

**Request for Proposal**  
**For**  
**Implementation, Operations and Maintenance of Learning**  
**Management System for Tour Facilitators in India**  
**under**  
**Incredible India Tourist Facilitator Program**

**Tender Number: IITFC- 2022/07/12/01**



**Indian Institute of Tourism and Travel Management**

**(An Autonomous Body Under Ministry of Tourism, Govt. of India)**

## Important Dates

<b>S. No.</b>	<b>Particular</b>	<b>Details</b>
<b>1</b>	Start date for Bid Submission	13/07/2022
<b>2</b>	Last date for Submission of Queries	18/07/2022
<b>3</b>	Pre-Bid Conference	19/07/2022 12:00 PM
<b>4</b>	Issue of Corrigendum (if any)	21/07/2022
<b>5</b>	Last date and time for BID Submission	02/08/2022 04:00 PM
<b>6</b>	Date and time of opening of Pre-Qualification bids	03/08/2022 05:00 PM
<b>7</b>	Date and time for opening of Technical bids	Will be intimated later
<b>8</b>	Date and time for opening of Commercial bids	Will be intimated later

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## Fact Sheet

#	Topic	Reference
1	The method of Selection is: QCBS	Section 8
2	EMD in the form of Demand Draft or Bankers Cheque or bank guarantee should be submitted with Proposal	Section 7.5.2
3	Procurement is linked to Operation and Maintenance of LMS application	Section 5
4	The assignment is phased: No	Section 5.1
5	<p>A pre-bid conference will be held on 19/07/2022 at 12:00 PM</p> <p>The name, address and telephone number of Nodal Officer is:</p> <p style="padding-left: 40px;">Dr. C.S. Barua (Nodal Officer-IITTM &amp; Co-coordinator-IITFC), Indian Institute of Tourism and Travel Management, Govindpuri, Gwalior – 474 011 Phone: 7000228541 Email: iitfcproject@gmail.com</p> <p>All queries should be received on or before 18/07/2022; either through post, fax or email</p>	Section 7.4.1
6	Proposal should be submitted in English Language	Section 7.6.2
7	Taxes: The Financial Proposal should be inclusive of all the applicable taxes but excluding GST	Section 8.3
8	Validity: The Proposal must remain valid for 180 days from the date of submission.	Section 7.8.2
9	<p>Bidder must submit their bids to the Dr. C.S. Barua (Nodal Officer-IITTM &amp; Co-coordinator-IITFC) at Indian Institute of Tourism and Travel Management, Govindpuri, Gwalior through registered post or in person on or before 02/08/2022 at 04:00 PM</p> <p>An indicative list of bid documents includes:</p> <ul style="list-style-type: none"> <li>• Tender Fees (Rs 5,000)</li> <li>• EMD</li> <li>• Pre-Qualification response</li> <li>• Technical Proposal</li> <li>• Financial Proposal</li> <li>• Additional Certificate/Document, etc</li> </ul>	Section 7.5.3

# 1 Introduction

## 1.1 Objective

The purpose of this RFP is to select implementation agency for online learning management system for tourist facilitators in the country. The objective of the program is to enhance the knowledge, skills and capabilities of tourist facilitators through online learning system. This centralized unified system will assist in validating and authorizing the tourist facilitator with appropriate certificates post completion of the courses required for tourism.

The project envisages customization, development of new functionalities, implementation, commissioning and maintenance of existing online learning management system (LMS) which is hosted over the National Informatics Centre's (NIC) Cloud. The project also envisages course content creation and integration of LMS with external gateways such as:

- a. Payment Gateways of Banks, UPI and payment applications
- b. SMS Gateways

## 1.2 Request for Proposal (RFP)

Sealed tenders are invited from eligible, reputed, qualified bidders as detailed out in Scope of Work under section 5 of this RFP Document. This invitation to bid is open to all Bidders meeting the pre-qualification criteria mentioned in Section 8.1 of this RFP Document

## 1.3 Structure of the RFP

This Request for Proposal (RFP) document for the project of *'Implementing Learning Management System for Tour Facilitators in India'*, for Indian Institute of Tourism & Travel Management comprise of the following:

- a. Instructions on the Bid process for the purpose of responding to this RFP. This broadly covers:
  - i. General instruction for bidding process
  - ii. Bid evaluation process including the parameter for Pre-Qualification, Technical and Commercial evaluation to facilitate IITTM in determining Bidder's suitability as the implementation partner
  - iii. Payment Schedule
  - iv. Commercial bid and other formats
- b. The content of the document broadly covers the following areas:
  - i. About the project and its objective
  - ii. Scope of work
  - iii. Functional and Technical details
  - iv. Service level for implementation agency

The bidder is expected to respond to the requirements as completely and with as much relevant detail as possible focussing on demonstrating Bidder's suitability to be selected as the application developer, implementation and maintenance partner of IITTM.

- c. Master Service Agreement (MSA), Service Level Agreement (SLA) and Non-Disclosure Agreement (NDA). Provided separately in Appendix

The Bidders are expected to examine all instructions, formats, terms, Project requirements and other information in the RFP documents. Failure to furnish all information required in the RFP documents or submission of proposal not substantially responsive to the RFP documents in every respect will be at the Bidder's risk and may result in rejection of the proposal.

## **2 About IITTM**

Indian Institute of Tourism and Travel Management (IITTM) is an autonomous body under Ministry of Tourism, Government of India and is one of the premier institutes in the country offering education, training, research and consultancy in sustainable management of tourism, travel and other allied sectors. The stakeholders' realization that the country is in need of such professionals who can provide an excellent standard of products and services, resulted in the creation of IITTM in 1983 at New Delhi. It is devoted to the pursuit of higher knowledge in tourism and its dissemination to a diverse audience. Over the years, Institute has established a distinguished identity of its own and reached at a commanding position among sectoral B-Schools in the country. With its focus in meeting the changing needs of the tourism industry, it has played a pioneering role in the propagation and professionalisation of tourism education. The management of the Institute is entrusted in the hands of the Board of Governors having the Union Minister for Tourism as its Chairperson. The efforts of the Institute have been instrumental in evolving the fundamental framework for tourism education and training in the country as it exists today. The Ministry of Tourism, Government of India has also entrusted the institute to conduct regional level guide training programmes for all the regions of the country.

Having set the benchmark in Tourism sector, we have begun the journey to define excellence in field of ever-expanding Service sector. IITTM, with its vast resource pool and enormous experience will set trends and create new paths which will set the pattern to be followed in future.

## **The Mission**

IITTM is committed to developing quality human resources for tourism and allied services. The target groups of its educational/ training programmes extend much beyond the organized sectors of the economy. IITTM endeavours to nurture professional and managerial excellence, social and cultural sensitivity, moral and ethical responsibility with concern for the environment and strive for latest techniques to develop decision making abilities with a resolute approach towards productivity, excellence, innovation and value for others to enable its participants to keep pace with the changing scenario of the economy and its environs.

### **3 About IITF Certification**

Incredible India Tourist Facilitator (IITF) Certification Programme is a digital initiative of Ministry of Tourism (MoT), Government of India, for the citizens of India to become a part of the booming Tourism Industry. It is an online programme where one can learn about tourism at their own time, space, path and pace. The successful completion of this programme would enable the learner to become a Certified Tourist Facilitator of Ministry of Tourism, Government of India.

#### **3.1 Tourist Facilitator**

Facilitators are essentially interpreters of place. They can expand their scope of work to include other sites or even cities. However, before they expand their scope of work, they must acquire necessary experience of working as interpreters, hone their communication skills and gradually acquire domain knowledge about the chosen monuments, sites or site in a city. Thus, Tourist Facilitator must have the following pre-requisite namely, interpersonal skills, knowledge, presentation and executions.

#### **3.2 Categories of Tourist Facilitator Certification Programmes**

a. There would be two categories of Tourist Facilitators

i. Incredible India Tourist Facilitator (IITF) – Basic

This would be a basic category of tourist facilitators, having knowledge of Destinations in India and Experiences that India offers to the tourists. The tourist facilitators would facilitate in providing a pleasant and satisfying experience for the tourist during their visit to destinations in India. The facilitator shall also be trained on state-based content.

ii. Incredible India Tourist Facilitator (IITF) – Advanced

These would be specialized Tourist Facilitators in different fields of tourism. The IITFC Basic Category certificate holder would be eligible to enrol/register in the IITFC Advanced Level Category.



The advance category of Tourist Facilitators is of two types:

A. Advance Category (Heritage)

This category of tourist facilitators would have specialized knowledge in the field of history, culture & heritage.

B. Advance Category (Adventure)

This category of tourist facilitators would have specialized knowledge in the field of adventure tourism activities along with excellent interpersonal communication skills, critical thinking, planning and organizational skills.

b. Certification of Specialization of Spoken Language

The spoken language is an optional specialization programme, which a candidate may opt for after completion of IITF (Basic). A candidate can also opt for language specialization in more than one language.

c. Refresher Course

Before completion of five years' validation period, a Tourist Facilitator has to undergo two weeks' online refresher course to be conducted by IITTM. It would be mandatory for IITF- Basic and Advanced to get them registered for the refresher programme. The candidate may get themselves registered for refresher courses well before four months of expiry of five years' validity period. Once they have completed the online refresher course, certified by Ministry of Tourism Govt. of India, the existing IITF certificate and badge would be renewed by Ministry of Tourism, Govt. of India for a period of further five years.

## **4 Background Information**

### **4.1 Basic Information**

- a. IITTM invites responses ("Tenders") to this Request for Proposals ("RFP") from reputed Information Technology (IT) companies/ systems implementation agencies ("Bidders") for the provision of "Operation & Maintenance of Learning Management System for Tour Facilitators in India" as described in Section 5 of this RFP, "Scope of Work".
- b. Any contract that may result from this Government procurement competition will be issued for a term of 1 Years ("the Term").
- c. The IITTM reserves the right to extend the Term for a period or periods of up to six months with a maximum of two (2) such extension or extensions on the same terms and conditions, subject to the IITTM's obligations at law.

- d. Proposals must be received not later than time, date and venue mentioned in the Fact Sheet. Proposals that are received late WILL NOT be considered in this procurement process.

## **4.2 Project Background**

As the Tourism industry witnesses' rapid growth, it is becoming even more competitive in terms of attracting more tourists from across the globe. Destinations need to differentiate themselves based on their unique offerings/attractions and their ability to create a distinct image in the minds of the tourist. The growth in Tourism sector is directly associated with the satisfaction of the visitor which comes with the quality of immersion in local experiences in the destinations visited. This satisfaction can be achieved through the active participation of various stakeholders who shoulder responsibilities in the creation of a seamless experience for the visitors.

The capacity building, therefore, becomes essential for enhancing the efficiency of all the stakeholders of the industry. The success will, to a large extent, depend upon the competence of the person mediating the experience for the visitor. This role would invariably be played by the Tourist Facilitator. Tourist Facilitator is the most crucial touchpoint for the visitor who is likely to spend most of their time with this facilitator of their tourism experience.

In today's context, one of the biggest hurdles being faced in the tourism industry in India is the presence of quantity and quality gaps. The number of places of tourist importance is many as opposed to the short supply of trained Tourist Facilitators. Further, in many cases, the existing Facilitators do not possess requisite skills and knowledge, thereby disappointing the visitors and creating a challenge for growth of tourism in India.

Ministry of Tourism, Government of India, continuously endeavours to build the capacity of all stakeholders with whom the visitor is likely to interact, with the objective that each interaction results in a superior experience for the visitors. A stalwart initiative in this regard is the introduction of the Incredible India Tourist Facilitator Certification (IITFC) Programme, a digital initiative that aims at the creation of an online learning platform to facilitate tourism learning at the candidate's own time, space, path and pace, eventually paving the way for the creation of Certified Tourist Facilitators of the Ministry of Tourism, Government of India.

In reference to above, IITTM had initiated development of learning management system and the same was developed and made Go-Live in prior years. Now IITTM intends to select a implementation agency who can takeover this project and handle Operation &

Maintenance for the aforesaid LMS application. The scope of work for the same is discussed in subsequent sections of this RFP.

#### 4.3 Stakeholder(s) and their responsibilities for the LMS Solution

The Stakeholder(s) details and their responsibilities are as below:

Sr.no	Stakeholders	Responsibilities
1	Indian Institute of Tourism and Travel Management (IITTM)	<ul style="list-style-type: none"> <li>• Taking necessary Instructions for finalizing the content requirement from Ministry of Tourism (MOT) Coordinate with institute to provide content required for LMS.</li> <li>• Arrange review meetings with <b>Ministry of Tourism (MoT)</b> at regular intervals.</li> <li>• Creation of course content and identifying the course modular ordering to be published on the LMS solution</li> <li>• Identifying and creation of content videos, PPTs, PDFs, Docx, external links, etc. to be uploaded on the LMS solution</li> <li>• Creation of the assessment modules for each of the courses and developing assessment framework for the same</li> <li>• Updating the courses based on feedback and assessment results for various learners</li> <li>• Ensure timely review of deliverables submitted by the selected Bidder and share review comments/ acceptance for the successful implementation and operations of the project</li> <li>• Identifying the user base for the LMS solution and getting them registered on the solution</li> <li>• Provide timely acceptance and sign-off on deliverables for successful implementation of the project under stringent timelines</li> <li>• Setup the project governance structure</li> <li>• Appoint agency and bear cost for third party audit (TPA) for LMS solution developed</li> </ul>

## 5 Scope of Work

IITTM intends to select an Implementation Agency (IA), who will be responsible for below activities:-

- Operation & Maintenance of existing LMS solution
- Design, development, configuration and deployment of new modules on cloud infrastructure of NIC
- Capacity building.

\*Note: The phase wise details along with detailed scope of work is mentioned on Point 5.2

### 5.1 Overview

The scope of this project is to perform operation & maintenance of existing application and development of new modules if any which are hosted over the NIC cloud for a period of 1 year. The scope also includes integration with payment gateways, SMS gateway, etc. and content storyboarding and enhancement for basic, refresher, advanced and linguistic courses in consultation with IITTM.

The system is intended to be used by tourist facilitator to train and learn from the courses developed using Adobe Captivate (in the form of SCORM files). The story boarding of content provided by IITTM/other sources would be created using the content authoring tool like Adobe Captivate /or similar one etc. The web-based solution is intended to be used for managing pre-class, in-class and post-class online activities of tourist facilitator of different courses under different programs as assigned by the ministry. The solution allows for evaluations of tourist facilitator performance on different evaluation/assessment metrics .

The system is provided with Moodle-based Learning Management system that offers a range of ways to import, export and manage digital content of any kind to enable and support learning to facilitate online content uploading, monitoring and tracking the content on the system. The IA should customize/enhance the capability of Moodle-based CMS to meet the requirements of IITTM. The solution should be compliant to global standards and specifications for web-based e-learning management system. The solution should support modular development and deployment of additional functionalities in future on requirement basis.

The project is scope is broadly divided into two phases:

- **Phase 1:** Transition Phase – 1 Month
- **Phase 2:** Operation and Maintenance (O&M) for a period of 11 Months

Note:- In-case existing IA gets selected, the transition phase shall be merged with O&M phase.

## 5.2 Project Details

The phase wise details along with the scope of work are mentioned below:

### Phase 1: Transition Phase

The IA will take the knowledge transfer and handover of the all the resources from existing IA for Learning Management System and will be responsible for Operation and Maintenance for 11 months, starting from completion of customization and development of application. The IA will also be responsible for operations and maintenance of existing LMS system during the development and customization phase which will start from date of completion of transition/handover from existing IA. The IA will also discuss with IITTM for detailed understanding on the requirement of customization and development of new functionalities in the system as a parallel activity.

### Phase 2 - Operation and Maintenance:

#### A. Project Activities –

- I. The IA is expected to adopt a comprehensive and efficient Project Management methodology to ensure that the project milestones are tracked and met. The IA will be required to finalize the project plan and project charter in order to determine and agree on the project expectations, ground rules, work plan, communication matrix, Quality plan, timelines etc. within the stipulated time as per the Section 10: Deliverable and Timelines of this RFP. The following activities would be covered under the project planning:
  - a. Finalize a set of activities for the project with identification of resource assignments, roles and responsibilities against each activity
  - b. Selected IA needs to execute following activities under operation & maintenance:
    - Application enhancement, upgradation and issue resolution, ensure web application availability, bug fixing, new updates and version overall facility management services.
    - Enhancement of existing functionalities issued by administrative department by releasing new versions.
    - Development of new functionalities in existing modules.
    - Carryout minor customization of the applications as per the new requirements.
    - Customization of user interface (UI) and reporting formats / dashboards as per changing needs of various stakeholders.

- Co-ordination with NIC cloud data centre team for application availability, resolving IP issues, application hosting, testing etc.
  - Application maintenance including regular backups, troubleshooting, bug fixing etc.
  - To coordinate with various stakeholders of the project during the support phase
  - Conduct periodic workshops, training session on new version released.
  - Assessment of data capturing, storage and retrieval methodology
  - Conduct testing and UAT from time to time when new features/functionalities are released
  - Review regular progress assessment reports
  - Acts as an interface for all stakeholders as required for support.
  - Preparation of project monitoring status Report/ exceptional reports
  - Preparation and updation of documentation related to various tasks carried out.
  - Respond to all queries & issues raised by IITTM.
- II. IA shall hold fortnightly review meetings with the IITTM providing detailed report on the progress of the project (Project Progress Report) clearly highlighting the activities completed in the reporting period, activities planned for the next reporting period, deviations from the planned dates, issues or concerns affecting the project progress, impact on the overall project timelines, project related risks with their mitigation plans.
- III. IA shall ensure proper configuration management functions are being performed as per the configuration management plan. IA's Project Manager shall review internally the activities on a regular basis

#### **B. Requirement gathering for new module development -**

The IA must perform a detailed assessment of the business and IT solution requirements as mentioned in this RFP. Additionally, the IA is required to carry out an exhaustive requirement gathering exercise with the IITTM team(s) (including PMU) for understanding the requirements. While doing so, the IA is expected to do at least the following:

- i. The IA should conduct a study to plug the gaps in Functional Requirement Specification (FRS) and provide the desired solution as per the IITTM's requirement at no extra cost to the IITTM. The proposed Indicative Functional Requirements is provided in Annexure –19.4 with this RFP.
- ii. As part of the system study, the IA shall be responsible for preparation of a comprehensive system study document which will include detailed assessment of the functional requirements and technical requirements of the application.

- iii. On gathering the requirements, IA shall analyze these requirements to ensure the requirements are complete, accurate, consistent and unambiguous
- iv. The IA will also be responsible for developing the process workflows in consultation with IITTM / PMU and prepare the detailed Functional Requirement Document (FRS).
- v. The FRS should also include the use cases and actor profiles
- vi. The IA shall prepare Software Requirement Specification (SRS) document, for the customization or new functionality development, which shall contain the objectives and scope of the changes or functionality addition to the system, the various levels of requirements, the process model, data model, data dictionary, etc. Unresolved issues shall also be included in the document. User Role wise mapping to the various business functions with details regarding their access rights (insert / update / delete / view etc.) shall also be included in the document. Acceptance Criteria shall also be included explicitly promoting clear understanding with the end user about what the end user considers acceptable.

While functional details of the envisaged system are mentioned in Annexure –19.4 of this RFP, some of the processes and forms may undergo changes at the time of implementation. The IA need to consider this fact while submitting its proposal. No extra cost shall be paid for such changes till the SRS approval stage of each phase. All major changes post this for each phase shall be handled through change control process as per Schedule I of Master Service Agreement. Any change which requires more than 30-man days of efforts shall be treated as a Major change.

### **C. Preparation of Technical Documents**

The IA is expected to prepare the following technical documents during the new module development including but not limited to:

- i. **Software Requirement Specification (SRS)** as per IEEE Standards including but not limited to the following components:
  - a. System description
  - b. System interfaces (system, user, software, communication, etc.)
  - c. Performance requirements
  - d. Logical database requirements
  - e. Standards compliance
  - f. Software system attributes like reliability, availability, security, maintainability, portability
  - g. Prototype including GUI screens
  - h. Operational modes
  - i. Use cases
  - j. Constraints

- ii. **Software Design Document (SDD)** as per IEEE Standards including but not limited to the following:
  - a. Decomposition description (modules, processes, data)
  - b. Detailed design (Module and Data)
  - c. Dependency description (Inter-modules, Inter-process, Inter-data)
  - d. Interface description (Module and process)
- iii. **Software Test Report Document** which shall contain documentation pertaining to the testing of each module or system as a whole, etc.
  - a. Unit and Integration Testing Plan and Procedure
  - b. User Acceptance Testing Plan and Procedure
  - c. Test cases for all tests
  - d. Test input data set, test results
  - e. Quality Assurance/ Testing Plan
- iv. Version control management containing the baseline version for all documents, source codes and applications with procedures for making any changes to the baseline version.
- v. Operational procedures manual
- vi. Go-Live and completion report
- vii. Contingency Plan document containing emergency response procedures; backup arrangements, procedures, and responsibilities; and post-disaster recovery plans, procedures and responsibilities
- viii. The IA must ensure that the system modules being developed are thoroughly documented with comprehensive manuals and adhere to standard SDLC methodologies. The documents to be submitted should include, but not limited to:
  - a. All system requirements, design and architecture related checklists of documents
  - b. Interface control document
  - c. Management and review of Version Control System
  - d. Traceability Matrix
  - e. Quality Assurance / Testing Plan
  - f. Others
- ix. Preparation and maintenance of end-user documents including but not limited to user manuals. The manuals and documents should be in English language and in soft and/or hard copy and equal to the number of the deliverables/modules. Some of the indicative manuals are:
  - a. Operations Manual providing instructions for installing the application/ software tools, troubleshooting, interpreting message logs, and FAQs (Frequently Asked Questions).
  - b. Maintenance Manuals



- c. Administration Manual
- d. Security Manual
- e. Applications and Web Portal Training Manual and others (if any) as per acceptable standards
- f. Systems Manual detailing the data structure, table, forms and report structures.
- g. Trouble Shooting Guide/ Handbook for helpdesk which describes the various trouble shooting methods
- h. IITTM and PMU will review the deliverables submitted by the IA and will provide recommendations and observations to the IA on the deliverables.
- i. The IA should implement following solutions in LMS post detailed review of the scenarios in relation to the functional processes envisaged for each module to be implemented under each stage:

#	Component	Requirements
a.	Workflow	<ul style="list-style-type: none"> <li>•The IA should discuss the requirements for business process to be implemented.</li> <li>•The IA should propose a workflow system which shall enable a streamlined flow of process</li> <li>•Workflow Management module system shall enable creation of workflows for various business processes. This shall include process tasks and routing. IA shall manage configuration of various users such as officers from various offices, different roles etc. into the business processes for various kinds of approvals / rejections, assignment of assessment to the IITTM instructors, evaluation of assessments and scoring for internal assessments etc.</li> <li>•Indicative requirement specifications of Workflow provided in Annexure – 19.4 of this RFP</li> </ul>
b.	Content Management System (CMS)	<ul style="list-style-type: none"> <li>• Moodle based CMS is an integral part of the solution as the stakeholders upload the supporting documents for various purposes on the LMS portal. Documents generated from any module would be stored and handled by Document management system.</li> <li>• The CMS should allow the stakeholders to easily store and retrieve data based on various parameters. The CMS should provide clear metadata for categorization of any document/file entering the system communication channels. It would be mandatory for the CMS to capture the following fields:</li> </ul>

#	Component	Requirements
		<ul style="list-style-type: none"> <li>a. File type</li> <li>b. Date of upload</li> <li>c. Uploaded by</li> <li>d. Approved by</li> </ul> <ul style="list-style-type: none"> <li>• Adequate access controls should be in place to limit access to critical files</li> <li>• The nomenclature of file storing should be established, and policies should be defined allowing the user to upload and add labels as applicable</li> <li>• Indicative requirement specifications of DMS is provided in provided in Annexure-19.4 of RFP</li> </ul>
c.	Identity and Access Management	<ul style="list-style-type: none"> <li>• IAM shall be able to identify and authorize the users and would allow access to LMS application. Identity and access management system would be able to identify the rights available with the user in terms of viewing, addition, modification of the data and generation of various reports through MIS</li> <li>• Indicative requirement specifications of IAM is provided in provided in Annexure-19.4 of RFP</li> </ul>
d.	Reporting solution	<ul style="list-style-type: none"> <li>• The IA should conduct study of the reporting requirements to assess the implementation strategy.</li> <li>• The IA should customize to enhance the capability of existing analytical tools used for reporting and decision support which would assist the IITTM in making strategic decisions</li> <li>• Indicative requirement specifications are provided in provided in Annexure-19.4 of RFP</li> </ul>
e.	SLA Monitoring	The IA should build the capability into the system to extract the data required for SLA monitoring/computation as and when required as per the SLA parameters defined in the RFP
f.	Session Management	Session Management shall allow various sessions to be managed across the business processes. It shall help in ensuring persistence across a transaction
g.	Exception Handler	Exception Management takes care of the various exceptions that might arise out of the system. These exceptions are captured and managed providing suitable abstraction to the user

#### **D. Cloud provisioning & Commissioning (For Existing Application & New Modules)-**

The existing LMS solution is hosted on NIC cloud, and the same infrastructure shall continue to be used. IA would be responsible to implement and manage the cloud services with NIC, the cloud service provider (CSP). All the requirements/scope of work mentioned in this section shall be the responsibility of the IA.

- i. The IA is required to prepare and submit along with their technical proposal, the details of methodologies & computations for sizing & capacity of storage, compute, backup, network and security.
- ii. The IA will be responsible for adequately sizing the necessary compute, memory, and storage required, building the redundancy into the architecture (including storage) and load balancing to meet the service levels mentioned in the RFP.
- iii. While the initial sizing & provisioning of the underlying infrastructure (including the system software and bandwidth) is done for current requirements; subsequently, it is expected that the IA along with the CSP, based on the growth in the user load (peak and non-peak periods; year-on year increase), will scale up or scale down the compute, memory, storage, and bandwidth requirements to support the scalability and performance requirements of the solution and meet the SLAs.
- iv. Ensure redundancy at each level
- v. IA shall provide interoperability support with regards to available APIs, data portability etc. for IITTM to utilize in case of:
  - a. Change of Cloud Service Provider,
  - b. Migration back to in-house infrastructure,
  - c. Burst to a different cloud service provider for a short duration, or
  - d. Availing backup or DR services from a different service provider
- vi. Required support to be provided to IITTM in migration of the Virtual Machines (VMs), data, content and any other assets to the new environment created by the Government Department or any Agency (on behalf of the Government) on alternate cloud service provider's offerings to enable successful deployment and running of LMS solution on the new infrastructure.
- vii. IITTM retains ownership of all virtual machines, templates, clones, and scripts/applications including application code (all versions) created for the LMS system, and all licenses purchased under the LMS solution during the contractual period. IITTM retains the right to request (or should be able to retrieve) full copies of these virtual machines at any time.
- viii. The IA/CSP should configure, schedule and manage backups of all the data including but not limited to files, folders, images, system state, databases and enterprise applications
  - a. Perform and store data and file backups consisting of an initial full back up with daily incremental backups for files.

- b. For the files, perform weekly backups.
  - c. For the databases, perform a twice weekly full database backup, with a three times daily backup of database log files
  - d. Encryption of all backup files and data and management of encryption keys as a service that can be enabled for IITTM that require such a service.
- ix. IA shall not delete any data at the end of the agreement (for a maximum of 90 days beyond the expiry of the Agreement) without the express approval of IITTM.
  - x. The IA should offer dashboard to provide visibility into service via dashboard.
  - xi. IA to provide the RTP/RPO calculations as a part of his proposed solution

#### **E. Integration with other applications**

- i. IA should provide integration of LMS payment gateways such as Bank, UPI, e-wallets and payment apps for new modules if applicable
- ii. Provide the integration with helpdesk to raise the query or concerns from the portal
- iii. The IA should provide the SMS gateway integration for sending text message for OTP, complain number, announcements, notices etc.

#### **F. Storyboarding**

The IA will be responsible for content enhancement and storyboarding using Adobe Captivate or similar application in consultation with IITTM on IITTM's system for the following courses:

- i. Basis Course
- ii. Refresher Course
- iii. Advanced Course
- iv. Linguistic Course

The number modules in above courses may vary as per requirement. IA should follow instructional best practices while storyboarding in a way that it engages the learner and increases interactivity like (including but not limited to):

- Consistent themes and style
- Storyboard templates
- Visual elements
- Engaging graphics/media
- Navigation support
- Interactive components
- Other design principles

Storyboards are expected to be created in the following languages:

- English
- Hindi
- Other prominent languages (IA to discuss with IITTM during requirement gathering phase)

The hardware (desktop/laptop) and software for storyboarding would be provided by IITTM.

### **G. Management Dashboard**

- i. IA should develop management dashboard for new modules to display the key information, in the form of charts and tables, about the users, course update, fees received etc. IITTM may add other parameters to meet its requirements. The IA should discuss with IITTM for requirement parameter at the time of implementation.
- ii. The management dashboard should also provide the feature to generate and download the report in PDF and Excel formats.
- iii. The report generated on the portal should be interactive reports
- iv. Indicative reporting requirements for dashboard is provided in the Annexure 19.4. The number and format of report may vary as per IITTM Requirements, the IA should discuss and finalize the reporting requirements with IITTM.

### **H. Contact Centre and Helpdesk**

The IA would be responsible for developing the chat services feature for contact centre and helpdesk.

### **I. Capacity Building**

The IA would provide the training to identified personnel of IITTM to use the functionalities on the developed portal on the following:

- i. Managing the content of the LMS portal
- ii. Managing the content for Online Seminar
- iii. Report generation

The training to stakeholders shall be provided through virtual mode.

### **J. Work Location:**

The resources proposed by selected IA will work on-site at IITTM office location and the team of IA shall require to visit any of the centres of IITTM located at Gwalior, Noida, Bhubneshwar, Nellore and Goa as per project requirement.

K.

## **6 Period of Contract**

The period of contract will be 12 months from the date of signing of contract

The period of contract is divided into two parts:

- a. 0-1 (01 month) for transition/handover from existing IA
- b. 2-12 (11 months) Implementation, operations and maintenance of the LMS system

Note: - In-case existing IA gets selected, the transition phase shall be merged with O&M phase.

The IA will also be responsible for operations and maintenance of existing LMS system during the development and customization phase which will start from date of completion of transition/handover from existing IA.

The IITTM reserves the right to extend the Term for a period or periods of up to six months with a maximum of two (2) such extension or extensions on the same terms and conditions, subject to the IITTM's obligations at law.

## **7 Instruction to the Bidders**

### **7.1 General**

- a. While every effort has been made to provide comprehensive and accurate background information and requirement & specifications, Bidder must from their own conclusion about solution needed to meet the requirements. Bidders and recipients of this RFP may consult their own legal advisors in relation to this RFP.
- b. All information supplied by Bidders may be treated as contractually binding of the bidders, on successful award of the assignment by the IITTM on the basis of this RFP
- c. No commitment of any kind, contractual or otherwise shall exist unless and until a formal written contract has been executed by or on behalf of the IITTM. Any notification of the preferred Bidders status by the IITTM shall not give rise to any enforceable rights by the Bidder. The IITTM may cancel this public procurement at any time prior to a formal written contract being executed by or on behalf of the IITTM.
- d. This RFP supersedes and replaces any previous public procurement documentation & communications and Bidder should place no reliance on such communications.

### **7.2 Compliant Proposals/Completeness of Responses**

- a. Bidders are advised to study all instructions, forms, terms requirements and other information in the RFP document carefully. Submission of bid shall be deemed to

have been done after careful study and examination of the RFP document with full understanding of its implications.

- b. Failure to comply with the requirements of this paragraph may render the Proposal non-compliant and Proposal may be rejected. Bidders must:
  - i. Include documentations specified in this RFP;
  - ii. Follow the format of this RFP and respond to each element in the order as set out in this RFP
  - iii. Comply with all requirements as set out within this RFP.

### **7.3 Code of Integrity**

No official of a procuring entity or a bidder shall act in contravention of these codes which includes:

- a. Prohibition of:
  - i. Making offer, solicitation or acceptance of bribe, reward or gift or any material benefit, either directly or indirectly, in exchange for an unfair advantage in the procurement process or to otherwise influence the procurement process.
  - ii. Any omission or misrepresentation that may mislead or attempt to mislead so that financial or other benefit may be obtained or an obligation avoided.
  - iii. Any collusion bid rigging or anticompetitive behaviour that may impair the transparency, fairness and the progress of the procurement process.
  - iv. Improper use of information provided by the procuring entity to the bidder with an intent to gain unfair advantage in the procurement process or for personal gain.
  - v. Any financial or business transaction between the bidder and any official of the procuring entity related to tender or execution process of contract; which can affect the decision of the procuring entity directly or indirectly.
  - vi. Any coercion or any threat to impair the harm, directly or indirectly, any party or its property to influence the procurement process.
  - vii. Obstruction of any investigation or auditing of a procurement process.
  - viii. Making false declaration or providing false information for participation in a tender process to secure a contract.
- b. Disclosure of conflict of interest
  - i. Disclosure by bidder of any transgression made in respect of the provision of sub-clause (a) with any entity in any country during the last three years or of being debarred by any other procuring entity

In case of any reported violations, the procuring entity, after giving a reasonable opportunity of being heard, comes to conclusion that a bidder or prospective bidder, as the case may be, has contravened the code of integrity, may take appropriate measures.

## 7.4 Pre-Bid Meeting and Clarifications

### 7.4.1 Pre-Bid Conference

- a. IITTM shall hold pre-bid meeting with prospective Bidders on 19/07/2022 at 12:00 PM at Indian Institute of Tourism and Travel Management, Govindpuri, Gwalior – 474 011
- b. The Bidders will have to ensure that their queries for Pre-Bid meeting should reach by post, facsimile or email on or before 18/07/2022 to:

Dr. C.S. Barua  
(Nodal Officer-IITTM & Co-coordinator-IITFC),  
Indian Institute of Tourism and Travel Management,  
Govindpuri, Gwalior – 474 011  
E-mail: iitfcproject@gmail.com

- c. The queries should necessarily be submitted in the following format:

S. No.	RFP Document Reference(s) (Section & Page Number(s))	Content of RFP requiring Clarification(s)	Point of clarification

- d. IITTM shall not be responsible for ensuring that the Bidders have been received by them. Any request for clarification posts the indicated date and time may not be entertained by the IITTM.

### 7.4.2 Responses to Pre-Bid Queries and Issue of Corrigendum

- a. The Nodal Officer notified by the IITTM will endeavour to provide timely response to all queries. However, IITTM makes no representation or warranty as to the completeness or accuracy of any response made in good faith, nor does IITTM undertake to answer all the queries that have been posted by the Bidders.
- b. At any time prior to the last date for receipt of bid, IITTM may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, modify the RFP document by Corrigendum.
- c. The Corrigendum (if any) and clarification to the queries from all Bidders will be posted on the IITTM website ([www.iittm.ac.in](http://www.iittm.ac.in)) and emailed to all participant of Pre-Bid Conference.



- d. Any such Corrigendum shall be deemed to be incorporated in this RFP.
- e. In order to provide prospective Bidders reasonable time for taking the Corrigendum into account, IITTM may, its discretion, extend the last date for the receipt of the Proposals.

## **7.5 Key Requirements of the Bid**

### **7.5.1 Right to Terminate the Process**

- a. IITTM may terminate the RFP process at any time and without assigning any reason. IITTM makes no commitments, express or implied, that this process will result in a business transaction with anyone.
- b. This RFP does not constitute an offer by the IITTM. The Bidder's participation in this process may result IITTM selecting the Bidder to engage towards execution of the subsequent contract.

### **7.5.2 Earnest Money Deposit (EMD)/ Bid Security & Tender Fee**

- a. Bidders shall submit, along with their Proposals, an EMD of Rs.4,00,000 (Rupees Four Lacs) only, in the form of a demand draft OR Banker's Cheque OR bank guarantee The payment transfer related information is as follows:
  - i. EMD BG in the format specified in Annexure 19.1.3 Form 1: Bank Guarantee for EMD issued by a commercial bank in favour of Director, IITTM. The EMD BG should remain valid for a period of 45 days beyond the final tender validity period.
  - ii. Demand Draft/Banker's cheque: Payable at Chetakpuri, Gwalior
- b. EMD of all unsuccessful Bidders would be refunded by the IITTM within 30 days of the Bidder being notified as being unsuccessful. The EMD, for the amount mentioned above, of successful Bidder would be returned upon submission of Performance Bank Guarantee as per the format provided in Annexure 19.3.1
- c. The EMD amount is interest free and will be refundable to the unsuccessful Bidders without any accrued interest on it.
- d. Proposals that do not accompany with the EMD or containing EMD with infirmity (ies) (relating to the amount or validity period etc.), mentioned above, shall be summarily rejected.
- e. The EMD may be forfeited in the event of:
  - i. A Bidder withdrawing its bid during the period of bid validity
  - ii. A successful Bidder fails to sign the subsequent contract in accordance with this RFP
  - iii. The Bidder being found to have indulged in any suppression of facts, furnishing of fraudulent statement, misconduct, or other dishonest or other ethically improper activity, in relation to this RFP

- iv. A Proposal contains deviations (except when provided in conformity with the RFP) conditional offers and partial offers.
- f. Tender Fee of Rs. 5,000 (Non-refundable) shall be made through Demand Draft/Banker's cheque, in favour of Director, IITTM & Payable at Gwalior.

### **7.5.3 Submission of Proposals**

- a. Bidders should submit their responses as per the formats given in this RFP in the following manner:
- Response to pre-qualification criterion: (1 original + <1> copies + <1> CD) in first envelope
  - Technical Proposal - (1 original + <1> copies + <1>CD) in second envelope
  - Commercial Proposal - (1 original) in third envelope
- b. The Bidder's Proposal in response to pre-qualification, technical and commercial evaluation (as mentioned in previous paragraph) should be covered in separate sealed envelopes super-scribing "Pre-Qualification Proposal", "Technical Proposal" and "Commercial Proposal" respectively. Each copy of the Proposal should also be marked as "Original" OR "Copy" as the case may be.
- c. Please note that prices should not be indicated in the pre-qualification proposal or technical proposal but should only be indicated in the commercial proposal.
- d. The three envelopes containing copies of pre-qualification proposal, technical proposal and commercial proposal should be put in another single sealed envelope clearly marked "Response to RFP for <Name of the assignment> - < RFP Reference Number> and the wordings "DO NOT OPEN BEFORE 02/08/2022 at 04:00 PM".
- e. The outer envelope thus prepared should also indicate clearly the name, address, telephone number, E-mail ID and fax number of the Bidder to enable the Bid to be returned unopened in case it is found to be received after the time and date of Proposal submission prescribed herein.
- f. All the pages of the Proposal must be sequentially numbered and must contain the list of contents with page numbers. Any deficiency in the documentation may result in the rejection of the Bidder's Proposal.
- g. The original Proposal shall be prepared in indelible ink. It shall contain no interlineations or overwriting, except as necessary to correct errors made by the Bidder itself. Any such corrections must be initialled by the authorised signatory of the Bidder.
- h. All pages of the bid including the duplicate copies, shall be initialled and stamped by the authorised signatory of the Bidder.

- i. In case any discrepancy is observed by the IITTM in the contents of the submitted original paper bid documents with respective copies, the information furnished on original paper bid document will prevail over others.
- j. Bidder must ensure that the information furnished by him in respective CDs/Pen drives is identical to that submitted by him in the original paper bid document. In case of any discrepancy observed by the IITTM in the contents of the CDs/Pen Drives and original paper bid documents, the information furnished on original paper bid document will prevail over the soft copy.

#### **7.5.4 Bidders Authorized Signatory**

A Proposal should be accompanied by an appropriate board resolution or power of attorney in the name of an authorised signatory of the Bidder stating that he is authorised to execute documents and to undertake any activity associated with the Bidder's Proposal.

### **7.6 Preparation and Submission of Proposals**

#### **7.6.1 Proposal Preparation Costs**

The Bidder shall be responsible for all costs incurred in connection with participation in the RFP process, including, but not limited to, costs incurred in conduct of informative and other diligence activities, participation in meetings/discussions/presentations, preparation of proposal, in providing any additional information required by IITTM to facilitate the evaluation process, and in negotiating a definitive contract or all such activities related to the bid process.

IITTM will in no event be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

#### **7.6.2 Language**

The Proposal should be filled by the Bidder in English language only. If any supporting documents submitted are in any language other than English, translation of the same in English language is to be duly attested by the Bidders. For purposes of Proposal evaluation, the English translation shall govern.

#### **7.6.3 Blended project rate for Operation & Maintenance of LMS**

The IA should provide the blended price for Operation & Maintenance of LMS in the Financial Proposal.

#### **7.6.4 Venue and Deadline for Submission of Proposals**

Proposals, in its complete form in all respects as specified in the RFP, must be submitted to the IITTM at the address specified below:

Addressed To	The Director, Indian Institute of Tourism & Travel Management
Name	Indian Institute of Tourism and Travel Management
Address	Govindpuri, Gwalior- 474011
Telephone No.	0751-2437300, 2345 821, 2345 822
Last Date and Time of submission	02/08/2022 by 04:00 PM

#### **7.6.5 Proposal submitted after designated time of submission**

- a. Bids received after the due date and the specified time (including the extended period if any) for any reason whatsoever, shall not be entertained and shall be returned unopened.
- b. The bids submitted by telex/telegram/fax/e-mail etc. shall not be considered. No correspondence will be entertained on this matter.
- c. IITTM shall not be responsible for any postal delay or non-receipt/ non-delivery of the documents. No further correspondence on the subject will be entertained.
- d. IITTM reserves the right to modify and amend any of the above-stipulated condition/criterion depending upon project priorities vis-à-vis urgent commitments.

#### **7.7 Deviations**

The Bidder may provide deviation to the contents of the RFP document in the format prescribed in Format 12.

The Purchase Committee would evaluate and classify them as “material deviation” or “nonmaterial deviation“. In case of material deviation, the committee may decide to “monetize” the value of the deviations, which will be added to the price bid submitted by the Bidder OR declare the bid as non-responsive.

The Bidders would be informed in writing on the Purchase Committee's decision on the deviation, prior to the announcement of technical scores. The Bidders would not be allowed to withdraw the deviations submitted without the prior consent of the IITTM.

In case of non-material deviations, the deviations would form a part of the proposal & subsequent agreement.

## **7.8 Evaluation Process**

- a. IITTM will constitute a committee to evaluate the responses of the Bidders (Purchase Committee).
- b. The Purchase Committee constituted by the IITTM shall evaluate the responses to the RFP and all supporting documents / documentary evidence. Inability of a Bidder to submit requisite supporting documents / documentary evidence within a reasonable time provided to it, may lead to the Bidder's Proposal being declared non-responsive.
- c. The decision of the Purchase Committee in the evaluation of responses to the RFP shall be final. No correspondence will be entertained outside the process of negotiation/ discussion with the Purchase Committee.
- b. The Purchase Committee may ask for meetings with the Bidders to seek clarifications on their proposals.
- c. The Purchase Committee reserves the right to reject any or all Proposals on the basis of any deviations contained in them.
- d. Each of the responses shall be evaluated as per the criteria and requirements specified in this RFP.

### **7.8.1 Bid Opening**

The Proposals submitted up to 02/08/2022 by 04:00 PM will be opened at 03/08/2022 on 05:00 PM by the Nodal Officer of the bid or any other officer authorized by IITTM, in the presence of the Bidder's representatives who may be present at the time of opening.

The representatives of the Bidders are advised to carry an identity card or a letter of authority from the Bidding entity to identify their bonafides for attending the opening of the Proposal.

## 7.8.2 Bid Validity

The offer submitted by the Bidders should be valid for minimum period of 180 days from the date of submission of the Proposal.

## 7.8.3 Proposal Evaluation

- a. Initial Proposal scrutiny will be held to confirm that Proposals do not suffer from the infirmities detailed below. Proposals will be treated as non-responsive, if a Proposal is found to have been:
- i. submitted in manner not conforming with the manner specified in the RFP document
  - ii. submitted without appropriate EMD as prescribed herein
  - iii. received without the appropriate or power of attorney
  - iv. containing subjective/incomplete information
  - v. submitted without the documents requested in the checklist
  - vi. non-compliant with any of the clauses stipulated in the RFP
  - vii. having lesser than the prescribed validity period.

The EMD of all non-responsive bids shall be returned to the bidders.

- b. All responsive Bids will be considered for further processing as below:  
IITTM will prepare a list of responsive Bidders, who comply with all the Terms and Conditions of the Tender. All eligible bids will be considered for further evaluation by a Purchase Committee according to the Evaluation process define in this RFP document. The decision of the Committee will be final in this regard.

## 8 Criteria for Evaluation

### 8.1 Pre-Qualification Criteria

Sr. No.	Basic Requirements	Specific Requirements	Documentary evidence to be submitted
i.	Legal Entity	Should be Company registered under Companies Act, 1956 or a partnership firm registered under LLP Act, 2008 <ul style="list-style-type: none"><li>• Registered with the GST Authorities</li><li>• Should have been</li></ul>	<ul style="list-style-type: none"><li>• Certificate of Incorporation</li><li>• Registration Certificate</li><li>• GST Registration Certificate</li></ul>

		operating for the last three years.	
ii.	Sales Turnover in Software Development	<p>Average Annual Sales Turnover generated from services related to IT/ITEs during each of the * last three financial years (i.e., FY-2018-19, FY 2019-20 and FY 2020-21) (as per the last published audited balance sheets), should be at least Rs. 12 Crores</p> <p>This turnover should be on account of Software Development, Implementation and maintenance (i.e. revenue should be on account of IT / ITEs / turnkey solutions or products and their associated maintenance or implementation services, packaged software etc.) only.</p> <p>* If 2021-22 balance sheets are audited then bidder needs to submit average annual turnover proof for 2019-20, FY 2020-21 and FY 2021-22</p>	<p>Extracts from the audited Balance sheet and Profit &amp; Loss;</p> <p>OR</p> <p>Certificate from the Chartered Accountant</p>
iii.	Net worth	<p>The Bidder must have positive net worth in each of the last 3 Financial Year (i.e. FY-2018-19, FY 2019-20 and FY 2020-21)</p> <p>* If 2021-22 balance sheets are audited then bidder needs to submit average annual turnover proof for 2019-20, FY 2020-21 and FY 2021-22</p>	<p>Extracts from the audited balance sheet</p> <p>OR</p> <p>Certificate from the Chartered Accountant</p>
Iv	Technical Capability	<p>Systems Implementation agency must have successfully completed at least the following numbers of Software Systems Development and Implementation engagement(s)</p>	<p>Work Order + Completion certificates from the client.</p> <p>OR</p> <p>Work order + Self certificate of Completion</p>

		<p>of value specified herein :</p> <ul style="list-style-type: none"> <li>- One project of similar nature not less than the amount 1.5 Crores</li> <li>OR</li> <li>- Two projects of similar nature not less than the amount equal 1 Crores each</li> <li>OR</li> <li>- Three projects of similar nature not less than the amount equal 75 lakhs each</li> </ul>	<p>(Certified by the Chartered Accountant);</p> <p>OR</p> <p>Work order + phase+ completion certificate from the client (for ongoing project)</p> <p>OR</p> <p>Proof of payment received</p>
v.	Certifications	<p>The Firm /Agency should have any one of the below certifications:</p> <ul style="list-style-type: none"> <li>- CMMI Certification</li> <li>- ISO/IEC 20000 or 9001 or 27001 Certification</li> <li>- Registered under SEZ</li> </ul>	Copy of Certificate
vi	Debarment	<p>The Firm shall not be under declaration of ineligibility for corrupt or fraudulent practices with any Government department/ agencies/ ministries or PSU's and should not have been blacklisted or debarred from participating in government tenders at the time of submission of bid.</p>	A Self Certified letter from the bidder



## 8.2 Technical Evaluation

Bidders who meet the pre-qualifications/eligibility requirements would be considered as qualified to move to the next stage of Technical and Financial evaluations.

### 8.2.1 Scoring Model

S. No.	Criteria	Basis of Evaluation	Max. Marks	Supporting
	<b>Company Profile</b>		10	
1	Average turnover from Software system integration, Software Development and/or Implementation Services Work (Turnover in Rs Crores)	Above 40 Crores: 10 marks Above 30 and up to 40 Crores: 9 Marks Above 20 and up to 30 Crores: 8 marks Above 12 and up to 20 Crores: 7 marks 12 Crores : 5 Marks	10	Extracts from the audited Balance sheet and Profit & Loss. OR Certificate from the Chartered Accountant OR Proof of payment received
	<b>Relevant Strengths</b>		25	
2	Experience in Bespoke Software Application, Software Development, Implementation in India or abroad to be demonstrated in a maximum of 4 engagements of value more than Rs.1.5 Crores. The projects should have been either completed or an ongoing project where	When the No. is: equal to or more than 4 projects: 10 marks equal to 3 projects: 7.5 marks equal to 2 projects: 5 marks equal to 1 project: 2.5 marks  The maximum marks for each project is 2.5	10	Completion Certificates from the client; OR Work Order + Self Certificate of completion (Certified by the Chartered Accountant); OR Work Order + Phase Completion Certificate (for

S. No.	Criteria	Basis of Evaluation	Max. Marks	Supporting
	deliverable(s) or milestone(s) has/have been successfully met.			ongoing projects) from the client OR Proof of payment received
3	Experience of Bespoke Software Application, Development, or Implementation in similar department / similar domain/ educational institute, to be demonstrated in a maximum of 3 engagements of value more than 1.5 Crores that have either been completed or an ongoing project where deliverable or milestone has been successfully met relevant to the experience.	When the No. is: equal to or more than 3 projects: 7.5 marks equal to 2 projects: 5 marks equal to 1 projects: 2.5 marks  The maximum marks for each project is 2.5	7.5	Completion Certificates from the client; OR Work Order + Self Certificate of completion (Certified by the Statutory Auditor); OR Work Order + Phase Completion Certificate (for ongoing projects) from the client OR Proof of payment received
4	Experience in Software Support and Maintenance Services in India or abroad to be demonstrated in a maximum of 3 engagements of value more than Rs. 1.5 Crores that have either	When the No. is: equal to or more than 3 projects: 7.5 marks equal to 2 projects: 5 marks equal to 1 projects: 2.5 marks  The maximum marks for each project is 2.5	7.5	Completion Certificates from the client; OR Work Order + Self Certificate of completion (Certified by the Statutory Auditor); OR

S. No.	Criteria	Basis of Evaluation	Max. Marks	Supporting
	been completed or an ongoing project where deliverable or milestone has been successfully met relevant to the experience.			Work Order + Phase Completion Certificate (for ongoing projects) from the client
	<b>Solution Proposed, Approach and Methodology</b>		60	
5	Solution for new development along with operation and maintenance methodology and understanding of Software development and implementation, which would be required to deliver the service required by IITTM	<p>Qualitative assessment based on Demonstration of understanding of the IITTM's requirements through providing:</p> <ul style="list-style-type: none"> <li>- Solution proposed and its components,</li> <li>- Technologies used</li> <li>- Scale of implementation,</li> <li>- Learning on issues</li> <li>- Challenges likely to be encountered</li> <li>- Mitigation proposed</li> </ul> <p>Client references</p>	10	A-Note
6	Approach for cloud deployment & maintenance methodology	Meeting the requirements of IITTM in terms of how close the proposal is to the requirements for the solution as have been proposed for IITTM	15	A-Note
7	Approach for cloud deployment &	<p>Qualitative assessment based on</p> <ul style="list-style-type: none"> <li>• Understanding of the</li> </ul>	10	A-Note

S. No.	Criteria	Basis of Evaluation	Max. Marks	Supporting
	maintenance methodology	<p>objectives of the assignment: The extent to which the approach and work plan respond to the objectives indicated in the Scope of Work</p> <ul style="list-style-type: none"> <li>• Software development methodology proposed (i.e. Waterfall model, Spiral model, Iterative, Agile development, Code and fix etc.)</li> <li>• Completeness and responsiveness: The extent to which the proposal responds exhaustively to all the requirements of all the Terms of Reference</li> <li>• Training to the IITTM users for application</li> </ul> <p>Qualitative assessment based on timelines, resource assignment, dependencies and milestones</p>		
	Technical Presentation	<ul style="list-style-type: none"> <li>• Showcasing the project understanding including the approach and implementation methodology for project delivery</li> </ul>	25	Presentation

S. No.	Criteria	Basis of Evaluation	Max. Marks	Supporting
		<ul style="list-style-type: none"> <li>• Demonstrating bidder's technical capability, appreciation of requirements and suggestions</li> <li>• Suggestions on innovations and improvements in the current system</li> <li>• Demonstrating bidder's expertise in content authoring (storyboarding) capabilities</li> </ul>		
	<b>Resource Profile</b>		5	
8	Resume of Major or key technical resources proposed for the assignment	Qualitative Assessment	5	
	<b>Total</b>		100	

Note: The presentation to be delivered by the bidder's nominated Project Manager along with key members of the proposed team, as desired by IITTM. The project sponsor from the bidder's organization should be present during the presentation.

Wherever there is problem in providing name or cost of project due to non-disclosure agreements with the clients, the bidder can provide a certificate from an independent auditor or Company Secretary. The bidder has to provide an undertaking that to this effect.

- After the technical presentation, the Tender Evaluation Committee may ask the bidder to change the proposed components at no additional cost to the IITTM.

- Bidders must score equal to OR more than 60 marks to qualify the Technical Evaluation. Technical bids of Bidders securing less than 60 marks in technical evaluation shall be outrightly rejected.
- Bidders, whose bids are responsive, based on minimum qualification criteria / documents as in Pre-Qualification Criteria and score at least 60 marks in the (given) defined scoring mechanism (Tn) would be considered technically qualified. Price Bids of such technically qualified Bidders alone shall further be opened.

### 8.3 Commercial Bid Evaluation

- The Financial Bids of technically qualified Bidders will be opened on the prescribed date in the presence of Bidder representatives.
- If a firm quotes NIL charges / consideration, the bid shall be treated as unresponsive and will not be considered.
- The Bidder with lowest qualifying financial bid (L1) will be awarded 100% score (amongst the Bidders which did not get disqualified on the basis of point above). Financial Scores for other than L1 Bidders will be evaluated using the following formula:

$$\text{Financial Score of a Bidder (Fn)} = \left\{ \frac{\text{Commercial Bid of L1}}{\text{Commercial Bid of the Bidder}} \times 100 \right\} \%$$

- Only fixed price financial bids indicating total price for all the deliverables and services specified in this bid document will be considered.
- The bid price will include all taxes and levies and shall be in Indian Rupees and mentioned separately.
- Any conditional bid would be rejected
- Errors & Rectification: Arithmetical errors will be rectified on the following basis: "If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected. If there is a discrepancy between words and figures, the amount in words will prevail".

### 8.4 Combined and Final Evaluation

- The technical and financial scores secured by each Bidder will be added using weightage of 80% and 20% respectively to compute a Composite Bid Score.

- b. The Bidder securing the highest Composite Bid Score will be adjudicated as the most responsive Bidder for award of the Project. The overall score will be calculated as follows:

$$\text{Composite Bid Score (Bn)} = 0.80 * \text{Technical Score (Tn)} + 0.20 * \text{Normalized Financial Score (Fn)}$$

- c. In the event the Composite Bid Score (Bn) are 'tied', the bidder securing highest technical Score will be adjudicated as the Best Value Bidder for award of the Project

## **9 Appointment of Implementation Agency/Partner**

### **9.1 Award Criteria**

The IITTM will award the Contract to the successful Bidder whose proposal has been determined to be substantially responsive and has been determined as the most responsive bids as per the process outlined above.

### **9.2 Right to Accept Any Proposal and To Reject Any or All Proposal(s)**

The IITTM reserves the right to accept or reject any proposal, and to annul the tendering process/ Public procurement process and reject all proposals at any time prior to award of contract, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders of the grounds for IITTM action.

### **9.3 Notification of Award**

Prior to the expiration of the validity period, IITTM will notify the successful Bidder in writing or by fax or email, that its proposal has been accepted (Letter of Intent). In case the tendering process / public procurement process has not been completed within the stipulated period, the IITTM, may request the Bidders to extend the validity period of their Proposal.

The decision to extend the validity period of a Bidder's Proposal shall be the Bidder's sole prerogative.

### **9.4 Contract Finalization and Award**

The IITTM shall reserve the right to negotiate with the Bidder(s) whose Proposal has been ranked best value bid on the basis of Technical and Commercial Evaluation to

the proposed Project, as per the guidance provided by Central Vigilance Commission (CVC).

On this basis the draft contract agreement would be finalized for award & signing.

#### **9.5 Performance Guarantee**

On receipt of a letter of intent from the IITTM, the successful Bidder will furnish a bank guarantee, by way of performance security, equivalent to 10 per cent of the total contract value, on or before the signing of the subsequent contract, typically within 15 days from notification of award, unless specified to the contrary (Performance Guarantee). In case the successful Bidder fails to submit Performance Guarantee within the time stipulated, the IITTM may at its sole discretion cancel the letter of intent without giving any notice and encash the EMD furnished by the Bidder, in addition to any other right available to it under this RFP.

The Performance Guarantee furnished by the successful Bidder shall be in the manner prescribed at Annexure 19.3.1. The successful Bidder shall ensure, the Performance Guarantee is valid at all times during the Term of the subsequent contract (including any renewal) and for a period of 60 days beyond all contractual obligations, including warranty terms.

The IITTM may invoke the Performance Guarantee in the event of a material breach by the successful Bidder leading to termination for material breach.

#### **9.6 Signing of Contract**

Subsequent to receipt of valid Performance Guarantee from the successful Bidder, the parties shall enter into a contract, incorporating all clauses, pre-bid clarifications and the Proposal of the Bidder, between the IITTM and the successful Bidder. The draft Master Services Agreement is provided in the Appendix

#### **9.7 Failure to Agree with the Terms and Conditions of the RFP**

Failure of the successful Bidder to agree with the Draft Legal Agreement and Terms & Conditions of the RFP shall constitute sufficient grounds for the annulment of the award, in which event IITTM may award the contract to the next best value Bidder or call for new proposals from the interested Bidders.

In such a case, the IITTM shall invoke the PBG of the most responsive Bidder.



## 10 Deliverables and Timelines

S. No.	Phase	Milestone	Timeline
1	Phase I – Transition Phase	Sign-off of transition/handover of the LMS application from existing IA	1 month
2	Phase II – Operation and Maintenance	Managing the LMS application and meeting the SLA Requirements	11 Months

Note: - In-case existing IA gets selected, the transition phase shall be merged with O&M phase.

The timeline for submission of the Technical Documents and Plans for IA are as below:

- a. As-Is study report on or before the completion of Phase I. (Applicable if new IA is selected.)
- b. Project plan including, but not limited to software design and development, implementation, UAT and training on or before 15 days from date of initiation for new module development.
- c. FRS, SRS and application design document within 30 days from date of initiation for new modules.
- d. Technical Support and Operation & Maintenance Plan as applicable.

The IA should discuss with IITTM for timelines for submission of other project related documentations.

## 11 Service Level Agreements

Service Level Agreement (SLAs) define the quality and timelines of service delivery during the Operations and Maintenance (O&M) phase of a project. SLA helps the IITTM sustain the planned business outcomes from the solution deployed on a continued basis over a sustained period of time.

### 11.1 Purpose of this Agreement

- a. This Section details the expected service levels for various services to be provided by the IA. Performance of the IA services shall be measured against the Service Level Agreements as explained and detailed in this RFP.
- b. The service level targets define the levels of service to be provided by IA to IITTM for the duration of this contract or until the stated SLA targets are amended.
- c. The SLAs are intended to :
  - i. Make explicit the expectations that the IITTM has for performance
  - ii. Help IITTM control and ensure the planned levels and performance of services

- iii. Trigger a process that brings IITTM and IA"s management attention to some aspect of performance when that aspect drops below an agreed upon threshold, or target.

## 11.2 Definitions

Below are the definitions specific to SLAs :

- a. **Non-working days:**All Sundays and Public Holidays as declared by the Purchaser
- b. **"Downtime"** is the time the services and facilities are not available to the Purchaser
- c. 24 x 7 support means availability of support services three shifts of 8 hours every day, for all seven days of the week, without any non-working days.

## 11.3 Service Level Agreements

The Service Level agreements have been logically segregated in the following categories:

- a. Implementation phase related performance levels
- b. Availability of Solutions (user end)
- c. Application maintenance services

The Measurement and Targets is defined in Annexure 19.6 shall be monitored on a periodic basis, as per the individual parameter requirements. In case of severe performance degradation of the services during the contract period, the Bidder will be expected to take immediate corrective action. In case issues are not rectified to the complete satisfaction of IITTM within a reasonable period of time then the IITTM will have the right to take appropriate penalizing actions.

## 12 Minimum Qualification of Manpower

Minimum Qualification of manpower to be deployed on the project is provided in Annexure 19.5 of this RFP

## 13 Acceptance Testing and Certifications

The primary goal of Acceptance Testing and Certification is to ensure that the Project (including all the project components as discussed in the scope of work) meets requirements, standards, specifications and performance, by ensuring that the following are associated with clear, quantifiable metrics for accountability:

- Functional requirements
- Localisation Compliance Review
- Availability of the project Services in the defined locations
- Performance
- Security

- Manageability
- SLA Reporting System
- Project Documentation (Design, development, configuration, training and administration manuals etc)
- Data Quality Review

As part of Acceptance testing, performed through a third party agency, IITTM shall review all aspects of project development and implementation covering software, hardware and networking including the processes relating to the design of solution architecture, design of systems and sub-systems, coding, testing, business process description, documentation, version control, change management, security, service oriented architecture, performance in relation to defined requirements, interoperability, scalability, availability and compliance with all the technical and functional requirements of the RFP and the agreement.

The procedures and parameters for testing will be laid down by the Third-Party Agency after approval from IITTM; the solution deployed by the vendor has to satisfy third party acceptance testing upon which the system shall go-live, subject to IITTM/Departmental approval.

IITTM will establish appropriate processes for notifying the selected vendor of any shortcomings from defined requirements at the earliest instance after noticing the same to enable the selected vendor to take corrective action. All gaps identified shall be addressed by the vendor immediately prior to Go-live of the solution. It is the responsibility of the selected Bidder to take any corrective action required to remove all shortcomings, before the roll out of the project.

It is to be noted that the involvement of the third party for acceptance testing and certification, does not absolve the vendor of his responsibilities to meet all SLAs as laid out in this RFP document.

IITTM may get the solution audited through a Third Party before Go-Live and periodically after Go-Live in order to ensure the success of the project. Such third-party agency for carrying out the acceptance testing, and certification of the entire solution will be nominated by IITTM. Following discusses the acceptance criteria to be adopted for the project as mentioned above. The list below is indicative, and the activities will include but not be limited to the following:

### **Functional Requirements Review**

The solution developed/customized by selected Bidder shall be reviewed and verified by the agency against the Functional Requirements signed-off between the IITTM and the selected Bidder. All gaps identified shall be addressed by the vendor immediately prior to Go-live of the solution. One of the key inputs for this testing shall be the traceability matrix to be developed by the vendor for the solution. Apart from Traceability Matrix, agency may develop its own testing plans for validation of compliance of system against the defined requirements. The acceptance testing w.r.t. the functional requirements shall be performed by independent third party agency (external audit) as well as the select internal department users (User Acceptance Testing) and system has to satisfy both third party acceptance testing and internal user acceptance testing, upon which the system shall go-live.

For conducting the User Acceptance Testing, IITTM/ The Department shall identify the employees from respective divisions, who shall be responsible for day-to-day operations of the functions automated through the project. The system, during the functional requirements review, shall necessarily satisfy the user acceptance testing process.

### **Localisation Compliance Review**

A third-party support shall perform the Localisation Compliance Review to verify the application Multilingual Architecture Design with Input/Saved/Output Data as per Localisation guidelines, i.e.UNICODE 6.0 standard.

### **Security Review**

The software developed/customized shall be audited by the agency from a security and controls perspective. Such audit shall also include the IT infrastructure and network deployed for the project. Following are the broad activities to be performed by the Agency as part of Security Review. The security review shall subject the solution to the following activities.

- Audit of Network, Server and Application security mechanisms
- Assessment of authentication mechanism provided in the application /components/modules
- Assessment of data encryption mechanisms implemented for the solution
- Assessment of data access privileges, retention periods and archival mechanisms
- Server and Application security features incorporated etc

- Application Security mechanisms should be accessed in compliance with the IT Act 2000,2008 Amendment and IT rules 2011, such that it maintains data/information Integrity, Confidentiality, Non-repudiation
- Audit of Security mechanisms so that they are in compliance with the latest Guidelines by Controller of Certifying authority (CCA), IT Act, ISO27001.
- Gap assessment of certain controls like say ISO 27001 and section 43, 47, 66, 69, 79, 84 and 87 of IT ACT amendment 2008 and decide how the sensitive data from a data centric standpoint is to be protected.

### **Performance**

Performance is another key requirement for the project and the agency shall review the performance of the deployed solution against certain key parameters defined in SLA. Such parameters include request-response time, work-flow processing time, concurrent sessions supported by the system etc, Disaster Recovery drill etc. The performance review also includes verification of scalability provisioned in the solution for catering to the project requirements.

### **Availability**

The solution should be designed to remove all single point failures. Appropriate redundancy shall be built into all the critical components to provide the ability to recover from failures. The agency shall perform various tests including network, server, security tests to verify the availability of the services in case of component failures. The agency shall also verify the availability of the project services to all the users in the defined locations.

### **Manageability Review**

The agency shall verify the manageability of the solution and its supporting infrastructure deployed using the Enterprise Management System (EMS) proposed by the selected Bidder. The manageability requirements include requirements such as remote monitoring, administration, configuration, inventory management, fault identification etc.

### **SLA Reporting System**

The selected Bidder shall design, implement/customize the Enterprise Management System (EMS) and shall develop any additional tools required to monitor the performance indicators listed as per the SLAs mentioned in the RFP. The Acceptance Testing and Certification agency shall verify the accuracy and completeness of the information captured by the SLA monitoring system implemented by the vendor and shall certify the

same. The EMS deployed for the project, based on SLAs, shall be configured by the selected Bidder to calculate the payment to be paid by the department after deducting the necessary penalties.

### **Project Documentation**

The Agency shall review the project documents developed by the selected Bidder including requirements, design, source code, installation, training and administration manuals, version control etc.

Any issues/gaps identified by the Agency, in any of the above areas, shall be addressed to the complete satisfaction of the Department.

### **Data Quality**

The Agency shall perform the Data Quality Assessment for the Data digitized by selected Bidder and the data migrated by the vendor to the new system. The errors/gaps identified during the Data Quality Assessment shall be addressed by the vendor before moving the data into production environment, which is a key milestone for Go-live of the solution.

## **14 Payment Schedule**

All the payments will be done to the selected IA by IITTM after successfully completion of the milestone and acceptance of deliverable by IITTM.

- a. No advance/mobilization payment will be made by IITTM
- b. Payment would be made after deducting the LD which is calculated at the end of each payment milestone.
- c. The payment will be released to IA only after sanction of budget and release of funds by Ministry of Tourism.
- d. The responsibility for the implementation and quality of the entire LMS will lie on IA and funds will be released only after assessment and satisfaction on the project aspects by an independent committee duly constituted by Director IITTM.
- e. Following payment milestones shall be applicable for the project:

<b>Sr. no</b>	<b>Phase / Major Change</b>	<b>Billable Fees</b>
1	Phase I & Phase -II	25% of quoted price for operation & Maintenance for 1 year to be paid quarterly at the end of each quarter upon submission of applicable deliverables.
2.	Any change which requires more than 30-man days of efforts shall be treated as a	Based on the timelines and milestones defined in separate work order released and rates as per composite man-month price.

	Major change	
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## 15 Acceptance

The IA should provide the detailed acceptance testing procedure for all the development and customization in the application is to be done as per the functional requirements.

The IA should provide the details of the Acceptance Criteria for all the functionalities developed or customized in the LMS . The Acceptance Criteria would be review by IITTM and changes if any indicated after mutual discussion with the IA.

IITTM reserves the rights to conduct additional testing test on its own or by third any third party for providing acceptance for the solution.

In addition to this, IA should demonstrate the capability of the LMS application to manage the load of 2,000 concurrent users also to handle the growth in number of concurrent users. The growth in number of concurrent users is expected to be 10% year-on-year.

## 16 Fraud and Corrupt Practices

- a. The Bidders/Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this RFP, the IITTM shall reject a Proposal without being liable in any manner whatsoever to the Bidder, if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the “Prohibited Practices”) in the Selection Process. In such an event, the IITTM shall, without prejudice to its any other rights or remedies, forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority, in regard to the RFP, including consideration and evaluation of such Bidder’s Proposal.
- b. Without prejudice to the rights of the IITTM under Clause above and the rights and remedies which the IITTM may have under the LOI or the Agreement, if an Bidder or Systems Implementation Agency, as the case may be, is found by the Authority to

have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the issue of the LOI or the execution of the Agreement, such Bidder or Systems Implementation Agency shall not be eligible to participate in any tender or RFP issued by the IITTM during a period of <2 (two) years> from the date such Bidder or Systems Implementation Agency, as the case may be, is found by the IITTM to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.

c. For the purposes of this Section, the following terms shall have the meaning hereinafter respectively assigned to them:

- i. “corrupt practice” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the IITTM who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOI or has dealt with matters concerning the Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the IITTM, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) save as provided herein, engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical consultant/ adviser of the IITTM in relation to any matter concerning the Project;
- ii. “fraudulent practice” means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- iii. “coercive practice” means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person’s participation or action in the Selection Process;
- iv. “undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by IITTM with the objective of



- canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- v. “restrictive practice” means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Selection Process.

## **17 Conflict of Interest**

- a. A Bidder shall not have a conflict of interest that may affect the Selection Process or the Solution delivery (the “Conflict of Interest”). Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the IITTM shall forfeit and appropriate the EMD, if available, as mutually agreed genuine pre-estimated compensation and damages payable to the IITTM for, inter alia, the time, cost and effort of the IITTM including consideration of such Bidder’s Proposal, without prejudice to any other right or remedy that may be available to the IITTM hereunder or otherwise.
- b. The IITTM requires that the Implementation Agency provides solutions which at all times hold the IITTM’s interest’s paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The Systems Implementation Agency shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other clients, or that may place it in a position of not being able to carry out the assignment in the best interests of the IITTM.
- c. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the Selection Process, if:
- i. the Bidder, its consortium member (the “Member”) or Associates (or any constituent thereof) and any other Bidder, its consortium member or Associate (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of an Bidder, its Member or Associate (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its consortium member or Associate is less than 5% (five per cent) of the subscribed and paid up equity share capital thereof. For the purposes of this Clause, indirect shareholding held through one or more intermediate persons shall be computed as follows:

- where any intermediary controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "Subject Person") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on
  - a proportionate basis; provided, however, that no such shareholding shall be reckoned under this Sub-clause if the shareholding of such person in the intermediary is less than 26% (twenty-six per cent) of the subscribed and paid up equity shareholding of such intermediary; or
  - ii. a constituent of such Bidder is also a constituent of another Bidder; or
  - iii. such Bidder or its Associate receives or has received any direct or indirect subsidy or grant from any other Bidder or its Associate; or
  - iv. such Bidder has the same legal representative for purposes of this Application as any other Bidder; or
  - v. such Bidder has a relationship with another Bidder, directly or through common third parties, that puts them in a position to have access to each-others' information about, or to influence the Application of either or each of the other Bidder; or
  - vi. there is a conflict among this and other Systems Implementation/Turnkey solution assignments of the Bidder (including its personnel and other members, if any) and any subsidiaries or entities controlled by such Bidder or having common controlling shareholders. The duties of the Systems Implementation Agency will depend on the circumstances of each case. While providing software implementation and related solutions to the IITTM for this assignment, the Systems Implementation Agency shall not take up any assignment that by its nature will result in conflict with the present assignment; or
  - vii. A firm hired to provide System Integration/Turnkey solutions for the implementation of a project, and its Members or Associates, will be disqualified from subsequently providing goods or works or services related to the same project;
- d. An Bidder eventually appointed to implement software solutions for this Project, its Associates, affiliates and the Financial Expert, shall be disqualified from subsequently providing goods or works or services related to the construction and operation of the same Project and any breach of this obligation shall be construed as Conflict of Interest; provided that the restriction herein shall not apply after a period of 12 months from the completion of this assignment; provided further that this

restriction shall not apply to software solutions delivered to the IITTM in continuation of this systems implementation or to any subsequent systems implementation executed for the IITTM in accordance with the rules of the IITTM.

## **18 Jurisdictions**

The contract shall be governed by laws of India and all Government rules on purchase matter issued from time to time and are in force for the time being are applicable to this contract tender.

## **19 Annexures**

### **19.1 Pre-Qualification and Technical Bid Templates**

The Bidders are expected to respond to the RFP using the formats given in this section and all documents supporting Pre-Qualification / Technical Evaluation Criteria.

Pre-Qualification Bid & Technical Proposal shall comprise of following:

#### **Format to be used in Pre-Qualification Proposal**

Format 1: Compliance Sheet for Pre-qualification Proposal

Format 2: Particulars of the Bidder

Format 3: Bank Guarantee for EMD

#### **Forms to be used in Technical Proposal**

Format 4: Compliance Sheet for Technical Proposal

Format 5: Covering Letter for Technical Proposal

Format 6: Project Citation Format

Format 7: Proposed Solution

Format 8: Proposed Work Plan

Format 9 Team Composition

Format 10: Curriculum Vitae (CV) of Key Personnel

Format 11: Letter for Deviations

### 19.1.1 Format 1: Compliance Sheet for Pre-Qualification Proposal

S. No.	Basic Requirements	Required	Provided (Yes/No)	Reference & Page No.
1	Tender Fees	Demand Draft		
2	Power of Attorney	Copy of Power of Attorney in the name of the Authorized signatory		
3	Particulars of the Bidders	As per Format 2		
4	Earnest Money Deposit	Demand Draft /Banker's Cheque, Bank Guarantee (Format 3)		
5	Legal Entity	<ul style="list-style-type: none"> <li>• Certificate of Incorporation</li> <li>• Registration Certificate</li> <li>• GST Registration Certificate</li> </ul>		
6	Sales Turnover in Software Development	Extracts from the audited Balance sheet and Profit & Loss; OR Certificate from the CA OR proof of payment received		
7	Net worth	Extracts from the audited Balancesheet and Profit & Loss; OR CA		
8	Technical Capability	Work Order + Completion certificates from the client; OR Work order + Self certificate of Completion (Certified by the CA); OR Work order + phase+ completion certificate from the client (for ongoing project) OR proof of payment received		
9	Certifications	Copy of Certificates as per Pre-		

<b>S. No.</b>	<b>Basic Requirements</b>	<b>Required</b>	<b>Provided (Yes/No)</b>	<b>Reference &amp; Page No.</b>
		Qualification Criteria		
10	Debarment	A Self Certified letter from the bidder		

**19.1.2 Format 2: Particulars of the Bidders**

<b>S. No.</b>	<b>Information Sought</b>	<b>Details to be Furbished</b>
1	Name and Address of the Bidding Company	
2	Incorporation Status of the Firm (Public limited/private limited, etc.)	
3	Year of Establishment	
4	Date of Registration	
5	Details of registration with appropriate authorities for service tax/GST	
6	Name, Address, email, Phone nos. and Mobile Number of Contact Person	

### 19.1.3 Format 3: Bank Guarantee for EMD

To,

<Name>

<Designation>

<Address>

<Phone Nos.>

<Fax Nos.>

<email id>

Whereas <<Name of the Bidder>> (hereinafter called 'the Bidder') has submitted the bid for Submission of RFP # <<RFP Number>> dated <<Date>> for <<Name of the assignment>> (hereinafter called "the Bid") to IITTM

Know all Men by these presents that we <<>> having our office at <<Address>> (hereinafter called "the Bank") are bound unto the IITTM (hereinafter called "the IITTM") in the sum of Rs.<<Amount in figures>> (Rupees <<Amount in words>> only) for which payment well and truly to be made to the said IITTM, the Bank binds itself, its successors and assigns by these presents.

Sealed with the Common Seal of the said Bank this <<Date>>

The conditions of this obligation are:

1. If the Bidder having its bid withdrawn during the period of bid validity specified by the Bidder on the Bid Form; or
2. If the Bidder, having been notified of the acceptance of its bid by the IITTM during the period of validity of bid
  - (a) Withdraws his participation from the bid during the period of validity of bid document; or
  - (b) Fails or refuses to participate in the subsequent Tender process after having been short listed;

We undertake to pay to the IITTM up to the above amount upon receipt of its first written

demand, without the IITTM having to substantiate its demand, provided that in its demand the IITTM will note that the amount claimed by it is due to it owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to <<insert date>> and including <<extra time over and above mandated in the RFP>> from the last date of submission and any demand in respect thereof should reach the Bank not later than the above date.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN:

I. Our liability under this Bank Guarantee shall not exceed Rs. <<Amount in figures>> (Rupees <<Amount in words>> only)

II. This Bank Guarantee shall be valid up to <<insert date>>)

III. It is condition of our liability for payment of the guaranteed amount or any part thereof arising under this Bank Guarantee that we receive a valid written claim or demand for payment under this Bank Guarantee on or before <<insert date>>) failing which our liability under the guarantee will automatically cease.

(Authorized Signatory of the Bank)

Seal:

Date:

**19.1.4 Format 4: Compliance Sheet for Technical Proposal:**

S. No.	Specific Requirements	Documents Required	Compliance	Reference and Page Number
1	Covering Letter for Technical Proposal	As per Format 5	Yes/No	
2	Average turnover from Software System Integration, Software Development and/or Implementation Services Work in last 3 years (Turnover in Rs Crores)	Extracts from the audited Balance sheet and Profit & Loss; OR Certificate from the statutory auditor; and Project citation (Format 6)		
3	Experience in Bespoke Software Application, Development, Implementation in India or abroad	Completion Certificates from the client; OR Work Order + Self Certificate of completion (Certified by the CA); OR Work Order +Phase Completion Certificate (for ongoing projects) from the client OR proof of payment received	Yes/No	



S. No.	Specific Requirements	Documents Required	Compliance	Reference and Page Number
4	Experience of Bespoke Software Application, Software Development, or Implementation in similar department / domain globally (last 5 years)	Completion Certificates from the client; OR Work Order + Self Certificate of completion (Certified by the CA); OR Work Order +Phase Completion Certificate (for ongoing projects) from the client OR proof of payment received	Yes/No	

S. No.	Specific Requirements	Documents Required	Compliance	Reference and Page Number
5	Experience in Software Support and Maintenance Services in India or abroad	Completion Certificates from the client; OR Work Order + Self Certificate of completion (Certified by the CA); OR Work Order +Phase Completion Certificate (for ongoing projects) from the client OR proof of payment received	Yes/No	

S. No.	Specific Requirements	Documents Required	Compliance	Reference and Page Number
6	Solution for new development alongwith operation and maintenance methodology and understanding of Software development and implementation, which would be required to deliver the service required by IITTM	<p>A note (Format 7) and Forms 7A, 7B &amp; 7C</p> <p>The note should highlight understanding of the IITTM's requirements through providing justifications for:</p> <ol style="list-style-type: none"> <li>1) Solution proposed and its components, <ul style="list-style-type: none"> <li>– Scalability</li> <li>– Security</li> <li>– Ease of implementation</li> <li>– User base</li> </ul> </li> <li>2) Interoperability</li> <li>3) Technologies used,</li> <li>4) Challenges likely to be encountered</li> <li>5) Learning on how to deal with the challenges</li> <li>6) Client references</li> </ol>	Yes/No	

<b>S. No.</b>	<b>Specific Requirements</b>	<b>Documents Required</b>	<b>Compliance</b>	<b>Reference and Page Number</b>
7	Approach for cloud deployment & maintenance methodology	Meeting the requirements of IITM in terms of how close the proposal is to the requirements for the solution as have been proposed for IITM	Yes/No	
8	Resume of all key technical resources proposed for the assignment	CV & a Note (Format 9, 10 and 11)	Yes/No	
9	Deviations (if any)	Format 12	Yes/No	

### 19.1.5 Format 5: Covering Letter for Technical Proposal

To,

<Date>

The Director,  
Indian Institute of Tourism & Travel Management  
Govindpuri, Gwalior- 474011  
0751-2437300, 2345 821, 2345 822.  
director@iittm.ac.in

**Subject: Submission of the Technical bid for <Name of the Systems Implementation assignment>**

Dear Sir/Madam,

We, the undersigned, offer to provide Systems Implementation solutions to the IITTM on <Name of the Systems Implementation engagement> with your Request for Proposal dated <insert date> and our Proposal. We are hereby submitting our Proposal, which includes this Technical bid and the Financial Bid uploaded on the eProcurement portal (mention URL)

We hereby declare that all the information and statements made in this Technical bid are true and accept that any misinterpretation contained in it may lead to our disqualification.

We undertake, if our Proposal is accepted, to initiate the Implementation services related to the assignment not later than the date indicated in Fact Sheet.

We agree to abide by all the terms and conditions of the RFP document. We would hold the terms of our bid valid for 90 days as stipulated in the RFP document.

We understand you are not bound to accept any Proposal you receive.

Yours sincerely,

Authorized Signature [In full and initials]:

Name and Title of Signatory:

Name of Firm:

Address:

Location: \_\_\_\_\_ Date: \_\_\_\_\_

### 19.1.6 Format 6: Project Citation Format

<b>Relevant IT Project Experience (Provide no more than 5 Projects in last 5 years)</b>	
<b>General Information</b>	
Name of the Project	
Client for which the Project was executed	
Name and Contact details of the Client	
<b>Project Details</b>	
Description of the Project	
Scope of Services	
Services Provided	
Technologies Used	
Outcomes of the Project	
<b>Other Details</b>	
Total Cost of the Project	
Total Cost of Services provided by the respondent	
Duration of the Project (No. of months, Start Date, Completion date, current status)	
<b>Other Relevant Information</b>	
Letter from the client to indicate the successful completion of the projects	
Copy of Work Order	

### 19.1.7 Format 7: Proposed Solution

Technical approach, methodology and work plan are key components of the Technical Proposal. You are suggested to present Approach and Methodology divided into the following sections:

- Solution Proposed
- Understanding of the project (how the solution proposed is relevant to the understanding)
- Technical Approach and Methodology

#### Format 7A

<b>S. No.</b>	<b>Module/ Type</b>	<b>Solution Proposed</b>	<b>Requirements</b>	<b>Compliance to requirements (Put Yes or No)</b>
i.	Customization in the existing system functionalities		Refer Section XX for Customization requirements	Yes/No
ii.	New Functionality Development		Refer Section XXX for New Functionality requirements	Yes/No
iii.	Integration Requirements		Refer Section XXX for Integration Requirements	

**Format 7 B**

S. No.	Proposed Solution (Provide the ProductName or fill Custom Built, in case of a new development)	Version and Year of Release	OEM	Features and Functionalities	O&M Support (Warranty/ATS : as per RFP requirement)	Reference in theSubmitted Proposal (Please provide page number/section number/ volume)
i.						
ii.						
iii.						

**Bill of Material**

S. No.	Item	Proposed Solution (Provide the Product Name or fill Custom Built, in case of a New Development)	Unit of Measurement	Number of Licenses (Development Environment)	Number OfLicenses (UAT)	Number OfLicenses (Training)



**19.1.8 Format 8: Proposed Work Plan**

S. No.	Activity	Calendar Months							
		1	2	3	4	5	6	7	8
1									
2									
3									

- Indicate all main activities of the assignment, including delivery of reports (e.g.: inception, interim, and final reports), and other benchmarks such as IITTM approvals. For phased assignments indicate activities, delivery of reports, and benchmarks separately for each phase.
- Duration of activities shall be indicated in the form of a bar chart.

**19.1.9 Format 9: Team Composition**

Name of Staff with Qualification and Experience	Area of Expertise	Position Assigned	Task Assigned	Time Committed for the Engagement

**19.1.10 Format 10: Curriculum Vitae (CV) of Key Personnel**

<b>General Information</b>	
Name of Person	
Current Designation / Job Title	
Current job responsibilities	
Proposed Role in the Project	
Proposed Responsibilities in the Project	
Academic Qualifications: <ul style="list-style-type: none"> <li>• Degree</li> <li>• Academic institution graduated from</li> <li>• Year of graduation</li> <li>• Specialization (if any)</li> <li>• Key achievements and other relevant information (if any)</li> </ul>	
Professional Certifications (if any)	
Total number of years of experience	
Number of years with the current company	
Summary of the Professional / Domain Experience	
Number of complete life cycle implementations carried out	
The names of customers (Please provide the relevant names)	
Past assignment details (For each assignment provide details regarding name of organizations worked for, designation, responsibilities, tenure)  A. Prior Professional Experience covering: <ol style="list-style-type: none"> <li>i. Organizations worked for in the past</li> <li>ii. Organization name</li> <li>iii. Duration and dates of entry and exit</li> <li>iv. Designation Location(s)</li> <li>v. Key responsibilities</li> </ol>	

<p>B. Prior project experience</p> <ul style="list-style-type: none"> <li>i. Project name</li> <li>ii. Client</li> <li>iii. Key project features in brief</li> <li>iv. Location of the project</li> <li>v. Designation</li> <li>vi. Role</li> <li>vii. Responsibilities and activities</li> <li>viii. Duration of the project</li> </ul> <p>(Please provide only relevant projects.)</p>	
<p>Proficient in languages (Against each language listed indicate if speak/read/write)</p>	

**19.1.11 Format 11: Letter for Deviations**

To,

The Director,  
 Indian Institute of Tourism & Travel Management

<Date>

Dear Sir:

**Subject:** Deviations <Provide Name of the Implementation Assignment>

We declare that all the services shall be performed strictly in accordance with the Tender documents except for the variations and deviations, all of which have been detailed out exhaustively in the following statement, irrespective of whatever has been stated to the contrary anywhere else in our bid.

Further we agree that additional conditions, if any, found in the Tender documents, other than those stated in deviation schedule, shall not be given effect to.

**A - On the Terms of Reference**

*[Suggest and justify here any modifications or improvement to the Scope of Work you are proposing to improve performance in carrying out the assignment (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities). Such suggestions should be concise and to the point and incorporated in your Proposal.]*

S. No.	Deviation	Material	Non-Material	Impacted Deliverable(s)	Impacted Timeline(s)	Financial Impact
1	<Deviation Description>	<Yes/No>	<Yes/No>	<Name(s) of deliverables to get affected by the deviation>	<Effect on timeline due to deviation>	<Value>
2	<Deviation Description>	<Yes/No>	<Yes/No>	<Name(s) of deliverables to get affected by the deviation>	<Effect on timeline due to deviation>	<Value>
3						

**A. Any Other Area**

S. No.	Deviation	Material	Non-Material	Impacted Deliverable(s)	Impacted Timeline(s)	Financial Impact
1	<Deviation	<Yes/No>	<Yes/No>	<Name(s) of	<Effect on	<Value>

	Description>			deliverables to get affected by the deviation>	timeline due to deviation>	
2	<Deviation Description>	<Yes/No>	<Yes/No>	<Name(s) of deliverables to get affected by the deviation>	<Effect on timeline due to deviation>	<Value>
3	<Deviation Description>	<Yes/No>	<Yes/No>	<Name(s) of deliverables to get affected by the deviation>	<Effect on timeline due to deviation>	<Value>

Yours sincerely,

Authorized Signature:

Name and Title of Signatory:

Name of Firm:

Address:

## 19.2 Financial Proposal Template

### 19.2.1 Covering Letter

To,

<Date>

The Director,  
Indian Institute of Tourism & Travel Management  
Govindpuri, Gwalior- 474011  
0751-2437300, 2345 821, 2345 822.  
director@iittm.ac.in

**Subject:** Submission of the Financial bid for <Provide Name of the Implementation assignment>

Dear Sir/Madam,

We, the undersigned, offer to provide the Implementation services for <<Title of Implementation Services>> in accordance with your Request for Proposal dated <<Date>> and our Proposal (Technical and Financial Proposals). Our attached Financial Proposal is for the sum of<<Amount in words and figures>>. This amount is inclusive of the local taxes.

#### 1. PRICE AND VALIDITY

- All the prices mentioned in our Tender are in accordance with the terms as specified in the RFP documents. All the prices and other terms and conditions of this Bid are valid for a period of <days> calendar days from the date of opening of the Bid.
- We hereby confirm that our prices include all taxes. However, all the taxes are quoted separately under relevant sections.
- We understand that the actual payment would be made as per the existing tax rates during the time of payment.

#### 2. UNIT RATES

We have indicated in the relevant forms enclosed, the unit rates for the purpose of on account of payment as well as for price adjustment in case of any increase to / decrease from the scope of work under the contract.

#### 3. TENDER PRICING

We further confirm that the prices stated in our bid are in accordance with your Instruction to Bidders included in Tender documents.

#### 4. QUALIFYING DATA

We confirm having submitted the information as required by you in your Instruction to Bidders. In case you require any other further information/documentary proof in this regard before evaluation of our Tender, we agree to furnish the same in time to your satisfaction.

#### 5. BID PRICE

We declare that our Bid Price is for the entire scope of the work as specified in the <Refer Section No.>. These prices are indicated Commercial Bid attached with our Tender as part of the Tender.

#### 6. PERFORMANCE BANK GUARANTEE

We hereby declare that in case the contract is awarded to us, we shall submit the Performance Bank Guarantee as specified in the <Appendix III> of this RFP document.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal, i.e., [Date].

We understand you are not bound to accept any Proposal you receive.

We hereby declare that our Tender is made in good faith, without collusion or fraud and the information contained in the Tender is true and correct to the best of our knowledge and belief.

We understand that our Tender is binding on us and that you are not bound to accept Tender you receive.

Yours sincerely,

Authorized Signature:

Name and Title of Signatory:

Name of Firm:

Address:

## 19.2.2 Form 2: Financial Proposal

Summary Table			(All Prices in Indian Rupees Only)		
S. No.	Item Description	Reference Table	Total Base Price including all taxes but excluding GST (A)	*GST Amount (B)	Total Price C=(A+B)
1	Operation & Maintenance of existing LMS for one year as per scope of work defined in section 5 of this RFP	Table A			
2	Composite man-month rate for major change	Table B			
Total Bid Price (T) (in Figures)					
Total Bid Price (T) (in Words)					

### Note:

\*GST shall be paid as per prevailing rates

1. For financial evaluation, only price quoted at serial no. 1 will be considered.
2. Bidder should provide all prices, quantities as per the prescribed format under this Annexure. Bidder should not leave any field blank. In case the field is not applicable, Bidder must indicate "0" (Zero) in all such fields.
3. Purchaser reserves the right to ask the Bidder/Implementation Agency (IA) to submit proof of payment against GST.
4. Bidders should quote prices exclusive of any software licenses required. The same shall be provided by IITTM.



### 19.3 Template for BG and CCN

#### 19.3.1 Format 13: Performance Bank Guarantee

##### Performance Security

<Name>

<Designation>

<Address>

<Phone Nos.>

<Fax Nos.>

<Email id>

Whereas, <<name of the supplier and address>> (hereinafter called "the Bidder") has undertaken, in pursuance of contract no. <Insert Contract No.> dated. <Date> to provide Implementation services for <<name of the assignment>> to IITTM (hereinafter called "the beneficiary")

And whereas it has been stipulated by in the said contract that the Bidder shall furnish you with a bank guarantee by a recognized bank for the sum specified therein as security for compliance with its obligations in accordance with the contract;

And whereas we, <Name of Bank> a banking company incorporated and having its head /registered office at <Address of Registered Office> and having one of its office at <Address of Local Office> have agreed to give the supplier such a bank guarantee.

Now, therefore, we hereby affirm that we are guarantors and responsible to you, on behalf of the supplier, up to a total of Rs.<Insert Value> (Rupees <Insert Value in Words> only) and we undertake to pay you, upon your first written demand declaring the supplier to be in default under the contract and without cavil or argument, any sum or sums within the limits of Rs. <Insert Value> (Rupees<Insert Value in Words> only) as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Bidder before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the contract to be performed there under or of any of the contract documents which may be

made between you and the Bidder shall in any way release us from any liability under this guarantee and we hereby waive notice of any such change, addition or modification.

This Guarantee shall be valid until <<Insert Date>>

Notwithstanding anything contained herein:

I.Our liability under this bank guarantee shall not exceed Rs. <Insert Value> (Rupees <Insert Value in Words> only).

II.This bank guarantee shall be valid up to <Insert Expiry Date>)

III.It is condition of our liability for payment of the guaranteed amount or any part thereof arising under this bank guarantee that we receive a valid written claim or demand for payment under this bank guarantee on or before <Insert Expiry Date>) failing which our liability under the guarantee will automatically cease.

**19.3.2 Format 14: Change Control Notice (CCN) Format**

<b>Change Control Note</b>		<b>CCN Number</b>
<b>Part A: Initiation</b>		
Title		
Originator:		
Sponsor:		
Date of Initiation		
<b>Details of Proposed Change</b>		
(To include reason for change and appropriate details/specifications. Identify any attachments as A1, A2, and A3 etc.)		
Authorized By:	Date	
Name:	Date	
Signature:	Date:	
Received by the IP		
Name:		
Signature:		
<b>Change Control Note</b>		<b>CCN Number</b>
<b>Part B: Evaluation</b>		
(Identify any attachments as B1, B2, and B3 etc.) Changes to Services, charging structure, payment profile, documentation, training, service levels and component working arrangements and any other contractual issue.		
<b>Brief Description of the Solution:</b>		
<b>Impact:</b>		
<b>Deliverables:</b>		
<b>Timetable:</b>		
<b>Charges for Implementation:(including a schedule of payments)</b>		
<b>Other Relevant Information:(including value-added and acceptance criteria)</b>		
<b>Authorized by the Implementation Partner</b>	<b>Date:</b>	
<b>Name:</b>		
<b>Signature:</b>		

## 19.4 Existing Functional capabilities

### 19.4.1 Technology Background

The Technology/platform used in the existing LMS system, on which the new functionalities and customization would be made are as:

- i. LMS Platform :Entire LMS application is built on Moodle Platform
- ii. Storyboarding: The storyboarding in the done through Adobe Captivate
- iii. Integration: as on date the integration is done with Axis Bank and Bank of Baroda payment gateways
- iv. Database: Maria DB is database is being used in the system, the data of system be migrated to the new database.
- v. Cloud Server: the system is presently hosted on the NIC Clouds and will be used for deployment of the new functionality and customizations

The story boarding and content enhancement would be done on the IITTM machines. The desktop/laptop and software for story boarding and content enhancement would be owned and provided by IITTM.

The technical details of the existing system is as below:

- i. Overall technology stack implemented: Details are available at the below link:  
<https://hostadvice.com/how-to/how-to-install-apache-mysql-php-on-an-ubuntu-18-04-vps/>
- ii. **Moodle version:** Moodle version (3.4)
- iii. **Licenses** (if any): GNU General Public License (GPL)
- iv. **Programming language used for customization:** PHP (7.1)
- v. Web Servers available from NIC:

S. No.	Operating System	CPU	Memory	Storage
I.	Red Hat Enterprise Linux 7 (64-bit)	16	64	270
II.	Red Hat Enterprise Linux 7 (64-bit)	16	64	270
III.	Red Hat Enterprise Linux 7 (64-bit)	16	64	70
IV.	Red Hat Enterprise Linux 7 (64-bit)	16	64	70

- vi. Web server details: Web servers: - There are two web servers Web 1 and Web 2. Both web servers have 500 GB space and both are connected with a load balancer.
- vii. **Types of servers:** Web servers and Database servers.
- viii. **Mobile compatibility:** Yes
- ix. **SMS service integration details:**
  - API provided by the NIC and we have used a REST API function to send the OTP to the user mobile number and verify the number.
- x. **Payment Gateways integrated: AXIS and BOB Banks**
  - AXIS:-API provided by the AXIS bank and we have implemented the code based on the requirements.
  - BOB: API provided by the BOB bank and we have implemented the code based on the requirements.
  - SMS services : NIC SMS services
- xi. **SMTP services:** SMTP server details provided by the NIC and we have used the server IP to send/receive the email from the LMS. There is no any such customization for the SMTP.
- xii. **Database used: MYSQL**

There are two DB servers.

  - DB 1: (Master DB)(200 GB Space)
  - DB 2: (Slave DB)(200 GB Space)
- xiii. **Last Version update (with date):** Moodle Version (3.4 ) - 10 May 2019
- xiv. **Content Authoring tool details (Adobe Captivate):** Licenses used: TWO, version: 11.0.0.243

#### 19.4.2 High level functional overview of LMS

Below is the list of available functionalities and high-level functional requirements for the application:

S.No.	Module
1	Users

<b>S.No.</b>	<b>Module</b>
1.1	For learning management system, users will be candidates enrolling for various courses.
1.2	Following will be the user roles associated with system administration: <ul style="list-style-type: none"> <li>1. Author for creating courses</li> <li>2. Editor for editing courses and approving them</li> <li>3. Publisher for publishing courses approved by the editor</li> <li>4. System admin for having the access to the system</li> <li>5. IITTM/MoT officers for access to dashboard</li> </ul>
2	<b>Registration</b>
2.1	<b>User registration</b> User registration will include registration of the user on the portal. The user will be able to do the following using the portal <ul style="list-style-type: none"> <li>1. Enrol for courses</li> <li>2. Access and complete courses</li> <li>3. Register for online assessment</li> <li>4. Receive certification from IITTM</li> <li>5. Manage their profile and view their personal dashboard</li> </ul>
2.1.1	User registration shall include email and mobile verification
2.1.2	The system will be integrated with SMS and email gateway
2.1.3	System should allow user to make payment using the payment gateway
2.1.4	User registration will include uploading the required documentation for verification of the users
2.2	<b>Course Enrolment</b>
2.2.1	User will be displayed the list of available courses.
2.2.2	The user shall be able to enrol for those courses
2.2.3	Once the user has enrolled for a course, they will be able to access course content of all the units related to it
2.2.4	The user will be able to enrol for Advanced course only if he has completed the Basic course
2.3	<b>Online Assessment Registration</b>
2.3.1	Registration for the online assessment shall only be allowed to the user if they have completed the course related to it.
2.3.2	All the schedules available for the assessment shall be listed on the portal
2.3.3	User shall be able to schedule the assessment by selecting the preferred slot

<b>S.No.</b>	<b>Module</b>
2.3.4	After the assessment is scheduled, Email, SMS and application notification shall be displayed to the user
2.3.5	The admin shall be able to customise the schedule of the online assessment
2.3.6	System shall be able to send notification in case of any changes to the booked assessment schedule
2.4	<b>Event registration</b> Registration for online events/webinars hosted by IITTM
2.4.1	User shall be able to register for events hosted by IITTM/Ministry of Tourism (MoT)
3	<b>Learning Management</b>
3.1	<b>Learning Content</b>
3.1.1	System should support text-based content, text, images, video, voiceovers and other desired formats
3.1.2	System should be able to support outputs from prominent content authoring tools
3.1.3	Content shall be available in prominent foreign/regional languages.
3.1.4	System should support addition of content in multiple main regional languages or languages as suggested by IITTM
3.1.5	Users shall be able to open, view, interact (drag and drop, select, click etc.) with the learning content of the course they have enrolled for.
3.1.6	System shall be capable of having reference material/ external resources as part of each unit within the modules
3.1.7	System shall be able to receive feedback on the learning content
3.2	<b>Courses</b>
3.2.1	System shall allow users to enrol for multiple courses
3.2.2	System shall support adding reference material/external resources to the modules
3.2.3	System shall support self-learning assessments in between modules
3.2.4	System shall be able to receive feedback on the modules
3.2.5	System shall support interactive modules i.e. content displayed after some input from the user
3.2.6	System shall not allow user to skip course content within units in the course
3.2.7	System will not let the user move on to the next module before completing the previous module
3.2.8	System shall not allow user to skip interactions in the course content
3.2.9	System shall allow users to revisit completed units/modules/courses
3.2.10	System shall display the progress of completion of module and unit
3.2.11	System should be able to warn the user on inactivity

<b>S.No.</b>	<b>Module</b>
3.2.12	System should support standard plug-ins and runtime applications
3.2.13	System shall be easy to use for the content creators
3.3	<b>Learning course window</b> It shall be customised and designed according to the requirements by IITTM. It shall include but not limit to the following:
3.3.1	Course unit name
3.3.2	Course content
3.3.3	Options for – Comments, like, reference materials, changing language, turning on/off subtitles available in multiple languages, full screen toggle for course content screen section and video speed controller (from 0.25x, up to 3x speed).
3.4	<b>Feedback</b>
3.4.1	System shall allow feedback to be taken for the course at the end of each module and at the end of the course
3.5	<b>Self-learning assessments</b>
3.5.1	There shall be self-learning assessments to assess the understanding of the learner
3.5.2	System shall allow the user to take multiple attempts of the self-learning assessment
4	<b>Personalised Dashboard</b>
4.1	The user shall be able to view the following on their dashboards
4.1.1	Reports available for the users
4.1.2	Upcoming events scheduled for the week/month
4.1.3	Accepted events
4.1.5	Calendar view of scheduled events and online assessment
4.2	The user shall be able to open the learning content of the module directly from the dashboard
4.3	System shall display real-time dashboard i.e. the changes in user activity should result in real-time changes in the dashboard reports
4.4	System should be able to reflect changes and display content without refreshing the entire page
4.5	System shall be able to display reports on the basis of progress made by the user
5	<b>Storyboarding</b>
5.1	System should support storyboarding of content through Adobe Captivate/other content authoring tools
5.2	System should support latest versions and features of content authoring tools



<b>S.No.</b>	<b>Module</b>
6	<b>Reports Requirements</b>
6.1	<b>For learners</b>
6.1.1	Courses the user has enrolled in
6.1.2	Progress on the courses
6.1.3	Completion percentage
6.1.4	Module completion
6.1.5	Module completion percentage
7	<b>News and events</b>
7.1	Information related to news and events (seminars, live sessions, webinars, workshops) shall be displayed on the website as well as available on the dashboard page of the user
7.2	Detailed information should be available about the event – name, date, time, venue/link.
8	<b>Session management</b>
8.1	User session will be managed by the application.
8.2	Once the user logs in, the session will be maintained till the user has not logged out or the session has not ended due to inactivity.
8.3	The session should end after a certain time when the user is inactive.
8.4	Time for inactivity shall be taken as 15 minutes but it shall be configurable.
8.5	Viewing or working on the learning content should not be considered as time for inactivity.
9	<b>Accessibility</b>
9.1	<b>Device Compatibility</b>
9.1.1	System shall be able to support multiple devices.
9.1.2	It should provide all the features in all compatible devices such as mobile phone, web browser etc.
9.2	<b>Language Compatibility</b>
9.2.1	The system should be developed in Hindi and English and should be capable of supporting learning content in prominent languages
10	<b>Integrations</b>
10.1	<b>Payment gateway</b>
10.1.1	Safe and secure payment gateway shall be used
10.1.2	The system should support easy integration with the payment gateways
10.1.3	System should provide for confirmation of transaction to the user
10.1.4	System should provide payment receipt against the payment

<b>S.No.</b>	<b>Module</b>
10.1.5	System should provide printable version of receipt
10.1.6	System should not store any critical information of the user provided on the secured payment gateway
10.1.7	System should facilitate automatic update of the payment information on the user profile on successful payment made
10.1.8	In case of unsuccessful transactions the Payment gateway should be able to refund the amount to the user's account
10.2	<b>SMS gateway</b>
10.2.1	SMS gateway should be integrated with the system
10.2.2	SMS shall be sent to the users through the SMS gateway as per the requirements of IITTM
10.2.3	It should be able to send multiple SMS at once
10.2.4	System should support all features and standards as per TRAI regulations
10.2.5	The gateway shall provide an option to configure number of retries and time duration of retries for the SMS that could not be delivered immediately
10.3	<b>Email gateway</b>
10.3.1	Email gateway shall be used to provide communication mechanism
10.3.2	System should support SMTP services
10.3.3	System shall provision for integration of calendar for users which can be synchronized to multiple clients like Outlook and other desktop or mobile based email clients
<b>11</b>	<b>Identity and Access Management (IAM)</b>
11.1	System should have facilities for enforced-change of password after first-time login including after password reset, automatic password outage after a fixed period of time, maintenance of unique passwords that neither resemble login ID nor any of the previously used passwords (last 3 passwords), a combination of upper & lower cases, numbers and special characters, etc.

## 19.5 Minimum Qualifications of Manpower

S. No.	Profile	Educational Qualification	Experience
1	Project Manager	B.E./B.Tech. in Computer Science or Information Technology Or MCA Preferred – Degree/Diploma in Management	Overall at least 10 Years in software development and /or application maintenance and 3 years as Project Manager
2	Technical Lead	B.E./B.Tech. in Computer Science or Information Technology Or MCA	Overall at least 6 Years in software development and /or application maintenance and 2 years as Technical Lead  And at least 3 years in Moodle Platform
3	Team Member	B.E./B.Tech. in Computer Science or Information Technology Or MCA	Overall at least 2 Years in software development and /or application maintenance  And at least 1 years in Moodle Platform
4	Database Administrator	B.E./B.Tech. in Computer Science or Information Technology Or MCA	At least 5 years of experience as DBA for software development and/or maintenance project

The number and type of roles the bidder want to engage may vary for different bidders.

## 19.6 Measurement and Targets

### 19.6.1 Implementation Phase related performance level

Measurement	Definition	Target	Penalty
Installation and Commissioning			
Completion of Phase II deliverables	Completion of customization & new development in the LMS application and completion of Technical Documentations	Refer Section 10 of this RFP	Penalty covered under Liquidated Damages Clause in MSA

### 19.6.2 Operation and Maintenance

S. No.	SLA Terms	Description
1	System Uptime	<ul style="list-style-type: none"> <li>Time for which user is able to access the applications, website and other components of the IT solution during the working hours. The system can be down due to any of the reasons including failure of hardware, network, system software, application etc.</li> <li>Scheduled downtime for example, backup time, batch processing time, routine maintenance time will not be considered while evaluating the system uptime. However, the selected SI will be required to schedule such downtime with prior approval of IITTM. The selected SI will plan scheduled downtime outside working time. In exceptional circumstances, IITTM may allow the SI to plan scheduled downtime in the working hours.</li> </ul>
2	Bugs / Issues in the Application Software /	<ul style="list-style-type: none"> <li>Critical bugs / issues – Bugs / issues affecting multiple users simultaneously,</li> <li>Non-critical bugs / issues – Bugs / issues affecting at most two user.</li> <li>The bugs/issue may be reported by IITTM and helpdesk</li> </ul>

S. No.	Service Level Metric	Base Line	Lower Performance		Breach		Basic Requirements
		Metric	Metric	LD	Metric	LD	
1	Application Uptime	≥99% between 8 am to 8 pm	Less than 99% and up to 96%	0.5% of the Monthly O&M charges	Less than 96 % and up to 93%	1% of the monthly O&M charges	Availability shall be measured on a monthly basis as follows: <ul style="list-style-type: none"> <li>12 hrs x no. of days in a particular month</li> <li>e.g. for a month with 30 days: 12 hrs x 30 days = 360 hrs</li> <li>For 30 days month 99% = 356 hrs</li> </ul>
		95% between 8 pm to 8 am	Less than 95 % and up to 92 %	0.5% of the Monthly O&M charges	Less than 92 % and up to 90%	1% of the monthly O&M charges	Availability shall be measured on a monthly basis as follows: <ul style="list-style-type: none"> <li>12 hrs x no. of days in a particular month</li> <li>e.g. for a month with 30 days: 12 hrs x 30 days = 360 hrs</li> <li>For 30 days month 95% = 342 hrs</li> </ul>
2	Chat Application Uptime	≥99% between 8 am to 8 pm	Less than 99% and up to 96%	0.5% of the Monthly O&M charges	Less than 96 % and up to 93%	1% of the monthly O&M charges	Availability shall be measured on a monthly basis as follows: <ul style="list-style-type: none"> <li>12 hrs x no. of days in a particular month</li> <li>e.g. for a month with 30 days: 12 hrs</li> </ul>

							<p>x 30 days = 360 hrs</p> <ul style="list-style-type: none"> <li>For 30 days month 99% = 356 hrs</li> </ul>
		95% between 8 pm to 8 am	Less than 95 % and up to 92 %	0.5% of the Monthly O&M charges	Less than 92 % and up to 90%	1% of the monthly O&M charges	<p>Availability shall be measured on a monthly basis as follows:</p> <ul style="list-style-type: none"> <li>12 hrs x no. of days in a particular month</li> <li>e.g. for a month with 30 days: 12 hrs x 30 days = 360 hrs</li> <li>For 30 days month 95% = 342 hrs</li> </ul>
4	Critical Bug Resolution	within 2 hours of Reporting between 8 am to 8 pm	More than 2 and less than 3 hours	0.5% of the Monthly O&M charges	More than 3 hours	1% of the monthly O&M charges	Will be calculated on monthly basis
		within 3 hours of Reporting between 8 pm to 8 am	More than 3 and less than 4 hours	0.5% of Monthly O&M charges	More than 4 hours	1% of the monthly O&M charges	Will be calculated on monthly basis
5	Non-Critical Bugs	within 6 hours of Reporting	More than 6 and less than 8 hours	0.5% of Monthly O&M	More than 8 hours	1% of the monthly O&M charges	Will be calculated on monthly basis

		between 8 am to 8 pm		charges			
		within 5 hours of Reporting between 8 pm to 8 am	More than 8 and less than 10 hours	0.5% of Monthly O&M charges	More than 10 hours	1% of the monthly O&M charges	Will be calculated on monthly basis

**Note:**

- In addition the above the IA should conduct concurrent user test every 3 months and demonstrate the capability of handling 2000 concurrent users' login simultaneously in the LMS system.
- Also, the capacity of scalability of handling additional load of 10% concurrent users year on year.
- If the IA fails to demonstrate the above capabilities additional penalty of 1% of the total O&M payment will be imposed.

# Appendix: MASTER SERVICE AGREEMENT

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**THIS MASTER SERVICE AGREEMENT (“Agreement”)** is made on this the <\*\*\*> day of <\*\*\*> 20... at <\*\*\*>, India.

BETWEEN

----- having its office at -----  
----- India hereinafter referred to as ‘IITTM’ / ‘IITTM’ 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. IITTM is desirous to implement the project of e-Governance for <Insert the type of project>.
2. In furtherance of the same, IITTM undertook the selection of a suitable Implementation Agency through a competitive bidding process for implementing the Project and in this behalf issued Request for Proposal (RFP) dated <\*\*\*> .
3. The successful bidder has been selected as the Implementation Agency on the basis of the bid response set out as Annexure D of this Agreement, to undertake the Project of the development and implementation of the solution, its roll out and sustained operations.

**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 below .

Adverse Effect	means material adverse effect on  a) the ability of the Implementation Agency to exercise any of its rights or perform/discharge any of its duties/obligations under and in accordance with the provisions of this Agreement and/or  b) the legal validity, binding nature or enforceability of this Agreement;
Agreement	means this Master Services Agreement, Service Level Agreement and Non-Disclosure Agreement together with all Articles, Annexures, Schedules and the contents and specifications of the RFP;
Applicable Law(s)	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 applicable to the relevant party and as may be in effect on the date of the execution of this Agreement and during the subsistence thereof, applicable to the Project;
Assets	shall have the same meaning ascribed to it in Clause 10.1 (a)
Software	means the software designed, developed / customized, tested and deployed by the Implementation Agency for the purposes of the Project and includes the source code (in case of Bespoke development) along with associated documentation, which is the work product of the development efforts involved in the Project and the improvements and enhancements effected during the term of the Project, but does not include the third party software products (including the COTS products used for the product), proprietary software components and tools deployed by the Implementation Agency;
Bespoke Development	Bespoke development means development of custom-built software for some specific organization.

Business Hours	shall mean the working time for IITTM users which is 9:30 AM to 6:30 PM. Again, for Web Server and other components which enable successful usage of web portals of IITTM 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;
Certificate(s) of Compliance	shall have the same meaning ascribed to it in Clause 5.4.;
Confidential Information	<p>means all information including IITTM Data (whether in written, oral, electronic or other format) which relates to the technical, financial and business affairs, dealers, suppliers, products, developments, operations, processes, data, trade secrets, design rights, know-how, plans, budgets and personnel of each Party and its affiliates which is disclosed to or otherwise learned by the other Party in the course of or in connection with this Agreement (including without limitation such information received during negotiations, location visits and meetings in connection with this Agreement);</p> <p>All such information in whatever form or mode of transmission, which is disclosed by a Party (the "Disclosing Party") to any other Party (the "Recipient") in connection with the Project during its implementation and which has been explicitly marked as "confidential", or when disclosed orally, has been identified as confidential at the time of disclosure and has been confirmed and designated in writing within &lt;15 days&gt; from oral disclosure at the latest as confidential information by the Disclosing Party, is "Confidential Information".</p>
Control	<p>means, in relation to any business entity, the power of a person to secure</p> <ul style="list-style-type: none"> <li>i.by means of the holding of shares or the possession of voting power in or in relation to that or any other business entity, or</li> <li>ii.by virtue of any powers conferred by the articles of association or other document regulating that or any other business entity, that the affairs of the first mentioned business entity are conducted in accordance with that person's wishes and in relation to a partnership, means the right to a share of more</li> </ul>

	than one half of the assets, or of more than one half of the income, of the partnership;
Deliverables	means the products, infrastructure and services agreed to be delivered by the Implementation Agency in pursuance of the agreement as defined more elaborately in the RFP, Implementation and the Maintenance phases and includes all documents related to the user manual, technical manual, design, process and operating manuals, service mechanisms, policies and guidelines (such as security related, data migration related), inter alia payment and/or process related etc., source code and all its modifications;
Proprietary Information	shall have the same meaning ascribed to it in Clause 19.1
Effective Date	shall have the same meaning ascribed to it in Clause 3.2;
IITTM Data	means all proprietary data of the department or its nominated agencies generated out of operations and transactions, documents all taxpayer's data and related information including but not restricted to user data which the Implementation Agency obtains, possesses or processes in the context of providing the Services to the users pursuant to this Agreement;
Final Acceptance Test	shall be conducted on completion of the following: 1) IITTM Data Centre operational, (if applicable) 2) Deployment & operational hardware and networking at requisite locations, 3) UAT of the overall integrated solution and portal.
Final Testing and Certification Agency	shall have the same meaning ascribed to it in Clause 5.4;
Force Majeure	shall have the same meaning ascribed to it in Clause 16.1;
Force Majeure Costs	shall have the same meaning ascribed to it in Clause 16.4(b);
Gol	means the Government of India
Go-Live	1.1.1 a) Subject to partial acceptance of the System as described below, Go-Live shall occur in respect of the System, when (a) the Final

Acceptance Tests, as specified in the agreed and finalized project plan have been successfully completed; or (b) the Final Acceptance Tests have not been successfully completed or have not been carried out for reasons that are attributable to the IITTM within a period of <insert days> days from the date of installation or any other agreed-upon period; or (c) the IITTM has put the System into production or use for 60 consecutive days. If the System is put into production or use in this manner, the Implementation Agency shall notify the IITTM and document such use.

1.1.2

b) At any time after any of the events set out in Clause above have occurred, the Implementation Agency may give a notice to the IITTM requesting the issue of a Final Acceptance Certificate.

1.1.3

c) After consultation with the IITTM, and within fourteen (14) days after receipt of the Implementation Agency's notice, the IITTM shall: (a) issue a Final Acceptance Certificate; or (b) notify the IA in writing of any defect or deficiencies or other reason for the failure of the Final Acceptance Tests; or (c) issue the Operational Acceptance Certificate, if the situation covered by sub-clause (a) arises.

1.1.5

d) If the System or Subsystem fails to pass the Final Acceptance Test(s) in accordance with these provisions, Clause 27.2, then either:

i.the IITTM may consider terminating the Contract, pursuant to termination provisions; or (b) if the failure to achieve Final Acceptance within the specified time period is a result of the failure of the IITTM to fulfil its obligations under the Contract, then the IA shall be deemed to have fulfilled its obligations with respect to the relevant technical and functional aspects of the Agreement.

ii.If within 14 days after receipt of the IA's notice the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the IA in writing of the justifiable reasons why the Project

	<p>Manager has not issued the Operational Acceptance Certificate, the System or Subsystem shall be deemed to have been accepted as of the date of the IA's said notice.</p> <p>iii. Partial Acceptance: If so, specified in the Agreement, Installation and Commissioning shall be carried out individually for each identified major component or Subsystem(s) of the System. In this event, the provisions in the Contract relating to Installation and Commissioning, including the Final Acceptance Test, shall apply to each such major component or Subsystem individually, and Operational Acceptance Certificate(s) shall be issued accordingly for each such major component or Subsystem of the System, subject to the limitations contained in the below clause.</p> <p>iv. The issuance of Final Acceptance Certificates for individual major components or Subsystems pursuant to clause a shall not relieve the IA of its obligation to obtain a Final Acceptance Certificate for the System as an integrated whole (if so, specified in the Agreement) once all major components and Subsystems have been supplied, installed, tested, and commissioned.</p> <p>v. In the case of minor components for the System that by their nature do not require Commissioning or an Operational Acceptance Test (e.g., minor fittings, furnishings or site works, etc.), the Project Manager shall issue a Final Acceptance Certificate within fourteen (14) days after the fittings and/or furnishings have been delivered and/or installed or the site works have been completed. The IA shall, however, use all reasonable endeavours to promptly remedy any defects or deficiencies in such minor components detected by the IITTM or IA.</p>
Indemnifying Party	shall have the same meaning ascribed to it in Clause 15.1;
Indemnified Party	shall have the same meaning ascribed to it in Clause 15.1;
Intellectual Property Rights	means all rights in written designs and copyrights, moral rights, rights in databases and Bespoke Software / Pre-existing work including its up-gradation systems and compilation rights (whether or not any of these are registered and including application for registration);



Insurance Cover	<ul style="list-style-type: none"> <li>- Public liability insurance for an insured amount of INR &lt;insert amount&gt; per occurrence and not less than &lt;insert amount&gt; in aggregate</li> <li>- Either professional indemnity or errors and omissions insurance for an insured amount of [INR insert amount] per occurrence and not less than [INR insert amount] in aggregate.</li> <li>- Product liability for an insured amount of [INR insert amount] per occurrence and not less than [INR insert amount] in aggregate.</li> <li>- Workers compensation as required by law</li> </ul>
Additional Insurance	<insert any additional types of insurance the Service Provider is required to maintain. Otherwise insert 'not applicable'>
Material Breach	means a breach by either Party (IITTM or Implementation Agency) of any of its obligations under this Agreement which has or is likely to have an Adverse Effect on the Project which such Party shall have failed to cure;
Required Deliverables	shall have the same meaning ascribed to it in Annexure F of this Agreement;
Parties	means IITTM and Implementation Agency for the purposes of this Agreement and <b>“Party”</b> shall be interpreted accordingly;
Performance Guarantee	Means the guarantee provided by a Nationalized Bank in favour of the Implementation Agency. The amount of Performance Security shall be 10% of the overall cost of the project. This performance security shall be valid till six months after the completion of the project i.e. --- years from the date of signing of contract or for such time as is required under this Agreement;
Planned Application Downtime	means the unavailability of the application services due to maintenance activities such as configuration changes, upgradation or changes to any supporting infrastructure wherein prior intimation (at least two working days in advance) of such planned outage shall be given and approval sought from the IITTM as applicable;
Planned Network Outage	means the unavailability of the network services due to infrastructure maintenance activities such as configuration changes, upgradation or changes to any supporting infrastructure. Prior intimation of such planned outage shall be given and approval sought from the IITTM as applicable and shall be notified at least two working days;

Project	means Pilot, Project Implementation (roll out) and Maintenance in terms of the Agreement;
Project Implementation	means Project Implementation as per the testing standards and acceptance criteria prescribed by IITTM or its nominated agencies;
Project Implementation Phase	shall be from the Effective Date of the Agreement to the date of final acceptance testing & certification as set out in Clause 5.4 of this Agreement;
Project Implementation Unit	shall be constituted by IITTM to monitor the activities, deliverables and progress of the Project. PIU will comprise of the staff members of the IITTM, other officials from concerned department and external experts (as defined in the RFP);
Project Timeline	shall have the same meaning ascribed to in Annexure F;
Providing Party	shall have the same meaning ascribed to it in Clause 12.5;
Receiving Party	shall have the same meaning ascribed to it in Clause 12.5;
Replacement Implementation Agency	means any third party that IITTM or its nominated agencies appoint to replace Implementation Agency upon expiry of the Term or termination of this Agreement to undertake the Services or part thereof;
Required Consents	means the consents, waivers, clearances and licenses to use IITTM's Intellectual Property Rights, rights and other authorizations as may be required to be obtained for the software and other items that IITTM or their nominated agencies are required to make available to Implementation Agency pursuant to this Agreement;
Services	means the services delivered to the Stakeholders of IITTM or its nominated agencies, employees of IITTM or its nominated agencies, and to professionals, using the tangible and intangible assets created, procured, installed, managed and operated by the Implementation Agency including the tools of information and communications technology and includes but is not limited to the list of services specified in Annexure B;
Service Level	means the level of service and other performance criteria which will apply to the Services delivered by the Implementation Agency;
SLA	means the Performance and Maintenance SLA executed as part of this Master Service Agreement;

Stakeholders	means the students, Franchisee's, Investors, Citizens, IITTM or its nominated agencies, IITTM, employees and the Departments of State Government;
Term	shall have the same meaning ascribed to it in Clause 3.1;
Third Party Systems	means systems (or any part thereof) in which the Intellectual Property Rights are not owned by the IITTM or Implementation Agency and to which Implementation Agency has been granted a license to use and which are used in the provision of Services;
Unplanned Application Downtime	means the total time for all the instances where services in the software requirement specification document prepared by the Implementation Agency are not available for more than 5 consecutive minutes;
Network	in IITTM users refers to all the IT assets installed by the Implementation Agency as part of the Project for networking;
Unplanned Network Outage	means the total time for all the instances where services in the software requirement specification document prepared by the Implementation Agency are not available for more than 5 consecutive minutes;
Application	means the software application developed as a part of scope of work set out in Clause 2.1(a)
Application Downtime	means the time for which user/s is not able to access the application. However, in calculating downtime, scheduled downtime (for example, backup time, batch processing time, routine maintenance time) would not be considered;
Network Uptime	Network Uptime refers to network availability between IITTM's Head Quarters to Data centre. "%Uptime" means ratio of 'up time' (in minutes) in a month to Total time in the month (in minutes) multiplied by 100;
Warranty/AMC Period	shall be <insert number> years from the date of successful completion /Go-live.
Safety and Security	[Note: insert any safety and security requirements additional to those specified in clause 12.4, Otherwise insert 'not applicable']

## 1.2 Interpretation

In this Agreement, unless otherwise specified:

- a) references to Clauses, Sub-Clauses, Paragraphs, Schedules and Annexures are to clauses, sub-clauses, paragraphs, schedules and annexures 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 ----- 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.
- k) System integrator (SI) or Implementation Agency (IA) has been used for the same entity i.e. bidder selected for the project.

### **1.3 Measurements and Arithmetic Conventions**

All measurements and calculations shall be in the metric system and calculations done to two decimals places, with the third digit of five or above being rounded up and below 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/Annexures, the Agreement shall prevail, save and except as expressly provided otherwise in the Agreement or the Schedules/Annexures; and
- c) as between any value written in numerals and that in words, the value in words shall prevail.

#### **1.5 Priority of Documents**

This Agreement, including its Schedules and Annexures, represents the entire agreement between the Parties as noted in this Clause. If in the event of a dispute as to the interpretation or meaning of this Agreement it should be necessary for the Parties to refer to documents forming part of the bidding process leading to this Agreement, then such documents shall be relied upon and interpreted in the following descending order of priority:

- a) This Agreement along with
- b) the SLA agreement,
- c) NDA agreement,
- d) Schedules and Annexures;
- e) the RFP along with subsequently issued corrigenda
- f) Technical and financial proposal submitted by the successful bidder, to the extent they along with subsequently issued clarifications furnished by the Implementation Agency in response to the RFP, to the extent they are not inconsistent with any terms of the RFP.

For the avoidance of doubt, it is expressly clarified that in the event of a conflict between this Agreement, Annexures / Schedules or the contents of the RFP, the terms of this Agreement shall prevail over the Annexures / Schedules and Annexures / Schedules shall prevail over the contents and specifications of the RFP.

## **2 SCOPE OF THE PROJECT**

The Implementation Agency shall be required to: develop / customize and implement **<Insert the details of solution>**; manage and provide technical support to the solution for the period of **<insert period>** years from the date of Go-Live.

The roles and responsibilities of the Parties under this Agreement have been set out in detail as Annexure F of this Agreement.

For the avoidance of doubt, it is expressly clarified that this Agreement shall govern the provision of the contracted services under the SLA to the IITTM and its nominated agencies. It is anticipated that new or renewal agreements may be undertaken by creating a separate SLA, with schedules and annexures as required, under this Agreement for each additional engagement.

## **2.1 Scope of Work**

Detailed Scope of Work for the selected bidder is as follows:

1. ....
2. ....
3. ....

## **3 TERM AND DURATION OF THE AGREEMENT**

This Agreement shall come into effect on <\*\*\*> 201- (hereinafter the 'Effective Date') and shall continue till operation and maintenance completion date which shall be the date of the completion of the operation and maintenance to the IITTM or its nominated agencies, unless terminated earlier (as per clause 14), in which case the contract will get terminated on fulfilment of all obligations mentioned as per clause 14 and Schedule-II.

## **4 CONDITIONS PRECEDENT AND EFFECTIVE DATE**

### **4.1 Provision to take effect upon fulfilment of Conditions Precedent**

Subject to express terms to the contrary, the rights and obligations under this Agreement shall take effect only upon fulfilment of all the Conditions Precedent set out below. However, IITTM or its nominated agencies may at any time at its sole discretion waive fully or partially any of the Conditions Precedent for the Implementation Agency.

For the avoidance of doubt, it is expressly clarified that the obligations of the Parties (or its nominated agencies) under this Agreement shall commence from the fulfilment of the Conditions Precedent as set forth below

#### **a) Conditions Precedent of the Implementing Partner**

The Implementation Agency shall be required to fulfil the Conditions Precedent in which is as follows:

- i. to provide a Performance Security/Guarantee and other guarantees/ payments within <21 days> of the receipt of notification of award from the IITTM; and

- ii. to provide the IITTM or its nominated agencies certified true copies of its constitutional documents and board resolutions authorizing the execution, delivery and performance of this Agreement by the Implementation Agency (optional).
- b) Conditions Precedent of the IITTM (needs to be customized as per project requirement)

The IITTM shall be required to fulfil the Conditions Precedents which are as follows:

- i. Handing over of <project office> (if applicable)
- ii. Necessary clearances associated with the execution of the project, unless specified to be performed by the IA
- iii. Approval of the Project by a Competent Authority, etc

#### **4.2 Extension of time for fulfilment of Conditions Precedent**

The Parties may, by mutual agreement extend the time for fulfilling the Conditions Precedent and the Term of this Agreement.

#### **4.3 Non-fulfilment of the Implementation Agency's Conditions Precedent**

- a) In the event that any of the Conditions Precedent of the Implementation Agency have not been fulfilled within 15 days of signing of this Agreement and the same have not been waived fully or partially by IITTM or its nominated agencies, this Agreement shall cease to exist;
- b) In the event that the Agreement fails to come into effect on account of non-fulfilment of the Implementation Agency's Conditions Precedent, the IITTM or its nominated agencies shall not be liable in any manner whatsoever to the Implementation Agency and the IITTM shall forthwith forfeit the Earnest Money Deposit.
- c) In the event that possession of any of the IITTM or its nominated agencies facilities has been delivered to the Implementation Agency prior to the fulfilment of the Conditions Precedent, upon the termination of this Agreement such shall immediately revert to IITTM or its nominated agencies, free and clear from any encumbrances or claims.

### **5 OBLIGATIONS UNDER THE SLA**

The SLA shall be a separate contract in respect of this Agreement and shall be entered into concurrently with this Agreement between IITTM and Implementation Agency;

In relation to any future SLA entered into between the Parties; each of the Parties shall observe and perform the obligations set out herein.

## **5.1 Change in Control**

- a) In the event of a change of control of the Implementation Agency during the Term, the Implementation Agency shall promptly notify IITTM and/or its nominated agencies of the same in the format set out as Annexure A of this Agreement.
- b) In the event that the net worth of the surviving entity is less than that of Implementation Agency prior to the change of control, the IITTM or its nominated agencies may within 30 days of becoming aware of such change in control, require a replacement of existing Performance Guarantee furnished by the Implementation Agency from a guarantor acceptable to the IITTM or its nominated agencies (which shall not be Implementation Agency or any of its associated entities).
- c) If such a guarantee is not furnished within 30 days of the IITTM or its nominated agencies requiring the replacement, the IITTM may exercise its right to terminate the SLA and/ or this Agreement within a further 30 days by written notice, to become effective as specified in such notice.
- d) Pursuant to termination, the effects of termination as set out in Clause 14 of this Agreement shall follow.

For the avoidance of doubt, it is expressly clarified that the internal reorganization of the Implementation Agency shall not be deemed an event of a change of control for purposes of this Clause unless the surviving entity is of less net worth than the predecessor entity.

## **5.2 Final Testing and Certification**

The Project shall be governed by the mechanism of final acceptance testing and certification to be put into place by the IITTM and Implementation Agency as under:

- a) Final testing and certification criteria will lay down a set of guidelines following internationally accepted norms and standards for testing and certification for all aspects of project development and implementation covering software, hardware and networking including the processes relating to the design of solution architecture, design of systems and sub- systems, coding, testing, business process description, documentation, version control, change management, security, service oriented architecture, performance in relation to compliance with SLA metrics, interoperability, scalability, availability and compliance with all the technical and functional requirements of the RFP and this Agreement;



- b) Final testing and certification criteria will be finalized from the development stage to ensure that the guidelines are being followed and to avoid large scale modifications pursuant to testing done after the application is fully developed;
- c) Final testing and certification criteria will consider conducting specific tests on the software, hardware, networking, security and all other aspects;
- d) Final testing and certification criteria will establish appropriate processes for notifying the Implementation Agency of any deviations from the norms, standards or guidelines at the earliest instance after taking cognizance of the same to enable the Implementation Agency to take corrective action; etc.

The Parties shall each ensure that the range of the Services under the SLA shall not be varied, reduced or increased except with the prior written agreement between the IITTM and Implementation Agency in accordance with the Change Control Schedule set out in Schedule I of this Agreement. Save for the express terms of the Terms of Payment Schedule set out as Schedule V of this Agreement, IITTM or its nominated agencies and its users may purchase any particular category of Services that may become necessary as per the Change Control Schedule set out in Schedule I of this Agreement, without the need to go for a separate procurement process.

## **6 REPRESENTATIONS AND WARRANTIES**

### **6.1 Representations and warranties of the Implementation Agency**

The Implementation Agency represents and warrants to the IITTM or its nominated agencies that:

- a) it is duly organized and validly existing under the laws of India, and has full power and authority to execute and perform its obligations under this Agreement and other agreements and to carry out the transactions contemplated hereby;
- b) it is a competent provider of a variety of information technology and business process management services;
- c) it has taken all necessary corporate and other actions under laws applicable to its business to authorize the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- d) from the Effective Date, it will have the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement;
- e) in providing the Services, it shall use reasonable endeavours not to cause any unnecessary disruption to IITTM's normal business operations

- f) 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 against it in accordance with the terms hereof;
- g) the information furnished in the Implementation Agency's response to the RFP and any subsequent clarification pertaining to the evaluation process, furnished on or before the date of this Agreement is to the best of its knowledge and belief true and accurate in all material respects as at the date of this Agreement;
- h) the execution, delivery and performance of this Agreement shall not conflict with, result in the breach of, constitute a default 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;
- i) there are no material 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;
- j) 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 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;
- k) it has complied with Applicable Laws 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 an Adverse Effect on its ability to perform its obligations under this Agreement;
- l) no representation or warranty by it contained herein or in any other document furnished by it to IITTM or its nominated agencies 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
- m) 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 IITTM or its nominated agencies in connection therewith.

## 6.2 Representations and warranties of the IITTM or its nominated agencies

IITTM or its nominated agencies represent and warrant to the Implementation Agency that:

- 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 Laws 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) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunder including any obligation, liability or responsibility hereunder;
- e) 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 against it in accordance with the terms thereof;
- f) 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;
- g) 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;
- h) 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 Adverse Effect on the IITTM or its nominated agencies 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;
- i) it has complied with Applicable Laws in all material respects;

- j) all information provided by it in the RFP in connection with the Project is, to the best of its knowledge and belief, true and accurate in all material respects; and
- k) upon the Implementation Agency performing the covenants herein, it shall not at any time during the term hereof, interfere with peaceful exercise of the rights and discharge of the obligations by the Implementation Agency, in accordance with this Agreement.

## **7 OBLIGATIONS OF THE IITTM OR ITS NOMINATED AGENCIES**

Without prejudice to any other undertakings or obligations of the IITTM or its nominated agencies under this Agreement, the IITTM or its nominated agencies shall perform the following:

- a. To provide any support through personnel to test the system during the Term;
- b. To provide any support through personnel and/or test data during development, rollout, steady state operation, as well as, for any changes/enhancements in the system whenever required due to scope change that may arise due to business, delivery or statutory/regulatory reasons;
- c. IITTM shall provide the data (including in electronic form wherever available) to be migrated.
- d. To authorize the Implementation Agency to interact for implementation of the Project with external entities such as the state treasury, authorized banks, trademark database etc.
- e. Provide prompt Deliverable feedback: Within <XX working days> from the submission of a deliverable/SLA and performance reports, the <IITTM> shall provide a sign offs on the deliverable or its comments for changes.

In case the <IITTM> fails to respond and provide feedback on above stated submission, the deliverables or SLA and performance reports will be deemed accepted. Post <xx working days> there will be no rework of the said deliverable except, in case the IITTM has provided an alternate date for acceptance. Any subsequent rework post acceptance / deemed acceptance would form the subject of a formal change request under the provisions of this Agreement.

## **8 OBLIGATION OF IMPLEMENTATION PARTNER**

- 8.1 It shall provide to the IITTM or its nominated agencies, the Deliverables as set out in Annexure F of this Agreement.
- 8.2 It shall perform the Services as set out in Section 2 of this Agreement and in a good and workmanlike manner commensurate with industry and technical standards

which are generally in effect for international projects and innovations pursuant thereon similar to those contemplated by this Agreement, and so as to comply with the applicable Service Levels set out with this Agreement.

8.3 It shall ensure that the Services are being provided as per the Project Timelines set out in the RFP.

## **9 APPROVAL AND REQUIRED CONSENTS**

9.1 The Parties shall cooperate to procure, maintain and observe all relevant and regulatory and governmental licenses, clearances and applicable approvals (hereinafter the "Required Consents") necessary for the Implementation Agency to provide the Services. The costs of such Approvals shall be borne by the Party normally responsible for such costs according to local custom and practice in the locations where the Services are to be provided.

9.2 The IITTM or its nominated agencies shall use reasonable endeavours to assist Implementation Agency to obtain the Required Consents [or vice versa, depending on the Scope of work defined in the RFP]. In the event that any Required Consent is not obtained, the Implementation Agency and the IITTM or its nominated agencies will co-operate with each other in achieving a reasonable alternative arrangement as soon as reasonably practicable for the IITTM or its nominated agencies to continue to process its work with as minimal interruption to its business operations as is commercially reasonable until such Required Consent is obtained, provided that the Implementation Agency shall not be relieved of its obligations to provide the Services and to achieve the Service Levels until the Required Consents are obtained if and to the extent that the Implementation Agency's obligations are not dependent upon such Required Consents.

## **10 USE OF ASSETS BY IMPLEMENTATION AGENCY**

10.1 During the Term the Implementation Agency shall:

- (a) take all reasonable and proper care of the entire hardware and software, network or any other information technology infrastructure components used for the Project and other facilities leased / owned / operated by the Implementation Agency exclusively in terms of ensuring their usability for the delivery of the Services as per this Agreement (hereinafter the "Assets") in proportion to their use and control of such Assets; and
- (b) keep all the tangible Assets in as good and serviceable condition (reasonable wear and tear excepted) as at the date the Implementation Agency takes

control of and/or first uses the Assets and during the entire Term of the Agreement.

- (c) ensure that any instructions or manuals supplied by the manufacturer of the Assets for use of the Assets and which are provided to the Implementation Agency will be followed by the Implementation Agency and any person who will be responsible for the use of the Assets;
- (d) take such steps as may be properly recommended by the manufacturer of the Assets and notified to the Implementation Agency or as may, in the reasonable opinion of the Implementation Agency, be necessary to use the Assets in a safe manner;
- (e) ensure that the Assets that are under the control of the Implementation Agency, are kept suitably housed and in conformity with Applicable Law;
- (f) procure permission from the IITTM or its nominated agencies and any persons duly authorized by them to enter any land or premises on which the Assets are for the time being sited so as to inspect the same, subject to any reasonable third-party requirements;
- (g) not knowingly or negligently use or permit any of the Assets to be used in contravention of any statutory provisions or regulation or in any way contrary to Applicable Law.

## **11 ACCESS TO THE IITTM OR ITS NOMINATED AGENCIES LOCATIONS**

11.1. For so long as the Implementation Agency provides services to the IITTM or its nominated agencies location, as the case may be, on a non-permanent basis and to the extent necessary, the IITTM as the case may be or its nominated agencies shall, subject to compliance by the Implementation Agency with any safety and security guidelines which may be provided by the IITTM as the case may be or its nominated agencies and notified to the Implementation Agency in writing, provide the Implementation Agency with:

- a. reasonable access, in the same manner granted to the IITTM or its nominated agencies employees, to the IITTM as the case may be location twenty-four hours a day, seven days a week;
- b. reasonable workspace, access to office equipment as mutually agreed and other related support services in such location and at such other the IITTM, as the case may be location, if any, as may be reasonably necessary for the Implementation Agency to perform its obligations hereunder and under the SLA.

11.2 Access to locations, office equipment and services shall be made available to the Implementation Agency < on an “as is, where is” basis / in appropriate working condition (as per scope of work defined in the tender)> by the IITTM as the case may be or its nominated agencies. The Implementation Agency agrees to ensure that its employees, agents and contractors shall not use the location, services and equipment referred to in RFP for the following purposes:

- (a) for the transmission of any material which is defamatory, offensive or abusive or of an obscene or menacing character; or
- (b) in a manner which constitutes a violation or infringement of the rights of any person, firm or company (including but not limited to rights of copyright or confidentiality).

## **12 MANAGEMENT PHASE**

### **12.1 Governance**

The review and management process of this Agreement shall be carried out in accordance with the Governance Schedule set out in Schedule V of this Agreement and shall cover all the management aspects of the Project.

### **12.2 Use of Services**

- (a) The IITTM as the case may be or its nominated agencies, will undertake and use the Services in accordance with any instructions or procedures as per the acceptance criteria as set out in the SLA or this Agreement or any agreement that may be entered into between the Parties from time to time;
- (b) The IITTM as the case may be or its nominated agencies shall be responsible for the operation and use of the Deliverables resulting from the Services.

### **12.3 Changes**

Unless expressly dealt with elsewhere in this Agreement, any changes under or to this Agreement or under or to the SLA shall be dealt with in accordance with the Change Control Schedule set out in Schedule I of this Agreement.

### **12.4 Security And Safety**

- (a) The Implementation Agency shall comply with the technical requirements of the relevant security, safety and other requirements specified in the Information Technology Act or Telegraph Act including the regulations issued

by dept. of telecom (wherever applicable), IT Security Manual of the IITTM as specifically stated in the RFP and follow the industry standards related to safety and security (including those as stated in the RFP), insofar as it applies to the provision of the Services.

- (b) Each Party to the SLA/Agreement shall also comply with IITTM or the Government of India, and the respective State's security standards and policies in force from time to time at each location of which IITTM or its nominated agencies make the Implementation Agency aware in writing insofar as the same apply to the provision of the Services.
- (c) The Parties to the SLA/Agreement shall use reasonable endeavours to report forthwith in writing to each other all identified attempts (whether successful or not) by unauthorized persons (including unauthorized persons who are employees of any Party) either to gain access to or interfere with the IITTM as the case may be or any of their nominees data, facilities or Confidential Information.
- (d) The Implementation Agency shall upon reasonable request by the IITTM as the case may be or their nominee(s) participate in regular meetings when safety and information technology security matters are reviewed.
- (e) As per the provisions of the SLA or this Agreement, the Implementation Agency shall promptly report in writing to the IITTM or its nominated agencies, any act or omission which they are aware that could have an adverse effect on the proper conduct of safety and information technology security at the facilities of IITTM as the case may be.

## **12.5 Cooperation**

Except as otherwise provided elsewhere in this Agreement or the SLA, each Party ("Providing Party") to this Agreement or to the SLA undertakes promptly to provide



the other Party (“Receiving Party”) with all such information and co-operation which the Receiving Party reasonably requests, provided that such information and co-operation:

- (a) does not require material expenditure by the Providing Party to provide the same;
- (b) is reasonably required by the Receiving Party in order for it to comply with its obligations under this Agreement or the SLA;
- (c) cannot be construed to be Confidential Information; and (d) is capable of being provided by the Providing Party.

Further, each Party agrees to co-operate with the contractors and subcontractors of the other Party as reasonably requested in order to accomplish the purposes of this Agreement.

## **13 FINANCIAL MATTERS**

### **13.1 Terms of Payment**

- (a) In consideration of the Services and subject to the provisions of this Agreement and of the SLA, the IITTM shall pay the Implementation Agency for the Services rendered in pursuance of this agreement, in accordance with the Terms of Payment Schedule set out as Schedule V of this Agreement.
- (b) Payments shall be subject to the application of liquidated damages (for period prior to “Go Live”) or SLA penalties and its adjustments/corrections (for post “Go-Live”) as may be provided for in the Agreement and the SLA from the relevant milestone(s),
- (c) Save and except as otherwise provided for herein or as agreed between the Parties in writing, the IITTM shall not be required to make any payments in respect of the Services (or, without limitation to the foregoing, in respect of the Implementation Agency performance of any obligations under this Agreement or the SLA) other than those covered in Schedule V of this Agreement. For the avoidance of doubt, it is expressly clarified that the payments shall be deemed to include all ancillary and incidental costs and charges arising in the course of delivery of the Services including consultancy charges, infrastructure costs, project costs, implementation and management charges and all other related costs including taxes which are addressed in this Clause.

### **13.2 Invoicing and Settlement**

- (a) Subject to the specific terms of the Agreement and the SLA, the Implementation Agency shall submit its invoices in accordance with the following principles:
- (i) The IITTM shall be invoiced by the Implementation Agency for the Services. Generally and unless otherwise agreed in writing between the Parties or expressly set out in the SLA, the Implementation Agency shall raise an invoice as per Schedule V of this Agreement; and
  - (ii) Any invoice presented in accordance with this Clause shall be in a form agreed with the IITTM.
- (b) The Implementation Agency alone shall invoice all payments after receiving due approval of completion of payment milestone from the competent authority. Such invoices shall be accurate with all adjustments or changes in the terms of payment as stated in Schedule V of this Agreement. The Implementation Agency shall waive any charge for a Service that is not invoiced within six months after the end of the month in which the change relating to such Service is (i) authorized or (ii) incurred, whichever is later.
- (c) Payment shall be made within <30 working days> of the receipt of invoice along with supporting documents by the IITTM subject to deduction of applicable liquidated damages (till “Go Live”) or SLA penalties (post “Go Live”) . The penalties are imposed on the vendor as per the SLA criteria specified in the SLA. In the event of delay in payment of undisputed amount beyond <30 working days>, Implementation Agency shall be entitled to a late payment interest of <Specify rate of Interest> per annum from the date of completion of <30 working days> after submission of invoice. This interest is subject to a limit of <10%> of the total contract value.
- (d) The IITTM shall be entitled to delay or withhold payment of any invoice or part of it delivered by the Implementation Agency under Schedule V of this Agreement where the IITTM disputes/withholds such invoice or part of it provided that such dispute is bona fide. , The withheld amount shall be limited to that which is in dispute. The disputed / withheld amount shall be settled in accordance with the escalation procedure as set out in Schedule V of this Agreement. Any exercise by the IITTM under this Clause shall not entitle the Implementation Agency to delay or withhold provision of the Services.
- (e) **The Implementation Agency shall be solely responsible to make payment to its subcontractors.**

### **13.3 Tax**

- (a) The IITTM or its nominated agencies shall be responsible for withholding taxes from the amounts due and payable to the Implementation Agency

wherever applicable. The Implementation Agency shall pay for all other taxes in connection with this Agreement, SLA, scope of work and any other engagement required to be undertaken as a part of this Agreement, including, but not limited to, property, sales, use, excise, value-added, goods and services, consumption and other similar taxes or duties.

- (b) The IITTM or its nominated agencies shall provide Implementation Agency with the original tax receipt of any withholding taxes paid by IITTM or its nominated agencies on payments under this Agreement. The Implementation Agency agrees to reimburse and hold the IITTM or its nominated agencies harmless from any deficiency including penalties and interest relating to taxes that are its responsibility under this paragraph. For purposes of this Agreement, taxes shall include taxes incurred on transactions between and among the IITTM or its nominated agencies, the Implementation Agency and third party subcontractors.
- (c) If, after the date of this Agreement, there is any change of rate of levy under the existing applicable laws of India with respect to taxes and duties, which are directly payable by the IITTM for providing the goods and services i.e. service tax or any such other applicable tax from time to time, which increase or decreases the cost incurred by the Implementation Agency in performing the Services, then the remuneration and reimbursable expense otherwise payable to the Implementation Agency under this Agreement shall be increased or decreased accordingly by correspondence between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Schedule V. However, in case of any new or fresh tax or levy imposed after submission of the proposal the Implementation Agency shall be entitled to reimbursement on submission of proof of payment of such tax or levy.
- (d) The Parties shall cooperate to enable each Party to accurately determine its own tax liability and to minimize such liability to the extent legally permissible. In connection therewith, the Parties shall provide each other with the following:
  - (i) any resale certificates;
  - (ii) any relevant information regarding out-of-state or use of materials, equipment or services; and
  - (iii) any direct pay permits, exemption certificates or information reasonably requested by the other Party.

## 14 TERMINATION

### 14.1 For Material Breach

(a) In the event that either Party believes that the other Party is in Material Breach of its obligations under this Agreement, such aggrieved Party may terminate this Agreement upon giving a one month's notice for curing the Material Breach to the other Party. In case the Material Breach continues, after the notice period, the IITTM or Implementation Agency, as the case may be will have the option to terminate the Agreement. Any notice served pursuant to this Clause shall give reasonable details of the Material Breach, which could include the following events and the termination will become effective:

- (i) If the Implementation Agency is not able to deliver the services as per the SLAs defined in RFP which translates into Material Breach, then the IITTM may serve a 30 days written notice for curing this Material Breach. In case the Material Breach continues, after the expiry of such notice period, the IITTM will have the option to terminate this Agreement. Further, the IITTM may offer a reasonable opportunity to the Implementation Agency to explain the circumstances leading to such a breach.
  - (ii) If there is a Material Breach by the IITTM or its nominated agencies which results in not providing support for effecting data migration or not providing the certification of User Acceptance then the Implementation Agency will give a one month's notice for curing the Material Breach to the IITTM. After the expiry of such notice period, the Implementation Agency will have the option to terminate the Agreement.
- (b) The IITTM may by giving a one month's written notice, terminate this Agreement if a change of control of the Implementation Agency has taken place. For the purposes of this Clause, in the case of Implementation Agency, change of control shall mean the events stated in Clause 5.3, and such notice shall become effective at the end of the notice period as set out in Clause 5.3
- (c).
- (c) In the event that Implementation Agency undergoes such a change of control, IITTM may, as an alternative to termination, require a full Performance Guarantee for the obligations of Implementation Agency by a guarantor acceptable to IITTM or its nominated agencies. If such a guarantee is not furnished within 30 days of IITTM's demand, the IITTM may exercise its right

to terminate this Agreement in accordance with this Clause by giving 15 days further written notice to the Implementation Agency.

- (d) The termination provisions set out in this Clause shall apply mutatis mutandis to the SLA.

#### **14.2 Termination for Convenience**

1. The IITTM may at any time terminate the Contract for any reason by giving the IA a notice of termination that refers to this clause.
2. Upon receipt of the notice of termination under this clause, the IA shall either as soon as reasonably practical or upon the date specified in the notice of termination:
  - a. cease all further work, except for such work as the IITTM may specify in the notice of termination for the sole purpose of protecting that part of the System already executed, or any work required to leave the site in a clean and safe condition;
  - b. terminate all subcontracts, except those to be assigned to the IITTM pursuant to Clause 14.2(2) (d) (ii) below;
  - c. remove all IA's Equipment from the site, repatriate the IA's and its Subcontractors' personnel from the site, remove from the site any wreckage, rubbish, and debris of any kind;
  - d. in addition, the IA shall:
    - i. deliver to the IITTM the parts of the System executed by the IA up to the date of termination;
    - ii. to the extent legally possible, assign to the IITTM all right, title, and benefit of the IA to the System, or Subsystem, as at the date of termination, and, as may be required by the IITTM, in any subcontracts concluded between the IA and its Subcontractors;
    - iii. deliver to the IITTM all non-proprietary drawings, specifications, and other documents prepared by the IA or its Subcontractors as of the date of termination in connection with the System.

#### **14.3 Effects of Termination**

- a) In the event that IITTM terminates this Agreement pursuant to failure on the part of the Implementation Agency to comply with the conditions as contained in this Clause

and depending on the event of default, Performance Guarantee furnished by Implementation Agency may be forfeited.

- b) Upon termination of this Agreement, the Parties will comply with the Exit Management Schedule set out as Schedule III of this Agreement.
- c) In the event that IITTM or the Implementation Agency terminates this Agreement, the compensation will be decided in accordance with the Terms of Payment Schedule set out as Schedule V of this Agreement.
- d) IITTM agrees to pay Implementation Agency for i) all charges for Services Implementation Agency provides and any Deliverables and/or system (or part thereof) Implementation Agency delivers through termination and any charges at the tendered rate, for extension period beyond termination as decided by the Nodal Agency as per Schedule 2, Clause 2.2 and ii) reimbursable expenses Implementation Agency incurs through termination.
- e) If IITTM terminates without cause, IITTM also agrees to pay any applicable adjustment expenses to Implementation Agency incurs as a result of such termination (which Implementation Agency will take reasonable steps to mitigate.
- f) In the event of termination of the Contract under 14.2, the IITTM shall pay to the IA the following amounts:
  - i the Contract Price, properly attributable to the parts of the System executed by the IA as of the date of termination;
  - ii the costs reasonably incurred by the IA in the removal of the IA's Equipment from the site and in the repatriation of the IA's and its Subcontractors' personnel;
  - iii any amount to be paid by the IA to its Subcontractors in connection with the termination of any subcontracts, including any cancellation charges;
  - iv costs incurred by the IA in protecting the System and leaving the site in a clean and safe condition pursuant to Clause 14.2; and
  - v the cost of satisfying all other obligations, commitments, and claims that the IA may in good faith have undertaken with third parties in connection with the Contract and that are not covered by Clauses 14.3 (d) above.

#### **14.4 Termination of this Agreement due to bankruptcy of Implementation Agency**

The IITTM may serve written notice on Implementation Agency at any time to terminate this Agreement with immediate effect in the event that the Implementation Agency reporting an apprehension of bankruptcy to the IITTM or its nominated agencies

## **15 INDEMNIFICATION & LIMITATION OF LIABILITY**

- 15.1 Subject to Clause 15(4) below, Implementation Agency (the "Indemnifying Party") undertakes to indemnify, hold harmless the IITTM (the "Indemnified Party") from and against all claims, liabilities, losses, expenses (including reasonable attorneys' fees), fines, penalties, taxes or damages (Collectively "Loss") on account of bodily injury, death or damage to tangible personal property arising in favour of any person, corporation or other entity (including the Indemnified Party) attributable to the Indemnifying Party's negligence or wilful default in performance or non-performance under this Agreement.
- 15.2 If the Indemnified Party promptly notifies Indemnifying Party in writing of a third party claim against Indemnified Party that any Service provided by the Indemnifying Party infringes a copyright, trade secret or patents incorporated in India of any third party, Indemnifying Party will defend such claim at its expense and will pay any costs or damages, that may be finally awarded against Indemnified Party.
- 15.3 Indemnifying Party will not indemnify the Indemnified Party, however, if the claim of infringement is caused by:
- a) Indemnified Party's misuse or modification of the Service;
  - b) Indemnified Party's failure to use corrections or enhancements made available by the Indemnifying Party;
  - c) Indemnified Party's use of the Service in combination with any product or information not owned or developed by Indemnifying Party;

However, if any service, information, direction, specification or materials provided by Indemnified Party or any third party contracted to it, is or likely to be held to be infringing, Indemnifying Party shall at its expense and option either

- i Procure the right for Indemnified Party to continue using it
- ii Replace it with a non-infringing equivalent
- iii Modify it to make it non-infringing.

The foregoing remedies constitute Indemnified Party's sole and exclusive remedies and Indemnifying Party's entire liability with respect to infringement.

- 15.4 The indemnities set out in Clause 15 shall be subject to the following conditions:

- i. the Indemnified Party as promptly as practicable informs the Indemnifying Party in writing of the claim or proceedings and provides all relevant evidence, documentary or otherwise;
- ii. the Indemnified Party shall, at the cost of the Indemnifying Party, give the Indemnifying Party all reasonable assistance in the Défense of such claim including reasonable access to all relevant information, documentation and personnel provided that the Indemnified Party may, at its sole cost and expense, reasonably participate, through its attorneys or otherwise, in such Défense;
- iii. if the Indemnifying Party does not assume full control over the Défense of a claim as provided in this Article, the Indemnifying Party may participate in such Défense at its sole cost and expense, and the Indemnified Party will have the right to defend the claim in such manner as it may deem appropriate, and the cost and expense of the Indemnified Party will be included in Losses;
- iv. the Indemnified Party shall not prejudice, pay or accept any proceedings or claim, or compromise any proceedings or claim, without the written consent of the Indemnifying Party;
- v. all settlements of claims subject to indemnification under this Clause will:
  - a) be entered into only with the consent of the Indemnified Party, which consent will not be unreasonably withheld and include an unconditional release to the Indemnified Party from the claimant or plaintiff for all liability in respect of such claim; and
  - b) include any appropriate confidentiality agreement prohibiting disclosure of the terms of such settlement;
- vi. the Indemnified Party shall account to the Indemnifying Party for all awards, settlements, damages and costs (if any) finally awarded in favour of the Indemnified Party which are to be paid to it in connection with any such claim or proceedings;
- vii. the Indemnified Party shall take steps that the Indemnifying Party may reasonably require to mitigate or reduce its loss as a result of such a claim or proceedings;
- viii. in the event that the Indemnifying Party is obligated to indemnify an Indemnified Party pursuant to this Article, the Indemnifying Party will, upon payment of such indemnity in full, be subrogated to all rights and defences of the Indemnified Party with respect to the claims to which such indemnification relates; and
- ix. if a Party makes a claim under the indemnity set out under Clause 15.1 above in respect of any particular Loss or Losses, then that Party shall not be entitled to make any further claim in respect of that Loss or Losses (including any claim for damages).



- 15.5 The liability of either Party (whether in contract, tort, negligence, strict liability in tort, by statute or otherwise) for any claim in any manner related to this Agreement, including the work, deliverables or Services covered by this Agreement, shall be the payment of direct damages only which shall in no event exceed one time the total contract value payable under this Agreement. The liability cap given under this Clause shall not be applicable to the indemnification obligations set out in Clause 15 and breach of Clause 12.4 and 17.
- 15.6 In no event shall either party be liable for any consequential, incidental, indirect, special or punitive damage, loss or expenses (including but not limited to business interruption, lost business, lost profits, or lost savings) nor for any third party claims (other than those set-forth in Clause 15.1) even if it has been advised of their possible existence.
- 15.7 The allocations of liability in this Section 15 represent the agreed and bargained-for understanding of the parties and compensation for the Services reflects such allocations. Each Party has a duty to mitigate the damages and any amounts payable under an indemnity that would otherwise be recoverable from the other Party pursuant to this Agreement by taking appropriate and commercially reasonable actions to reduce or limit the amount of such damages or amounts.

## **16 FORCE MAJEURE**

### **16.1 Definition of Force Majeure**

“Force Majeure” shall mean any event beyond the reasonable control of the IITTM or of the Supplier, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected.

### **16.2 Force Majeure Events**

A Force Majeure shall include, without limitation, the following:

- a. war, hostilities, or warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy, and civil war;
- b. strike, sabotage, lockout, embargo, import restriction, port congestion, lack of usual means of public transportation and communication, industrial dispute, shipwreck, shortage or restriction of power supply, epidemics, quarantine, and plague;
- c. earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning, or other inclement weather condition, nuclear and pressure waves, or other natural or physical disaster;

- 16.2.1 If either party is prevented, hindered, or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances of the event of Force Majeure within fourteen (14) days after the occurrence of such event.
- 16.2.2 The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered, or delayed. The time for achieving Final Acceptance shall be extended.
- 16.2.3 The party or parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect of the event of Force Majeure upon its or their performance of the Contract and to fulfil its or their obligations under the Contract, but without prejudice to either party's right to terminate the Contract under Clause 16.
- 16.2.4 No delay or non-performance by either party to this Contract caused by the occurrence of any event of Force Majeure shall:
- i. constitute a default or breach of the Contract;
  - ii. give rise to any claim for damages or additional cost or expense occasioned by the delay or non-performance,
- if, and to the extent that, such delay or non-performance is caused by the occurrence of an event of Force Majeure.
- 16.2.5 If the performance of the Contract is substantially prevented, hindered, or delayed for a single period of more than sixty (60) days on account of one or more events of Force Majeure during the time period covered by the Contract, the parties will attempt to develop a mutually satisfactory solution, failing which, either party may terminate the Contract by giving a notice to the other.
- 16.2.6 In the event of termination pursuant to Clause 16, the rights and obligations of the IITTM and the Supplier shall be as specified in the clause titled Termination.
- 16.2.7 Notwithstanding Clause 16.2.4, Force Majeure shall not apply to any obligation of the IITTM to make payments to the Supplier under this Contract.

16.2.8 For the avoidance of doubt, it is expressly clarified that the failure on the part of the Implementation Agency under this Agreement or the SLA to implement any disaster contingency planning and back-up and other data safeguards in accordance with the terms of this Agreement or the SLA against natural disaster, fire, sabotage or other similar occurrence shall not be deemed to be a Force Majeure event. For the avoidance of doubt, it is further clarified that any negligence in performance of Services which directly causes any breach of security like hacking aren't the forces of nature and hence wouldn't be qualified under the definition of "Force Majeure". In so far as applicable to the performance of Services, Service Provider will be solely responsible to complete the risk assessment and ensure implementation of adequate security hygiene, best practices, processes and technology to prevent any breach of security and any resulting liability therefrom (wherever applicable).

## **17 CONFIDENTIALITY**

17.1 The IITTM or its nominated agencies shall allow the Implementation Agency to review and utilize highly confidential public records and the Implementation Agency shall maintain the highest level of secrecy, confidentiality and privacy with regard thereto.

17.2 Additionally, the Implementation Agency shall keep confidential all the details and information with regard to the Project, including systems, facilities, operations, management and maintenance of the systems/facilities.

17.3 The IITTM or its nominated agencies shall retain all rights to prevent, stop and if required take the necessary punitive action against the Implementation Agency regarding any forbidden disclosure.

17.4 The Implementation Agency shall ensure that all its employees, agents and sub-contractors involved in the project, execute individual non-disclosure agreements, which have been duly approved by the IITTM with respect to this Project. The implementing agency may submit a declaration that it has obtained the NDA from its employees. However, if the project is critical in nature, IA may get NDAs signed from every resource involved in the project and submit it to IITTM (Optional).

For the avoidance of doubt, it is expressly clarified that the aforesaid provisions shall not apply to the following information:

- (a) information already available in the public domain;
- (b) information which has been developed independently by the Implementation Agency;

- (c) information which has been received from a third party who had the right to disclose the aforesaid information;
- (d) Information which has been disclosed to the public pursuant to a court order.

17.5 To the extent the Implementation Agency shares its confidential or proprietary information with the IITTM for effective performance of the Services, the provisions of the Clause 17(1) to 17(3) shall apply mutatis mutandis on the IITTM or its nominated agencies.

17.6 Any handover of the confidential information needs to be maintained in a list, both by IITTM& SI, containing at the very minimum, the name of provider, recipient, date of generation of the data, date of handing over of data, mode of information, purpose and signatures of both parties.

17.7 Notwithstanding anything to the contrary mentioned hereinabove, the Implementation Agency shall have the right to share the Letter of Intent / work order provided to it by the IITTM in relation to this Agreement, with its prospective IITTM's solely for the purpose of and with the intent to evidence and support its work experience under this Agreement.

## **18 AUDIT, ACCESS AND REPORTING**

The Implementation Agency shall allow access to the IITTM or its nominated agencies to all information which is in the possession or control of the Implementation Agency and which relates to the provision of the Services as set out in the Audit, Access and Reporting Schedule and which is reasonably required by the IITTM to comply with the terms of the Audit, Access and Reporting Schedule set out as Schedule III of this Agreement.

## **19 INTELLECTUAL PROPERTY RIGHTS**

19.1 Products and fixes: All products and related solutions and fixes provided pursuant to this Agreement shall be licensed according to the terms of the license agreement packaged with or otherwise applicable to such product, the ownership of which shall continue to vest with the product owner. Implementation Agency would be responsible for arranging any licenses associated with products. "Product" means any computer code, web-based services, or materials comprising commercially released, pre-release or beta products (whether licensed for a fee or no charge) and any derivatives of the foregoing which are made available to

IITTM for license which is published by product owner or its affiliates, or a third party. "Fixes" means product fixes that are either released generally (such as commercial product service packs) or that are provided to you when performing services (such as workarounds, patches, bug fixes, beta fixes and beta builds) and any derivatives of the foregoing.

19.2 Bespoke development: Subject to the provisions of Clause 19.3 and 19.4 below, upon payment, the IPR rights for any bespoke development done during the implementation of the project will lie exclusively with the IITTM.

19.3 Pre-existing work: All IPR including the source code and materials developed or otherwise obtained independently of the efforts of a Party under this Agreement ("pre-existing work") including any enhancement or modification thereto shall remain the sole property of that Party. During the performance of the services for this agreement, each party grants to the other party (and their sub-contractors as necessary) a non-exclusive license to use, reproduce and modify any of its pre-existing work provided to the other party solely for the performance of such services for duration of the Term of this Agreement. Except as may be otherwise explicitly agreed to in a statement of services, upon payment in full, the Implementation Agency should grant IITTM a non-exclusive, perpetual, fully paid-up license to use the pre-existing work in the form delivered to IITTM as part of the service or deliverables only for its internal business operations. Under such license, either of parties will have no right to sell the pre-existing work of the other party to a Third Party. IITTM's license to pre-existing work is conditioned upon its compliance with the terms of this Agreement and the perpetual license applies solely to the pre-existing work that bidder leaves with IITTM at the conclusion of performance of the services.

19.4 Residuals: In no event shall Implementation Agency be precluded from independently developing for itself, or for others, anything, whether in tangible or non-tangible form, which is competitive with, or similar to, the deliverables, set-out in this Agreement or Annexure. In addition, subject to the confidentiality obligations, Implementation Agency shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques that are acquired or used in the course of providing the Services.

## **20 WARRANTY & MAINTENANCE**

20.1 Standard: The Implementation Agency warrants that the Project, including all the system(s), materials and goods supplied pursuant to the Agreement, shall be free from any defect or deficiency in the material, design, engineering, and workmanship

that prevent the system and/or any of its systems(s) from fulfilling the technical requirements or that limit in a material fashion the performance, reliability, or extensibility of the system and/or any of its sub-system(s). Commercial warranty provisions of products supplied under the Agreement shall apply to the extent they do not conflict with the provisions of this Agreement.

20.1.1 The IA also warrants that the products, materials and other goods supplied under the Agreement are new, unused and incorporate all recent improvements in design that materially affect the system's or subsystem's ability to fulfil the technical requirements specified in the RFP.

20.1.2 In addition, the IA warrants that: (i) all Goods components to be incorporated into the System form part of the IA/OEM's and/or Subcontractor's current product lines.

20.1.3 The warranty period shall commence from the date of Go Live of the project or of any major component or subsystem for which phased Go-Live is provided for in the Agreement and shall extend for as follows:

<b>Component</b>	<b>Period</b>
<Standard Hardware>	<Till the end of the agreement OR <6 months> post completion of the agreement>
<COTS Software>	<Till the end of the agreement OR <6 months> post completion of the agreement>
<Bespoke Software>	<Till the end of the agreement OR <6 months> post completion of the agreement>

IITTM/Government department should approve signoff within <15 days> from the submission of deliverables for Go-Live/Phased Go-live (as relevant, depending on project requirement) by the implementing agency.

In case the IITTM/Government department fails to respond and provide feedback on the above stated submission, the deliverables will be deemed accepted for the commencement of warranty for the project.

However, in case the IITTM confirms to vendor an alternative date, then the date would stand revised for deemed acceptance. Such revisions may be limited to 2 (two).

20.1.4 If during the warranty period any defect or deficiency is found in the material, design and performance/workmanship of the Project and other Services provided by the

Implementation Agency, the Implementation Agency shall promptly, in consultation and agreement with IITTM, and at the Implementation Agency's sole cost repair, replace, or otherwise make good (as the Implementation Agency shall, at its discretion, determine) such default, defect or deficiency as well as any damage to the system caused by such default, defect or deficiency. Any defective component, excluding hard disks, that has been replaced by the Implementation Agency shall remain the property of the Implementation Agency.

- 20.1.5 The IA may, with the consent of the IITTM, remove from the site any product and other goods that are defective, if the nature of the defect, and/or any damage to the System caused by the defect, is such that repairs cannot be expeditiously carried out at the site. If the repair, replacement, or making good is of such a character that it may affect the efficiency of the System, the IITTM may give the IA notice requiring that tests of the defective part be made by the IA immediately upon completion of such remedial work, whereupon the IA shall carry out such tests. If such part fails the tests, the IA shall carry out further repair, replacement, or making good (as the case may be) until that part of the System passes such tests. The tests shall be agreed upon by the IITTM and the Supplier.
- 20.1.6 If the IA fails to commence the work necessary to remedy such defect or any damage to the System caused by such defect within a reasonable time period, the IITTM may, following notice to the IA, proceed to do such work or contract a third party (or parties) to do such work, and the reasonable costs incurred by the IITTM in connection with such work shall be paid to the IITTM by the IA or may be deducted by the IITTM from any amount due to the IA.
- 20.1.7 If the System or any of its sub-systems cannot be used by reason of such default, defect or deficiency and/or making good of such default, defect or deficiency, attributable to IA, the warranty period for the Project shall be extended by a period equal to the period during which the Project or any of its system could not be used by the IITTM because of such defect and/or making good of such default, defect or deficiency. For reasons not attributable to IA, the IA shall not be liable.
- 20.1.8 Items substituted for defective parts of the System during the Warranty Period shall be covered by the Warranty for the remainder of the Warranty Period applicable for the part replaced or three (3) months, whichever is greater.
- 20.1.9 The Implementing Agency shall have no liability in the case of breach of this warranty due to (i) use of the deliverables on any environment (hardware or software) other than the environment recommended or approved by the Implementing Agency, (ii) the combination, operation, or use of some or all of the deliverables with information, software, specifications, instructions, data, or materials not approved by the Implementing Agency; (iii) the deliverables having been tampered with, altered or

modified by IITTM without the written permission of the Implementing Agency, or (iv) use of the deliverables otherwise than in terms of the relevant documentation.

20.2 Implied Warranty: The warranties provided herein are in lieu of all other warranties, both express and implied, and all other warranties, including without limitation that of merchantability or fitness for intended purpose is specifically disclaimed.

## **21 LIQUIDATED DAMAGES**

Time is the essence of the Agreement and the delivery dates are binding on the Implementation Agency. In the event of delay or any gross negligence in implementation of the project before Go-Live, for causes solely attributable to the Implementation Agency, in meeting the deliverables, the IITTM shall be entitled at its option to recover from the Implementation Agency as agreed, liquidated damages, a sum of <0.5%> of the value of the deliverable which suffered delay or gross negligence for each completed week or part thereof subject to a limit of <10%> of the total contract value. This right to claim any liquidated damages shall be without prejudice to other rights and remedies available to IITTM under the contract and law.

## **22 ESCROW AGREEMENT**

22.1 Implementation Agency shall comply with the escrow provisions below for all Bespoke Development & customized codes (including subcontractor-owned materials and other Third Party Material incorporated in Implementation Agency's Proprietary Material), except to the extent Implementation Agency demonstrates to the satisfaction of the IITTM that compliance is not permitted by the nature of Implementation Agency's limited rights in such material.

22.2 Within <ninety (90) days> after the IITTM's acceptance of the Solution, the Parties shall enter into a software escrow agreement ("Escrow Agreement") with a reputable, independent, third party that provides software escrow services among its principal business offerings ("Escrow Agent"). The Escrow Agreement shall provide for the regular deposit into escrow of all source code (including without limitation all make files, configurational files, data tables upon which execution is dependent, and the like, collectively the "Source Code"), object code, and documentation with respect to all Public Material and Implementation Agency's Proprietary Material (and cumulative updates thereof), together with (a) continually updated instructions as to the compilation, installation, configuration, deployment, and use of the Source Code, and (b) a list of all non-deposited third party software used in conjunction with the Source Code to provide the full functionality of the deposited materials. In the event of the termination or expiration of the initial Escrow Agreement or any successor agreement, with minimal delay the Parties



- shall enter into a substantially equivalent agreement with a successor provider of software escrow services (who shall then be known as the “Escrow Agent”).
- 22.3 Implementation Agency will make its initial deposit of Source Code within fifteen (15) days after the effective date of the Escrow Agreement.
- 22.4 Implementation Agency shall periodically update the escrow deposit as the Parties shall agree in the Escrow Agreement. In addition to other usual and customary terms, the Escrow Agreement shall provide that the IITTM shall be entitled to obtain the deposited materials from escrow upon the IITTM's making a proper claim for release from escrow in the event that (c) proper written notice is given to the Escrow Agent that release of the copy of the deposited materials is pursuant to applicable Central or IITTM bankruptcy, insolvency, reorganization, or liquidation statute; (d) Implementation Agency files articles of dissolution (but not if Implementation Agency is consolidated or merged into another entity); (e) the Contract expires or terminates for Material Breach of Implementation Agency.
- 22.5 The release of deposited materials from escrow shall not confer upon the IITTM any right of ownership in the deposited materials or the underlying intellectual property embodied therein. In the event of the release of deposited materials to the IITTM from escrow, the IITTM shall use the deposited materials solely for the benefit of the IITTM and its constituents, consistently with the grants of license set forth in Clause 19 of this Agreement.
- 22.6 The release of materials from escrow, without more, shall not cause any further amounts to accrue as payable to Implementation Agency by the IITTM, and the term of the IITTM's possessory and usage rights with respect to the released materials shall be perpetual.
- 22.7 The Escrow Agreement shall provide for its automatic termination upon the earlier of five (5) years after the expiration or termination of this Contract, or, release of all Source Code to the IITTM and the IITTM's subsequent confirmation of compliance with the terms of the Escrow Agreement. Implementation Agency shall pay the escrow costs, as well as all costs associated with causing its subcontractors and other third parties to abide by the Escrow Agreement.

## **23 INSURANCE COVER**

### **23.1 Obligation to maintain insurance**

In connection with the provision of the Services, the Service Provider must have and maintain:

(a) for the Agreement Period, valid and enforceable insurance coverage for:

- (i) public liability;
- (ii) either professional indemnity or errors and omissions;
- (iii) product liability;
- (iv) workers' compensation as required by law; and
- (v) any additional types specified in Schedule I; and

(b) for <one> year following the expiry or termination of the Agreement, valid and enforceable insurance policies (if relevant), in the amount not less than the Insurance Cover specified in Schedule I.

### **23.2 Certificates of currency**

The Implementation Agency must, on request by the IITTM, provide current relevant confirmation of insurance documentation from its insurance brokers certifying that it has insurance as required by this Clause 23. The Service Provider agrees to replace any coverage prior to the date of expiry/cancellation.

### **23.3 Non-compliance**

IITTM or its nominated agencies may, at its election, terminate this Agreement as per clause 14, upon the failure of Implementation Agency or notification of such failure, to maintain the required insurance coverage. Inadequate insurance coverage for any reason shall not relieve Implementation Agency of its obligations under this Agreement.

## **24 MISCELLANEOUS**

### **24.1 Personnel**

- a) The personnel assigned by Implementation Agency to perform the Services shall be employees of Implementation Agency or its subcontractor(s), and under no circumstances shall such personnel be considered employees of IITTM or its nominated agencies. The Implementation Agency shall have the sole responsibility for the supervision and control of the personnel deployed in the Project and for payment of such personnel's compensation, including salary, withholding of income taxes and social security taxes, worker's compensation, employee and disability benefits and the like and shall be responsible for all obligations of an employer subject to Applicable Law.

- b) The Implementation Agency shall use its best efforts to ensure that sufficient Implementation Agency personnel are assigned to perform the Services and that such personnel have appropriate qualifications to perform the Services. After discussion with Implementation Agency, IITTM or its nominated agencies shall have the right to require the removal or replacement of any Implementation Agency personnel performing work under this Agreement based on bonafide reasons. In the event that IITTM or its nominated agencies requests that any Implementation Agency personnel be replaced, the substitution of such personnel shall be accomplished pursuant to a mutually agreed upon schedule.
- c) In the event that the IITTM and Implementation Agency identify any personnel of Implementation Agency as “Key Personnel”, then the Implementation Agency shall not remove such personnel from the Project without the prior written consent of IITTM or its nominated agencies unless such removal is the result of an unavoidable circumstance including but not limited to resignation, termination, medical leave, etc.
- d) Except as stated in this Clause, nothing in this Agreement or the SLA will limit the ability of Implementation Agency to freely assign or reassign its employees; provided that Implementation Agency shall be responsible, at its expense, for transferring all appropriate knowledge from personnel being replaced to their replacements. IITTM or its nominated agencies shall have the right to review and approve Implementation Agency’s plan for any such knowledge transfer. Implementation Agency shall maintain the same or higher standards for skills and professionalism among replacement personnel as in personnel being replaced.
- e) Each Party shall be responsible for the performance of all its obligations under this Agreement or the SLA as the case may be and shall be liable for the acts and omissions of its employees and agents in connection therewith.
- f) Neither Party will solicit for employment or knowingly hire an employee of the other Party with whom such Party has contact pursuant to project engagements under this Agreement. This restriction shall not apply to employees of either Party responding to advertisements in job fairs or news media circulated to the general public.

## **24.2 Independent Contractor**

Nothing in this Agreement or the SLA shall be construed as establishing or implying any partnership or joint venture between the Parties to this Agreement or the SLA and, except as expressly stated in this Agreement or the SLA, nothing in this Agreement or the SLA shall be deemed to constitute any Parties as the agent of any other Party or authorizes either Party to:

- a) incur any expenses on behalf of the other Party;

- b) enter into any engagement or make any representation or warranty on behalf of the other Party;
- c) pledge the credit of or otherwise bind or oblige the other Party; or
- d) commit the other Party in any way whatsoever without in each case obtaining the other Party's prior written consent.

### **24.3 Sub-contractors**

Implementation Agency shall not subcontract any work related to <Insert details> without IITTM's prior written consent. However the Implementation Agency shall provide the list of all the other services planned to be sub contracted, within 15 days of signing the Agreement. It is clarified that the Implementation Agency shall be the principal employer for all claims arising from the liabilities statutory or otherwise, concerning the sub-contractors. The Implementation Agency undertakes to indemnify the IITTM or its nominated agencies from any claims on the grounds stated hereinabove.

### **24.4 Assignment**

- a) All terms and provisions of this Agreement shall be binding on and shall inure to the benefit of the IITTM and their respective successors and permitted assigns.
- b) Subject to Clause 5.3, the Implementation Agency shall not be permitted to assign its rights and obligations under this Agreement to any third party.
- c) The IITTM may assign or novate all or any part of this Agreement and
- d) Schedules/Annexures, and the Implementation Agency shall be a party to such novation, to any third party contracted to provide outsourced services to IITTM or any of its nominees.

### **24.5 Trademarks, Publicity**

Neither Party may use the trademarks of the other Party without the prior written consent of the other Party except that Implementation Agency may, upon completion, use the Project as a reference for credential purpose. Except as required by law or the rules and regulations of each stock exchange upon which the securities of one of the Parties is listed, neither Party shall publish or permit to be published either alone or in conjunction with any other person any press release, information, article, photograph, illustration or any other material of whatever kind relating to this Agreement, the SLA or the business of the Parties without prior reference to and approval in writing from the other Party, such approval not to be unreasonably withheld or delayed provided however that Implementation Agency may include IITTM or its client lists for reference to third parties subject to the prior written

consent of IITTM not to be unreasonably withheld or delayed. Such approval shall apply to each specific case and relate only to that case.

#### **24.6 Notices**

- a) Any notice or other document which may be given by either Party under this Agreement or under the SLA shall be given in writing in person or by pre-paid recorded delivery post, email or by facsimile transmission.
- b) In relation to a notice given under this Agreement, any such notice or other document shall be addressed to the other Party's principal or registered office address as set out below:

**<Insert Address> Tel:**

Fax:

Email:

Contact:

With a copy to:

#### **Implementation Agency**

Tel:

Fax:

Email:

Contact:

In relation to a notice given under the MSA / SLA, a Party shall specify the Parties' address for service of notices, any such notice to be copied to the Parties at the addresses set out in this Clause.

- c) Any such notice or other document shall be deemed to have been given to the other Party (or, if relevant, its relevant associated company) when delivered (if delivered in person) if delivered between the hours of 9.00 am and 5.00 pm at the address of the other Party set forth above or if sent by fax, provided the copy fax is accompanied by a confirmation of transmission, or on the next working day thereafter if delivered outside such hours, and 7 days from the date of posting (if by letter).
- d) Either Party to this Agreement or to the SLA may change its address, telephone number, facsimile number and nominated contact for notification purposes by giving the other reasonable prior written notice of the new information and its effective date.

#### **24.7 Variations and Further Assurance**

- a) No amendment, variation or other change to this Agreement or the SLA shall be valid unless authorised in accordance with the change control procedure as set out in the Change Control Schedule set out in Schedule I of this Agreement. Such amendment shall be made in writing and signed by the duly authorised representatives of the Parties to this Agreement or the SLA.
- b) Each Party to this Agreement or the SLA agrees to enter into or execute, without limitation, whatever other agreement, document, consent and waiver and to do all other things which shall or may be reasonably required to complete and deliver the obligations set out in this Agreement or the SLA.

#### **24.8 Severability and Waiver**

- a) If any provision of this Agreement or the SLA, or any part thereof, shall be found by any court or administrative body of competent jurisdiction to be illegal, invalid or unenforceable the illegality, invalidity or unenforceability of such provision or part provision shall not affect the other provisions of this Agreement or the SLA or the remainder of the provisions in question which shall remain in full force and effect. The relevant Parties shall negotiate in good faith in order to agree to substitute for any illegal, invalid or unenforceable provision a valid and enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the illegal, invalid or unenforceable provision or part provision.
- b) No failure to exercise or enforce and no delay in exercising or enforcing on the part of either Party to this Agreement or the SLA of any right, remedy or provision of this Agreement or the SLA shall operate as a waiver of such right, remedy or provision in any future application nor shall any single or partial exercise or enforcement of any right, remedy or provision preclude any other or further exercise or enforcement of such right, remedy or provision or the exercise or enforcement of any other right, remedy or provision.

#### **24.9 Compliance with Applicable Law**

Each Party to this Agreement accepts that its individual conduct shall (to the extent applicable to its business like the Implementation Agency as an information technology service provider) at all times comply with all laws, rules and regulations of government and other bodies having jurisdiction over the area in which the Services are undertaken provided that changes in such laws, rules and regulations which result in a change to the Services shall be dealt with in accordance with the Change Control Schedule set out in Schedule I of this Agreement.

#### **24.10 Professional Fees**

All expenses incurred by or on behalf of each Party to this Agreement and the SLA, including all fees of agents, legal advisors, accountants and actuaries employed by either of the Parties in connection with the negotiation, preparation and execution of this Agreement or the SLA shall be borne solely by the Party which incurred them.

#### **24.11 Ethics**

The Implementation Agency represents, warrants and covenants that it has given no commitments, payments, gifts, kickbacks, lavish or expensive entertainment, or other things of value to any employee or agent of IITTM or its nominated agencies in connection with this agreement and acknowledges that the giving of any such payment, gifts, entertainment, or other things of value is strictly in violation of IITTM standard policies and may result in cancellation of this Agreement, or the SLA.

#### **24.12 Entire Agreement**

This Agreement and the SLA with all schedules & annexures appended thereto and the contents and specifications of the RFP constitute the entire agreement between the Parties with respect to their subject matter, and as to all other representations, understandings or agreements which are not fully expressed herein, provided that nothing in this Clause shall be interpreted so as to exclude any liability in respect of fraudulent misrepresentation.

#### **24.13 Amendment**

Any amendment to this Agreement shall be made in accordance with the Change Control Schedule set out in Schedule I of this Agreement by mutual written consent of all the Parties

### **25 GOVERNING LAWS AND DISPUTE RESOLUTION**

25.1 This Agreement shall be governed by and construed in accordance with the laws of 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 Any dispute arising out of or in connection with this Agreement or the SLA shall in the first instance be dealt with in accordance with the escalation procedure as set out in the Governance Schedule set out as Schedule V of this Agreement.

25.3 In case the escalations do not help in resolution of the problem within 3 weeks of escalation, both the parties should agree on a mediator for communication between the two parties. The process of the mediation would be as follows:

- Aggrieved party should refer the dispute to the identified mediator in writing, with a copy to the other party. Such a reference should contain a description of the nature of the dispute, the quantum in dispute (if any) and the relief or remedy sought suitable.
- The mediator shall use his best endeavours to conclude the mediation within a certain number of days of his appointment.
- If no resolution can be reached through mutual discussion or mediation within 30 days then the matter should be referred to Experts for advising on the issue.

25.4 In case the mediation does not help in resolution and it requires expertise to understand an issue, a neutral panel of 3 experts, agreeable to both parties should be constituted. The process of the expert advisory would be as follows:

- Aggrieved party should write to the other party on the failure of previous alternate dispute resolution processes within the timeframe and requesting for expert advisory. This is to be sent with a copy to the mediator.
- Both parties should thereafter agree on the panel of experts who are well conversant with the issue under dispute
- The expert panel shall use his best endeavours to provide a neutral position on the issue.
- If no resolution can be reached through the above means within 30 days then the matter should be referred to Arbitration.

25.5 Any dispute or difference whatsoever arising between the parties to this Contract out of or relating to the construction, meaning, scope, operation or effect of this Contract or the validity of the breach thereof shall be referred to a sole Arbitrator to be appointed by mutual consent of both the parties herein. If the parties cannot agree on the appointment of the Arbitrator within a period of one month from the notification by one party to the other of existence of such dispute, then the Arbitrator shall be appointed by the High Court of New Delhi/ -----, India. 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. Such



differences shall be deemed to be a submission to arbitration under the Indian Arbitration and Conciliation Act, 1996, or of any modifications, Rules or re-enactments thereof. The Arbitration proceedings will be held at <insert city>, India. Any legal dispute will come under the sole jurisdiction of New Delhi, India / state jurisdiction of <insert state>, India.

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

25.7 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/IITTM-designated carrier for shipment to IITTM or IITTM's designated location.

25.8 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.

IN WITNESS WHEREOF the Parties have by duly authorized Representatives set their respective hands and seal on the date first above Written in the presence of:

WITNESSES:

Signed by:

(Name and designation) For and on behalf of IITTM

(FIRST PARTY)

Signed by:

(Name and designation)

IMPLEMENTATION AGENCY

(SECOND PARTY)

(Name and designation) For and on behalf of Implementation Agency Signed by:

## **SCHEDULE I – CHANGE CONTROL SCHEDULE**

This Schedule describes the procedure to be followed in the event of any proposed change to the Master Service Agreement (“MSA”), Project Implementation Phase, SLA and Scope of Work and Functional Requirement Specifications. Such change shall include, but shall not be limited to, changes in the scope of services provided by the Implementation Agency and changes to the terms of payment as stated in the Terms of Payment Schedule.

The IITTM and IA recognize that frequent change is an inevitable part of delivering services and that a significant element of this change can be accomplished by re-organizing processes and responsibilities without a material effect on the cost. The IA will endeavour, wherever reasonably practicable, to effect change without an increase in the terms of payment as stated in the Terms of Payment Schedule and IITTM or its nominated agencies will work with the Implementation Agency to ensure that all changes are discussed and managed in a constructive manner. This Change Control Schedule sets out the provisions which will apply to all the changes to this agreement and other documents except for the changes in SLAs for which a separate process has been laid out in Clause 11 of the SLA.

This Change Control Schedule sets out the provisions which will apply to changes to the MSA.

## **CHANGE MANAGEMENT PROCESS**

### **a. CHANGE CONTROL NOTE (“CCN”)**

- i. Change requests in respect of the MSA, the Project Implementation, the operation, the SLA or Scope of work and Functional Requirement specifications will emanate from the Parties' respective Project Manager who will be responsible for obtaining approval for the change and who will act as its sponsor throughout the Change Control Process and will complete Part A of the CCN attached as Annexure A hereto. CCNs will be presented to the other Party's Project Manager who will acknowledge receipt by signature of the CCN.
- ii. The IA and the IITTM or its nominated agencies, during the Project Implementation Phase and the IITTM or its nominated agencies during the Operations and Management Phase and while preparing the CCN, shall consider the change in the context of the following parameter, namely whether the change is beyond the scope of Services including ancillary and concomitant services required and as detailed in the RFP and is suggested and applicable only after the testing, commissioning and

certification of the Pilot Phase and the Project Implementation Phase as set out in this Agreement.

iii. It is hereby also clarified here that any change of control suggested beyond 25 % of the value of this Project will be beyond the scope of the change control process and will be considered as the subject matter for a separate bid process and a separate contract. It is hereby clarified that the 25% of the value of the Project as stated in herein above is calculated on the basis of bid value submitted by the Implementation Agency and accepted by the IITTM or its nominated agencies or as decided and approved by IITTM or its Nominated Agencies. For arriving at the cost / rate for change up to 25% of the project value, the payment terms and relevant rates as specified in Annexure D shall apply.

**b. Quotation**

i The IA shall assess the CCN and complete Part B of the CCN, in completing the Part B of the CCN the IA shall provide as a minimum:

1. a description of the change
2. a list of deliverables required for implementing the change;
3. a timetable for implementation;
4. an estimate of any proposed change
5. any relevant acceptance criteria
6. an assessment of the value of the proposed change;
7. material evidence to prove that the proposed change is not already covered within the Agreement and the scope of work

ii Prior to submission of the completed CCN to the IITTM, or its nominated agencies, the Service Provider will undertake its own internal review of the proposal and obtain all necessary internal approvals. As a part of this internal review process, the IA shall consider the materiality of the proposed change in the context of the MSA and the Project Implementation affected by the change and the total effect that may arise from implementation of the change.

**c. Costs**

Each Party shall be responsible for its own costs incurred in the quotation, preparation of CCNs and in the completion of its obligations described in this process provided the IA meets the obligations as set in the CCN. In case of recertification due to proposed changes, required cost will be borne by the party that initiated the change. In the event the IA is unable to meet the obligations as defined in the CCN then the cost of getting it done by third party will be borne by the IA.

**d. Obligations**

The IA shall be obliged to implement any proposed changes once approval in accordance with above provisions has been given, with effect from the date agreed for implementation and within an agreed timeframe. IA will not be obligated to work on a change until the parties agree in writing upon its scope, price and/or schedule impact. The cost associated with any hardware/goods/License for COTS product should not exceed the price quoted in the bidder's proposal. Any costs associated with changes to Software specifications which cannot be arrived at on the basis of the IA's proposal shall be mutually agreed to between the IA and the IITM.

## **SCHEDULE II - EXIT MANAGEMENT SCHEDULE**

### **1 PURPOSE**

- 1.1 This Schedule sets out the provisions, which will apply on expiry or termination of the MSA, the Project Implementation, Operation and Management SLA.
- 1.2 In the case of termination of the Project Implementation and/or Operation and Management, the Parties shall agree at that time whether, and if so during what period, the provisions of this Schedule shall apply.
- 1.3 The Parties shall ensure that their respective associated entities carry out their respective obligations set out in this Exit Management Schedule.

### **2 TRANSFER OF ASSETS**

- 2.1 IITTM shall be entitled to serve notice in writing on the IA at any time during the exit management period as detailed hereinabove requiring the IA and/or its sub-contractors to provide the IITTM with a complete and up to date list of the Assets within 30 days of such notice. IITTM shall then be entitled to serve notice in writing on the IA at any time prior to the date that is 30 days prior to the end of the exit management period requiring the IA to sell the Assets, if any, to be transferred to IITTM or its nominated agencies at book value as determined as of the date of such notice in accordance with the provisions of relevant laws.
- 2.2 In case of contract being terminated by IITTM, IITTM reserves the right to ask IA to continue running the project operations for a period of 6 months after termination orders are issued.
- 2.3 Upon service of a notice under this Article the following provisions shall apply:
  - i in the event, if the Assets to be transferred are mortgaged to any financial institutions by the IA, the IA shall ensure that all such liens and liabilities have been cleared beyond doubt, prior to such transfer. All documents regarding the discharge of such lien and liabilities shall be furnished to the IITTM.
  - ii All risk in and title to the Assets to be transferred / to be purchased by the IITTM pursuant to this Article shall be transferred to IITTM, on the last day of the exit management period.
  - iii IITTM shall pay to the IA on the last day of the exit management period such sum representing the Net Block (procurement price less depreciation as per

provisions of Companies Act) of the Assets to be transferred as stated in the Terms of Payment Schedule.

- iv Payment to the outgoing IA shall be made to the tune of last set of completed services / deliverables, subject to SLA requirements.
- v The outgoing IA will pass on to IITTM and/or to the Replacement IA, the subsisting rights in any leased properties/ licensed products on terms not less favourable to IITTM/ Replacement IA, than that enjoyed by the outgoing IA.

### **3 COOPERATION AND PROVISION OF INFORMATION**

3.1 During the exit management period:

- i The Implementation Agency will allow the IITTM or its nominated agency access to information reasonably required to define the then current mode of operation associated with the provision of the services to enable the IITTM to assess the existing services being delivered;
- ii promptly on reasonable request by the IITTM, the IA shall provide access to and copies of all information held or controlled by them which they have prepared or maintained in accordance with this agreement relating to any material aspect of the services (whether provided by the Implementation Agency or sub-contractors appointed by the Implementation Agency). The IITTM shall be entitled to copy of all such information. Such information shall include details pertaining to the services rendered and other performance data. The Implementation Agency shall permit the IITTM or its nominated agencies to have reasonable access to its employees and facilities as reasonably required by the Chairman, PIU to understand the methods of delivery of the services employed by the Implementation Agency and to assist appropriate knowledge transfer.

### **4 CONFIDENTIAL INFORMATION, SECURITY AND DATA**

4.1 The Implementation Agency will promptly on the commencement of the exit management period supply to the IITTM or its nominated agency the following:

- i information relating to the current services rendered and customer and performance data relating to the performance of sub-contractors in relation to the services;
- ii documentation relating to Computerization Project's Intellectual Property Rights;
- iii documentation relating to sub-contractors;

- iv all current and updated data as is reasonably required for purposes of IITTM or its nominated agencies transitioning the services to its Replacement Implementation Agency in a readily available format nominated by the IITTM, its nominated agency;
- v all other information (including but not limited to documents, records and agreements) relating to the services reasonably necessary to enable IITTM or its nominated agencies, or its Replacement Implementation Agency to carry out due diligence in order to transition the provision of the Services to IITTM or its nominated agencies, or its Replacement Implementation Agency (as the case may be).

4.2 Before the expiry of the exit management period, the Implementation Agency shall deliver to the IITTM or its nominated agency all new or up-dated materials from the categories set out in Schedule above and shall not retain any copies thereof, except that the Implementation Agency shall be permitted to retain one copy of such materials for archival purposes only.

4.3 Before the expiry of the exit management period, unless otherwise provided under the MSA, the IITTM or its nominated agency shall deliver to the Implementation Agency all forms of Implementation Agency confidential information, which is in the possession or control of Chairperson, PIU or its users.

## **5 EMPLOYEES**

5.1 Promptly on reasonable request at any time during the exit management period, the Implementation Agency shall, subject to applicable laws, restraints and regulations (including in particular those relating to privacy) provide to the IITTM or its nominated agency a list of all employees (with job titles) of the Implementation Agency dedicated to providing the services at the commencement of the exit management period.

5.2 Where any national, regional law or regulation relating to the mandatory or automatic transfer of the contracts of employment from the Implementation Agency to the IITTM or its nominated agency, or a Replacement Implementation Agency ("Transfer Regulation") applies to any or all of the employees of the Implementation Agency, then the Parties shall comply with their respective obligations under such Transfer Regulations.

## **6 TRANSFER OF CERTAIN AGREEMENTS**

On request by the IITTM or its nominated agency the Implementation Agency shall effect such assignments, transfers, licences and sub-licences as the Chairperson, PIU may require

in favour of the Chairperson, PIU, or its Replacement Implementation Agency in relation to any equipment lease, maintenance or service provision agreement between Implementation Agency and third party lessors, vendors, and which are related to the services and reasonably necessary for the carrying out of replacement services by the IITTM or its nominated agency or its Replacement Implementation Agency.

## **7 RIGHTS OF ACCESS TO PREMISES**

7.1 At any time during the exit management period, where Assets are located at the Implementation Agency's premises, the Implementation Agency will be obliged to give reasonable rights of access to (or, in the case of Assets located on a third party's premises, procure reasonable rights of access to) the IITTM or its nominated agency and/or any Replacement Implementation Agency in order to make an inventory of the Assets.

7.2 The Implementation Agency shall also give the IITTM or its nominated agency or its nominated agencies, or any Replacement Implementation Agency right of reasonable access to the Implementation Partner's premises and shall procure the IITTM or its nominated agency or its nominated agencies and any Replacement Implementation Agency rights of access to relevant third party premises during the exit management period and for such period of time following termination or expiry of the MSA as is reasonably necessary to migrate the services to the IITTM or its nominated agency, or a Replacement Implementation Agency.

## **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 IITTM 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.



## 9 EXIT MANAGEMENT PLAN

9.1 The Implementation Agency shall provide the IITTM 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 IITTM'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 IITTM and identification of specific security tasks necessary at termination;
- iv Plans for provision of contingent support to IITTM, and Replacement Implementation Agency for a reasonable period after transfer.

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

9.2 Each Exit Management Plan shall be presented by the Implementation Agency to and approved by the IITTM or its nominated agencies.

9.3 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.

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

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

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

9.7 This Exit Management plan shall be furnished in writing to the IITTM 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 IITTM 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 IITTM or its nominated agency and thereafter during the operation Phase, the IITTM 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 IITTM 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 IITTM 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.

IITTM 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 IITTM 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 IITTM 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 IITTM 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.

### **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 IITTM 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 IITTM 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 IITTM 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 IITTM 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**

### **PURPOSE**

The purpose of this Schedule is to:

- (i) establish and maintain the formal and informal processes for managing the relationship between the IITTM 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.

### **7.2 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, IITTM 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.

### **7.3 GOVERNANCE PROCEDURES**

- 7.3.1 The Implementation Agency shall document the agreed structures in a procedure's manual.
- 7.3.2 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 prereading material, shall be distributed at least one week in advance of the relevant meeting.
- 7.3.3 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.
- 7.3.4 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.
- 7.3.5 In order formally to submit a Disputed Matter to the aforesaid for a, 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.

- 7.3.6 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 next level of the dispute resolution for action as per the process mentioned in article 9.1
- 7.3.7 All negotiations, statements and / or documentation pursuant to these Articles shall be without prejudice and confidential (unless mutually agreed otherwise).
- 7.3.8 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:

S. No	Key Activities/ Milestones	Deliverables	Payment (%)
1.			
2.			
3.			
4.			
5.			

Key Notes:



## **ANNEXURES**

## **ANNEXURE X – ROLES AND RESPONSIBILITIES OF THE PARTIES**

### **Roles and Responsibilities of Implementation Agency**

1. Preparation of Detailed Project Plan in line with the overall plan provided in the RFP. The same should be prepared in consultation with IITTM.
2. Procure, develop, install, commission, operate and maintain:
  - a. Requisite hardware & system software at IITTM's HQ, Data Centre and other locations as per the requirements mentioned in this RFP
  - b. Networking equipment's, 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 upgradation, 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, 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 (DoS) 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. Engage 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 IITTM.
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. Engage requisite manpower and infrastructure for the digitization of the existing data.
16. Engage 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 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 IITTM.
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 IITTM**

1. Provide adequate space at the IITTM'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.
4. Coordinate with Bidder for conducting workshops for the Stakeholder departments.
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 IITTM.
  15. Provide sign off on the deliverables of the project including SRS, design documents etc.
- +NON-DISCLOSURE AGREEMENT

## NON- DISCLOSURE AGREEMENT

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

### BETWEEN

----- having its office at -----  
----- India hereinafter referred to as 'IITTM' 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. IITTM is desirous to implement the project of -----.
2. The IITTM 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, subclauses, 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 <\*\*\*> 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 basis' 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) advise 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**

- (a) If a dispute arises in relation to the conduct of this Contract (Dispute), a party must comply with this clause 7 before starting arbitration or court proceedings (except proceedings for urgent interlocutory relief). After a party has sought or obtained any urgent interlocutory relief that party must follow this clause 7.
- (b) A party claiming a Dispute has arisen must give the other parties to the Dispute notice setting out details of the Dispute.
- (c) During the 14 days after a notice is given under clause 7(b) (or longer period if the parties to the Dispute agree in writing), each party to the Dispute must use its reasonable efforts through a meeting of Senior Executive (or their nominees) to resolve the Dispute. If the parties cannot resolve the Dispute within that period then any such dispute or difference whatsoever arising between the parties to this Contract out of or relating to the construction, meaning, scope, operation or effect of this Contract or the validity of the breach thereof shall be referred to a sole arbitrator to be appointed by mutual consent of both the parties herein. If the parties cannot agree on the appointment of the arbitrator within a period of one month from the notification by one party to the other of existence of such dispute, then the Arbitrator shall be appointed by the High Court of the jurisdiction specified in this agreement. 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. Such differences shall be deemed to be a submission to arbitration under the Indian Arbitration and Conciliation Act, 1996, or of any modifications, Rules or re-enactments thereof. The Arbitration proceedings will be held at the jurisdiction specified in Item 27. Any legal dispute will come under the sole jurisdiction specified in Item 27.

- (d) The Receiving Party agrees that the Disclosing Party shall have the right to obtain an immediate injunction enjoining any breach of this Agreement, as well as the right to pursue any and all other rights and remedies available at law or in equity for such a breach.

## **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. NOPARTNERSHIP**

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 IITTM:**

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 IITTM 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.)

SIGNED, SEALED AND DELIVERED

For and on behalf of the IITTM 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 <\*\*\*>, India.

### BETWEEN

----- having its office at -----  
----- India hereinafter referred to as 'IITTM' 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. IITTM 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:

## 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, subclauses, 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 ----- 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 IITTM.
- (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 IITTM 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:

- (a) Buyer
- (b) Implementation Agency

**5. AGREEMENT OWNERS**

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

Name	Title	Telephone	Email
Buyer	Authorized Representative, IITTM	<***>	<***>
Implementation Agency	<***>	<***>	<***>

**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.

Name	Title	Telephone	Email
Buyer	Authorized Representative, IITTM	<***>	<***>
Implementation Agency	<***>	<***>	<***>

**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:

Version	Date	Description of changes
<***>	<***>	<***>

**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 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
- (i) 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 India, and the courts at the State of ----- 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

**(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 IITTM:**

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.

(Signature)

(Signature)

(Name)

(Name)

(Designation)

(Designation)

(Address)

(Address)

(Fax No.)

(Fax No.)

In the presence of:

1.

2.

## ANNEXURE

### ANNEXURE A – DEFINITIONS

Agreement	means this Service Level agreement together with all Articles, Annexures, Schedules and the contents and specifications of the RFP;
Applicable Law(s)	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 IITTM as may be in effect on the date of the execution of this Agreement and during the subsistence thereof, applicable to the Project;
Business Hours	shall mean the working time for IITTM users which is <b>9:30 AM to 5:30 PM daily</b> . Again, for Web Server and other components which enable successful usage of web portals of, IITTM, 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;
Effective Date	shall have the same meaning ascribed to it in Clause 8;
MSA	shall have the same meaning ascribed to it in Recital 2;
Parties	means the Buyer and Implementation Agency for the purposes of this Agreement; "Party" shall be interpreted accordingly;
POC	shall have the same meaning ascribed to it in Clause 6
Project	shall have the same meaning ascribed to it in Recital 1;
SLA Change Request	shall have the same meaning ascribed to it in Clause 11 (b) (iii);
Service Level	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;
Term or Agreement Period	Means the duration of this Agreement as set out in Clause 8 of this Agreement.
Application Response Time	Defined as time the system takes to fetch requested (a form or a report) from the server.

<p>Uptime</p>	<p>Uptime refers availability of application/system as per terms of SLA.  “% Uptime” means ratio of ‘up time’ (in minutes) in a month to Total time (in minutes) in a month multiplied by 100;</p> <p>Time lost due to following reasons shall NOT BE counted in Uptime or TOTAL TIME while calculating Uptime requirement:</p> <ol style="list-style-type: none"> <li>(1) the scheduled outages planned in advance for the IITTM</li> <li>(2) time lost due to power or environment failures(in case the backup power is not within the scope of work of the SI)</li> <li>(3) time lost due to damage or malfunction of the equipment or any of the units thereof due to causes attributable to the IITTM, such as attachment of additional devices without permission of SI.</li> </ol> <p>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 IITTM to perform its or their obligations or for force majeure event.</p>
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