than fraudulent misrepresentations) or understandings between the Parties whether written, arising from custom or oral in relation to the transactions provided for the Agreement.
- 15.5 Any amendment or other variation of this Agreement shall not be binding on the Parties unless set out in writing, expressed to vary this Agreement, and signed by authorized representatives of each of the Parties.
- 15.6 Nothing in the Agreement shall constitute, or be deemed to constitute, a partnership or joint venture between the Parties, nor shall it constitute, or be deemed to constitute, a Party the agent of the other Party for any purpose.
- 15.7 The Agreement is governed by and shall be constructed in accordance with the laws of India. The Parties agree to submit to the exclusive jurisdiction of the Mumbai Courts, and waive any objection to venue with respect to actions brought in such courts.
- 15.8 Supplier's personnel are not eligible to participate in any of the employee benefit or similar programs of Customer. Supplier shall inform all of its personnel providing Services pursuant to this Agreement that they will not be considered employees of Customer for any purpose, and that Customer shall not be liable to any of them as an employer for any claims or causes of action arising out of or relating to their assignment.
- 15.9 Neither Party shall be liable to the other for any special, indirect, incidental, consequential, punitive or exemplary damages, including, but not limited to, lost profits, even if such Party alleged to be liable has knowledge of the possibility of such damages, provided, however, that the limitations set forth in this section shall not apply to or in any way limit the indemnity obligations, section entitled "Confidentiality", or Supplier's gross negligence or willful misconduct.

## **16. Sanctions**

- 16.1 Supplier represents and warrants that neither it nor its agents is the subject of any sanctions administered or enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the United Nations Security Council or other relevant sanctions authority in any applicable jurisdiction in which the Supplier performs the Services or provides Goods (collectively, "**Sanctions**"), nor are the Supplier or its agents located, organized or resident in a country or territory that is the subject of Sanctions. Supplier represents and warrants that neither it nor its agents has or during the term of this Agreement will violate any Sanctions. Supplier represents and warrants that neither it nor its agents will use money generated from its relationship with Customer under this Agreement to fund or engage in any activities with any individual or entity or in any country or territory that, at the time of such funding or activity, is the subject of Sanctions.

## **17. Bail-In**

- 17.1 Supplier acknowledges and accepts that Customer may be subject to the requirements of Bail-In Legislation. If this is the case, the Parties accept, agree and acknowledge that they will be bound by the Bail-In powers of a Bail-In Authority, including (i) the powers to write-down and/or convert obligations of a regulated entity, so they can be reduced (including to zero), canceled, modified or converted into shares, other securities or other obligations of the regulated entity or any other person (resulting in the issuing to/conferring upon the relevant obligee Party of such securities; (ii) the ability to amend or modify the maturity of eligible liabilities and/or the terms of an agreement, the amount of interest payable, or the date on which interest becomes payable (including by suspending payment for a temporary period), and the power to terminate transactions early and value those transactions under such agreement (collectively, "**Bail-In Powers**"). "**Bail-In Legislation**" means: (i) in relation to an EEA Member Country, that country's applicable laws and regulations implementing Article 55 of Directive 2014/59/EU; (ii) in relation to the United Kingdom, the UK Bail-In Legislation; and (iii) in relation to any other jurisdiction, any analogous laws and regulations that require contractual recognition of write-down and conversion powers, which are substantially equivalent to Bail-In Powers. "**Bail-In Authority**" means any Regulator with authority to exercise power under any Bail-In Legislation. "**UK Bail-In Legislation**" means Part I of the United Kingdom Banking Act 2009 and any other laws and regulations in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).