

Software Technology Parks of India



Tender Notice

**Comprehensive Annual Maintenance Contract for 01 No. of
20 KVA Online UPS Installed at STPI-Surat**

(Tender No: STPIG/PUR/QUO/21-22/03 dated 03/08/2021)

MODE OF TENDERING: TWO-BID SYSTEM

SOFTWARE TECHNOLOGY PARKS OF INDIA

(Ministry of Electronics & Information Technology, Government of India)

9th Floor, GIFT One Tower, GIFT City, Gandhinagar (Gujarat)-382355

Phone:+91-79-66748531/32,Fax:+91-79-66748533

Website: <https://gandhinagar.stpi.in>

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NOTICE INVITING TENDER

Subject	Comprehensive Annual Maintenance Contract for 01 no. of 20 KVA Online UPS Installed at STPI Surat
Tender No. & Date	STPIG/PUR/QUO/20-21/03 dated 03/08/2021
Bid submission Start Date	03/08/2021 at 12:00 Hrs.
Bid Submission End Date	16/08/2021, 15:00 Hrs.
Date & Time for Technical Bid Opening	16/08/2021, 16:00 Hrs. at STPI-Gandhinagar
Date & Time for opening of Financial Bids	To be Conveyed Separately
Validity of Bids	90 Days from the bid submission end date

Software Technology Parks of India (STPI), Gandhinagar invites limited Tender under two-bid system (Technical bid and Financial bid) from vendors fulfilling the eligibility requirements as mentioned in tender document for the Comprehensive Annual Maintenance Contract for 1 no. of 20 KVA Online UPS Installed at STPI Surat as mentioned in **Annexure-A** of the Tender document.

Tender to be submitted in Sealed Two Bid System in Separate Covers as per the following:

Cover-I.....Technical Bid (All documents except Annexure E)

Cover IIFinancial Bid (Annexure E)

- (1) The tender has to be submitted in one sealed envelope and write on the top of envelop “**Tender for AMC of 01 no. of 20 KVA Online UPS**” and forward to “The Director, Software Technology Parks of India, 9th floor, GIFT One Tower, GIFT City, Gandhinagar-382355. This envelope will contain two separate sealed envelopes one for Technical bid and one for financial bid and write on the top of the envelop “Technical Bid” and on the top of second envelop “Financial Bid.
- (2) Corrigendum/addendum, extension of the deadline for submission of bids, if any will be published in CPP Portal (<https://eprocure.gov.in/epublish/app>) and STPI Gandhinagar website (<https://gandhinagar.stpi.in>). Separate communication will not be sent for the same.

(Admin. Officer)

SCOPE OF THE WORK:

Comprehensive Annual Maintenance Contract for 01 no. of 20 KVA Online UPS (3 Phase input & output) installed at STPI-Surat, FP: 27, TP: 22, Jiav-Budia Road, Nr. Someshwar Society, Bhestan, Surat - 395023. The details of system that are proposed to be covered under AMC are given in **Annexure-A**.

The terms 'System' shall mean and include 01 no. of 20 KVA Online UPS (3 Phase input & output) for which comprehensive annual maintenance services have to be provided by the Bidder under the Contract.

SERVICES WILL INCLUDE:

- i. Preventive Maintenance: Preventive maintenance services are required to be taken up by the Bidder on quarterly basis. The Bidder has to inform the schedule of preventive maintenance at least 3 days before schedule time. Preventive maintenance consisting inspection, cleaning of the equipment, testing, satisfactory execution of all diagnostics, necessary repairing of the equipment etc. bidder has to complete as per the schedule.
- ii. If the preventive maintenance is not carried out during any quarter, charges for that quarter will not be paid.
- iii. Breakdown Maintenance: The Bidder has to carry out Corrective Maintenance Services as and when required upon receiving information of any fault in the equipment covered under the contract. The Bidder shall carry out troubleshooting & repair/replacement of faulty equipment parts as and when required in co-ordination with the STPI. Any repair/replacement required would have to be intimated well in advance.
- iii. The inspection, operational test and full function tests of the equipment installed will be done and service report on the functionality of the equipment installed with suggestion for improvements & upgrades, if any, shall be carried out during the inspection/service visit.
- iv. Maintain an adequate inventory of Spare Parts for the equipment under AMC. All materials shall be from OEM and shall be suitable for the performance of their respective functions.
- v. The Annual Maintenance Contract shall be comprehensive in nature and shall include servicing and repairs/fixing replacement of all components and parts of the system. The term Maintenance shall also include cost of all parts/repairs/replacements necessary for the proper functioning of the aforesaid systems. No Extra charges for any wear and tear/spare parts etc. shall be made by STPI. The parts which are to be replaced should be of the same or higher configuration and of OEM and compatible with existing system. In case of replacement of defective parts, the parts should be accomplished with proper challan mentioning details of part(s) replaced. Bidder shall maintain & repair the said equipment to keep it under normal working condition for entire contract period.
- vi. Bidder needs to submit reports of complaints logged, periodic inspection etc.
- vii. The bidder would provide services for maintaining and attending complaints during seven days a week.

- viii. Break-down calls will be Unlimited & would be attended same day, otherwise next day, if the complaint lodged in late hours, but in any case the complaint must be attended within 24 hours from the time of lodge of complaint.
- ix. In substitution of the faulty equipment/ parts, the Bidder must provide standby equipment/ parts of similar configuration and in working condition without any extra charges till faulty equipment/ parts get serviced from authorized service centers of manufacturer to ensure trouble free service. In case of non-availability, the replacement with higher version without additional cost will be done by bidder.
- x. It shall be the responsibility of the bidder to make the system work satisfactory throughout the contract period and also to handover the system to this office in working condition on the expiry of this contract.



General Terms and Conditions

1. The tender document can be download from our website <https://gandhinagar.stpi.in> and from CPP portal <https://eprocure.gov.in/epublish/app>.
2. The bidder is expected to examine all instructions, formats, terms & conditions, and scope of work in the bid document. Failure to furnish complete information or false information/ documents which is not substantially responsive to the bid document in all respect shall result in rejection of bid.
3. Bidder may visit STPI Surat office for inspection of the **UPS** during office hours i.e. 9:00 A.M to 05:30 P.M.
4. The terms and conditions of the tender shall be accepted by bidders (Annexure - B).
5. The tender should be submitted in Sealed Two-Bid system. Cover-I (**All documents except Annexure E**) should be enclosing "Technical Bid" and Cover-II (**Annexure E**) should be enclosing "Financial Bid". Both the Cover should be kept in one bigger Sealed Cover.
6. No overwriting is permitted. All cutting/corrections must be signed by the bidder.
7. In respect of interpretation/clarification of this bid document and in respect of any matter relating to this bid document, the decision of STPI shall be final.
8. The bidder should be either OEM or its Authorized Service Provider / Partner. Documentary evidence need to be enclosed.
9. STPI reserves the right to modify/relax any of the terms & conditions of the tender. STPI may, at its discretion, extend the deadline for submission of proposals.
10. In exceptional circumstances, the STPI may request in writing the bidder's unconditional consent for extension(s) to the period of bid validity. The bidder accepting the request and granting extension will not be permitted to modify his bid.
- 11. The contract will cover all the parts of the 01 no. of 20 KVA Online UPS.**
12. The tender duly sealed should be addressed to "The Director, Software Technology Parks of India, 9th floor, GIFT One Tower, GIFT City, Gandhinagar- 382355 and should reach before 15:00 hrs on **16/08/2021** duly super scribed on the top of envelope as "**Tender for AMC of 01 no. of 20 KVA Online UPS**". STPI will not be responsible for postal or any other delays.
13. The Financial Bids of only those agencies who have qualified in the Technical bids shall be opened.
14. STPI reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids, at any time prior to award of contract without assigning any reasons whatsoever and without thereby incurring any liability to the affected bidder or bidders on the grounds of STPI's action.
15. The successful bidder shall give their acceptance within 10 days of issue of the Work Order.



16. A performance security deposit of an amount equivalent to 10% of the total value of the contract amount should be deposited by the successful bidder with STPI towards Performance Guarantee, which shall be refunded after the date of expiry/completion of the contract without any interest payable thereon. During the AMC period, if the bidder fails to comply with any provision of the contract, STPI reserves the right to forfeit the Performance Guarantee.
17. The performance security shall be in the form of Bank Guarantee issued by a Nationalized/Scheduled Bank. The performance security shall be valid for a total period of **14 months**.
18. **Rejection of Bids:** STPI-Gandhinagar reserves the right to reject the bids in the following circumstances:
 - (i) Bids not submitted as per two bid system will be summarily rejected.
 - (ii) The bids received through Fax /Email will not be considered.
 - (iii) If the bids are not signed and sealed & Conditional bids
 - (iv) Not complying to any of the clauses/condition of Tender Document
 - (v) Bids submitted after due date and time shall be summarily rejected.
19. **Award Criteria:** STPI will award the Contract to the successful Bidder whose bid would be determined to be substantially responsive, technically complied and determined as the best evaluated bid in terms of lowest rates.
20. **Duration of Contract:** Initial term of AMC contract is for one year from the date of acceptance of the work order and STPI reserves the right to extend the validity of contract on the same rates, terms & conditions on yearly basis as may be agreed to, but not beyond further two years.
21. **LIQUIDATED DAMAGES:** Liquidity damages (LD) shall be levied @ 0.5% per instance per day subject to the maximum limit of 5% of total AMC value for the particular quarter after this STPI reserve the right to either forfeit the PG or release no payment equal to the AMC amount of a quarter.
22. **Payment Terms:**
 - (i) Payment will be released at the end of each quarter subjected to satisfactory performance report and submission of preventive call report.
 - (ii) The invoice shall be raise in the name of Software Technology Parks of India, 9th Floor, GIFT One Tower, GIFT City, Gandhinagar (Gujarat) - 382355.
23. **Cancellation of Purchase Order/Contract:** STPI, Gandhinagar reserves the right for cancellation of purchase order/ contract at any time without any financial consideration/implication if the products/services are found unsatisfactory. Also as warranted the purchases will be done from the alternative supplier at the cost and risk of the tenderer whose tender is accepted and order placed.
24. **Blacklisting:** Company/Firm blacklisted by Central/ State Government/UT Government (incl. its department/agency) are not eligible to Bid. If at any stage of bidding process or during the currency of contract, such information comes to knowledge of STPI, the STPI shall have right to reject the bid and forfeit the security amount or terminate the contract, as the case may be, without any compensation to the bidder.



25. **Dispute Resolution:** Any dispute or difference whatsoever arising between the tenderer and STPI shall be settled by arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996. In such case the same shall be referred to the sole arbitration of Director, STPI, Gandhinagar. The award of the arbitrator shall be final and binding on both the parties. The venue of the arbitration shall be at Gandhinagar. The language of arbitration shall be in English. Legal issues, if any, will strictly be under jurisdiction courts in Gandhinagar only.

26. **TERMINATION OF CONTRACT:**

- (i) STPI reserves the right to terminate the contract by giving one month notice at any time or stage during the period of contract without assigning any reason and without any financial consideration/implication.
- (ii) STPI may, without prejudice to any other remedy for breach of contract, by written notice of default, sent to bidder, terminate this contract in whole or in part:
 - a) If bidder fails to perform any obligation(s) under the Contract; and
 - b) If bidder, in either of the above circumstances, does not remedy his failure within a period of 30 days (or such longer period as STPI may authorize in writing) after receipt of the default notice by the bidder

27. **FORCE MAJEURE:**

If at any time, during the continuance of this contract, the performance in whole or in part by either party of any obligations under this contract shall be prevented or delayed by reason of any war, or hostility, acts of the public enemy, civil commotion, sabotage, fires, floods, explosions, epidemics, quarantine restriction, strikes, lockouts or act of God (Hereinafter referred to as events) provided notice of happenings, of any such eventuality is given by the either party to the other within 21 days from the date of occurrence thereof, neither party shall by reason of such event be entitled to terminate this and contract shall be resumed as soon as practicable after such event may come to an end or cease to exist, and the decision of the STPI as to whether the deliveries have been so resumed or not shall be final and conclusive, provided further that if the performance in whole or part of any obligation under this contract is prevented or delayed by reason of any such event for a period exceeding 60 days either party may, at its option terminate the contract.

28. **SUBCONTRACTING**

The bidder cannot assign/transfer its interests/ obligations under the contract to any other agency. Subcontracting of the contract is not permitted.

Annexure - A**Details of Equipment proposed to be covered under Comprehensive AMC**

Make & Model	Details of the Equipment			Date of Delivery	Place of Equipment
	S. No.	Description	Qty.		
Uniline make UPS (Serial No. 32234 UL-I-14- 033 B)	1.	20 KVA 3 Phase Input 3 Phase Output Online UPS	01	18.11.2014	Software Technology Parks of India FP :27, TP:22, Jiav- Budia Road, Nr. Someshwar Society, Bhestan, Surat - 395023

Term of Comprehensive AMC: Initial term of CAMC contract is for one year from the date of acceptance of work order and STPI reserves the right to extend the validity of contract on the same rates, terms & conditions on yearly basis as may be agreed to, but not beyond further two years.

We hereby undertake to accept all the terms and conditions of the tender No. STPIG/PUR/QUO/21-22/03 dated 03/08/2021.

Seal and Sign of authorized signatory of the Bidder Name & Address:

ANNEXURE - B**BID UNDERTAKING**

Tender No.....

Date:

The Director
 STPI , 9thFloor,GIFTOne Tower, GIFT
 City, Gandhinagar -382355

Dear Sir,

1. We submit the Financial Bid for "Annual Maintenance Contract of 01 no. of 20 KVA Online UPS" and related activities as envisaged in the Bid document for one year.
2. We have thoroughly examined and understood all the terms and conditions as contained in the Bid document and corrigendum(s) and agree to abide by them unconditionally in its totality/entirety.
3. We undertake, if our Bid is accepted, to commence service deliveries with immediate effect from the date of acceptance of Work Order at the rates as indicated in the price bid.
4. If our Bid is accepted, we will obtain the performance guarantee from a Nationalized/Scheduled Bank for a sum @ 10% of the contract value for the due performance of the contract.
5. We agree to abide by this Bid for a period of 90 days from the Bid submission end date and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
6. We understand that you are not bound to accept the lowest or any bid, you may receive.

Dated this day of 2021

Name and Signature -----

In the capacity of -----

Duly authorized to sign the bid for and on behalf of.....

Witness.....

Address.....

Signature

Technical Bid Compliance Sheet

To be filled & signed by the authorized signatory of the bidder & this is to be put in Technical Bid

Sl. No.	Technical Qualifying Criteria	Compliance Status (Yes/No)
1	The bidder should be a registered company under Companies Act, 1956 / Proprietor/Partnership (Copy of PAN/GST registration/ROC etc. need to attach).	
2	Details of Equipment proposed to be covered under Comprehensive AMC as per Annexure-A complete in all respect.	
3	Company/Firm Information (as per Annexure-C)	
4	The bidder should not have been banned/ de-listed/ black listed/ de-barred from business by Central/ State Government/UT Government (incl. its department/agency) during running & last three financial years. Self-declaration in this regard is to be submitted by the bidder as per Annexure-F.	
5	The bidder should be either OEM or its Authorized Service Provider / Partner. Documentary evidence need to be enclosed	
6	Declaration for office/presence in Gujarat with address and telephone Number	
7	Bidder should provide an Escalation Matrix mentioning the address, Telephone numbers and e-mail address for all the escalation points.	
8	Duly signed Bid Undertaking (as per Annexure-B)	

I.....(designation).....of (bidder name).....do hereby declare the information furnished above is true, complete and correct to the best of my knowledge and belief. I understand that in the event of my information being found false or incorrect at any stage, my bid shall be liable to be rejected.

**Seal and Sign of authorized signatory of the Bidder
Name & Address:**

Date: _____

Place: _____

Annexure -D**Company/firm Information**

1	Company Name	
2	Registration Number	
3	Registered Address	
4	Bidder type	Indian Foreign
5	City	
6	State	
7	Postal Code	
8	PAN/TAN Number	
9	GST Number	
10	Company's Nature of Business	
11	Company Legal status	Limited Company, Undertaking, Joint venture, Partnership, Others
12	Company Category	Micro unit as per MSME, Small unit as per MSME, Medium unit as per MSME etc.
Contact Information of person:		
13	Name	
14	Date of Birth	
15	Correspondence email	
16	Phone	
17	Mobile	

We hereby undertake to accept all the terms and conditions of the tender No. STPIG/PUR/QUO/21-22/03 dated 03/08/2021.

Seal and Sign of authorized signatory of the Bidder

Name & Address:

**Annexure -E****COMMERCIAL BID****Comprehensive Annual Maintenance Contract for 20 KVA 3 Phase Input 3 Phase Output Online UPS Installed at STPI-Surat (1 No.):**

Sl. No.	Product	Qty.	Serial Number of UPS	Location	Unit Price (INR)	Total Price per Annum (INR)
1	Uniline make 20 KVA 3 Phase Input 3 Phase Output Online UPS	01 No.	32234 UL-I-14- 033 B	STPI-Surat		
					GST:	
					Total charges :	

Note:-

- i The rates should be quoted in Indian Rupees, BOTH IN FIGURES & WORDS. All the quoted prices shall be fixed and shall not be subject to escalation of any description during the bid validity period.
- ii L1 bidder will be evaluated on basis of total cost quoted inclusive of all charges.

We hereby undertake to accept all the terms and conditions of the tender No. STPIG/PUR/QUO/21-22/03 dated 03/08/2021.

Seal and Sign of authorized signatory of the Bidder

Name & Address:

ANNEXURE -F

SELF DECLARATION

This is to certify that M/s. _____ has not been blacklisted by Central/ State Government/ UT Government (incl. its department/agency) or was declared ineligible by the Government of India/State/UT Government for corrupt and fraudulent practices during current and last three financial years.

I hereby certify that the information furnished is full and correct to the best of my/our knowledge. I understand that in case any deviation is found in the above statement at any stage, the bid will be summarily rejected and the bidder will be liable to be blacklisted.

Seal and Sign of authorized signatory of the Bidder

Name & Address:

ANNEXURE -G**FORM OF BANK GUARANTEE FOR PERFORMANCE SECURITY**
(To be stamped in accordance with Stamps Act of India)

1. THIS DEED of Guarantee made this day of _____ between _____
(Name of the Bank) (hereinafter called the "Bank") of the one part and _____
(Name of the Department) (hereinafter called the "Department") of the other part.
2. WHEREAS _____ (Name of the Department) has awarded the contract for **Comprehensive Annual Maintenance Contract for 01 No. of 20 KVA Online UPS Installed at STPI-Surat** for Rs. _____ (Rupees in figures and words) (hereinafter called the "contract") to M/s. _____ (Name of the contractor) (herein after called the "contractor").
3. AND WHEREAS THE Contractor is bound by the said Contract to submit to the Employer a Performance Security for a total amount of Rs. _____ (Amount in figures and words).
4. NOW WE the Undersigned _____ (Name of the Bank) being fully authorized to sign and to incur obligations for and on behalf of and in the name of _____ (Full name of Bank), hereby declare that the said Bank will guarantee the Department the full amount of Rs. _____ (Amount in figures and words) as stated above.
5. After the Contractor has signed the aforementioned contract with the Department, the Bank is engaged to pay the Department, any amount up to and inclusive of the aforementioned full amount upon written order from the Department to indemnify the Department for any liability of damage resulting from any defects or shortcomings of the Contractor or the debts he may have incurred to any parties involved in the Works under the Contract mentioned above, whether these defects or shortcomings or debts are actual or estimated or expected. The Bank will deliver the money required by the Department immediately on demand without delay without reference to the Contractor and without the necessity of a previous notice or of judicial or administrative procedures and without it being necessary to prove to the Bank the liability or damages resulting from any defects or shortcomings or debts of the Contractor. The Bank shall pay to the Department any money so demanded notwithstanding any dispute/disputes raised by the Contractor in any suit or proceedings pending before any Court, Tribunal or Arbitrator(s) relating thereto and the liability under this guarantee shall be absolute and unequivocal.
6. THIS GUARANTEE is valid for a period of _____ months from the date of signing. (The initial period for which this Guarantee will be valid must be for at least two months longer than the anticipated expiry date of the Contract period).
7. At any time during the period in which this Guarantee is still valid, if the Department agrees to grant a time of extension to the contractor or if the contractor fails to complete the works within the time of completion as stated in the contract, or fails to discharge himself of the liability or damages or debts as stated under para-5 above, it is understood that the Bank will extend this Guarantee under the same conditions for the required time on demand by the Department and at the cost of the contractor.



8. The Guarantee hereinbefore contained shall not be affected by any change in the Constitution of the Bank or of the contractor.
9. The neglect or forbearance of the Department in enforcement of payment of any moneys, the payment whereof is intended to be hereby secured or the giving of time by the Department for the payment hereof shall in no way relieve the Bank of their liability under this deed.
10. The expressions "the Department", "the Bank" and "the Contractor" hereinbefore used shall include their respective successors and assigns.

IN WITNESS whereof I/We of the bank have signed and sealed this guarantee on the _____ day of _____ (Month) _____ (year) being herewith duly authorized.

For and on behalf of the _____ Bank.

Signature of authorized Bank official

Name _____

Designation _____

I.D. No. _____

Stamp/Seal of the Bank.

Signed, sealed and delivered for and on behalf of the Bank by the above named _____
in the presence of:

Witness-1.

Signature _____

Witness-2.

Signature _____

ANNEXURE -H**Non-Disclosure Agreement**

THIS AGREEMENT is valid till one year from the date of work order, and is made by and between SOFTWARE TECHNOLOGY PARKS OF INDIA, a Autonomous Society under Ministry of Electronics & Information Technology, Govt. of India herein referred to as „DISCLOSING PARTY“ whose address is 9th Floor, GIFT One Tower, GIFT City, Gandhinagar - 382355 (Gujarat), India, and M/s.

.....Address.....

Both the parties shall mean and include their successors at Office from time to time, legal representatives, administrators, executors and assigns, etc. This agreement shall govern the conditions of disclosure by disclosing party to Recipient of certain confidential and proprietary information that is oral, written, or in computer file format. Examples of Confidential Information include the identities of companies, consultants and other service providers used by disclosing party, both foreign and domestic, in connection with disclosing party's business, supplier lists, supplier information, computer databases containing customer, product and vendor information, designs, drawings, specifications, techniques, models, documentation, diagrams, flow charts, research and development process and procedures, „know-how“, new product or new technology information, financial, marketing and sales information and projections, product pricing, profitability, marketing techniques and materials, marketing timetables, strategies and development plans, trade names and trademarks not yet disclosed to the public, business methods and trade secrets, and personnel information.

1. Purpose of Disclosure. Disclosing party is disclosing the Confidential Information to Recipient in order for Recipient to evaluate the possibility of using disclosing party's services like Call Centers/Contact Centers Projects, Business Process Outsourcing covering all different kind of Verticals, Information Technology Services, Back and Transaction Processing Services, Business Analysis, Business Process Re-engineering, Data Analysis, Quality Analysis and the Statutory & Datacom services etc.

2. Confidentiality Obligations of Recipient. Recipient hereby agrees:

- (a) Recipient will hold the Confidential Information in complete confidence and not to disclose the Confidential Information to any other person or entity, or otherwise transfer, publish, reveal, or permit access to the Confidential Information without the express prior written consent of Disclosing Party.
- (b) Recipient will not copy, photograph, modify, disassemble, reverse engineer, decompile, or in any other manner reproduce the Confidential Information without the express prior written consent of disclosing party. If any Confidential Information is delivered to Recipient in physical form, such as data files or hard copies, recipient will return the Confidential Information, together with any copies thereof, promptly after the purpose for which they were furnished has been accomplished, or upon the request of disclosing party. In addition upon request off disclosing party in writing/email Recipient will destroy materials prepared by Recipient that contain Confidential Information.
- (c) Recipient shall use Confidential Information only for the purpose of evaluating Recipient's interest in using disclosing party's services, and for no other purpose. Without limiting the generality of the previous sentence, Recipient specifically agrees not to sell, rent, or otherwise disclose any of disclosing party's Confidential Information either in full or part to any competitor of disclosing party, nor will Recipient use the Confidential Information to

directly or indirectly contact or contract with any of disclosing party's employees, vendors, contractors and agents who carry out or otherwise fulfill the services on behalf of disclosing party (its 'Affiliates'). Recipient shall promptly notify disclosing party of any disclosure or use of Confidential Information in violation of this Agreement for which disclosing party shall indemnify the Recipient for that part.

3. Exclusions. None of the following shall be considered to be 'Confidential Information':

- (a) Information which was in the lawful and unrestricted possession of Recipient prior to its disclosure by disclosing party;
- (b) Information which is readily ascertainable from sources of information freely/easily available in the general public;
- (c) Information which is obtained by Recipient from a third party who did not derive such information from disclosing party.

4. Remedies. Recipient acknowledges that disclosing party's Confidential Information has been developed or obtained by the investment of significant time, effort and expense and provides disclosing party with a significant competitive advantage in its business, and that if Recipient breaches its obligations hereunder, disclosing party will suffer immediate, irreparable harm for which monetary damages will provide inadequate compensation. Accordingly, the disclosing party will be entitled, in addition to any other remedies available at law in equity, to injunctive relief to specifically enforce the terms of this Agreement. Recipient agrees to indemnify disclosing party against any losses sustained by disclosing party, including reasonable attorney's fees, by reason of the breach of any provision of this Agreement by Recipient. Recipient further acknowledges that disclosing party's business would be severely hurt if Recipient were to directly contract with its Affiliates without the participation of disclosing party. Therefore, if Recipient directly or indirectly contracts with any of disclosing party's Affiliates whose identity and/or particulars are disclosed to Recipient pursuant to this Agreement (Except Affiliates with whom Recipient had a demonstrable prior existing business relationship). In the event of circumvention, by the Recipient whether directly or indirectly, the disclosing party shall be entitled to a legal monetary penalty award, equal to the maximum consulting service/consulting fee, commission/profit originally expected or contemplated to be realized from such transaction(s). This payment levied against and paid immediately by the party engaged in circumvention and also in addition includes all legal expenses in the recovery of these funds if collected through legal action by either party. This penalty shall not apply when the alleged Circumvention does not result in a transaction being concluded. The parties acknowledge it would be extremely difficult or impossible to accurately fix the actual damages that disclosing party would suffer in the event of a breach of the aforementioned obligations, and that the liquidated damages provided for herein are a reasonable estimate of disclosing party's actual damages, which shall be fixed by the arbitrator who shall also be in the same business.

5. No Rights Granted to Recipient. Recipient further acknowledges and agrees that the furnishing of Confidential Information to Recipient by disclosing party shall not constitute any grant or license to Recipient under any legal rights now or hereinafter held by disclosing party.

6. Miscellaneous Provisions:

- (a) This Agreement sets forth the entire understanding and Agreement between the parties with respect to the subject matter hereof and supersedes all other oral or written representations and understanding. This Agreement may only be amended or modified by a writing signed by both parties.

- (b) If any provision of the Agreement is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions will not be affected or impaired.
- (c) This Agreement is binding upon the successors, assigns and legal representatives the parties hereto, and is intended to protect Confidential Information of any successors or assign of disclosing party.
- (d) Each Provision of this Agreement is intended to be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement is determined by any court of competent jurisdiction or arbitrator to be invalid, illegal, or enforceable to any extent, that provision shall, if possible, be construed as though more narrowly drawn, if a narrower construction would avoid such invalidity, illegality, or unenforceability, be served, and the remaining provisions of this Agreement shall remain in effect/force.
- (e) The terms and conditions governing the provision of the agreement shall be governed by and construed in accordance with laws of the union of India and shall be subject to the exclusive Jurisdiction of the courts of Gandhinagar.
- (f) Any or all disputes arising out or in connection with this agreement shall so far as may be possible to settle amicably between the parties within a period of thirty days from such dispute(s) arising.
- (g) However failing such amicable settlement all disputes and differences out of the construction of or concerning anything contained in or arising out of or in connection with this agreement as to the rights, duties or liabilities arising it, to the parties shall be referred to a panel of three arbitrators, for conducting Arbitration in accordance with the provisions of Arbitrations and Conciliation Act 1996.
- (h) It is agreed that each party shall appoint one arbitrator and the third arbitrator from the same business.
- (i) The appointment of arbitrators shall be done within a period of three months from the date of receipt of notice from the aggrieved party requesting to refer the matter to arbitration in case amicable settlement fails.
- (j) The parties shall mutually ensure and co-operate with each other in the arbitral proceedings, so that the same can be concluded and awarded within a period of six months from the date of commencement of the arbitral proceedings.
- (k) The arbitral proceedings shall be conducted in English, both parties shall be bound by the award passed and delivered by the arbitral tribunal and shall not attempt to challenge the authenticity of the award, before any authority or courts or any other statutory body.
- (l) The venue of arbitration shall be Gandhinagar.
- (m) If any litigation is brought by either party regarding the interpretation or enforcement of this Agreement, the prevailing party will recover from the other all costs, attorney's fees and other expenses incurred by the prevailing party from the other party.

Signed on behalf of

M/s. Software Technology Parks of India

Signature:

Name:

Designation with seal:

Date:

Signed on behalf of

M/s.....

Signature:

Name:

Designation with seal:

Date: