



## **Expression of Interest (EOI)**

**For**

**Empanelment of Agency for e-Card Generation of Beneficiaries  
under the Ayushman Bharat- Pradhan Mantri Jan Arogya Yojana  
(AB PM-JAY)**

**Published on 27<sup>th</sup> November 2020**

**Volume II  
(Memorandum of Understanding)**

**Issued by:  
National Health Authority (NHA)**

## 1 Disclaimer

The information contained in this Request for Proposal (RFP) Document is being provided to interested bidders on the terms and conditions set out in this Tender. The purpose of this Tender Document (hereinafter called RFP: Request for Proposal) is to provide interested parties with information that may be useful to them in making their pre-qualification, technical and financial offers pursuant to this RFP.

This RFP includes statements, which reflect various assumptions and assessments arrived at by the NHA (National Health Authority) in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the NHA, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in the RFP may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Bidders is on a wide range of matters, some of which may depend upon the interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The NHA accepts no responsibility for the accuracy or otherwise of any interpretation or opinion on law expressed herein. The NHA, its employees and advisors, make no representation or warranty and shall have no liability to any person, including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, costs or expenses which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP Document or arising in any way for participation in this Bid Process. The NHA also accepts 'no liability' of any nature, whether resulting from negligence or otherwise howsoever caused, arising from the reliance of any Bidder upon the statements contained in this RFP.

The NHA may, at its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP. The issue of this RFP does not imply that the NHA is bound to select or appoint a Bidder, as the case may be, for the Project and the NHA reserves the right to reject all or any of the Bidder or Bids without assigning any reason whatsoever.

The Bidders shall bear all costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the NHA or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and the NHA shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

## About this EOI

This RFP is meant to invite proposals from interested organizations capable of delivering ‘**scope of work**’ as provided in this RFP. The content of this RFP has been documented as a set of two (II) volumes explained below.

- **EOI Volume I: Scope of Work, Evaluation and Bidding Process:** Volume I of EOI provides details on the proposed scope of work, payment terms and details that may be needed by the potential bidders to understand their eligibility, bidding process and formats for preparing the bids that NHA deems necessary to share with the potential bidders.
- **EOI Volume II: MEMORANDUM OF UNDERSTANDING:** Volume II of EOI provides the contractual and legal terms that NHA wishes to specify at this stage.

**This is Volume II of the Eoi**

## **MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding ("**MoU**") is made and entered into on the \_\_\_day of \_\_\_\_\_ ("**Effective Date**") by and between:

\_\_\_\_\_, having its office located at \_\_\_\_\_ represented by \_\_\_\_\_ (hereinafter referred to as "**SHA** " which expression shall, unless it be repugnant to the context or meaning thereof be deemed to mean and include their successors and executors) of the **First Part**;

**AND**

\_\_\_\_\_ a \_\_\_\_\_ incorporated \_\_\_\_\_ and \_\_\_\_\_, having Corporate Identification no. \_\_\_\_\_ (**if applicable**), having its registered office at \_\_\_\_\_ (herewith referred to as the "**Empaneled Agency** ", which expression shall, unless it be repugnant to the context or meaning thereof be deemed to mean and include their successors and assigns) represented by Shri. \_\_\_\_\_ **Second Part**;

SHA and Empaneled Agency are hereinafter individually referred to as "**Party**"/as defined hereinabove, and collectively as "**Parties**"

### **WHEREAS**

- A. SHA is implementing and managing Pradhan Mantri Jan Arogya Yojana (ABPM-JAY) in State of \_\_\_\_\_
- B. The scheme covers 10.74 crore (approximately 50 crore beneficiaries) poor, deprived rural families and identified occupational categories of urban workers' families as per the latest Socio-Economic Caste Census (SECC) data (approx. 50 crore beneficiaries) and state/UT specific beneficiary data. The scheme is targeting out-of-pocket expenditure emerging from those catastrophic health episodes that push families into dire poverty.
- C. Empaneled Agency is in the business of \_\_\_\_\_.
- D. Empaneled Agency has sent a proposal dated \_\_\_\_\_ to NHA in reference to the EOI dated \_\_\_ and Guidelines for Institutions to issue PM-JAY e-cards (hereinafter the "Guidelines") issued by NHA dated \_\_\_\_\_ wherein Empaneled Agency have expressed their intention to facilitate the generation of AB-PMJAY beneficiary card to ensure maximum outreach of the scheme. Copy of the proposal is annexed as **Annexure A**.
- E. SHA is desirous to increase reach and touch points for AB PM-JAY beneficiaries to provide them access to Beneficiary Identification System (BIS) and for implementation of the scheme.
- F. For this purpose, Empaneled Agency has voluntarily proposed to provide **eCard Printing Services** as per guidelines and as per the terms and conditions as set forth in this MOU.

**NOW THEREFORE, in consideration of the above Recitals and in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:**

#### **Article 1-**

##### **Term and Termination**

1.1 The following are the terms of this MoU-

a. This MoU shall come into force on the effective date and will be valid for a period of \_\_\_\_\_ from the Effective Date. This MOU may be further renewed by the mutual consent of Parties on a year to year basis subject to same terms and conditions as listed in this MoU and total period of Empanelment.

b. This MoU may be terminated by either Party by giving 30 days written notice to the other party. However, it is agreed that the parties shall ensure that said termination does not adversely affect activity(ies) already initiated under this MoU and all efforts would be made to complete that particular activity which is undergoing as per schedule prior to termination of this MoU. The termination of this MOU will not affect validity or duration of any legally binding obligations of confidentiality, information security, assignment, ownership of intellectual property rights made under this MOU.

#### **Article 2-**

##### **Definitions**

2.1 The following are defined at a broad level as part of this MoU-

- a. AB PM-JAY shall mean "Ayushman Bharat Pradhan Mantri Jan Arogya Yojana" which is a scheme of Government of India implemented through SHA
- b. "Applicant" means applicants visiting at **Empaneled Agency's Centers/Kiosk/Locations/PSA** for availing various services under AB PM-JAY.
- c. "MoU or "this MoU" means and includes this MoU together with all Appendices, Annexures, Schedules, and any other attachments thereto, includes recitals written hereinabove, and as amended or modified from time to time.
- d. "BIS" means Beneficiary Identification System."
- e. "Beneficiary" : would mean a Beneficiary identified under AB PMJAY scheme.

#### **Article 3:**

## Scope of MOU

3.1. The following scope of MoU is mutually agreed between the Parties and has been signed with following objectives-

- a. Assistance to be provided through **Empaneled Agency 's Centers/Kiosk/Locations/PSA** in the filling up of online registration/validation process for Beneficiary Identification System of PMJAY.
- b. to increase reach and touch points for AB PM-JAY beneficiaries to provide them access to Beneficiary Identification System (BIS) and for implementation of the scheme.
- c. Empaneled Agency shall print the Beneficiary cards as per the specifications of card as enlisted in Annexure B)
- d. Empaneled Agency shall charge the prescribed Fee of Rs. 30 (Rupees Thirty) from the beneficiary when the card is generated and delivered to the Beneficiary. It is mandatory that money is to be paid only after the e-Card is generated and delivered, and that no money is to be charged in case the e-Card generation request is rejected for any reason whatsoever. Empaneled Agency acknowledges that strict action will be taken against Empaneled Agency in case any amount is charged from the applicants before delivery of the beneficiary Card as per the anti-fraud and other guidelines and instructions issued by SHA for the implementation of the AB PMJAY scheme as amended from time to time and as per applicable laws. Payment mechanism by Empaneled agency to SHA shall be dealt in reference to Section 6 of EOI.
- e. Beneficiary will be required to pay the prescribed fee **Rs. 30** (only on successful identification and delivery of card to beneficiary) to **Empaneled Agency**. This liability to pay this amount of Rs. 30 shall remain with Beneficiary after their card is successfully generated and received by them.
- f. Empaneled Agency shall ensure to create awareness amongst the applicants that no amount will be charged from them unless the card is generated and delivered to them.

## Article 4:

### Roles and Obligations of the Parties

#### 4.1. Role and responsibilities Of Empaneled Agency :

Subject to the terms of Guidelines, following will be the role of Empaneled Agency -

- a. Empaneled Agency will open/set up a Kiosk at its own Space and operate the same as Beneficiary identification and card generation Kiosks to provide services access for the implementation of AB PMJAY scheme.
- b. Deployment of trained Operator for delivery of services.
- c. Empaneled Agency will ensure the availability of basic infrastructure to run the Kiosks which includes electricity to operate, computer, printer, scanner, webcam and biometric device required for the purpose of enrolment and/or checking the eligibility under AB PMJAY.
- d. Empaneled Agency to ensure the privacy of data as received from SHA and/or Beneficiaries/ Applicants from time to time as per SHA guidelines, policies and applicable laws of India

- e. Collection of any information shall be done only with explicit informed consent from the applicants/ beneficiaries as prescribed/authorized under the guidelines, directed by SHA in writing and as per the applicable laws specifying the purpose of collection and use of such information.
- f. The “use” of Information from the beneficiaries shall be permitted with explicit consent from the applicants/ beneficiaries for the purposes of this MoU only. And use of any personal or sensitive personal data shall be as per the applicable laws of India.
- g. Deliver service as per the agreed role for BIS and follow the guidelines as specified by SHA
- h. Empaneled Agency will ensure the availability of service fee chart at the kiosk.
- i. Empaneled Agency will display scheme related awareness and communication material at the designated space at the Kiosk as per instructions of SHA .
- j. Empaneled Agency represent to abide by the applicable laws of India and not to indulge in any illegal activity.
- k. shall record the attendance of such officer at the kiosk in a Register.
- l. Empaneled Agency cannot assign, delegate, sublet, sub-contract any part of this MOU without written Consent of the SHA .
- m. Empaneled Agency shall not use AB PMJAY and NHA/ SHA logo apart from purposes of this MoU.
- n. Basic infrastructure like computers, printer, web cam/ Biometric devices for providing services will be deployed by Empaneled Agency at its own cost and expenditure. However, the same shall be removed after end of the term/termination of this MOU by Empaneled Agency as may be required within notice period and all the data contained therein shall be handed over to SHA without any Dispute.
- o. Empaneled Agency represents to understand the significance of the Security and Privacy of the data and ensures the protection of Data under the applicable laws of India.
- p. Empaneled Agency represents that Trained operator for the purposes of this MoU shall be appointed by Empaneled Agency at its own cost and SHA/ NHA shall never be liable for any costs and/or consideration in this regard.
- q. Empaneled Agency shall provide lock and key facility for the said Kiosk to PMAM/VLE and shall ensure that no duplicate keys are made available to any officer unless agreed with the written consent of all the parties. Empaneled Agency agrees unobstructed provision for electricity for operations of Kiosk (basic requirement to run lights, fan, cooler, computer, printer, scanner etc.) and shall record the PMAM VLE/authorized officer at the kiosk in a Register.
- r. Empaneled Agency represents that it shall provide Wi fi/ LAN connectivity for internet.

#### **4.2. Rights and Obligations of SHA :**

- a. SHA shall provide the promotional materials, information collaterals and standees in soft copy to Empaneled Agency that shall be printed by Empaneled Agency and placed at the KIOSKS. Printing and placement shall be done at Empaneled Agency cost and expense for the purpose of promotion of AB PMJAY.
- b. seeding of information for beneficiary identification will be done on the BIS App operated by PM- AM/ VLE.

## **Article 5–**

### **Financial implications**

- 5.1. This is a non-financial collaboration between SHA and Empaneled Agency wherein no transfer of funds/costs and/or any consideration from one Party to the other Party will take place for the activities mentioned herein except as mentioned in 5.2.
- 5.2. The payment/charge of Rs.30 of availing services would be paid by Beneficiary to Empaneled Agency directly post card is delivered to Beneficiary.
- 5.3. SHA shall never be liable for any payments and/or any financial implications for the services provided by Empaneled Agency in reference to terms and conditions of this MoU.
- 5.4. SHA shall make payment to Empaneled Agency as per Section 6 of EOI.

## **Article 6:**

### **Confidentiality**

#### 6.1 Confidential Information:

a. The term “Confidential Information” as used in this MOU shall mean any data, information, or knowledge disclosed by the SHA to the Empaneled Agency and not generally known to the public, including but not limited to: For the purposes of this Agreement the term “Confidential Information” as used in this Agreement shall mean any and all technical and non-technical information to be disclosed by the Disclosing Party and Authority to the Recipient, Technology details, Network Architecture, Information security policy and processes, software codes, internal reports, Personal Data, Sensitive Personal Data audit and assessment reports, applications details, asset details, contractual agreements, present and future planned infrastructure details, protection services, and capabilities of the system, written, representational, electronic, verbal or other form, whether or not expressly marked as “Confidential”, relating directly or indirectly to inventions, processes, products, methodologies, algorithms, beneficiary data, risk matrices, thresholds, parameters, reports, data, models, deliverables, work products, specifications, architecture, project information, money laundering typologies, related computer programs, systems, trend analysis, risk plans, strategies, operating techniques, source codes, object codes, “know how”, drawings, designs, patents, copyright, trademarks, trade secrets, unpublished records and information communicated or obtained through meetings, documents, correspondence or inspection of items, facilities or inspection at any site to which access is permitted by Disclosing Party/ Authority.

“Personal Data” shall mean any data / information that relates to a natural person which, directly or indirectly, in combination with other information available or likely to be available with, is capable of identifying such natural person and



“Sensitive Personal Data” shall mean personal data revealing, related to, or constituting, as may be applicable— (i) passwords; (ii) financial data; (iii) health data; (iv) official identifier; (v) sex life; (vi) sexual orientation; (vii) biometric data; (viii) genetic data; (ix) transgender status; (x) intersex status; (xi) caste or tribe; 6 (xii) religious or political belief or affiliation; or (xiii) any other category of data as per applicable laws of India as amended from time to time.

b. Exclusions to Confidential Information:

The obligation of confidentiality with respect to Confidential Information will not apply to any information:

- i. If the information is or becomes publicly known and available other than as a result of prior unauthorized disclosure
- ii. If the information is or was received from a third-party source which, to the best knowledge, is or was not under a confidentiality obligation to the SHA with regard to such information;
- iii. If the information is disclosed with the SHA 's prior written permission and approval;
- iv. If such disclosure is legally compelled by applicable law, by any court, governmental agency, or regulatory authority or subpoena or discovery request in pending litigation, but only if, to the extent lawful, then the party should give prompt written notice of that fact to the SHA prior to disclosure so that the SHA may request a protective order or other remedy.

6.2 Obligation to Maintain Confidentiality:

a. The Parties agrees to retain the Confidential Information in strict confidence, to protect the security, integrity, and confidentiality of such information and to not permit unauthorized access to or unauthorized use, disclosure, publication, or dissemination of Confidential Information except in conformity with this MOU.

b. Confidential Information is and will remain the sole and exclusive property of the SHA and will not be disclosed or revealed by Empaneled Agency , except

(i) to employees of the Empaneled Agency who have a need to know such information and agree to be bound by the terms of this MOU or

(ii) with the SHA 's express prior written consent.

c. Upon termination of this MOU, Empaneled Agency will ensure that all Confidential Information and all documents, memoranda, notes and other writings or electronic records with Empaneled Agency that include or reflect any Confidential Information in Empaneled Agency actual or constructive possession are returned and/or destroyed (with prior intimation) to the SHA within 15 days from the date of such termination.

- d. The obligation not to disclose Confidential Information shall survive the termination of this MOU, and at no time will the Confidential information be permitted to be disclosed, except to the extent that such Confidential Information is excluded from the obligations of confidentiality under this MOU pursuant to Paragraph 6.1 above.

#### **Article: 7**

##### **Remedies**

Empaneled Agency acknowledges that use or disclosure of any confidential and proprietary information in a manner inconsistent with this MOU will give rise to irreparable injury for which damages would not be an adequate remedy. Accordingly, in addition to any other legal remedies which may be available at law or in equity, the SHA shall be entitled to equitable or injunctive relief against the unauthorized use or disclosure of confidential and proprietary information. The SHA shall be entitled to pursue any other legally permissible remedy available as a result of such breach, including but not limited to direct damages.

#### **Article 8:**

##### **Limitation of Liability**

Neither Party shall be responsible for incidental or consequential damages but shall be responsible or liable for any loss or damage suffered by any person related to or arising out of the act and/or omission of that Party. Notwithstanding the foregoing, nothing in this paragraph is intended to limit or restrict the indemnification rights, confidentiality and other obligations of any party against the other under the terms and conditions of this MOU.

#### **Article 9:**

##### **Collaterals**

Empaneled Agency may use the AB PM-JAY and related logos and collaterals to create co-branded material which shall be used as the promotional materials, information collaterals and standees that shall be placed at the Kiosks only for the purpose of this MOU and as per the soft copies and instruction provided by SHA for the purposes of this MoU.

#### **Article: 10**

##### **Indemnity**

10.1. Each Party shall indemnify and hold harmless each other from any claims and losses arising in connection with this MoU to extent that such claims or losses are attributable to or arise from the such Parties' action or omissions of its own employees or agents or partners. The party seeking such indemnification to prove that the claims and losses are attributable due to other party's actions and/ or omissions.

10.2. Empaneled Agency agrees to indemnify and hold harmless SHA from any and all claims and/or third-party claims and losses arising from any act and/omission by Empaneled Agency respectively in connection with this MoU. SHA will not be responsible for any act, omission or commission on the part of the cost to beneficiaries, trained operators, resources engaged and/or employed by the Empaneled Agency . Empaneled Agency shall indemnify SHA against any and all such claims.

#### **Article 11:**

##### **Reports**

Empaneled Agency shall provide transactional and operations reports periodically to SHA , which may be specific to a service, geographic region or consolidated in a format specified by SHA . These reports would help in understanding the effectiveness of the services, Issue faced in the field and potential improvement areas and infrastructure and other complements under its scope of operations.

#### **Article 12:**

##### **Binding**

The terms and conditions of this MOU shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this MOU, expressed or implied, is intended to confer upon any third party any rights, remedies, obligations, or liabilities under or by reason of this MOU, except as expressly provided in this MOU

#### **Article 13:**

##### **Intellectual Property**

- a. Each Party hereby expressly agrees that all patent, copyright, trade secret, trademark or service marks or logos (whether registered or unregistered and with or without goodwill) and other intellectual property rights, title to or interests in Marks (“**Intellectual Property**”) are the exclusive property of the respective Party and neither Party nor its affiliates shall be entitled, either by implication or otherwise, to use the other Party’s Intellectual Property, except for the manner set forth in this MoU. The term “Marks” shall mean the trademarks, service marks, trade names, logos, slogans and other identifying symbols etc. of a Party.
- b. Each Party hereby grants the other Party, solely during the Term, a limited, royalty-free, non-exclusive, non-transferable, non-assignable license, without the right to sublicense, to use and display the Marks solely for the purpose of this MOU. All use of a Party’s Marks shall be in the form and format approved by the Party who owns the Mark/IPR, and Neither Party shall, otherwise use or modify the Marks without the prior written consent of the other Party. The Parties agree that the Marks/IPR will at all times remain the exclusive property of the respective Party.
- c. Parties hereby represents and warrants that apart from the manner set forth in this MOU, it shall not use, reproduce, perform, display (public communication), and distribute, modify, re-format, create and exploit derivative works of, and otherwise commercially or non-commercially exploit in any manner, and all the Intellectual Property of other party, and/or not alter any trademark of other party in any manner whatsoever
- d. Usage of either Party’s name and Marks by the other Party, in connection with this MoU, shall be subject to prior consultation with and consent of the other Party.
- e. Each party owns and shall retain all rights, title and interest in and to its Intellectual Property, and nothing in this Agreement shall be deemed to grant any license or right under a party’s Intellectual Property to the other party.
- g. Empaneled Agency agrees that SHA shall have a right in perpetuity in regard to ownership over any report/ outcome etc. prepared in terms of this MoU.

**Article 14:**

**Jurisdiction and Dispute Resolution**

- (a) This MOU shall be governed by and construed in accordance with the applicable laws of India as amended from time to time and shall benefit and be binding upon the parties hereto, their respective successors and assign.
- (b) Any dispute arising out of the MoU shall be referred to the nominated senior representatives of all the parties for resolution through conciliation.
- (c) In case, any such difference or dispute is not amicably resolved within forty-five (45) days of such referral, it shall be resolved through Arbitration with the seat of Arbitration being New Delhi, in accordance with the provisions of Arbitration and Conciliation Act 1996 as amended from time to time. Wherein both the Parties shall appoint one Arbitrator each and both such Arbitrator's shall choose a Sole Arbitrator. Award of the Sole Arbitrator shall be binding on all the parties to this MOU.
- (d) In case of any dispute between the parties in accordance with the aforesaid mentioned dispute resolution process then parties shall approach the court for resolution of the matter.
- (e) The courts of New Delhi shall have exclusive jurisdiction for the purposes of this MoU.

#### **Article 15:**

##### **Force Majeure**

- (a) Neither Party shall be liable for any failure to perform solely caused by a Force Majeure Event and in the event that either party is prevented from performing or is unable to perform any of its obligations under this Agreement due to a Force Majeure Event, its performance shall be excused, and the time for performance shall be extended for the period of delay or inability to perform due to such Force Majeure Event. Regardless of the excuse of a Force Majeure, if a party is not be able to perform any material obligation under this Agreement due to a Force Majeure Event for a period of sixty (60) days or more, the other party may terminate this Agreement.
- (b) For the purpose of this Agreement, a "Force Majeure Event" shall mean an Act of God, breakdown or failure of plant or equipment including transportation or storage facilities, strikes, lockouts, labor disputes of any kind, riot, war, embargo, fire, flood, severe weather conditions, compliance with any order or request of any national, regional or local authority, port authority or other public authority, or any other cause or event unforeseeable and beyond the reasonable control of a Party. If any force majeure event occurs, the affected party will give prompt written notice to the other party and will use reasonable effects to minimize the impact of such event.

#### **Article 16:**

##### **No Partnership**

This MOU does not create or evidence a partnership between the Parties. The Parties are independent entities, and no agency, partnership, joint venture or employer relationship is intended or created by this MOU. Neither Party will make any warranties or representations on behalf of the other.

**Article 17:**

**Validity**

This MoU reflects the intention and discharge of responsibilities of the parties in connection with the arrangements contemplated hereby; however, this MoU will have no other consequences against all the Parties in terms of indirect damages or consequential claims arising out of or in connection with this MoU.

**ARTICLE 18-**

**Modifications**

No modifications to this MOU will be effective unless agreed to in writing and signed by all the Parties by way of an amendment.

**ARTICLE 19-**

**Waiver and Severability**

a. Neither Party will be charged with any waiver of any provision of this MOU, unless such waiver is evidenced by a writing signed by the Party and any such waiver will be limited to the terms of such writing.

b. If any of the provisions of this MoU are declared to be invalid, illegal or unenforceable in whole or in part, such provisions shall be severed from this MoU and the remaining provisions shall not be affected and shall continue to be valid, legal and enforceable as though the invalid, illegal or unenforceable parts had not been included in this MOU.

**Article 20:**

**Notices**

All notices and other communications required to be served by either party under the terms of this agreement, shall be in English and shall be considered to be duly served, if the same shall have

been delivered either by speed post, email, courier, fax or sent by registered reordred addresses as detailed herein below

**Contact Information**

Partner name: \_\_\_\_\_

Partner representative: \_\_\_\_\_

Position: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail: \_\_\_\_\_

SHA

Partner representative: \_\_\_\_\_

Position: \_\_\_\_\_

Address: \_\_\_\_\_

**Article 21: Publicity:**

Empaneled Agency shall not use the trademarks and /or IPR of SHA without the prior written consent of SHA . Empaneled Agency shall not publish or permit to be published either alone or in conjunction with any other person any press release, information, article, photograph, illustration or any other material of whatever kind relating to this MOU or the business of the Parties without prior reference to and approval in writing from SHA . Also, the content of material or activity shall be agreed by both the parties and approved by SHA before any public sharing and dissemination.

**Article 22: Compliance with Applicable Laws:**

Applicable laws for this MOU shall be laws of India only. Each Party to this MOU accepts that its individual conduct shall, to the extent applicable to its businesses as a service provider, at all times comply with all laws, rules and regulations of government and other bodies having jurisdiction over the area in which the Project is conducted, provided that changes in such laws,

rules and regulations which result in a change to the Services shall become immediately applicable.

**Article 23: Privacy:**

Parties represents that it shall abide by the statutory laws pertaining to Data Privacy as applicable in India and as amended from time to time. Parties affirms that the Data as per the terms of this MOU shall at all times remain within the territorial Jurisdiction of India only. Any breach of Privacy by the Parties shall make them liable to penalties and actions as per applicable laws.

**Article 24: Entire Agreement:**

This MoU supersedes any and all other prior understandings and agreements, either oral or in writing, between the parties with respect to the subject matter hereof and constitute the sole and only MoU between the parties with respect to the said subject matter. Each party to this Agreement acknowledges that such representations, inducements, promises, or agreements, orally or otherwise which are not embodied in this MoU or statement or promise that is not contained in this MoU shall not be valid or binding or of any force or effect. However, in case the parties agree on any new proposal/arrangement, the same shall only be valid once it is signed by the Authorized Signatories of both the parties in writing."

**Article 25 Counterpart**

This MoU may be executed in two counterparts, each of which when executed and delivered shall constitute an original of this MoU but shall together constitute one and only MoU.

**IN WITNESS WHEREOF**, the undersigned parties have executed this MoU as of the date indicated above.



<p>SIGNED for and on behalf of</p> <p><b>SHA</b></p> <p>By _____</p> <p>Title <u>CEO-SHA</u> (authorized signatory)</p> <p>Date _____</p>	<p>SIGNED for and on behalf of</p> <p><b>Empaneled Agency</b></p> <p>By: _____</p> <p>Title: _____ (authorized signatory)</p> <p>Date _____</p>
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Witness 1:

Witness 2:

**Annexure: A**

**Proposal by Empaneled Agency**



**Annexure: B**  
**CARD Specifications**

## 2 Annexure 3: Non-Disclosure Agreement

THIS AGREEMENT is made on this the <\*\*\*> day of <\*\*\*> 20--- at <\*\*\*>, India.

BETWEEN

----- having its office at -----  
----- India hereinafter referred to as 'Purchaser' or 'Disclosing Party',  
which expression shall, unless the context otherwise requires, include its permitted successors  
and assigns);

AND

<\*\*\*>, a Company incorporated under the Companies Act, 1956, having its registered office at  
<\*\*\*> (hereinafter referred to as 'the Agency/Receiving Party' which expression shall, unless the  
context otherwise requires, include its permitted successors and assigns).

Each of the parties mentioned above are collectively referred to as the 'Parties' and individually  
as a 'Party'.

WHEREAS:

1. Purchaser is desirous to implement the project of -----.
2. The Purchaser and AGENCY have entered into a Empanelment agreement in furtherance of  
the Project.
3. Whereas in pursuing the Project (the "Business Purpose"), a Party ("Disclosing Party")  
recognizes that they will disclose certain Confidential Information (as defined hereinafter) to the  
other Party ("Receiving Party").
4. Whereas such Confidential Information (as defined hereinafter) belongs to Receiving Party as  
the case may be and is being transferred to the Disclosing Party to be used only for the Business  
Purpose and hence there is a need to protect such information from unauthorized use and  
disclosure.

NOW THEREFORE, in consideration of the mutual covenants, promises, assurances,  
representations and provisions set forth herein, the Parties hereto agree as follows:

DEFINITIONS AND INTERPRETATION

## **2.1 Definitions**

Terms and expressions used in this Agreement (including the Introduction) shall have the same meanings set out in Empanelment Agreement read with RFP.

## **2.2 Interpretation**

In this Agreement, unless otherwise specified:

- (a) references to Clauses, Sub-Clauses, Paragraphs and Schedules are to clauses, subclauses, paragraphs of and schedules to this Agreement;
- (b) use of any gender includes the other genders;
- (c) references to a 'company' shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established;
- (d) references to a 'person' shall be construed so as to include any individual, firm, company, government, state or agency of a state, local or municipal authority or government body or any joint venture, association or partnership (whether or not having separate legal personality);
- (e) a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted;
- (f) any reference to a 'day' (including within the phrase 'business day') shall mean a period of 24 hours running from midnight to midnight;
- (g) references to a 'business day' shall be construed as a reference to a day (other than a Sunday) on which banks in the state of <\*\*\*> are generally open for business;
- (h) references to times are to Indian standard time;
- (i) a reference to any other document referred to in this Agreement is a reference to that other document as amended, varied, novated or supplemented at any time; and
- (j) all headings and titles are inserted for convenience only. They are to be ignored in the interpretation of this Agreement.

## **2.3 Measurements and Arithmetic Conventions**

All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down except in money calculations where such amounts shall be rounded off to the nearest INR.

## **2.4 Ambiguities within Agreement**

In case of ambiguities or discrepancies within this Agreement, the following principles shall apply:

- (a) as between two Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in a general Clause;
- (b) as between the provisions of this Agreement and the Schedules, the Agreement shall prevail, save and except as expressly provided otherwise in the Agreement or the Schedules; and

(c) as between any value written in numerals and that in words, the value in words shall of agreements

The Parties hereby expressly agree that for the purpose of giving full and proper effect to this Agreement, the Agreement and this Agreement shall be read together and construed harmoniously. In the event of any conflict between the Agreement and this Agreement, the provisions contained in the Agreement shall prevail over this Agreement.

## **2.5 Term**

This Agreement will remain in effect for perpetuity from the date of execution of this Agreement and/or Empanelment Agreement ("Term").

## **2.6 Scope of the agreement**

(a) This Agreement shall apply to all confidential and proprietary information disclosed by Disclosing Party to the Receiving Party and other information which the disclosing party identifies in writing or otherwise as confidential after disclosure to the Receiving Party ("Confidential Information"). Such Confidential Information consists of certain specifications, documents, software, prototypes and/or technical information, and all copies and derivatives containing such Information that may be disclosed to the Disclosing Party for and during the Business Purpose, which a party considers proprietary or confidential.

(b) Such Confidential Information may be in any form or medium, tangible or intangible, and may be communicated/disclosed in writing, orally, or through visual observation or by any other means to the Receiving Party.

## **2.7 Obligations of the receiving party**

The Receiving Party shall:

(a) use the Confidential Information only for the Business Purpose and shall hold the Confidential Information in confidence using the same degree of care as it normally exercises to protect its own proprietary information, considering the nature of the Confidential Information, and

(b) grant access to Confidential Information only to its employees on a 'need to know basis' and restrict such access as and when not necessary to carry out the Business Purpose.

(c) cause its employees to comply with the provisions of the Agreement and get an individual undertaking signed from its employees and/or associates as placed at Annexure 4 and such employees and/or associates shall be instructed, directed and guided by Service Provider to deal with Confidential Information in the same manner as stated in this Non-Disclosure Agreement and RFP. Service Provider shall promptly provide copies of such Individual Undertakings to Purchaser as and when demanded;

(e) prevent disclosure of Confidential Information to third parties;

(f) disclose the Confidential Information to its consultants/contractors on a need to know basis; provided that by doing so, the Receiving Party agrees to bind such consultants/contractors to terms at least as restrictive as those stated herein. The Receiving Party upon making a disclosure under this Clause shall:

(i) advise the consultants/contractors of the confidentiality obligations imposed on them by this Clause.

(g) upon the Disclosing Party's request, the Receiving Party shall either return to the disclosing party all Confidential Information or shall certify to the disclosing party that all media containing Confidential Information have been destroyed. Provided, however, that an archival copy of the Confidential Information may be retained in the files of the Receiving Party's counsel, solely for the purpose of proving the contents of the Confidential Information.

(h) not to remove any of the other Party's Confidential Information from the premises of the Disclosing Party without prior written approval.

(i) exercise extreme care in protecting the confidentiality of any Confidential Information which is removed, only with the Disclosing Party's prior written approval, from the Disclosing Party's premises. Each Party agrees to comply with any and all terms and conditions the disclosing party may impose upon any such approved removal, such as conditions that the removed Confidential Information and all copies must be returned by a certain date, and that no copies are to be made off of the premises.

(j) Upon the Disclosing Party's request, the Receiving Party shall promptly return to the Disclosing Party all tangible items containing or consisting of the disclosing party's Confidential Information all copies thereof.

## **2.8 Exceptions to confidential information**

The foregoing restrictions on each party's use or disclosure of Confidential Information shall not apply to the Confidential Information that the Receiving Party can demonstrate that such Confidential Information:

(a) was independently developed by or for the Receiving Party without reference to the Information provided by Disclosing Party.

(b) has become generally available in public domain without breach of confidentiality obligations of the Receiving Party; or

(d) is the subject of a subpoena or other legal or administrative demand for disclosure; provided, however, that the Receiving Party has given the disclosing party prompt notice of such demand for disclosure and the Receiving Party reasonably cooperates with the disclosing party's efforts to secure an appropriate protective order; or

## **2.9 Ownership of the confidential information**

(a) Each Party recognizes and agrees that all of the disclosing Party's Confidential Information is owned solely by the Disclosing Party (or its licensors) and that the unauthorized disclosure or use of such Confidential Information would cause irreparable harm and significant injury, the degree of which may be difficult to ascertain.

(b) By disclosing the Confidential Information or executing this Agreement, Disclosing Party does not grant any license, explicitly or implicitly, under any trademark, patent, copyright, mask work protection right, trade secret or any other intellectual property right. The Disclosing Party disclaims all warranties regarding the information, including all warranties with respect to infringement of intellectual property rights and all warranties as to the accuracy or utility of such information.



(c) Access to Confidential Information hereunder shall not preclude an individual who has seen such Confidential Information for the purposes of this Agreement from working on future projects for the Disclosing Party which relate to similar subject matters, provided that such individual does not refer to the Confidential Information and does not copy the substance of the Confidential Information during the Term. Furthermore, nothing contained herein shall be construed as imposing any restriction on the Receiving Party's disclosure or use of any general learning, skills or know-how developed by the Receiving Party's personnel under this Agreement.

(d) Execution of this Agreement and the disclosure of Confidential Information pursuant to this Agreement do not constitute or imply any commitment, promise, or inducement by either Party to make any purchase or sale, or to enter into any additional agreement of any kind.

## **2.10 Dispute resolution**

(a) If a dispute arises in relation to the conduct of this Agreement (Dispute), a party must comply with this clause 7 before starting arbitration or court proceedings (except proceedings for urgent interlocutory relief). After a party has sought or obtained any urgent interlocutory relief that party must follow this clause 7.

(b) A party claiming a Dispute has arisen must give the other parties to the Dispute notice setting out details of the Dispute.

(c) During the 14 days after a notice is given under clause 7(b) (or longer period if the parties to the Dispute agree in writing), each party to the Dispute must use its reasonable efforts through a meeting of Senior Executive (or their nominees) to resolve the Dispute. If the parties cannot resolve the Dispute within that period then any such dispute or difference whatsoever arising between the parties to this Agreement out of or relating to the construction, meaning, scope, operation or effect of this Agreement or the validity of the breach thereof shall be referred to a sole arbitrator to be appointed as mutually decided between the Parties. If the parties cannot agree on the appointment of the arbitrator within a period of one month from the notification by one party to the other of existence of such dispute, then the Arbitrator shall be appointed by the High Court of the jurisdiction specified in this agreement. The provisions of the Arbitration and Conciliation Act, 1996 will be applicable and the award made there under shall be final and binding upon the parties hereto, subject to legal remedies available under the law. Such differences shall be deemed to be a submission to arbitration under the Indian Arbitration and Conciliation Act, 1996, or of any modifications, Rules or re-enactments thereof. The seat and venue of Arbitration proceedings will be held at New Delhi.

The validity and interpretation of this agreement shall be governed by the applicable laws of India and Parties shall be subject to the exclusive jurisdiction of the Courts of New Delhi to entertain any disputes.

(b) The Receiving Party agrees that the Disclosing Party shall have the right to obtain an immediate injunction enjoining any breach of this Agreement, as well as the right to pursue any and all other rights and remedies available at law or in equity for such a breach.

## **2.11 Variation**

This Agreement may only be varied/amended in writing and signed by both Parties.

## **2.12 Waiver**

Waiver including partial or conditional waiver, by either Party of any default by the other Party in the

observance and performance of any provision of or obligations under this Agreement: -

(a) shall be in writing

(b) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;

(c) shall be executed by a duly authorized representative of the Party; and

(d) shall not affect the validity or enforceability of this Agreement in any manner.

## **2.13 Exclusion of Implied Warranties**

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

## **2.14 Entire agreement**

This Agreement and the Annexure together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn.

## **2.15 Severability**

If for any reason whatever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties shall negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to the dispute resolution procedure set forth under this Agreement or otherwise.

## **2.16 No partnership**

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party, and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party except as expressly provided under the terms of this Agreement.

### **2.17 Third parties**

This Agreement is intended solely for the benefit of the Parties and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.

### **2.18 Successors and assigns**

The Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

### **2.19 Notices**

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall be given by hand delivery, recognized courier, registered post, email or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

If to Purchaser:

Attn: <\*\*\*>

Tel:

Fax:

Email:

Contact:

With a copy to:

If to the AGENCY :

Attn. <\*\*\*>

Phone: <\*\*\*>

Fax No. <\*\*\*>

### **2.20 Language**

All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in the English language.

### **2.21 Counterparts**

This Agreement may be executed in counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement.

### **2.22 Mitigation**

Without prejudice to any express provisions of this Agreement on any mitigation obligations of the Parties, each of the Purchaser and the AGENCY shall at all times take all reasonable steps to

minimize and mitigate any loss for which the relevant Party is entitled to bring a claim against the other Party pursuant to this Agreement.

### **2.23 Removal of difficulties**

The Parties acknowledge that it is conceivable that the Parties may encounter difficulties or problems in the course of implementation of the Project and the transactions envisaged under this Agreement. The Parties agree and covenant that they shall mutually discuss such difficulties and problems in good faith and take all reasonable steps necessary for removal or resolution of such difficulties or problems.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

For and on behalf of the AGENCY by:

(Signature)

(Name)

(Designation)

(Address)

(Fax No.)

SIGNED, SEALED AND DELIVERED

For and on behalf of the Purchaser by:

(Signature)

(Name)

(Designation)

(Address)

(Fax No.)

In the presence of:

- 1.
- 2.

### 3 Annexure 4: Individual Confidentiality Undertaking

#### Individual Confidentiality Undertaking

I, [*Insert Name*], the undersigned, having [*Insert Staff Number*] acknowledge that as an employee/ staff of \_\_\_\_\_, I will be working as a team member of the \_\_\_\_\_ project team which is providing, or shall provide (as applicable), certain [*Insert services to be provided*] ("**Services**") to National Health Authority ("**NHA**"). I confirm that I have fully read and understood all the terms and conditions of the Non-Disclosure Agreement and Agreement dated [\_\_\_\_\_] ("**Agreement**") executed between \_\_\_\_\_ and NHA in particular to the contents below. With effect from [*Insert the effective date of the NDA*], I undertake to strictly abide by this undertaking and the Agreement.

To the extent not defined in this undertaking itself, the capitalised terms contained in this letter shall have the meaning attributed to them under the Agreement and/or RFP.

Without prejudice to the generality of the foregoing paragraphs, I agree to the following:

1. Save as required by law or professional regulation (in which case I will immediately inform the \_\_\_\_\_ to the extent not prohibited by law or regulation), I will not discuss/ disclose, at any time during my work on the Services or at any time thereafter, any Confidential Information with/ to any third party or any employee of \_\_\_\_\_ or other associated organizations and/or subsidiaries, other than those who need to access such information on a strict need to know basis.
2. If approached by any third party or employee/staff (where such employee/ staff do not require access to the Confidential Information on a need to know basis) to provide any Confidential Information relating to the Services, I will immediately inform the Project Manager and will not disclose any such information without his/ her written consent.
3. I will not remove or destroy any documents, data, files or working papers in whatsoever form (including and not restricted to any in electronic form) in respect of the Services, without the written consent of Project Manager.
4. I will not divulge or make known to any other person, either the password or the unique security password that is assigned to me
5. I will not leave my computer/laptop unattended while still connected in a remote session.
6. I will not discuss any information, status or condition of any NHA / PMJAY/NDHM/other convergence schemes related information with anyone, including another employee or staff of NHA, in a place or in a manner which may compromise the confidential nature of the information being provided from the NHA.

7. I understand that I am liable to be prosecuted if I publish anything without any official sanction any information that I may have acquired in the course of my tenure of an official appointment or retain without any official sanction any data, sketch, plan, model, article or official documents etc. which are not needed as part of my official duties.
8. In the event that I leave the employment of \_\_\_\_\_ or my association with \_\_\_\_\_ gets terminated, I will not discuss/ disclose thereafter any Confidential Information with/ to any other party.

I understand that strict compliance with this undertaking and the Agreement is a condition of my involvement with the Services and a breach hereof may be regarded as an infringement of my terms of employment/ association with \_\_\_\_\_. I acknowledge that I will be personally liable for any breach of this undertaking and/or the Agreement and that the confidentiality obligations hereinunder shall survive the tenure of my employment/ association with \_\_\_\_\_. By my signature below, I acknowledge (i) receiving and understanding all the aspects and conditions of this declaration (ii) acceptance of my obligations arising out of this declaration and my agreement to fulfill the same.

Signature: \_\_\_\_\_

Name (in block letters): \_\_\_\_\_

Telephone #: \_\_\_\_\_ Date: \_\_\_\_\_

#### **4 Annexure 5 : INTEGRITY PACT**

##### **INTEGRITY PACT**

This Agreement (hereinafter called the Integrity Pact) is made on \_\_\_\_\_ day of the month of \_\_\_\_\_ 20\_\_\_\_, between, on one hand, the President of India acting through Chief Executive Officer, National Health Authority, Government of India (hereinafter called the "The Principal"), which expression shall mean and include, unless the context otherwise requires, his successors in office and assigns) of the First Part

And

M/s \_\_\_\_\_ represented by \_\_\_\_\_, Chief Executive Officer/ Authorized Signatory (hereinafter called the "Bidder/Contractor", which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns) of the Second Part.

##### **Preamble**

The principal intends to award, under laid down organizational procedures, contract to design, develop, implement, operate and maintain an IT Enterprise Suite for National Health Authority.

The Principal values full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness/ transparency in its relations with its bidder(s) and contractor(s).

In order to achieve this the Principal will appoint Independent External Monitors (IEMs) who will monitor the tender process and the execution of the contract for compliance with the principal mentioned above.

#### Section 1 – Commitments of the Principal.

1. The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles :-

a) No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the personal is not legally entitled.

b) The Principal will during the tender process treat all

Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/additional information through which the Bidder(s) could obtain an advantage in relation to the process or the contract execution.

c) The Principal will exclude from the process all known prejudiced persons.

2. If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC/PC Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

#### Section 2 – Commitments of the Bidder(s)/Contractor(s)

1. The Bidder(s)/Contractor(s) commit himself to take all measures necessary to prevent corruption. The Bidder(s)/Contractor(s) commits themselves to observe the following principles during his participation in the tender process and during the contract execution.

a) The Bidder(s)/contractor(s) will not, directly or through any other persons or firm, offer promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage or during the execution of the contract.

b) The Bidder(s)/Contractor(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.

c) The Bidder(s)/Contractor(s) will not commit any offence under the relevant IPC/PC Act; further the Bidder(s)/Contractors will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or documents provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

d) The Bidder(s)/Contractor(s) of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly, the bidder(s)/contractor(s) of Indian Nationality

shall furnish the name and address of the foreign principals, if any. All the payments made to the India agent/representative have to be in Indian Rupees only.

e) The Bidder(s)/Contractor(s) will, when presenting their bid, disclose any and all payments made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.

f) Bidder(s)/Contractor(s) who have signed the Integrity pact shall not approach the courts while representing the matter to IEMs and shall wait for their decision in the matter.

2. The Bidder(s)/Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

### Section 3: Disqualification from tender process and exclusion from future contract

If the Bidder(s)/Contractor(s), before award or during execution has committed a transgression through a violation of Section 2 above or in any other form such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/Contractor(s) from the tender process or to terminate the contract, if already signed, for such reasons.

### Section 4: Compensation for Damages

1. If the Principal has disqualified the Bidder(s) from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/Bid Security.

2. If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to Section 3, The Principal shall be entitled to demand and recover from the Contractor liquidated damages of the Contract value or the amount equivalent to Performance Bank Guarantee.

### Section 5: Previous Transgression

1. The Bidder declares that no previous transgressions occurred in the last three years with any other company in any country conforming to the anti-corruption approach or with any other government (Central/State/PSU's) in India that could justify his exclusion from the tender process.

2. If the bidder makes incorrect statement on this subject, he can be disqualified from the tender process and appropriate action can be taken including termination of the contract, if already awarded, for such reasons.

### Section 6: Equal treatment of all Bidders/Contractors/Sub-contractors.

1. In case of sub-contracting, the principal contractor shall take the responsibility of the adoption of Integrity pact by the sub-contractors.

2. The Principal will enter into agreements with the identical conditions as this one with all bidders, contractors and sub-contractors.

3. The Principal will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.



Section 7: Criminal charges against violating Bidder(s) / Contractor(s) / Sub-contractors(s).

If the Principal obtains knowledge of conduct of a Bidder(s)/ Contractor(s) or sub-contractor, or of an employee or a representative or an associate of a bidder, contractor or sub-contractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the same to the Chief Vigilance Officer.

Section 8: Independent External Monitor/Monitors

1. The Principal appoints competent and credible Independent External Monitor for this Pact after approval by Central Vigilance Commission. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
2. The Monitor is not subject to instructions by the representatives of the parties and performs his/her functions neutrally and independently. The Monitor would have access to all contract documents, whenever required. It will be obligatory for him/her to treat the information and documents of bidders /contractors as confidential. He reports to the CEO, SHA.
3. The Bidder(s)/Contractor(s) accepts that the Monitor has the right to access without restriction to all project documentation of the Principal including that provided by the Contractor. The Contractor will also grant the Monitor, upon his/her request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors.
4. The Monitor is under contractual obligation to treat the information and documents of the Bidder(s) / Contractor(s) / Subcontractor(s) with confidentiality. The Monitor has also signed declarations on 'Non-disclosure of Confidential Information' and of 'Absence of Conflict of Interest'. In case of any conflict of interest arising at a later date, the IEM shall inform CEO, SHA and recuse himself/herself from that case.
5. The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.
6. As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or take corrective action, or to take other relevant action. The monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
7. The Monitor will submit a written report to the CEO, SHA within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should be occasion arise, submit proposals for correcting problematic situations.
8. If the Monitor has reported to the CEO, SHA a substantiated suspicion of an offence under relevant IPC/PC Act, and the CEO, SHA has not, within the reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.

9. The word "Monitor" word include both singular and plural.

Section 9: Pact Duration

This pact begins when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the contract, and for all other Bidder 6 months after the contract has been awarded. Any violation of the same would entail disqualification of the bidders and exclusion from future business dealings.

If any claim is made/lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged/determined by CEO, SHA

Section 10: Other Provisions

1. This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal i.e. New Delhi.
2. Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
3. If the contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
4. Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
5. Issues like Warranty / Guarantee etc. shall be outside the purview of IEMs.
6. In the event of any contradiction between the Integrity pact and its annexure, the clause of the Integrity pact will prevail.

\_\_\_\_\_  
(For & on behalf of the Principal)

(Office Seal)

Place \_\_\_\_\_

Date \_\_\_\_\_

Witness 1:

(Name & Address)

Witness 2:

(Name & Address)

\_\_\_\_\_  
(For & on behalf of Bidder/Contractor)

(Office Seal)

