



## 1.1 Annexure 22 Non-Disclosure Agreement

(ON A NON-JUDICIAL STAMP PAPER OF RS. 500)

This Confidentiality cum Non-disclosure Agreement is entered into at \_\_\_\_\_ on this day \_\_\_\_\_ of \_\_\_\_\_ 2021, between \_\_\_\_\_ a company within the meaning of Companies Act, 1956/the Companies Act, 2013 having its Registered Office (Hereinafter referred to as 'Bidder' which expression shall unless it be repugnant to the subject thereof, \_\_\_\_\_ include \_\_\_\_\_ its \_\_\_\_\_ successors \_\_\_\_\_ and assigns). \_\_\_\_\_ and Bank of Maharashtra/Disclosing party, a body corporate constituted under banking Companies (Acquisition and transfer of undertakings) Act 1970, & having its Head Office at 1501, 'Lokmangal' Shivajinagar, Pune – 411005, (hereinafter referred to as "Beneficiary Bank" which expression shall unless it be repugnant to the subject thereof, include its successors and assigns).

\_\_\_\_\_ And BOM/Disclosing party would be having discussions and negotiations concerning the establishment during continuance of a business relationship between them as per Agreement dated \_\_\_\_\_ (hereinafter referred to as 'Agreement'). In the course of such discussions and negotiations, it is anticipated that either party may disclose or deliver to the other party certain of its trade secrets or confidential or proprietary information for the purpose of enabling the other party to evaluate the feasibility of such a business relationship. The parties have entered into this Agreement, in order to assure the confidentiality of such trade secrets and confidential and proprietary information in accordance with the terms of this Agreement. As used in this Agreement, the party disclosing Proprietary Information (as defined below) is referred to as the 'Disclosing Party' and will include its affiliates and subsidiaries, the party receiving such Proprietary Information is referred to as the 'Recipient', and will include its affiliates and subsidiaries and Bank shall herein after jointly be referred to as "Parties" and individually as a "Party".

Now this Agreement witnesseth:

1 Proprietary Information: As used in this Agreement, the term 'Proprietary Information' shall mean all trade secrets or confidential or Proprietary Information designated as such in writing by the Disclosing Party, whether by letter or by the use of an appropriate prominently placed Proprietary stamp or legend, prior to or at the time such trade secret or confidential or Proprietary Information is disclosed by the Disclosing Party to the Recipient. Notwithstanding the forgoing, information which is orally or visually disclosed to the recipient by the Bank/ Disclosing Party or is disclosed in writing unaccompanied by a covering letter, proprietary stamp or legend, shall constitute proprietary information if the Bank/disclosing party, within 10 (ten) days after such disclosure, delivers to the Recipient a written document or documents describing such Proprietary Information and referencing the place and date of such oral, visual or written disclosure and the names of the employees or officers of the Recipient to whom such disclosure was made.

2 Confidentiality

a) Each party shall keep secret and treat in strictest confidence all confidential information it has received about the other party or its customers and will not use the confidential information otherwise than for the purpose of performing its obligations under this Agreement in accordance with its terms and so far as may be required for the proper exercise of the Parties' respective rights under this Agreement. Any information considered sensitive must be protected by the Bidder from unauthorized disclosure or access.

b) The term 'confidential information' shall include all written or oral information (including information received from third parties that the 'Bank/Disclosing Party' is obligated to treat as confidential) that is (i) clearly identified in writing at the time of disclosure as confidential and



in case of oral or visual disclosure, or (ii) that a reasonable person at the time of disclosure reasonably would assume, under the circumstances, to be confidential. Confidential information shall also include, without limitation, software programs, technical data, methodologies, know-how, processes, designs, new products, developmental work, marketing requirements, marketing plans, customer names, prospective customer names, customer information and business information of the 'Bank/Disclosing Party'.

3. Non-Disclosure of Proprietary Information: For the period during the Agreement or its renewal, the Recipient will:
  - (a) Use such Proprietary Information only for the purpose for which it was disclosed and without prior written authorization of the Bank/Disclosing Party shall not use or exploit such Proprietary Information for its own benefit or the benefit of others.
  - (b) Protect the Proprietary Information against disclosure to third parties in the same manner and with the reasonable degree of care, with which it protects its confidential information of similar importance: and
  - (c) Limit disclosure of Proprietary Information received under this Agreement to persons within its organization and to those third party contractors performing tasks that would otherwise customarily or routinely be performed by its employees, who have a need to know such Proprietary Information in the course of performance of their duties and who are bound to protect the confidentiality of such Proprietary Information.
4. Limit on Obligations : The obligations of the Recipient specified in clause 3 above shall not apply and the Recipient shall have no further obligations, with respect to any Proprietary Information to the extent that such Proprietary Information:
  - a) Is generally known to the public at the time of disclosure or becomes generally known without any wrongful act on the part of the Recipient,
  - b) Is in the Recipient's possession at the time of disclosure otherwise than as a result of the Recipient's breach of a legal obligation;
  - c) Becomes known to the Recipient through disclosure by any other source, other than the Disclosing Party, having the legal right to disclose such Proprietary Information.
  - d) Is independently developed by the Recipient without reference to or reliance upon the Proprietary Information; or
  - e) Is required to be disclosed by the Recipient to comply with applicable laws or governmental regulation, provided that the recipient provides prior written notice of such disclosure to the Bank/Disclosing Party and takes reasonable and lawful actions to avoid and/or minimize the extent of such disclosure.
5. Return of Documents: The Recipient shall, upon the request of the Disclosing Party, in writing, return to the Disclosing Party all drawings, documents and other tangible manifestations of Proprietary Information received by the Recipient pursuant to this Agreement (and all copies and reproductions thereof) within a reasonable period. Each party agrees that in the event it is not inclined to proceed further with the engagement, business discussions and negotiations, or in the event of termination of this Agreement, the Recipient party will promptly return to the other party or with the consent of the other party, destroy the Proprietary Information of the other party.
6. Communications: Written communications requesting or transferring Proprietary Information under this Agreement shall be addressed only to the respective designees as follows (or to such designees as the parties hereto may from time to time designate in writing)



बैंक ऑफ महाराष्ट्र  
Bank of Maharashtra

भारत सरकार का उद्यम

एक परिवार एक बैंक

RFP for Co-Hosting Primary Data Center &  
Relocating Near Site

MIS \_\_\_\_\_

Bank of Maharashtra

Attn: \_\_\_\_\_

Attn: \_\_\_\_\_

7. Term: The obligation pursuant to Clause 2 and 3 (Confidentiality and Non-Disclosure of Proprietary Information) will survive forever following the term of the Agreement dated\_\_\_\_\_.
  - a. Nothing herein contained shall be construed as a grant by implication, estoppels, or otherwise or a license by either party to the other to make, have made, use or sell any product using Proprietary Information or as a license under any patent, patent application, utility model, copyright or any other industrial or intellectual property right covering same.
8. Damages:

“The provisions of this Agreement are necessary for the protection of confidentiality of data and the business goodwill of the Bank and are considered by the parties to be reasonable for such purposes. Receiving Party agrees that any breach of this Agreement will cause substantial and irreparable damages to the Disclosing Party. In the event of such breach, in addition to other remedies, the disclosing party has a right to receive entire loss and damages on account of such disclosure. Further, the Receiving Party agrees to indemnify the Disclosing Party against loss suffered, directly or indirectly, due to breach of contract and undertakes to indemnify for the same.
9. Resolution of Disputes

“All disputes and differences of any kind whatsoever arising out of or in connection shall be settled amicably by direct informal negotiation between both the parties. However, in case of non-settlement of such dispute, the matter shall be referred to higher authorities. Even after the interference of higher authorities, the dispute persists, such dispute will be referred for Arbitration to Sole Arbitrator. However, in case of non-consensus on sole arbitrator within 15 days, each party will appoint one Arbitrator. The two arbitrators appointed by the parties shall appoint a third arbitrator who will act as the chairman of the proceedings. The Award of the Arbitrator shall be Final and binding on the parties. The Arbitration and Conciliation Act 1996 or any statutory modification thereof shall apply to the arbitration proceedings. The venue of the arbitration shall be at \_\_\_\_\_. The expenses will be borne by the parties in equal proportion. Language of the Arbitration shall be in English.”
10. Waiver Clause

“The failure to exercise any right provided in this Agreement shall not be a waiver of prior, concurrent or subsequent rights unless made in writing and signed by the authorized representative of both Parties. This agreement and each party’s obligation shall be binding on the representatives, assigns and successors of such Party.”
11. Relationship between parties:

“This Agreement is on a Principal to Principal basis and does not create any employer - employee relationship. Nothing contained in this Agreement or otherwise shall be deemed to create any partnership, joint venture, employment or relationship of principal and agent, or master and servant between the parties hereto or any of their respective employees, affiliates, subsidiaries, related business entities, agents, contractors or subcontractors or to provide either party with



any right, power or authority, whether express or implied, to create any duty or obligation on behalf of the other party.”

12. Notice Clause:

“All notices given under this Agreement must be in writing. A notice is effective upon receipt and shall be sent via one of the following methods: delivery in person, courier service, registered email, postage or any other mode approved by the court of law addressed to the party to be notified at the below address as such party may designate upon reasonable notice to the other party:

Disclosing Party	Receiving Party
Representative name:	Representative name:
Address:	Address:
Email:	Email:
Phone number:	Phone number:

13. Miscellaneous:

- This Agreement may not be modified, changed or discharged, in whole or in part, except by a further Agreement in writing signed by both the parties.
- This Agreement will be binding upon and ensure to the benefit of the parties hereto and it includes their respective successors and assignees
- The Agreement shall be construed and interpreted in accordance with the laws prevailing in India.

In witness whereof, the parties hereto have agreed, accepted and acknowledged and signed these presents, on the day, month and year mentioned herein above.

For \_\_\_\_\_

Authorized Signatory

Shri \_\_\_\_\_

Designation \_\_\_\_\_

**For Bank of Maharashtra**

Authorized Signatory

Shri \_\_\_\_\_

Designation \_\_\_\_\_