termination or expiry of the MSA as is reasonably necessary to migrate the services to the Purchaser or its nominated agency, or a Replacement Implementation Agency.

7.3 **In case of cloud services, IA shall procure the Purchaser or its nominated agency or its nominated agencies and any replacement Implementation Agency rights of access to cloud console providing visibility to the provisioned cloud services, configurations and utilizations.**

8 **GENERAL OBLIGATIONS OF THE IMPLEMENTATION AGENCY**

8.1 The Implementation Agency shall provide all such information as may reasonably be necessary to effect as seamless a handover as practicable in the circumstances to the Purchaser or its nominated agency or its Replacement Implementation Agency and which the Implementation Agency has in its possession or control at any time during the exit management period.

8.2 For the purposes of this Schedule, anything in the possession or control of any Implementation Agency, associated entity, or sub-contractor is deemed to be in the possession or control of the Implementation Agency.

8.3 The Implementation Agency shall commit adequate resources to comply with its obligations under this Exit Management Schedule.

8.4 **In case of cloud procurements, during the exit management period and where required, for 45 days post expiry of the contract, the Implementation Agency will not take action to remove any Customer Content as a result of the termination or expiry of contract. In addition, during such period, the Implementation Agency will permit the Purchaser or its nominated agency to access the cloud services for the Purchaser to retrieve any remaining Customer Content, delete and purge all Customer Content from the cloud services. The Implementation Agency shall also allow the Purchaser access to information to enable the Client to assess the existing services being delivered. The Implementation Agency shall take responsibility (or provide support to the Purchaser or its nominated agency, where required) in migration of the Customer Content to the new environment created and enable successful deployment and running of the applications /
websites on the new infrastructure. Any case of a material change in the shareholding pattern or change in control (CIC) or merger / acquisition etc. of the CSP must be communicated in writing to the Purchaser within 15 Days of such change. Material change is in this case is defined as a change in Shareholding structure of 10% or more in a single instance or cumulative over the period of the contract.

9 EXIT MANAGEMENT PLAN

9.1 The Implementation Agency shall provide the Purchaser or its nominated agency with a recommended exit management plan ("Exit Management Plan") which shall deal with at least the following aspects of exit management in relation to the MSA as a whole and in relation to the Project Implementation, and the Operation and Management SLA.

(i) A detailed program of the transfer process that could be used in conjunction with a Replacement Implementation Agency including details of the means to be used to ensure continuing provision of the services throughout the transfer process or until the cessation of the services and of the management structure to be used during the transfer;

(ii) plans for the communication with such of the Implementation Agency's sub-contractors, staff, suppliers, customers and any related third party as are necessary to avoid any material detrimental impact on the Purchaser's operations as a result of undertaking the transfer;

(iii) (if applicable) proposed arrangements for the segregation of the Implementation Agency's networks from the networks employed by Purchaser and identification of specific security tasks necessary at termination;

(iv) Plans for provision of contingent support to Purchaser, and Replacement Implementation Agency for a reasonable period after transfer.

9.2 The Implementation Agency shall re-draft the Exit Management Plan annually thereafter to ensure that it is kept relevant and up to date.

9.3 Each Exit Management Plan shall be presented by the Implementation Agency to and approved by the Purchaser or its nominated agencies.
9.4 The terms of payment as stated in the Terms of Payment Schedule include the costs of the Implementation Agency complying with its obligations under this Schedule.

9.5 In the event of termination or expiry of MSA and Project Implementation, each Party shall comply with the Exit Management Plan.

9.6 During the exit management period, the Implementation Agency shall use its best efforts to deliver the services.

9.7 Payments during the Exit Management period shall be made in accordance with the Terms of Payment Schedule.

9.8 This Exit Management plan shall be furnished in writing to the Purchaser or its nominated agencies within 90 days from the Effective Date of this Agreement.
SCHEDULE III - AUDIT, ACCESS AND REPORTING

1 PURPOSE
This Schedule details the audit, access and reporting rights and obligations of the Purchaser or its nominated agency and the Implementation Agency.

2 AUDIT NOTICE AND TIMING

2.1 As soon as reasonably practicable after the Effective Date, the Parties shall use their best endeavours to agree to a timetable for routine audits during the Project Implementation Phase and the Operation and Management Phase. Such timetable during the Implementation Phase, the Purchaser or its nominated agency and thereafter during the operation Phase, the Purchaser or its nominated agency shall conduct routine audits in accordance with such agreed timetable and shall not be required to give the Implementation Agency any further notice of carrying out such audits.

2.2 The Purchaser or its nominated agency may conduct non-timetabled audits at his/her own discretion if it reasonably believes that such non-timetabled audits are necessary as a result of an act of fraud by the Implementation Agency, a security violation, or breach of confidentiality obligations by the Implementation Agency, provided that the requirement for such an audit is notified in writing to the Implementation Agency a reasonable period time prior to the audit (taking into account the circumstances giving rise to the reasonable belief) stating in a reasonable level of detail the reasons for the requirement and the alleged facts on which the requirement is based. If the Implementation Agency considers that the non-timetabled audit was not appropriate, the matter shall be referred to the escalation procedure as set out in the Governance Schedule.

2.3 The frequency of audits shall be a (maximum) half yearly, provided always that the Purchaser or its nominated agency shall endeavour to conduct such audits with the lowest levels of inconvenience and disturbance practicable being caused to the Implementation Agency. Any such audit shall be conducted by with adequate notice of 2 weeks to the Implementation Agency.
2.4 Purchaser will ensure that any 3rd party agencies (except CAG) appointed to conduct the audit will not be the competitor of Implementation Agency and will be bound by confidentiality obligations.

3 ACCESS
The Implementation Agency shall provide to the Purchaser or its nominated agency reasonable access to employees, subcontractors, suppliers, agents and third party facilities as detailed in the RFP, documents, records and systems reasonably required for audit and shall provide all such persons with routine assistance in connection with the audits and inspections. The Chairperson, PIU / Steering Committee shall have the right to copy and retain copies of any relevant records. The Implementation Agency shall make every reasonable effort to co-operate with them.

4 AUDIT RIGHTS
4.1 The Purchaser or its nominated agency shall have the right to audit and inspect suppliers, agents and third party facilities (as detailed in the RFP), data centres, documents, records, procedures and systems relating to the provision of the services, but only to the extent that they relate to the provision of the services, as shall be reasonably necessary to verify:

(i) The security, integrity and availability of all data processed, held or conveyed by the Partner on behalf of Purchaser and documentation related thereto;
(ii) That the actual level of performance of the services is the same as specified in the SLA;
(iii) That the Implementation Agency has complied with the relevant technical standards, and has adequate internal controls in place; and
(iv) The compliance of the Implementation Agency with any other obligation under the MSA and SLA.
(v) Security audit and implementation audit of the system shall be done once each year, the cost of which shall be borne by the Implementation Agency.
(vi) For the avoidance of doubt the audit rights under this Schedule shall not include access to the Implementation Agency’s profit margins or overheads, any confidential information relating to the Implementation Agency’ employees, or (iii) minutes of its internal Board or Board committee meetings including internal
audit, or (iv) such other information of commercial-in-confidence nature which are not relevant to the Services associated with any obligation under the MSA.

(vii) Implementation Agency must provide access to the cloud management console to the Purchaser or the auditor to be able to review all of the provisioned resources (e.g., cloud services, network & security controls, utilizations) and view the configuration of each; Logs of all user activity within an account and any other logs (e.g., n/w traffic, account activity, resource inventory, configuration history, and configuration change..) that are captured by the Agency and required for the audit.

5 AUDIT RIGHTS OF SUB-CONTRACTORS, SUPPLIERS AND AGENTS

5.1 The Implementation Agency shall use reasonable endeavours to achieve the same audit and access provisions as defined in this Schedule with sub-contractors who supply labour, services in respect of the services. The Implementation Agency shall inform the Purchaser or its nominated agency prior to concluding any sub-contract or supply agreement of any failure to achieve the same rights of audit or access.

5.2 REPORTING: The Implementation Agency will provide quarterly reports to the Chairperson, PIU / Steering committee regarding any specific aspects of the Project and in context of the audit and access information as required by the Purchaser or its nominated agency.

6 ACTION AND REVIEW

6.1 Any change or amendment to the systems and procedures of the Implementation Agency, or subcontractors, where applicable arising from the audit report shall be agreed within thirty (30) calendar days from the submission of the said report.

6.2 Any discrepancies identified by any audit pursuant to this Schedule shall be immediately notified to the Purchaser or its nominated agency and the Implementation Agency Project Manager who shall determine what action should be taken in respect of such discrepancies in accordance with the terms of the MSA.

7 TERMS OF PAYMENT

The Purchaser shall bear the cost of any audits and inspections. The terms of payment are exclusive of any costs of the Implementation Agency and the sub-contractor, for all reasonable
assistance and information provided under the MSA, the Project Implementation, Operation and Management SLA by the Implementation Agency pursuant to this Schedule.

8 RECORDS AND INFORMATION

For the purposes of audit in accordance with this Schedule, the Implementation Agency shall maintain true and accurate records in connection with the provision of the services and the Implementation Agency shall handover all the relevant records and documents upon the termination or expiry of the MSA.

SCHEDULE IV - GOVERNANCE SCHEDULE

1. PURPOSE

The purpose of this Schedule is to:

(i) establish and maintain the formal and informal processes for managing the relationship between the Purchaser and the Implementation Agency (including the outputs from other Schedules to this Agreement);
(ii) define the principles that both Parties wish to follow to ensure the delivery of the Services;
(iii) ensure the continued alignment of the interests of the Parties;
(iv) ensure that the relationship is maintained at the correct level within each Party;
(v) create the flexibility to revise and maintain the relationship and this Agreement during the Term;
(vi) set out the procedure for escalating disagreements; and
(vii) Enable contract administration and performance management.

2. GOVERNANCE STRUCTURE

1. Project Managers: The relationship under this Agreement will be managed by the Project Managers appointed by each Party, who will provide the interface between the executive management of the respective Parties.

2. Project Implementation Unit (PIU): Within 7 days following the Effective Date, Purchaser or its nominated agencies and the Implementation Agency shall each appoint a Project Manager. In the event that either Party wishes to substitute its Project Manager it will do so in manner in which the original appointment is made.
and notify the other Party of such substitution as soon as reasonably practicable but at the latest within 7 days of the substitution.

3. The Project Managers shall have responsibility for maintaining the interface and communication between the Parties.

4. The PIU will meet formally on a fortnightly / monthly / quarterly, as required, basis at a time and location to be agreed between them. These meetings will cover, as a minimum, the following agenda items: (i) consideration of Quarterly Performance Reports; (ii) consideration of matters arising out of the Change Control Schedule; (iii) issues escalated in accordance with the escalation procedure as set out in the Governance Schedule; (iv) matters to be brought before the PIU in accordance with the MSA and the Schedules; (v) any matter brought before the PIU by the Implementation Agency under this Article; and (vi) any other issue which either Party wishes to add to the agenda.

5. In the event that there is any material factor which affects the delivery of the Services or the terms of payment as stated in the Terms of Payment Schedule, the Parties agree to discuss in the PIU any appropriate amendment to the Agreement or any Service Level Agreements or Statement of Works including any variation to the terms of payment as stated in the Terms of Payment Schedule. Any variation so agreed shall be implemented through the change control procedure as set out in the Change Control Schedule.

6. **Empowered Committee for Dispute Resolution:**

There shall be an Empowered Committee notified by the Government of Maharashtra, with representatives from Service Provider and other State Government Departments as desired by the department procuring the services as per this agreement for dispute resolution purpose as per point no 25 GOVERNING LAW AND DISPUTE RESOLUTION of this agreement.

3. **GOVERNANCE PROCEDURES**

3.1 The Implementation Agency shall document the agreed structures in a procedures manual.
3.2 The agenda for each meeting of the PIU shall be set to reflect the discussion items referred to above and extraordinary items may be added either with the agreement of the Parties or at the request of either Party. Copies of the agenda for meetings of the PIU, along with relevant pre-reading material, shall be distributed at least one week in advance of the relevant meeting.

3.3 All meetings and proceedings will be documented such documents to be distributed to the Parties and copies shall be kept as a record. All actions, responsibilities and accountabilities arising out of any meeting shall be tracked and managed.

3.4 The Parties shall ensure as far as reasonably practicable that the PIU shall resolve the issues and resolve the objectives placed before them and that members representing that Party are empowered to make relevant decisions or have easy access to empowered individuals for decisions to be made to achieve this.

3.5 In order formally to submit a Disputed Matter to the aforesaid, one Party ("Claimant") shall give a written notice ("Dispute Notice") to the other Party. The Dispute Notice shall be accompanied by (a) a statement by the Claimant describing the Disputed Matter in reasonable detail and (b) documentation, if any, supporting the Claimant's position on the Disputed Matter.

3.6 The other Party ("Respondent") shall have the right to respond to the Dispute Notice within 7 days after receipt of the Dispute Notice. In the event that the parties are unable to resolve the Disputed Matter within a further period of 7 days, it shall refer the Disputed Matter to the next level of the dispute resolution for action as per the process mentioned in article 9.1

3.7 All negotiations, statements and / or documentation pursuant to these Articles shall be without prejudice and confidential (unless mutually agreed otherwise).

3.8 If the Disputed Matter is having a material effect on the operation of the Services (or any of them or part of them) the Parties will use all their respective reasonable endeavours to reduce the elapsed time in reaching a resolution of the Disputed Matter.
### SCHEDULE V - TERMS OF PAYMENT SCHEDULE

The following schedule would be followed for payment during the Project implementation:

<table>
<thead>
<tr>
<th>S. No</th>
<th>Key Activities/ Milestones</th>
<th>Deliverables</th>
<th>Payment (%)</th>
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<tbody>
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**Key note:**

*This Schedule should also specify precisely what compensation is payable if it is terminated early.*

*The amount of compensation payable will depend on the reason for termination. Early termination can be caused by Purchaser Default or Vendor Default.*
27. **ANNEXURE**

**ANNEXURE A – FORMAT FOR CHANGE CONTROL NOTICE**

<table>
<thead>
<tr>
<th>Change Control Note</th>
<th>CCN Number:</th>
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<tbody>
<tr>
<td><strong>Part A: Initiation</strong></td>
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<td>Title:</td>
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<td>Originator:</td>
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<td>Sponsor:</td>
<td></td>
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<td>Date of Initiation:</td>
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<tr>
<td><strong>Details of Proposed Change</strong></td>
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<td>(To include reason for change and appropriate details/specifications. Identify any attachments as A1, A2, and A3 etc.)</td>
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<td>Authorised by Purchaser Date:</td>
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<td>Name:</td>
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<td>Signature: Date:</td>
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<td>Received by the IA</td>
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<td>Name:</td>
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<td>Signature:</td>
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<tr>
<th>Change Control Note</th>
<th>CCN Number:</th>
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<tr>
<td><strong>Part B: Evaluation</strong></td>
<td></td>
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<tr>
<td>(Identify any attachments as B1, B2, and B3 etc.)</td>
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<tr>
<td>Changes to Services, charging structure, payment profile, documentation, training, service levels and component working arrangements and any other contractual issue.</td>
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<td><strong>Brief Description of Solution:</strong></td>
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### Impact:

<table>
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<th>Deliverables:</th>
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### Timetable:

### Charges for Implementation:
(including a schedule of payments)

### Other Relevant Information:
(including value-added and acceptance criteria)

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<tr>
<th>Authorised by the Implementation Agency</th>
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<th>Change Control Note</th>
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### Part C: Authority to Proceed

Implementation of this CCN as submitted in Part A, in accordance with Part B is: (tick as appropriate)

<table>
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<th>Approved</th>
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### Rejected

**Requires Further Information** (as follows, or as Attachment 1 etc.)

<table>
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<tr>
<th>For Purchaser and its nominated agencies</th>
<th>For the Implementation Agency</th>
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### ANNEXURE B - LIST OF SERVICES PROVIDED BY THE IMPLEMENTATION AGENCY

Various services to be offered by the Implementation Agency will consist of:

i.  
ii.  
iii.  
iv.  
v.

**Note:**

Purchaser will sign the end user license agreement for the software brought from any 3\text{rd} party for the purpose of this Project however Implementation Agency shall be solely responsible to make payment for the cost of software to such third party software vendor.
ANNEXURE C – REQUIRED DELIVERABLE AND ASSOCIATED TIMELINES

<table>
<thead>
<tr>
<th>Deliverable</th>
<th>Description of deliverable</th>
<th>Timelines (from signing of contract)</th>
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<td>Project Initiation &amp; Solution Design</td>
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ANNEXURE D - BID

1. TECHNICAL BID RESPONSE – EXTRACTED AS APPENDIX – A
2. FINANCIAL BID RESPONSE:
   2a. Summary of Cost Components
### Contract Agreement for Model RFP Templates for Implementation Agencies

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Item</th>
<th>Total Price</th>
<th>Taxes (wherever applicable)</th>
<th>Total cost (total price + taxes)</th>
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| 8.     |      |             |                             |                                 |

**Total Cost**

**Total cost in figures:**

#### 2b. Summary of Man-month rates

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<th>S. No.</th>
<th>Category of manpower</th>
<th>Man month rates</th>
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#### 3. Details of Cost Component

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<th>S. No.</th>
<th>Category</th>
<th>Component</th>
<th>No of Components / Units of Service (X)</th>
<th>Rate (per unit) (Y)</th>
<th>Total Cost ( = X*Y)</th>
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<td>Rate (per unit) (Y)</td>
<td>Total Cost (X*Y)</td>
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ANNEXURE F – ROLES AND RESPONSIBILITIES OF THE PARTIES

Roles and Responsibilities of Implementation Agency (Indicative only, needs to be customized)

1. Preparation of Detailed Project Plan in line with the overall plan provided in the RFP. The same should be prepared in consultation with Purchaser.

2. Procure, develop, install, commission, operate and maintain:
   a. Requisite hardware & system software at Purchaser’s HQ, Data Centre and other locations as per the requirements mentioned in this RFP
   b. Networking equipment, connectivity and LAN as per the requirements mentioned in this RFP,
   c. Meet the defined SLAs for the performance of the system.

3. Addressing technology obsolescence by appropriate up gradation, replacement and / or replenishment of systems deployed at various locations (data centre, HQ and other locations).

4. Insure the entire hardware against the infrastructure deployed at various locations for the entire duration of the contract against vandalism, theft, and fire and lightening.

5. Keep all system software i.e. OS, antivirus, office applications etc., for Servers, PCs etc. at Data Centre and various locations, up to date by installing regular upgrades / patches.

6. Rectification of system software problems due to crashing or malfunctioning of the OS, RDBMS or front end within the time limits to meet the SLAs as defined in RFP.

7. Develop / customize, deploy and maintain the requisite Software Solution as per the requirements of the Corporation at appropriate locations.

8. Ensure adequate security of hardware & software system from viruses, Trojan horses, spyware, worms, Denial of Service (Do’s) attack, fire, flood, power outage, natural disaster, manmade disaster etc.
9. Provide necessary support for the resolution of bugs, patches & upgrades of the software solution.
10. Provide necessary manpower for managing the Change Requests.
11. Design various manuals like User manual, Trouble Shooting manual etc. for the system.
12. Submit the source code of any bespoke software development to the purchaser.
13. Provide computer basic skills training and advanced training on application modules to the staff members and stakeholders of the Corporation.
14. Maintain the business continuity, as per agreed business continuity plan.
15. Deploy requisite manpower and infrastructure for the digitization of the existing data.
16. Deploy the required manpower to manage the operations.
17. Ensuring the SLAs for downtime of system, software development / customization, procurement and delivery of hardware & networking equipment, errors in data entry as defined in RFP Volume 1 are met.
18. Management and quality control of all services and infrastructure.
19. Any other services which is required for the successful execution of the project.
20. Regular Backup as per the schedule and Disaster Recovery.
21. Generation of MIS reports as per the requirements of Purchaser.
22. Generation of the report for the monitoring of SLAs.
23. Meet the defined Technical Specifications for the IT Infrastructure including Hardware and networking equipment keeping in mind the application and future requirements of the Corporation.

Roles and Responsibilities of Purchaser (Indicative only, needs to be customized)
1. Provide adequate space at the Purchaser’s HQ for setting up of infrastructure, software development and other activities to be carried out by the Bidder.
2. Coordination between all the divisions for providing necessary information for the study and development / customization of the necessary solution.
3. Co-ordination with other Government agencies to assist the selected bidder in execution of the project.
5. Provide the data available in the form of physical files or existing databases to the selected bidder for digitization purposes.

6. Deployment of staff members of the Corporation for verification of the digitized data within the defined timelines.

7. Ensure that Data Backups are being taken regularly by bidder as per the schedule agreed upon.

8. Ensure that the hardware and other infrastructure deployed at HQ, DC etc. meets the specifications as mentioned in RFP and is maintained properly to meet the SLAs as defined in RFP.

9. Monitoring of overall timelines, SLAs and calculation of penalties accordingly.

10. Conducting User Acceptance Test (UAT) for the application solution deployed.

11. Issuing the Acceptance Certificate on successful deployment of the software application, hardware deployed, digitized data and for other components of the Scope of Work (wherever required).

12. Any other requirements that could arise during operations for effective governance and to meet any administrative requirement.

13. To create internal capacity now for execution of the project after takeover from the bidder.

14. Ensuring the staff members and other stakeholders attend the training programs as per the schedule defined by the bidder and agreed upon by Purchaser.

15. Provide sign off on the deliverables of the project including SRS, design documents etc.

**ANNEXURE G – Cloud GR Reference**

GR-1 Cloud First Policy

Cloud Computing Policy-
Instructions to Departments regarding hosting of IT applications
Government of Maharashtra
Directorate of Information Technology
Government Circular No. मातंसं-060/3/2017
Hutatma Rajguru Chowk, Madam Cama Road,
Mantralaya, Mumbai – 400 032
Dated – 29th January 2018

Introduction
Considering the growing adoption of online services by citizens of the State & use of IT within Government, there is a constantly increasing demand from Departments for infrastructure for hosting services including disaster recovery and backup for their various IT applications. Para 7.13 of the State’s E-governance policy (DIT GR dated 23.09.2011), “The State shall explore the option of cloud computing as a preferred way for implementing all e-Governance projects in the State.” The Government had set up a Committee headed by Principal Secretary IT to prepare the Cloud Computing Policy of the State. The said policy has been approved by the Government on 17.1.2018. It is proposed to communicate the salient features of the State’s Cloud Computing Policy to all Departments and issue operational instructions regarding the steps to be followed by Departments.

The following instructions are issued in supersession of all earlier instructions issued in this regard.

Government Resolution
1. The following instructions will apply to all Government Departments, sub-ordinate offices, Public Sector Undertakings, Urban and Rural Local Bodies & any body/organization set up under any law of the State Government (henceforth collectively referred to as “Government organizations”)
2. All Government organizations must use cloud infrastructure services instead of using Government owned datacentres or data centres owned by the organization or co-locating their infrastructure in any Government owned/ privately owned data centre. Procurement of new hardware in existing data centres should be strictly avoided. In case of situations of failure of components of existing systems necessitating replacement, concurrence of DIT should be taken.
3. In case of existing applications not hosted in a cloud environment, Government organizations must ensure that the applications are migrated to cloud on or before 30.10.2018. All Departments must review their existing software applications and ensure that the applications are cloud ready in time for the above migration.

Government Circular No.: मातंसं-060/3/2017

Page 2 of 3

4. DIT will empanel cloud service providers from whom Departments can avail of cloud services before 30.04.2018. Departments will be free to avail of the services from any of the empanelled cloud service providers as per the rates to be notified by DIT.
5. Options of private cloud, public cloud and hybrid cloud will be made available to the Departments. In each of these options, the facilities of Infrastructure-as-a-Service (IaaS), Platform-as-a-service (PaaS), Software-as-a-Service(SaaS) will be made available for Departments to choose from as per their requirements.

6. DIT will issue guidelines regarding a Cloud Assessment Framework that should be used by Departments for choosing the cloud service that would be suitable for the Department. While doing so, the Department should consider the following,
   a) Nature of demand, average and peak loads, elasticity and cyclical nature of demand
   b) Legacy Application Architecture including Database and platforms used by the department
   c) Nature and sensitivity of the data (in terms of data privacy, confidentiality, data concerning State & National security and requirements under the Right to Information Act) being handled by the application.

7. To ensure that Departments get a hands-on experience, the Departments will be provided an option of free trial for a limited period before issue of formal work order.

8. The billing for cloud services will be based on actual consumption of services (Pay-As-You-Go model) with minimal or zero capital (one-time) cost. The expenditure on the same should be done by the Department from their budgetary resources. It is clarified that DIT will not bear the expenditure for availing cloud services.

9. During the empanelment process, DIT will ensure that safeguards regarding data security, data sovereignty, portability and interoperability & compliance with information security standards regarding cloud computing are complied with. DIT will issue necessary operational guidelines and sample templates for entering into agreements with the empanelled cloud service providers. DIT will also ensure that third party audit of empanelled Cloud service providers (CSP) is carried out at least once a year.

10. If Departments are issuing any RFP for a project which involves system integration, the Departments should ensure that the clauses of the RFP are in line with the cloud policy of the State & that hosting services should be engaged only from the cloud service providers empanelled by DIT.

Government Circular No.: मातंसं-060/3/2017
Page 3 of 3
This Government Circular of Maharashtra Government is available at the website www.maharashtra.gov.in. Reference no. for this is 201801291824268911. This order has been signed digitally.
By order and in the name of the Governor of Maharashtra.
(S.V.R. Srinivas)
Principal Secretary IT,
Government of Maharashtra.
COPY forwarded to:
1. Secretary to the Hon’ble Governor of Maharashtra,
2. Secretary to Hon’ble Chief Minister,
3. Personal Secretary to All Ministers/All Ministers of State,
4. Hon’ble Leader of Opposition, Legislative Assembly/ Legislative council, Maharashtra Vidhan Mandal Sachiwalaya, Mumbai,
5. All Hon’ble Members of Legislative Assembly/ Legislative council,
6. Personal Assistant to Chief Secretary,
7. Additional Chief Secretary/Principal Secretary/Secretary of All Departments,
8. Principal Secretary School Education Department, Mantralaya Mumbai,
9. Secretary, Women and Child Development Department, Mantralaya Mumbai,
10. Registrar, High Court (Original Side) Mumbai,
11. Registrar, High Court (Appellate Side) Mumbai,
12. Registrar, Lok Ayukta and Up Lok Ayukta, Maharashtra State Mumbai,
13. Secretary State Election Commission, Mumbai
14. Secretary, Maharashtra Public Service Commission Mumbai,
15. Principal Secretary, Maharashtra Vidhan Mandal Sachiwalaya Mumbai,
16. Chief Information Commissioner, State Information Commission, Mumbai,
17. Auditor, Accountant General (A & E), Maharashtra Mumbai,
18. Auditor, Accountant General (A & E), Maharashtra Nagpur,
19. Auditor, Accountant General (Audit), Maharashtra Mumbai,
20. Auditor, Accountant General (Audit), Maharashtra Nagpur,
21. Pay and Accounts Officer, Mumbai,
22. Residential Audit Officer, Mumbai,
23. Commissioners of All Municipal Corporations,
24. All Collectors,
25. All Chief Executive Officer, Zilla Parishad/ All Chief Officers,
26. Director General, Information and Public Relations, Mantralaya Mumbai,
27. Managing Director, Maharashtra IT Corporation Mumbai,
28. Chief Operating Officer Mahaonline Mumbai,
29. State Head, CSC-SPV, Mumbai,
30. Select File, DIT, General Administration Department, Mantralaya.

+NON-DISCLOSURE AGREEMENT

THIS AGREEMENT is made on the <***> day of <***> 20--- at <***>, Maharashtra, India.

BETWEEN

------------------------------------------------------------------------------------------------------------------ having its office at ----
------------------------------------------------------------------------------------------------------------------ Maharashtra, India hereinafter referred to as
‘Purchaser’ or ‘---------’, which expression shall, unless the context otherwise requires, include its permitted successors and assigns);

AND

<***>, a Company incorporated under the Companies Act, 1956, having its registered office at <***> (hereinafter referred to as ‘the Implementation Agency/IA’ which expression shall, unless the context otherwise requires, include its permitted successors and assigns).

Each of the parties mentioned above are collectively referred to as the ‘Parties’ and individually as a ‘Party’.

WHEREAS:

1. Purchaser is desirous to implement the project of --------------.
2. The Purchaser and Implementation Agency have entered into a Master Services Agreement dated <***> (the “MSA”) as well as a Service Level Agreement dated <***> (the “SLA”) in furtherance of the Project.
3. Whereas in pursuing the Project (the “Business Purpose”), a Party (“Disclosing Party”) recognizes that they will disclose certain Confidential Information (as defined hereinafter) to the other Party (“Receiving Party”).
4. Whereas such Confidential Information (as defined hereinafter) belongs to Receiving Party as the case may be and is being transferred to the Disclosing Party to be used only for the Business Purpose and hence there is a need to protect such information from unauthorized use and disclosure.

NOW THEREFORE, in consideration of the mutual covenants, promises, assurances, representations and provisions set forth herein, the Parties hereto agree as follows:

DEFINITIONS AND INTERPRETATION

1.1 Definitions
Terms and expressions used in this Agreement (including the Introduction) shall have the same meanings set out in Schedule I of MSA.

1.2 Interpretation

In this Agreement, unless otherwise specified:

(a) references to Clauses, Sub-Clauses, Paragraphs and Schedules are to clauses, sub clauses, paragraphs of and schedules to this Agreement;

(b) use of any gender includes the other genders;

(c) references to a ‘company’ shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established;

(d) references to a ‘person’ shall be construed so as to include any individual, firm, company, government, state or agency of a state, local or municipal authority or government body or any joint venture, association or partnership (whether or not having separate legal personality);

(e) a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted;

(f) any reference to a ‘day’ (including within the phrase ‘business day’) shall mean a period of 24 hours running from midnight to midnight;

(g) references to a ‘business day’ shall be construed as a reference to a day (other than a Sunday) on which banks in the state of Maharashtra are generally open for business;

(h) references to times are to Indian standard time;

(i) a reference to any other document referred to in this Agreement is a reference to that other document as amended, varied, novated or supplemented at any time; and

(j) All headings and titles are inserted for convenience only. They are to be ignored in the interpretation of this Agreement.
1.3 Measurements and Arithmetic Conventions
All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down except in money calculations where such amounts shall be rounded off to the nearest INR.

1.4 Ambiguities within Agreement
In case of ambiguities or discrepancies within this Agreement, the following principles shall apply:

(a) as between two Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in a general Clause;

(b) as between the provisions of this Agreement and the Schedules, the Agreement shall prevail, save and except as expressly provided otherwise in the Agreement or the Schedules; and

(c) As between any value written in numerals and that in words, the value in words shall prevail.

1.5 Priority of agreements
The Parties hereby expressly agree that for the purpose of giving full and proper effect to this Agreement, the MSA and this Agreement shall be read together and construed harmoniously. In the event of any conflict between the MSA and this Agreement, the provisions contained in the MSA shall prevail over this Agreement.

2. TERM
This Agreement will remain in effect for five years from the date of the last disclosure of Confidential Information ("Term"), at which time it will terminate, unless extended by the disclosing party in writing.

3. SCOPE OF THE AGREEMENT
(a) This Agreement shall apply to all confidential and proprietary information disclosed by Disclosing Party to the Receiving Party and other information
which the disclosing party identifies in writing or otherwise as confidential before or within (30) thirty days after disclosure to the Receiving Party (“Confidential Information”). Such Confidential Information consists of certain specifications, documents, software, prototypes and/or technical information, and all copies and derivatives containing such Information that may be disclosed to the Disclosing Party for and during the Business Purpose, which a party considers proprietary or confidential.

(b) Such Confidential Information may be in any form or medium, tangible or intangible, and may be communicated/disclosed in writing, orally, or through visual observation or by any other means to the Receiving Party.

4. OBLIGATIONS OF THE RECEIVING PARTY

The Receiving Party shall:

(a) use the Confidential Information only for the Business Purpose and shall hold the Confidential Information in confidence using the same degree of care as it normally exercises to protect its own proprietary information, taking into account the nature of the Confidential Information, and

(b) Grant access to Confidential Information only to its employees on a ‘need to know bases and restrict such access as and when not necessary to carry out the Business Purpose.

(c) cause its employees to comply with the provisions of this Agreement;

(d) reproduce Confidential Information only to the extent essential to fulfilling the Business Purpose, and

(e) prevent disclosure of Confidential Information to third parties;

(f) Disclose the Confidential Information to its consultants/contractors on a need to know basis; provided that by doing so, the Receiving Party agrees to bind such consultants/contractors to terms at least as restrictive as those stated herein. The Receiving Party upon making a disclosure under this Clause shall:
(i) Advice the consultants/contractors of the confidentiality obligations imposed on them by this Clause.

(g) Upon the Disclosing Party’s request, the Receiving Party shall either return to the disclosing party all Confidential Information or shall certify to the disclosing party that all media containing Confidential Information have been destroyed.

Provided, however, that an archival copy of the Confidential Information may be retained in the files of the Receiving Party’s counsel, solely for the purpose of proving the contents of the Confidential Information.

(h) Not to remove any of the other Party’s Confidential Information from the premises of the Disclosing Party without prior written approval.

(i) Exercise extreme care in protecting the confidentiality of any Confidential Information which is removed, only with the Disclosing Party’s prior written approval, from the Disclosing Party’s premises. Each Party agrees to comply with any and all terms and conditions the disclosing party may impose upon any such approved removal, such as conditions that the removed Confidential Information and all copies must be returned by a certain date, and that no copies are to be made off of the premises.

(j) Upon the Disclosing Party’s request, the Receiving Party shall promptly return to the Disclosing Party all tangible items containing or consisting of the disclosing party’s Confidential Information all copies thereof.

5. **EXCEPTIONS TO CONFIDENTIAL INFORMATION**

The foregoing restrictions on each party's use or disclosure of Confidential Information shall not apply to the Confidential Information that the Receiving Party can demonstrate that such Confidential Information:
(a) was independently developed by or for the Receiving Party without reference to the Information, or was received without restrictions; or

(b) has become generally available to the public without breach of confidentiality obligations of the Receiving Party; or

(c) was in the Receiving Party’s possession without restriction or was known by the Receiving Party without restriction at the time of disclosure; or

(d) is the subject of a subpoena or other legal or administrative demand for disclosure; provided, however, that the Receiving Party has given the disclosing party prompt notice of such demand for disclosure and the Receiving Party reasonably cooperates with the disclosing party’s efforts to secure an appropriate protective order; or

(e) is disclosed with the prior consent of the disclosing party; or

(f) was in its possession or known to it by being in its use or being recorded in its files or computers or other recording media prior to receipt from the disclosing party and was not previously acquired by the Receiving Party from the disclosing party under an obligation of confidence; or

(g) The Receiving Party obtains or has available from a source other than the disclosing party without breach by the Receiving Party or such source of any obligation of confidentiality or non-use towards the disclosing party.

6. OWNERSHIP OF THE CONFIDENTIAL INFORMATION

(a) Each Party recognizes and agrees that all of the disclosing Party’s Confidential Information is owned solely by the Disclosing Party (or its licensors) and that the unauthorized disclosure or use of such Confidential Information would cause irreparable harm and significant injury, the degree of which may be difficult to ascertain.

(b) By disclosing the Confidential Information or executing this Agreement, Disclosing Party does not grant any license, explicitly or implicitly, under any trademark, patent, copyright, mask work protection right, trade secret or any
other intellectual property right. The Disclosing Party disclaims all warranties regarding the information, including all warranties with respect to infringement of intellectual property rights and all warranties as to the accuracy or utility of such information.

(c) Access to Confidential Information hereunder shall not preclude an individual who has seen such Confidential Information for the purposes of this Agreement from working on future projects for the Disclosing Party which relate to similar subject matters, provided that such individual does not make reference to the Confidential Information and does not copy the substance of the Confidential Information during the Term. Furthermore, nothing contained herein shall be construed as imposing any restriction on the Receiving Party’s disclosure or use of any general learning, skills or know-how developed by the Receiving Party’s personnel under this Agreement.

(d) Execution of this Agreement and the disclosure of Confidential Information pursuant to this Agreement do not constitute or imply any commitment, promise, or inducement by either Party to make any purchase or sale, or to enter into any additional agreement of any kind.

7. DISPUTE RESOLUTION

[Please refer Section 2.14 of the Guidance Notes – Model RFP template for Implementation Agency to align this clause]

25.1 This Agreement shall be governed by and construed in accordance with the laws of Maharashtra, India without giving effect to conflict of law rules. The parties expressly agree to exclude the application of the U.N. Convention on Contracts for the International Sale of Goods (1980) to this Agreement and the performance of the parties contemplated under this Agreement, to the extent that such convention might otherwise be applicable.
25.2 The Bidder and the Purchaser shall endeavour their best to amicably settle all disputes arising out of or in connection with the Contract in the following manner:

a. In case a Party is of the opinion that a dispute has arisen under this agreement, the Party shall notify the other Party of the detailed nature of the dispute, the right or obligation under this Agreement to which the dispute relates, and the relief sought by the Party raising the dispute.

b. The Party raising a dispute shall address to the other Party a notice requesting an amicable settlement of the dispute within seven (7) days of receipt of the notice.

c. The matter will be referred for negotiation between <Nodal Officer> of Purchaser/Purchaser and the Authorized Official of the Bidder. The matter shall then be resolved between them and the agreed course of action documented within a further period of 15 days.

d. The Parties shall in the first instance attempt to resolve the dispute in good faith. In case, the Parties are unable to resolve the dispute, the matter shall be referred to the Empowered Committee set up by the Department.

25.3 The Parties shall in the first instance attempt to resolve the dispute in good faith. In case, the Parties are unable to resolve the dispute, the matter shall be referred to the Empowered Committee set up as per the point no 7.2.6 Empowered Committee for Dispute Resolution in accordance to this Agreement.

25.4 The Empowered Committee shall attempt to resolve the dispute in a meeting specially convened for the purpose. The representatives of all Parties shall be invited to participate in such meetings.
25.5 The negotiations between the Parties and the proceedings before the Empowered Committee shall be kept confidential unless Parties agree otherwise.

25.6 Each Party shall bear its own cost in relation to the dispute resolution as aforesaid.

25.7 In case, the Empowered Committee is Unable to resolve the dispute, the dispute shall be referred to arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996. The Arbitration proceedings will be held at Mumbai, India. The arbitration shall be conducted in English and all documents shall, if not already in English, shall be translated into English by the Party relying upon the document.

25.8 The Principal Secretary, IT, GoM or an Officer of an equivalent rank nominated by the GoM shall be the sole Arbitrator for the purpose of the arbitration proceedings.

25.9 The provisions of the Arbitration and Conciliation Act, 1996 will be applicable and the award made there under shall be final and binding upon the parties hereto, subject to legal remedies available under the law.

25.10 The Parties agree that any decision or award of the arbitrator pursuant to this clause shall be a domestic award and final, conclusive and binding upon the parties and any person(s) affected by it. The Parties also agree that any court of competent jurisdiction may enforce any arbitration award rendered pursuant to this clause.

25.11 During any period of dispute resolution as hereinbefore provided, there shall be no suspension of this agreement.

25.12 Compliance with laws: Each party will comply with all applicable export and import laws and regulations.

25.13 Risk of Loss: For each hardware item, Implementation Agency bears the risk of loss or damage up to the time it is delivered to the
Implementation/Purchaser-designated carrier for shipment to Purchaser or Purchaser’s designated location.

25.14 Third party components: Implementation Agency will provide all third party components solely on a pass-through basis in accordance with the relevant third party terms and conditions.

8. **VARIATION**

This Agreement may only be varied in writing and signed by both Parties.

9. **WAIVER**

Waiver including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:

(a) shall be in writing

(b) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;

(c) shall be executed by a duly authorized representative of the Party; and

(d) shall not affect the validity or enforceability of this Agreement in any manner.

10. **EXCLUSION OF IMPLIED WARRANTIES**

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

11. **ENTIRE AGREEMENT**

This Agreement and the Annexure together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings,
offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn.

12. **SEVERABILITY**
If for any reason whatever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties shall negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to the dispute resolution procedure set forth under this Agreement or otherwise.

13. **NO PARTNERSHIP**
This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party, and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party except as expressly provided under the terms of this Agreement.

14. **THIRD PARTIES**
This Agreement is intended solely for the benefit of the Parties and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.

15. **SUCCESSORS AND ASSIGNS**
The Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

16. **NOTICES**
Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall be given by hand delivery, recognized courier, registered post, email or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

If to Purchaser:
Attn: <***>

Tel:
Fax:
Email:
Contact:
With a copy to:

If to the Implementation Agency:
Attn. <***>
Phone: <***>
Fax No. <***>

17. **LANGUAGE**
All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in the English language.

18. **COUNTERPARTS**
This Agreement may be executed in counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement.

19. **MITIGATION**
Without prejudice to any express provisions of this Agreement on any mitigation obligations of the Parties, each of the Purchaser and the Implementation Agency shall at all times take all reasonable steps to minimize and mitigate any loss for which the relevant Party is entitled to bring a claim against the other Party pursuant to this Agreement.

20. **REMOVAL OF DIFFICULTIES**

The Parties acknowledge that it is conceivable that the Parties may encounter difficulties or problems in the course of implementation of the Project and the transactions envisaged under this Agreement. The Parties agree and covenant that they shall mutually discuss such difficulties and problems in good faith and take all reasonable steps necessary for removal or resolution of such difficulties or problems.

**IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.**

SIGNED, SEALED AND DELIVERED For and on behalf of the Implementation Agency by:

(Signature)  
(Name)  
(Designation)  
(Address)  
(Fax No.)

In the presence of:

1.  
2.

**SERVICE LEVEL AGREEMENT**

**THIS AGREEMENT** is made on this the <***> day of <***> 20---- at <***>, Maharashtra, India.
BETWEEN

----------------------------------------------------------------------------------------------- having its office at --------------
----------------------------------------------------------------------------------------------- Maharashtra, India hereinafter referred to as ‘Purchaser’ or ‘Buyer’, which expression shall, unless the context otherwise requires, include its permitted successors and assigns);

AND

<***>, a Company incorporated under the Companies Act, 1956, having its registered office at <***> (hereinafter referred to as ‘the Implementation Agency/IA’ which expression shall, unless the context otherwise requires, include its permitted successors and assigns).

Each of the parties mentioned above are collectively referred to as the ‘Parties’ and individually as a ‘Party’.

WHEREAS:

1. Purchaser is desirous to implement the project of-------------------------.
2. The Buyer and Implementation Agency have entered into a Master Services Agreement dated <***> (the “MSA”).

NOW THEREFORE, in consideration of the mutual covenants, promises, assurances, representations and provisions set forth herein, the Parties hereto agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Terms and expressions used in this Agreement (including the Introduction) shall have the meanings set out in Annexure A.

1.2 Interpretation

In this Agreement, unless otherwise specified:
(a) references to Clauses, Sub-Clauses, Paragraphs and Schedules are to clauses, sub clauses, paragraphs of and schedules to this Agreement;

(b) use of any gender includes the other genders;

(c) references to a ‘company’ shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established;

(d) references to a ‘person’ shall be construed so as to include any individual, firm, company, government, state or agency of a state, local or municipal authority or government body or any joint venture, association or partnership (whether or not having separate legal personality);

(e) a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted;

(f) any reference to a ‘day’ (including within the phrase ‘business day’) shall mean a period of 24 hours running from midnight to midnight;

(g) references to a ‘business day’ shall be construed as a reference to a day (other than a Sunday) on which banks in the state of Maharashtra are generally open for business;

(h) references to times are to Indian Standard Time;

(i) a reference to any other document referred to in this Agreement is a reference to that other document as amended, varied, novated or supplemented at any time; and

(j) All headings and titles are inserted for convenience only. They are to be ignored in the interpretation of this Agreement.

1.3 Measurements and Arithmetic Conventions

All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5
(five) being rounded down except in money calculations where such amounts shall be rounded off to the nearest INR.

1.4 Ambiguities within Agreement

In case of ambiguities or discrepancies within this Agreement, the following principles shall apply:

(a) as between two Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in a general Clause;

(b) as between the provisions of this Agreement and the Schedules, the Agreement shall prevail, save and except as expressly provided otherwise in the Agreement or the Schedules; and

(c) as between any value written in numerals and that in words, the value in words shall prevail.

1.5 Priority of agreements

The Parties hereby expressly agree that for the purpose of giving full and proper effect to this Agreement, the MSA and this Agreement shall be read together and construed harmoniously. In the event of any conflict between the MSA and this Agreement, the provisions contained in the MSA shall prevail over this Agreement.

2. STRUCTURE

This SLA shall operate as a legally binding services agreement specifying terms which apply to the Parties in relation to the provision of the Services by the Implementation Agency to the Buyer and its nominated agencies under this Agreement and the MSA.

3. OBJECTIVES OF THIS SLA

The Implementation Agency shall be required to ensure that the Service Levels which shall ensure the following:

(a) Improving the efficiency of operations for the Purchaser.

(b) Leveraging the benefits in new system in order to:

(i) Reduce of manual records and replace with computerized standardized documents.
(ii) Infuse transparency in operations by enabling the stakeholders to have easy access to the records and provision of login ids and biometrics to infuse accountability in operations.

(iii) Enable faster request processing in delivery of services with better turnaround time.

(iv) Facilitate automated data transfer with state-wide connectivity to prevent unnecessary duplication & simplify preparation of registers and reports.

(v) Generate meaningful MIS from the system.

(vi) Provide inbuilt mechanism of security and quality control for crucial dealer data. To meet the aforementioned objectives the Implementation Agency will provide the Service Levels in accordance with the performance metrics as set out in detail in this Agreement. Further this Agreement shall govern the provision of the contracted services of the Implementation Agency to the Purchaser and its nominated agencies after the Go-Live Date.

4. SCOPE OF SLA

This Agreement has been executed in relation to the outsourcing portion of the Project between the Parties. The detailed Service Levels have been set out in Annexure B to this Agreement.

This Agreement shall ensure the following:

(a) Establishment of mutual responsibilities and accountability of the Parties;
(b) Definition each Party’s expectations in terms of services provided;
(c) Establishment of the relevant performance measurement criteria;
(d) Definition of the availability expectations;
(e) Definition of the escalation process;
(f) Establishment of trouble reporting single point of contact; and
(g) Establishment of the framework for SLA change management

The following parties are obligated to follow the procedures as specified by this Agreement:
5. AGREEMENT OWNERS

The following personnel shall be notified to discuss the Agreement and take into consideration any proposed SLA change requests:

<table>
<thead>
<tr>
<th>Title</th>
<th>Telephone</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buyer Authorized Representative, Purchaser</td>
<td>&lt;***&gt;</td>
<td>&lt;***&gt;</td>
</tr>
<tr>
<td>Implementation Agency &lt;***&gt;</td>
<td>&lt;***&gt;</td>
<td>&lt;***&gt;</td>
</tr>
</tbody>
</table>

6. CONTACT LIST

In the event that there is any change in the listed contacts, the same shall be communicated and updated prior to such change occurring. The Single Point of Contact (“POC”) for the Implementation Agency shall be <***> and will be available 24X7.

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Location</th>
<th>Telephone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buyer</td>
<td>Authorised Representative, Purchaser</td>
<td>&lt;***&gt;</td>
<td>&lt;***&gt;</td>
</tr>
<tr>
<td>Implementation Agency</td>
<td>&lt;***&gt;</td>
<td>&lt;***&gt;</td>
<td>&lt;***&gt;</td>
</tr>
</tbody>
</table>

7. PRINCIPAL CONTACTS

The Buyer and the Implementation Agency will nominate a senior staff member to be the principal contact regarding operation of this Agreement. At the date of signing of this Agreement, the nominated principal contacts are:

Buyer principal contact: _________________________
Implementation Agency principal contact: _________________________

8. COMMENCEMENT AND DURATION OF THIS AGREEMENT

Agreement shall commence on the date of Go-Live (hereinafter the “SLA Effective Date”) and shall, unless terminated earlier in accordance with its terms or unless otherwise agreed by the Parties, expire on the date on which this Agreement expires or terminates, which shall be a period of <insert period of O&M> years starting from <the date of the Final Acceptance Test.>
9. **EXCLUSIONS TO THE AGREEMENT**

This Agreement shall not govern the following services:

(a) Consulting services; and
(b) Implementation Agency’s business processes not related to the Project.

10. **TERMS OF PAYMENT AND PENALTIES**

(a) In consideration of the Services and subject to the provisions of the MSA and this Agreement, the Buyer shall pay the amounts in accordance with the Terms of Payment Schedule of the MSA.

(b) For the avoidance of doubt, it is expressly clarified that the Buyer and/or its nominated agencies may also calculate a financial sum and debit the same against the terms of payment as defined in the Terms of Payment Schedule of the MSA as a result of the failure of the Implementation Agency to meet the Service Levels as set out in Annexure B of this Agreement, such sum being determined in accordance with the terms of the Service as set out in Annexure B of this Agreement.

11. **UPDATING OF THIS AGREEMENT**

(a) The Parties anticipate that this Agreement shall need to be re-evaluated and modified to account for changes in work environment and technology from time to time. Hence they hereby agree to revise the terms of the Agreement on an annual basis.

(b) The Parties hereby agree upon the following procedure for revising this Agreement:

(i) Any and all changes to this Agreement will be initiated in writing between the Buyer and the Implementation Agency. The service levels in this Agreement shall be considered to be standard for the Buyer and shall only be modified if both Parties agree to an appended set of terms and conditions;
(ii) Only the Buyer or the Implementation Agency may initiate a revision
to this Agreement;

(iii) A notice of the proposed revision (“SLA Change Request”) shall be
served to the Buyer or the Implementation Agency as the case may
be;

(iv) The SLA Change request would be deemed to be denied in case it is not
approved within a period of <***> days;

(v) In the event that Buyer/Implementation Agency approves of the
suggested change the change shall be communicated to all the Parties
and the SLA Change request would be appended to the Agreement;

(vi) The Buyer shall update and republish the text of Agreement annually
to include all the SLA Change Requests that have been appended to
the Agreement during the course of the year. Such republished
Agreement shall be circulated to all the Parties within <***> days of
such change taking place.

12. DOCUMENT HISTORY

All revisions made to this Agreement shall be listed in chronological order as per the format
set out below and a copy of the same shall be provided to the Parties:

<table>
<thead>
<tr>
<th>Version</th>
<th>Date</th>
<th>Description of changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;***&gt;</td>
<td>&lt;***&gt;</td>
<td>&lt;***&gt;</td>
</tr>
</tbody>
</table>

13. SCOPE OF SERVICES

(a) The Implementation Agency shall ensure that Services
are available at various locations as per the requirements of the
project;

(b) The Implementation Agency shall provide support services for addressing
problems related to the provision of services of the selected bidder through
the POC. Such POC shall be available over telephone on <***> number 24
hours a day, 7 days a week

(c) The Implementation Agency guarantees that he shall achieve the Service
Levels for the
Project;
(d) The Implementation Agency shall be liable to Service Credits in case of failure to comply with the Service Levels. However any delay not attributable to the Implementation Agency shall not be taken into account while computing adherence to the Service Levels.

14. PERFORMANCE REVIEW
The POC’s of both the Buyer and the Implementation Agency shall meet on a quarterly basis to discuss priorities, service levels and system performance. Additional meetings may be held at the request of either the Implementation Agency or the Buyer. The agenda for these meetings shall be as follows:

(a) Service performance;
(b) Review of specific problems/exceptions and priorities; and
(c) Review of the operation of this Agreement and determine corrective action to overcome deficiencies.

15. REPRESENTATIONS AND WARRANTIES OF BUYER
The Buyer hereby represents and warrants to the Implementation Agency as follows:

(a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement and carry out the transactions contemplated hereby;
(b) it has taken all necessary actions under Applicable Law to authorize the execution, delivery and performance of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
(c) it has the financial standing and capacity to perform its obligations under the Agreement;
(d) this Agreement has been duly executed by it and constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof.
and its obligations under this Agreement shall be legally valid, binding and enforceable obligations against it in accordance with the terms thereof;

(e) the execution, delivery and performance of this Agreement shall not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;

(f) there are no actions, suits or proceedings pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the default or breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform its material (including any payment) obligations under this Agreement;

(g) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on the Implementation Agency’s ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement.

16. REPRESENTATIONS AND WARRANTIES OF THE IMPLEMENTATION AGENCY

The Implementation Agency hereby represents and warrants to the Buyer as follows:

(a) it is duly organized and validly existing under the laws of Maharashtra, India and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;

(b) it has taken all necessary corporate and other actions under Applicable Laws to authorize the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
(c) this Agreement has been duly executed by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement shall be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;

(d) the execution, delivery and performance of this Agreement shall not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its Memorandum and Articles of Association or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;

(e) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its material obligations under this Agreement;

(f) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any government instrumentality which may result in any material adverse effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;

(g) it has complied with Applicable Law in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Agreement;

(h) no representation or warranty by it contained herein or in any other document furnished by it to the Buyer or to any government instrumentality
in relation to the Required Consents contains or shall contain any untrue or misleading statement of material fact or omits or shall omit to state a material fact necessary to make such representation or warranty not misleading; and

(ii) no sums, in cash or kind, have been paid or shall be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for entering into this Agreement or for influencing or attempting to influence any officer or employee of the Buyer in connection therewith.

17. **INDEMNITIES**
The Parties agree to indemnify each other under this Agreement in accordance with the terms and principles set out in the MSA.

18. **DISPUTE RESOLUTION**
Any dispute, difference or claim arising out of or in connection with the Agreement which is not resolved amicably shall be decided in accordance with the dispute resolution procedure as set out in the MSA.

19. **MISCELLANEOUS**
(a) **Assignment and charges**
This Agreement shall be binding on and ensure for the benefit of each Party’s successors in title. No Party shall assign, or declare any trust in favour of a third party over, all or any part of the benefit of, or its rights or benefits under, this Agreement.

(b) **Governing law and jurisdiction**
This Agreement shall be construed and interpreted in accordance with and governed by the laws of Maharashtra, India and the courts at the State of Maharashtra shall have jurisdiction over matters arising out of or relating to this Agreement.

(c) **Waiver of sovereign immunity**
The Parties unconditionally and irrevocably:

(i) agree that the execution, delivery and performance by them of the Agreement constitute commercial acts done and performed for commercial purpose;
(ii) agree that, should any proceedings be brought against a Party or its assets, property or revenues in any jurisdiction in relation to the Agreement or any transaction contemplated by the Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of such Party with respect to its assets;

(iii) waive any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and

(iv) consent generally to the enforcement of any judgment or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgment that may be made or given in connection therewith).

(d) Variation

This Agreement may only be varied in writing and signed by both Parties.

(e) Waiver

(i) Waiver including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:-

• shall be in writing
• shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
• shall not be effective unless it is in writing and executed by a duly authorized representative of the Party; and
• Shall not affect the validity or enforceability of this Agreement in any manner.

(f) Exclusion of implied warranties
This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

(g) **Survival**

(i) Termination or expiration of the Term shall:

• not relieve the Implementation Agency or the Buyer, as the case may be, of any obligations hereunder which expressly or by implication survive hereof; and

• except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such termination or expiration or arising out of such termination or expiration.

(ii) All obligations surviving termination or expiration of the Term shall cease on termination or expiration of the Term. [[In case the obligations have to survive for some period after closure of the project, the same may be mentioned]]

(h) **Entire Agreement**

This Agreement and the Annexure together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn.

(i) **Severability**

If for any reason whatever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties shall
negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to the dispute resolution procedure set forth under this Agreement or otherwise.

(j) **No partnership**
This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party, and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party except as expressly provided under the terms of this Agreement.

(k) **Third parties**
This Agreement is intended solely for the benefit of the Parties and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.

(l) **Notices**
Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall be given by hand delivery, recognized courier, registered post, email or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

If to Purchaser:
Attn: <***>
Tel:
Fax:
Email:
Contact:
With a copy to:

If to the Implementation Agency:
Attn. <***>
Phone: <***>
Fax No. <***>

(m) Language
All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in the English language.

(n) Counterparts
This Agreement may be executed in two counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement.

(o) Mitigation
Without prejudice to any express provisions of this Agreement on any mitigation obligations of the Parties, each of the Buyer and the Implementation Agency shall at all times take all reasonable steps to minimize and mitigate any loss for which the relevant Party is entitled to bring a claim against the other Party pursuant to this Agreement.

(p) Removal of Difficulties
The Parties acknowledge that it is conceivable that the Parties may encounter difficulties or problems in the course of implementation of the Project and the transactions envisaged under this Agreement. The Parties agree and covenant that they shall mutually discuss such difficulties and problems in good faith and take all reasonable steps necessary for removal or resolution of such difficulties or problems.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.
SIGNED, SEALED AND DELIVERED  
For and on behalf of the Implementation
For and on behalf of the Buyer by:

<table>
<thead>
<tr>
<th>Agency by:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Signature)</td>
</tr>
<tr>
<td>(Name)</td>
</tr>
<tr>
<td>(Designation)</td>
</tr>
<tr>
<td>(Address)</td>
</tr>
<tr>
<td>(Fax No.)</td>
</tr>
</tbody>
</table>

In the presence of:

1.
2.

ANNEXURE A – DEFINITIONS

<table>
<thead>
<tr>
<th>Agreement</th>
<th>means this Service Level agreement together with all Articles, Annexures, Schedules and the contents and specifications of the RFP;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicable Law(s)</td>
<td>means any statute, law, ordinance, notification, rule, regulation, judgment, order, decree, bye-law, approval, directive, guideline, policy, requirement or other governmental restriction or any similar form of decision of, or determination by, or any interpretation or administration of the Purchaser as may be in effect on the date of the execution of this Agreement and during the subsistence thereof, applicable to the Project;</td>
</tr>
<tr>
<td>Business Hours</td>
<td>shall mean the working time for Purchaser users which is 9:30 AM to 5:30 PM daily. Again for Web Server and other components which enable successful usage of web portals of, Purchaser, the working time should be considered as 24 hours for all the days of the week. It is desired that IT maintenance, other batch processes (like backup) etc. should be planned so that such backend activities have minimum effect on the performance;</td>
</tr>
<tr>
<td>Effective Date</td>
<td>shall have the same meaning ascribed to it in Clause 8;</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>---------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>MSA</td>
<td>shall have the same meaning ascribed to it in Recital 2;</td>
</tr>
<tr>
<td>Parties</td>
<td>means the Buyer and Implementation Agency for the purposes of this Agreement; “Party” shall be interpreted accordingly;</td>
</tr>
<tr>
<td>POC</td>
<td>shall have the same meaning ascribed to it in Clause 6</td>
</tr>
<tr>
<td>Project</td>
<td>shall have the same meaning ascribed to it in Recital 1;</td>
</tr>
<tr>
<td>SLA Change Request</td>
<td>shall have the same meaning ascribed to it in Clause 11 (b) (iii);</td>
</tr>
<tr>
<td>Service Level</td>
<td>means the level of service and other performance criteria which will apply to the Services as set out in the SLA parameters effective during the Term of this Agreement;</td>
</tr>
<tr>
<td>Term or Agreement</td>
<td>Means the duration of this Agreement as set out in Clause 8 of this Agreement.</td>
</tr>
<tr>
<td>Period</td>
<td></td>
</tr>
<tr>
<td>Application Response Time</td>
<td>Defined as time the system takes to fetch requested (a form or a report) from the server.</td>
</tr>
<tr>
<td>Uptime</td>
<td>Uptime refers availability of application/system as per terms of SLA.</td>
</tr>
<tr>
<td></td>
<td>“% Uptime” means ratio of ‘up time’ (in minutes) in a month to Total time (in minutes) in a month multiplied by 100;</td>
</tr>
<tr>
<td></td>
<td>Time lost due to following reasons shall NOT BE counted in Uptime or TOTAL TIME while calculating Uptime requirement:</td>
</tr>
<tr>
<td></td>
<td>(1) the scheduled outages planned in advance for the Purchaser</td>
</tr>
<tr>
<td></td>
<td>(2) time lost due to power or environment failures (in case the backup power is not within the scope of work of the SI)</td>
</tr>
<tr>
<td></td>
<td>(3) time lost due to damage or malfunction of the equipment or any of the units thereof due to causes attributable to the Purchaser, such as attachment of additional devices without permission of SI.</td>
</tr>
</tbody>
</table>
The Implementation Agency shall not be responsible for failure of any Service Levels in accordance with this Agreement if such failure is caused due to reasons attributable to, or failure of the Purchaser to perform its or their obligations or for force majeure event.
ANNEXURE B – SERVICE LEVELS

Additional input clause for SI agreement:
The penalty for non-achievement of SLA requirements shall be calculated on a *quarterly*/periodic basis as indicated below for all services to be provided:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>SLA noncompliance Range 1</th>
<th>Penalty Amount 1</th>
<th>SLA noncompliance Range 2</th>
<th>Penalty Amount 2</th>
<th>SLA noncompliance Range 3</th>
<th>Penalty Amount 3</th>
<th>n n</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>SLA parameter #1</td>
<td></td>
<td></td>
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<td>n n</td>
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<tr>
<td>2</td>
<td>SLA parameter #2</td>
<td></td>
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<tr>
<td>3</td>
<td>SLA parameter #3</td>
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</tr>
<tr>
<td>4</td>
<td>SLA parameter #4</td>
<td></td>
<td></td>
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<td>n n</td>
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</tbody>
</table>

The *quarterly* penalty indicated above should not exceed <12%> of the value of services (i.e. each line item) provided for that performance period.
The overall penalty for a service performance period should be limited to <10%> of the value of services provided for that performance period.

ANNEXURE C - Sample Model Tripartite Agreement for Resale of Network Bandwidth

DRAFT MODEL TRIPARTITE AGREEMENT (amongst ............ (PURCHASER) ............ (SUPPLIER) & ............... (NETWORK SERVICE PROVIDER / SUB CONTRACTOR)
For providing network services and Internet Bandwidth

NOTE
a. This agreement is between three parties, Purchaser, Supplier and Network Service Provider for providing network services/Internet Bandwidth when, the Purchaser/Nodal Agency is using the services of Network Provider under the contract with Supplier/ SI. This agreement is required in such case to abide with TRAI guidelines, which doesn’t permit resale of network bandwidth
b. This is a draft agreement format; final agreements needs to be signed between Purchaser, Supplier and Network Service Provider
c. It is to be ensured by PURCHASER that:
   ▪ Prior to this agreement Contract agreement between PURCHASER and SUPPLIER has been signed.
   ▪ The Purchase Order on the same price and work, as quoted by SUPPLIER against the ‘Network services, Internet Bandwidth) and Related Services’ component of SUPPLIER LOA/CONTRACT has been/is to be signed between PURCHASER and NETWORK SERVICE PROVIDER.
d. SLA format for including in the PURCHASER’s Purchase Order to NETWORK SERVICE PROVIDER is given at the end of this document.
e. This agreement does not endorse any agreement between NETWORK SERVICE PROVIDER and SUPPLIER
f. The Responsibility Matrix may be modified depending upon specific works.

MODEL TRIPARTITE AGREEMENT
This Agreement is entered on ......day of 20.... <year> among ............<name of PURCHASER> constituted by and having its registered office at........................................... (Here in after called the “PURCHASER”), of the one part

AND

..........................<Name of SUPPLIER>, a company incorporated under the Companies Act 1956 and having its corporate office at .................................................. SELECTED IT IMPLEMENTATION AGENCY (SUPPLIER) FOR ...............PROJECT i.e., Party engaged by ................. Vide LOI No:........................................ and detailed order no. ..............................................(herein referred to as the “Contract”) for Supply, installation, integration, testing, commissioning and facility management service of System Integration Project covering software, hardware, field survey and networking (Network services, Internet Bandwidth) and Related Services incidental thereto as specified in the Services/ Scope of Work at Section 4 of the said Contract (hereinafter referred to as “SUPPLIER or .................(name of SUPPLIER) which expression shall unless excluded by or repugnant to the meaning or context thereof be deemed to include its successors and assigns) of the second Part.

AND

..................................<name of NETWORK SERVICE PROVIDER (NSP)> a company incorporated under the Companies Act 1956 and having its corporate office at .................................................. being a TELECOM SERVICE PROVIDER/NETWORK BANDWIDTH SERVICE PROVIDER for the referred ............... PROJECT engaged for Providing ........................................, Network services, Internet Bandwidth and connectivity incidental thereto as specified in the Services/ Scope of Work in the agreement between .............. (SUPPLIER) and ................. (PURCHASER) (hereinafter referred to as “NETWORK SERVICE PROVIDER (NSP)”) which expression shall unless excluded by or repugnant to the meaning or context thereof be deemed to include its successors and assigns) of the third Part. “........ (PURCHASER)”, “...........(SUPPLIER)” and “...............NETWORK SERVICE PROVIDER (NSP)” are individually referred as “Party” and collectively as “Parties”.

WHEREAS .............. (PURCHASER), the party of the first part has contracted .............. (SUPPLIER), the second party, for Turn Key Implementation of .................<Name of Solution> at ................. <name of SUPPLIER> (hereinafter referred to as “The Project”) vide its Contract No........................................

WHEREAS as per the requirements of the project, .............. (PURCHASER) requires these services for successful implementation of the project.
WHEREAS ............... (SUPPLIER), in order to service its obligation under the above mentioned RFP to the full satisfaction of the PURCHASER, had proposed “...............(NETWORK SERVICE PROVIDER (NSP))” as a service provider vide their letter/ offer no dated and now agrees to associate with ...............(NETWORK SERVICE PROVIDER (NSP)) for execution of the part of the order, to provide support services as detailed in the purchase Order (SUPPLIER) and/or indicated in ......................<section> of this agreement to be the responsibility of ....( NETWORK SERVICE PROVIDER (NSP)), namely, related to required Bandwidth services for the project.

WHEREAS SUPPLIER has done the due diligence with respect to the capabilities, technical or otherwise, of ............( NETWORK SERVICE PROVIDER (NSP)) for providing the required type of connectivity and services within time frame, quality, security and reliability level as envisaged in the RFP / SRS before recommending their name.

WHEREAS the bid price quoted by ................. (SUPPLIER) for networking (Network services, Internet Bandwidth and connectivity) and Related Services (“Service”) at locations as specified in CONTRACT (hereinafter referred to as the “Locations”) for the purpose of utilization by the ..................( PURCHASER) and their respective subsidiaries and affiliates as specified in the CONTRACT No............... to ..................(SUPPLIER) placed by ...................( PURCHASER), is passed through to ...... .... (NETWORK SERVICE PROVIDER (NSP)) in accordance with the bid proposal dated .............submitted to .............( PURCHASER) by ..............(SUPPLIER), and the Terms & Conditions and SLA of ..........( PURCHASER) with ..........( NETWORK SERVICE PROVIDER (NSP)), for carrying out the networking and Related Services.

WHEREAS ................. (NETWORK SERVICE PROVIDER (NSP)) has Category ‘A’ ISP license having its network spread across Maharashtra, India.

The Purchase Order placed vide ..................to be placed by ..................( PURCHASER) to ..................(NETWORK SERVICE PROVIDER (NSP)) shall form an integral part of this agreement. ..................(SUPPLIER), shall be responsible for (i) coordinating /entering into a tripartite agreement with the NSP along with the Purchaser (ii) getting the work executed by the NSP as per the Contract for Bandwidth as well as SLA’s (iii) the replacement, if any, of the NSP without changing any penalty/LD criteria. However the new NSP has to meet the qualification criteria. Any breach or failure to fulfil the obligations as mentioned in the Tripartite Agreement which has a material impact on the performance of the Contract shall be treated as a breach of the terms of ‘The Contract’.

WHEREAS by virtue of this agreement, the parties.............. (SUPPLIER) and.............. (NETWORK SERVICE PROVIDER (NSP)) bind themselves to the terms & conditions that are embedded in the contract between the first two parties.
Now these presents witness and it is hereby agreed by and between the parties hereto as follows:

1. APPLICATION
This Agreement details the general terms and conditions for the provision of the Services to be rendered by ................. (NETWORK SERVICE PROVIDER (NSP)) [As per CONTRACT placed vide…. /to be placed by PURCHASER] and by .................... (SUPPLIER) [as per CONTRACT No. ............with .................... (PURCHASER)]. Upon signing the scope, duration and other services to be so rendered under this Agreement the parties agree to accept and be bound by these terms and conditions.

2. PROVISION OF SERVICE
i. The provision of the Services is subject to these terms and conditions stated in this Agreement. Where......................... (NETWORK SERVICE PROVIDER) shall accept the Order from......................... (PURCHASER), ................... (NETWORK SERVICE PROVIDER) shall provide the Services required by................ (PURCHASER), and by .................. (SUPPLIER) on behalf of................ (PURCHASER), within a timeframe, quality, security and reliability level agreed with between ................... (PURCHASER), ................ (NETWORK PROVIDER) and ........... (SUPPLIER). The SUPPLIER shall provide................... (NETWORK PROVIDER) with a complete network diagram of the set-up along with the details of connectivity at the Locations and services will be provisioned to the................ (PURCHASER) accordingly. It is the responsibility of SUPPLIER, to ensure and of ................... (NETWORK SERVICE PROVIDER) to provide proper network monitoring and network management as per SLA like uptime, proper bandwidth etc. and to submit the SLA performance report of the ................ (NETWORK SERVICE PROVIDER) to the ....................... (PURCHASER) on monthly/as and when required basis.

ii. The network links will be provided by................ (NETWORK SERVICE PROVIDER) and the SUPPLIER will monitor and report any problems on behalf of .............. (NETWORK SERVICE PROVIDER) to ........ (PURCHASER).

iii. Where it is necessary, due to material breach by the NETWORK SERVICE PROVIDER, the PURCHASER shall instruct the SUPPLIER to replace the................ (NETWORK SERVICE PROVIDER) with another NETWORK SERVICE PROVIDER. In case of replacement of NETWORK SERVICE PROVIDER, the SUPPLIER shall terminate forthwith all agreements/contracts other arrangements with such NETWORK PROVIDER and find suitable replacement for such NETWORK PROVIDER to the satisfaction of the ............... (PURCHASER) at no additional charge. The SUPPLIER has to execute the contract as per agreed schedule and SLA and as per contractual provision entered between PURCHASER and SUPPLIER.
iv. ................. (SUPPLIER) shall ensure that Requisite Services from ................. (NETWORK SERVICE PROVIDER) for project area (town) are available on time when its own system/works that are to be installed/ executed/implemented under PO no. .................with ................. (PURCHASER), are ready for testing & commissioning.

v. The .....(NETWORK SERVICE PROVIDER) shall not use the establishments and services installed under this agreement for organizations other than ................. ( PURCHASER).

3. SERVICE TERM
The term of the Services is initially for ................. years (as per CONTRACT) from the date of commencement of service, and if required, thereafter, shall be extended from time to time by written consent of the parties. The Service Commencement Date shall be set forth in accordance with the Purchase Order placed vide....../to be placed by .................( PURCHASER) on ................. (NETWORK SERVICE PROVIDER).

4. TERMINATION OF SERVICE
The Termination of this Agreement and Services shall be as per provisions of Termination clause as appearing in main CONTRACT

5. RESPONSIBILITIES OF THE PARTIES

<table>
<thead>
<tr>
<th>Responsibility of ..........( PURCHASER)</th>
<th>Responsibility of ..........(SUPPLIER)</th>
<th>Responsibility of ..........(SUB-CONTRACTOR)</th>
</tr>
</thead>
</table>
To monitor the project progress against time frame & quality and performance with, quality, security and reliability levels of required services as per agreement with……………… (SUPPLIER) and …………………. (NETWORK SERVICE PROVIDER).

To disburse the payment to the ……… (NETWORK SERVICE PROVIDER) upon achievement of the SLA on the basis of performance reports/ SLA reports.

To provide safe access and conditions to …………………. (SUPPLIER) and (NETWORK SERVICE PROVIDER)'s employees or appointed personnel while in the premises.

To arrange through a licensed network service provider, Network services, Internet Bandwidth and connectivity, incidental thereto as specified in the Scope of Work in the agreement between .......... (SUPPLIER) and .............. (PURCHASER).

The Suppliers overall liabilities and responsibilities shall in no case be less or more than the liabilities as mentioned in the contract, with respect to 'The Project', executed between the Supplier and the Purchaser. Ensuring Timely execution of the part of the order related to required Bandwidth for the project.

To provide ................... (NETWORK SERVICE PROVIDER) with a complete network diagram of the set-up along with the details of connectivity at the Locations and services provisioned to the..............

To provide Network services, Internet Bandwidth and connectivity, incidental thereto as specified in the Scope of Work as per CONTRACT placed by PURCHASER to .......... (SUPPLIER) and (NETWORK SERVICE PROVIDER).

To provide the Services (as per SLA) required by............... (PURCHASER), and by...............(SUPPLIER) on behalf of ............. (PURCHASER), within the timeframe, quality, security and reliability level agreed with between .......... (PURCHASER), ............. (NETWORK SERVICE PROVIDER) and ............. (SUPPLIER).

Not to use the establishments and services installed under this agreement for organizations other than ...................... (PURCHASER).
<p>| (PURCHASER) Proper network monitoring and | To raise direct invoices against the works/services performed, as per the terms of the Purchase Order with PURCHASER. |</p>
<table>
<thead>
<tr>
<th><strong>Network Management</strong></th>
<th><strong>Invoicing and Payment</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>network management as per SLA like uptime, proper bandwidth etc. and submit SLA report to the PURCHASER on monthly/as and when required basis. To monitor and report any problems on behalf of ................. (NETWORK SERVICE PROVIDER). To ensure that the ............. (NETWORK SERVICE PROVIDER) comply with all relevant and applicable provisions of the Contract. To obtain and arrange for the maintenance in full force and effect of all applicable government approvals, consents, licenses, authorizations, declarations, filings, and registrations as may be necessary and advisable for the performance of all of the terms and conditions of this Agreement.</td>
<td>To ensure compliance of Indian Telecom regulation &amp; statutory requirements while performing the works/services under this agreement. To obtain and arrange for the maintenance in full force and effect of all government approvals, consents, licenses, authorizations, declarations, filings, and registrations as may be necessary and advisable for the performance of all of the terms and conditions of this Agreement.</td>
</tr>
</tbody>
</table>

6. **INVOICE AND PAYMENT**
i. .............. (NETWORK SERVICE PROVIDER) shall raise direct invoices against the Requisite Services so rendered, as per the terms of the Contract and .............. (PURCHASER) shall directly make the payment to .............. (NETWORK SERVICE PROVIDER) based on the SLA report and confirmation made by .............. (SUPPLIER). ii. The other terms and conditions shall remain applicable as per .............. (PURCHASER’s) CONTRACT No. .............. with .............. (SUPPLIER).

7. DISPUTES WITH REGARDS TO INCORRECT INVOICING
Disputes with regard to incorrect Invoicing shall be governed by .............. (PURCHASER’s) CONTRACT No. .............. with .............. (SUPPLIER).

8. ACCESS TO PREMISES
 .............. (PURCHASER) shall allow or obtain the required permission to enable .............. (NETWORK SERVICE PROVIDER) employees or authorized personnel, appointed distributors, agents or subcontractors to enter at all times during the normal working hours of .............. (PURCHASER) into the premises where the Services are provided for periodical inspection with seven (7) days prior notice, installing, maintaining, replacing and removing equipment hardware and/or software prior to, during and after the provision of the Services, as well as to inspect the network and/or to the CPE or any other equipment used in or in connection with the Services. The .............. (PURCHASER) shall render all assistance in this regard and shall provide safe access and conditions for .............. (NETWORK SERVICE PROVIDER)’s employees or appointed personnel whilst in the premises. .............. (NETWORK SERVICE PROVIDER)’s employees or appointed personnel shall comply with security and confidentiality policies and procedures while on the .............. (PURCHASER)’s premises.

9. NOTICES
Any party may deliver notices to the other by personal delivery or by postal delivery at -

(PURCHASER)

(SUPPLIER)

(NETWORK SERVICE PROVIDER)

. Notices shall be deemed delivered on the date of actual receipt.
10. ENTIRE UNDERSTANDING
This Agreement constitutes the entire understanding of the parties related to the subject matter hereof. The agreement may be amended only in writing when it is signed by ............. (NETWORK SERVICE PROVIDER), .............(SUPPLIER) and .............(PURCHASER).

11. MISCELLANEOUS
   a. The terms of this Agreement shall not be construed to constitute a partnership, joint venture or employer/employee relationship between the parties. This Agreement along with any other relevant document constitutes the whole of the agreement and understanding between the parties about the subject matter.
   b. In the event of any provision of this Agreement being held or becoming invalid, unenforceable or illegal for any reason, this Agreement shall remain otherwise in full force apart from the said provision which will be deemed deleted. The parties shall however attempt to replace the deleted provision with a legally valid provision that reflects the same purpose of the deleted provision to the greatest extent possible.
   c. Headings used in this Agreement are for the convenience and ease of reference only, and shall not be relevant to or affect the meaning or interpretation of this Agreement.
   d. No forbearance, relaxation or inaction by any party at any time to require the performance of any provision of this Agreement shall in any way affect, diminish, or prejudice the right of such party to require the performance of that or any other provision of this Agreement or be considered to be a waiver of any right, unless specifically agreed in writing.
   e. Each Party shall obtain and arrange for the maintenance in full force and effect of all government approvals, consents, licenses, authorizations, declarations, filings, and registrations as may be necessary and advisable for the performance of all of the terms and conditions of this Agreement.
   f. The (NETWORK SERVICE PROVIDER) and ............. (SUPPLIER) shall ensure compliance of Indian Telecom regulation & all other statutory requirements while performing the works/ services under this agreement.

12. APPLICABLE LAW
The Agreement shall be governed by and construed in accordance with Indian Law. Subject to arbitration provision stated hereinafter the Courts at Delhi shall have the jurisdiction.

13. ARBITRATION
Any disputes which may arise out of this Agreement, and which cannot be settled in discussions or negotiations between the Parties, shall be referred to the appropriate management or higher authorities of the respective parties to resolve such dispute in good faith. In case no settlement is reached the parties shall refer it to a sole arbitrator appointed and selected by parties. Arbitration shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996 or any other subsequent modifications or enactments thereof. The venue for Arbitration proceedings shall be ……………………… . The Arbitration shall be conducted in English Language and the award shall be binding upon all Parties.

14. LIMITATION OF LIABILITY
Limitation & liability with respect to Main Agreement and also this Agreement shall be governed by ............ (PURCHASER’s) Contract with ........ (SUPPLIER). For the sake of clarity the parties agree that this Limitation of Liability shall be a part of overall limitation of liability for the entire scope of work under the contract, with respect to ‘The Project’, executed between the Supplier and the Purchaser.

IN WITNESS WHEREOF the parties hereto have executed these presents the day and year first above written
SIGNING AND DELIVERING BY (on behalf of PURCHASER)

Signature ........................................
Name & Designation ...........................
Address ........................................

ARTICLE IV ........................................

SIGNING AND DELIVERING BY
(on behalf of SUPPLIER ..................) Signature ........................................
Name & Designation ...........................
Address ........................................

ARTICLE VI ........................................

ARTICLE VIII

SIGNING AND DELIVERING BY (on behalf of SUB-
CONTRACTOR.............)

Signature ........................................
Name & Designation ...........................
Address ........................................

ARTICLE X ........................................
in the presence of .............................
Signature ........................................
Name & Designation ...........................
Address ........................................

ARTICLE XI ........................................