

HO/BCD/SD/PCS/Empanelment/01/2022

07.04.2022

**Notice of Empanelment****Invitation of Applications for Empanelment of  
Practicing Company Secretary Firms**

The Punjab National Bank (hereinafter referred to as 'PNB' or 'the Bank') is a body corporate constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. The Bank is also a listed entity and complies with the provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 [*hereinafter referred to as SEBI (LODR) Regulations*] and other applicable Regulations issued by SEBI.

In view of the above, Applications are invited for Empanelment of Practicing Company Secretary Firms for various Secretarial Assignments as detailed hereunder:

- (i) **Secretarial Audit & Annual Secretarial Compliance Report:** Pursuant to Regulation 24A of the SEBI (LODR) Regulations, 2015 read with SEBI Circular dated 08<sup>th</sup> February, 2019, Bank is required to undertake Secretarial Audit and *annex with its Annual Report*, a Secretarial Audit Report, issued by a Company Secretary in Practice. Further, Bank is also required to submit an Annual Secretarial Compliance Report issued by a Company Secretary in Practice, to the Stock Exchanges *within sixty days from end of each financial year*.
- (ii) **Certificate of Non-Disqualification of Directors:** Pursuant to Regulation 34(3) read with Schedule V of the SEBI (LODR) Regulations, Bank is required to annex with the Corporate Governance Report (forming part of its Annual Report), a Certificate from a Company Secretary in Practice certifying that none of the Directors on its Board have been debarred or disqualified from being appointed or continuing as Directors of companies by the Board/Ministry of Corporate Affairs or any such Statutory Authority.
- (iii) **Scrutinizer for e-voting in respect of Annual General Meeting/Extraordinary General Meetings of the Bank:** In terms of Regulation 44(1) of SEBI (LODR) Regulations, the Bank is required to provide the facility of remote e-voting to its shareholders in respect of all Shareholders' resolutions (proposed in AGM/EGMs) in compliance with the conditions specified under the Companies (Management and Administration) Rules, 2014 as amended. In terms of Rule 20(4)(ix) of the Companies (Management and Administration) Rules, 2014, the Board of Directors shall appoint one or more Scrutinizer, who may be Chartered

Accountant in practice, Cost Accountant in Practice, or Company Secretary in Practice or an advocate, or any other person who is not in employment of the company and is a person of *repute* who, in the opinion of the Board, can scrutinize the remote e-voting and Poll / e-voting process in a fair and transparent manner.

- (iv) **Reconciliation of Share Capital Audit Report:** In terms of Regulation 76 of SEBI (Depositories and Participants) Regulations, 2018 read with SEBI Circular dated 31.12.2002, the Bank is required to file a Reconciliation of Share Capital Audit Report issued by a qualified Company Secretary or a Chartered Accountant in Practice, with the Stock Exchanges within 30 days from the end of the quarter.
- (v) **Certificate under SEBI (LODR) Regulations:** In terms of Regulation 40(9) of SEBI (LODR) Regulations, the Bank is required to file with the Stock Exchanges a Certificate issued by a Practicing Company Secretary, certifying that all share certificates have been issued within thirty days of the date of lodgement for transfer, sub-division, consolidation, renewal, exchange or endorsement of calls/allotment monies, within thirty days from the end of the financial year.
- (vi) **Filing of Forms with MCA:** The Bank is required to file various Forms with MCA in respect of appointment/change in Nodal Officer for IEPF, transfer of unclaimed/unpaid dividend to IEPF etc. along with other e-forms relating to DIN of Directors of the Bank, such as DIR-3 KYC etc., which are required to be duly certified by a Practicing Company Secretary.
- (vii) Certificates/Confirmations under SEBI (ICDR) Regulations, 2018 to be filed with Stock Exchanges at the time of listing of shares issued through various modes.
- (viii) Any other Secretarial Assignment as per requirement of the Bank.

## **I. Eligibility Criteria**

The Eligibility Criteria for empanelment of PCS Firms is as follows:

| Criteria                                                                                                                                                                                                    | Supporting Documents                                                                                                                                  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| The firm must be registered as a Practicing Company Secretaries (PCS) Firm with The Institute of Company Secretaries of India (ICSI). The Registration of the Firm should be valid and in-force as on date. | Copy of Approval Letter issued by ICSI or any other document/communication received from ICSI evidencing registration of the Firm with the Institute. |

| Criteria                                                                                                                                                                                                                                                                                                                                                                                                                       | Supporting Documents                                                                                                                                                         |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The Firm should have experience of atleast 10 years. Further, in case, experience of the PCS Firm is less than 10 years, the Lead Partner/Proprietor should have a continuous experience (without any break) of 10 years or more as Whole-Time Practicing Company Secretary.</p> <p>The cut-off date for ascertaining experience would be the date of Notice inviting Applications for Empanelment.</p>                     | <p>Certificate of Practice along with CV of the concerned Partner/Proprietor of the Firm.</p>                                                                                |
| <p>The Firm should have the following:</p> <ul style="list-style-type: none"> <li>• minimum <b>two</b> Partners who are members of ICSI (in case of Partnership Firm) OR</li> <li>• <b>one</b> full time employee who is member of ICSI, who has been continually associated with the firm for the past three years as on the date of Notice inviting Applications for Empanelment (in case of Proprietorship Firm)</li> </ul> | <p>Certificate of Membership/Practice of Partners / Full Time Employees. In case of Partnership Firm, copy of the Partnership Deed containing the names of the Partners.</p> |
| <p>The Firm should have undertaken successful completion of Secretarial Audit of at least <b>two listed entities</b> (one of which should have a market capitalization of ₹1000 Crore or more) including a Public Sector Undertaking/Public Sector Bank in the last three preceding financial years i.e. FY 2018-19, 2019-20, and 2020-21.</p>                                                                                 | <p>Names of the listed entities along with copies of Certificate(s)/Report(s) issued by the firm.</p>                                                                        |
| <p>The Firm should have an average Annual Turnover of ₹20 Lakhs (Rupees Twenty Lakhs only) or more per annum, in the last three preceding Financial years i.e. FY 2018-19, 2019-20, and 2020-21.</p>                                                                                                                                                                                                                           | <p>Copy of CA Certificate in support of Annual Turnover and Copy of the Profit &amp; Loss Account (P&amp;L A/c) of the firm</p>                                              |
| <p>The Firm should be based in Delhi/Gurugram/Noida/Ghaziabad/Faridabad/Bahadurgarh</p>                                                                                                                                                                                                                                                                                                                                        | <p>Copy of Address Proof.</p>                                                                                                                                                |
| <p>The Firm or its Proprietor or any of its Partner(s) should not have been barred/blacklisted/penalized by any Scheduled Commercial Bank/Public Sector Undertaking/State or Central Government or their Departments/ Statutory Authority/Regulatory Authorities such as IRDA, RBI, SEBI etc. or Institute of Company Secretaries of India, Ministry of Corporate Affairs (MCA), Registrar of Companies (RoC).</p>             | <p>Self-Declaration by the Proprietor/Lead (Managing) Partner of the Firm</p>                                                                                                |

**Note:**

- (a) All Applicants shall be required to submit their applications along with self-attested copies of supporting documents/requisite Undertakings in the format as contained in the Notice of Empanelment.
- (b) Based on queries/feedback received, the Bank may at its discretion, relax the Eligibility Criteria as mentioned above, prior to the last date of submission of application.
- (c) The applicant must fulfil all the above terms and conditions for eligibility criteria. Applications which do not fulfill the eligibility criteria conditions given above, may be summarily rejected. Undertaking for subsequent submission of any of the above documents will not be entertained under any circumstances.
- (d) PNB reserves the right to verify/confirm all original documentary evidence including references and clients as submitted by applicants in support of above mentioned terms and conditions of eligibility criteria.
- (e) Only those applicants who fulfill the eligibility criteria as stipulated above, shall be subject to technical evaluation as detailed hereunder:

## **II. Technical Evaluation Criteria**

The Technical Evaluation Criteria for empanelment of PCS Firms is as follows:

| <b>Evaluation Parameters</b>                                                                                                                                                                                                                         | <b>Marks Allocation</b> | <b>Max. Marks</b> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-------------------|
| <b>Experience of the Firm/Lead Partner/Proprietor of the Firm:</b> <ul style="list-style-type: none"> <li>▪ 10 years to 15 years</li> <li>▪ More than 15 years upto 20 years</li> <li>▪ More than 20 years</li> </ul>                                | 15<br>20<br>25          | <b>25</b>         |
| <b>Number of Partners or full time employees, as the case may be who are members of ICSI:</b> <ul style="list-style-type: none"> <li>▪ 1 to 5</li> <li>▪ 6 to 8</li> <li>▪ More than 8</li> </ul>                                                    | 15<br>20<br>25          | <b>25</b>         |
| <b>Secretarial Audits undertaken by the firm of listed entities (one of which should have a market capitalization of ₹1000 Crore or more) including a PSU/PSB, in the last three preceding financial years i.e. FY 2018-19, 2019-20 and 2020-21:</b> |                         | <b>50</b>         |

| Evaluation Parameters                                                                                                                                                                                                                            | Marks Allocation | Max. Marks |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------|
| <b>(a) Number of Secretarial Audits of listed entities undertaken by the firm</b> <ul style="list-style-type: none"> <li>2 Listed Entities</li> <li>3-5 Listed Entities</li> <li>More than 5 Listed Entities</li> </ul>                          | 12<br>15<br>20   |            |
| <b>(b) Number of Secretarial Audits of PSUs/PSBs undertaken by the firm</b> <ul style="list-style-type: none"> <li>More than 1 upto 3</li> <li>More than 3 upto 5</li> <li>More than 5</li> </ul>                                                | 15<br>20<br>25   |            |
| <b>(c) If Secretarial Audit undertaken of PSBs [at Point (b)] then additional Marks as under:</b> <ul style="list-style-type: none"> <li>1 Public Sector Bank</li> <li>2 Public Sector Banks</li> <li>More than 2 Public Sector Banks</li> </ul> | 3<br>4<br>5      |            |
| <b>Total</b>                                                                                                                                                                                                                                     |                  | <b>100</b> |

The Technical Evaluation Criteria will carry a maximum of 100 marks and only those eligible Applicants (PCS firms) securing a minimum of 60 marks shall qualify for empanelment.

Post evaluation, if the number of qualified firms exceed 5, the Bank shall empanel the Top 5 ranking firms (on the basis of Score obtained in Technical Evaluation).

If the number of qualified Firms is less than 5, the Evaluation Committee may lower the qualifying marks to the extent, the number of qualified PCS Firms reaches 5.

The shortlisting of Firms for empanelment shall be strictly on the basis of Technical Score obtained by them. However, if more than one eligible Firm secures the same Technical Score and rank same, then for the purpose of arriving at the requisite number for empanelment i.e. 5, the Firm with the higher experience (from the date of establishment/incorporation), shall qualify for empanelment in that order. However, if the date of establishment/incorporation of such firms is same then all such firms shall qualify for empanelment.

**III. Tenure of Empanelment:** The period of empanelment of the Practicing Company Secretaries (PCS) Firms would be three years from the date of Empanelment. Punjab National Bank at its sole discretion may extend/reduce the period of empanelment for such number of years as it may deem fit & proper, as per Bank's requirement.

**A. Terms & Conditions**

- The Application Form (**Annexure-I**) must be complete in all respect. Insufficient supporting documents or incomplete application forms are liable to be rejected.
- The Firms which intend to submit the Application must abide (in true intent and spirit) by all the terms and conditions as contained in this Notice. Applications which are conditional are liable to be rejected.
- Documentary evidence(s) as stipulated in the Eligibly Criteria of this Notice must be furnished along with the Application. The Bank reserves the right to seek any further information/document in respect of an application, as it may deem fit.
- The duly filled in Application Form with supporting documents (self-attested) in sealed envelope shall be addressed to 'The Company Secretary', Punjab National Bank, Share Department, 1<sup>st</sup>, Floor, E109, East Wing, Plot No. 4, Sector-10, Dwarka, New Delhi- 110075.
- **The last date and time for submission of Applications is Saturday, 16<sup>th</sup> April, 2022 by 01.00 p.m. The applications received after the said deadline shall be rejected.**
- The Bank shall intimate the Firms which qualify for empanelment through email.
- If empaneled, the Firm and its Partner(s)/ Proprietor shall execute a Non-Disclosure Agreement with the Bank in the Format as prescribed in **Annexure - II** of this Notice.
- Mere empanelment with the Bank does not constitute any right or entitlement in favour of the Firm.
- Post empanelment, financial quotes shall be invited for each of the aforementioned assignments, from the empaneled Firms, as per the requirement of the Bank and the assignment shall be awarded to the firm quoting the lowest financial quote (excluding GST) for the respective assignment, subject to approval of the Competent Authority in accordance with applicable laws/Bank's Policy.

- The work assigned by the Bank to the Empaneled firm(s) is required to be carried out in a time bound manner in accordance with the prescribed regulatory timelines. If the assignment is not completed within the fixed time period or the Bank observes any deficiency in service, in such circumstances, the Bank may remove such firm from its panel and may also take other action against such firm.
- The Bank reserves the following rights:
  - a. To accept/reject any or all the Applications without assigning any reason whatsoever therefore. The decision of the Bank with regard to empanelment shall be final and binding on all concerned parties.
  - b. To discontinue the entire panel at any time, without giving any prior intimation. If it comes to Bank's knowledge that subsequent to empanelment, any Firm has been blacklisted/barred, the Bank reserves its right to remove such Firm(s) from the Panel by giving 7 days' notice to the Firm.
  - c. To relax or waive/ amend any of the conditions stipulated in this document as deemed necessary in the best interest of the Bank without assigning any reason thereof.
  - d. To include/ exclude to/ from any item under the Scope of Work as per the requirement from time to time.
  - e. To issue fresh notice inviting application with or without change/ modification of Eligibility Criteria, terms & condition for inviting application to enlarge empanelment to add/empanel qualified applicant to the empanelment.
- The applications shall be liable to be rejected if:
  - a. It is not properly covered, sealed and super- scribed as indicated.
  - b. It is not in the prescribed form and not containing all required details
  - c. It is not properly signed.
  - d. It is received after the expiry of due date and time.
  - e. It is received by telex, fax or email.
- If it comes to the notice of PNB at any stage right from the date of making application till successful completion of the work that any of the certificates/ documents submitted by the tenderer are found to be false/ fake/ doctored, applicant will be debarred from participation in all the PNB empanelment for a period of 5 years including termination/de-panelment, if empaneled. Decision of PNB will be final and binding in this regard.
- All the firms applying for empanelment are advised to regularly visit Bank's website i.e. [www.pnbindia.co.in](http://www.pnbindia.co.in) as any corrigendum or clarification shall be intimated **through website only**.

### **Annexure-I**

#### **Application Form for Empanelment of Practicing Company Secretary Firms**

| Sr. No. | Particulars                                                                                                                                                                                                                                                                                                       | Details |
|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| 1.      | Name of the Firm                                                                                                                                                                                                                                                                                                  |         |
| 2.      | Constitution of the Firm<br>(Partnership/Proprietorship)                                                                                                                                                                                                                                                          |         |
| 3.      | Date of incorporation/ establishment of the Firm;<br><br>Date of Registration of the Firm with the Institute of Company Secretaries of India (ICSI)<br><br>[Copy of Approval Letter issued by ICSI or any other document/communication received from ICSI evidencing registration of the Firm with the Institute] |         |
| 4.      | Address and Contact details of the Firm and Partners/ Proprietor viz. email, Phone Number etc.<br><br>[Please provide self-attested copy of address proof]                                                                                                                                                        |         |
| 5.      | GST Number of the Firm<br><br>(Please enclose copy of GST Certificate)                                                                                                                                                                                                                                            |         |
|         | PAN of the Firm and the Partner(s)/Proprietor of the Firm<br><br>(Please enclose copies of PAN card)                                                                                                                                                                                                              |         |
| 6.      | Brief Profile of the Firm                                                                                                                                                                                                                                                                                         |         |
| 7.      | Names of listed entities along with market capitalization including a Public Sector Undertaking/Public Sector Bank in the last three financial years whose Secretarial Audit has been undertaken by the Firm                                                                                                      |         |

| Sr. No. | Particulars                                                                                                                                                                                                                                                                                                                                                                                          | Details |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
|         | [Please provide self-attested copy of Certificate(s)/Report(s) issued by the firm.]                                                                                                                                                                                                                                                                                                                  |         |
| 8.      | Name of the Partners and/or full time employees<br><br>[Please provide self-attested copy of Certificate of Membership/ Practice of full time employees/ Partners. In case of Partnership Firm, copy of the Partnership Deed containing the names of the Partners]                                                                                                                                   |         |
| 9.      | Average Annual Turnover of the firm in the last three preceding Financial years i.e. FY 2018-19, 2019-20, and 2020-21.<br><br>[Please provide Copy of CA Certificate in support of Annual Turnover and Copy of the Profit & Loss Account (P&L A/c) of the firm]                                                                                                                                      |         |
| 10.     | Years of experience of:<br><br>(a) Firm<br>(b) Proprietor/Partners who are members of ICSI<br>(c) Full Time Employees who are members of ICSI.<br><br>The cut-off date for ascertaining experience is the date of Notice inviting Applications for Empanelment.<br><br>[Please provide self-attested copy of Certificate of Practice along with CV of the concerned Partner/Proprietor of the Firm.] |         |
| 11.     | Qualification of the Proprietor/ Partners; Full Time Employees                                                                                                                                                                                                                                                                                                                                       |         |
| 12.     | Names of the Banks/Institutions/ Body Corporates with which the Firm is empanelled.                                                                                                                                                                                                                                                                                                                  |         |

| Sr. No. | Particulars                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Details |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
|         | [Please provide the list of such entities along with proof of empanelment such as letter of empanelment, communication etc.]                                                                                                                                                                                                                                                                                                                                                       |         |
| 13.     | Confirmation that the Firm or its Proprietor or any of its Partners is not barred/blacklisted by any Scheduled Commercial Bank/ Public Sector Undertaking/State or Central Government or their Departments/Statutory Authority/Regulatory Authorities such as IRDA, RBI, SEBI etc. or Institute of Company Secretaries of India, Ministry of Corporate Affairs (MCA), Registrar of Companies (RoC).<br><br>[Please provide Self-Declaration by the Proprietor/Partner of the Firm] |         |
|         | ANY OTHER RELEVANT INFORMATION                                                                                                                                                                                                                                                                                                                                                                                                                                                     |         |
| 14.     | Any other relevant information such as profile, awards, achievements, membership in any statutory committees, organizations etc. along with documentary evidence.                                                                                                                                                                                                                                                                                                                  |         |

**This is to certify that: -**

- (i) The firm is eligible for empanelment and is not disqualified for empanelment under the Companies Act, 2013, the Company Secretaries Act, 1980 and the rules or regulation made there under:
- (ii) If the firm is empaneled and subsequently engaged as Secretarial Auditor, it will not cross the prescribed ceiling limits specified under Companies Act, 2013 and Rules made thereunder, if any or by the ICSI.
- (iii) Neither the firm nor its proprietor/partner(s) has any interest in the business of PNB.
- (iv) The firm shall not sub-contract the work.

**Declaration & Undertaking:**

1. All the information provided by me/us in the Application is correct to the best of my/our knowledge and belief and no material information has been concealed by me/us.
2. The Partners of the firm are holding Certificates of Practice issued by ICSI and is valid as on date.
3. If My / Our application for empanelment in your Bank is considered favorably, I / We shall abide by all the terms & conditions stated hereunder as well as other terms & conditions prescribed by the Bank from time to time:
  - a. Empanelment as such does not guarantee award of assignment(s) by the Bank.
  - b. Entrustment of **assignments** is subject to periodical review by the Bank.
  - c. The Bank reserves the right to delete / cancel the empanelment and stop awarding future assignments without prior notice or assigning any reasons whatsoever.
  - d. I/ We shall maintain secrecy of information relating to business allotted by the Bank.
  - e. I/We shall not enter into any financial transaction with the Bank's borrowers to the detriment of Bank's interest.
  - f. Under no circumstances, I / We shall use the name or logo of the Bank in our correspondence with other Banks.
  - g. If any wrong certification is detected, I / We hereby consent that the Bank may take appropriate steps as it may deem fit.
  - h. I/ We have not been disqualified from being registered as Company Secretary under the Company Secretaries Act, 1980 (With Rules) & the Company Secretaries Regulations, 1982 (to the extent applicable).
  - i. I/We have not been blacklisted by any Bank(s)/FI(s)/ICSI/ Government/IBA.
  - j. This application and the information furnished by me along with this application is true and complete. If found false or misleading at any stage, the empanelment of the applicant shall be summarily cancelled.

Place:

Date:

Signature:

Name: \_\_\_\_\_

(Managing Partner (Lead Partner)/ Proprietor)

(Please affix Stamp and Seal of the Firm)

**Annexure-II****NON DISCLOSURE AGREEMENT**

This Confidentiality –cum- Non disclosure Agreement (“Agreement”) is entered into at New Delhi on this \_\_\_\_\_ day of \_\_\_\_\_ 2022,

BETWEEN

**Punjab National Bank**, a Body Corporate constituted under the Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970 having its Head Office at Plot No. 4, Sector – 10, Dwarka, New Delhi -110075 and amongst one of its office, Share Department, Board & Coordination Division, at Plot No. 4, Sector – 10, Dwarka, New Delhi -110075 New Delhi – 110075 (hereinafter referred to as ‘PNB’ which expression shall, unless repugnant to the context thereof, deemed to include its successors and assigns).

AND

**M/s \_\_\_\_\_**, a firm registered with The Institute of Company Secretaries of India (ICSI) having its office situated at \_\_\_\_\_ and amongst one of its office at \_\_\_\_\_ (herein after called ‘**Firm**’) which expression shall, unless it be repugnant to the meaning or context thereof, be deemed to mean and include its successors and permitted assigns).

\_\_\_\_\_ Firm and the Bank shall hereinafter jointly be referred to as “Parties” and individually as a “Party”.

Whereas

i. \_\_\_\_\_ Firm inter-alia is engaged in the business of providing Secretarial services to various business entities in India.

ii. PNB has agreed to disclose, transmit, receive, and/or exchange certain “confidential information” to cover the business transaction between parties for the provision of services related to the secretarial assignment (“the Purpose”) issued by PNB in favor of \_\_\_\_\_

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 Confidential and Proprietary Information (as defined below) is referred to as the 'Disclosing Party' and will include its affiliates and subsidiaries, the party receiving such Confidential and Proprietary Information is referred to as the 'Recipient', and will include its affiliates and subsidiaries.

Now this Agreement witnesseth: -

## **1. Interpretation**

In this Agreement "**Confidential Information**" means all information belonging to a Party that is or has been disclosed to one Party (the "Receiving Party") by the other Party (the "Disclosing Party") in connection with the business transacted/ to be transacted between the Parties. Confidential information shall also include any copy, abstract, extract, sample, note or module thereof. The Receiving Party may use the Confidential Information solely for and in connection with the business transacted/ to be transacted between the Parties. The term 'confidential information' shall include all written or oral information (including information received from third parties that the '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 'Disclosing Party'.

Notwithstanding the foregoing, "Confidential Information" shall not include any information which the Receiving Party can show: (a) is now or subsequently becomes or is in possession of the Receiving Party, legally and publicly available without breach of this Agreement by the Receiving Party, (b) was rightfully in the possession of the Receiving Party without any obligation of confidentiality prior to receiving it from the Disclosing Party, (c) was rightfully obtained by the Receiving Party from a source other than the Disclosing Party without any obligation of confidentiality, (d) was developed by or for the Receiving Party independently and without reference to any Confidential Information and such independent development can be shown by documentary evidence, or (e) is disclosed pursuant to an order of a court or governmental agency as so required by such order, provided that the Receiving Party shall, unless prohibited by law or regulation, promptly notify the Disclosing Party of such order and afford the Disclosing Party the opportunity to seek appropriate protective order relating to such disclosure.

**2. Proprietary Information:** As used in this Agreement, the term 'Proprietary Information' shall mean all trade secrets or confidential or proprietary technical, financial, personal and intellectual property rights and other rights related information of the Disclosing Party, whether by letter or by the use of an appropriate prominently

placed proprietary stamp or legend or which is otherwise apparent or covered by the definition, 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 foregoing, information which is orally or visually disclosed to the recipient by the Disclosing Party or is disclosed in writing unaccompanied by a covering letter, proprietary stamp or legend, shall constitute proprietary information if the 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. **The Proprietary Information** shall include, but not be limited to, domain names, trade secrets, copyrights, ideas, techniques, know-how, inventions (whether patentable or not), and/or any other information of any type relating to designs, configurations, documentation, policies, board notes, Circulars, recorded data, schematics, layouts, source code, master works, master databases, algorithms, flow charts, formulae, works of authorship, mechanisms, research, manufacture, improvements, assembly, installation, intellectual property, and the information concerning the Parties' actual or anticipated business, research or development, or which is received in confidence by the disclosing party to the Recipient.

### **3. Confidentiality:**

Each party shall keep secret and treat in strictest confidence all Proprietary and Confidential Information it has received about the other party or its customers and will not use the Confidential and Proprietary 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.

### **4. Non-Disclosure of Proprietary and Confidential Information:**

For the period during the Agreement or its renewal, the Recipient will:

- (a) Use such Confidential and Proprietary Information only for the purpose for which it was disclosed and without prior written authorization of the Disclosing Party shall not use or exploit such Proprietary Information for its own benefit or the benefit of others.
- (b) Protect the Confidential and Proprietary Information against disclosure to third parties in the same manner and with the reasonable degree of care, with which it protects its Proprietary Information of similar importance: and (c) Limit disclosure of Confidential and Proprietary Information received under this Agreement to persons within its organization and to those 3<sup>rd</sup> party contractors performing tasks that would otherwise customarily or routinely be performed by its employees, who have a need to know such Confidential and Proprietary Information in the course of performance of their duties and who are bound to protect the confidentiality of such Proprietary Information.

## **5. 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 Confidential and Proprietary Information to the extent that such Confidential and 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 Confidential and Proprietary Information.
- d) Is independently developed by the Recipient without reference to or reliance upon the Confidential and 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 Disclosing Party and takes reasonable and lawful actions to avoid and/or minimize the extent of such disclosure.

## **6. 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 Confidential and 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 Confidential and Proprietary Information of the other party. Either party shall be free to use the residuals resulting from access to or work with the other party's Proprietary Information for any purpose; however, the Recipient shall not disclose the Confidential and Proprietary Information except as permitted pursuant to the terms of this Agreement. The term "residuals" means information in intangible form, retained in the memory of persons employed or retained by the Recipient who have had access to or worked with the Confidential and Proprietary Information, including ideas, concepts, know-how or techniques contained therein. Recipient shall not have any obligation to limit or restrict the assignment of such persons or to pay royalties for any work resulting from the use of residuals; provided, however, that this Section shall not be deemed to grant to Recipient a license under any copyright or patent of the Disclosing Party.

## 7. Communications:

Written communications requesting or transferring Confidential and 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)

|                                                                                                                                                                                                                                                                                                           |                                                                                                    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| <p><b>FOR Punjab National Bank</b></p> <p>The Company Secretary,<br/>Share Department, Board and<br/>Coordination Division<br/>Punjab National Bank<br/>Plot No. 4, Sector – 10<br/>Dwarka, New Delhi – 110075<br/>Tel No: 011-28044857<br/>Email: <a href="mailto:hosd@pnb.co.in">hosd@pnb.co.in</a></p> | <p><b>FOR _____</b></p> <p><b>Partner/Proprietor</b></p> <p>Address:</p> <p>Tel:</p> <p>email:</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|

## 8. Term:

The obligation of Non-Disclosure as provided under the terms of this Agreement) will survive for 2 years following the term of the Agreement or date of Empanelment, whichever is later. However, the details relating to Customer information of the Bank, if any, shall not be disclosed by the Firm even after termination of this Agreement.

Nothing herein contained shall be construed as a grant by implication, estoppel, or otherwise or a license by either party to the other to make, have made, use or sell any product using Confidential and Proprietary Information or as a license under any patent, patent application, utility model, copyright or any other industrial or intellectual property right covering the same.

## 9. Damages:

The provisions of this Agreement are necessary for the protection of the business goodwill of the parties and are considered by the parties to be reasonable for such purposes. Both the parties agree that any breach of this Agreement will cause substantial and irreparable damages to the other party and, therefore, in the event of such breach, in addition to other remedies, which may be available, the party violating the terms of Agreement shall be liable for the direct loss and damages on account of such disclosure.

## 10. Miscellaneous

- a) 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.

- b) This Agreement will be binding upon and ensure to the benefit of the parties hereto and it also includes their respective successors and assigns.
- c) The Agreement shall be construed and interpreted in accordance with the laws prevailing in India.
- d) The parties shall be bound by the terms of this Agreement.

## **11. Permitted disclosure**

The provisions of paragraph 2 shall not restrict any disclosure required by law or by any court of competent jurisdiction, the rules and regulations of any recognized stock exchange or any enquiry or investigation by any governmental, official or regulatory body which is lawfully entitled to require any such disclosure provided that, so far as it is lawful and practical to do so prior to such disclosure, the Receiving Party shall promptly notify the other party of such requirement with a view to providing the opportunity for the Provider to contest such disclosure or otherwise to agree the timing and content of such disclosure.

## **12. Ownership of Information**

Except to the extent as agreed herein, the Confidential Information and copies thereof, in whatsoever form shall at all times remain the property of the Disclosing Party or its clients and its disclosure shall not confer on the Receiving Party any rights (including any intellectual property rights) over the Confidential Information whatsoever beyond those contained in this Agreement.

## **13. No Representation**

Neither the disclosure, transmission receipt or exchange of Confidential Information nor anything else in this Agreement will constitute an offer by or on behalf of the Disclosing Party or be construed as soliciting any business or organization changes or any assurance of any business commitment or an inducement to incur / undertake any obligations not specified herein and neither party will be under any obligation to accept any offer or proposal which may be made by the other or on behalf of such other party.

## **14. Remedies and Relief**

The parties hereto acknowledge that remedies at law may be inadequate to protect the Disclosing Party or its clients against any actual breach of this Agreement by the Receiving Party, and, without prejudice to any other right and remedies otherwise available to the Disclosing Party or its clients, the Receiving Party agrees that Disclosing Party has a right to seek injunctive relief in its favor upon proof of actual damage and upon establishment of the fact that such actual damage has taken place due to reasons directly attributable upon the Receiving Party. Such injunctive relief

shall be in addition to any other remedies available hereunder, whether at law or equity. Disclosing Party shall be entitled to recover its cost and expenses.

### **15. No Assignment**

This Agreement shall not be assigned by either party, by operation of law or otherwise, without the prior written consent of the other party. This Agreement shall inure to the benefit of and will be binding upon the parties' respective successors and permitted assigns.

### **16. Severability**

In the event that any of the provisions contained in this Agreement is found to be invalid, illegal or unenforceable in any respect by a Court of competent jurisdiction, the validity, legality, or enforceability of the remaining provisions contained in this agreement will not be in any way affected or impaired by such a finding.

### **17. Notices**

Notices as required by this Agreement shall be sent to the Parties at the addresses mentioned first herein above or such other addresses as the Parties may designate from time to time, and shall be sent by certified or registered mail with acknowledgement due on receipt.

### **18. Delay or Waiver**

No delay or failure of either Party in exercising any right hereunder and no partial or single exercise thereof shall be deemed of itself to constitute a waiver or an expectation of non-enforcement of such right or any other rights hereunder. No waiver of any provision of this Agreement shall be valid unless the same is in writing and signed by the party against whom such waiver is sought to be enforced. A waiver or consent given by either party on any one occasion is effective only in that instance and will not be construed as a bar to or waiver of any right on any other occasion.

### **19. Governing Law**

The provisions of this Agreement shall be governed by the laws of India and shall be subject to the exclusive jurisdiction of courts in Delhi.

### **20. Indemnity**

The Firm shall indemnify the Bank from any and all claims including third party claims, causes of action, suits, damages or demands, whatsoever, arising out of breach of this Agreement by the indemnifying party as and when such claims, actions, damages or demands becomes payable.

**21. Modification**

Modification to any of the provisions of this Agreement shall be void unless it is writing and duly executed by Parties.

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

|                                                                        |                                                                        |
|------------------------------------------------------------------------|------------------------------------------------------------------------|
| <b>FOR Punjab National Bank</b>                                        | <b>FOR</b>                                                             |
| <b>Sign:</b><br><b>Name:</b><br><b>Designation:</b><br><b>Address:</b> | <b>Sign:</b><br><b>Name:</b><br><b>Designation:</b><br><b>Address:</b> |

**Date:****Place: New Delhi**