**DRAFT CONTRACT AGREEMENT**

**CONTRACT AGREEMENT FOR ………………………………………………………………………………………………………….**

**THIS AGREEMENT (the Agreement) executed at Bengaluru on ………… day of ………… 2020.**

**BETWEEN**

Canara Bank, a body corporate constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act 1970, having its Head Office at 112, J C Road, Bengaluru – 560002 in India, represented by the Authorised Signatory of its Department of Information Technology, Mr. …………………..., (Designation) , (hereinafter referred to as "PURCHASER") which expression shall unless excluded by or repugnant to the subject or context be deemed to mean and include its assigns and successors) of the **ONE PART**

**AND**

M/s ………………………………….., a Company/Firm constituted and registered under the provisions of the Companies Act 1956 having its Registered Office at …………………………………………… represented by the Authorized Signatory, Mr…………………………… (Designation) (hereinafter referred to as "Vendor /service provider" which expression shall unless excluded by or repugnant to the subject or context be deemed to mean and include its administrators, successors and assigns) of the **OTHER PART**:

The Purchaser and Vendor/service provider are hereinafter collectively referred to as "Parties".

WHEREAS the Purchaser invited Bids for Products/Services VIZ …………………………………, (Brief description of product/service/solutions) and has accepted the Bid by the Vendor/service provider for ……………………………………………………………… for the sum of Rs……………………….. (Rupees …………………………………………………………. only) exclusive of GST (herein after called “the Contract Price").

**NOW THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:**

In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the terms and conditions of RFP/RFQ/EOI/ Amendments/ LOI/ Purchase Order referred to.

The RFP/RFQ/EOI Document/ Bid No …………………. dated …………………….. as amended from time to time and this Agreement, and the other related documents shall be deemed to form and be read and construed as part of this Agreement, which, inter alia, includes

1. The Bid Form and the Price Schedule submitted by the Bidder.
2. The Bill of Material.
3. The Technical & Functional Specifications;
4. The Terms and Conditions of the Contract;
5. The Purchaser's Letter of Intent/Notification of Award;
6. Schedule of Dates, Amounts etc.,
7. Pre-Contract Integrity Pact;
8. All pre bid clarifications/mail communications shared with the bidder during the processing of this bid.

All the above are collectively referred to as "the said documents" forming an integral part of the Contract are to be taken as mutually explanatory to one another. Detailed site orders as and when released shall form an integral part of this contract. However, in case of conflict between the Clauses of the Contract and Schedules appended to the Contract, provisions of the Clauses of the Contract shall prevail.

1. **SCOPE OF WORK:**

As per the requirement of the Bank.

1. **GENERAL CONDITIONS TO CONTRACT:**
	1. Either party shall not assign any rights or obligations herein without obtaining the prior consent of the other Party.
	2. No forbearance, indulgence, relaxation or inaction by any Party [BANK or VENDOR/ SERVICE PROVIDER] at any time to require the performance of any provision of Contract shall in any way affect, diminish, or prejudice the right of such Party to require the performance of that or any other provision of Contract.
	3. No waiver or acquiescence of any breach, or any continuing or subsequent breach of any provision of Contract shall be construed as a waiver of any right under or arising out of Contract or an acquiescence to or recognition of any right and/or any position other than that expressly stipulated in the Contract.
	4. All remedies of either BANK or VENDOR/ SERVICE PROVIDER under the Contract whether provided herein or conferred by statute, civil law, common law, custom, or trade usage, are cumulative and not alternative may be enforced successively or concurrently.
	5. If any provision of Contract or the application thereof to any person or Party [BANK/ VENDOR/ SERVICE PROVIDER] is or becomes invalid or unenforceable or prohibited by law to any extent, this Contract shall be considered divisible as to such provision, and such provision alone shall be inoperative to such extent and the remainder of the Contract shall be valid and binding as though such provision had not been included. Further, the Parties [BANK and VENDOR/ SERVICE PROVIDER] shall endeavour to replace such invalid, unenforceable or illegal provision by one that is valid, enforceable, and legal and achieve substantially the same economic effect as the provision sought to be replaced.
	6. If during the term of Contract, the performance in whole or in part by either Party [BANK/VENDOR/ SERVICE PROVIDER] of any obligations under the Contract is prevented or delayed by reason of war, destructive act of public enemy, civil commotion, sabotage, fires, floods, explosions, epidemic, quarantine restrictions, strikes, lock-outs, or acts of god (hereinafter referred to individually as an “Event” the notice of happening of which shall be given by either Party to the other within seven days of the date of occurrence of such Event), neither Party [BANK nor VENDOR/ SERVICE PROVIDER] shall be entitled to terminate this Contract nor have any claim for damages against the other by reason only of such non-performance or delay in performance.
	7. None of the provisions of Contract shall be deemed to constitute a partnership between the Parties [BANK and VENDOR/ SERVICE PROVIDER] and neither Party [BANK nor VENDOR/ SERVICE PROVIDER] shall have any right or authority to bind the other as the other’s agent or representative and no Party shall be deemed to be the agent of the other in any way.
	8. Contract shall not be intended and shall not be construed to confer on any person other than the Parties [BANK and VENDOR/ SERVICE PROVIDER] hereto, any rights or remedies herein.
	9. Contract shall be executed in English language in 1 (one) original, the BANK receiving the duly signed original and VENDOR/ SERVICE PROVIDER receiving the duly attested photocopy. Non-disclosure Contract (NDA) will have to be executed with the BANK as per the format prescribed by the Bank.
	10. RFP/RFQ/EOI …………….. dated ………………….. along with clarifications & amendments issued shall form integral part and parcel of this CONTRACT.
2. **SECURITY DEPOSIT / PERFORMANCE OF BANK GUARANTEE:**

As specified in the RFP/RFQ/EOI.

1. **VALIDITY OF THE CONTRACT:**

The Contract shall be valid for the full duration till completion of all contractual obligations by the Vendor/Service Provider and PURCHASER for the current orders or further orders to be released by Vendor/ Service Provider as per the terms and conditions in this contract.

1. **PAYMENT TERMS:**

As specified in the RFP/RFQ/EOI.

1. **ASSIGNMENT:**
	1. VENDOR/ SERVICE PROVIDER shall not assign to any one, in whole or in part, it’s obligations to perform under the Contract, except with the BANK’s prior written consent.
	2. If the BANK undergoes a merger, amalgamation, take-over, consolidation, reconstruction, change of ownership etc., this Contract shall be considered to be assigned to the new entity and such an act shall not affect the rights and obligations of the VENDOR/ SERVICE PROVIDER under this Contract.
2. **SUB-CONTRACTING:**

VENDOR/ SERVICE PROVIDER shall not subcontract or permit anyone other than its personnel to perform any of the work, service or other performance required of the VENDOR/ SERVICE PROVIDER under the contract without the prior written consent of the BANK**.**

1. **ORDER CANCELLATION/TERMINATION OF CONTRACT:**
	1. The Bank reserves its right to cancel the entire / unexecuted part of CONTRACT at any time by assigning appropriate reasons and recover expenditure incurred by the Bank in addition to recovery of liquidated damages in terms of the contract, in the event of one or more of the following conditions:
		1. Delay in delivery beyond the specified period for delivery.
		2. Serious discrepancies noted in the items delivered.
		3. Breaches in the terms and conditions of the Order.
	2. The Bank reserves the right to cancel the contract placed on the Vendor/Service Provider and recover expenditure incurred by the Bank on the following circumstances:
		1. Non submission of acceptance of order within 7 days of order.
		2. Excessive delay in execution of order placed by the Bank.
		3. The Vendor/Service Provider commits a breach of any of the terms and conditions of the bid.
		4. The Vendor/Service Provider goes in to liquidation voluntarily or otherwise.
		5. An attachment is levied or continues to be levied for a period of 7 days upon the effects of the bid.
		6. The progress made by the Vendor/Service Provider is found to be unsatisfactory.
		7. If deductions on account of liquidated Damages exceeds more than 10% of the total contract price.
	3. Bank shall serve the notice of termination to the Vendor/Service Provider at least 30 days prior, of its intention to terminate services.
	4. In case the Vendor/Service Provider fails to deliver the quantity as stipulated in the delivery schedule, the Bank reserves the right to procure the same or similar materials from alternate sources at the risk, cost and responsibility of the Vendor/Service Provider by giving 7 days’ prior notice to the Vendor/Service Provider.
	5. After the award of the contract, if the Vendor/Service Provider does not perform satisfactorily or delays execution of the contract, the Bank reserves the right to get the balance contract executed by another party of its choice by giving one months’ notice for the same. In this event, the Vendor/Service Provider is bound to make good the additional expenditure, which the Bank may have to incur for the execution of the balance of the order/contract. Such additional expenditure shall be incurred by the bank within reasonable limits & at comparable price prevailing in the market. This clause is also applicable, if for any reason, the contract is cancelled.
	6. The Bank reserves the right to recover any dues payable by the Vendor/Service Provider from any amount outstanding to the credit of the Vendor/Service Provider, including the pending bills and security deposit, if any, under this contract.
	7. In addition to the cancellation of purchase order, the Bank reserves its right to invoke the Bank Guarantee or foreclose the Security Deposit given by the Vendor/Service Provider towards non- performance/non-compliance of the terms and conditions of the contract, to appropriate towards damages.
2. **AMENDMENTS TO CONTRACT:**

Once Contract is executed by the VENDOR/ SERVICE PROVIDER, no amendments or modifications of order and no waiver of any of the terms or conditions thereof shall be valid or binding unless mutually agreed and reduced into writing by both the parties.

1. **INTELLECTUAL PROPERTY RIGHTS:**
	1. VENDOR/ SERVICE PROVIDER warrants that the inputs provided shall not infringe upon any third party intellectual property rights, including copyrights, patents and other intellectual property rights of any nature whatsoever. VENDOR/ SERVICE PROVIDER warrants that the deliverables shall not infringe upon any third party intellectual property rights, including copyrights, patents and other intellectual property rights of any nature whatsoever. VENDOR/ SERVICE PROVIDER shall ensure that the Solution supplied to the BANK shall not infringe the third party intellectual property rights, if any. VENDOR/ SERVICE PROVIDER shall ensure that third party rights are not infringed even in case of equipment /software supplied on behalf of consortium as VENDOR/ SERVICE PROVIDER.
	2. In the event that the Deliverables become the subject of claim of violation or infringement of a third party’s intellectual property rights, VENDOR/ SERVICE PROVIDER shall at its choice and expense:

[a] Procure for BANK the right to continue to use such deliverables;

[b] Replace or modify such deliverables to make them non-infringing, provided that the same function is performed by the replacement or modified deliverables as the infringing deliverables; or

[c] If the rights to use cannot be procured or the deliverables cannot be replaced or modified, accept the return of the deliverables and reimburse BANK for any amounts paid to VENDOR/ SERVICE PROVIDER for such deliverables, along with the replacement costs incurred by BANK for procuring equivalent equipment in addition to the penalties levied by BANK. However, BANK shall not bear any kind of expense, charge, fees or any kind of costs in this regard. Notwithstanding the remedies contained herein, VENDOR/ SERVICE PROVIDER shall be responsible for payment of penalties in case service levels are not met because of inability of the BANK to use the proposed solution.

* 1. The indemnification obligation stated in this clause shall apply only in the event that the indemnified party provides the indemnifying party prompt written notice of such claims, grants the indemnifying party sole authority to defend, manage, negotiate or settle such claims and makes available all reasonable assistance in defending the claims [at the expenses of the indemnifying party]. Notwithstanding the foregoing, neither party is authorized to agree to any settlement or compromise or the like which would require that the indemnified party to make any payment or bear any other substantive obligation without the prior written consent of the indemnified party. The indemnification obligation stated in this clause reflects the entire liability of the parties for the matters addressed thereby.
	2. VENDOR/ SERVICE PROVIDER acknowledges that business logics, work flows, delegation and decision making processes of BANK are of business sensitive nature and shall not be disclosed/referred to other clients, agents or distributors of Software/Service.
1. **INDEMNITY:**
	1. VENDOR/ SERVICE PROVIDER shall keep and hold the Bank indemnified and harmless from time to time and at all times against all actions, proceedings, claims, suits, liabilities (including statutory liability), penalties, demands, charges, costs (including legal costs) and expenses, damages, losses and any other expenses which may be caused to or suffered by or made or taken against the Bank arising out of:
		1. The breach, default or non-performance of undertakings, warranties, covenants or obligations by VENDOR/ SERVICE PROVIDER;
		2. Any contravention or Non-compliance with any applicable laws, regulations, rules, statutory or legal requirements by VENDOR/ SERVICE PROVIDER;
	2. VENDOR/ SERVICE PROVIDER shall indemnify, protect and save the Bank against all claims, losses, costs, damages, expenses, action suits and other proceedings, resulting from infringement of any law pertaining to patent, trademarks, copyrights etc. or such other statutory infringements in respect of **Solution** supplied by them.
		1. All indemnities shall survive notwithstanding expiry or termination of the contract and bidder shall continue to be liable under the indemnities.
		2. The limits specified in above clause shall not apply to claims made by the Bank/third parties in case of infringement of Intellectual property rights or for claims relating to the loss or damage to real property and tangible personal property and for bodily injury or death and in these cases the liability will be unlimited.
		3. All Employees engaged by VENDOR/ SERVICE PROVIDER shall be in sole employment of VENDOR/ SERVICE PROVIDER and the VENDOR/ SERVICE PROVIDER shall be solely responsible for their salaries, wages, statutory payments etc. That under no circumstances shall the Bank be liable for any payment or claim or compensation (including but not limited to compensation on account of injury / death / termination) of any nature to the employees and personnel of the bidder.
	3. VENDOR/ SERVICE PROVIDER’s aggregate liability shall be subject to an overall limit of the total Cost of the project.
2. **CONFIDENTIALITY AND NON-DISCLOSURE:**
	1. VENDOR/ SERVICE PROVIDER shall take all necessary precautions to ensure that all confidential information is treated as confidential and not disclosed or used other than for the purpose of project execution. VENDOR/ SERVICE PROVIDER shall suitably defend, indemnify BANK for any loss/damage suffered by BANK on account of and to the extent of any disclosure of the confidential information. VENDOR/ SERVICE PROVIDER shall furnish an undertaking in the prescribed format.
	2. No Media release/public announcement or any other reference to the Contract/RFP or any program there under shall be made without the written consent of the BANK, by photographic, electronic or other means.
	3. Provided that the Confidentiality Clause may not be applied to the data or information which;
3. Was available in the public domain at the time of such disclosure through no wrongful act on the part of VENDOR/ SERVICE PROVIDER.
4. Is received by VENDOR/ SERVICE PROVIDER without the breach of this Agreement.
5. Is required by law or regulatory compliance to disclose to any third person.
6. Is explicitly approved for release by written authorization of the Bank."

THESE CONFIDENTIALITY OBLIGATIONS SHALL SURVIVE THE TERMINATION OF THIS CONTRACT AND THE VENDOR/ SERVICE PROVIDER SHALL BE BOUND BY THE SAID OBLIGATIONS.

1. **FORCE MAJEURE:**
	1. VENDOR/ SERVICE PROVIDER shall not be liable for default or non-performance of the obligations under the Contract, if such default or non-performance of the obligations under this Contract is caused by any reason or circumstances or occurrences beyond the control of VENDOR/ SERVICE PROVIDER, i.e. Force Majeure.
	2. For the purpose of this clause, “Force Majeure” shall mean an event beyond the control of the VENDOR/ SERVICE PROVIDER, due to or as a result of or caused by acts of God, wars, insurrections, riots, earth quake and fire, Government policies or events not foreseeable but does not include any fault or negligence or carelessness on the part of the VENDOR/ SERVICE PROVIDER, resulting in such a situation.
	3. In the event of any such intervening Force Majeure, VENDOR/ SERVICE PROVIDER shall notify the BANK in writing of such circumstances and the cause thereof immediately within seven days. Unless otherwise directed by the BANK, VENDOR/ SERVICE PROVIDER shall continue to perform / render / discharge other obligations as far as they can reasonably be attended / fulfilled and shall seek all reasonable alternative means for performance affected by the Event of Force Majeure.
	4. In such a case, the time for performance shall be extended by a period (s) not less than the duration of such delay. If the duration of delay continues beyond a period of three months, the BANK and VENDOR/ SERVICE PROVIDER shall hold consultations with each other in an endeavour to find a solution to the problem. Notwithstanding above, the decision of the BANK shall be final and binding on the VENDOR/ SERVICE PROVIDER.
2. **SOCIAL MEDIA POLICY:**
	1. No person of the Bank or the Vendor/Service Provider and third parties shall violate the Social Media Policy of the Bank.
	2. The following acts on the part of personnel of the Bank or Vendor/Service Provider and third parties shall be construed as violation of Social Media Policy:

(i) Non-adherence to the standards/guidelines in relation to Social Media Policy issued by the Bank from time to time.

(ii) Any omission or commission which exposes the Bank to actual or potential monetary loss or otherwise, reputation loss on account of non-adherence of Social Media related systems and procedures.

1. **DISPUTE RESOULTION MECHANISM:**

All disputes and differences of any kind whatsoever, arising out of or in connection with this Contract or in discharge of any obligation arising under this Contract (whether during the course of execution of the order or after completion and whether beyond or after termination, abandonment or breach of the Agreement) shall be resolved amicably. In case of failure to resolve the disputes and differences amicably the matter may be referred to a sole arbitrator mutually agreed upon after issue of at least 30 days’ notice in writing to the other party clearly setting out there in the specific disputes. In the event of Parties failing to consent upon a single Arbitrator than BOTH PARTIES shall approach Court of Law for the appointment of sole Arbitrator as provided under the Arbitration and Conciliation Act, 1996. Place of Arbitration shall be Bengaluru, India which will be governed by Indian Arbitration and Conciliation Act, 1996. Proceedings of Arbitration shall be conducted in English language only.

1. **GOVERNING LAWS AND JURISDICTION OF THE COURT:**

All disputes and controversies between Bank and VENDOR/ SERVICE PROVIDER shall be subject to the exclusive jurisdiction of the courts in Bengaluru and the parties agree to submit themselves to the jurisdiction of such court as this Contract shall be governed by the laws of India.

1. **NOTICES:**

Any notice or other communication required or permitted by this Contract shall be in writing, in English, delivered by certified or registered mail, return receipt requested, postage prepaid and addressed as follows or to such other address as may be designated by notice being effective on the date received or, if mailed as set above:

If to BANK:

Registered Office Address: ……………………………………………….,

 Canara Bank Head Office (Annex),

 DIT Wing, Procurement Group,

 #14, M G Road, Naveen Complex,

 Bengaluru -560001

Designated Contact Person: ………………. (Designation)

Phone: …....................

Email: ………………………………..

If to VENDOR/ SERVICE PROVIDER:

Registered Office Address:

Designated Contact Person: Sri. \_\_\_\_\_\_\_\_ (\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

Phone: +91-\_\_\_\_\_\_\_\_\_\_

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

IN **WITNESS** WHEREOF, the Parties hereto have executed this Agreement the day and year first herein above written.

Signature: Signature:

Name: Name:

Designation: Designation:

For & on behalf of: For & on behalf of

(BANK) (VENDOR/ SERVICE PROVIDER)

In the presence of: In the presence of:

Signature: 1: Signature: 1:

Name: Name:

Designation: Designation:

Signature: 2: Signature: 2:

Name: Name:

Designation Designation