FORMAT FOR NON-DISCLOSURE AGREEMENT

THIS AGREEMENT MADE ON THIS THE \_\_\_\_\_\_\_\_\_ DAY OF \_\_\_\_\_\_\_\_\_, 2024

BY AND BETWEEN

Indian Institute of Astrophysics, an Autonomous Body under the aegis of Department of Science

and Technology which is a division of Ministry of Science and Technology under Government of

India and having its registered office at 2nd Block, Koramangala, Bengaluru, Karnataka – 560034

hereinafter referred to as “PARTY 1”, which expression shall unless repugnant to the context or

meaning thereof, include its successors in interests and assigns) OF THE ONE PART;

AND

[Please fill in Successful Bidder’s Company name] a company incorporated under the

Companies Act, 2013 and having its registered office at [Please fill in address](hereinafter referred

to as “COMPANY” which expression shall, unless repugnant to the context or meaning thereof, be

deemed to include, its representatives and permitted assigns) OF THE OTHER PART;

PARTY 1 and COMPANY shall hereinafter be referred to as such or collectively as “Parties” and

individually as “Party”.

WHEREAS both the Parties herein wish to pursue discussions and negotiate with each other for

the purpose of entering into a potential business arrangement in relation to Planning, Designing,

Implementation and Maintenance of Application Software (Procurement and Inventory / Asset

Management Modules) (“Proposed Transaction”);

AND WHEREAS the Parties contemplate that with respect to the Proposed Transaction, both the

Parties may exchange certain information, material and documents relating to each other’s

business, assets, financial condition, operations, plans and/or prospects of their businesses

(hereinafter referred to as “Confidential Information”, more fully detailed in clause 1 herein below)

that each Party regards as proprietary and confidential; and

AND WHEREAS, each Party wishes to review such Confidential Information of the other for the sole

purpose of determining their mutual interest in engaging in the Proposed Transaction;

IN CONNECTION WITH THE ABOVE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. “Confidential and or proprietary Information” shall mean and include any information

disclosed by one Party (Disclosing Party) to the other (Receiving Party) either directly or indirectly,

in writing, orally, by inspection of tangible objects (including, without limitation, documents,

prototypes, samples, media, documentation, discs and code). Confidential information shall include, without limitation, any materials, trade secrets, network information, configurations, trademarks,

brand name, know-how, business and marketing plans, financial and operational information, and

all other non-public information, material or data relating to the current and/ or future business and

operations of the Disclosing Party and analysis, compilations, studies, summaries, extracts or other

documentation prepared by the Disclosing Party. Confidential Information may also include

information disclosed to the Receiving Party by third parties on behalf of the Disclosing Party.

2. The Receiving Party shall refrain from disclosing, reproducing, summarising and/or

distributing Confidential Information and confidential materials of the Disclosing Party except in

connection with the Proposed Transaction.

3. The Parties shall protect the confidentiality of each other’s Confidential Information in the

same manner as they protect the confidentiality of their own proprietary and confidential information

of similar nature. Each Party, while acknowledging the confidential and proprietary nature of the

Confidential Information, agrees to take all reasonable measures at its own expense to restrain its

representatives from prohibited or unauthorised disclosure or use of the Confidential Information.

4. Confidential Information shall at all times remain the property of the Disclosing Party and may

not be copied or reproduced by the Receiving Party without the Disclosing Party’s prior written

consent.

5. Within seven (7) days of a written request by the Disclosing Party, the Receiving Party shall

return/destroy (as may be requested in writing by the Disclosing Party or upon expiry and or earlier

termination) all originals, copies, reproductions and summaries of Confidential Information provided

to the Receiving Party as Confidential Information. The Receiving Party shall certify to the

Disclosing Party in writing that it has satisfied its obligations under this paragraph.

6. The Receiving Party may disclose the Confidential Information only to the Receiving Party's

employees and consultants on a need-to-know basis. The Receiving Party shall have executed or

shall execute appropriate written agreements with third parties, in a form and manner sufficient to

enable the Receiving Party to enforce all the provisions of this Agreement.

7. Confidential Information, however, shall not include any information which the Receiving

Party can show:

i) is in or comes into the public domain otherwise than through a breach of this Agreement or

the fault of the Receiving Party; or

ii) was already in its possession free of any such restriction prior to receipt from the Disclosing

Party; or

iii) was independently developed by the Receiving Party without making use of the Confidential

Information; or

iv) has been approved for release or use (in either case without restriction) by written

authorization of the Disclosing Party.

8. In the event either Party receives a summons or other validly issued administrative or judicial

process requiring the disclosure of Confidential Information of the other Party, the Receiving Party

shall promptly notify the Disclosing Party. The Receiving Party may disclose Confidential

Information to the extent such disclosure is required by law, rule, regulation or legal process;

provided however, that, to the extent practicable, the Receiving Party shall give prompt written

notice of any such request for such information to the Disclosing Party, and agrees to cooperate

with the Disclosing Party, at the Disclosing Party’s expense, to the extent permissible and

practicable, to challenge the request or limit the scope there of, as the Disclosing Party may

reasonably deem appropriate.

9. Neither Party shall use the other’s name, trademarks, proprietary words or symbols or

disclose under this Agreement in any publication, press release, marketing material, or otherwise

without the prior written approval of the other.

10. Each Party agrees that the conditions in this Agreement and the Confidential Information

disclosed pursuant to this Agreement are of a special, unique, and extraordinary character and that

an impending or existing violation of any provision of this Agreement would cause the other Party

irreparable injury for which it would have no adequate remedy at law and further agrees that the

other Party shall be entitled to obtain immediately injunctive relief prohibiting such violation, in

addition to any other rights and remedies available to it at law or in equity.

11. The Receiving Party shall indemnify the Disclosing Party for all costs, expenses or damages

that Disclosing Party incurs as a result of any violation of any provisions of this Agreement. This

obligation shall include court, litigation expenses, and actual, reasonable attorney’s fees. The

Parties acknowledge that as damages may not be a sufficient remedy for any breach under this

Agreement, the non-breaching party is entitled to seek specific performance or injunctive relief (as

appropriate) as a remedy for any breach or threatened breach, in addition to any other remedies at

law or in equity.

12. Neither Party shall be liable for any special, consequential, incidental or exemplary damages

or loss (or any lost profits, savings or business opportunity) regardless of whether a Party was

advised of the possibility of the damage or loss asserted.

13. Both the Parties agree that by virtue of the Parties entering into this Agreement neither Party

is obligated to disclose all or any of the Confidential Information to the other as stated in this

Agreement. The Parties reserve the right to disclose only such information at its discretion and

which it thinks is necessary to disclose in relation to the Proposed Transaction.

14. Both the Parties agree that this Agreement will be effective from the date of execution of this

Agreement by both Parties and shall continue to be effective till the Proposed Transaction is

terminated by either Party by giving a thirty (30)days notice, in case either Party foresees that the

Proposed Transaction would not be achieved.

Notwithstanding anything contained herein, the provisions of this Agreement shall survive and continue after expiration or termination of this Agreement for a further period of five year(s) from the

date of expiration.

It being further clarified that notwithstanding anything contained herein, in case a binding agreement

is executed between the Parties in furtherance of the Proposed Transaction, the terms and

conditions of this Agreement shall become effective and form a part of that binding agreement and

be co-terminus with such binding agreement and shall be in effect till the term of such binding

agreement and shall after its expiry and or early termination shall continue to be in force in the

following manner:

i. …………….. years after the termination of the binding agreement

ii. ……………years after the expiry of the binding agreement

(whichever is earlier)

15. Each Party warrants that it has the authority to enter into this Agreement.

16. If any provision of this agreement is held to be invalid or unenforceable to any extent, the

remainder of this Agreement shall not be affected and each provision hereof shall be valid and

enforceable to the fullest extent permitted by law. Any invalid or unenforceable provision of this

Agreement shall be replaced with a provision that is valid and enforceable and most nearly reflects

the original intent of the unenforceable provision.

17. This Agreement may be executed in two counterparts, each of which will be deemed to be

an original, and all of which, when taken together, shall be deemed to constitute one and the same

agreement.

18. The relationship between both the Parties to this Agreement shall be on a principal-toprincipal

basis and nothing in this agreement shall be deemed to have created a relationship of an

agent or partner between the Parties and none of the employees of COMPANY shall be considered

as employees of PARTY 1.

19. This Agreement shall be governed by the laws of India. Both parties irrevocably submit to the

exclusive jurisdiction of the Courts in Bangalore, for any action or proceeding regarding this

Agreement. Any dispute or claim arising out of or in connection herewith, or the breach, termination

or invalidity thereof, shall be settled by arbitration in accordance with the provisions of Procedure of

the Indian Arbitration & Conciliation Act, 1996, including any amendments thereof. The arbitration

tribunal shall be composed of a sole arbitrator, and such arbitrator shall be appointed mutually by

the Parties. The place of arbitration shall be Bangalore, India and the arbitration proceedings shall

take place in the English language.

20. Additional oral agreements do not exist. All modifications and amendments to this Agreement

must be made in writing.

21. The Agreement and/or any rights arising from it cannot be assigned or otherwise transferred

either wholly or in part, without the written consent of the other Party.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS CONFIDENTIALITY

AGREEMENT IN DUPLICATE BY AFFIXING THE SIGNATURE OF THE AUTHORISED

REPRESENTATIVES AS OF THE DATE HEREIN ABOVE MENTIONED.

Party 1 (IIA) [Please fill in Successful Bidder’s Company name]

Signature 1 Signature 1

Name Name

Désignations Désignations

Place Place

Date Date

Signature 2 Signature 2

Name Name

Désignations Désignations

Place Date Place

Date Date