

E-GOVERNANCE  
MISSION MODE PROJECT (MMP)

**CRIME & CRIMINAL TRACKING NETWORK AND SYSTEM**

RFP FOR THE SELECTION OF SYSTEM INTEGRATOR FOR  
IMPLEMENTATION OF CCTNS  
IN  
BIHAR

VOLUME - III: CONTRACT AND LEGAL DOCUMENT



Ministry Of Home Affairs, Government of India



Department Of Home, Government of Bihar



Bihar State Electronics Development Corporation

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## 1 Introduction

### 1.1 RFP Structure

The content of this RFP has been documented as a set of three volumes explained below:

#### **Volume I: Technical and Functional Requirements**

Volume I of RFP intends to bring out all the details with respect to functional and technical requirements along with details on scope of work, implementation model, and non-functional requirements that BSEDC Ltd. deems necessary to share with the potential bidders. The information set out in this volume has been broadly categorized as Technical and Functional covering multiple aspects of the requirements.

#### **Volume II: Commercial and Bidding Terms**

Volume II of RFP purports to detail out all that may be needed by the potential bidders to understand the evaluation criteria, commercial terms and bid process details.

#### **Volume III: Contract and Legal Terms**

Volume III of the RFP (this volume) provides the Contract and legal specifications for Bihar CCTNS project. The contract terms are presented in the form of a draft Master Service Agreement which shall form the basis of the contract between BSEDC and the System Integrator.

## 2. Master Service Agreement

THIS AGREEMENT is made on this the <\*\*\*> day of <\*\*\*> 2011 at <\*\*\*>, India.

### BETWEEN

**Bihar State Electronics Development Corporation Limited, Patna**, (hereinafter referred to as “CLIENT” which expression shall include its successors, administrators, executors and assignees) on the one part,

### AND

<\*\*\*>, a Company registered under the *Companies Act, 1956*, having its registered office at <\*\*\*> acting through <\*\*\*>, authorized through Power of Attorney dated <\*\*\*> to sign the document (hereinafter referred to as ‘**System Integrator / SI**’ which expression shall, unless excluded by or repugnant to the context, include his successors/ administrators/ assignees) on the second part.

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

### WHEREAS:

1. Client is desirous to implement the Mission Mode Project, Crime & Criminal Tracking Network and Systems, an initiative of National Crime Record Bureau under Ministry of Home Affairs in Bihar Police for creating a comprehensive and integrated system for enhancing the efficiency and effectiveness of policing at all levels and especially at the Police Station level through adoption of principles of e-Governance.
2. In furtherance of the same, Client undertook the selection of a suitable System Integrator 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 System Integrator on the basis of the Bid Details 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:

### 2.1 Definitions and Interpretations

#### 2.1.1 Definitions

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

#### 2.1.2 Interpretation

In this Agreement, unless otherwise specified:

- a) References to Clauses, Sub-Clauses, Paragraphs, Schedules and Annexure are to clauses, sub-clauses, paragraphs, schedules and annexure 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) 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 reenacted;
- 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 Government offices in the State of Bihar 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, notated 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) has been used for the same entity i.e. bidder selected for the project.

## 2.2 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.

## 2.3 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.

## 2.4 Priority of documents

This Agreement, including its Schedules, 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 the SLA agreement, NDA agreement, Schedules and Annexure;
- b) Request for Proposal and Addendum/ Corrigendum to the Request for Proposal (if any).

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

## 2.5 Scope of the Project

The System Integrator shall be required to follow the scope of work as defined in Volume I of this RFP. In addition to the scope of work, SI will also be required to adhere to the project timelines and submit the required deliverables as defined in Volume I of this RFP.

### 2.5.1 Terms & Duration of the Project

The Client intends to grant to the System Integrator the right to undertake and implement the project on the terms and conditions set forth below:

- Successful implementation / Go-Live of the project in two Phases (as defined in RFP Volume 1) within the defined period from the date of signing of contract. The Successful implementation / Go-Live of a Phase will include:
  - Successful deployment, commissioning and UAT for the modules in the concerned phases
  - Successful Data digitization / migration along with verification from the CLIENT,
  - Successful training of the staff members on the modules
  - Procurement, deployment and commissioning of the hardware required for the concerned phase at PHQ, Data Center and other Police locations,
  - Procurement, deployment and commissioning of the networking equipments and connectivity required for that Phase
  - Acceptance / Sign off from the Client for reaching the stage of successful Go- Live at each phase
- Operations and Maintenance of the system for a period of five years from the Successful Implementation / Go-Live of the Complete CCTNS Solution.
- Hence, the Overall “Term” for the Project will be at least 50 weeks (subject to the receipt of CAS (State)) from NCRB, MHA, Government of India) and 5 years.
- This Agreement shall come into effect on <\*\*\*> 2011 (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 satisfaction of Client or its nominated agencies.

## 2.6 Conditions Precedent & Effective Date

### 2.6.1 Provisions to take effect upon fulfillment of Conditions Precedent

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

### 2.6.2 Conditions Precedent of the System Integrator

The System Integrator shall be required to fulfill the Conditions Precedent in which is as follows:

- a) To provide a Performance Security/Guarantee and other guarantees/ payments as and when required to the Client or its nominated agencies; and
- b) To provide the Client 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 System Integrator.

For more clarity, it is expressly clarified that the obligations of the Parties except the financial obligations of Client or its nominated agencies under this Agreement shall commence from the fulfillment of the conditions precedent as set forth above.

### 2.6.3 Extension of time for fulfillment of Conditions Precedent

- a) The Parties may, by mutual agreement extend the time for fulfilling the conditions precedent and the Term of this Agreement.
- b) For the avoidance of doubt, it is expressly clarified that any such extension of time shall be subject to imposition of penalties on the System Integrator linked to the delay in fulfilling the Conditions Precedent.

#### **2.6.4 Non-fulfillment of the System Integrator's Conditions Precedent**

- a) In the event that any of the Conditions Precedent of the System Integrator have not been fulfilled within 15 days of signing of this Agreement and the same have not been waived fully or partially by Client 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 fulfillment of the System Integrator's Conditions Precedent, the Client or its nominated agencies shall not be liable in any manner whatsoever to the System Integrator and the Client shall forthwith forfeit the Performance Guarantee.
- c) In the event that possession of any of the Client or its nominated agencies facilities has been delivered to the System Integrator prior to the fulfillment of the Conditions Precedent, upon the termination of this Agreement such shall immediately revert to Client or its nominated agencies, free and clear from any encumbrances or claims.

## **2.7 Obligations under the SLA**

**2.7.1** The SLA shall be a separate contract in respect of this Agreement and shall be entered into concurrently with this Agreement between Client and System Integrator;

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

### **2.7.3 Change of Control**

- a) In the event of a change of control of the System Integrator during the Term, the SI shall promptly notify Client 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 System Integrator prior to the change of control, the Client 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 SI from a guarantor acceptable to the Client or its nominated agencies (which shall not be System Integrator or any of its associated entities).
- c) If such a guarantee is not furnished within 30 days of the Client or its nominated agencies requiring the replacement, the Client 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 2.16.2 of this Agreement shall follow.

For the avoidance of doubt, it is expressly clarified that the internal reorganization of the System Integrator 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.

### **2.7.4 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 Client, guided by the following principles:

- a) Client reserves the right to nominate a technically competent agency ("**Final Testing and Certification Agency**") for conducting final acceptance testing and certification;

- b) Such Final Testing and Certification Agency 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;
- c) The Final Testing and Certification Agency will be involved with Project 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;
- d) The Final Testing and Certification Agency may engage professional organizations for conducting specific tests on the software, hardware, networking, security and all other aspects;
- e) The Final Testing and Certification Agency will establish appropriate processes for notifying the System Integrator of any deviations from the norms, standards or guidelines at the earliest instance after taking cognizance of the same to enable the System Integrator to take corrective action;
- f) Such an involvement of and guidance by the final testing and certification agency shall not, however, absolve the System Integrator of the fundamental responsibility of designing, customizing/ developing, installing, testing and commissioning the various components of the Project to deliver the services in perfect conformity with this Agreement.

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 Client and System Integrator in accordance with the Change Control Schedule set out in Schedule II of this Agreement. Save for the express terms of the Terms of Payment Schedule set out as Schedule VI of this Agreement, Client 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 II of this Agreement, without the need to go for a separate procurement process.

## 2.8 Representations and Warranties

### 2.8.1 Representations and warranties of the System Integrator

The System Integrator represents and warrants to the Client 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 Applicable Laws 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 endeavors not to cause any unnecessary disruption to Client'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 tender documents and as updated 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 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; No representation or warranty by it contained herein or in any other document furnished by it to Client 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
- l) 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 Client or its nominated agencies in connection therewith.

### ***2.8.2 Representations and warranties of the CLIENT or its nominated agencies***

CLIENT or its nominated agencies represent and warrant to the System Integrator 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 there under 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 Client 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 System Integrator 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 System Integrator, in accordance with this agreement.

#### **2.9 Undertakings of the Client or its Nominated Agencies**

Without prejudice to any other undertakings or obligations of the Client or its nominated agencies under this Agreement the Client or its nominated agencies shall undertake 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. Client shall provide the data (including in electronic form wherever available) to be digitized or migrated.
- d. To authorize the System Integrator to interact for implementation of the Project with external entities such as the Courts, Jails, FSL (Forensic science laboratory) etc. other entities mentioned for integration requirements in Volume I of the RFP.

#### **2.10 Obligations of the System Integrator**

- a. It shall provide to the Client or its nominated agencies, the Minimum Required Deliverables as set out in Annexure C of this Agreement.

- b. It shall keep abreast of the relevant technical, managerial and operational requirements applicable to the provision of the services and best practices in this area and shall share their knowledge with Client or its nominated agencies regarding matters which would assist Client or its nominated agencies in its use of the Services, provided that System Integrator shall not be obligated to share other client information or Confidential Information of System Integrator not relevant to this Agreement;
- c. It shall perform the Services as set out in Section 2 of this Agreement and in a professional 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.
- d. It shall ensure that the Services are being provided as per the Project Timelines set out as Annexure C to this Agreement.

### 2.11 Approvals and Required consents

- a. 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 System Integrator 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.
- b. The Client or its nominated agencies shall use reasonable endeavors to assist System Integrator to obtain the required consents. In the event that any Required Consent is not obtained, the System Integrator and the Client or its nominated agencies will co-operate with each other in achieving a reasonable alternative arrangement as soon as reasonably practicable for the Client 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 System Integrator 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 System Integrator’s obligations are not dependent upon such Required consents.

### 2.12 Use of Assets by the System Integrator

During the Term the System Integrator 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 System Integrator 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 which will include all up gradation /enhancements and improvements to meet the current needs of the Project; and
- b. Keep all the tangible Assets in as good and serviceable condition (reasonable wear and tear excepted) and/or the intangible Assets suitably upgraded subject to the relevant industry standards (including those stated in Volume I of the RFP) as at the date the System Integrator takes control of and/or first uses the Assets and during the entire Term of the Agreement. Pursuant to technological obsolescence, up gradation will be carried out by the System Integrator.

- 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 System Integrator will be followed by the System Integrator 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 System Integrator or as may, in the reasonable opinion of the System Integrator, be necessary to use the Assets in a safe manner;
- e. Ensure that the Assets that are under the control of the System Integrator, are kept suitably housed and in conformity with Applicable Law;
- f. Procure permission from the Client 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; and
- h. Be responsible for undertaking comprehensive insurance including liability insurance, system and facility insurance and any other insurance for the personnel, Assets, data, software, etc.

### **2.13 Access to the Client or its Nominated Agencies Locations**

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

- a. Reasonable access, in the same manner granted to the Client or its nominated agencies employees, to the Client as the case may be location twenty-four hours a day, seven days a week;
- b. Reasonable work space, access to office equipment as mutually agreed and other related support services in such location and at such other the Client as the case may be location, if any, as may be reasonably necessary for the System Integrator to perform its obligations hereunder and under the SLA. Access to locations, office equipments and services shall be made available to the System Integrator on an “as is, where is” basis by the Client as the case may be or its nominated agencies. The System Integrator agrees to ensure that its employees, agents and contractors shall not use the location, services and equipment referred to in RFP Volume 1 for the following purposes:
  - i. For the transmission of any material which is defamatory, offensive or abusive or of an obscene or menacing character; or
  - ii. 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).

### **2.14 Management Phase**

#### **2.14.1 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.

#### **2.14.2 Use of Services**

- a. The Client 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 Client as the case may be or its nominated agencies shall be responsible for the operation and use of the Deliverables resulting from the Services.

#### **2.14.3 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 II of this Agreement.

#### **2.14.4 Security and Safety**

- a. The System Integrator shall comply with the directions issued from time to time by the Client or its nominated agencies and follow the industry standards related to safety and security (including those as stated in the RFP Volume I), insofar as it applies to the provision of the Services.
- b. Each Party to the SLA/Agreement shall also comply with CLIENT 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 CLIENT or its nominated agencies make the System Integrator aware in writing insofar as the same apply to the provision of the Services.
- c. The Parties to the SLA/Agreement shall use reasonable endeavors 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 CLIENT as the case may be or any of their nominees data, facilities or Confidential Information.
- d. The System Integrator shall upon reasonable request by the CLIENT 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 System Integrator shall promptly report in writing to the CLIENT or its nominated agencies, any act 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 CLIENT as the case may be.

#### **2.14.5 Cooperation**

Except as otherwise provided elsewhere in this Agreement or the SLA, each Party ("**System Integrator**") to this Agreement or to the SLA undertakes promptly to provide the other Party ("**Client**") with all such information and co-operation which the Client 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.

## 2.15 Finances

### 2.15.1 Terms of Payment and Service Credits and Debits

- a. In consideration of the Services and subject to the provisions of this Agreement and of the SLA, the CLIENT shall pay the System Integrator for the Services rendered in pursuance of this agreement, in accordance with the Terms of Payment Schedule set out as Schedule VI of this Agreement.
- b. All payments are subject to the application of service credits and debits as may be provided for in the SLA. For the avoidance of doubt, it is expressly clarified that the CLIENT will pay the service credits as stated in accordance with the Schedule VI of this Agreement and the CLIENT may also calculate a financial sum and debit the same against the terms of payment as set out in Schedule VI of this Agreement as a result of the failure of the System Integrator to meet the Service Level as defined in SLA.
- c. Save and except as otherwise provided for herein or as agreed between the Parties in writing, the CLIENT shall not be required to make any payments in respect of the Services (or, without limitation to the foregoing, in respect of the System Integrator performance of any obligations under this Agreement or the SLA) other than those covered in Schedule VI 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.

### 2.15.2 Invoicing and Settlement

- a. Subject to the specific terms of the SLA, the System Integrator shall submit its invoices in accordance with the following principles:
  - I. The CLIENT shall be invoiced by the System Integrator for the Services. Generally and unless otherwise agreed in writing between the Parties or expressly set out in the SLA, the System Integrator shall raise an invoice along with necessary approvals as per Schedule VI of this Agreement on Half yearly basis; and
  - II. Any invoice presented in accordance with this Article shall be in a form agreed with the CLIENT.
- b. The System Integrator alone shall invoice all payments after receiving due approval from the competent authority. Such invoices shall be accurate and all adjustments to or changes in the terms of payment as stated in Schedule VI of this Agreement. The System Integrator 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 authorized or incurred, whichever is later.
- c. Payment shall be made within 30 working days of the receipt of invoice along with supporting documents by the CLIENT subject to penalties. The penalties are imposed on the vendor as per the SLA criteria specified in the SLA.
- d. The CLIENT shall be entitled to delay or withhold payment of any invoice or part of it delivered by the System Integrator under Schedule VI of this Agreement where the CLIENT 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

CLIENT under this Clause shall not entitle the System Integrator to delay or withhold provision of the Services.

- e. The CLIENT shall be entitled to delay or withhold payment of any invoice or part of it delivered by the System Integrator under Schedule V of this Agreement where the disputes any previous invoice or part of it that it had not previously disputed provided that such dispute is bona fide. The withheld amount shall be limited to that which is the disputed amount. The disputed amount shall be referred to the escalation procedure as set out in Schedule V of this Agreement. Any exercise by the CLIENT under this Clause shall not entitle the System Integrator to delay or withhold provision of the Services.
- f. The System Integrator shall pay all its sub-contractors in a timely fashion in accordance with a mechanism, which will not prejudice the Project.

#### **2.15.3 Tax**

- a. The CLIENT or its nominated agencies shall be responsible for withholding taxes from the amounts due and payable to the System Integrator wherever applicable. The System Integrator 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 CLIENT or its nominated agencies shall provide System Integrator with the original tax receipt of any withholding taxes paid by CLIENT or its nominated agencies on payments under this Agreement. The System Integrator agrees to reimburse and hold the CLIENT 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 CLIENT or its nominated agencies, the System Integrator and third party subcontractors.
- c. In the event of any increase or decrease of the rate of taxes due to any statutory notification/s during the Term of the Agreement the consequential effect shall be to the account of the System Integrator.
- 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.

#### **2.16 Termination**

##### **2.16.1 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 CLIENT 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 System Integrator is not able to deliver the services as per the SLAs defined in Volume 1 of RFP which translates into Material Breach, then the CLIENT may serve a 7 days written notice for curing this material Breach. In case the Material Breach continues, after the expiry of such notice period, the CLIENT will have the option to terminate this Agreement. Further, the CLIENT may after affording a reasonable opportunity to the System Integrator to explain the circumstances leading to such a delay.
  - II. If there is a Material Breach by the CLIENT or its nominated agencies which results in not providing support for effecting data migration and / or not providing the certification of User Acceptance, then the System Integrator will give a one month's notice for curing the Material Breach to the CLIENT. After the expiry of such notice period, the System Integrator will have the option to terminate the Agreement
- b. The CLIENT may by giving a one month's written notice, terminate this Agreement if a change of control of the System Integrator has taken place. For the purposes of this Clause, in the case of System Integrator, change of control shall mean the events stated in Clause 2.7.3, and such notice shall become effective at the end of the notice period as set out in Clause 2.7.3 (c).
  - c. In the event that System Integrator undergoes such a change of control, CLIENT may, as an alternative to termination, require a full Performance Guarantee for the obligations of System Integrator by a guarantor acceptable to CLIENT or its nominated agencies. If such a guarantee is not furnished within 30 days of CLIENT's demand, the CLIENT may exercise its right to terminate this Agreement in accordance with this Clause by giving 15 days further written notice to the System Integrator.
  - d. The termination provisions set out in this Clause shall apply mutatis mutandis to the SLA.

#### **2.16.2 Effects of termination**

- a. In the event that CLIENT terminates this Agreement pursuant to failure on the part of the System Integrator to comply with the conditions as contained in this Clause and depending on the event of default, Performance Guarantee furnished by System Integrator 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 CLIENT or the System Integrator terminates this Agreement, the compensation will be decided in accordance with the Terms of Payment Schedule set out as Schedule VI of this Agreement.
- d. On termination of this Agreement for any reason, the CLIENT will decide the appropriate course of action.

#### **2.16.3 Termination of this Agreement due to bankruptcy of System Integrator**

The CLIENT may serve written notice on System Integrator at any time to terminate this Agreement with immediate effect in the event that:

- a. The System Integrator reporting an apprehension of bankruptcy to the CLIENT or its nominated agencies;
- b. CLIENT or its nominated agencies apprehending a similar event.



## 2.17 Indemnification

**2.17.1** Subject to Clause 3.17.2 below, System Integrator (the "Indemnifying Party") undertakes to indemnify CLIENT (the "Indemnified Party") from and against all Losses 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 performance or non-performance under this Agreement or the SLA to the extent of the Indemnifying Party's comparative fault in causing such Losses.

**2.17.2** The indemnities set out in Clause 3.17.1 shall be subject to the following conditions:

- a. 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;
- b. The Indemnified Party shall, at the cost of the Indemnifying Party, give the Indemnifying Party all reasonable assistance in the Defense 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 Defense;
- c. If the Indemnifying Party does not assume full control over the Defense of a claim as provided in this Article, the Indemnifying Party may participate in such Defense 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;
- d. 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;
- e. All settlements of claims subject to indemnification under this Article will:
  - I. 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
  - II. Include any appropriate confidentiality agreement prohibiting disclosure of the terms of such settlement;
- f. 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;
- g. 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;
- h. 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 defenses of the Indemnified Party with respect to the claims to which such indemnification relates; and
- i. If a Party makes a claim under the indemnity set out under Clause 3.17.1 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).

## 2.18 Force Majeure

### 2.18.1 Definition of Force Majeure

The System Integrator or the CLIENT as the case may be, shall be entitled to suspend or excuse performance of its respective obligations under this Agreement to the extent that such performance is impeded by an event of force majeure (*'Force Majeure'*).

### 2.18.2 Force Majeure events

A Force Majeure event means any event or circumstance or a combination of events and circumstances referred to in this Clause, which:

- a. Is beyond the reasonable control of the affected Party;
- b. Such Party could not have prevented or reasonably overcome with the exercise of reasonable skill and care;
- c. Does not result from the negligence of such Party or the failure of such Party to perform its obligations under this Agreement;
- d. Is of an incapacitating nature and prevents or causes a delay or impediment in performance; and
- e. May be classified as all or any of the following events:

Such events include:

#### **Non-Political Events**

- a. Act of God, including earthquake, flood, inundation, landslide, exceptionally adverse weather conditions, storm, tempest, hurricane, cyclone, lightning, thunder, volcanic eruption, fire or other extreme atmospheric conditions;
- b. Radioactive contamination or ionizing radiation or biological contamination except as may be attributable to the System Integrator's use of radiation or radio-activity or biologically contaminating material;
- c. Strikes, lockouts, boycotts, labour disruptions or any other industrial disturbances as the case may be not arising on account of the acts or omissions of the System Integrator and which affect the timely implementation and continued operation of the Project; or
- d. Any event or circumstances of a nature analogous to any of the foregoing.

#### **Political Events**

- a. Change in Law, other than any Change in Law for which relief is provided under this Agreement;
- b. Expropriation or compulsory acquisition by the CLIENT or any of their nominated agencies of any material assets or rights of the Implementing Partner;
- c. Unlawful or unauthorized revocation of, or refusal by CLIENT or any of their nominated agencies, Gol or any of its agencies to renew or grant any clearance or Required consents required by the System Integrator to perform its obligations without valid cause, provided that such delay, modification, denial, refusal or revocation did not result from the System Integrator's inability or failure to comply with any condition relating to grant, maintenance or renewal of such Required consents applied on a non-discriminatory basis;

- d. Any judgment or order of any court of competent jurisdiction or statutory authority in India made against the System Integrator in any proceedings for reasons other than failure of the System Integrator to comply with Applicable Laws or Required Consents or on account of breach thereof, or of any contract, or enforcement of this Agreement or exercise of any of its rights under this Agreement;
- e. Expropriation or compulsory acquisition by the CLIENT or any of their nominated agencies of any material assets or rights of the System Integrator;
- f. Unlawful or unauthorized revocation of, or refusal by any authority other than the CLIENT or any of their nominated agencies to renew or grant any Required Consents required by the System Integrator to perform its obligations without valid cause, provided that such delay, modification, denial, refusal or revocation did not result from the System Integrator's inability or failure to comply with any condition relating to grant, maintenance or renewal of such Required consents applied on a non-discriminatory basis;
- g. Any requisition of the Project by any other authority; or
- h. Any requisition of the Project by the CLIENT or any of their nominated agencies.
- i. For the avoidance of doubt, suspension of the Project in accordance with the provisions of this Agreement shall not be considered a requisition for the purposes of Force Majeure event.

#### **Other Events**

An act of war (whether declared or undeclared), hostilities, invasion, armed conflict or act of foreign enemy, blockade, embargo, prolonged riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage, for a continuous period exceeding seven (7) days.

For the avoidance of doubt, it is expressly clarified that the failure on the part of the System Integrator 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.

#### ***2.18.3 Notification procedure for Force Majeure***

- a. The affected Party shall notify the other Party of a Force Majeure event within seven (7) days of occurrence of such event. If the other Party disputes the claim for relief under Force Majeure it shall give the claiming Party written notice of such dispute within thirty (30) days of such notice. Such dispute shall be dealt with in accordance with the dispute resolution mechanism in accordance with Clause
- b. Upon cessation of the situation which led the Party claiming Force Majeure, the claiming Party shall within seven (7) days hereof notify the other Party in writing of the cessation and the Parties shall as soon as practicable thereafter continue performance of all obligations under this Agreement.

#### ***2.18.4 Allocation of costs arising out of Force Majeure***

- a. Upon the occurrence of any Force Majeure Event prior to the Effective Date, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof.

- b. Upon occurrence of a Force Majeure Event after the Effective Date, the costs incurred and attributable to such event and directly relating to the Project ('Force Majeure Costs') shall be allocated and paid as follows:
- Upon occurrence of a Non-Political Event, the Parties shall bear their respective Force Majeure Costs and neither Party shall be required to pay to the other Party any costs thereof.
  - upon occurrence of an Other Event of Force Majeure, all Force Majeure Costs attributable to such Other Event, and not exceeding the Insurance Cover for such Other Event, shall be borne by the Implementing Partner and to the extent Force Majeure costs exceed such Insurance Cover, one half of such excess amount shall be reimbursed by CLIENT to the Implementing Partner.
  - upon occurrence of a Political Event, all Force Majeure Costs attributable to such Political Event shall be reimbursed by CLIENT to the Implementing Partner.
  - For the avoidance of doubt, Force Majeure Costs may include interest payments on debt, operation and maintenance expenses, any increase in the cost of the Services on account of inflation and all other costs directly attributable to the Force Majeure Event.
  - Save and except as expressly provided in this Clause, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, costs, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereof.

#### ***2.18.5 Consultation and duty to mitigate***

Except as otherwise provided in this Clause, the affected Party shall, at its own cost, take all steps reasonably required to remedy and mitigate the effects of the Force Majeure event and restore its ability to perform its obligations under this Agreement as soon as reasonably practicable. The Parties shall consult with each other to determine the reasonable measures to be implemented to minimize the losses of each Party resulting from the Force Majeure event. The affected Party shall keep the other Parties informed of its efforts to remedy the effect of the Force Majeure event and shall make reasonable efforts to mitigate such event on a continuous basis and shall provide written notice of the resumption of performance hereunder.

#### **2.19 Confidentiality**

- a. The CLIENT or its nominated agencies shall allow the System Integrator to review and utilize highly confidential public records and the System Integrator shall maintain the highest level of secrecy, confidentiality and privacy with regard thereto.
- b. Additionally, the System Integrator shall keep confidential all the details and information with regard to the Project, including systems, facilities, operations, management and maintenance of the systems/facilities.
- c. The CLIENT or its nominated agencies shall retain all rights to prevent, stop and if required take the necessary punitive action against the System Integrator regarding any forbidden disclosure.
- d. The System Integrator shall ensure that all its employees, agents and subcontractors execute individual non disclosure agreements, which have been duly approved by the CLIENT with respect to this Project.
- e. For the avoidance of doubt, it is expressly clarified that the aforesaid provisions shall not apply to the following information:

- Information already available in the public domain;
- Information which has been developed independently by the System Integrator;
- Information which has been received from a third party who had the right to disclose the aforesaid information;
- Information which has been disclosed to the public pursuant to a court order.

## 2.20 Audit, Access and Reporting

The System Integrator shall allow access to the CLIENT or its nominated agencies to all information which is in the possession or control of the System Integrator 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 CLIENT to comply with the terms of the Audit, Access and Reporting Schedule set out as Schedule IV of this Agreement.

## 2.21 Intellectual Property Rights

### 2.21.1 Products and fixes:

All products and related solutions and fixes provided pursuant to this work order shall be licensed, according to the terms of the license agreement packaged with or otherwise applicable to such product in the name of CLIENT. Bidder 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 CLIENT 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.

### 2.21.2 Customized CAS (State)

SI shall neither hold nor shall claim to have any type of right(s) for the customization made in the Core Application Software (State) or on the additionally developed modules/ applications/ utilities/ APIs including source code and material (including upgrade/ updates/ fixes/ patches/etc.), as done during the implementation of the project and shall always lie with the CLIENT.

### 2.21.3 Bespoke development:

The IPR rights for any bespoke development done during the implementation of the project will lie with CLIENT.

### 2.21.4 Pre-existing work:

All IPR including the source code and materials (other than products or fixes) developed or otherwise obtained independently of the efforts of a party under this agreement (“**pre-existing work**”) 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. Except as may be otherwise explicitly agreed to in a statement of services, upon payment in full, the bidder should grant CLIENT a non-exclusive, perpetual, full use, fully paid-up enterprise edition license(s) to use, reproduce and modify (if applicable) the pre-existing work in the form delivered to

CLIENT as part of the service 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.

CLIENT'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 CLIENT at the conclusion of performance of the services.

## 2.22 Miscellaneous

### 2.22.1 Personnel

- a. The personnel assigned by System Integrator to perform the Services shall be employees of System Integrator, and under no circumstances shall such personnel be considered employees of CLIENT or its nominated agencies. The System Integrator shall have the sole responsibility for the supervision and control of its personnel 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 System Integrator shall use its best efforts to ensure that sufficient System Integrator personnel are assigned to perform the Services and that such personnel have appropriate qualifications to perform the Services. After discussion with System Integrator, CLIENT or its nominated agencies shall have the right to require the removal or replacement of any System Integrator personnel performing work under this Agreement. In the event that CLIENT or its nominated agencies requests that any System Integrator personnel be replaced, the substitution of such personnel shall be accomplished pursuant to a mutually agreed upon schedule.
- c. The System Integrator shall also be responsible to train certain employees of CLIENT, or its nominated agencies with regard to the Services being provided by the System Integrator as and when required by the CLIENT or its nominated agencies during the Term of this Project. The parameters of the training required for these employees of CLIENT or its nominated agencies shall be communicated by CLIENT or its nominated agencies to the System Integrator periodically and shall be in accordance with the latest procedures and processes available in the relevant areas of work.
- d. In the event that the CLIENT or its nominated agencies identifies any personnel of System Integrator as "Key Personnel", then neither the System Integrator shall remove such personnel from the CLIENT or its nominated agencies engagement without the prior written consent of CLIENT or its nominated agencies unless such removal is the result of an unavoidable circumstance including but not limited to resignation, termination, medical leave, etc.
- e. Except as stated in this Clause, nothing in this Agreement or the SLA will limit the ability of System Integrator to freely assign or reassign its employees; provided that System Integrator shall be responsible, at its expense, for transferring all appropriate knowledge from personnel being replaced to their replacements. CLIENT or its nominated agencies shall have the right to review and approve System Integrator's plan for any such knowledge transfer. System Integrator shall maintain the same or higher standards for skills and professionalism among replacement personnel as in personnel being replaced.
- f. 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.

- g. 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.

#### **2.22.2 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.

#### **2.22.3 Sub-contractors**

System Integrator shall not subcontract any work related to the data recovery centre, data centre, security, etc. other Core activities to be performed under this Agreement without CLIENT's prior written consent. However the System Integrator shall provide the list of all the other services planned to be sub contracted with the Technical proposal. It is clarified that the System Integrator shall be the principal employer for all claims arising from the liabilities statutory or otherwise, concerning the sub-contractors. The System Integrator undertakes to indemnify the CLIENT or its nominated agencies from any claims on the grounds stated hereinabove.

#### **2.22.4 Assignment**

- a. All terms and provisions of this Agreement shall be binding on and shall inure to the benefit of the CLIENT and their respective successors and permitted assigns.
- b. Subject to Clause 2.7.3 above, the System Integrator shall not be permitted to assign its rights and obligations under this Agreement to any third party.
- c. The CLIENT may assign or novate all or any part of this Agreement and Schedules/Annexure, and the System Integrator shall be a party to such novation, to any third party contracted to provide outsourced services to CLIENT or any of its nominees.

#### **2.22.5 Trademarks, Publicity**

Neither Party may use the trademarks of the other Party without the prior written consent of the other Party. 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 along 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 System Integrator may include CLIENT or its client lists for reference to third parties subject to the prior written consent of CLIENT

not to be unreasonably withheld or delayed. Such approval shall apply to each specific reference and relate only to that reference.

#### **2.22.6 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:  
Bihar State Electronics Development Corporation Limited (Beltron),  
Beltron Bhawan,  
Near shashtri nagar Police station,  
Patna  
Bihar  
Tel:  
Fax:  
Email:  
Contact:  
With a copy to:  
System Integrator  
Tel:  
Fax:  
Email:  
Contact:
- c. 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.
- d. Any such notice or other document shall be deemed to have been given to the other Party (or, if relevant, its relevant associated company).
- e. 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.

#### **2.22.7 Variations and Further Assurance**

- a. No amendment, variation or other change to this Agreement or the SLA shall be valid unless authorized in accordance with the change control procedure as set out in the Change Control Schedule set out in Schedule II of this Agreement. Such amendment shall be made in writing and signed by the duly authorized 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.



**2.22.8 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.

**2.22.9 Compliance with Applicable Law**

Each Party to this Agreement and the SLA accepts that its individual conduct shall (to the extent applicable to it) 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 II of this Agreement. For the avoidance of doubt the obligations of the Parties to this Agreement and the SLA are subject to their respective compliance with all local, state, national, supra-national, foreign and international laws and regulations.

**2.22.10 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 respective Party which incurred them.

**2.22.11 Ethics**

The System Integrator 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 CLIENT 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 CLIENT standard policies and may result in cancellation of this Agreement, or the SLA.

**2.22.12 Limitation of Liability**

- a. The total cumulative liability of the SI for its obligations under the Contract shall in no case exceed the total amount paid to SI by Client; provided, however, that this limitation shall not apply to any liability for damages arising from (a) willful misconduct or (b) indemnification against third party claims for infringement.

**2.22.13 Entire Agreement**

This Agreement and the SLA with all schedules & annexure appended thereto and the contents and specifications of the Volumes I and II 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.

**2.22.14 Amendment**

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

**2.23 Dispute Resolution**

- a. 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.
- b. 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 Client only. If the System Integrator 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 ultimate Arbitrator shall be Financial Commissioner & Principal Secretary to Government of Bihar, Home Department, Bihar. 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 Chandigarh, India. Any legal dispute will come under Bihar State jurisdiction.

IN WITNESS WHEREOF THE PARTIES HERETO HAVE HERE UNTO SET THEIR RESPECTIVE HANDS THE DAY AND THE YEAR FIRST ABOVE WRITTEN.

WITNESSES:-

1. Signature \_\_\_\_\_  
 Name \_\_\_\_\_  
 Designation \_\_\_\_\_  
 Date \_\_\_\_\_

Signature \_\_\_\_\_  
 Name \_\_\_\_\_  
 Designation \_\_\_\_\_  
 Date \_\_\_\_\_

2. Signature \_\_\_\_\_  
 Name \_\_\_\_\_  
 Designation \_\_\_\_\_  
 Date \_\_\_\_\_

For and on behalf of BSEDC Ltd

WITNESSES:-

1. Signature \_\_\_\_\_  
 Name \_\_\_\_\_  
 Designation \_\_\_\_\_  
 Date \_\_\_\_\_

Signature \_\_\_\_\_  
 Name \_\_\_\_\_  
 Designation \_\_\_\_\_  
 Address \_\_\_\_\_

Date \_\_\_\_\_

2. Signature \_\_\_\_\_

for and on behalf of the System

Name \_\_\_\_\_

Integrator

Designation \_\_\_\_\_

Date \_\_\_\_\_

## 3 SCHEDULES

### 3.1 Schedule - I: Definitions

#### **Adverse Effect**

Means material adverse effect on

- a. The ability of the System Integrator to exercise any of its rights or perform/dischage 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, Annexure, Schedules and the contents and specifications of the Volumes I and II 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 Client 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 2.12 (a)

#### **Software**

Means the software (including CAS (State)) designed, developed / customized, tested and deployed by the System Integrator 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 proprietary software components and tools deployed by the System Integrator;

#### **Business Hours**

Shall mean the working time for Bihar Police IT Cell personnel which is 9:00 AM to 7:00 PM. Again for Servers and other components which enable successful usage of CCTNS solution 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 2.7.4.;

#### **Confidential Information**

Means all information including Bihar Police Data (whether in written, oral, electronic or other format) which relates to the technical, financial and business affairs, which is disclosed to or otherwise learned by the System Integrator 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);

**Control**

Means, in relation to any business entity, the power of a person to secure

- 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
- 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 than one half of the assets, or of more than one half of the income, of the partnership;

**CCTNS Solution**

Shall comprise of software, hardware and networking components used for implementation of CCTNS project in Bihar Police

**Deliverables**

Means the products, infrastructure and services agreed to be delivered by the System Integrator in pursuance of the agreement as defined more elaborately in Volume I and Volume II of 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 2.21.1

**Effective Date**

shall have the same meaning ascribed to it in Clause 2.5.1 (iv)

**Bihar Police Data**

Means all proprietary data of the department or its nominated agencies generated out of operations and transactions, documents all taxpayers data and related information including but not restricted to user data which the System Integrator 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. CCTS Solution deployed and Operational at State Data Center
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 2.7.4

**Force Majeure**

Shall have the same meaning ascribed to it in Clause 2.18.1

**Force Majeure Costs**

Shall have the same meaning ascribed to it in Clause 2.18.4

**Gol**

Means the Government of India;

**Indemnifying Party**

Shall have the same meaning ascribed to it in Clause 2.17

**Indemnified Party**

Shall have the same meaning ascribed to it in Clause 2.17

**Intellectual Property Rights**

Means all rights in written designs and copyrights, moral rights, rights in databases and Bespoke Software/ CAS (State)/ 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**

Means the aggregate of the maximum sums insured under the insurances taken out by the System Integrator and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable in relation to such act or event;

**Material Breach**

Means a breach by either Party (Client or System Integrator) 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;

**Minimum Required Deliverables**

Shall have the same meaning ascribed to it in Annexure C of this Agreement;

**Parties**

Means Client and System Integrator for the purposes of this Agreement and “**Party**” shall be interpreted accordingly;

**Performance Guarantee**

Means the guarantee of 10% of value of the contract in the form of a Bank Guarantee as per the format provided in this RFP from Indian Public Sector Banks or Private Sector Banks authorized by the Government to conduct Government transaction. At present HDFC Bank, ICICI Bank and AXIS Bank are the only three private sector banks authorized by the Government. Details of the bank are to be furnished in the commercial offer.

**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 Client 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 Client 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 Client 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 2.7.4 of this Agreement;

**State Project Management Unit (SPMU)**

Shall be constituted by each state to monitor the activities, deliverables and progress of the Project. SPMU may comprise of the staff members of the Client or may be a team of external experts (as defined in the RFP Volume 1);

**Project Timelines**

Shall have the same meaning ascribed to in Annexure C;

**Providing Party**

Shall have the same meaning ascribed to it in Clause 2.14.5

**Receiving Party**

Shall have the same meaning ascribed to it in Clause 2.14.5

**Replacement System Integrator**

Means any third party that Client or its nominated agencies appoint to replace System Integrator 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 Client's Intellectual Property Rights, rights and other authorizations as may be required to be obtained for the software and other items that Client or their nominated agencies are required to make available to System Integrator pursuant to this Agreement;

**Services**

Means the services delivered to the Stakeholders of Client or its nominated agencies, employees of Client or its nominated agencies, and to professionals, using the tangible and intangible assets created, procured, installed, managed and operated by the System Integrator 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 System Integrator

**SLA**

Means the Performance and Maintenance SLA executed as part of this Master Service Agreement;

**Stakeholders**

Term stakeholders shall cover Citizens/ Citizens groups, MHA/NCRB/Others, State Police department, CID, CBI, External Departments of the State such as Jails, Courts, FSL, Passport Office, Transport Non-Government/Private sector organizations

**Term**

Shall have the same meaning ascribed to it in Clause 2.5.1

**Third Party Systems**

Means systems (or any part thereof) in which the Intellectual Property Rights are not owned by the Client or System Integrator and to which System Integrator 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 System Integrator are not available for more than 5 consecutive minutes;

**Network**

In Client users refers to all the IT assets installed or maintained by the System Integrator 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 System Integrator 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 2.5

**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**

Shall mean as defined in Service Level Agreement

**Warranty / AMC Period**

Shall be counted five years from the date of successful completion of Successful implementation / Go-Live

**3.2 Schedule - II: 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 System Integrator and changes to the terms of payment as stated in the Terms of Payment Schedule. Changes proposed for amendments/ modifications in the



CCTNS application shall be eligible under this schedule only after completion of one year handholding support post Go-Live of the complete CCTNS solution in the State.

The CLIENT and SI 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 SI 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 CLIENT or its nominated agencies will work with the System Integrator 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.

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

### **3.2.1 Change Management Process**

#### **(a) Change Control Note ("CCN")**

- 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.
- The SI and the CLIENT or its nominated agencies, during the Project Implementation Phase and the CLIENT 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 Volume I of 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.
- It is hereby also clarified here that any change of control suggested beyond 15 % 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 15% of the value of the Project as stated in herein above is calculated on the basis of bid value submitted by the System Integrator and accepted by the CLIENT or its nominated agencies or as decided and approved by CLIENT or its Nominated Agencies. For arriving at the cost / rate for change up to 15% of the project value, the payment terms and relevant rates as specified in Annexure D shall apply.

#### **(b) Quotation**

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

1. Description of the change
2. List of deliverables required for implementing the change;
3. Time table for implementation;
4. Estimate of any proposed change
5. Relevant acceptance criteria
6. 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.

i. Prior to submission of the completed CCN to the CLIENT, 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 SI 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 SI meets the obligations as set in the CCN. In the event the SI 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 SI.

#### **(d) Obligations**

The SI 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.

### **3.3 Schedule - III: Exit Management Schedule**

#### **3.3.1 Purpose**

- a. This Schedule sets out the provisions, which will apply on expiry or termination of the MSA, the Project Implementation, Operation and Management SLA.
- b. 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.
- c. The Parties shall ensure that their respective associated entities carry out their respective obligations set out in this Exit Management Schedule.

#### **3.3.2 Transfer of Assets**

- a. CLIENT shall be entitled to serve notice in writing on the SI at any time during the exit management period as detailed hereinabove requiring the SI and/or its sub contractors to provide the CLIENT with a complete and up to date list of the Assets within 30 days of such notice. CLIENT shall then be entitled to serve notice in writing on the SI at any time prior to the date that is 30 days prior to the end of the exit management period requiring the SI to sell the Assets, if any, to be transferred to CLIENT or its nominated agencies at book value as determined as of the date of such notice in accordance with the provisions of relevant laws.
- b. In case of contract being terminated by CLIENT, CLIENT reserves the right to ask SI to continue running the project operations for a period of 6 months after termination orders are issued.
- c. 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 SI, the SI 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 CLIENT.
  - ii. All risk in and title to the Assets to be transferred / to be purchased by the CLIENT pursuant to this Article shall be transferred to CLIENT, on the last day of the exit management period.
  - iii. CLIENT shall pay to the SI 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 SI shall be made to the tune of last set of completed services / deliverables, subject to SLA requirements.
- v. The outgoing SI will pass on to CLIENT and/or to the Replacement SI, the subsisting rights in any leased properties/ licensed products on terms not less favorable to CLIENT/ Replacement SI, than that enjoyed by the outgoing SI.

### **3.3.3 Cooperation and Provision of Information**

During the exit management period:

- a. The System Integrator will allow the CLIENT 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 CLIENT to assess the existing services being delivered;
- b. promptly on reasonable request by the CLIENT, the SI 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 System Integrator or sub contractors appointed by the System Integrator). The CLIENT shall be entitled to copy of all such information. Such information shall include details pertaining to the services rendered and other performance data. The System Integrator shall permit the CLIENT or its nominated agencies to have reasonable access to its employees and facilities as reasonably required to understand the methods of delivery of the services employed by the System Integrator and to assist appropriate knowledge transfer.

### **3.3.4 Confidential Information, Security and Data**

- a. The System Integrator will promptly on the commencement of the exit management period supply to the CLIENT or its nominated agency the following:
  - information relating to the current services rendered and customer and performance data relating to the performance of sub contractors in relation to the services;
  - documentation relating to Project's Intellectual Property Rights;
  - documentation relating to sub-contractors;  
all current and updated data as is reasonably required for purposes of CLIENT or its nominated agencies transitioning the services to its Replacement System Integrator in a readily available format nominated by the CLIENT, or its nominated agency;
  - all other information (including but not limited to documents, records and agreements) relating to the services reasonably necessary to enable CLIENT or its nominated agencies, or its Replacement System Integrator to carry out due diligence in order to transition the provision of the Services to CLIENT or its nominated agencies, or its Replacement System Integrator (as the case may be).
- b. Before the expiry of the exit management period, the System Integrator shall deliver to the CLIENT 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 System Integrator shall be permitted to retain one copy of such materials for archival purposes only.
- c. Before the expiry of the exit management period, unless otherwise provided under the MSA, the CLIENT or its nominated agency shall deliver to the System Integrator all forms of System Integrator confidential information, which is in the possession or control of Client or its nominated agency.

**3.3.5 Employees**

- a. Promptly on reasonable request at any time during the exit management period, the System Integrator shall, subject to applicable laws, restraints and regulations (including in particular those relating to privacy) provide to the CLIENT or its nominated agency a list of all employees (with job titles) of the System Integrator dedicated to providing the services at the commencement of the exit management period.
- b. Where any national, regional law or regulation relating to the mandatory or automatic transfer of the contracts of employment from the System Integrator to the CLIENT or its nominated agency, or a Replacement System Integrator ("Transfer Regulation") applies to any or all of the employees of the System Integrator, then the Parties shall comply with their respective obligations under such Transfer Regulations.
- c. To the extent that any Transfer Regulation does not apply to any employee of the System Integrator, department, or its Replacement System Integrator may make an offer of employment or contract for services to such employee of the System Integrator and the System Integrator shall not enforce or impose any contractual provision that would prevent any such employee from being hired by the SPMU or any Replacement System Integrator.

**3.3.6 Transfer of Certain Agreements**

On request by the CLIENT or its nominated agency the System Integrator shall effect such assignments, transfers, licenses and sub-licenses as the Director General of Police may require the same in the name of Director General of Police, Bihar or its Replacement System Integrator in relation to any equipment lease, maintenance or service provision agreement between System Integrator and third party licensor, vendors, and which are related to the services and reasonably necessary for the carrying out of replacement services by the CLIENT or its nominated agency or its Replacement System Integrator.

**3.3.7 Rights of Access to Premises**

- a. At any time during the exit management period, where Assets are located at the System Integrator's premises, the System Integrator 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 CLIENT or its nominated agency and/or any Replacement System Integrator in order to make an inventory of the Assets.
- b. The System Integrator shall also give the CLIENT or its nominated agency or its nominated agencies, or any Replacement System Integrator right of reasonable access to the System Integrator's premises and shall procure the CLIENT or its nominated agency or its nominated agencies and any Replacement System Integrator 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 CLIENT or its nominated agency, or a Replacement System Integrator.

**3.3.8 General Obligations of the System Integrator**

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

- b. For the purposes of this Schedule, anything in the possession or control of any System Integrator, associated entity, or sub contractor is deemed to be in the possession or control of the System Integrator.
- c. The System Integrator shall commit adequate resources to comply with its obligations under this Exit Management Schedule.

### **3.3.9 Exit Management Plan**

- a. The System Integrator shall provide the CLIENT 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.
  - A detailed program of the transfer process that could be used in conjunction with a Replacement System Integrator 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;
  - plans for the communication with such of the System Integrator's sub contractors, staff, suppliers, customers and any related third party as are necessary to avoid any material detrimental impact on the CLIENT's operations as a result of undertaking the transfer;
  - (if applicable) proposed arrangements for the segregation of the System Integrator's networks from the networks employed by CLIENT and identification of specific security tasks necessary at termination;
  - Plans for provision of contingent support to CLIENT, and Replacement System Integrator for a reasonable period after transfer.
- b. The System Integrator shall re-draft the Exit Management Plan annually thereafter to ensure that it is kept relevant and up to date.
- c. Each Exit Management Plan shall be presented by the System Integrator to and approved by the CLIENT or its nominated agencies.
- d. The terms of payment as stated in the Terms of Payment Schedule includes the costs of the System Integrator complying with its obligations under this Schedule.
- e. In the event of termination or expiry of MSA, and Project Implementation, each Party shall comply with the Exit Management Plan.
- f. During the exit management period, the System Integrator shall use its best efforts to deliver the services.
- g. Payments during the Exit Management period shall be made in accordance with the Terms of Payment Schedule.
- h. This Exit Management plan shall be furnished in writing to the CLIENT or its nominated agencies within 90 days from the Effective Date of this Agreement.

### 3.4 Schedule - IV: Audit, Access And Reporting

#### 3.4.1 Purpose

This Schedule details the audit, access and reporting rights and obligations of the CLIENT or its nominated agency and the System Integrator.

#### 3.4.2 Audit Notice and Timing

- a. As soon as reasonably practicable after the Effective Date, the Parties shall use their best endeavors 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 CLIENT or its nominated agency and thereafter during the operation Phase, the CLIENT or its nominated agency shall conduct routine audits in accordance with such agreed timetable and shall not be required to give the System Integrator any further notice of carrying out such audits.
- b. The CLIENT or its nominated agency may conduct non-timetabled audits at his/ her own discretion if they reasonably believes that such non-timetabled audits are necessary as a result of an act of fraud by the System Integrator, a security violation, or breach of confidentiality obligations by the System Integrator, provided that the requirement for such an audit is notified in writing to the System Integrator 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 System Integrator 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.
- c. The frequency of audits shall be half yearly, provided always that the CLIENT or its nominated agency shall Endeavour to conduct such audits with the lowest levels of inconvenience and disturbance practicable being caused to the System Integrator.

#### 3.4.3 Access

The System Integrator shall provide to the CLIENT or its nominated agency reasonable access to employees, subcontractors, suppliers, agents and third party facilities as detailed in Volume I & II of 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 SPMU/ Client or its nominated agency shall have the right to copy and retain copies of any relevant records. The System Integrator shall make every reasonable effort to co-operate with them.

#### 3.4.4 Audit Rights

- a. The CLIENT or its nominated agency shall have the right to audit and inspect suppliers, agents and third party facilities (as detailed in Volume I of 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:
  - The security, integrity and availability of all data processed, held or conveyed by the Partner on behalf of CLIENT and documentation related thereto;
  - That the actual level of performance of the services is the same as specified in the SLA;
  - That the System Integrator has complied with the relevant technical standards, and has adequate internal controls in place; and
  - The compliance of the System Integrator with any other obligation under the MSA and SLA.
- Security audit and implementation audit of the system shall be done once each year, the cost of which shall be borne by the System Integrator.

- For the avoidance of doubt the audit rights under this Schedule shall not include access to the System Integrator's profit margins or overheads associated with any obligation under the MSA.

#### **3.4.5 Audit Rights of Sub-Contractors, Suppliers And Agents**

- b. The System Integrator shall use reasonable endeavors to achieve the same audit and access provisions as defined in this Schedule with sub-contractors, suppliers and agents who supply labour, services, equipment or materials in respect of the services. The System Integrator shall inform the CLIENT 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.
- c. REPORTING: The System Integrator will provide quarterly reports to the Client or its nominated agency regarding any specific aspects of the Project and in context of the audit and access information as required by the CLIENT or its nominated agency.

#### **3.4.6 Action and Review**

- a. Any change or amendment to the systems and procedures of the System Integrator, or sub-contractors, where applicable arising from the audit report shall be agreed within thirty (30) calendar days from the submission of the said report.
- b. Any discrepancies identified by any audit pursuant to this Schedule shall be immediately notified to the CLIENT or its nominated agency and the System Integrator's Project Manager in consultation with Client, shall determine what action should be taken in respect of such discrepancies in accordance with the terms of the MSA.

#### **3.4.7 Terms of Payment**

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

#### **3.4.8 Records and Information**

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

### **3.5 Schedule - V: Governance Schedule**

#### **3.5.1 Purpose**

The purpose of this Schedule is to:

- a. Establish and maintain the formal and informal processes for managing the relationship between the CLIENT and the System Integrator (including the outputs from other Schedules to this Agreement;
- b. Define the principles that both Parties wish to follow to ensure the delivery of the Services;
- c. Ensure the continued alignment of the interests of the Parties;
- d. Ensure that the relationship is maintained at the correct level within each Party;
- e. Create the flexibility to revise and maintain the relationship and this Agreement during the Term;
- f. Set out the procedure for escalating disagreements; and
- g. Enable contract administration and performance management.

### **3.5.2 Governance Structure**

- a. **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.
  - b. **Project Implementation Unit (PIU):** In addition the Governance Structure defined in the RFP Volume I, Within 7 days following the Effective Date, CLIENT or its nominated agencies and the System Integrator shall form a joint Project Implementation Unit comprising of members from each party, and each party shall 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.
  - c. The Project Managers shall have responsibility for maintaining the interface and communication between the Parties.
  - d. 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:
    - consideration of Quarterly Performance Reports;
    - consideration of matters arising out of the Change Control Schedule;
    - 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;
    - any matter brought before the PIU by the System Integrator under this Article; and
    - any other issue which either Party wishes to add to the agenda.
- a) 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.

### **3.5.3 Governance Procedures**

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



- V. 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
- VI. a statement by the Claimant describing the Disputed Matter in reasonable detail and (ii) documentation, if any, supporting the Claimant's position on the Disputed Matter.
- VII. 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
- VIII. All negotiations, statements and / or documentation pursuant to these Articles shall be without prejudice and confidential (unless mutually agreed otherwise).
- IX. 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 endeavors to reduce the elapsed time in reaching a resolution of the Disputed Matter.

**3.5.4 The payment under the various cost heads is given as under:**

For the payment purposes the pro rata reduction has been done on the cost items and sub items. The financial implications for both the states have been mentioned separately. Breakup of the overall project cost for all the phases of the project have been given in the Schedule VI below.

**3.6 Schedule - VI: Payment Schedule**

The payment schedule and milestones are divided into two phases:

- A) Implementation Phase
- B) Operations and Maintenance Phase

**Implementation Phase Payment schedule:**

During the implementation phase, 75% of the price quoted for the implementation phase will be paid to the SI, based on successful achievement of milestones as shown below. Remaining 25% will be paid to the SI during the O&M phase as 10 equated payments, along with the price quoted for the O&M phase.

Sl. No.	Payment Milestones for the Implementation phase	% Payment*
1.	M1: Advance	5%
2.	M2: Setting up of Infrastructure at the DC and DR Site followed by Acceptance Testing, Audit and Certification	10%
3.	M3: Acceptance Testing, Audit and Certification of CAS (State)	10%
4.	M4: Pre-Go Live Readiness in the Phase I Districts (Patna and Bhagalpur))	5%
5.	M5: Go-Live in the Phase I Districts (Patna and Bhagalpur)	10%
6.	M6: Pre-Go Live Readiness in the Phase II Districts	10%
7.	M7: Go-Live in the Phase II Districts	15%
8.	M8: Successful integration with CAS (Center) and successful transfer of the data for three months in succession	10%
<b>Total</b>		<b>75%</b>
* Percentage of price quoted by SI for implementation phase		

Note: All payments to the System Integrator shall be made upon submission of invoices along with relevant sign-offs from Bihar Police. All payments will be made after deduction of SLA penalties as applicable.

1. **Pre - Go Live Readiness** of Districts under Phase requires Completion and Acceptance of the following activities in at least 85% of the Police Stations / Higher Offices in each of the Districts targeted under the Phase

- Data Migration / Digitization
- Capacity Building Program covering the targeted personnel
- Change Management Initiatives covering the targeted personnel
- Site Preparation
- Delivery and Commissioning of Client Side Infrastructure
- Networking

2. **Go-Live** in the Phase requires Completion and Acceptance of the following activities in at least 100% of the Police Stations / Higher Offices in each of the Districts targeted under the Phase

- Data Migration / Digitization
- Capacity Building Program covering the targeted personnel
- Change Management Initiatives covering the targeted personnel
- Site Preparation
- Delivery and Commissioning of Client Side Infrastructure
- Networking
- Commission of the configured, customized and extended CAS (State)
- The PS / HO have completely migrated to the new application and the police station and the higher offices' personnel are successfully conducting the intended functions through the application

#### **Milestones and payment Schedules for Operations and Maintenance Phase**

The operations and maintenance phase is for a period of five years post Go-Live in the last district. The price quoted by the SI for the Operations and Maintenance phase along with the remaining 25% of the price quoted for the implementation phase will be paid during the O&M phase. It will be divided into 10 equated installments and made as **10 equal payments** upon satisfactorily adhering to the SLAs as defined in defined in the volume 3 of this RFP. The payments during the Operations and Maintenance Phase will be made at the end of every six months.

#### **Please note:**

- The above payments are subject to meeting of SLA's failing which the appropriate deductions as mentioned in the SLA section of Vol. 1 of this RFP
- All the hardware proposed under this project should be along with an AMC for 5 years post Successful Go-Live of the project
- The successful bidder will also be responsible to maintain the AMC for the existing hardware that bidder will use during the implementation of this project.
- The payment against the hardware will be made on the basis of the actual quantity of the items procured. CLIENT will have the right for reduction / addition in the quantity proposed. Any payments will be done on the basis of the unit rates quoted by the bidder in the Commercial bid.
- The cost for the manpower will also be done on the actual basis i.e. category of the manpower deployed and the period of deployment.
- For the payment purposes, price reduction shall be applied on pro rata basis on all head, sub heads and items of the commercial bid.
- Any fluctuation in prices due to inflation, tax regulations, will be borne by the bidder and not be passed on to CLIENT

- Whenever the penalty is levied on System Integrator for failing to meet the required SLA, the half year installment shall be paid and the penalty (if any) will be adjusted in the subsequent half yearly installment (s)
- Any delay on account of CLIENT officials (and not attributable to the SI) shall not be taken into account while computing adherence to service levels for the SI. While CLIENT will ensure that any Sign off / Comments are provided within a period of 15 working days from the submission of deliverables by the SI.
- Any monetary figure in decimal shall be rounded off to the nearest INR

## 4 SERVICE LEVELS

The above list of Service levels is indicative. The BSEDC Ltd. should add more service levels / modify the above service levels as per their requirements.

1. This document describes the service levels to be established for the Services offered by the SI to the BSEDC Ltd. The SI shall monitor and maintain the stated service levels to provide quality service to the BSEDC Ltd.
2. Definitions: Below is explained the definition of critical terms used in service level requirements.
  - (a) **“Scheduled Maintenance Time”** shall mean the time that the System is not in service due to a scheduled activity as defined in this SLA. The scheduled maintenance time would not be during 16X6 timeframe. Further, scheduled maintenance time is planned downtime with the prior permission of the BSEDC Ltd.
  - (b) **“Scheduled operation time”** means the scheduled operating hours of the System for the month. All scheduled maintenance time on the system would be deducted from the total operation time for the month to give the scheduled operation time. The total operation time for the systems and applications within the Primary DC, DRC and critical client site infrastructure will be 24X7X365. The total operation time for the client site systems shall be 18 hours.
  - (c) **“System or Application downtime”** means accumulated time during which the System is totally inoperable within the Scheduled Operation Time but outside the scheduled maintenance time and measured from the time the BSEDC Ltd. and/or its employees log a call with the SI team of the failure or the failure is known to the SI from the availability measurement tools to the time when the System is returned to proper operation.
  - (d) **“Availability”** means the time for which the services and facilities are available for conducting operations on the BSEDC Ltd. system including application and associated infrastructure. Availability is defined as:  

$$\{(\text{Scheduled Operation Time} - \text{System Downtime}) / (\text{Scheduled Operation Time})\} * 100\%$$
  - (e) **“Helpdesk Support”** shall mean the 16x6 basis support centre which shall handle Fault reporting, Trouble Ticketing and related enquiries during this contract.
  - (f) **“Incident”** refers to any event / abnormalities in the functioning of the Data Centre Equipment / Services that may lead to disruption in normal operations of the Data Centre, System or Application services.
3. Interpretations: Interpretation of some important functionalities, activities and terms are explained below.
  - (a) The business hours are 8:30AM to 5:30PM (Government working hour) on all working days (Mon-Sat) excluding Public Holidays or any other Holidays observed by the BSEDC Ltd. The SI however recognizes the fact that the BSEDC Ltd. offices will require to work beyond the business hours on need basis.
  - (b) "Non-Business Hours" shall mean hours excluding "Business Hours".
  - (c) 18X7 shall mean hours between 06:00AM -12.00 midnight on all days of the week.
  - (d) If the operations at Primary DC are not switched to DRC within the stipulated timeframe (Recovery Time Objective), it will be added to the system downtime.
  - (e) The availability for a cluster will be the average of availability computed across all the servers in a cluster, rather than on individual servers. However, non compliance with performance parameters for infrastructure and system / service degradation will be considered for downtime calculation.

- (f) The SLA parameters shall be monitored on a monthly basis as per the individual SLA parameter requirements. However, if the performance of the system/services is degraded significantly at any given point in time during the contract and if the immediate measures are not implemented and issues are not rectified to the complete satisfaction of the BSEDC Ltd. or an agency designated by them, then the BSEDC Ltd. will have the right to take appropriate disciplinary actions including termination of the contract.
- (g) A Service Level violation will occur if the SI fails to meet Minimum Service Levels, as measured on a half yearly basis, for a particular Service Level. Overall Availability and Performance Measurements will be on a monthly basis for the purpose of Service Level reporting. An “Availability and Performance Report” will be provided by the SI on monthly basis in the BSEDC Ltd. suggested format and a review shall be conducted based on this report. A monthly Availability and Performance Report shall be provided to the BSEDC Ltd. at the end of every month containing the summary of all incidents reported and associated SI performance measurement for that period. The monthly Availability and Performance Report will be deemed to be accepted by the state.
- (h) State upon review and signoff by both SI and the BSEDC Ltd.. Where required, some of the Service Levels will be assessed through audits or reports e.g. utilization reports, measurements reports, etc., as appropriate to be provided by the SI on a monthly basis, in the formats as required by the BSEDC Ltd. The tools to perform the audit will need to be provided by the SI. Audits will normally be done on regular basis or as required by the BSEDC Ltd. and will be performed by the BSEDC Ltd. or the BSEDC Ltd. appointed third party agencies.
- (i) EMS system as specified in this RFP shall play a critical role in monitoring the SLA compliance and hence will have to be customized accordingly. The 3<sup>rd</sup> party testing and audit of the system shall put sufficient emphasis on ensuring the capability of EMS system to capture SLA compliance correctly and as specified in this RFP. The selected System Integrator (SI) must deploy EMS tool and develop additional scripts (if required) for capturing the required data for SLA report generation in automated way. This tool should generate the SLA Monitoring report in the end of every month which is to be shared with the BSEDC Ltd. on a monthly basis. The tool should also be capable of generating SLA reports for a half-year. the BSEDC Ltd. will audit the tool and the scripts on a regular basis.
- (j) The Post Implementation SLAs will prevail from the start of the Operations and Maintenance Phase. However, SLAs will be subject to being redefined, to the extent necessitated by field experience at the police stations / higher offices and the developments of technology practices globally. The SLAs may be reviewed on an annual/bi-annual basis as the BSEDC Ltd. decides after taking the advice of the SI and other agencies. All the changes would be made by the BSEDC Ltd. in consultation with the SI.
- (k) The SI is expected to provide the following service levels. In case these service levels cannot be achieved at service levels defined in the tables below, it shall result in a breach of contract and invoke the penalty clause. Payments to the SI are linked to the compliance with the SLA metrics laid down in the tables below. The penalties will be computed and calculated as per the computation explained in this Annexure. During the contract period, it is envisaged that there could be changes to the SLA, in terms of addition, alteration or deletion of certain parameters, based on mutual consent of both the parties i.e. the BSEDC Ltd. and SI.

(l)Following tables outlines the key service level requirements for the system, which needs be ensured by the SI during the operations and maintenance period. These requirements shall be strictly imposed and either the BSEDC Ltd. or a third party audit/certification agency shall be deployed for certifying the performance of the SI against the target performance metrics as outlined in the tables below.

### IMPLEMENTATION PHASE SLAS

#### Capacity Building

Service Level Description	Measurement
Capacity Building	At least 80% of the trainees within the training program should give a rating of satisfactory or above.
	Severity of Violation: High
	This service level will be monitored and measured on a per District basis through feedback survey to be provided to each attendee within the program.
	If the training quality in the program falls below the minimum service level, it will be treated as one (1) violation.
	The total number of violations for the payment period will be the cumulative number of violations across all the programs across all Districts in the payment period.

#### Data Migration / Digitization

Service Level Description	Measurement
Data Migration	Error rate in a batch should be less than 5%. Severity of Violation: Medium This service level will be measured on a monthly basis for each Police Station / Higher Office. If the data migration / digitization service level in a police station / higher office falls below the minimum service level, it will be treated as one (1) violation. The total number of violations for the payment period will be the cumulative number of violations across all the police stations / higher offices in the payment period.

#### Violations and Associated Penalties

- (a) The primary intent of Penalties is to ensure that the system performs in accordance with the defined service levels. Penalties are not meant to be punitive or, conversely, a vehicle for additional fees.
- (b) **Penalty Calculations:** The framework for Penalties, as a result of not meeting the Service Level Targets are as follows:
  - (i)The performance will be measured for each of the defined service level metric against the minimum / target service level requirements and the violations will be calculated accordingly.
  - (ii) The number of violations in the reporting period for each level of severity will be totaled and used for the calculation of Penalties.
  - (iii) Penalties applicable for each of the high severity violations is 0.1% of respective payment-period payment to the SI.
  - (iv) Penalties applicable for each of the medium severity violations is 0.05% of respective payment-period payment to the SI.

**Delivery Related Service Levels**

The SI shall adhere to all the project timelines for the implementation phase as defined in Chapter 8 of Vol I of this RFP. Failure to complete any project activity as per the agreed upon timelines shall result in Liquidated Damages as defined in Section 5.3 of Vol II of this RFP.

**POST IMPLEMENTATION PHASE SLAS**

**Primary DC/DRC Site Infrastructure Systems and Application Availability and Performance:**

- (a) **Production CAS Systems.** The failure or disruption has a direct impact on the BSEDC Ltd.’s ability to service its police stations / higher offices, ability to perform critical back-office functions or a direct impact on the organization. This includes but not limited to:-
  - (i) Storage and related switches at Primary DC and DRC.
  - (ii) Web, Application, Database, and Backup Servers at Primary DC and DRC.
  - (iii) Primary DC to DRC connectivity.
  - (iv) Primary DC and DRC network infrastructure.
  - (v) Primary DC and DRC security infrastructure.
- (b) **Non-CAS Systems in Production and Non Production Systems (Development, QA, and Training).**  
The failure or disruption has no direct impact on the BSEDC Ltd.’s ability to serve its police stations / higher offices, or perform critical back-office functions.
  - (i) Production Non CAS Servers.
  - (ii) Test, QA and Training Servers.
  - (iii) Helpdesk infrastructure & applications.
  - (iv) EMS Infrastructure.
- (c) **CAS Solution Components.** The failure or disruption has a direct impact on the BSEDC Ltd.’s ability to service its police stations / higher offices, ability to perform critical back-office functions or a direct impact on the organization.
- (d) **Non ERP Solution Components.** The failure or disruption has no direct impact on the BSEDC Ltd.’s ability to serve its police stations / higher offices, or perform critical back-office functions.
- (e) These service levels will be monitored on a monthly basis.
- (f) The below tables gives details on the Service Levels the SI should maintain.

Service Level Description	Measurement	
Infrastructure Availability	Availability of production CAS systems shall be at least 99%	
	Severity of Violation: High	
	Availability over the six- month period	Violations for calculation of penalty
	< 99% & >= 98.5%	1
	< 98.5% & >= 98%	2
	< 98%	3
In addition to the above, if the service level in any month in the six-month period falls below 98%, one (1) additional violation will be added for each such month to the overall violations for this service level.		
Infrastructure Availability	Availability of non-CAS systems in production and non-production systems shall be at least 97%.	

Service Level Description	Measurement									
	<p>Severity of Violation: Medium</p> <table border="1" data-bbox="477 254 1425 464"> <tr> <td>Availability over the six- month period</td> <td>Violations for calculation of penalty</td> </tr> <tr> <td>&lt; 97% &amp; &gt;= 96.5%</td> <td>1</td> </tr> <tr> <td>&lt; 96.5% &amp; &gt;= 96%</td> <td>2</td> </tr> <tr> <td>&lt; 96%</td> <td>3</td> </tr> </table> <p>In addition to the above, if the service level in any month in the six-month period falls below 96%, one (1) additional violation will be added for each such month to the overall violations for this service level.</p>		Availability over the six- month period	Violations for calculation of penalty	< 97% & >= 96.5%	1	< 96.5% & >= 96%	2	< 96%	3
Availability over the six- month period	Violations for calculation of penalty									
< 97% & >= 96.5%	1									
< 96.5% & >= 96%	2									
< 96%	3									
Infrastructure Availability	<p>RTO shall be less than or equal to six (6) hours. Severity of Violation: High Each instance of non-meeting this service level will be treated as one (1) violation.</p>									
Infrastructure Availability	<p>RPO (zero data loss in case of failure of Primary DC) should be Less than 60 minutes Severity of Violation: High Each instance of non-meeting this service level will be treated as two (2) violations.</p>									
Infrastructure Performance	<p>Sustained period of peak CPU utilization of any server crossing 70% (with the exception of batch processing) shall be less than or equal to 30 minutes. Severity of Violation: High Each occurrence where the peak CPU utilization of any server crosses 70% (with the exception of batch processing) and stays above 70% for time more than 30 minutes will be treated as one (1) instance.</p> <table border="1" data-bbox="477 1077 1419 1241"> <tr> <td>Number of instances over the six month period</td> <td>Violations for calculation of penalty</td> </tr> <tr> <td>&gt;0 &amp; &lt;=3</td> <td>1</td> </tr> <tr> <td>&gt; 3</td> <td>2</td> </tr> </table> <p>In addition to the above, if the number of instances in any month in the six-month period exceeds 3, one (1) additional violation will be added for each such month to the overall violations for this service level.</p>		Number of instances over the six month period	Violations for calculation of penalty	>0 & <=3	1	> 3	2		
Number of instances over the six month period	Violations for calculation of penalty									
>0 & <=3	1									
> 3	2									
Infrastructure Performance	<p>Sustained period of peak I/O utilization of any server crossing 70% (with the exception of batch processing) shall be less than or equal to 30 minutes. Severity of Violation: High Each occurrence where the peak I/O utilization of any server crosses 70% (with the exception of batch processing) and stays above 70% for time more than 30 minutes will be treated as one (1) instance.</p> <table border="1" data-bbox="477 1690 1425 1843"> <tr> <td>Number of instances over the six month period</td> <td>Violations for calculation of penalty</td> </tr> <tr> <td>&gt;0 &amp; &lt;=3</td> <td>1</td> </tr> <tr> <td>&gt; 3</td> <td>2</td> </tr> </table> <p>In addition to the above, if the number of instances in any month in the six-month period exceeds 3, one (1) additional violation will be added for each such month to the overall</p>		Number of instances over the six month period	Violations for calculation of penalty	>0 & <=3	1	> 3	2		
Number of instances over the six month period	Violations for calculation of penalty									
>0 & <=3	1									
> 3	2									



Service Level Description	Measurement									
	violations for this service level.									
Infrastructure Performance	<p>Sustained period of peak memory utilization of any server crossing 70% (with the exception of batch processing) shall be less than or equal to 30 minutes. Severity of Violation: High Each occurrence where the peak memory utilization of any server crosses 70% (with the exception of batch processing) and stays above 70% for time more than 30 minutes will be treated as one (1) instance.</p> <table border="1" data-bbox="475 611 1437 772"> <thead> <tr> <th data-bbox="475 611 959 684">Number of instances over the six month period</th> <th data-bbox="959 611 1437 684">Violations for calculation of penalty</th> </tr> </thead> <tbody> <tr> <td data-bbox="475 684 959 730">&gt;0 &amp;lt;=3</td> <td data-bbox="959 684 1437 730">1</td> </tr> <tr> <td data-bbox="475 730 959 772">&gt; 3</td> <td data-bbox="959 730 1437 772">2</td> </tr> </tbody> </table> <p>In addition to the above, if the number of instances in any month in the six-month period exceeds 3, one (1) additional violation will be added for each such month to the overall violations for this service level.</p>		Number of instances over the six month period	Violations for calculation of penalty	>0 &lt;=3	1	> 3	2		
Number of instances over the six month period	Violations for calculation of penalty									
>0 &lt;=3	1									
> 3	2									
Application Availability	<p>Availability of CAS solution components measured within the Data Center shall be at least 99.9% Severity of Violation: High This service level will be monitored on a monthly basis.</p> <table border="1" data-bbox="475 1110 1437 1314"> <thead> <tr> <th data-bbox="475 1110 959 1184">Availability over the six month period</th> <th data-bbox="959 1110 1437 1184">Violations for calculation of penalty</th> </tr> </thead> <tbody> <tr> <td data-bbox="475 1184 959 1230">&lt; 99.9% &amp;lt;= 99.5%</td> <td data-bbox="959 1184 1437 1230">1</td> </tr> <tr> <td data-bbox="475 1230 959 1276">&lt; 99.5% &amp;lt;= 99%</td> <td data-bbox="959 1230 1437 1276">2</td> </tr> <tr> <td data-bbox="475 1276 959 1314">&lt; 99%</td> <td data-bbox="959 1276 1437 1314">3</td> </tr> </tbody> </table> <p>In addition to the above, if the service level in any month in the six-month period falls below 99%, one (1) additional violation will be added for each such month to the overall violations for this service level.</p>		Availability over the six month period	Violations for calculation of penalty	< 99.9% &lt;= 99.5%	1	< 99.5% &lt;= 99%	2	< 99%	3
Availability over the six month period	Violations for calculation of penalty									
< 99.9% &lt;= 99.5%	1									
< 99.5% &lt;= 99%	2									
< 99%	3									
Application Availability	<p>Availability of non-CAS solution components measured within the Data Center shall be at least 97% Severity of Violation: Medium This service level will be monitored on a monthly basis.</p> <table border="1" data-bbox="475 1690 1437 1843"> <thead> <tr> <th data-bbox="475 1690 959 1764">Availability over the six month Period</th> <th data-bbox="959 1690 1437 1764">Violations for calculation of penalty</th> </tr> </thead> <tbody> <tr> <td data-bbox="475 1764 959 1810">&lt; 97% &amp;lt;= 96%</td> <td data-bbox="959 1764 1437 1810">1</td> </tr> <tr> <td data-bbox="475 1810 959 1843">&lt; 96%</td> <td data-bbox="959 1810 1437 1843">2</td> </tr> </tbody> </table> <p>In addition to the above, if the service level in any month in the six-month period falls below 96%, one (1) additional violation will be added for each such month to the overall</p>		Availability over the six month Period	Violations for calculation of penalty	< 97% &lt;= 96%	1	< 96%	2		
Availability over the six month Period	Violations for calculation of penalty									
< 97% &lt;= 96%	1									
< 96%	2									

Service Level Description	Measurement								
	violations for this service level.								
Application Performance	Average application response time during peak usage hours as measured from a client terminal within the Data Center shall not exceed 4 seconds. Severity of Violation: High The list of critical business functions and peak usage hours will be identified by the BSEDC Ltd. during the Supply and System Integration Phase. This service level will be monitored on a monthly basis.								
	<table border="1"> <tr> <td>Average application response time over the six-month period</td> <td>Violations for calculation of penalty</td> </tr> <tr> <td>&gt; 4s &amp; &lt;= 5s</td> <td>2</td> </tr> <tr> <td>&gt; 5s &amp; &lt;= 6s</td> <td>4</td> </tr> <tr> <td>&gt; 6s</td> <td>5</td> </tr> </table>	Average application response time over the six-month period	Violations for calculation of penalty	> 4s & <= 5s	2	> 5s & <= 6s	4	> 6s	5
	Average application response time over the six-month period	Violations for calculation of penalty							
	> 4s & <= 5s	2							
	> 5s & <= 6s	4							
> 6s	5								
In addition to the above, if the average turnaround time in any month in the six-month period goes beyond 6s, one (1) additional violation will be added for each such month to the overall violations for this service level.									

**Client Site Infrastructure Systems**

- (a) **Critical Client Site Systems.** The failure or disruption results in inability of the police station / higher offices to service its dependent offices or perform critical back-office functions. Critical client site infrastructure means the IT infrastructure at client site which are shared by multiple users i.e., Core Switch, Core Routers, etc.
- (b) This service level will be measured on a monthly basis for each implementation site.
- (c) The below tables gives details on the Service Levels the SI should maintain.

Service Level Description	Measurement
Client Site Systems Availability	Availability of the critical client site infrastructure components at all the implementation sites shall be at least 99%
	Severity of Violation: High
	This service level will be measured on a monthly basis for each implementation site.
	If the availability in a month for an implementation site falls below the minimum service level, it will be treated as one (1) Violation. The total number of violations for the six-month period will be the cumulative number of violations across all the months across all sites in the six-month period.

**Handholding Support: Client Site Support**

- (a) **Level 1 Incidents.** The incident has an immediate impact on the BSEDC Ltd.’s ability to service its police stations / higher offices, to perform critical back-office functions or has a direct impact on the organization.
- (b) **Level 2 Incidents.** The incident has an impact on the BSEDC Ltd.’s ability to service its police

stations / higher offices that while not immediate, can cause service to degrade if not resolved within reasonable time frames

- (c) The severity of the individual incidents will be mutually determined by the BSEDC Ltd. and SI.
- (d) The scheduled operation time for the client site systems shall be the business hours of the BSEDC Ltd..
- (e) This service level will be measured on a monthly basis for each implementation site.
- (f) The tables on the following page give details of the Service Levels the SI is required to maintain.

Service Level Description	Measurement										
Client Site Support Performance	80% of the Level 1 Incidents at each site should be resolved within 2 business hours from the time call is received / logged whichever is earlier. The maximum resolution time for any incident of this nature shall not exceed 8 business hours.										
	Severity of Violation: Medium										
	This service level will be measured on a monthly basis for each implementation site. If the performance in a month for an implementation site falls below the minimum service level, it will be treated as one (1) instance. The total number of instances for the six-month period will be the cumulative number of instances across all the months across all sites in the six-month period.										
	Average number of instances per month = (Total number of instances for the six-month period) / 6										
	<table border="1"> <tr> <td>Average number of instances per month</td> <td>Violations for calculation of penalty</td> </tr> <tr> <td>&gt;0 &amp; &lt;=4</td> <td>1</td> </tr> <tr> <td>&gt;4 &amp; &lt;=8</td> <td>2</td> </tr> <tr> <td>&gt;8 &amp; &lt;=12</td> <td>3</td> </tr> <tr> <td>&gt;12</td> <td>4</td> </tr> </table>	Average number of instances per month	Violations for calculation of penalty	>0 & <=4	1	>4 & <=8	2	>8 & <=12	3	>12	4
	Average number of instances per month	Violations for calculation of penalty									
>0 & <=4	1										
>4 & <=8	2										
>8 & <=12	3										
>12	4										
Client Site Support Performance	80% of the Level 2 Incidents at each site should be resolved within 6 business hours from the time a call is received / logged whichever is earlier. The maximum resolution time for any incident of this nature shall not exceed 48 hours. Severity of Violation: Medium This service level will be measured on a monthly basis for each implementation site. If the performance in a month for an implementation site falls below the minimum service level, it will be treated as one (1) instance. The total number of instances for the six-month period will be the cumulative number of instances across all the months across all sites in the six-month period. Average number of instances per month = (Total number of instances for the six-month period) / 6										
	Severity of Violation: Medium										
	This service level will be measured on a monthly basis for each implementation site. If the performance in a month for an implementation site falls below the minimum service level, it will be treated as one (1) instance. The total number of instances for the six-month period will be the cumulative number of instances across all the months across all sites in the six-month period.										
	Average number of instances per month = (Total number of instances for the six-month period) / 6										
	<table border="1"> <tr> <td>Average number of instances per month</td> <td>Violations for calculation of penalty</td> </tr> <tr> <td>&gt;0 &amp; &lt;=4</td> <td>1</td> </tr> <tr> <td>&gt;4 &amp; &lt;=8</td> <td>2</td> </tr> <tr> <td>&gt;8 &amp; &lt;=12</td> <td>3</td> </tr> <tr> <td>&gt;12</td> <td>4</td> </tr> </table>	Average number of instances per month	Violations for calculation of penalty	>0 & <=4	1	>4 & <=8	2	>8 & <=12	3	>12	4
	Average number of instances per month	Violations for calculation of penalty									
>0 & <=4	1										
>4 & <=8	2										
>8 & <=12	3										
>12	4										
Client Site Support Performance	Replacement of hardware equipment shall be done within 7 days of notification by the BSEDC Ltd.. These equipments would have failed on four or more occasions in a period of less than three months or six times in a period of less than twelve months. (Mean Time Between Failure Condition) Severity of Violation: High										

Service Level Description	Measurement
	Each instance of non-meeting this service level will be treated as one (1) violation.

**Handholding Support: Application Support**

- (a) **Level 1 Defects.** The failure to fix has an immediate impact on the BSEDC Ltd.’s ability to service its police stations / higher offices, inability to perform critical back-office functions or a direct impact on the organization.
- (b) **Level 2 Defects.** The failure to fix has an impact on the BSEDC Ltd.’s ability to service its police stations / higher offices that while not immediate, can cause service to degrade if not resolved within reasonable time frames.
- (c) **Level 3 Defects.** The failure to fix has no direct impact on the BSEDC Ltd.’s ability to serve its police stations / higher officers, or perform critical back office functions.
- (d) The severity of the individual defects will be mutually determined by the BSEDC Ltd. and SI.
- (e) This service level will be monitored on a monthly basis.
- (f) The below tables gives details on the Service Levels the SI should maintain.

Service Level Description	Measurement									
Application Support Performance	95% of the Level 1 defects shall be resolved within 4 business hours from the time of reporting full details. Severity of Violation: High This service level will be monitored on a monthly basis. <table border="1" data-bbox="456 1129 1425 1325"> <thead> <tr> <th data-bbox="461 1136 943 1209">Performance over the six month Period</th> <th data-bbox="943 1136 1421 1209">Violations for calculation of penalty</th> </tr> </thead> <tbody> <tr> <td data-bbox="461 1209 943 1245">&lt; 95% &amp;gt;= 90%</td> <td data-bbox="943 1209 1421 1245">1</td> </tr> <tr> <td data-bbox="461 1245 943 1281">&lt; 90% &amp;gt;= 85%</td> <td data-bbox="943 1245 1421 1281">2</td> </tr> <tr> <td data-bbox="461 1281 943 1316">&lt; 85%</td> <td data-bbox="943 1281 1421 1316">3</td> </tr> </tbody> </table> In addition to the above, if the service level in any month in the six-month period falls below 85%, one (1) additional violation will be added for each such month to the overall violations for this service level.		Performance over the six month Period	Violations for calculation of penalty	< 95% &gt;= 90%	1	< 90% &gt;= 85%	2	< 85%	3
Performance over the six month Period	Violations for calculation of penalty									
< 95% &gt;= 90%	1									
< 90% &gt;= 85%	2									
< 85%	3									
Application Support Performance	95% of the Level 2 defects shall be resolved within 72 hours from the time of reporting full details. Severity of Violation: High This service level will be monitored on a monthly basis. <table border="1" data-bbox="456 1619 1425 1814"> <thead> <tr> <th data-bbox="461 1625 943 1698">Performance over the six month Period</th> <th data-bbox="943 1625 1421 1698">Violations for calculation of penalty</th> </tr> </thead> <tbody> <tr> <td data-bbox="461 1698 943 1734">&lt; 95% &amp;gt;= 90%</td> <td data-bbox="943 1698 1421 1734">1</td> </tr> <tr> <td data-bbox="461 1734 943 1770">&lt; 90% &amp;gt;= 85%</td> <td data-bbox="943 1734 1421 1770">2</td> </tr> <tr> <td data-bbox="461 1770 943 1806">&lt; 85%</td> <td data-bbox="943 1770 1421 1806">3</td> </tr> </tbody> </table> In addition to the above, if the service level in any month in the six-month period falls below 85%, one (1) additional violation will be added for each such month to the overall violations for this service level.		Performance over the six month Period	Violations for calculation of penalty	< 95% &gt;= 90%	1	< 90% &gt;= 85%	2	< 85%	3
Performance over the six month Period	Violations for calculation of penalty									
< 95% &gt;= 90%	1									
< 90% &gt;= 85%	2									
< 85%	3									

Service Level Description	Measurement								
Application Support Performance	100% of the Level 3 defects shall be resolved within 120 hours from the time of reporting full details. Severity of Violation: High This service level will be monitored on a monthly basis.								
	<table border="1"> <thead> <tr> <th>Performance over the six month Period</th> <th>Violations for calculation of penalty</th> </tr> </thead> <tbody> <tr> <td>&lt; 100% &amp; &gt;= 90%</td> <td>1</td> </tr> <tr> <td>&lt; 90% &amp; &gt;= 80%</td> <td>2</td> </tr> <tr> <td>&lt; 80%</td> <td>3</td> </tr> </tbody> </table>	Performance over the six month Period	Violations for calculation of penalty	< 100% & >= 90%	1	< 90% & >= 80%	2	< 80%	3
	Performance over the six month Period	Violations for calculation of penalty							
	< 100% & >= 90%	1							
	< 90% & >= 80%	2							
< 80%	3								
In addition to the above, if the service level in any month in the six-month period falls below 80%, one (1) additional violation will be added for each such month to the overall violations for this service level.									
Application Support Performance	Up to date of the documentation of the design, modifications, enhancements, and defect-fixes in the half-yearly period. Severity of Violation: Medium This service level will be measured on a half-yearly basis. Each instance of non-meeting this service level will be treated as one (1) violation.								

**Network Uptime:**

Severity of Violation: High

This service level will be monitored on a monthly basis.

The below tables gives details on the Service Levels the SI should maintain.

Service Level Description	Measurement
Network Uptime	Availability of the network and all related components at all the implementation sites shall be at least 99% Severity of Violation: High This service level will be measured on a monthly basis for each implementation site. If the network availability in a month falls below the minimum service level, it will be treated as one (1) violation. The total number of violations for the six-month period will be the cumulative number of violations across all the months across all sites in the six-month period.

**Handholding Support: Helpdesk and Data Center Support**

- (a) **Level 1 Calls.** The failure to fix has an immediate impact on the BSEDC Ltd.’s ability to service its police stations / higher offices, inability to perform critical back-office functions or a direct impact on the organization.
- (b) **Level 2 Calls.** The failure to fix has an impact on the BSEDC Ltd.’s ability to service its police stations / higher offices that while not immediate, can cause service to degrade if not resolved within reasonable time frames.
- (c) **Level 3 Calls.** The failure to fix has no direct impact on the BSEDC Ltd.’s ability to serve its police stations / higher offices, or perform critical back-office functions.
- (d) This service level will be monitored on a monthly basis.

(e) The below tables gives details on the Service Levels the SI should maintain.

Service Level Description	Measurement	
Helpdesk Performance	98% of the calls shall be answered within 45 seconds. Severity of Violation: High This service level will be monitored on a monthly basis.	
	Performance over the six month Period	Violations for calculation of penalty
	< 98% & >= 90%	1
	< 90% & >= 80%	2
	< 80%	3
In addition to the above, if the service level in any month in the six-month period falls below 80%, one (1) additional violation will be added for each such month to the overall violations for this service level.		
Helpdesk Performance	98% of the incidents within helpdesk resolution capacity shall be resolved in a cycle time of 24 hours Severity of Violation: High This service level will be monitored on a monthly basis.	
	Performance over the six month Period	Violations for calculation of penalty
	< 98% & >= 90%	1
	< 90% & >= 80%	2
	< 80%	3
In addition to the above, if the service level in any month in the six-month period falls below 80%, one (1) additional violation will be added for each such month to the overall violations for this service level.		
Helpdesk Performance	98% of the non SI supported incidents shall be routed to the appropriate service provider within 30 minutes. Severity of Violation: Medium This service level will be monitored on a monthly basis.	
	Performance over the six month Period	Violations for calculation of penalty
	< 98% & >= 90%	1
	< 90% & >= 80%	2
	< 80%	3
In addition to the above, if the service level in any month in the six-month period falls below 80%, one (1) additional violation will be added for each such month to the overall violations for this service level.		
Helpdesk Performance	80% of the Level 1 calls shall be resolved within 2 hours from call received / logged whichever is earlier. The maximum resolution time for any incident of this nature shall not exceed 8 business hours. Severity of Violation: High This service level will be monitored on a monthly basis.	
	Performance over the six month Period	Violations for calculation of penalty

Service Level Description	Measurement									
	< 80% & >= 70%	1								
	< 70% & >= 60%	2								
	< 60%	3								
	In addition to the above, if the service level in any month in the six-month period falls below 60%, one (1) additional violation will be added for each such month to the overall violations for this service level.									
Helpdesk Performance	80% of the Level 2 calls shall be resolved within 6 hours from call received / logged whichever is earlier. The maximum resolution time for any incident of this nature shall not exceed 48 hours. Severity of Violation: High This service level will be monitored on a monthly basis. <table border="1" data-bbox="472 657 1398 852"> <thead> <tr> <th>Performance over the six month Period</th> <th>Violations for calculation of penalty</th> </tr> </thead> <tbody> <tr> <td>&lt; 80% &amp; &gt;= 70%</td> <td>1</td> </tr> <tr> <td>&lt; 70% &amp; &gt;= 60%</td> <td>2</td> </tr> <tr> <td>&lt; 60%</td> <td>3</td> </tr> </tbody> </table> In addition to the above, if the service level in any month in the six-month period falls below 60%, one (1) additional violation will be added for each such month to the overall violations for this service level.		Performance over the six month Period	Violations for calculation of penalty	< 80% & >= 70%	1	< 70% & >= 60%	2	< 60%	3
Performance over the six month Period	Violations for calculation of penalty									
< 80% & >= 70%	1									
< 70% & >= 60%	2									
< 60%	3									
Helpdesk Performance	80% of the Level 3 calls shall be reported on status and action to be communicated within 24 hours from call received / logged whichever is earlier. The maximum resolution time for any incident of this nature shall not exceed 72 hours. Severity of Violation: High This service level will be monitored on a monthly basis. <table border="1" data-bbox="472 1224 1398 1419"> <thead> <tr> <th>Performance over the six month Period</th> <th>Violations for calculation of penalty</th> </tr> </thead> <tbody> <tr> <td>&lt; 80% &amp; &gt;= 70%</td> <td>1</td> </tr> <tr> <td>&lt; 70% &amp; &gt;= 60%</td> <td>2</td> </tr> <tr> <td>&lt; 60%</td> <td>3</td> </tr> </tbody> </table> In addition to the above, if the service level in any month in the six-month period falls below 60%, one (1) additional violation will be added for each such month to the overall violations for this service level.		Performance over the six month Period	Violations for calculation of penalty	< 80% & >= 70%	1	< 70% & >= 60%	2	< 60%	3
Performance over the six month Period	Violations for calculation of penalty									
< 80% & >= 70%	1									
< 70% & >= 60%	2									
< 60%	3									
Datacenter Support Performance	Replacement of hardware equipment shall be done within 15 days of notification by the BSEDC Ltd.. These equipments would have failed on four or more occasions in a period of less than three months or six times in a period of less than twelve months. (Mean Time Between Failure Condition) Severity of Violation: High Each instance of non-meeting this service level will be treated as one (1) violation.									
Datacenter Support	Up to date of the documentation of the design, modifications, enhancements, and fixes.									

Service Level Description	Measurement
Performance	Severity of Violation: Medium This service level will be measured on a half-yearly basis. Each instance of non-meeting this service level will be treated as one (1) violation.

**Reporting**

(a) The below tables gives details on the Service Levels the SI should maintain for client site systems availability.

Service Level Description	Measurement						
Availability and Performance Report	<p>Provide monthly SLA compliance reports, monitoring and maintenance related MIS reports by the 5th of the following month.</p> <p>Severity of Violation: Medium This service level will be monitored on a monthly basis.</p> <p>If the monthly SLA compliance report related to the service level metrics is not provided in the given timeframe, it will be treated as one (1) instance. The total number of instances for the six-month period will be the cumulative number of instances across all the months in the six-month period.</p> <table border="1"> <tr> <td>Total number of instances over the six month period</td> <td>Violations for calculation of penalty</td> </tr> <tr> <td>&gt;0 &amp; &lt;=3</td> <td>1</td> </tr> <tr> <td>&gt; 3</td> <td>2</td> </tr> </table>	Total number of instances over the six month period	Violations for calculation of penalty	>0 & <=3	1	> 3	2
Total number of instances over the six month period	Violations for calculation of penalty						
>0 & <=3	1						
> 3	2						

**Credits for Successful Application Uptake**

The below tables give details of the credits that can be gained by the SI for successful uptake of the application in the State. The credits will not be calculated for the first reporting period.

Service Level Description	Measurement
CCTNS Uptake	<p>The following metrics will be measured at the end of each reporting period for each District that has been declared as “Go Live”:</p> <ol style="list-style-type: none"> <li>Number of key transactions carried through internet (ex: Transactional such as submitting an application for a no-objection certificate and Informational such a requesting the status of a case)</li> <li>Number of active users profiles in CCTNS</li> <li>Number of read-write transactions on CCTNS system</li> <li>Number of Searches carried out on data in CCTNS</li> <li>Total number of FIRs prepared through CCTNS</li> <li>Total number of Crime Details Forms prepared through CCTNS</li> <li>Total number of Key Investigation Forms prepared through CCTNS</li> <li>Total number of Arrest Cards prepared through CCTNS</li> <li>Total number of Charge Sheets prepared through CCTNS</li> <li>Quality (recency and accuracy) of information available in CCTNS</li> <li>Number of cases reported to be solved because of the availability of CCTNS</li> </ol>



Service Level Description	Measurement								
	10. Number of ad-hoc requests successfully responded to using CCTNS 13. Turnaround Time for submitting the monthly and annual crime/criminal information to NCRB from state  A credit will be gained for each of the above parameters if the uptake for that parameter shows significant improvement. The following table applies for each of the above parameters:								
	<table border="1"> <thead> <tr> <th>% increase over the measurement in the last reporting period</th> <th>Credits</th> </tr> </thead> <tbody> <tr> <td>&gt;5 &amp; &lt;=10%</td> <td>2</td> </tr> <tr> <td>&gt;10 &amp; &lt;=15%</td> <td>3</td> </tr> <tr> <td>&gt; 15%</td> <td>4</td> </tr> </tbody> </table>	% increase over the measurement in the last reporting period	Credits	>5 & <=10%	2	>10 & <=15%	3	> 15%	4
% increase over the measurement in the last reporting period	Credits								
>5 & <=10%	2								
>10 & <=15%	3								
> 15%	4								

**Violations and Associated Penalties**

- (a) The primary intent of Penalties is to ensure that the system performs in accordance with the defined service levels. Penalties are not meant to be punitive or, conversely, a vehicle for additional fees.
- (b) A six monthly performance evaluation will be conducted using the six monthly reporting periods of that period.
- (c) **Penalty Calculations:** The framework for Penalties, as a result of not meeting the Service Level Targets are as follows:
  - (i) The performance will be measured for each of the defined service level metric against the minimum / target service level requirements and the violations will be calculated accordingly.
  - (ii) The number of violations in the reporting period for each level of severity will be totaled and used for the calculation of Penalties.
    - If the total number of credits gained by the SI is lower than the total number of high severity violations in the reporting period, the total number of credits will be subtracted from the total number of High Severity Violations in the reporting period for the calculation of Penalties.
    - If the total number of credits gained by the SI is higher than the total number of high severity violations in the reporting period, the resultant total number of high severity violations in the reporting period for calculation of penalties will be considered as zero (0).
  - (iii) Penalties applicable for each of the high severity violations are two (2) % of respective half yearly payment to the SI.
  - (iv) Penalties applicable for each of the medium severity violations are one (1%) of respective half yearly payment to the SI.
  - (v) Penalties applicable for each of the low severity violations is half percentage (0.5%) of respective half yearly payment to the SI.
  - (vi) Penalties applicable for not meeting a **high (H) critical** performance target in two consecutive half years on same criteria shall result in additional deduction of 5% of the respective half yearly payment to the SI. Penalty shall be applicable separately for each such high critical activity
  - (vii) Penalties applicable for not meeting a **medium (M) critical** performance target in two consecutive half yearly periods on same criteria shall result in additional deduction of 3% of

the respective half yearly payment to the SI. Penalty shall be applicable separately for each such medium critical activity

## 5 Annexure

### 5.1 Annexure-A: Format for Change Control Note (CCN)

Change Control Note		CCN No.
<b>Part A: Initiation</b>		
Title		
Originator:		
Sponsor		
Date of Initiation:		
<b>Details of proposed change</b>		
(Identify attachments as A <sub>1</sub> , A <sub>2</sub> , A <sub>3</sub> etc. to provide reason for change or appropriate details / specification)		
Authorized by BSEDC Ltd.		Date:
Name:		
Signature:		Date:
Received by the SI		
Name:		
Signature:		
Change Control Note		CCN No.
<b>Part B: Evaluation</b>		
Identify documents as B1, B2,B3 etc. on Changes to Services, charging structure, payment profile, documentation, training, service levels and component working arrangements and any other contractual issue		
<b>Brief description of solution:</b>		
<b>Impact:</b>		
<b>Deliverables:</b>		
<b>Timetable:</b>		
Charges for implementation:		
Other relevant information:		
Authorized by System Integrator		Date:
Name:		
Signature:		
Change Control Note		CCN No.
<b>Part C: Authority to proceed</b>		
Implementation of this CCN as submitted in Part A, in accordance with Part B is:		(tick as appropriate)
<b>Approved</b>		
<b>Rejected:</b>		(Required information on: )
<b>For BSEDC Ltd.</b>		<b>For Implementation partner</b>
Signature:		Signature:
Name:		Name:
Title:		Title:
Date:		Date: