

## **SERVICE AGREEMENT**

**THIS SERVICE AGREEMENT** made and entered on this [●] day of [●] 2012

### **BETWEEN**

**IDBI Bank Limited**, a company incorporated under the Companies Act, 1956 (1 of 1956) and a banking company within the meaning of Section 5(c) of the Banking Regulation Act 1949 (10 of 1949), and having its Registered Office at IDBI Tower, World Trade Center Complex, Cuffe Parade, Colaba, Mumbai 400005 and a Branch Office amongst other places at [●] (hereinafter referred to as "**IDBI Bank**", (which expression shall, unless repugnant to context and meaning hereof, mean and include its successors and assigns) of the **ONE PART**

### **AND**

M/s [●], (Hereinafter referred to as "**Courier Service Provider**" or "**Service Provider**" which expression shall, unless it be repugnant to context and meaning hereof, shall deemed to include its successors and permitted assigns) of the **OTHER PART**.

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

### **WHEREAS:**

- (i) IDBI Bank is in the business of banking and desires to outsource the courier services for its business and operations as per the specification and scope detailed in Clause 2 of this Agreement and **Annexure A**.

- (ii) The Courier Service Provider is in the business of providing courier services to various organisations, the Service Provider represented to IDBI Bank that they have requisite expertise, the resources and the skilled personnel for providing the services and is desirous of providing the above referred services to IDBI Bank.
- (iii) The IDBI Bank has agreed to avail the services offered by the Courier Service Provider for its business and operations.
- (iv) And whereas, the Parties are desirous of recording the terms relating to the above arrangement and understanding and hence these presents for recording the aforesaid.

**NOW, THEREFORE,** in consideration of the foregoing and other good and valuable consideration, the receipt and adequacy of which are hereby expressly acknowledged by the Parties, the Parties hereto hereby agree as follows:

## **1 DEFINITIONS**

For the purpose of this Agreement, the following terms shall have the meanings set out below:

**“Agreement”** means this agreement, annexure and all documents attached hereto.

**“Applicable Laws”** means, with respect to any Person, all laws, statutes, treaties, rules, regulations, determinations, orders, notifications, writs, processes, decrees, injunctions, judgments, or awards of an arbitrator, a court or any other governmental authority, and all government authorizations binding upon or applicable to such Person or to any of its properties or assets.

**“Applicable Permits” or “Permits”** means any waiver, exemptions, building, variance, franchise, permit, authorizations, approval, license or similar order of or from any Central or State, provincial, municipal, regional, environmental or other governmental entity, instrumentality, agency, authority, court or other body having jurisdiction over all or any part of the courier services to be performed pursuant to the terms of this Agreement.

**“Confidential Information”** means, all tangible and intangible information obtained/received/gained/developed or disclosed to Courier Service Provider and/or Service Provider Personnel, including all details, documents, data, business/customer information and the IDBI Bank’s practices and trade secrets that Service Provider and/or Service Provider Personnel may be, privy to, shall be treated as absolutely confidential.

**“Courier Services”/ “Scope and standard of Services”** means the services to be performed or rendered by the Service Provider, in relation to the banking business and operations of IDBI Bank and matters related or incidental to the foregoing as described in Clause 2 (Scope and standard of Services) and **Annexure A**, and any alteration thereof.

**“Fees”** means, the amount payable by IDBI Bank as detailed in **Annexure B**, and any alteration thereof.

**“Good Industry Practice”** means, the exercise of degree of skill, diligence and prudence which is expected from a highly skilled and experienced and internationally recognized and reputed Service Provider engaged in the same type of undertaking engaged in the activity of providing the Courier Services as Service Provider under similar circumstances and acting generally in accordance with the prevailing laws, rules, regulation, courts and industry standards.

**“Person”** means any natural person, firm, corporation, company, voluntary association (incorporated or otherwise), partnership, joint venture, trust, limited organization, unlimited corporation, or other entity.

**“Service Provider Personnel”** means the authorized agent, employees, representatives of the Service Provider.

## **1.2 INTERPRETATION**

In construing this Agreement

- 1.2.1 Time is the essence in the performance of the Parties' respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence;
- 1.2.2 Unless the context otherwise requires, words importing the singular shall include the plural and the vice versa;
- 1.2.3 Clause, headings are for reference only and shall not affect the construction or interpretation of this Agreement;
- 1.2.4 References to Recitals, Clauses, Exhibits, Annexures and Schedules are references to Recitals, Clauses, Exhibits, Annexures and Schedules of and to this Agreement;
- 1.2.5 Whenever the context so demands the references to a Party to this Agreement includes references to its successors or assigns (immediate or otherwise if so provided in the description of the Parties) of that party and reference to agreements shall include reference to all the amendments thereto by whatever manner;
- 1.2.6 Reference to any Applicable Law includes a reference to such Applicable Laws as amended or re-enacted from time to time, and any rule or regulation promulgated there under; and
- 1.2.7 The terms "herein", "hereof", "hereto", hereunder and words of similar purport refer to this Agreement as a whole.

## **2. SCOPE AND STANDARD OF SERVICES:**

- 2.1 Service Provider hereby agrees to provide to the IDBI Bank and the IDBI Bank hereby agrees to avail of from Service Provider, Courier services as more particularly mentioned in the **Annexure A** to this Agreement.
- 2.2 In rendering the services to the IDBI Bank, Service Provider warrants that:
- i It shall observe the best service quality standards and ensure that Service Provider renders its obligations to the satisfaction of the IDBI Bank.
  - ii Engage requisite number of Service Provider Personnel for rendering the Services in an efficient and timely manner and to supervise the work of Service Provider Personnel.
  - iii It shall meet the various deadlines and standards as more particularly mentioned in **Annexure A** to this Agreement.
  - iv It shall discuss and review its progress, on a regular basis as and when required by the Bank.
  - v It shall extend services during validity period of the Agreement.
  - vi It shall comply with all Applicable Laws in connection with the Services.

- vii All Service Provider Personnel deputed by Service Provider to IDBI Bank shall carry identity card provided by the Service Provider.
  - viii It shall provide and render Courier Services, at all times, as per the Good Industry Practice and abide by the Applicable Laws.
  - ix It shall maintain utmost confidentiality of the Confidential Information.
- 2.3 In the event, that the nature of the Services to be rendered by Service Provider require the Service Provider Personnel to enter the premises of the IDBI Bank, Service Provider shall:
- i. Ensure that the Service Provider Personnel follow and comply with the instructions (oral or written or both) issued by the IDBI Bank to the Service Provider or to the Service Provider Personnel from time to time in this regard.
  - ii. Use the area specifically allotted to Service Provider for rendering the Services and performing its obligations under this Agreement.
  - iii. Ensure that the Service Provider Personnel observes all security guidelines of the IDBI Bank from time to time.
  - iv. Keep the fixtures, fittings, equipment and documents and properties of the IDBI Bank installed at area allotted to Service Provider, clean and in good condition and shall not inflict any damage whatsoever to these assets of the IDBI Bank.
- 2.4 Where Service provider operates at locations outside the premises of the IDBI Bank, it shall comply with all of the IDBI Bank's standards / security procedures at such locations and shall deal promptly and courteously with the customers of the bank where the Service Provider or the Service Provider Personnel are required to meet the customers.
- 2.5 Observe and perform all such additional conditions, covenants, undertakings that may be made from time to time by the IDBI Bank in its sole discretion.
- 2.6 The Service Provider hereby agrees to ensure that it is able to isolate and clearly identify the IDBI Bank's customer information, documents (in hard copies or soft files), computerized data/information, records and assets to protect the confidentiality of the information.
- 2.7 The Service Provider shall ensure that the data received from the IDBI Bank and the reports or files to be sent to the IDBI Bank are saved at its end for a period of at least twelve months from the date of such transactions.

### **3. TERMS OF PAYMENT**

- 3.1 In consideration of Service Provider rendering the Services to the IDBI Bank, the IDBI Bank shall pay to Service Provider Fees as mentioned against each service more particularly described in **Annexure B**, after deduction of the standard deductions for default / non –performance of Services.

- 3.2 The Service Provider will submit his monthly bill within first week of every following month so as to enable IDBI Bank to make timely payment of the same subject to necessary deductions, if any.
- 3.3 The aforesaid charges shall and cannot be increased for any reason whatsoever including but not limited to escalation on account of charges in Applicable Laws and shall be responsible for payments as mentioned in the clause herein below.
- 3.4. The Service Provider shall open an account with the Bank for smooth payment of bills.
- 3.5 The payment of bills will be made by IDBI Bank to the Service Provider through electronic mode only by crediting the aforesaid account of the Service Provider.
- 3.6 The Service Provider agrees, undertakes and confirms absolutely, irrevocably, unconditionally that the entire obligation with regard to:
- (i) Payment of minimum wages;
  - (ii) Payment of bonus;
  - (iii) Payment of gratuity; and
  - (iv) Any other statutory remittances, which may be applicable from time to time
- to the employees engaged by the Service Provider shall be principally with the Service Provider and the Service Provider shall also be liable for payment to the employees engaged by him any revision in aforesaid laws affected by appropriate Government and liability and duty of IDBI Bank shall be limited only to the extent of reimbursement of the bills properly raised/payment of fees and not otherwise. If any liability, obligation, burden, claim or cost are suffered or incurred by IDBI Bank on account of breach by the Service Provider of the provisions of this clause, the Service Provider shall forthwith reimburse the same to IDBI Bank without any demur or protest whatsoever. The Service Provider hereby indemnifies IDBI Bank against any harm or cost or claim incurred or suffered by IDBI Bank due to breach of the Service Provider in terms of the obligations herein. The Service Provider will furnish proof of compliance of all labour laws requirements including obtaining licenses, filing of monthly/quarterly and annual returns and any other statutory requirement within 15 days from the due date and furnish calculations and proof of payments made to all Government/Statutory Authorities under PF, ESIC, Labour Welfare Fund Act, Payment of Bonus Act, Minimum Wages Act, Payment of Wages Act, etc., within 15 days of the statutory time limit allowed under the respective Acts.
- 3.7 All payments shall be made subject to the deduction of taxes at source as per applicable laws prevailing at the time of each credit/payment.

- 3.8 The Service Provider shall be solely liable for the payment of all the past, present and future central, state and local levies, direct/indirect taxes, duties, fines and penalties (including without limitation sales tax, value added tax, service tax, excise duties and customs duties, if any) by whatever name called, as may become due and payable in relation to the Courier Services.
- 3.9 Notwithstanding anything contained in this Agreement or in any other documents(s)
- i.) under no circumstances shall IDBI Bank be liable to the Service Provider for direct, indirect, incidental, consequential, special or exemplary damages arising from termination of the Agreement, even if IDBI Bank has been advised of the possibility of such damages, such as, but not limited to, loss of revenue or anticipated profits or lost business;
  - ii) IDBI Bank shall not have any liability whatsoever in case of any third party claims, demands, suit, actions or other proceedings against the Service Provider or Service Provider Personnel or any other person engaged by the Service Provider in the course of performance of the Service Provider obligations under this Agreement;
- 3.10 IDBI Bank reserves the rights to dispute/deduct payment/withhold payments/further payment due to the Service Provider under this Agreement, if the Service Provider has not performed or rendered the Courier Services in accordance with the provisions of this Agreement. In the event IDBI Bank disputes payment, IDBI Bank will inform the Service Provider in writing, and the Parties will attempt to settle the payment dispute amicably. If the Parties agree that the Courier Services were not performed in accordance with this Agreement, then such disputed payment, if any, shall – (i) if already paid by IDBI Bank to the Service Provider be refunded by the Service Provider, and (ii) if payable or outstanding, shall cease to be so payable or outstanding.
- 3.11 Service Provider shall permit IDBI Bank to hold or deduct the amount from bill/, for non-performance or part performance or failure to discharge obligations under this Agreement.
- 3.12 It is clarified that the IDBI Banks' only obligation is to pay the aforesaid Fee to Service Provider / Service Providers Personnel. Any payments of the charges made to and received by authorized Service Providers Personnel shall be considered as a full discharge of IDBI Bank's obligations for payment of fees

#### **4. REPRESENTATIONS AND WARRANTIES**

Service Provider represents and warrants that:

- 4.1 Service Provider is a [●] duly organized and validly existing under the laws of India and is in good standing under the laws of the Service Provider's business and the Service Provider has full authority to enter into this Agreement and to execute, deliver and perform all of its obligations hereunder according to the terms hereof;
- 4.2 Service Provider has the requisite experience and expertise, resources, infrastructure, qualified manpower and other requisite resources to provide the Courier Services and hereby represents and warrants that all Courier Services provided hereunder shall at all times strictly conform to the requirements of this Agreement as set out herein and Service Provider shall at all times adhere to Good Industry Practices;
- 4.3 Service Provider has obtained and/or complied with all Applicable Permits including all statutory and regulatory approvals/licenses required to provide and to perform the Courier Services.
- 4.4 The execution, delivery or performance by the Service Provider, of the Agreement shall not contravene the Memorandum and Articles of Association or similar organization constitutional documents of the Service Provider and/or any Applicable Law binding upon or applicable to them or any of their properties/assets/revenues;
- 4.5 The Service Provider has full power and authority to enter into this Agreement and to take action and execute any documents required by the terms hereof and this Agreement is enforceable in accordance with the terms hereof and the Persons executing this Agreement on behalf of the Service Provider are duly empowered and authorized to execute this Agreement and perform all its obligations in accordance with the terms herein;
- 4.6 There are no strikes, lockouts or other labour disputes or any other claim, litigation, suits against the Service Provider, or to the best of the Service Provider's knowledge, threatened and/or pending against or affecting the Service Provider/Service Provider Personnel or the properties/assets/revenues of the Service Provider and no material unfair labour practice complaint is pending or, to the best knowledge of the Service Provider threatened and/or pending against the Service Provider, before any Governmental authority.
- 4.7 The Service Provider warrants that there are no legal proceedings instituted against the Service Provider. The Service Provider shall verify the antecedents of the personnel it desires to engage for the provision of Courier Services hereunder and shall ensure that it does not engage or continue to engage any person with criminal record/conviction or otherwise undesirable persons and shall bar such person(s) from participating directly or indirectly in the provision of Courier Services under this Agreement.
- 4.8 The Service Provider has filed, has caused to be filed/the names of the Service Provider has been included in all tax returns (national, state, provincial, local and foreign, if any) required to be filed and has paid all taxes shown thereon to



be due and payable, together with applicable interest and penalties and there are no outstanding liabilities in that regard under Indian law;

- 4.9 The Service Provider is solvent;
- 4.10 Each of the representations in this Section (Representations and Warranties of the Service Provider) is true and correct in all material respect as of the date of signing and that none of them omits to state any matter which makes any of such representations misleading in any material respect;
- 4.11 The Service Provider acknowledge that they have made the representations contained in this Section (Representations and Warranties of the Service Provider) with the intention of persuading IDBI Bank to enter into Agreement and that IDBI Bank has entered into the Agreement on the basis of, and in full reliance on, each of such representations;
- 4.12 Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, or the fulfillment of or the compliance with the terms and conditions of this Agreement, conflict with or result in a breach of any legal restriction (including without limitation, any judgment, order, injunction, decree or ruling of any court or governmental authority, or any federal, state, local or other law, statute, rule or regulation) or any covenant or agreement or instrument to which it is a party, or by which the Service Provider or any property of the Service Provider is bound, nor does such execution, delivery, consummation or compliance violate or result in the violation of its constitutional documents.

## **5. COVENANTS**

The Service Provider covenants as follows:

- 5.1 The Service Provider acknowledges that subject to the provisions of this Agreement, the Service Provider shall have no right to enter into any agreement or arrangement for and/or on behalf of IDBI Bank or to represent any person, firm or corporation that it has such right or authority, without the prior written consent of IDBI Bank. The Service Provider shall be solely liable to all persons for all acts of omissions or commissions, deeds and things done by the Service Provider and/or its personnel in the course of performance of obligations specified under this Agreement.
- 5.2 The Service Provider covenants that it shall not sub-contract any of its responsibilities contained in this Agreement to any sub agent or subcontractor or franchise without prior written permission of IDBI Bank, which IDBI Bank may deny at its sole and absolute discretion and if IDBI Bank gives such written permission (which permission may be of a general or specific nature), it shall not be construed as waiver of any accrued rights and/or liabilities and the Service Provider shall be fully responsible for all acts and omissions of its sub-contractors or sub agents.

- 5.3 The Courier Services shall be provided in compliance with all Applicable Laws including labour enactment, rules, authorizations issued by the Central, State and local authorities in India and the provision of the Courier Services shall not result in the infringement of any third party intellectual property rights and taken all required permission for performing Courier Services under this Agreement.
- 5.4 The Service Provider shall keep the same valid throughout the currency of this Agreement.
- 5.5 The Service Provider shall immediately bring to the notice of IDBI Bank any expiry, modification, or suspension of any such approvals/licenses and the initiation of any adverse action by the relevant authority concerned in relation thereto.
- 5.6 The Service Provider shall obtain and furnish such approvals as may be required in connection with the transactions contemplated under this Agreement.
- 5.7 This Agreement to which the Service Provider is a party when executed and delivered shall be, the legal, valid and binding obligation of the Service Provider.
- 5.8 The Service Provider agrees and confirms that all the provisions applicable to the Service Provider in relation to its personnel shall also be ipso facto be applicable to the sub-contractors sub-agents and franchisee, if appointed under clause 5.2. The expression "personnel" wherever appearing in this Agreement in relation to the Service Provider shall include its officials, directors, employees, sub-contractors, sub-agents, nominees, representatives, designees, for all purposes and intents.
- 5.9 The Service Provider shall take and has mechanisms and means to ensure adequate precautions to protect the privacy and confidentiality of all data and Confidential Information pertaining to IDBI Bank, in relation to this Agreement or the Courier Services and shall take appropriate precautions not to breach the privacy of IDBI Bank, customers of IDBI Bank or any third party during the course of performance of its obligations herein. The Service Provider shall not divulge any Confidential Information or any other information relating to the security or safety of the property, assets and other surveillance equipments etc. which will threaten or likely to threaten the safety or security of the property, assets and employees.
- 5.10 The Service Provider shall withdraw or shall not permit any of the Service Provider's personnel from providing the Courier Services if, in the sole opinion: (a) the quality of Courier Service provided by the personnel is not in accordance with the quality specifications stipulate by IDBI Bank (b) it is not in the interest of IDBI Bank that such personnel of the Service Provider continue to be involved in the provision of Courier Services. (c) The Service

Provider shall subject to the terms of this Agreement, be responsible for the selection, hiring, assigning, and supervising of the personnel and shall employ the stipulated number of personnel to provide the Courier Services in a prompt and efficient manner.

- 5.11 The Service Provider agrees that Service Provider Personnel shall work under the supervision, control and direction of the Service Provider. The Service Provider shall be solely responsible for the all the negotiations with personnel relating to salaries and benefits, and shall be responsible for assessment and monitoring of performances and for all the disciplinary matters.
- 5.12 All employees/personnel, executives engaged by the Service Provider shall be in sole employment of the Service Provider and the Service Provider shall be solely responsible for their salaries, wages, statutory payments etc. Under no circumstances, shall IDBI Bank be liable for any payment or claim or compensation (including but not limited to any compensation on account of any injury/death/termination) of any nature to the employees and personnel of the Service Provider. The Service Provider shall furnish such records and information as may be required by IDBI Bank in relation to the above and at such periodicity as may be specified by IDBI Bank.
- 5.13 The Service Provider shall at all times use all reasonable efforts to maintain discipline and good order amongst its personnel and ensure that its personnel are aware of the code of conduct governing the services including the Courier Services and resultant disciplinary action in case of breach of code of conduct by them during the course of their engagement for provision of Courier Services contemplated herein.
- 5.14 The Service Provider shall not exercise any lien or right of set-off of appropriation on any of the assets, properties, documents, instruments, or instruments or material belonging to IDBI Bank and in the custody or which may come in the custody of the Service Provider for any amount due or claimed to be due by the Service Provider from IDBI Bank.
- 5.15 The Service Provider shall be responsible for compliance of all laws, rules, regulations, orders, notifications and directions applicable in the relevant state/jurisdiction of its operation in respect of its personnel (including but not limited to Minimum Wages Act, Provident Fund laws, Women's Compensation Act, Payment of Bonus Act, Payment of Gratuity Act and such other laws of relevant state/jurisdiction) and shall establish and maintain all proper records and registers required by any law, code, practice or corporate policy applicable to it from time to time, including records and returns as applicable under labour legislations.
- 5.16 The Service Provider has already furnished/ has agreed to simultaneously furnish a Security Deposit for the amount of equivalent to around one month's billing value of the work/contract allotted to them and in the form and manner satisfactory to IDBI Bank.

- 5.17 The Service Provider shall enter into a Non-Disclosure Agreement, in the form and manner satisfactory to IDBI Bank, with IDBI Bank regarding confidentiality of information received by either Party.
- 5.18 The Service Provider undertakes that it shall not disclose Confidential Information of IDBI Bank to any third person and the Service Provider shall keep all the knowledge of the business activities and affairs of IDBI Bank strictly confidential and also ensure that neither the Service Provider nor any of its personnel directly or indirectly assist any third person with the promotion of activities which may be prejudicial to the interest or in competition to the activities of IDBI Bank. This clause will survive the expiration, cancellation or termination of this Agreement.
- 5.19 The Service Provider shall be responsible for all acts done by the Service Provider Personnel engaged by him and for maintenance of proper discipline by his personnel at the premises/establishments of IDBI Bank. The Service Provider shall also be responsible for maintenance of proper records as required under the provisions of various Labour Laws applicable to the Service Provider and contract employees.
- 5.20 The Service Provider shall verify the identity and address of all its personnel by collecting documentary proof satisfactory to IDBI Bank and shall furnish the same to the Bank as and when required by IDBI Bank.
- 5.21 IDBI Bank shall be entitled to review and monitor the Courier Services provided by the Service Provider on a regular basis and require the Service Provider to disclose the breaches. The Service Provider shall immediately notify IDBI Bank of any breaches and leakage of Confidential Information of IDBI Bank. In such eventualities the Service Provider shall be liable for all damages.
- 5.22 The Service Provider agrees and covenants not to use the Trademark and/or trade name of IDBI Bank or letterheads of neither IDBI Bank nor the Service Provider will hold himself as an agent of IDBI Bank. The relationship between the Service Provider and IDBI Bank being a principal-to-principal basis. The Service Provider shall not use IDBI Bank's address on his letterhead/stationery for purposes of Registration with any Government/Local Body or any other Person and no tenancy shall be created by the presence of his personnel on IDBI Bank's premises/establishments.
- 5.23 The Service Provider agrees that no change whatsoever in the constitution of the Service Provider during the continuance /validity of this Agreement shall impair or discharge the obligations of the Service Provider under this Agreement. The Service Provider shall forthwith upon any change in the constitution of the Service Provider, inform IDBI Bank of the change and provide such details in respect of the change and its effect, as may be required by IDBI Bank.

- 5.24 The Service Provider hereby agrees, undertakes and confirms irrevocably, unconditionally and absolutely that the entire obligation with regard to payment of stamp duty, registration charges and any other costs and expenses shall solely rest upon him and he shall be liable to pay adequate stamp duty in terms of the provisions of the Applicable Laws.
- 5.25 The Service Provider hereby agrees, undertakes and confirms that IDBI Bank shall have the right to review, at such intervals as decided by IDBI Bank, the financial and operational condition of the Service Provider to assess its ability to continue to meet its obligations under this Agreement.
- 5.26 The Service Provider agrees that in the event of termination of this Agreement for any reason whatsoever, IDBI Bank shall have the right to publicize such termination to caution the customers/public from dealing with the Service Provider.

## **6. INSURANCE**

- 6.1 The Service Provider shall maintain at its sole expense, throughout the tenure of this Agreement and the extensions thereto, sufficient insurance coverage in respect of all possible threats / losses that may result from the obligations under this Agreement.
- 6.2 The Service Provider shall also take, at its own costs, insurance policies for adequate amount against dishonesty, theft, extortion, robbery, forgery, altered documents, fraud, fidelity and/or any other dishonest acts on the part of the Service Provider Personnel or representatives, with IDBI Bank as the loss payee/beneficiary.
- 6.3 The Service Provider also undertakes to procure at its own cost insurance to protect against any loss/damage which may be suffered by the Service Provider, IDBI Bank, as a result of any loss of any properties of IDBI Bank entrusted to the Service Provider being lost in transit while in the custody of the Service Provider.
- 6.4 The Service Provider undertakes to provide such documentary proof of compliance with this section as may be required, from time to time by IDBI Bank or its auditors or any other authorities.
- 6.5 The Service Provider shall ensure that all such insurance policies remain in force during the provision of the Courier Services by the Service Provider Personnel.

## **7. INDEMNITY BY SERVICE PROVIDER**

- 7.1 Service Provider hereby agrees and undertakes to indemnify, keep indemnified, defend and hold harmless the IDBI Bank and its officers, directors, employees, representatives and agents against all losses, claims, damages, penalties, costs or expenses, duties, of any kind whatsoever which may arise on account of breach of warranty representations, un authorized acts, fraud, deed or any other acts of Service Provider or any of its Personnel, incurred or to be incurred by the IDBI Bank or its employees as a result of any act, omission or commission, negligence or any other reasons whatsoever, on the part of Service Provider or any of its Personnel,
- 7.2 For the purposes of this Agreement, the Service Provider shall include the Service Provider, its personnel, employees, consultants and/or other authorized persons.
- 7.3 IDBI Bank shall have no liability whatsoever for any injury to the Service Provider and/or its personnel /staff caused or suffered in the course of performance of the obligations by the Service Provider in terms of this Agreement.
- 7.4 The Service Provider shall be: a) provided prompt notice of any such claim upon such claim arising; and b) provided all reasonable co-operation and assistance by IDBI Bank to enable the Service Provider to defend or settle such claims with full co-operation from IDBI Bank towards the same.
- 7.5 Each Party agrees to refrain from admitting liability or otherwise compromising any third party claim in whole or in part without consulting the other, except to the extent required by Applicable Laws.
- 7.6 The responsibility of the Service Provider to indemnify set forth in this Clause and the obligations there under shall survive the termination of this Agreement for any reason whatsoever with regard to any indemnity claims arising out of or in relation to the performance or non-performance hereof.
- 7.7 Service Provider shall be liable to pay monetary damages to IDBI Bank for any loss incurred or suffered by IDBI Bank on account of delayed Courier Services, deficient Courier Services, loss of documents/deliverables, inadequate Courier Services or interruption in the Courier Services for reasons directly and solely attributable to Service Provider. The Service Provider shall also be responsible to settle all or any claims relating to a violation of a third party license, intellectual property right(s) or for any liability or claim for bodily injury, death or damages to real property or person. This clause will survive the expiration, cancellation or termination of this Agreement.

## **8. TERMINATION BY BANK**

- 8.1 IDBI Bank shall be entitled to terminate this Agreement without assigning any reasons whatsoever and without payment of any costs, charges or compensation by providing a prior written notice of one month. The

Agreement shall stand terminated on the expiry of the said period of one month relieving both Parties of their respective obligations, save such obligations and/or liabilities of Service Provider that, by their nature, survive the termination of this Agreement.

- 8.2 The Service Provider shall not have the right to terminate the Agreement.
- 8.3 The Courier Services of the Service Provider shall be reviewed on regular basis (quarterly)/ or as decided by IDBI Bank and if the Courier Services are found to be deficient, sub-standard and not as per the terms and conditions of the Agreement, IDBI Bank shall deduct the amount from the monthly charges payable to the Service Provider or from Security Deposit as penalty and if the deficiency continues for 7 (Seven) days, IDBI Bank have the right to terminate this Agreement by giving at least one month's notice as mentioned hereinbefore to the Service Provider and IDBI Bank shall not be liable for any damages and/or loss whatsoever, which may be suffered by the Service Provider on account of termination of this Agreement.
- 8.4 In the event, any damage is caused to the movable or immovable property of IDBI Bank, IDBI Bank reserves the right to compute the damage in terms of money and to deduct the money from the bill of the Service Provider or from the amount payable to the Service Provider or from performance guarantee or from the Security Deposit and claim the remaining amount, if any, by way of civil damages.
- 8.5 Notwithstanding anything herein contained, IDBI Bank may (without prejudice to any of its other right or remedies under the Agreement or in law) without any notice and assigning any reason whatsoever may terminate, the whole or any part, of this Agreement under any one or more of the following conditions:
- (i) In the event of default, breach or deficiency by the Service Provider in the performance of any of its Courier Services under this Agreement, the applicable schedules and the guidelines issued by IDBI Bank to the Contractor/ Service Provider from time to time;
  - (ii) In the event the Courier Services provided herein is/ are in contravention of any law and regulation, as may be applicable from time to time or industrial practice, or performs acts or omission that would under the circumstances amount to objectionable service;
  - (iii) If the Service Provider does not meet or fails to meet any criterion for engaging the Service Provider for any of its activities as may be determined by IDBI Bank at its sole discretion from time to time;
  - (iv) If a petition for insolvency is filed against the Service Provider and such petition is not dismissed within 60 (sixty) days after filing and / if the Service Provider makes an arrangement for the benefits of its

creditors or if the court receiver is appointed as receiver of all/ any of any the Service Provider properties;

- (v) If Service Provider fails to perform or refuses to perform the Courier Services in the manner and/ or within the time frames agreed in this behalf or abandons the Courier Services or unduly delays the performance;
- (vi) If Service Provider delivers non conforming Courier Services, in whole or in part;
- (vii) If Service Provider fails to provide adequate assurance of Service Provider's ability to meet the Good Industry Practice or the time frames of the Courier Services or part thereof;
- (viii) Service Provider, intentionally or unintentionally, disregards or violates any Applicable Laws or conditions of any Applicable Permits;
- (ix) Service Provider fails to correct or rectify defects and deficiencies in any Security Services in a timely manner, as intimated from time to time by Corporate Office/ any location /site of IDBI Bank;
- (x) If any of the representations or warranties provided by Service Provider are found to be false or incorrect;
- (xi) If Service Provider breaches any other material term of this Agreement;
- (xii) If Service Provider suffers any material adverse change or material adverse effect which is likely or calculated to hinder performance of Service Provider's obligations under this Agreement;
- (xiii) If Service Provider is threatened to be wound up or suffers any winding up or liquidation proceedings.

8.6 It is hereby agreed and understood by the Service Provider that the provisions of this section shall not limit neither restrict nor shall they preclude IDBI Bank from pursuing such further and other legal action, against the Service Provider for any breach or non-compliance of this Agreement. All costs, charges and expenses incurred / paid by IDBI Bank and /or the customers of IDBI Bank in account of default by the Service Provider shall be reimbursed forthwith by the Service Provider to IDBI Bank.

8.7 On termination and/or determination of this Agreement, as aforesaid, the Service Provider shall forthwith handover to IDBI Bank the possession of all documents, material and any other property belonging to IDBI Bank or pertaining to the Courier Services herein that may be in the possession of the Service Provider or any of its personnel assigned to perform the Courier Services under this Agreement and the Service Provider shall withdraw / remove himself and his employees, without assigning any reason.



- 8.8 If IDBI Bank decides to terminate this Agreement under the provisions of clause above, Service Provider shall, without prejudice to any other rights or remedies of IDBI Bank in this Agreement or at law or in equity, do one or more of the following: as directed by IDBI Bank promptly hand over all materials, information, etc. in respect of which IDBI Bank shall have the right of ownership to and/or possession of under the terms of this Agreement;
- 8.9 Any monies paid by IDBI Bank to Service Provider as advances prior to any termination, shall insofar as they relate to Courier Services not yet rendered by Service Provider at the time of termination, be forthwith refunded by Service Provider to Bank.
- 8.10 Upon such notification of termination, Service Provider shall immediately discontinue performance of the Courier Services (unless such notice of termination directs otherwise).
- 8.11 Notwithstanding anything herein to the contrary, IDBI Bank may withhold payments, if any, to Service Provider for the purposes of offset of amounts owed to IDBI Bank pursuant to the terms of this Agreement until such time as the exact amount of damages due to IDBI Bank from Service Provider is fully determined.
- 8.12 Upon termination of this Agreement for any reason whatsoever, IDBI Bank shall have the right to publicize such termination to caution the customers/public from dealing with the Service Provider.

**9. ADDRESS FOR THE PURPOSE OF SERVICE:**

All communications between IDBI Bank and Service Provider shall be deemed to have effectively served if addressed to the following Address:

ADDRESS OF IDBI Bank [●]

ADDRESS OF SERVICE PROVIDER [●]

Any change in the above address of either of the party shall be intimated to the other party in writing within seven days of such change either by Hand Delivery or by Reg. A. D. If no such change is intimated, service at the above address will be deemed as proper service.

## **10. CERTAIN DOCUMENTS TO FORM INTEGRAL PART OF THIS AGREEMENT**

IDBI Bank has issued a letter bearing reference no [●] to the Service Provider in connection with the Courier Services and the Service Provider has communicated its absolute, unconditional and unqualified acceptance to the terms detailed therein. The aforesaid letter dated [●] forms integral part of this Agreement.

Bills / invoices and all the related documents as well as Annexure thereto along with other attachments and deviations, if any, shall be read and construed as forming integral part of this Agreement and the Parties hereto shall abide by and submit themselves to the Conditions, which are deemed to have been incorporated herein.

## **11. MISCELLANEOUS**

### **11.1 No Sub-Contracting**

Service Provider shall not sub-contract any part of the Courier Services to be rendered and/ or performed under and pursuant to this Agreement. Service Provider shall seek prior written approval of IDBI Bank in case Service Provider intends to sub-contract all or part of the Courier Services.

### **11.2 Severability**

If any of the terms, covenants or conditions thereof as to application of such term, covenant or conditions shall be held invalid as to either Party by any court having jurisdiction, the reminder of such terms, covenants or conditions shall not be affected thereby, shall remain in full force and effect and shall continue to be valid, legal, subsisting, binding and enforceable.

In case of any change in Applicable Laws in India that has an effect on the terms of this Agreement, the parties agree that the Agreement may be reviewed, and if deemed necessary by the parties re-negotiated in good faith.

### **11.3.1 Survival Of Provisions**

In order that the Parties hereto may fully exercise their rights and perform their obligations hereunder, such provisions of this Agreement that are required to ensure such exercise or performance shall survive the termination of this Agreement for any cause whatsoever.

### **11.3.2** The confidentiality obligations, the indemnity obligations, the governing law and jurisdiction and dispute resolution shall survive the expiration, cancellation or termination of this Agreement.

### **11.4 Entire Agreement**

This Agreement contains all of the understanding and agreement of whatsoever kind and nature existing between the Parties hereto with respect to written or oral agreements, commitments, representatives, communications

and understandings between the Parties hereto with respect to the transactions herein contained.

#### **11.5 Assignment**

This Agreement shall not be assigned either fully or in part by Service Provider to any third party without the prior written consent of IDBI Bank. IDBI Bank may at any time, in whole or in part, assign or transfer any of its rights, benefits and obligations under this Agreement to any third party without the consent of Service Provider.

#### **11.6 Relationship Between Parties**

Service Provider is serving as an independent service provider/ contractor to IDBI Bank hereunder, and this Agreement creates no partnership, pooling or joint venture relationship between the Parties, and no employment relationship between IDBI Bank and the employees consultants, representatives of Service Provider.

It is clearly understood that the Service Provider employees shall not have any employee or master-servant relationship with IDBI Bank. The personnel / employee of the Service Provider shall continue to be the personnel / employee of the Service Provider and work under its directions and shall not become or claim any employment from IDBI Bank irrespective of the location of their work. Nothing contained in this Agreement shall be construed or deemed to create any association, partnership or joint venture or employer – employee relationship in any manner whatsoever between IDBI Bank and the Service Provider. The Service Provider acknowledges that its rendering of Courier Services is solely within its own control, subject to the terms and conditions agreed upon and agrees not to hold itself out to be an employee or servant of IDBI Bank.

Nothing in this Agreement shall be construed as creating any contractual or other relationship between IDBI Bank and any personnel of the Service Provider, nor any obligation on the part of IDBI Bank to pay or see to the payment of any money due to any personnel.

#### **11.7 Amendment**

No modifications, alterations, amendment or waivers of any provisions herein contained shall be binding on the Parties hereto unless evidenced in writing signed by duly authorized representatives of both Parties.

No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any other right, power or privilege. The rights and remedies provided herein shall be cumulative and not exclusive of any rights and/or remedies provided by Applicable Law.

#### **11.8 No Waiver**

The failure of either Party, at any time during the currency of this Agreement, to require performance by the other party of any provision of this Agreement shall in no way affect the full right to require such performance at any time thereafter. The waiver by either Party of a breach of any provision of this Agreement does not constitute a waiver of any succeeding breach of the same or any other provision, nor shall it constitute a waiver of the provision itself.

#### **11.9 Preservation Of Documents**

Service Provider shall preserve the documents, information and data relating to the Courier Services rendered and/or performed by Service Provider pursuant to this Agreement in accordance with the applicable legal and regulatory requirements as per the Applicable Laws applying to IDBI Bank.

The Service Provider shall execute and deliver such additional documents and shall perform such additional actions, as may be necessary, appropriate or reasonably requested to carry out or evidence the transaction(s) contemplated hereby.

#### **11.10 Headings**

The heading of various Articles and Clauses herein is for convenience of reference and is not deemed to affect the construction of the relative provisions.

#### **11.11 Effective Date And Validity**

This Agreement shall be deemed to have come into force and effect on and from the date hereof. It shall be in force until its termination or 12/24 months/ a period as decided by IDBI Bank, from the date hereof whichever is earlier. The Contract is valid for a period of 12/24 months or lesser period as decided by IDBI Bank, and thereafter it will come to an end by natural efflux of time, without any further notice to be given by IDBI Bank to the Service Provider, unless if, it is renewed in writing (up to 1 year at a time only, for maximum two terms with a total maximum period of three/four years) on mutual consent and agreed terms and conditions / terminated in writing by the parties.

#### **11.12 Counterparts**

This Agreement is executed in duplicate; the original shall be in the custody of IDBI Bank and the duplicate with Service Provider.

#### **11.13 Rights**

Any express statement of a right of a Party under this Agreement is without prejudice to any other right of the Party expressly stated in this Agreement or existing at law.

#### **11.14 Set Off**

IDBI Bank may deduct or retain out of any monies, which may be due or become due to Service Provider hereunder or otherwise, any other amounts owed by Service Provider to IDBI Bank hereunder or otherwise.

#### **11.15 Governing Law**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by Indian law. This clause will survive the expiration, cancellation or termination of this Agreement.

#### **11.16 Dispute Resolution**

In case of any dispute, controversy claims or difference arising out of or under this agreement, the same shall be resolved by way of arbitration. IDBI Bank shall appoint/ nominate one arbitrator for the purpose. The arbitration proceedings shall be in accordance with the provisions of the Arbitration Act, 1966. The decision of the sole arbitrator shall be conclusive, final and binding and the place of arbitration shall be Mumbai.

The invalidity or unenforceability of any provisions of this Agreement in any jurisdiction shall not effect the validity, legality or enforceability of the reminder of this Agreement in such jurisdiction or the validity, legality or enforceability of this Agreement including any such provision in any other jurisdiction, it being intended that all rights and obligations of the parties hereunder shall be enforceable to the fullest extent permitted by Applicable Laws.

This clause will survive the expiration, cancellation or termination of this Agreement.

The Service Provider shall not be entitled to suspend the provision of this Agreement or providing/ rendering the Courier Services, pending resolution of any disputes between the Parties shall continue to render the Courier Services in accordance with the provisions of this Agreement notwithstanding the existence of any dispute between the Parties or the subsistence of any arbitration or other proceedings.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be duly executed on the date, month and year hereinabove written.

Signed and delivered by the within named

**For IDBI Bank Ltd.**

(\_\_\_\_\_)

Signed, sealed and delivered by the within

**FOR** \_\_\_\_\_

Named

(\_\_\_\_\_)

## **ANNEXURE - A**

The list of Services to be provided to IDBI Bank is given below;

1. **Courier Service** Providers shall arrange to collect the documents/deliverables at their own expenses depending upon the requirements for IDBI Bank's branches/offices/establishments pan –India as per the timings advised by IDBI Bank;
2. **Courier Service** Provider shall cut the proof of pickup/POD in Bank's premises. CS Provider shall not take out any parcels/packages from Bank's premises without POD/Pick up challans.
3. **Courier Service** Providers shall pick the documents/deliverables from the office(s) of IDBI Bank and deliver to other branches of IDBI Bank/to the Bank's customers promptly and as per the Good Industry Practice.
4. **Courier Service** provider shall accept the documents /deliverables at its office and provide acknowledgement thereof on the deliverables.
5. **Courier Service** Provider shall facilitate dispatch and delivery of deliverables on Bank holidays as well as late hours in the night from [●] to [●] hrs. throughout the year .
6. **The Courier Service** Provider shall pick up the documents and deliverables promptly, and deliver the same to the places, within the limit of [●] kms, within [●]days and beyond [●] kms, within [●] days and within the State , within [●] days and intra- State, within [●] days and within [●] days within Metro Cities
7. **Courier Service** Provider shall arrange to deliver the important and emergency deliverables by Express Courier Service by air, and shall ensure delivery of the same within [●] hours from the time of acceptance/pick up of the deliverables.
8. **Courier Service** Provider shall make arrangements for transit insurance for transporting important documents /parcels/boxes of the Bank to their branches /customer and vice versa.
9. **Courier Service** Provider shall have internet site /website and should be able to offer to the Bank an on line tracking facility of the deliverables/parcels.
10. **The Courier Service** Provider shall issue and maintain the challans and registers and produce the same to the concerned officer of the Bank, along with the bills.

11. **Courier Service** Provider shall maintain all information and provide MIS in excel/text format for deliverables returned and delivered (date wise, region wise, etc.,).
12. In the event of loss of the documents/deliverables, **Courier Service** Provider shall report the matter immediately to the officer concerned of the Bank and also take appropriate action. The **Courier Service** Provider shall also co-operate and assist the Bank officials for recovering the said lost documents/deliverables.
13. The **Courier Service** Provider should prepare and furnish the name(s) of the personnel visiting the office (s) of the Bank on monthly basis

**ANNEXURE - B**

**FEES**

Weight	Area	Rate / Quote (₹)	Deductions
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