

### **AUTHENTICATION USER AGENCY AGREEMENT**

This **AUTHENTICATION USER AGENCY AGREEMENT** ("**Agreement**") is made as of this \_\_\_\_ day of \_\_\_\_\_, and year \_\_\_\_\_, by and between:

1. The President of India acting through ITE&C Department, Andhra Pradesh (**Information Technology Electronic and Communications**), having

its registered office at 1<sup>st</sup> Floor, North H Block, AP Secretariat, Hyd - 500022 (hereinafter called the "ITE&C-AP", which expression shall unless excluded by or repugnant to the context be deemed to include his successor in office, administrators and permitted assigns), OF THE FIRST PART

AND

2. \_\_\_\_\_,  
\_\_\_\_\_, having  
its address at  
\_\_\_\_\_  
\_\_\_\_\_

(hereinafter referred to as "**Authentication User Agency**", which expression shall unless repugnant to the context or meaning thereof, include its successors and permitted assigns), OF THE SECOND PART.

**WHEREAS:**

- A. UIDAI has been set up with the mandate of issuing unique identification numbers, i.e., "Aadhaar Numbers" to the residents of India, based on their biometric and demographic information.
- B. The Aadhaar Number and Personal Identity Information (PID) of the Aadhaar Holder can be authenticated through an online mechanism provided by UIDAI for this purpose, which authentication mechanism is provided by UIDAI free of charge till 31<sup>st</sup> March, 2015, where after the same may or may not be charged for, at the sole discretion of UIDAI.
- C. The Authentication User Agency is desirous of using the Aadhaar Authentication Services provided by UIDAI, through an Authentication Service Agency, so as to provide Aadhaar Enabled Services to its beneficiaries, clients and customers and has approached UIDAI, by way of an application, for appointment as an Authentication User Agency.
- D. The Authentication User Agency is aware of, and understands, the fact that UIDAI's operation of the Aadhaar Authentication Services is subject to limitations posed by technology, and UIDAI does not represent and warrant the same to be defect free.

- E. The Authentication User Agency is aware of, and understands that the Aadhaar Authentication Services are provided on an 'as is' basis, without any express or implied warranties in respect thereof, and UIDAI does not assume any responsibility or liability for any damage, whether direct, indirect, incidental or consequential, arising as a result of the use of the Aadhaar Authentication Services except the damages which solely arise out of False acceptance by UIDAI biometric authentication services.
- F. UIDAI has evaluated the application of the Authentication User Agency and has granted recognition to and approval for appointment of the Authentication User Agency as an Authentication User Agency for providing Aadhaar Enabled Services.
- G. UIDAI has further evaluated the application of the Authentication User Agency and has granted recognition to and approval for appointment/empanelment of the Authentication User Agency as a KYC User Agency (KUA) for the e-KYC service, subject to annexure 1 duly signed by UIDAI and the Authentication User Agency. In such a case Authentication User Agency is also referred to as KYC User Agency (KUA) and references to Authentication User Agency also mean KYC User Agency and similarly Authentication Service Agency also mean KYC Service Agency.

**NOW THEREFORE**, in consideration of the mutual covenants and promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby covenant and agree and this Agreement witnesseth as follows:

#### **1. DEFINITIONS & INTERPRETATION**

**"Aadhaar Authentication Services"** shall mean the authentication services provided by UIDAI and used by Authentication User Agency where the personal identity information of/data of an Aadhaar-holder (who is a beneficiary, customer, employee or associate of the Authentication User Agency is matched with their personal identity information/data that is stored in the UIDAI's Central Identity Data Repository in order to provide Aadhaar enabled services to such Aadhaar holder. The Authentication User Agency shall avail Aadhaar authentication service by establishing a connection with UIDAI's Central Identity Data Repository, through an Authentication Service Agency. The Aadhaar authentication services shall be provided in the manner and as per matrix and conditions specified in Schedule I.

**"Aadhaar Enabled Services"** shall mean services provided by an Authentication User Agency to Aadhaar Holder, using the Aadhaar Authentication Services of UIDAI.

**"Aadhaar Holder"** shall mean an individual who holds an Aadhaar Number.

**“Aadhaar Number”** shall mean the unique identification number issued to resident by UIDAI.

**“Agreement”** shall mean this agreement executed between the Parties, alongwith its schedules, annexures and exhibits, if any, and all instruments supplemental to or amending, modifying or confirming this agreement in accordance with the provisions of this agreement, if any, in each case as they may be supplemented or amended from time to time.

**“Authentication Device”** shall mean a terminal or device from where the Authentication User Agency carries out its service/business functions and interacts with Aadhaar Holders, by seeking authentication of Aadhaar Holders identity to enable the Authentication User Agency’s business function.

**“Authentication Service Agency”** shall mean an entity providing compliant secured network connectivity to the UIDAI and the Authentication User Agency for enabling Aadhaar Authentication Services as separate agreements entered into between the entity and UIDAI and Authentication User Agency respectively.

**“Biometric Information”** shall mean ten finger prints and iris image, captured by UIDAI, as a part of the enrolment process for issuance of Aadhaar Number.

**“Business Day”** shall mean any day other than a Saturday, Sunday or official public holiday in India.

**“Central Identity Data Repository (CIDR)”** means a centralised database in one or more locations containing all Aadhaar numbers issued to Aadhaar number holders along with the corresponding demographic information and biometric information of such individuals and other information related thereto;

**“Confidential Information”** shall mean any information which is considered confidential in terms of Clause 9 of this Agreement and shall include, but not limited to, information such as Aadhaar Number, name, address, age, date of birth, relationships and other demographic information, as also, biometric information such as finger print and iris scan of a resident.

**“e-KYC”** shall mean the transfer of demographic data (such as Name, Address, Date of Birth, Gender, Mobile number, Email address, etc.) and photograph collected by UIDAI in the form of a digitally signed XML document to an Authentication User Agency, through an Authentication Service Agency, based on resident authorization received by UIDAI in the form of successful biometric or OTP-based Aadhaar authentication.

**“False Accept”** shall be referred to a accept transaction where a system identifies a biometric as genuine (while, in reality it belongs to some other individual) or will fail to reject an impostor biometric. Imposter can be defined as someone who

intentionally or unintentionally is presenting his/her biometric against someone else's Aadhaar number.

**"KYC User Agency"** shall mean Authentication User Agency that is eligible for the e-KYC service.

**"KYC Service Agency"** shall mean Authentication Service Agency that is eligible to provide access to the e-KYC service through their network.

**"Law(s)"** shall mean all applicable laws, by-laws, rules, regulations, orders, ordinances, protocols, codes, guidelines, policies, notices, directions, judgments, decrees or other requirements or official directive of any governmental authority or person acting under the authority of any governmental authority, whether in effect or which may come into effect in the future.

**"OTP"** shall mean one time password sent to the Aadhaar holder's cell phone for the purpose of authentication.

**"Party"** refers individually to UIDAI and the Authentication User Agency and

**"Parties"** refer collectively to UIDAI and Authentication User Agency.

**"Personal Identity Data (PID)"** refers to Aadhaar-based Personal Identity Data/ Information including biometric and demographic information as well as the OTP used for Authentication

**"Standards"** shall mean the standards issued by UIDAI with regard to matters covered by this Agreement, and sole right of interpretation whereof shall rest with UIDAI at all times.

**"Sub-AUA"** shall mean an entity appointed by the Authentication User Agency under this agreement to access Aadhaar authentication services through the Authentication User Agency.

**"Term"** shall mean the duration specified in Clause 10.

**"Third Party"** shall mean any party who is not a Party.

## 1.2 Interpretation

1.2.1 In this Agreement, unless the context requires otherwise:

- (i) reference to singular includes a reference to the plural and vice versa;
- (ii) reference to any gender includes a reference to all other genders;

- (iii) reference to an individual shall include his legal representative, successor, legal heir, executor and administrator;
  - (iv) reference to statutory provisions shall be construed as meaning and including references also to any amendment or re-enactment (whether before or after the date of this Agreement) for the time being in force and to all statutory instruments or orders made pursuant to statutory provisions;
  - (v) references to any statute or regulation made using a commonly used abbreviation, shall be construed as a reference to the title of the statute or regulation;
  - (vi) references to any Article, Clause, Section, Schedule or Annexure, if any, shall be deemed to be a reference to an Article, Clause, Section, Schedule or Annexure of or to this Agreement.
- 1.2.2 Clause headings in this Agreement are inserted for convenience only and shall not be used in its interpretation.
- 1.2.3 When any number of days is prescribed in this Agreement, the same shall be reckoned exclusively of the first and inclusively of the last day unless the last day does not fall on a Business Day, in which case the last day shall be the next succeeding day which is a Business Day.
- 1.2.4 If any provision in this Agreement is a substantive provision conferring rights or imposing obligations on anyone, effect shall be given to it as if it were a substantive provision in the body of this Agreement.
- 1.2.5 Any word or phrase defined in the body of this Agreement shall have the meaning assigned to it in such definition throughout this Agreement unless the contrary is expressly stated or the contrary clearly appears from the context.
- 1.2.6 The rule of construction, if any, that a contract shall be interpreted against the party responsible for the drafting and preparation thereof shall not apply.
- 1.2.7 Reference to days, months or years in this Agreement shall be a reference to calendar days, months or years, as the case may be, unless the contrary is expressly stated or clearly appears from the context.
- 1.2.8 Reference to any agreement, deed, document, instrument, rule, regulation, notification, statute or the like shall mean a reference to the same, as may have been duly amended, modified or replaced. For the avoidance of doubt, a document shall be construed as amended,

modified or replaced only if such amendment, modification or replacement is executed in compliance with the provisions of such document(s).

## **2. APPOINTMENT OF AUTHENTICATION USER AGENCY**

- 2.1 UIDAI hereby appoints the Authentication User Agency, as an Agency authorised to send requests for authenticating PID of Aadhaar Holder(s), subject to the terms and conditions of this Agreement.
- 2.2 The Authentication User Agency hereby unequivocally accepts its appointment as an Authentication User Agency, for providing Aadhaar Enabled Services to Aadhaar Holder(s), in terms of clause 2.1 above.

## **3. TERMS AND CONDITIONS OF APPOINTMENT OF AUTHENTICATION USER AGENCY**

- 3.1 UIDAI hereby grants the Authentication User Agency a non-exclusive and revocable right to use Aadhaar Authentication Services, for providing Aadhaar Enabled Services to Aadhaar Holder(s), in the manner set out in this Agreement. The Authentication User Agency understands and agrees that it shall be responsible to UIDAI for all its Aadhaar authentication related aspects, covered by this Agreement, and in the event the Authentication User Agency outsources part(s) of its operations to other entities, the ultimate responsibility for the results of Aadhaar authentication related operations lies with the Authentication User Agency, and the Authentication User Agency shall ensure that the entity to which it has outsourced its operations is audited annually by information systems auditor certified by a recognized body. The Authentication User Agency also understands and agrees that it shall be responsible to UIDAI for all the Aadhaar authentication related aspects for all authentication requests which it transmits to the CIDR on behalf of Sub AUAs appointed by it. For avoidance of doubt, it is hereby expressly clarified that only entities contracted with UIDAI as an Authentication User Agency and their Sub AUAs shall be authorized to send request for authentication of PIDs of the Aadhaar holders. All the obligations of the Authentication User Agency under this agreement shall be equally applicable to the Sub AUAs. The Authentication User Agency understands that the Aadhaar Authentication Service shall be provided at the sole discretion of UIDAI, which reserves the right to add, revise, suspend in whole, or in part any of the Aadhaar Authentication Service, at any time with prior notice, in its sole discretion, for any reason whatsoever.

- 3.2 It is hereby mutually agreed between the Parties that the rights and obligations of the Authentication User Agency, under this Agreement, are non-transferable and non-assignable whether by sale, merger, or by operation of law, except with the express written consent of UIDAI.
- 3.3 The Authentication User Agency hereby unequivocally agrees that it shall use the Aadhaar Authentication Services, for providing Aadhaar Enabled Services to Aadhaar Holder(s), solely for the purposes set out in Schedule-II to this Agreement, and for no other purposes. In the event, the Authentication User Agency is desirous of using Aadhaar Authentication Services, for new and additional services/business functions without compromising or violating requirements specified by UIDAI with regard to network specifications, security etc., from time to time, it shall inform UIDAI in this regard
- 3.4 It is hereby expressly agreed between the parties that in cases where the Authentication User Agency or its Sub AUA forwards an authentication request to the Central Identity Data Repository, through an Authentication Service Agency, and in the event of an Aadhaar authentication failure for whatever reasons, the Authentication User Agency may invoke other means of Identity authentication for service provision to the Aadhaar Holder, and the Authentication User Agency or its Sub AUA shall bear full responsibility for any decision taken in this regard and UIDAI shall have no role in this regard.
- 3.5 The Authentication User Agency hereby unequivocally agrees that all backend infrastructure, such as servers, databases etc., required specifically for the purpose of Aadhaar authentication shall be based in the territory of India.
- 3.6 The Authentication User Agency hereby unequivocally agrees that the use of the Aadhaar Authentication Services by it for providing Aadhaar Enabled Services to Aadhaar Holder(s) and the Aadhaar Authentication Services shall not, in any manner, whether direct or indirect, be used for purposes that are anti-government or anti-State or discriminatory or related to money laundering or in contravention of any laws applicable in India.

#### **4. OBLIGATIONS OF UIDAI**

- 4.1 UIDAI shall:
- a) determine rules and frameworks regarding the usage of Aadhaar Number and Aadhaar Identity Data;
  - b) register/certify/approve, by itself or through approved independent certification agencies, all the applications & devices, such as applications driving the authentication systems in the Authentication User Agency's and Sub AUA's systems, that will be



used by the Authentication User Agency;

- c) determine and prescribe Standards and specifications for transmission of Aadhaar Identity Data for the purposes of Aadhaar Authentication Services and Aadhaar Enabled Services;
  - d) determine and prescribe Standards to ensure the confidentiality, privacy and security of Aadhaar Identity Data;
  - e) prescribe other Standards and specifications that UIDAI may deem necessary, in its sole judgment, for providing Aadhaar Authentication Services and Aadhaar Enabled Services;
- 4.2 Notwithstanding anything contained in Clauses 4.1 above, it is hereby clearly understood by the Parties that UIDAI shall have no responsibility or liability in relation to failures that may take place during the Aadhaar based authentication process, including but not limited to, failures as a result of, false reject, network or connectivity failure, device failure, possible down time at Central Identities Data Repository, etc.

## **5. OBLIGATIONS OF THE AUTHENTICATION USER AGENCY**

- 5.1 The Authentication User Agency shall, for every service/business function for which it is desirous of using Aadhaar Authentication Services, chooses suitable authentication type, for each particular service, from Aadhaar Authentication package Framework provided by UIDAI from time to time, which indicates the identity credentials (PID) to be sought from the Aadhaar Holder, who is seeking to access the specific service/business function(s). For avoidance of doubt, it is hereby expressly stated that the choice of authentication type(s), in the manner provided above, shall be the sole decision of the Authentication User Agency, and no other entity, including UIDAI, Authentication Service Agency and Aadhaar Holder shall have any role in this decision of Authentication User Agency.
- 5.2 The Authentication User Agency shall obtain a consent from the Aadhaar holder, for using the Aadhaar number and Biometric information for providing the Aadhaar Authentication Service
- 5.3 The Authentication User Agency hereby unequivocally agrees that it shall, forthwith, upon appointment as an Authentication User Agency, shall establish network connectivity, through an Authentication Service Agency, duly approved by UIDAI, with the Central Identities Data Repository, established by UIDAI that contains all Aadhaar Identity Data, in compliance with all the specifications and standards prescribed by UIDAI, from time to time. The Authentication User Agency assumes complete responsibility with regard to its network connectivity with an Authentication Service

Agency. And UIDAI shall have no responsibility in this regard. Provided where the Authentication User Agency has entered into another agreement with the UIDAI to act as an Authentication Service Agency, such an Authentication User agency need not engage another Authentication Service Agency.

- 5.4 The Authentication User Agency shall establish and maintain necessary authentication related operations, including their own systems, processes, infrastructure, technology, security, etc., which may be necessary for providing Aadhaar Enabled Services, in compliance with standards and specifications, issued by UIDAI from time to time.
- 5.5 The Authentication User Agency shall ensure that the network connectivity between authentication devices and the Central Identities Data Repository, used for sending their authentication requests is in compliance with the standards and specifications issued by UIDAI from time to time. The Authentication User Agency shall build and maintain the connectivity between authentication devices and the Authentication Service Agency's systems either by itself, or by outsourcing it to a service provider. The Authentication User Agency shall work with the Authentication Service Agency in ensuring the compliance of the connectivity between the Authentication Service Agency and Central Identities Data Repository.
- 5.6 The Authentication User Agency shall only employ the Authentication Devices and associated application components (such as sensor and extractor pairs for fingerprint and iris scanners) which are duly registered with/approved/certified by UIDAI or an agency appointed by UIDAI for this purpose. The Authentication User Agency understands the authentication type to be employed by it in providing Aadhaar Enabled Services and shall employ the Authentication Devices which confirm to the authentication type adopted by the Authentication User Agency, and UIDAI shall have no role to play in this regard, and shall have no liability or responsibility in this respect.
- 5.7 The Authentication User Agency shall install necessary Authentication Devices and other Information Technology devices along with device installation and maintenance kits, and the devices shall comply with specifications and standards prescribed by UIDAI from time to time. The Authentication User Agency shall ensure that the applications driving the authentication devices are duly registered with/approved/certified by UIDAI. The Authentication User Agency assumes complete responsibility for ensuring that the processes, procedures, systems and infrastructure at Authentication Device are in compliance with standards and specifications issued by UIDAI from time to time.

- 5.8 It is hereby expressly agreed between the Parties that in the event Authentication User Agency's federated authentication system includes Aadhaar authentication as well as the Authentication User Agency's local authentication system, the Authentication User Agency shall integrate their authentication systems with Aadhaar authentication system in compliance with standards and specifications issued by UIDAI from time to time.
- 5.9 The Authentication User Agency shall keep UIDAI informed of the Sub AUAs with whom they have entered into agreements and shall duly register them in the manner prescribed by UIDAI from time to time. The AUA shall issue a Sub AUA code to identify each Sub AUA and shall include the Sub AUA code in all authentication requests originating from that Sub AUA which it forwards to CIDR for authentication. The AUA shall keep the UIDAI informed of all Sub AUA codes that it issues. The Authentication User Agency shall ensure that the Sub AUAs comply with standards and protocols laid out by UIDAI from time to time. The Authentication User Agency understands that it shall be responsible for all authentication requests originating from the Sub AUA and routed through the Authentication User Agency
- 5.10 The Authentication User Agency shall keep UIDAI informed of the list of Authentication Service Agency(ies) with whom they have any agreement(s), in the manner prescribed by UIDAI from time to time. The Authentication User Agency shall inform UIDAI, forthwith, all relevant information pertaining to any agreement that it may enter into with an Authentication Service Agency and any subsequent modifications thereto, if any. Authentication User agency is obligated to send the agreement entered with Authentication Service Agency immediately upon request from UIDAI. In the event the Authentication User Agency disengages with an Authentication Service Agency, the fact of disengagement shall be communicated to UIDAI, by the Authentication User Agency, within such period as may be prescribed by UIDAI from the date of disengagement.
- 5.11 The Authentication User Agency shall ensure that the persons employed by it for providing Aadhaar Enabled Services and for maintaining necessary systems, infrastructure, processes, etc. in this regard, possess requisite qualifications for undertaking such works. The Authentication User Agency shall be responsible for ensuring that, in case Authentication Devices are operated by its own or its agents personnel, such personnel are suitably and adequately trained to conduct Aadhaar Enabled Services, in compliance with specifications and standards prescribed by UIDAI from time to time.
- 5.12 The Authentication User Agency shall, at all times, comply with standards,

directions, specifications, etc. issued by UIDAI, in terms of network and other Information Technology infrastructure, processes, procedures, etc. for the purposes of availing Authentication services provided by UIDAI. The Authentication User Agency shall be further responsible, at all times, for compliance with specification issued by UIDAI, from time to time, with respect to all authentication related aspects. In the event the Authentication User Agency outsources part(s) of its operations to other entities, the ultimate responsibility for the results of authentication related operations shall lie with the Authentication User Agency.

- 5.13 The Authentication User Agency shall, at all times, comply with the provisions contained in the Information Technology Act, 2000 and the statutory rules framed there under, from time to time, in so far the same has application to its operations in accordance with this Agreement, and also with all other Laws rules and regulations, whether already in force or which may be enacted anytime in the future, pertaining to data security and management, data storage, sharing and data protection, as also with the National Identification Authority of India Bill, as and when the same is enacted into a law and comes into force, and shall ensure the same level of compliance by its Authentication Device.
- 5.14 The Authentication User Agency shall ensure that its operations and systems in terms of this Agreement are audited by information systems auditor certified by a recognized body on an annual basis to ensure compliance with UIDAI standards and specifications and the audit report should be shared with UIDAI upon request. In addition to the above, UIDAI may choose to, in its sole discretion, audit the AUA's operations and systems in terms of this Agreement by itself or through an auditor appointed by UIDAI, and the continuation of operations as the Authentication User Agency shall, at all times, be dependent upon the said audit confirming the compliance by the Authentication User Agency of the terms and conditions contained in this Agreement, and any failure in compliance of the same, if confirmed in the audit, may entail fine and/or penalties and termination of access to Aadhaar Authentication Services. "The Authentication User Agency unequivocally agrees to provide full co-operation to UIDAI or any agency approved and/or appointed by UIDAI in the audit process, and to provide to UIDAI or any agency approved and/or appointed by UIDAI, complete access to its procedures, records and information pertaining to services availed for UIDAI,
- 5.15 The Authentication User Agency shall monitor the operations of its Authentication Device, on a periodic basis, for compliance with the terms and conditions contained in this Agreement or with standards, directions, specifications, etc. issued and communicated by UIDAI, in this regard, from

time to time.

- 5.16 The Authentication User Agency shall maintain logs of all authentication transactions processed by it, capturing the complete details of the authentication transaction, such as the Aadhaar number against which authentication is sought, authentication package, date and timestamp, etc. as prescribed by UIDAI from time to time but shall not, in any event, capture the PID information and shall retain the same for a duration, specified by UIDAI from time to time. The Authentication User Agency understands and agrees that the logs maintained by it shall be shared with any individual or entity only on a need-basis, and that the storage of the logs maintained by it shall comply with all the relevant laws, rules and regulations, including, but not limited to, the Information Technology Act, 2000 and the Evidence Act, 1872.
- 5.17 In case of any investigations around authentication related fraud(s) or dispute (s), the Authentication User Agency shall extend full cooperation to UIDAI, and/or any agency appointed/authorized by it and/or any other authorized investigation agency, including, but not limited to, providing access to their premises, records, personnel and any other relevant resource/information, etc. of or pertaining to its Authentication Device.
- 5.18 The Authentication User Agency, where ever applicable, shall be responsible for identifying exception-handling mechanisms in the event of failure of Aadhaar Authentication Services.
- 5.19 The authentication charges, for providing Aadhaar Enabled Services by the Authentication User Agency to its customers, shall be evolved by the Authentication User Agency and UIDAI shall have no say in this respect, for the time being, however, UIDAI's right to prescribe a different mechanism in this respect, in the future, shall be deemed to have been reserved.
- 5.20 The Authentication User Agency unequivocally agrees that all devices and applications used by it in running its Aadhaar authentication operations shall be duly certified/approved by UIDAI or an agency appointed/approved by UIDAI (as and when UIDAI creates a certification mechanism for certifying Aadhaar enabled application). In the event the already certified/approved applications employed by the Authentication User Agency undergo modifications, the Authentication User Agency shall deploy the modified applications only after renewed certification/approval from UIDAI.
- 5.21 The Authentication User Agency agrees to incorporate and adopt standards, specifications and other terms and conditions as prescribed by UIDAI from

time to time, in its agreement with the ASA for the purpose of availing Authentication services of UIDAI.

- 5.22 Authentication User Agency hereby agrees to inform UIDAI of any misuse of Aadhaar data or any compromise of Aadhaar related data or systems within their network.

## **6. REPRESENTATIONS AND WARRANTIES**

6.1 UIDAI represents and warrants to the Authentication User Agency that:

- (a) UIDAI is an authority set up by the Planning Commission, Government of India;
- (b) UIDAI has all requisite powers and authority and has taken all actions necessary to execute, deliver, and perform its obligations under this Agreement;
- (c) this Agreement has been validly executed by UIDAI and constitutes a valid agreement binding on UIDAI and enforceable in accordance with the laws of India;

6.2 The Authentication User Agency represents and warrants to UIDAI that:

- (a) the Authentication User Agency is an entity legally constituted and validly existing under the laws of India;
- (b) the Authentication User Agency has all requisite powers and authority and has taken all actions necessary to execute, deliver, and perform its obligations under this Agreement;
- (c) this Agreement has been validly executed by the Authentication User Agency and constitutes a valid agreement binding on the Authentication User Agency and enforceable in accordance with the laws of India.

## **7. INTELLECTUAL PROPERTY**

7.1 The Authentication User Agency is aware that "Aadhaar" is the intellectual property of UIDAI and the Authentication User Agency understands that any unauthorized reproduction of the same constitutes infringement and may be subject to penalties, both civil and criminal.

7.2 It is hereby mutually agreed between the Parties that the Authentication User Agency shall have a non-exclusive right to use the Aadhaar name and logo and to represent itself as an entity providing Aadhaar Enabled

Services to Aadhaar Holder(s), subject to the condition that all rights, title and interest, including intellectual property rights, in the Aadhaar name and logo shall vest, at all times, either during the operation of this Agreement or otherwise, in UIDAI.

- 7.3 The Authentication User Agency hereby unequivocally agrees that it shall use the Aadhaar name and logo, without any modification, in its promotional, educational and informational literature, for the duration of this Agreement.
- 7.4 The Authentication User Agency hereby unequivocally agrees that it shall not authorize any other entity or individual to use the Aadhaar name and logo, except with the prior written permission of UIDAI.
- 7.5 The Authentication User Agency hereby unequivocally agrees that upon becoming aware of unauthorized use, copy, infringement or misuse of the Aadhaar name and/or logo, and any rights, title and interest therein, including intellectual property rights, it shall notify UIDAI about such unauthorized use forthwith. At the request and cost of UIDAI, the Authentication User Agency shall take part in or give assistance in respect of any legal proceedings and execute any documents and do any things reasonably necessary to protect the rights, title and interest of UIDAI, including intellectual property rights, in respect of the Aadhaar name and logo.

## **8. INDEMNITY AND LIMITATION OF LIABILITY**

- 8.1 The Authentication User Agency understands that the use of Aadhaar Authentication Services by the Authentication User Agency does not result in incurring of any liability by UIDAI whatsoever. The Authentication User Agency alone is responsible for the proper and judicious use of the Aadhaar Authentication Services. UIDAI shall not, in any case, be held responsible for damage and/or harm, direct or indirect, material or immaterial, or of any nature whatsoever, arising from any unavailability of the Aadhaar Authentication Services or its use by the Authentication User Agency except the damages which solely arising out of false acceptance by UIDAI biometric authentication services.
- 8.2 It is hereby mutually agreed between the Parties that UIDAI shall not be liable for any unauthorized transactions occurring through the use of Aadhaar Authentication Services and the Authentication User Agency hereby fully indemnifies and holds UIDAI harmless against any action, suit,

proceeding initiated against it or any loss, cost or damage incurred by it as a result thereof.

- 8.3 Without prejudice to generality of the above, the Authentication User Agency shall indemnify and keep UIDAI harmless and indemnified from and against all claims, liabilities, losses and incurred costs, fines, penalties, expenses, taxes, assessment, punitive damages, fees (including advocate's/ attorney's fee), liabilities (including any investigative, legal and other expenses incurred in connection with, and any amounts paid in settlement of, any pending or threatened legal action or proceeding), judgments, awards, assessments, obligations, damages, etc., which UIDAI may suffer or incur arising out of, or in connection with:
- a) any act, neglect, default or omission on the part of the Authentication User Agency, its subsidiaries or any person associated with the Authentication User Agency, including but not limited to liabilities arising from non compliance of Standards and Regulations prescribed by UIDAI, from time to time, unauthorized use or disclosure of Confidential Information and failure to comply with data protection and storage requirements, as prescribed by UIDAI, from time to time;
  - b) any breach by the Authentication User Agency of the terms and conditions or its appointment or its obligations under this Agreement;
  - c) any breach by the Authentication User Agency of its obligations under any Law(s) or contract, etc;
  - d) default or omission on the part of the Authentication User Agency to

follow statutory instructions and guidelines issued by the Government of India, National Identification Authority of India (as and when setup) and any other governmental authority.

- 8.4 In the event of a Third Party bringing a claim or action against UIDAI, as a consequence of the use of Aadhaar Authentication Services by the Authentication User Agency or its Sub AUA, the Authentication User Agency shall:
- a) defend and / or to assist UIDAI in defending, at the Authentication User Agency's cost, such claims or actions, either in a legal proceeding or otherwise;
  - b) indemnify UIDAI and keep UIDAI indemnified and harmless, at all times, against all actions, claims, demands, costs, charges and expenses arising out of or incurred by reason of any infringement of intellectual property rights of any Third Party in connection with the use of the



Aadhaar Authentication Services, irrespective of whether or not UIDAI incurs any liability in this regard by virtue of any judgment of a court of competent jurisdiction.

- 8.5 The Authentication User Agency is aware of, and understands, the fact that UIDAI's operation of the Aadhaar Authentication Services is not completely free from defect, and UIDAI does not represent and warrant the same to be defect free. Unless otherwise expressly specified in writing, the Aadhaar Authentication Services are provided on an 'as is' basis, without any express or implied warranties in respect thereof. It is hereby mutually agreed between the Parties that under no circumstances shall UIDAI be liable for any damages whatsoever, whether such damages are direct, indirect, incidental consequential and irrespective of whether any claim is based on loss of revenue, interruption of business or any loss of any character or nature whatsoever and whether sustained by the Authentication User Agency or by any other person, as a result of the operation of this Agreement or otherwise except the damages which solely arising out of false acceptance by UIDAI biometric authentication services.
- 8.6 The maximum liability for which UIDAI may be held responsible in respect of a false acceptance shall be restricted to the amount of that transaction or the actual unrecovered direct loss to the Authentication User Agency or maximum amount of liability fixed by UIDAI time to time , whichever is less Provided that:
- a) The Authentication User Agency actually suffers a direct loss of the said amount, and there being no recourse of recovery thereof from the incorrect beneficiary account or
  - b) Where recourse does exist, it would be incumbent on the Authentication User Agency to diligently pursue recovery and where recovery either partial or full, has been effected, the liability of UIDAI would stand reduced by that extent.

The liability as mentioned above will be subject to the Compliance by Authentication User Agency of all the procedures, standards and specification as prescribed by UIDAI from time to time in this regard.

- 8.7 It is hereby mutually agreed that this Clause 8 shall survive the termination of this Agreement.

**9. CONFIDENTIALITY, DATA PROTECTION, SECURITY AND USE OF INFORMATION**

- 9.1 The Authentication User Agency and all its Sub AUAs shall treat all information, which is disclosed to it as a result of the operation of this Agreement, as Confidential Information, and shall keep the same confidential, maintain secrecy of all such information of confidential nature and shall not, at any time, divulge such or any part thereof to any third party except as may be compelled by any court or agency of competent jurisdiction, or as otherwise required by law, and shall also ensure that same is not disclosed to any person voluntarily, accidentally or by mistake.
- 9.2 The Authentication User Agency shall use the Confidential Information strictly for the purposes of authentication of the Aadhaar Holder, and for providing Aadhaar Enabled Services, in accordance with this Agreement. The Authentication User Agency shall ensure compliance with all applicable laws and regulations including but not limited to regulations on data protection under the Information Technology Act, 2008 when collecting information from residents for their business purposes.
- 9.3 The Authentication User Agency shall scrutinize the data collected by it, while processing authentication requests, on a periodic basis, and shall preserve such data collected in relation to an authentication request until such as may be prescribed by UIDAI from time to time.
- 9.4 The Authentication User Agency is prohibited from storing any PID in their data base or in any storage device of any nature whatsoever including Authentication Device or in any machine, device or instrument of any kind whatsoever, removable storage devices or in physical form, at point in time.
- 9.5 The Authentication User Agency hereby unequivocally agrees to undertake all measures, including security safeguards, to ensure that the information in the possession or control of the Authentication User Agency, as a result of operation of this Agreement, is secured and protected against any loss or unauthorised access or use or unauthorised disclosure thereof.
- 9.6 It is hereby mutually agreed between the parties that UIDAI assumes no responsibility or liability for any action or inaction, use or misuse of the Confidential Information and other data in the control of the Authentication User Agency. The Authentication User Agency agrees and acknowledges that any loss, damage, liability caused or suffered by the Authentication User Agency due to disclosure of all information of

confidential nature shall be borne by Authentication User Agency without transferring any liability or responsibility towards UIDAI.

9.7 It is hereby mutually agreed that this Clause 9 shall survive the termination of this Agreement.

## **10. TERM, TERMINATION AND CONSEQUENCES**

10.1 This Agreement shall be in force for a period of \_\_\_\_\_ years from the Effective Date, unless renewed by mutual consent, in writing, of the Parties, prior to expiry of this Agreement, upon such terms and conditions as may be mutually agreed between the Parties.

10.2 UIDAI shall have the right to terminate this Agreement by giving thirty (30) days notice, in writing, prior to expiry of the Term, without any protest or demur from the Authentication User Agency, in the event of the Authentication User Agency:

- a) fails to comply with the Standards or the decision and directions issued by UIDAI, from time to time, with regard to the interpretation and enforcement of the Standards;
- b) is in breach of its obligations under this Agreement;
- c) uses the Aadhaar Authentication Services for any other purpose than those specified in Schedule-II of this Agreement;
- d) is in liquidation, or if a receiver has been appointed in respect of the Authentication User Agency or the Authentication User Agency becomes subject to any form of insolvency administration or files for voluntary liquidation.
- e) In case the AUA is also an ASA, termination of the ASA agreement with UIDAI will automatically terminate this agreement.

10.3 The Authentication User Agency shall have no right to compensation for termination of this Agreement by UIDAI, in pursuance of clauses 10.2 above.

10.4 The termination of this Agreement by UIDAI, in pursuance of clauses 10.2 above, shall result in automatic cancellation of the registration of the Authentication User Agency, granted by UIDAI, without any notification, in this regard, to the Authentication User Agency.

- 10.5 The Authentication User Agency may terminate this agreement by giving 30 days' notice in writing to the UIDAI.
- 10.6 Upon termination of this Agreement, the Authentication User Agency shall, forthwith, cease to use the Aadhaar name and logo for any purposes, and in any form, whatsoever.

## **11. FORCE MAJEURE**

- 11.1 The Parties agree that neither of them shall be liable to the other for any loss, delay, damage or other casualty suffered or incurred by the other owing to earthquakes, floods, fires, explosions, acts of God, acts of State, war, terrorism, action of any governmental authority or any other cause, which is beyond the reasonable control of that Party ("**Force Majeure**") and any failure or delay by any Party in the performance of any of its obligations under this Agreement owing to one or more of the foregoing causes shall not be considered as a breach of any of its obligations under this Agreement. The Parties however agree that any financial failure or non-performance of any financial obligations or covenants of the Parties shall not constitute Force Majeure.
- 11.2 The Party claiming benefit of Force Majeure shall however not be entitled to the same unless it has intimated the other Party of the occurrence of such event within a period of seventy two (72) hours from the occurrence of such Force Majeure event indicating therein the steps that it is taking or intending to take to mitigate the effect of such Force Majeure on the performance of his obligations under this Agreement.
- 11.3 In the event, the Force Majeure event continues for a period of more than ninety (90) days, the Party shall renegotiate this Agreement in good faith and if the Parties do not reach any consensus on modifications to this Agreement within a period of one hundred twenty (120) days from the date of occurrence of the Force Majeure event, this Agreement shall automatically stand terminated on such date.

## **12. GOVERNING LAW AND DISPUTE RESOLUTION**

- 12.1 This Agreement shall, in all respects, be governed by, and construed in accordance with the laws of India.
- 12.2 Any dispute of whatever nature, which arises out of, in relation to, or otherwise connected with:
- (a) the interpretation or effect of;

- (b) the validity, enforceability or rectification (whether in whole or in part) of;
- (c) the respective rights or obligations of the Parties; and/or
- (d) a breach (including a breach of any representation and warranty and/or the materiality thereof and/or the amount of compensation payable in order to remedy such breach and/or the breach or failure to comply with any covenants or undertakings contained herein) or the termination or cancellation of, this Agreement or in regard to whether either Party have unreasonably withheld its approval or consent under circumstances in which it may not do so; shall be dealt with in accordance with succeeding provisions of this Clause 12.

(All disputes arising out of reasons mentioned herein-above shall be collectively referred to hereinafter as a “**Dispute(s)**”).

- 12.3 All Disputes shall at the first instance be resolved through good faith negotiations, which negotiations shall begin promptly after a Party has delivered to the other Party a written request for such consultation.
- 12.4 If the Parties are unable to resolve the Dispute in question within thirty (30) days of the commencement of negotiations in terms of Clause 12.3, then the Dispute shall, unless the Parties otherwise agree in writing, be referred for determination in accordance with the remaining provisions of this Clause 12.
- 12.5 The Dispute shall be referred to arbitration in accordance with the provisions of the (Indian) Arbitration and Conciliation Act, 1996.
- 12.6 The venue for arbitration shall be New Delhi, India and the language used in the arbitral proceedings shall be English.
- 12.7 The reference shall be referred to arbitration of an Arbitrator, to be nominated by Secretary, Department of Legal Affairs (“Law Secretary”). The award of the Arbitrator shall be binding upon Parties to the dispute.
- 12.8 The decision of the Arbitrator appointed to deal with such matters shall be accepted by the Parties as final and binding.
- 12.9 The Parties shall continue to be performing their respective obligations under this Agreement, despite the continuance of the arbitration proceedings, except for the disputed part under arbitration.

- 12.10 The Parties shall use their best endeavors to procure that the decision of the Arbitrators shall be given within a period of six (6) months or soon thereafter as is possible after it has been demanded.
- 12.11 This Clause 12 is severable from the rest of this Agreement and shall remain in effect even if this Agreement is terminated for any reason.
- 12.12 The Courts in New Delhi, India shall have exclusive jurisdiction in relation to this Agreement, including this Clause 12.
- 12.13 All fees and costs pertaining to arbitration proceedings shall be borne equally by the Parties.
- 12.14 All other fees and costs incurred by the Parties shall be borne by the respective Parties.

**13. GENERAL**

13.1 Notices

Any notice, direction or other documentation required or remitted to be given hereunder shall be in writing and may only be given by personal delivery, international courier, electronic mail or facsimile (with confirmation received) at the addresses hereinafter set forth:

- (i) For UIDAI :
- Address : 3<sup>rd</sup> Floor, Tower II,  
Jeevan Bharati Building  
Connaught Circus  
New Delhi-110001
- Attention : \_\_\_\_\_
- Fax No. : 011 - 23752679
- (ii) For the  
Authentication  
User Agency :
- Address : \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- Attention : \_\_\_\_\_
- Fax No. : \_\_\_\_\_

### 13.2 Further Assurances

The Parties hereto shall sign such further and other papers, cause such meetings to be held, resolutions passed and bylaws enacted, exercise their vote and influence, do and perform and cause to be done and performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Agreement and every part hereof.

### 13.3 No Waiver

No failure by a Party to take any action with respect to a breach of this Agreement or a default by any other Party shall constitute a waiver of the former Party's right to enforce any provision of this Agreement or to take action with respect to such breach or default or any subsequent breach or default. Waiver by any Party of any breach or failure to comply with any provision of this Agreement by a Party shall not be construed as, or constitute, a continuing waiver of such provision, or a waiver of any other breach of or failure to comply with any other provision of this Agreement, unless any such waiver has been consented to by the other Party in writing.

### 13.4 Severability

If any Clause or part thereof, of this Agreement or any agreement or document appended hereto or made a part hereof is rendered invalid, ruled illegal by any court of competent jurisdiction, or unenforceable under present or future Laws effective during the term of this Agreement, then it is the intention of the Parties that the remainder of the Agreement, or any agreement or document appended hereto or made a part hereof, shall not be affected thereby unless the deletion of such provision shall cause this Agreement to become materially adverse to any Party in which case the Parties shall negotiate in good faith such changes to the Agreement, or enter into suitable amendatory or supplementary agreements, as will best preserve for the Parties the benefits and obligations under such provision.

### 13.5 Enurement

Upon receipt of consent from UIDAI as required in Clause 3.2 this Agreement will enure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

### 13.6 Counterparts

This Agreement may be executed in one or more counterparts, all of which shall be read and construed as one document and any facsimile signature

hereto shall be deemed to be an original signature.

13.7 Independent Legal Advice

Each of the Parties acknowledges that it has received independent legal advice regarding the terms of this Agreement.

13.8 Entire Agreement

This Agreement constitutes the entire agreement between the Parties. There are not and will not be any verbal statements, agreements, assurances, representations and warranties or undertakings among the Parties and this Agreement may not be amended or modified in any respect except by written instrument signed by the Parties.

13.9 Independence of the Parties with respect of each other

Each of the Parties is and shall remain independent parties. Neither Party nor any of their respective affiliates shall have the authority to enter into any contract or any obligation for, or make any warranty or representation on behalf of the other.

13.10 Expenses

Each of the Parties shall bear the fees and expenses of their respective counsels, accountants and experts and all other costs and expenses as may be incurred by them incidental to the negotiation, preparation, execution and delivery of this Agreement.

13.11 Surviving Provisions

13.11.1 The provisions of this Agreement, which are intended to survive the term of this Agreement by their very nature, shall survive the termination of this Agreement.

13.11.2 Notwithstanding the generality of the above, Clauses 8, 9 and 12 shall survive the termination/expiration of this Agreement.

13.12 Assignment

This Agreement shall not be assigned by either Party without obtaining a prior written consent from the other.



IN WITNESS WHEREOF the parties have each executed this Agreement by its duly authorized officer as of the day and year first above written.

**SIGNED AND DELIVERED FOR AND ON BEHALF OF THE PRESIDENT OF INDIA  
ACTING THROUGH (NAME & DESIGNATION) ITE&C Department -  
Andhra Pradesh**

Title: ITE&C Department, Andhra Pradesh

Designation: Secretary

Signature: \_\_\_\_\_

SIGNED AND DELIVERED FOR AND ON BEHALF OF

\_\_\_\_\_

Title: \_\_\_\_\_

Designation: \_\_\_\_\_

Signature: \_\_\_\_\_

**WITNESSES:**

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Signature: \_\_\_\_\_

**SCHEDULE I**  
**(Aadhaar Authentication Services – operation metrics and conditions)**

1. The system designed by UIDAI for providing authentication services shall be available across multiple data centres. Other than planned outage the system is expected to run at 98% uptime which translates to about 3 hours of unexpected down time in a week.
2. The CIDR response time is expected to be between 1 to 3 seconds.
3. In order to ensure that the authentication service is friendly to the resident Aadhaar holder it is important that the authentication user agency and sub authentication user agency provide an efficient application to maintain end use latency under 5 seconds. AUAs/Sub-AUAs should consider round trip network latency from their devices to UIDAI data center and back while planning service roll out on the field. Depending on the choice of network and bandwidth, on the field performance may vary. It is important that for a good resident experience, AUAs/Sub-AUAs should try to keep the full round trip service time to be less than 8-10 seconds on an average.
4. In situations where OTP is being used as a factor for authentication, the delivery of the OTP to the Aadhaar number holder depends on SMS/Email delivery which is not in the control of UIDAI as these services are provided by external service providers. It is expected that OTP will be delivered within a reasonable time. AUAs/Sub-AUAs are encouraged to use OTP API to ensure reliability of inbound OTP request. OTP validity is specified within the message to make it easier and is currently kept at 30 min.

**SCHEDULE- II**

**Purposes for which Aadhaar Authentication Services shall be used by the  
Authentication User Agency**

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## **ANNEXURE 1**

### **e-KYC Agreement**

(Annexure to UIDAI - AUA agreement)

#### **1. Terms and Conditions**

- i. Aadhaar e-KYC is an Aadhaar Enabled Service offered by the UIDAI through the Authentication Service Agencies to Authentication User Agencies.
- ii. Aadhaar e-KYC service is offered free of charge till a pricing policy decision is announced by UIDAI.
- iii. UIDAI hereby grants the Authentication User Agency a non-exclusive and revocable right to use the Aadhaar e-KYC service to provide services to Aadhaar Holders. The Authentication User Agency understands that the Aadhaar e-KYC Service shall be provided at the sole discretion of UIDAI, which reserves the right to add, revise, suspend in whole, or in part any of the Aadhaar e-KYC Service, at any time with prior notice, in its sole discretion, for any reason whatsoever. All the obligations of the Authentication User Agency under this agreement shall be equally applicable to the sub-AUAs.
- iv. The Authentication User Agency hereby unequivocally agrees that all backend infrastructure, such as servers, databases etc., required specifically for the purpose of Aadhaar e-KYC shall be based in the territory of India.
- v. It is hereby clearly understood by the Parties that UIDAI shall have no responsibility or liability in relation to failures that may take place during the Aadhaar e-KYC process.

#### **2. Obligations of UIDAI**

UIDAI shall:

- i. Provide e-KYC data to the Authentication User Agency through the Authentication Service Agency upon authorization of the e-KYC request by an Aadhaar Holder, in the form of successful biometric or OTP-based Aadhaar authentication;
- ii. Provide the e-KYC data in a manner conformant to the standards and processes described in the Demographic Data Standards and Verification Procedure (DDSV) Committee Report;

- iii. Provide e-KYC data conforming to Section 3 (Authentication of electronic Records), Section 4 (Legal recognition of electronic records), Section 5 (Legal recognition of digital signatures) and Section 6 (Use of electronic records and digital signatures in Government and its agencies) of the Information Technology Act, 2000;
- iv. Determine and prescribe Standards and specifications for transmission of Aadhaar Identity Data for the purposes of Aadhaar e-KYC services;
- v. Determine and prescribe standards to ensure the confidentiality, privacy and security of e-KYC data;

### **3. Obligations of Authentication User Agency**

- i. The Authentication User Agency shall maintain logs of all e-KYC transactions processed by it, capturing the complete details of the e-KYC transaction, such as the Aadhaar number against which e-KYC is sought, transaction code, authentication type, requesting AUA, requesting authentication device, date and timestamp, etc. as prescribed by UIDAI from time to time. The Authentication User Agency understands and agrees that the logs maintained by it shall be shared with any individual or entity only on a need-basis, and that the storage of the logs maintained by it shall comply with all the relevant laws, rules and regulations, including, but not limited to, the Information Technology Act, 2000 and the Evidence Act, 1872.
- ii. The e-KYC data resulting from an e-KYC request contains PID data for the purposes of service delivery. The storage of e-KYC data shall comply at all times with all the relevant laws, rules and regulations, including, but not limited to, the Information Technology Act, 2000 and the Evidence Act, 1872.
- iii. The e-KYC data shall not be used by the AUA for purposes other than that for which the resident has explicitly given his/her consent.
- iv. The AUA shall not share the e-KYC data with any other agency for whatsoever purposes.
- v. The AUA shall be responsible for obtaining the explicit consent (biometric or OTP based) of the resident for authorizing UIDAI to transfer his/her e-KYC details to the designated service provider.
- vi. The AUA shall maintain records of obtaining the consent of the resident for a time period specified by UIDAI and allow access to UIDAI or any entity authorized by it to the related records.