

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MoU) is made on this ____ day of _____ in the year 2009 between Centre of Development of Advanced Computing, a Scientific Society under Ministry of Communications and Information Technology, Govt. of India, having its office at Anusandhan Bhawan, C-56/1, Sector – 62, Institutional Area, Noida – 201307, with Headquarters at Ganesh Khind, Pune University Campus, Pune-411007 (hereinafter referred to as C-DAC, Noida), on the one part.

AND,

hereinafter referred to as “Teaming Partner” (which expression shall, unless repugnant to the context or meaning thereof, include its successors and assigns).

WHEREAS C-DAC, NOIDA has developed various software solutions in Hospital Management Information Systems/ Natural Language Processing/the area of e-Governance for decision making / Embedded systems for RFID solutions /proliferation of BoSS Linux and have installed with various customers successfully and is now looking for teaming partners with the aim of providing quick response to customers need of software implementation and other support services.

AND WHEREAS the Teaming Partner, _____

In this connection, the following points are agreed upon:

1. Objective

The overall objective of the MoU is **to proliferate Hospital Management Information System// Natural Language Processing/the area of e-Governance for decision making / Embedded systems for RFID solutions /proliferation of BoSS Linux** developed by C-DAC, NOIDA and to provide hand-holding and other support needed by the customers for setting up and operationalising the package at the user premises on continuous basis.

2. Scope, Role & Responsibilities

- 2.1 Teaming Partner shall liaison with C-DAC, NOIDA and the customers for determining the user needs, the existing gaps for providing this, and suggest a strategy by which these gaps could be addressed by them. The teaming partner understands that the geographical proximity to the customer site and the acceptance of the Teaming Partner to the customer are necessary conditions for providing the intended service.
- 2.2 C-DAC, NOIDA to extend the Teaming Partner all technical, marketing and logistical support needed for the above interaction.
- 2.3 Teaming Partner shall provide extensive training to all level of users.

- 2.4 The Teaming Partner shall explore the areas and/or sectors for further development.
- 2.5 In case of a new order, C-DAC, NOIDA shall negotiate with the customer for obtaining the order.
- 2.6 Concurrent with realizing an order, C-DAC, NOIDA to enter into an agreement, with the Teaming Partner wherein the Techno-Commercial conditions of the partnership for executing the order shall be elaborated in detail. In case of existing orders with C-DAC, such a written agreement shall be arrived at based on mutual discussions.
- 2.7 The broad responsibility of each party related to Hospital Management Information System/ Natural Language Processing/e-Governance/Embedded/BoSS Linux is indicated in the table below:

S. No.	Activity	Prime Responsibility
1.	Interacting with various agencies for implementation of new projects	Teaming Partner / C-DAC
2.	Negotiation with authorities for obtaining final order on C-DAC	C-DAC
3.	Supply of Hardware and Sub Systems required for running of the system	Teaming Partner
4.	Site preparation including civil works, network and electrical cabling	Teaming Partner
5.	Training to Teaming Partner for system installation and tuning	C-DAC
6.	System installation and tuning at customer site	Teaming Partner
7.	Acceptance test to the satisfaction of the user	Teaming Partner
8.	Evolving a detailed methodology for installation, user trials, acceptance trials and operational trials and subsequent maintenance	C-DAC
9.	User Training	Teaming Partner
10.	Quality management and configuration control	C-DAC
11.	Warranty support to the customer	Teaming Partner

3. Joint Responsibilities

Both parties agree to **support** each other by providing facilities such as communication and logistics support, necessary for the successful implementation of the system at respective sites as per the scope of the written agreement as in Clause 2.6 above.

4. Training Support

- 4.1 C-DAC, NOIDA shall provide support needed for imparting the necessary training to the Teaming Partner. Training provided shall consist of operational and/or exploitation training and maintenance training. The operational and/or exploitation training shall cover General configuration, hardware and software, data storage and concepts of troubleshooting. The maintenance training shall consist of structure and functions of the system, the data processing, hardware and software configurations, software structure and functions.

- 4.2 Training shall be arranged at the ITCC premises at CDAC Noida, B-30, Institutional Area, Sector-62, Noida, UP-201307 of the C-DAC. The Teaming Partner should join ITCC to enable this. The personnel deputed by the Teaming Partner should have sufficient expertise to understand the material presented. The training will be of such duration as to enable these personnel to comprehensively grasp the techniques and issues involved.
- 4.3 A detailed training plan including the number of persons trained, number of days for each training course shall be submitted by Teaming Partner during the negotiation phase itself and the same shall be finalized and mutually agreed upon between C-DAC, NOIDA and Teaming Partner after discussions and will form part of the agreement indicated in 2.6.

5. Installation and Acceptance Tests

Coordination, guidance and supervision of the installation of the system at site shall be the responsibility of Teaming Partner in accordance with the written agreement as per clause 2.6. C-DAC, NOIDA will provide logistic support towards this.

6. Warranty Support

- 6.1 Teaming Partner shall give warranty support for the mutually agreed IT Systems being installed. The responsibility of Teaming partner in this regard, consists of supply of all items deemed necessary towards this at the time of system installation and also replacement of components that fail during the warranty period, on need basis. **The personnel deputed by the Teaming Partner should be prepared to travel to concerned authorities and attend to problems.**
- 6.2 In case the Teaming Partner is unable to rectify the problem, C-DAC, NOIDA will be attending to the reported failures and try to rectify the same within a reasonable period of time. The cost towards this shall be indicated in the agreement as per 2.6 and the same would be recoverable from the Teaming Partner.

7. Travel Arrangements

It is envisaged that a few meetings of technical and administrative nature will be required to be conducted during the tenure of the association. The duration and team composition of these meetings will be mutually agreed between C-DAC, NOIDA and Teaming partner. The cost towards these visits will be borne by the party under whose request the visit is made. The cost will include the travel expenses, local transportation, and accommodation and subsistence allowance at agreed rates.

8. Intellectual Property Rights

The IPR of the Software, Hardware, or SYSTEM individually developed by C-DAC, NOIDA under this MoU shall vest with C-DAC, Noida.

The IPR of the Software, Hardware, or SYSTEM jointly developed by the parties, if any, shall be held jointly by the parties.

Teaming Partner and/or C-DAC, NOIDA shall ensure that there are no infringements on the IPR of either parties or of third parties.

Both parties agree that any information of strategic or innovative nature generated out of this MoU shall not be transferred to third parties without prior written permission from the other party.

- 9 The parties agree that, in the performance of this MoU, they are and shall remain independent contractors. This MoU shall not create and shall not be deemed to have created a joint venture, a partnership, a principal-agent relationship or any other business organisation or entity. Nothing herein shall be construed to constitute either party as the agent of the other party for any purpose whatsoever, and neither party shall bind or attempt to bind the other party to any contract or the performance of any obligation, or represent to any third party that it has any right to enter into any binding obligation on the other party's behalf. Each Party shall execute its obligations or duties hereunder at its own expense without recourse to the other Party.

10. Confidential Information and Confidential Materials

- 10.1 A party disclosing information shall be called a "Disclosing Party" and the party receiving information shall be called a "Receiving Party". "Confidential Information" means information that Disclosing Party designates as being confidential or which under the prevailing circumstances surrounding disclosure ought to be treated as confidential. "Confidential Information" includes, without limitation, information relating to released or unreleased Disclosing Party's services or products, the marketing or promotion of any Disclosing Party Product, Disclosing Party's business policy Confidential Information or practices, and information received from others that Disclosing Party is obligated to treat as confidential or in respect of the Internet Payment Gateway. Confidential Information disclosed to Receiving Party by any parent or agent of Disclosing Party, or by any subsidiary of parent of Disclosing Party, is covered by this MoU.
- 10.2 Confidential Information shall not include any information that: (i) is or subsequently becomes publicly available without Receiving Party's breach of any obligation owed to Disclosing Party; (ii) became known to Receiving Party prior to Disclosing Party's disclosure of such information to Receiving Party; (iii) became known to Receiving Party from a source other than the breach of an obligation of confidentiality owed to Disclosing Party; (iv) is independently developed by Receiving Party.
- 10.3 "Confidential Materials" shall mean all tangible materials containing Confidential Information, including without limitation, written or printed documents and computer disks or tapes, whether machine or user readable.

11. Restrictions

- 11.1 Except as provided below, Receiving Party shall not disclose any Confidential Information to third parties. However, Receiving Party may disclose Confidential Information in accordance with judicial or other governmental order, provided Receiving Party shall give Disclosing Party reasonable notice prior to such disclosure and shall comply with any applicable protective order or equivalent.
- 11.2 Receiving Party shall take all reasonable precautions, similar to the precautions it takes to protect its own confidential information. However, the receiving Party may disclose Confidential Information or Confidential Material only to Receiving Party's employees or consultants on a need-to-know basis. Receiving Party shall have executed or shall execute appropriate written agreements with its employees and consultants sufficient to enable it to comply with all the provisions of this MoU.
- 11.3 Confidential Information and Confidential Materials may be disclosed, reproduced, summarized or distributed only in pursuance of Receiving Party's business relationship with Disclosing Party, and only as otherwise provided hereunder. Receiving Party agrees to segregate all such confidential materials from the confidential materials of others in order to prevent commingling.

11.4 Receiving Party shall not reverse engineer, decompile or disassemble any software disclosed to Receiving Party.

12. Rights and Remedies

12.1 Receiving Party shall notify Disclosing Party immediately upon discovery of any unauthorized use or disclosure of Confidential Information and/or Confidential materials, or any other breach of this MoU by Receiving Party, and will cooperate with Disclosing Party in every reasonable way to help Disclosing Party regain possession of the Confidential Information and/or Confidential Materials and prevent its further unauthorized use.

12.2 Receiving Party shall return all originals, copies, reproductions and summaries of Confidential Information or Confidential Materials at Disclosing Party's request, or at Disclosing Party's option, certify destruction of the same.

12.3 Receiving Party acknowledges that monetary damages may not be a sufficient remedy for unauthorized disclosure of Confidential Information or Confidential Materials and that Disclosing Party shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction.

12.4 Disclosing Party may visit Receiving Party's premises, with reasonable prior notice and during normal business hours, to review Receiving Party's compliance with the terms of this MoU.

13. Arbitration

All disputes or differences whatsoever arising between the parties out of or relating to the meaning and operation or effect of this MoU or the breach thereof or any dispute shall be settled mutually by The Executive Director, C-DAC, Noida and the Chief Executive Officer of the teaming Organization. In case it is not settled, the dispute shall be referred to the Director General, C-DAC whose decision shall be final and binding on both the parties.

14. Termination

Either party can terminate this MoU by giving three months written notice. Termination shall be effective subject to honoring of all financial, technical, administrative, marketing, execution commitments, which are not completely fulfilled as on the date of receipt of notice of termination.

15. Validity

This MoU will be valid for twelve months from the date of signing this MoU. It will automatically expire on _____ unless renewed for a further period by C-DAC. This MoU can be amended with mutual agreement between C-DAC, Noida and teaming partner, in writing only. If any clause/part of this MoU is declared/discovered to be illegal, remaining part/clauses will be effective and binding.

IN WITNESS WHEREOF, the parties hereto have caused this MoU to be executed as of the day and year first above written.

For and on behalf of C-DAC

For and on behalf of Teaming Partner

Witnesses:

1.

2.

Witnesses:

1.

2.