



Request for Proposal

Onboarding of Executive Recruitment Firm(s)

for

Open Network for Digital Commerce (ONDC),
New Delhi

OPEN NETWORK FOR DIGITAL COMMERCE

Office: 2nd & 3rd Floor, 7/6, August Kranti Marg, Siri Fort Institutional Area, Delhi 110049

Tel: 011-69208208, www.ondc.org

Disclaimers and Disclosures

Open Network for Digital Commerce (ONDC) has prepared this document to give background information to interested parties for participating in this RFP/Tender. While ONDC has taken due care in the preparation of this RFP/Tender document and believes it to be accurate, neither ONDC nor any of its authorities or agencies nor any of their respective officers, employees, agents or advisors give any warranty or make any representations, express or implied as to the completeness or accuracy of the information contained in this document or any information which may be provided in association with it. The information is not intended to be exhaustive.

Interested bidders/agencies/parties are required to make their own inquiries and respondents will be required to confirm in writing that they have done so, and they do not rely only on the information provided by ONDC in submitting a bid. The information is provided on the basis that it is non-binding on ONDC or any of its authorities or agencies or any of their respective officers, employees, agents or advisors. ONDC reserves the right to modify the requirements as well as add or delete, as the case may be, to meet ONDC's requirements at any point of time.

ONDC reserves the right not to proceed with the RFP/Tender, to alter the Key details reflected in this document or to change the process or procedure to be applied. It also reserves the right to decline to discuss the matter further with any bidder/agency/party expressing interest.

ONDC reserves the right to accept or reject, in full or in part, any or all the offers without assigning any reason whatsoever. ONDC does not bind itself to accept the lowest or any tender and reserves the right to reject all or any bid or cancel the tender without assigning any reason whatsoever. ONDC also has the right to re-issue the tender without the Bidder having the right to object to such reissue.

This RFP is neither an offer from ONDC nor does it constitute any binding obligation or commitment on ONDC. This RFP is only a document that invites interested agencies/parties to, on a non-exclusive basis, express an interest with no obligation, commitment or liability of any manner devolving on ONDC, either on account of the issue of this RFP/Tender to the interested agencies/parties, or upon receipt of any response from the interested agencies/parties thereto, or any meetings or presentations made.

No reimbursement of cost of any type will be paid to persons or entities expressing interest. All expenses incurred by the interested parties as a result of responding to, or further to this RFP/Tender, are to their own account and ONDC will not be liable in this respect whatsoever. No reimbursement of cost of any type will be paid to persons or entities proposing a solution. Please note that any part or the whole of information, directly or indirectly learnt, for any other purpose, other than for conducting work under the ambit of the RFP/Tender issued by ONDC is not authorized.

Definition of Terms

1. Definition of terms throughout this document, the following terms shall be interpreted as indicated below unless inconsistent with the subject matter or context:
2. **RFP/Tender** – The Request for Proposal (RFP)/Tender (this document) in its entirety, inclusive of any addenda/corrigendum that may be issued by ONDC. RFP Tender stands same meaning.
3. **Bidder/Service Provider/Agency/Supplier** – An eligible entity/firm submitting a Proposal /Bid in response to this RFP/Tender. The legal entity who signs and submits the bid and the Earnest Money Deposit (EMD), if any.
4. **ONDC/Purchaser/Service Recipient** - Reference to “ONDC”, “Purchaser” and “Service Recipient” shall be determined in context of this RFP/Tender.
5. **Proposal/Bid** – the Bidder’s reply or submission in response to this RFP/Tender.
6. **Contract/Service Agreement** - means the agreement entered into between ONDC and successful Bidder/Service Provider, as recorded in the document and to be signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
7. **Total Contract Price/Total Contract Value/Total Project Cost** - means the price payable to Service Provider over the entire period of Contract for the full and proper performance of its contractual obligations.

RFP NOTICE

1. The Open Network for Digital Commerce (ONDC) invites proposals for “Onboarding of Executive Recruitment Firm(s)”.
2. The content of this Request for Proposal (RFP) enlists the requirements of the ONDC. It includes all the details that may be needed by the potential partners to understand the terms and proposal process and explain the contractual terms that the ONDC wishes to specify at this stage.
3. Kindly note that the following is an indicative timeframe for the overall process. ONDC reserves right to vary from this timeframe at its absolute and sole discretion and without providing any notice/termination or reasons thereof. Changes to the timeframe will be communicated.

RFP Ref. No.	ONDC/OPS/HR/ERF/07-2023/P-38
Name of Work/Product	For Onboarding of Executive Recruitment Firm(s) for ONDC
Place of availability of RFP document	Website of ONDC: https://ondc.org/rfp/ Note: Any further amendment to RFP will be placed on website only
Last date, time & place for submission of bid	<01.08.2023> at 11:00 hrs. Soft copy of proposal (Technical and Commercial Proposal) to be emailed to: <i>procurement@ondc.org</i> Note: Late bids will be rejected
Bid opening details	<01.08.2023> at 11:15 hrs.
Communication Address	Open Network for Digital Commerce (ONDC), 3rd Floor, 7/6, Siri Fort Institutional Area, August Kranti Marg, New Delhi -110049 Email: <i>procurement@ondc.org</i>

Contents

1	Introduction.....	6
2	Background & Context	6
3	Minimum Eligibility Criteria.....	7
4	Scope of Assignment.....	7
5	Commercials.....	8
6	Contract Period.....	9
7	Bid Security/ EMD & PBG	9
8	Bid Price	9
9	Validity of bid.....	9
10	Submission of pre-bid queries.....	9
11	Bid submission.....	10
12	Contract/Service Agreement	10
13	NDA.....	10
14	Language:	10
15	Discrepancies in prices:	10
	Section – I - Service Agreement	11
	Section – II Non-Disclosure Agreement.....	29

1 Introduction

- 1.1. Open Network for Digital Commerce (ONDC) is an open network, tech-enabled infrastructure to enable eCommerce across domains, increases the discoverability of players operating from remote locations, and engages through any network-enabled application. It goes beyond the current platform-centric digital commerce model where the buyer and seller must use the same platform/application to perform a business transaction. In this system, so long as platforms/applications are connected to the open network, buyers and sellers will be able to transact no matter what platform/application they use to be digitally visible/available.
- 1.2. The open network protocol is expected to act as a force multiplier for end-beneficiaries, i.e., customers, application developers, governments, and businesses by creating an interoperable open playground to unlock value and innovation.
- 1.3. ONDC itself is neither an app nor a platform, rather a technology-based network that is unlike any other initiative globally. It is not a central mediator but rather a tech-based enabler for all kinds of eCommerce transactions, both goods, and services.
- 1.4. You can find more information about ONDC through its website (www.ondc.org) and refer to its strategy paper.

2 Background & Context

- 2.1. The Open Network for Digital Commerce is a first-of-its-kind initiative globally and is tasked with operating with startup speed at a population scale.
- 2.2. ONDC has been recently set up as a Private Section-8 Company and needs to build a dynamic organisation from ground up, with highly motivated and skilled individuals willing to dedicate themselves to a major transformational project.
- 2.3. Thus, ONDC is looking for Executive Recruitment Firms to assist in quickly building its middle and senior management, and assist the process from identification to onboarding.
- 2.4. As an organisation, ONDC will have four broad functions reflected in its organisational structure:
 - 2.4.1. Network Expansion: Taking ONDC to the larger ecosystem of eCommerce, retail and technology in India as well globally and helping set the vision for the possibilities, benefits and scope of transformation with ONDC.
 - 2.4.2. Network Governance: Ensuring trust in the ONDC network by its stakeholders, participants and beneficiaries by developing enabling network policies and ensuring discipline on the network, from joining the network to doing business,
 - 2.4.3. Network Enablement: Developing the technological rails and tools to, maintaining required standards and intelligence to enable the functioning of the Open Network.
 - 2.4.4. Strategic Initiatives: Cuts across all functions and looks foreseeing strategic interventions needs on ongoing projects and identifies future

- 2.5. The detailed organisational structure, as well as various roles defined under the four functional pillars above, will be shared with the firm at the commencement of the engagement.
- 2.6. The hiring approach for ONDC would identify and quickly onboard suitable candidates from leading e-commerce, technology and consulting firms in India.

3 Minimum Eligibility Criteria

- 3.1. The applicants as an organization should have been in existence in India for minimum 5 years preceding years continuously and should have minimum 3 years' experience (in India) in filling mid to senior management positions in addition to providing Specialized executive/ Domain Expert with specialized/ technical skills catering to eCommerce and technology related domains.
- 3.2. Applicants are required to submit a crisp proposal which must contain the following:
 - 3.2.1. 01 - Page short profile of the prospect firm/ organisation
 - 3.2.2. Summary of the top 25 hiring mandates undertaken by the firm/organisation in last 3 years strictly for roles pertaining to eCommerce, logistics, technology, expansion, operations and governance (specific to eCommerce) in the following format):

(Do not share more than 25 client credentials, use following format)

S. No	Company Name	Sector eCommerce / FMCG/ BigTec etc.	Mandate Timelines (Year and Month)	Number of Middle Management Roles	Number of Top Management Roles	Sample Roles
1.	ABC Corporation	eCommerce	MM/YY - MM/YY	Numbers (#)	Numbers (#)	Role Name: XYX Short Description of Role:

4 Scope of Assignment

- 4.1 The scope of the assignment will include the end-to-end process of talent acquisition for roles defined by ONDC. This will include, but not be limited to:
 - 4.1.1 Defining Job Descriptions:** The Scope of work shall include understanding of roles opened by ONDC from time to time and preparation of job specification in coordination with HR/ Hiring managers.
 - 4.1.2 Industry Mapping and Candidate Sourcing:** Identifying target companies across retail, big tech and eCommerce organisations and source candidate profiles from target companies/ industries/skillset
 - 4.1.3 Candidate Shortlisting:** Shortlisting candidate profiles after due diligence and recommending quality profiles to HR/Hiring managers

- 4.1.4 Interview Schedule and Final Selection:** End to end management of interview process (interview schedule, feedback from hiring manager/HR, final selection of candidates)
- 4.1.5 Negotiation and Offer:** Compensation fitment and negotiation with selected candidate as per compensation guidelines provided by ONDC
- 4.1.6 Offer closure, formalisation, onboarding of the candidates.
- 4.1.7 Dedicated resource to manage the account of ONDC and manage end to end talent acquisition lifecycle.

5 Commercials

- 5.1. The prospects of this proposal shall be compensated with a percentage of the fixed part of the compensation only which shall include **Basic, HRA, Special Allowance and Employee contribution to Provident Fund (PF), no other component shall form part of the calculation basis.**
- 5.2. Variable pay, employer PF, medical insurance and any other benefits shall not form part of calculation basis.
- 5.3. For any placement where placed candidate leaves within 6 months of employment from the date of joining ONDC, a free replacement shall be provided by the recruitment firm.
- 5.4. The commercial proposal for placement free mode is shall be submitted clearly in the following format:

Placement Fee Model

S. No.	Fee Consideration	GST
	(as % of Annual Fixed Income of the candidate)	(as applicable)

Note: No change or additional commercial components should be proposed.

- 5.5. ONDC is also open for model where a fixed retainership can be charged for a period of 12 months and all hiring mandates to be taken up in end-to-end manner, this will also include placing a full- time resource at ONDC site and managing end to end hiring lifecycle (Requestion opening to onboarding of candidate/s), maximum positions for a year are capped at 30, if No. of hirings cross the committed number (i.e. 30) then rates quoted in placement fee model shall be applicable.

Fixed Retainership Fee Model

S. No.	Minimum Guarantee for positions to be given in a year	Fixed Rate Quote	GST
	Max 30 positions in a year from the date of agreement		

- 5.6 Bidders has to submit their proposals including commercials for both the Fee Models as detailed above, kindly note that failure to do so will leads to cancellation of the proposal. ONDC may opt any of the Fee model and on this basis may board agency/agencies accordingly.
- 5.7 ONDC reserves the right to accept or reject any or all of the proposals including the lowest bid without assigning any reasons or incurring any liability thereof.
- 5.8 ONDC may negotiate with bidders during commercial evaluation.

6 Contract Period

Contract period shall be 12 months from the date of agreement, renewal of contract shall be done post assessment of performance and service delivery.

7 Bid Security/ EMD & PBG

Not Applicable

8 Bid Price

The prices should be quoted in Indian Rupees (INR). The prices should be quoted as per Commercials Clause, failing which the bid may be rejected. The Bidders shall not dispute the decision of ONDC in any manner whatsoever.

9 Validity of bid

Bids shall remain valid for a period of **60 days** from the date of bid opening. Bid validity may be extended by the Bidder by submitting a letter to ONDC in writing on receipt of request from ONDC.

10 Submission of pre-bid queries

- a. Bidders must submit their queries in writing before the last date for submission of pre-bid queries.
- b. Please refer below format to submit pre-bid queries. Queries shared in format used other than below may not be entertained:

Sr.No.	RFP Section/Clause	Page Number	Query

- c. Pre-bid queries may be sent to mailto:procurement@ondc.org with subject line “Pre-bid queries on RFP for”
- d. Each pre-bid query must clearly provide the clause in the RFP against which the query is being raised.
- e. ONDC may not answer queries which have no specific reference to the RFP clauses or are speculative/open-ended in nature.

11 Bid submission

Bids must be submitted in the following manner

- i. Proposal (Technical & Commercial) shall be shared over email. Printed copy of the proposal is not required and shall not be accepted by ONDC.
- ii. Soft copy of the **Proposal** to be emailed to: procurement@ondc.org.
- iii. Bids received by ONDC after the deadline for bid submission shall be rejected by ONDC and if received, will be not be opened. Soft copies received after the bid submission deadline will be deleted.
- iv. ONDC reserves the right to accept or reject any proposal it receives without offering any explanation to the bidder. By submitting a bid, the bidder agrees that ONDC may accept or reject any proposal at its sole discretion without offering any explanation to the bidder(s). Further ONDC may cancel this selection process without assigning any reasons whatsoever.
- v. All costs in relation to preparation and submission of bids shall be borne by the bidder.

12 Contract/Service Agreement

The successful firm / Agency will be required to execute an agreement on Rs.50/- non-judicial stamp paper with ONDC within 15 days from the date of the intimation from ONDC side. Format of Contract Form/Agreement is enclosed at **Section-I of this RFP**.

13 NDA

The successful firm / Agency will be required to execute an NDA (Non-Disclosure Agreement) within 15 days from the date of the intimation from ONDC side. Format of NDA is enclosed at **Section-II of this RFP**.

14 Language:

The language of the bid response, supporting documents and any communication with ONDC must be in written English only.

15 Discrepancies in prices:

- a) If, in the price structure quoted by a bidder, there is discrepancy between the unit price and the total price (which is obtained by multiplying the unit price by the quantity), the unit price shall prevail and the total price corrected accordingly.
- b) If there is an error in a total price, which has been worked out through addition and/or subtraction of subtotals, the subtotals shall prevail and the total corrected; and
- c) If there is a discrepancy between the amount (total price) expressed in words and figures, the total price which has been worked out through unit price/addition and/or subtraction of subtotals/ arithmetic calculation, shall prevail; and
- d) If, as per the judgement of ONDC, there is any such arithmetical discrepancy in a bid, the same will be suitably conveyed to the bidder by post or e-mail. If the bidder does not agree to the observation of ONDC, the bid is liable to be ignored.

Section – I - Service Agreement

This Service Agreement (hereinafter referred to as the “**Agreement**”) is made at [New Delhi] on the [●] day of [●], [●] by and between:

Open Network for Digital Commerce, a private company incorporated under Section 8 of the Companies Act, 2013, having its registered office at 7/6, Siri Fort Institutional Area, August Kranti Marg, New Delhi- 110049 represented herein by its authorized representative, [name], [designation], (hereinafter referred as the “**Client**” which expression shall include its successors and assigns) of the **FIRST PART**.

AND

[Name], [a private company/ limited liability partnership/ general partnership firm] incorporated under [the Companies Act, 2013/ Limited Liability Partnership Act, 2008/ Indian Partnership Act, 1932], having (PAN:[●]), having its registered/ principal office at [●], represented herein by its authorized representative, [name], [designation] (hereinafter referred as the “**Service Provider**” which expression shall include its successors and permitted assigns) of the **SECOND PART**.

(hereinafter the Client and the Service Provider shall be collectively referred to as “**Parties**” and individually as “**Party**”, as the context may require.)

WHEREAS:

- (a) The Service Provider is engaged in the business of [●] and has requisite expertise, facilities, financial ability, permits and authorizations required to perform its obligations under this Agreement including rendering the Services (as defined below) and supply Deliverable (as defined below).
- (b) The Client is engaged in the development of an open, interoperable network, to enable e-Commerce across domains.
- (c) The Client desires to avail certain services from the Service Provider and the Service Provider is willing to provide such services, on the terms and conditions as set forth in this Agreement.

NOW THEREFORE, in consideration of the premises and of the mutual covenants and conditions hereinafter set forth, and for other good and valuable consideration, receipt and sufficiency of which is hereby mutually acknowledged, the Parties hereto agree as follows:

1. APPOINTMENT AND SCOPE

- 1.1 The Client hereby appoints the Service Provider on a non-exclusive, non-assignable, non-transferable basis to render the Services (defined hereinafter) and Deliverables (defined hereinafter) subject to the terms and conditions of this Agreement and the Service Provider hereby accepts such appointment for providing such Services and Deliverables.
- 1.2 The Service Provider agrees to provide the services set forth in this Agreement (“**Services**”) and deliverables as set forth in this Agreement (“**Deliverables**”), both of which are

described in detail in Annexure 1, in a competent and professional manner in accordance with the best industry standards. The Service Provider shall discharge its obligations in a timely manner, efficiently and to the full satisfaction of the Client in terms of this Agreement.

- 1.3 Any change to the Services and/ or Deliverables and/ or the terms of this Agreement must be approved in writing by both Parties. The Service Provider shall promptly notify the Client, in writing, of any change in the Services and/ or Deliverables that Service Provider reasonably determines is necessary. Such notice shall specify (a) the particular elements of Services and/ or Deliverables for which Service Provider is seeking a change, (b) the reason for the requested change, and (c) the impact, if any, that the requested change will have on (i) the Service Fee, (ii) time for performance (iii) any other terms or conditions of this Agreement. Until such change is agreed in accordance with this clause, the Client and the Service Provider shall, unless otherwise agreed in writing, continue to perform their obligations under this Agreement with its terms prior to such change being agreed. Any discussions which may take place between the Client and the Service Provider before such change shall be without prejudice to the rights of either Party. Any work undertaken by the Service Provider which has not been authorised in advance by the Client in writing, and which has not been otherwise agreed in accordance with the provisions of this Clause, shall be undertaken entirely at the expense and liability of the Service Provider. For the avoidance of doubt, no change will be made in respect of any work required to correct a deficiency in the Deliverables and/or the Services (in whole or in part) that is due to the fault of the Service Provider (including the fault of its Personnel involved) and all such correction work shall be carried out at no additional charge to the Client.
- 1.4 The Client in its sole discretion may request similar or same services or deliverables from any other party.

1. DUTIES AND RESPONSIBILITIES

- 1.1 The Service Provider agrees to fulfill various duties and responsibilities pro-actively, efficiently, professionally, in a workman like manner, accurately, diligently and with the least possible delay for the benefit of the Client. The Service Provider shall provide the Services and Deliverables in accordance with the timelines and/ or milestones as set forth in Annexure 1 in accordance with the best industry practices in due compliance with all applicable laws and the duties which shall include the following:
- (i) It shall use its best efforts to begin as soon as possible and to continue rendering the Services and provide Deliverables with all due diligence. The Service Provider shall perform its obligations and duties under this Agreement as per best industry standards and practices, with diligence and in accordance with the instructions, specifications, procedures, standards, guidelines, and timeframe agreed in Annexure 1.
 - (ii) It agrees to keep the Client fully informed of all pertinent market conditions prevailing including business trends, market conditions, relevant legal regulations, change in law impacting the Services and/ or Deliverables, technical specifications, safety requirements and the like.
 - (iii) It shall not perform any act which would or might reflect adversely upon the operations, integrity or goodwill of the Client.
 - (iv) It shall diligently use its best endeavor to ensure regular correspondence with the Client.
 - (v) Provide its assistance, advice and guidance on how Services should be pursued and how to best proceed with them.
 - (vi) Any deviation by the Service Provider from the specific instructions or requests made by the Client shall require the Client's prior written approval and shall be documented in writing.

- (vii) No right shall be conferred upon the Service Provider or its Personnel regarding the Client's property except as approved by the Client for the limited right to use such property in furtherance of this Agreement. All such property, regardless of its physical location or use, shall be deemed to be in the care, custody and control of the Client and Service Provider or its Personnel shall return all such property in good and usable condition to the Client on completion of the rendering of the Services and/ or Deliverables or as and when requested, without any delay, demur or demand.
 - (viii) For executing any Services, Service Provider shall allocate a contact person/s approved by the Client, who will be in charge of the implementation of this Agreement and will be available during regular office hours at Client's site in order to discuss issues or request relating to the Services and/ or Deliverables under this Agreement.
- 1.2 The Client shall be responsible for the following:
- (i) Providing reasonable information/ documents as may be necessary and required for the rendition of the Services and/ or Deliverable, provided the same is within the scope of the Client.
 - (ii) Providing reasonable assistance as may be necessary and required for the rendition of the Services and/ or Deliverable, provided the same is within the scope of the Client.
- 1.3 Each of the Services and the Deliverables shall be subject to acceptance by the Client. The acceptance criteria with regard to each Services and the Deliverables is set forth in Annexure 1. In absence of any express approval in writing, the Services and/ or the Deliverables shall not be deemed to be accepted and completed. If any comments are provided on the Services and/ or Deliverables by the Client based on which the Services and/ or deliverables are revised, the revised Services and/ or deliverables shall be subject to the acceptance by the Client.
- 1.4 Review Meetings etc.
- (i) On the dates and at the locations as may be specified by the Client, the representatives of Client and Service Provider shall meet to discuss the status of the Services, Deliverables, the development or implementation of any individual tasks under this Agreement and any difficulties or issues that may exist, including personnel issues and any proposed changes to any implementation milestones and/or changes to any date or other item set forth in the Agreement. The Service Provider shall record and keep minutes of all status meetings in form and substance required by the Client, and the Service Provider shall issue copies of the minutes to all meeting attendees within forty eight (48) hours of each meeting.
 - (ii) The Service Provider shall provide to the Client such reports and in such formats as set forth in the Annexure 1 or as the Client may reasonably request.
 - (iii) It is understood and agreed that Service Provider's Services may include advice and recommendations. Service Provider will not perform management functions or make management decisions for Client or its partners/ associates/ end client.

2. **RELATIONSHIP OF THE PARTIES**

- 2.1 The relationship between the Parties hereto shall be on a principal to principal basis and this Agreement shall always be construed accordingly. Nothing in this Agreement shall be deemed to create a partnership, joint venture, agency, employer-employee relationship or similar relationship between the Parties hereto for any purpose or between the partners, officers, members, or employees of the Parties as the case may be, by virtue of either this Agreement or actions taken pursuant to this Agreement.
- 2.2 The Service Provider shall have no authority to bind the Client by any contract, representation or understanding. Nothing in this Agreement shall be deemed to

authorize either Party hereto to make any representations or warranties on behalf of or otherwise to act for, represent or bind the other Party hereto in any manner whatsoever except as specifically authorized in writing.

2.3 This Agreement does not in any way create a master and servant relationship between Service Provider and/ or its employees on one side and Client on the other side. Under no circumstances shall the Service Provider and / or its employees be considered as employees of Client and no such relationship be considered to exist. All employees engaged by Service Provider to provide the Services and/ or Deliverables shall be in the sole employment of Service Provider and Service Provider shall be solely responsible for their salaries, wages, remunerations and/ or any other statutory or other payments.

3. **TERM**

3.1 The Agreement shall be effective from [Date] and shall remain valid for a period of [●] [days/ month/ years] unless terminated earlier in terms of this Agreement (“**Term**”). The Term may be extended by the Parties on such terms and conditions as may be mutually agreed between the Parties in writing.

3.2 The rendition and delivery of Services and/ or Deliverables shall start on [●] unless agreed otherwise by the Parties in writing.

4. **CONSIDERATION AND OUT OF POCKET EXPENSES**

4.1 In consideration of the Services to be rendered and the Deliverable to be provided by the Service Provider to the Client’s satisfaction, the Client shall pay to the Service Provider such amount (“**Service Fees**”) as may be specified in the Annexure 2.

4.2 The Service Provider shall raise the invoice and debit notes, if applicable, to the Client in accordance with the Annexure 2 and the Client will settle such invoice and debit notes within such timelines as agreed in the Annexure 2. Notwithstanding anything contained in this Agreement and without prejudice to the rights available under the law or otherwise, the payment of Service Fees shall not be deemed to be acceptance, functionality, correctness and usability of the Services and/ or Deliverables by the Client.

4.3 The Client will not be responsible for any payments made by the Service Provider to its Personnel (whether engaged at the Client’s site or not) for provision of the Services and/ or Deliverables under this Agreement.

4.4 Unless otherwise agreed in Annexure 2, the Service Provider shall be solely responsible for paying all the out-of-pocket costs and expenses incurred by it in connection with the Services and performance of its duties under this Agreement.

4.5 Client reserves the right to discontinue or forfeit any payments that might otherwise be due to the Service Provider if it is in default of its obligations under this Agreement and such default, if curable, is not cured within a period of 10 days from the date of notice thereof by the Client.

4.6 No payment made by Client shall constitute a waiver by Client of any breach by Service Provider of any of its obligations hereunder or prejudice Client’s rights in the future to

question or dispute any portion of any invoice or the Services and/ or Deliverables provided by Service Provider. Any payment withheld by Client shall be without prejudice to any other rights and remedies of Client under the terms of this Agreement or at law or in equity or otherwise.

5. REPRESENTATIONS AND WARRANTIES

- 5.1 The Service Provider hereby represents, warrants and undertakes that it:
- (i) Is fully qualified to render Services and provide the Deliverables under the applicable laws and that it shall continue to exist, operate and conduct its business in accordance with all applicable laws and provisions.
 - (ii) Shall comply with all laws and regulations for the time being in force with respect to any activities relating to the Services and/ or Deliverables including the data privacy and protection requirements/ compliances under the Information Technology Act, 2000, as amended and Rules and Directions issued thereunder such as the Information Technology (Reasonable security practices and procedures and sensitive personal data or information) Rules, 2011, as amended.
 - (iii) it has all valid registrations and all other necessary permissions/ registrations/ licenses to provide the Services and/ or Deliverables and shall keep valid all applicable registrations, permissions and licenses at all times during the subsistence of this Agreement, which are required for performing the Services and provision of Deliverables under this Agreement, and obtain all future licenses, permits and consents which are necessary or desirable and in so carrying out its obligations and not to put the Client, or itself, in breach of any law. The Service Provider will inform the Client immediately in case any authorizations are invalid or of any other non-compliance with the laws, if any.
 - (iv) has all required power and authority to execute and deliver this Agreement and to perform his obligations hereunder and constitutes its valid and binding obligation;
 - (v) it is competent and has the necessary skills to carry out his obligation as provided under this Agreement and will use his best efforts in performing its obligation under this Agreement;
 - (vi) it shall be responsible for ensuring that it's Personnel abide by Client's security rules, guidelines, policies & procedures, if any, as applicable, from time to time, during the term of this Agreement;
 - (vii) it shall observe the highest standards of ethics and shall not have engaged in and shall not hereafter engage in any corrupt practice or fraudulent practice;
 - (viii) The execution and delivery by the Service Provider of this Agreement and performance of its obligations hereunder does not violate the terms of any contract, agreement, arrangement or understanding (oral or written, express or implied) to which Service Provider is a party or by which it is bound.
 - (ix) Shall be responsible for the usability, functionality and the correctness of the Deliverables and ensure that the Deliverables meet the requirements specified in Annexure 1, including the specifications, directions, Service Levels, and other requirement as specified in this Agreement.
 - (x) Shall be wholly responsible for all taxes, insurance or other contributions which may be payable out of, or as a result of the receipt of any Service Fees (hereinafter defined), etc. and accordingly indemnify and hold the Client harmless against all costs, claims, penalties, interest, liability or proceedings whatsoever arising out of or in connection with such payments.
 - (xi) Inform the Client in writing immediately or as soon as possible of any claim which may be brought against the Service Provider relating to or arising out of this Agreement. The Service Provider shall be solely responsible for all claims and expenses referred to above, and shall indemnify the Client for all claims and expenses against the Client.
 - (xii) In the event of a conflict or potential conflict of interest between the interests of the Client and the interest of any other customer/client of the Service Provider, the Service Provider

shall promptly inform the Client of such conflict or potential conflict and the Client shall have the right, in its discretion to take appropriate action in order to protect its interests. The Service Provider will give no less favorable treatment to the Client vis-a-vis other client of the Service Provider in all circumstances.

- (xiii) In the event of any disagreement between the Parties with respect to any aspect of this Agreement and/or any Service or the performance thereof and/ or Deliverables, shall not, of itself, be a reason for Service Provider to intentionally delay and/or withhold the execution of this Agreement and/or any Services/ Deliverables and it shall not delay and/or suspend the Services/ Deliverables. Any such intentional delay and/or suspension by it, shall constitute a breach by Service Provider of the terms of this Agreement.
- (xiv) The Service Provider shall ensure timely performance of its obligations under this Agreement.
- (xv) Shall observe all directions and instructions/requests given by the Client in relation to the Services/ Deliverables and in the absence of any such directions or instructions, act in such manner as the Service Provider reasonably considers to be most beneficial to the Client's interests.
- (xvi) No representation or warranty of the Service Provider contained herein or in any other agreement, document or instrument furnished by or its behalf to the Client contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading in light of the circumstances in which it was made.
- (xvii) There is no litigation pending or threatened to which Service Provider is a party that, if adversely determined, would have a material adverse effect on its financial condition or prospects or business or its ability to perform its obligations under this Agreement.
- (xviii) The Service Provider undertakes to make good and/or rectify any Deliverables not in compliance with the Client's requirements and brought to its attention either during the course of the rendering of or after completion of the Services. To the extent that any Services and/or Deliverables are defective or delivered with errors or the Service Provider defaults in any other manner in the carrying out of such Services or Deliverables, the Service Provider undertakes to redo all defective work and remedy all defects at no charge and with the utmost diligence and expedition. Notwithstanding anything contained in this Agreement, in case the Service Provider delays or fails to rectify such Service or Deliverables, then without prejudice to all other rights and remedies available to the Client under law, contract and in equity, the Client shall have an unconditional right to (i) forfeit any Service Fee payable to the Service Provider and/ or (ii) get the same rectified from the third party at the cost, risk and expense of the Service Provider

The representations and warranties contained herein above are given and made on and as of the date hereof and shall continue during the subsistence of this Agreement and the Service Provider shall not take any action or permit action to be taken which would cause any of such representations or warranties to be no longer true or correct in any respect during the subsistence of this Agreement.

6. **PERSONNEL**

- 7.1 The Service Provider, in consultation with the Client shall determine which of its Personnel shall be assigned to perform the Services, and use its reasonable efforts to replace or reassign such Personnel without any costs as may be required by the Client from time to time.
- 7.2 The Service Provider shall ensure that all Personnel are committed to provide a consistently high standard of Services to the Client and the fulfillment of Service Provider's obligations under this Agreement.

- 7.3 Unless otherwise agreed between the Parties, the Client has the right, on reasonable grounds, to require the replacement of any of the Personnel and the Service Provider will implement the Client's request and replace such Personnel within seven working days. Any replaced Personnel shall have no less professional skills, qualifications and knowledge than their predecessors.
- 7.4 The Service Provider shall coordinate its Personnel's vacation time with the designated authorised representative of Client and shall notify the designated authorised representative, in a timely manner, of any foreseeable absence of any Personnel and/or of any intention, by Personnel who render Services to the Client pursuant to this Agreement. In any case of temporary or permanent absence of the Personnel, the Service Provider, under its own responsibility, shall ensure the continuous rendition of the Services with no interruption or interference, and, in cases of permanent absence, it shall arrange, at its own cost and expense and under its own responsibility, for a suitable substitute for the absent Personnel. All such alternate Personnel shall be selected in consultation with the Client.
- 7.5 The Service Provider shall ensure that its Personnel shall:
- (i) Act diligently, ethically, soberly and honestly;
 - (ii) Comply with the applicable laws, rules, regulations, policies and guidelines of the governmental authority(ies);
 - (iii) Follow the Client's practices and procedures prevailing from time to time including the reporting of working hours and activity and the preparation of reports/deliverables as required by the Client's representatives; and
 - (iv) Comply with all procedures, rules, regulations, standards of conduct and instructions of the Client including directions in respect of use of its premises, equipment, business ethics or methodology, or contact with its staff.
- 7.6 In the event that any laptop/equipment is made available by the Client to the Personnel for the purpose of rendering the Services, at the end of the assignment of such Personnel and/or the rendering of Services or as and when requested by the Client, the said equipment shall be returned to the Client in a functional and usable state. In the event that any equipment is not returned in such state, the Service Provider shall be liable to the Client for the cost of replacing such equipment. The Client shall have the right to set off the cost of such equipment against the amount owed by the Client to the Service Provider, without prejudice to any other right of the Client under law, contract or otherwise.

7. **CONFIDENTIALITY**

- 7.1 For this Agreement "Confidential Information" shall include and mean any and all information relating to the Client, any of its affiliates, partners, customers or associates, furnished at any time by and / or on behalf of the Client, its Affiliates, partners, customers or associates, directly or indirectly to the Service Provider including any other such information received, accessed or viewed by the Service Provider or any information developed for the Client by the Service Provider pursuant hereto, whether in oral, written, graphic, visual or machine-readable form, whether tangible or intangible, whether or not designated as confidential or proprietary information. The existence of discussions between the Parties and this Agreement shall also be deemed to be Confidential Information. The Data (as defined below) shall also be considered as part of Confidential Information.

- 7.2 Subject to Clause 8.6, the Service Provider shall treat as confidential all Confidential Information received and shall not disclose such Confidential Information to any third party without the prior written consent of the Client nor use the Confidential Information for any purpose other than the performance of its obligations under this Agreement.
- 7.3 The Service Provider acknowledges that the Confidential Information contains valuable proprietary and confidential information of the Client and other stakeholders. The Service Provider shall not either directly or indirectly, copy (in whole or in part), sell, assign, lease, license, disclose, give or otherwise transfer the Confidential Information or any copy or extracts thereof to any third party including its affiliates or associates and shall take all the necessary steps that the Confidential Information is secured against accessibility of its affiliates or associates.
- 7.4 The Service Provider may disclose the Confidential Information only to Personnel deputed for Agreement who (i) “need to know” such Confidential Information in order to enable the Service Provider to use such Confidential Information for the purposes of this Agreement; (ii) have been advised of the confidential and proprietary nature of the Confidential Information; and (iii) are legally bound not to use or disclose such Confidential Information for any other purpose, and have signed confidentiality agreements containing terms substantially similar to the terms contained in this Agreement. The Service Provider agrees that all efforts will be made by the Service Provider, in case where any Personnel left the Service Provider and had access to Confidential Information, to prevent, by all legal means, the use of Confidential Information by such Personnel(s). The Service Provider shall not disclose the Confidential Information to any of its affiliate or associate or consultant, legal adviser, insurers, auditors and other professional advisers retained by the Service Provider, except upon the prior written consent of the Client.
- 7.5 The Service Provider shall treat the Confidential Information with the same degree of confidentiality as it keeps its own Confidential Information, but in all events no less than a reasonable degree of confidentiality. The Service Provider shall safeguard any and all copies, summaries, notes, extracts, reports, statistics, data, plans, etc. of the Confidential Information against unauthorized disclosure, shall not tamper with, bypass or alter its security features or attempt to do so, and shall take all reasonable steps to ensure that the provisions of this Agreement are not violated by any person under the Service Provider’s control or in the Service Provider’s service. The Service Provider shall be responsible for any breach of this Agreement by its Personnel and shall indemnify the Client in connection with any loss or damage or claim or expenses incurred or suffered by the Client due to such breach. This confidentiality obligation shall be binding on the Service Provider, its Personnel and affiliates/ associates and their employees, officers, sub-contractors, vendors, successors of the Service Provider, as applicable.
- 7.6 Clause 8.2 shall not apply to information which the Service Provider can demonstrate by documentary evidence to be:
- (i) in the public domain other than as a result of a breach of this Clause; or
 - (ii) already in the Service Provider’s possession, prior to disclosure by the Client; or
 - (iii) required to disclose by law or any court or the request of any government or regulatory authority or other competent body or if required to do so by statute, including any statute in respect of the freedom of information or similar legislation; or
 - (iv) independently developed by the Service Provider.

- 7.7 Upon termination of this Agreement for any reason whatsoever the Service Provider shall immediately cease all further use in any manner whatsoever of the Confidential Information.
- 7.8 If Client, at any time, requests the Service Provider to return the Confidential Information, the Service Provider shall promptly surrender to the Client all such documents, records, notes, copies, computer files and other material containing or incorporating the Confidential Information and shall not retain any copies thereof in any medium whatsoever.
- 7.9 Promptly following the termination or expiration of this Agreement for any reason and, subject to the other provisions of this Agreement, the Service Provider shall either destroy or deliver without retaining any copies or extracts thereof to the Client all Confidential Information received pursuant to the terms of this Agreement and certify the same in writing to the Client.
- 7.10 The provisions of this Clause shall survive the expiry/ termination of this Agreement.

8. **INTELLECTUAL PROPERTY RIGHTS**

- 8.1 Subject to the provisions of this Agreement, all Intellectual Property Rights owned by either Party shall remain the exclusive property of that Party and nothing in this Agreement shall operate to transfer any such Intellectual Property Rights to the other Party.
- 8.2 The Parties agree and acknowledge that nothing in this Agreement shall give the Service Provider any right in any Intellectual Property Rights in (i) the Deliverables and / or (ii) any information, material, specifications, assets provided by the Client or a third party through the Client in relation to this Agreement (collectively "**Client Data**"), and any translations, compilations, partial copies, modifications, updates, amendments and enhancements made thereto (collectively "**Client Materials**"), which shall remain the exclusive property of the Client and/ or its affiliates, associates or partners, as the case may be. The Service Provider agrees not to bring any action or proceedings challenging the Intellectual Property Rights of Client and/ or its affiliates, associates or partners in the Client's Materials or file any claim for registration of such Intellectual Property Rights belonging to Client and/ or its affiliates, associates or partners. The Service Provider hereby waives or shall procure the waiver of any moral rights in Client's Materials.
- 8.3 The entire right, title and interest throughout the world to all the Client Materials (i.e. Deliverables and Client Data), all methods, inventions, discoveries, designs, works, materials, software, source code, executable or object code, documentation, methods, apparatus and the like, and/or trademarks, copyrights, designs, etc. that are conceived, prepared, procured, generated or produced, whether or not reduced to practice, by the Service Provider or its Personnel, either solely or jointly with others during the course of, in connection with, or as related to the provision of the Services and/or the Deliverables under this Agreement (collectively, "**Works**"),
- (i) to the extent the Works qualify as "work made for hire" under applicable law, will be considered a work made for hire and will be owned solely and exclusively by the Client; and
 - (ii) to the extent the Works are not considered as "work made for hire" under applicable law, are hereby assigned by the Service Provider to the Client (and the Service Provider waives rights, including all moral rights, irrevocably to the extent permitted by law).

In addition, the Service Provider:

- (iii) agrees to execute any and all documents prepared by Client and to do all other lawful acts as may be necessary, useful or convenient for the Client to establish, document, and protect such rights;
 - (iv) has acquired and/ or shall acquire from each of its employees all rights to all such Works produced or developed by such employees in providing the Services and/ or the Deliverables under this Agreement that are or may be necessary for the Service Provider to convey to the Client the rights granted in this Clause 9.3. The Service Provider shall fully cooperate to secure to Client or its nominees the rights that the Client has acquired and shall hereafter acquire in accordance with the provisions of this Clause 9.
 - (v) shall have a limited, non-transferable, non-exclusive, royalty free license to use the Client's Materials, for the sole purpose of performing its obligations under this Agreement and nothing in this Agreement shall operate to transfer any ownership or other rights therein to the Service Provider. Upon termination of this Agreement (howsoever caused) such license in the Client's Materials will automatically terminate and the Service Provider will cease all such use, unless otherwise agreed in writing by the Client.
 - (vi) In the event the Client is unable for any reason after reasonable effort, to secure the Service Provider's signature on any document in accordance with Clauses 9.3(iii), the Service Provider hereby irrevocably designates and appoints the Client and its authorized employees as its agent and attorney in fact and at law, which appointment is coupled with an interest, to act for and on its behalf to execute, verify and file any such documents and to do all other lawfully permitted acts to further the purposes of Clause 9.3(iii) with the same legal force and effect as if executed by the Service Provider. The Service Provider hereby waives and quit all claims, of any nature whatsoever, which the Service Provider may now or hereafter have for infringement of any Works assigned hereunder to Client.
- 8.4 The Service Provider agrees that any and all goodwill and other right, title or interest that it may acquire through the use of the Client Materials and Works and the Intellectual Property Rights therein will inure to the sole benefit of Client and/or its affiliates, associates or partners. The Service Provider further agrees that it will not take any action disparaging, disputing, attacking, challenging, impairing, diluting, or in any way tending to harm the reputation or goodwill associated with the Client Materials and Works and the Intellectual Property Rights therein against Client or its affiliates, associates or partners.
- 8.5 The Service Provider acknowledges and agrees that the Client shall have the entitlement to fully use and exploit (in any manner whatsoever) all Client Materials and Works without any restriction or obligation to make any further payment, both during the course of this Agreement and after the termination of this Agreement (howsoever caused) including, a right for Client to successfully continue using, maintaining, developing, licensing or transferring any Client Materials and Works on such terms and conditions as Client may deem fit in its absolute and sole discretion.
- 8.6 Without prejudice to any other rights or remedies Client may have, the Service Provider shall indemnify, keep indemnified and hold harmless the Client against any and all losses arising out of or in connection with any claim for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the Services and/or the Deliverables.

8.7 If any third party makes a claim or notifies an intention to make a claim that may fall under Clause 9.6 or if either Party otherwise becomes aware of a possible claim under Clause 9.6, without prejudice to any other rights or remedies that Client may have, if requested by Client, the Service Provider shall, as per the discretion of the Client, promptly at its own cost:

- (a) procure for the Client the right to continue using the item which is subject to the claim or potential claim and the right to continue use the Works as provided herein; or
- (b) replace or modify the infringing item with a non-infringing substitute, provided that:
 - (i) the functionality and capability of the replaced item is equivalent to or greater than the functionality and capability of the original item; and (ii) the terms of this Agreement shall apply to the replaced or modified item and its development.

If (a) or (b) are not possible, the Service Provider shall refund to the Client all amounts paid to the Service Provider by Client for all the Services and Deliverables that, according to Client constitute an infringement. The Service Provider will also be liable to pay to the Client any and all amounts incurred by the Client in arranging alternate Services and Deliverables, provided that where the Service Provider has refunded any amounts to the Client towards the infringing Services and Deliverables, the replacement costs payable by the Client to Service Provider will be limited to what is incurred by Client over and above the amount received back from the Service Provider.

8.8 It is agreed that the Deliverables especially reports may be branded as [work of Client only without reference to the Service Provider **or** work of Service Provider only without reference to the Client **or** joint work of the Client and the Service Provider] and the Service provider has no objection to the same. The Client is not required to pay any additional Service Fee for such branding.

9. **INDEMNITY**

- 9.1 The Service Provider will not sue Client's directors, officers, shall only sue Client in its name.
- 9.2 Service Provider shall indemnify, defend, and hold the Client, its affiliates, partners or associates and their officers, directors, employees harmless from and against any and all liabilities, losses, damages, injuries, claims, suits, settlements, judgments, causes of action, costs and expenses (including reasonable attorneys' fees) arising out of, in relation to or consequent upon:
- (i) any act or omission by the Service Provider under this Agreement; or
 - (ii) any breach of the Service Provider's obligations, undertakings or warranties herein or claims by third parties; or
 - (iii) incorrect statement, representation or warranty of the Service Provider;
 - (iv) bodily injury or death, including death of Client's employees or third party;
 - (v) damage to the Service Provider's own property, or property belonging to Client or third parties;
 - (vi) fraud, dishonest misconduct and similar activities in which the Service Provider is involved; and
 - (vii) the insufficiency or inaccuracy of the Services and/ or Deliverables provided by the Service Provider.

- 9.3 In no event shall the Client be liable to the Service Provider for any indemnification. Unless otherwise as stated in this Agreement, no Party shall be liable to other Party for any special, incidental or consequential damages arising under or as a result of this Agreement (or termination thereof), including, but not limited to the loss of prospective profits/ Service Fee or anticipated sales, or on account of expenses, investments, or commitments in connection with the business or goodwill or otherwise.
- 9.4 This indemnity is a continuous obligation and independent from other obligations of the Service Provider and survives the expiry or earlier termination of this Agreement.

10. **TERMINATION**

- 10.1 Either Party shall have the right to terminate this Agreement for convenience. However, Client shall give [7 (seven) days/ 15 (fifteen) days/ 1 (one) months] notice and the Service Provider shall give [1 (one) months/ 2 (two) months/ 3 (three) months] notice for such termination.
- 10.2 In addition to the above, the Client shall have the right to terminate the Agreement at any time by giving a written notice to the Service Provider upon the occurrence of any of the following events:
- (i) the Service Provider not being capable of carrying out its obligation under this Agreement including voluntary dissolution of the Service Provider being a company or LLP, dissolution of general partnership;
 - (ii) If the Service Provider commits a breach of any of the terms of this Agreement and where the Client considers that such breach is remediable, fails to remedy the same within 15 days of being required by the Client to do so;
 - (iii) the Service Provider assigns this Agreement or any of its rights hereunder, except as provided in this Agreement (the word “assign” to include, without limiting the generality thereof, a transfer of a majority interest of the Service Provider);
 - (iv) If any of the Service Provider becomes or is deemed to be insolvent or bankrupt or is unable to pay their debts or enters into a deed of arrangement or compounds with their creditors or if a receiving order is made against them or if an order is made for the appointment of an administrator to manage the affairs business and property of the Service Provider or if a receiver is appointed over any of the Service Provider assets or undertaking; .
 - (v) If the Service Provider’s ability to carry out their obligations hereunder is prevented or adversely interfered with for any reason whatsoever (whether or not within the control of the Service Provider(s) including without limitation by reason of any regulation or other action of the government);
 - (vi) If any direction or order from any authority is made, or there is any change in applicable statutes, rules and regulations or government policies, which prevents or significantly impairs the implementation of this Agreement or directly or indirectly so restricts the scope and exercise of rights and privileges of the Client so as to render the objectives of this Agreement impossible to achieve;
 - (vii) the Service Provider acts in a manner which is likely to bring the Client to disrepute.
 - (viii) Notwithstanding anything contained above, the non-performance or breach by the Service Provider of any of the obligations of this Agreement, or any action or omission on the Service Provider’s part that adversely affects Client’s interests shall be considered just cause for Client to terminate this Agreement and/ or any of the rights granted hereunder forthwith.

10.3 Every obligation of the Service Provider under this Agreement is an independent condition, breach of which by the Service Provider will entitle the Client to the rights and remedies available to it under this Agreement.

10.4 **Consequences of Termination:**

Upon termination of this Agreement for whatever reason:

- (i) The Service Provider shall in no event be entitled to any compensation or damages or other payment whatsoever, whether in respect of goodwill, loss of profit/Service Fee or otherwise.
- (ii) The Service Provider undertakes to return to the Client, immediately, any written information, technical data, documents, including Confidential Information, in its possession or under its control.
- (iii) The Service Provider shall cease immediately in the rendition of any further Services save as expressly authorized by the Client in writing.

10.5 The termination of this Agreement (for whatever reason) shall not affect the respective rights and liabilities of each of the Parties accrued prior to such termination.

10.6 The provisions of this Clause shall survive the expiry or earlier termination of the Agreement.

11. **ANTI-BRIBERY**

11.1 The Service Provider shall, and shall cause their officers, employees, etc. acting on the their behalf, to comply fully with all applicable laws, regulations related to anti-bribery or anti-corruption and without in any manner limiting the generality of the foregoing, under no circumstance shall the Service Provider or their personnel, offer or make, directly or indirectly, any payment of funds or other thing of value to any employee or Service Provider of any potential Client or any officer of the government/government authority/regulatory authority/any agency/any political person etc. in respect of rendition of Services and/ or Deliverables under this Agreement. Any bribes, commissions, gifts or advantage given, promised or offered by or on behalf of the Service Provider or their personnel in relation to the offering or for procuring of a project as part of the Services and/ or Deliverables required to be rendered under this Agreement or for showing or for hearing to show favour or disfavour to any person in relation to the project shall result in immediate cancellation/ termination of this Agreement and also for payment of any actual loss or damage to the Client resulting therefrom.

12. **GOVERNING LAW AND DISPUTE RESOLUTION**

12.1 This Agreement is made in, governed by, and shall be construed in accordance with the laws of India.

12.2 Any dispute, controversy or claim (each, a "Dispute") arising out of or relating to this Agreement, or the interpretation, breach, termination, validity or invalidity thereof, shall be settled amicably within 30 days of its notice and if not, then the Dispute shall be referred to a sole arbitrator to be mutually appointed by the Parties.

12.3 The Arbitration proceedings shall be held at Delhi, India and shall be governed by the provisions of the Arbitration and Conciliation Act, 1996 or any statutory amendment thereof for the time being in force without reference to any conflict of law rules.

12.4 The arbitral proceedings shall be conducted in English.

12.5 The award of the arbitral tribunal shall be final and binding upon the Parties.

13. **JURISDICTION**

Subject to clause 13, the Parties shall submit to the exclusive jurisdiction of the Courts at Delhi.

14. **NOTICE**

14.1 Any notice or other written communication required or permitted to be made or given hereunder may be made or given by either Party by first-class registered mail, postage prepaid; or by courier to the mailing address or email set as below:

If to the **Client**:

Open Network for Digital Commerce

Address: [●]

Attention: [●]

E-mail: [Email address]

If to the **Service Provider**:

[Name of the Service Provider]

Address: [●]

Attention: [●]

Email: [Email address]

or to such other addresses or email as either Party shall designate by notice, similarly given, to the other Party. Notices or written communications shall be deemed to have been sufficiently made or given: (i) if mailed, seven days after being dispatched by registered mail, postage prepaid; (ii) if by courier, on the date of confirmed delivery; or (iii) By email, if received during business hours same day, otherwise the same would be deemed to be received next day.

15. **SURVIVAL**

The provisions of clause 8 - Confidentiality, clause 9 – Intellectual Property Rights, clause 10 – Indemnity, Clause 11.4 - 11.6 Consequences of Termination, Clause 13 - Governing Law and Dispute Resolution, Clause 14 - Jurisdiction, Clause 15 – Notice, Clause 16 - Survival and Clause 17 - Miscellaneous shall survive the expiry or earlier termination of this Agreement.

16. MISCELLANEOUS

- 16.1 **Non-Solicitation:** The Service Provider agrees that, for a period of [two (2) years] after the termination or cessation of its engagement with the Client, it shall not in any capacity, either separately, jointly or in association with others, directly or indirectly, employ, recommend for employment, solicit or contact in connection with, or in furtherance of, for any purpose whatsoever, any of Client's (or its affiliates, associates or partners) employees, consultants, agents, suppliers, vendors, customers or prospects that were such with respect to Client at any time during the two (2) years immediately preceding the date of termination or cessation of its engagement with Client or that become such with respect to Client at any time during the two (2) years immediately following the date of termination or cessation of its engagement with Client. The obligations under this clause shall survive the termination or cessation of this Agreement. It is clarified that the geographical area for the purpose of this paragraph is "worldwide".
- 16.2 **Assignability:** The rights and obligations of the Service Provider under this Agreement are personal in nature and accordingly shall not be assignable in whole or in part to third parties including sub-contractors, unless specifically agreed to in writing by the Client. However, the Client is free to assign this Agreement or any of its rights and obligations hereunder.
- 16.3 **Severability:** Should any part or provision of this Agreement be held unenforceable or in conflict with the applicable laws or regulations of any applicable jurisdiction, the invalid or unenforceable part or provision shall, provided that it does not affect the essence of this Agreement, be replaced with a revision acceptable to the Client which accomplishes, to the extent possible, the original commercial purpose of such part or provision in a valid and enforceable manner, and the balance of this Agreement shall remain in full force and effect and binding upon the Parties hereto, unless the Client decides in its discretion that the effect of such unenforceable part or provision may defeat the original intention of the Parties, in which case the Client shall be entitled to terminate this Agreement on thirty (30) days written notice to the Service Provider.
- 16.4 **Entire Agreement:** This Agreement includes its Annexures constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior agreements, arrangements, dealings or writings between the Parties. This Agreement may not be amended, varied, completed or supplemented except in writing signed by the Parties' authorized representatives.
- 16.5 **Risk Purchase:** Notwithstanding anything to the contrary stated herein, in the event the Service Provider is (i) unable to fulfill; and/or (ii) delays to fulfill its obligations under this Agreement consistent with the terms of this Agreement; and/or (iii) Client reasonably has the reason to believe that the Service Provider will not be able to fulfill its obligations, the Client reserves the unconditional right to replace the Service Provider and obtain performance of Services / Deliverables or any part thereof from other third party at the Service Provider's sole risk, cost and expense.
- 16.6 **Waiver:** No waiver of any right, breach or default hereunder shall be considered valid unless in writing and signed by the Party giving such waiver, and no such waiver shall be deemed a waiver of any subsequent right, breach or default of the same or similar nature.

- 16.7 **Cumulative remedies:** Subject to the specific limitations set out in this Agreement, no remedy conferred by any provision of this Agreement is intended to be exclusive of any other remedy except as expressly provided for in this Agreement and each and every remedy shall be cumulative and shall be in addition to every other remedy given there under or existing at law or in equity by statute or otherwise.
- 16.8 **Counterparts:** This Agreement may be executed in counterparts, each of which when executed and delivered shall be an original and all of which when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE CAUSED THIS AGREEMENT TO BE EXECUTED BY THEIR DULY AUTHORIZED REPRESENTATIVES AS OF THE DATE FIRST WRITTEN ABOVE.

Open Network For Digital Commerce

[Name of Service Provider]

By: _____

By: _____

[Name of authorized person]

[Name of authorized person]

Title: []

Title: []

Witnesses:

1. _____

2. _____

ANNEXURE 1

SERVICES AND DELIVERABLES

The Services shall include the following:

ANNEXURE 2

SERVICE FEE/ADVANCE – GENERAL TERMS & CONDITIONS

- a) Service Fee payable to the Service Provider as under:
- b) The Service Fee will be [exclusive/ inclusive] of GST as applicable in India. [If GST is exclusive of Service Fee, then the GST shall be marked up in the invoice for Service Fee on actual basis and shall be borne and paid by Client to the Service Provider.] The responsibility to pay such taxes to the applicable authorities will be that of the Service Provider. The Service Provider shall ensure timely deposit of GST amount as well as filing of GST returns with the applicable authorities such that the Client is able to avail inputs credit on such GST amount.
- c) The Service Fee payable hereunder shall be paid subject to deduction of income tax at source / withholding taxes, levies or other deductions at the applicable rates.
- d) Payment terms and conditions:
1. Submission and Payment of Invoices. The Service Provider shall submit invoice for performance of the Services and Deliverables as per this Annexure 2. Invoices shall be submitted to the designated contact of the Client. Invoices must include a description of tasks performed, deliverables delivered and hours spent performing such tasks broken down by dates, as applicable.
 2. Subject to (i) satisfactory performance of the Services and/ or Deliverables and/ or (ii) the terms of this Agreement, invoices will be paid within [thirty (30)] days after receipt of such invoices.
 3. Any eligible pre-approved out of pocket expenses (including travel expenses) incurred by the Service Provider for the performance of the Services and/ or Deliverables will be reimbursable within [thirty (30)] days after receipt of debit note. Such debit note for out of pocket expenses shall be supported by receipts, tickets (or other evidence verifying such expense to the reasonable satisfaction of Client) and in the case of a dispute concerning any expense the decision of Client shall be final and binding.

Section – II Non-Disclosure Agreement

This **NON-DISCLOSURE AGREEMENT**, (hereinafter this “**Agreement**”) is made as of this **XX day of XXXX, 2023** (“**Effective Date**”) by and between:

Open Network for Digital Commerce, a section 8 company incorporated under the Companies Act, 2013, and having its registered office at 3rd Floor, 7/6, Siri Fort Institutional Area, August Kranti Marg, New Delhi- 110 049 (hereinafter referred to as “**Disclosing Party**”, which expression shall where the context so admits include its successors and assigns) of the **One Part**.

And

..... incorporated and existing under the laws of India, having PAN Number [**Insert number**] and having its **registered** office at [●], through its authorized representative Mr. [●] (hereinafter referred to as the “**Receiving Party**”, which expression shall, unless it be repugnant to the context or meaning hereof, include and mean its successors and permitted assigns) of the **Other Part**.

“**Disclosing Party**” and “**Receiving Party**” shall hereinafter individually be referred to as a “**Party**” and together as the “**Parties**”, as the context may require.

WHEREAS:

- A. Disclosing Party and the Receiving Party desire to enter into discussions **for providing services for XXXXXXXXXXXXXXXXXXXX and any other business activities/collaborations**. (hereinafter the “**Purpose**”);
- B. In the course of such discussions on the Purpose, the Disclosing Party will disclose to the Receiving Party certain information which is Confidential Information (as defined hereinafter).;
- C. Disclosing Party desire to preserve the confidential nature of Confidential Information and to provide for the procedure whereby such Confidential Information will be protected from any unauthorized use and disclosure; and
- D. This Agreement is intended to govern the terms and conditions under which such Confidential Information will be disclosed to the Receiving Party.

As a condition of, and in consideration of permitting such disclosure of the Confidential Information, the Parties have agreed to the following:

1. Definition of Confidential Information.

1. **Definition:** The term “**Confidential Information**” shall include and mean any and all information, documents, papers and data made available, disclosed, supplied or furnished at any time, whether before or after the Effective Date, by and/ or of Disclosing Party, its Affiliates (as defined hereinafter), customers, partners or associates directly or indirectly to the Receiving Party; whether in oral, written, graphic

or machine-readable form, whether tangible or intangible, whether or not designated as confidential or proprietary information, including but not limited to any information and data of confidential nature that is not generally available to others such as i) proprietary, technical, regulatory, scientific, operational including processes, technologies, programs, schematics, methods, techniques, protocols and reports, performance, uses, designs, diagrams, sketches, analyses, know-how, operational data, models, materials, equipment, samples, patents, patent application, trademarks, trade names, designs and other intellectual property, ideas, concepts, inventions, technical and other data of any kind and description, flowcharts, research material, research and development, manuals, reports, forecasts, studies, samples, statistics, summaries, interpretations, proposals, procedures, program listings, data file printouts, etc.; ii) business information, plans such as sales and marketing plans, plans for future development, expansion, growth and new opportunities, advertising and promotional material, software, trade secrets, details of prospective clients, suppliers, customers, buyers, sellers, consumers, partners, principals, consultants and governments, literature and other writings together with analysis, compilations, techniques employed and any documents, reports, plans, memoranda, notes, analyses, compilations, files, pricing and financial information including financial statements and workings related thereto, information and/or documents relating to accounts and taxes, information and/ or documents relating to dealings with third parties, information about costs, profits, markets, revenues, employee files or other employee information, training and human resources policies and programmes, internal control systems, customer lists and other customer information - whether relating to past, present or prospective customers, brochures, photographs, analyses and objects, no matter their format, media or support, that contain, summarize or are based upon any proprietary information and all other information necessary to fulfill the Purpose contemplated by the Agreement, made available, disclosed or supplied by the Disclosing Party to the Receiving Party; iii) the existence of discussions between the Parties, the Purpose and this Agreement.

For the purpose of this Agreement, the term “**Affiliate**” shall mean any person, corporation, company, partnership, joint venture or other entity which is controlling, controlled by or under common control with such Party. For such purpose the term control, controlling or controlled, shall have the meaning assigned herein of holding more than 50% of common voting stock or ordinary shares in, or the right to appoint more than fifty percent (50%) of the directors of, or the right to share more than fifty percent (50%) of the profits of, the said corporation, company, partnership, joint venture or entity.

- 1.2 **Exclusions:** For the purposes of this Agreement, Confidential Information shall not include:
- a. Information that can be demonstrated by documentary evidence to have been in the public domain at the time it was disclosed by the Disclosing Party or which subsequently came into the public domain other than as a result of breach of this Agreement;
 - b. Information that can be demonstrated by documentary evidence to have been obtained, by the Receiving Party, from any third party unaffiliated with the Disclosing Party, without breach of any provisions of this Agreement by the Receiving Party, provided such third party was not bound by confidentiality agreements with the Disclosing Party;

- c. Information independently developed by the Receiving Party without reference to the Confidential Information; or
- d. Information that can be demonstrated by documentary evidence to have been in the possession of the Receiving Party prior to its disclosure by the Disclosing Party, to the Receiving Party.

Where the above stated exclusions apply, the Receiving Party shall not in any event disclose the fact that the Confidential Information originated from the Disclosing Party. To remove doubt, it is expressly stated that the fact that a specific part of the Confidential Information is encompassed by more general Confidential Information which falls within one of the exclusions stated in clause 1.2, or the fact that any Confidential Information is a combination of individual items of Confidential Information which, individually, fall within the above-mentioned exclusions, shall not itself result in such Confidential Information itself falling within the above-mentioned exclusions.

- 1.3 Disclosure to governmental authorities or agency.** The Receiving Party may however disclose the Confidential Information if and to the extent that such disclosure is compulsorily required under applicable law (including court order), to a regulatory authority or a court of law with competent jurisdiction over the Receiving Party, provided that the Receiving Party (i) shall provide the Disclosing Party immediately with written notice of such required disclosure such that Disclosing Party can take steps to seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement, and/ or (ii) obtain written assurance from the applicable judicial or governmental entity that it will afford the Confidential Information the highest level of protection afforded under applicable law or regulation. The Receiving Party shall exercise all reasonable efforts to narrow and limit the scope of any such disclosure and to preserve the confidentiality of the Confidential Information, including without limitation, by cooperating with Disclosing Party in Disclosing Party's efforts to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded to the Confidential Information.

It is however, agreed by the Receiving Party that any disclosure to an aforesaid court of law or to an aforesaid regulatory authority shall not entitle the Receiving Party to disclose the Confidential Information or any part thereof to any other person or entity whatsoever and howsoever or to treat the same as non-confidential. Notwithstanding the foregoing, the Receiving Party shall not disclose any information or material that contains any Confidential Information, in accordance with a judicial or other governmental order unless it complies with the requirement set forth in this Clause.

2. **Non-Disclosure:**

- 2.1 The Receiving Party acknowledges that the Confidential Information contains valuable trade and technical secrets of the Disclosing Party or its Affiliates, customers, partners, associates, as applicable. The Receiving Party shall not either directly or indirectly, copy (in whole or in part), sell, assign, lease, license, disclose, give or otherwise transfer the Confidential Information or any copy or extracts thereof to any third party including its Affiliates or associates and shall take all the necessary steps that the Confidential Information is secured against

accessibility of its Affiliates or associates. The Receiving Party shall not use the Confidential Information other than for the Purpose intended under this Agreement. The Receiving Party may disclose the Confidential Information only to employees of the Receiving Party who (i) “need to know” such Confidential Information in order to enable the Receiving Party to use such Confidential Information for the Purpose intended under this Agreement; (ii) have been advised of the confidential and proprietary nature of the Confidential Information; and (iii) are legally bound not to use or disclose such Confidential Information for any other purpose, and have signed confidentiality agreements containing terms substantially similar to the terms contained in this Agreement. Furthermore, the Receiving Party agrees to absolve the Disclosing Party of any default or negligence in case any of its employee(s), who had access to such information on a ‘need to know basis’, leaves the organisation with malafide intention to cause discomfort to the Receiving Party, by disclosure or otherwise the Confidential Information to which he/she had access to on a need to know basis. The Receiving Party agrees that all efforts will be made by the Receiving Party, whose employee has so left, to prevent, by all legal means, the use of such Confidential Information by the ex-employee. The Receiving Party shall not disclose the Confidential Information to any consultant, legal adviser, auditors and other professional advisers retained by the Receiving Party, except upon the prior written consent of the Disclosing Party.

- 2.2 The Receiving Party shall treat the Confidential Information with the same degree of confidentiality as it keeps its own Confidential Information, but in all events no less than a reasonable degree of confidentiality. The Receiving Party shall not use the Confidential Information for its own or third party account and shall take all reasonable measures to protect the confidentiality and avoid the unauthorized use, disclosure, publication, or dissemination of Confidential Information. The Receiving Party shall safeguard any and all copies, summaries, notes, extracts, etc. of the Confidential Information against unauthorized disclosure, shall not tamper with, bypass or alter its security features or attempt to do so, and shall take all reasonable steps to ensure that the provisions of this Agreement are not violated by any person under the Receiving Party's control or in the Receiving Party's service. The Receiving Party shall be responsible for any breach of this Agreement by its and its Affiliates' employees, officers, agents and vendors and shall indemnify the Disclosing Party in connection with any loss or damage or claim or expenses incurred or suffered by the Disclosing Party due to such breach. Upon discovery of any prohibited use or disclosure of the Confidential Information, the Receiving Party shall immediately notify Disclosing Party in writing and shall make its best efforts to prevent any further prohibited use or disclosure; however, such remedial actions shall in no manner relieve the Receiving Party's liabilities for breach hereunder. The confidentiality, non-disclosure and non use obligation under this Agreement shall survive expiration or termination of this Agreement, regardless of whether the Agreement has been terminated or expired.

3. **Proprietary Nature**

- 3.1 **Ownership:** All Confidential Information is and shall remain the property of the Disclosing Party or its Affiliates, customers, partners, associates, as applicable, and no license or other right to such information is granted or implied

hereby. The Parties acknowledge that all Confidential Information is the sole property of the Disclosing Party or its Affiliates, customers, partners, associates, as applicable, and that the Receiving Party shall not acquire any proprietary interest in the Confidential Information. The Parties agree that any invention, discovery or development made by a Party regardless of whether it is subject to registration by law or any other protection, shall be the sole property of the Disclosing Party or its Affiliates, customers, partners, associates, as applicable, provided that if such invention or development is made by the Receiving Party based on the Confidential Information of the Disclosing Party, then the invention or development shall be deemed to be the property of the Disclosing Party or its Affiliates, customers, partners, associates, as applicable.

- 3.2 **Intellectual Property:** The Receiving Party acknowledges that the Confidential Information was designed, developed or otherwise obtained at great expense over lengthy periods of time, and that the Confidential Information is secret, confidential, unique and essential to the business of Disclosing Party or its Affiliates, customers, partners, associates, as applicable and constitutes the exclusive property and trade secret of the Disclosing Party or its Affiliates, customers, partners, associates, as applicable. The Receiving Party acknowledges and agrees that all applicable intellectual property rights on a worldwide basis howsoever arising and in whatever media, whether or not registered or capable of registration, including without limitation patents, copyrights, trademarks, trade secrets, service marks, trade names, domain names, design rights, database rights and any applications for the protection or registration of these rights and all renewals, revivals and extensions thereof throughout the world, with respect to the Confidential Information of the Disclosing Party are retained exclusively by the Disclosing Party or its Affiliates, customers, partners, associates, as applicable and that no license is granted and no transfer, assignment or license of rights shall be deemed to have arisen or implied in any intellectual property rights of the Disclosing Party or its Affiliates, customers, partners, associates, as applicable.
- 3.3 **Disclaimer:** Except as may otherwise be set forth herein, the Disclosing Party or its Affiliates, customers, partners, associates, as applicable makes no representation or warranty as to accuracy, completeness, condition, suitability, or performance of the Confidential Information, and the Disclosing Party or its Affiliates, customers, partners, associates, as applicable shall have no responsibility or liability whatsoever to the Receiving Party resulting from the use of the Confidential Information.
- 3.4 **No Implied Licenses.** The Confidential Information is the Disclosing Party's or its Affiliates, customers, partners, associates, as applicable property and nothing in this Agreement shall be construed as granting any rights to the Receiving Party, by license or otherwise, to copy, sell, assign, lease, license, disclose, give, exchange, transfer or otherwise make use of the Confidential Information, except as specifically stated in this Agreement.
4. **Return of Confidential Information:** Upon Disclosing Party's request or completion of the objective relating to the Purpose or expiry or termination of this Agreement / any definitive agreement, if any in connection with the Purpose, the Receiving Party shall promptly, either return any and all the Confidential

Information received or destroy any copies they may have made thereof and the Receiving Party shall certify to Disclosing Party as to such return or destruction of the Confidential Information.

5. **Injunctive Relief:** The Parties acknowledge that the unauthorized use or disclosure of the Confidential Information would cause irreparable harm to the Disclosing Party or its Affiliates, customers, partners, associates, as applicable and acknowledges that damages are not a sufficient remedy for the Disclosing Party or its Affiliates, customers, partners, associates, as applicable for any breach of any of the terms of this Agreement by Receiving Party and the Disclosing Party or its Affiliates, customers, partners, associates, as applicable would not have an adequate remedy at law in the event of an actual or threatened violation by the Receiving Party of its obligations under this Agreement. Therefore, in addition to all other remedies it may have, the Disclosing Party or its Affiliates, customers, partners, associates, as applicable shall be entitled to an injunction, including a preliminary injunction, in addition to all other remedies and any appropriate decree of specific performance for any actual or threatened violations or breaches by the Receiving Party or any person authorized by the Receiving Party without the necessity of the Disclosing Party or its Affiliates, customers, partners, associates, as applicable showing actual damages or that monetary damages would not afford an adequate remedy, and without posting a bond. The Receiving Party shall be directly liable for any and all reasonable attorney's fees and expenses incurred by the Disclosing Party or its Affiliates, customers, partners, associates, as applicable to enforce this Agreement against the Receiving Party in the Courts of competent jurisdiction.
6. **Prohibition on use of marks:** The Receiving Party shall not use or permit the use of Disclosing Party's names, logos, trademarks or other identifying data, or otherwise discuss or make reference to Disclosing Party, in any third party communication, marketing materials or press releases without Disclosing Party's prior written consent.
7. **Term and Termination:**
 1. Unless otherwise mutually renewed or extended by the Parties in writing, this Agreement will be valid for a period of **XXXXX year** from the Effective Date of this Agreement ("**Term**") and the confidentiality obligation hereinunder shall survive for a **01 year** after expiry/termination. Notwithstanding the aforesaid, either Party shall have the right to terminate this Agreement, without cause, upon giving **THREE (03) months** notice to the other Party or this Agreement will automatically terminate in the event the Parties refuse to enter into a business relationship for the Purpose.
 2. The provision of clauses 1 to 6, 7.2, 8, 10 and 12 to 16 shall survive early termination or expiry of this Agreement.

8. **Notice:**

8.1 All notices or other communication required to be given or made under this Agreement, shall be in writing and delivered in accordance with Clause 8.2, addressed to the intended recipient at their address set forth below:

(a) If to **Open Network for Digital Commerce**
Address: 3rd floor, 7/6, Siri Fort Institutional Area
August Kranti Marg, New Delhi- 110049
Attention: Mr. xxxxxxxxxxxx
E-mail:

(b) If to [●]:
Address: [●]
Attention: [●]
Email Address: [●]

8.2 Any notice or other communication hereunder shall be delivered using speed post, registered post with Acknowledgement Due or e-mail, and shall be deemed to have been received upon the actual receipt thereof. Any notice or other similar communication send by email should be mandatorily followed by service through any other mode. Any Party may change the address to which notices and other communications hereunder are to be delivered by giving the other Party a notice in the manner herein set forth.

9. **Entire Agreement:** This Agreement constitutes the entire agreement between the Parties relating to the subject matter of this Agreement, and supersedes all previous agreements, understandings, writings, or negotiations, whether written or oral, between the Parties and incorporates the entire agreement of the Parties with respect to the receipt and use of the Confidential Information. This Agreement may not be modified or amended except by written agreement of both the Parties.

10. **Assignment:** The Receiving Party shall not assign or otherwise transfer any of its rights or obligations under this Agreement to any third party without the prior written consent of the Disclosing Party. However, Disclosing Party may assign any of its rights or obligations under this Agreement to any third party without prior written consent of the Receiving Party.

11. **No Formal Business Obligations:** This Agreement shall not constitute, create, give effect to or otherwise imply a joint venture, pooling arrangement, partnership or formal business organization of any kind, or any obligation or commitment on either Party to submit a proposal or to enter into a further contract or business relationship with the other Party, or any obligation on either Party to disclose, supply or otherwise communicate any information, general or specific, to the other Party. Nothing herein shall be construed as providing for the sharing of profits or losses arising out of efforts of either or both Parties.

12. **Confidentiality and Intellectual Property Notices:** Receiving Party shall not (nor shall it permit or assist others to) alter or remove any confidentiality label, proprietary label, patent marking, copyright notice or other legend (singularly or

collectively, “**Notices**”) placed on the Confidential Information, and shall maintain and place any such Notices on applicable Confidential Information or copies thereof.

13. **No Waiver:** Failure by a Party to enforce any provisions of this Agreement at any time shall not constitute waiver and in no manner affect the right of that Party at a later time to enforce any provision of this Agreement. No waiver of any right, or a breach or default hereunder shall be considered valid unless in writing and signed by the Party giving such waiver and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature.
14. **Severability:** In the event that any word, phrase, clause, sentence or other provision contained herein shall violate any applicable statute, ordinance or rule of law in any jurisdiction which governs this Agreement, such provisions shall be ineffective to the extent of such violation without invalidating any other provision herein.
15. **Counterparts:** This Agreement may be executed in two (2) counterparts, each of which shall be deemed as an original, but all of which together shall constitute one and the same instrument.
16. **Governing law and Jurisdiction:** This Agreement shall be governed by, and construed in accordance with, the laws of India and the Parties hereby submit to the exclusive jurisdiction of the Courts at Delhi.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth herein above.

For and on behalf of Open Network For Digital Commerce	For and on behalf of
By:	By:
<i>Name of authorized person]</i>	<i>[Name of authorized person]</i>
Title:	Title: