

**REQUEST FOR PROPOSAL**  
**Volume - III**  
**Master Service Agreement**

Selection of Implementation Agency  
for

Development, Implementation and Maintenance of  
Social Protection Delivery Platform (SPDP) in Odisha

**(RFP Ref. No. OCAC-SEGP-SPD-0023-2020-21041)**



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# **1 Definition and Interpretation**

## **1.1 Definition**

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

## **1.2 Interpretation**

In this Agreement, unless otherwise specified:

- references to Clauses, Sub-Clauses, Paragraphs, Schedules and Annexure are to clauses, subclauses, paragraphs, schedules and annexure to this Agreement.
- references to a “company” shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established.
- 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).
- a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted.
- any reference to a “day” (including within the phrase „business day”) shall mean a period of 24 hours running from midnight to midnight.
- references to a “business day” shall be construed as a reference to a day (other than a Sunday) on which banks in the state of Odisha are generally open for business.
- references to times are to Indian Standard Time.
- a reference to any other document referred to in this Agreement is a reference to that other document as amended, varied, novated or supplemented at any time; and
- All headings and titles are inserted for convenience only. They are to be ignored in the interpretation of this Agreement.

## **1.3 Measurements and Arithmetic Conventions**

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

## **1.4 Ambiguities within Agreement**

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

- 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.
- as between the provisions of this Agreement and the Schedules/Annexure, the Agreement shall prevail, save and except as expressly provided otherwise in the Agreement or the Schedules/Annexure; and
- As between any value written in numerals and that in words, the value in words shall prevail.

## **1.5 Priority of Documents**

This Agreement, including its Schedules and Annexure, 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:

- This Agreement along with the Schedules and Annexure.
- Request for Proposal and Addendum/Corrigendum to the Request for Proposal (if any) are integral part of this agreement.

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 RFP.

## **2 Scope of the Project**

The Scope of work has been detailed out in Volume II of the RFP. The same needs to be reproduced in the Contract or reference is provided in the contract.

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

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

Detailed scope of work for the selected bidder is as per section 6 of Volume II of the RFP.

## **3 Term and Duration of the Agreement**

This Agreement shall come into effect on <<MM-DD-YYYY> (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 OCAC or its nominated agencies.

## **4 Conditions Precedent & Effective Date**

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

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

### **4.2 Conditions Precedent of the Implementation Agency (IA)**

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

- to provide a Performance Security/Guarantee and other guarantees/ payments as and when required to OCAC or its nominated agencies; and
- to provide OCAC 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 IA.

#### **4.3 Conditions Precedent of OCAC**

OCAC shall be required to fulfil the Conditions Precedent in which is as follows:

- Handing over of site
- Necessary clearances
- Approval of the project by a Competent Authority, etc.

For the avoidance of doubt, it is expressly clarified that the obligations of the Parties except the financial obligations of OCAC or its nominated agencies under this Agreement shall commence from the fulfilment of the Conditions Precedent as set forth above.

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

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

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

In the event that any of the Conditions Precedent of the IA have not been fulfilled within 30 days of signing of this Agreement and the same have not been waived fully or partially by OCAC or its nominated agencies, this Agreement shall cease to exist. In the event that the Agreement fails to come into effect on account of non-fulfilment of the IA's Conditions Precedent, OCAC or its nominated agencies shall not be liable in any manner whatsoever to the Implementation Agency and OCAC shall forthwith forfeit the Performance Guarantee.

In the event that possession of any of OCAC or its nominated agencies facilities has been delivered to the IA prior to the fulfilment of the Conditions Precedent, upon the termination of this Agreement such shall immediately revert to OCAC or its nominated agencies, free and clear from any encumbrances or claims.

### **5 Representations and Warranties**

#### **5.1 Representations and warranties of the IA**

The IA represents and warrants to OCAC or its nominated agencies that:

- 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.
- it is a competent provider of a variety of information technology and business process management services.

- it has taken all necessary corporate and other actions under laws applicable to its business to authorize the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement.
- from the Effective Date, it will have the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement.
- in providing the Services, it shall use reasonable endeavours not to cause any unnecessary disruption to OCAC normal business operations.
- 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;
- 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;
- 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;
- there are no material actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its material obligations under this Agreement;
- 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;
- 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 OCAC 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
- 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 OCAC or its nominated agencies in connection therewith.

## **5.2 Representations and warranties of OCAC or its Nominated Agencies**

OCAC or its nominated agencies represent and warrant to the <<Implementation Agency>>; that:

- 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;



- 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;
- it has the financial standing and capacity to perform its obligations under the Agreement;
- 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;
- 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;
- 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;
- 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;
- 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 OCAC 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;
- it has complied with Applicable Laws in all material respects;
- 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
- Upon the <<Implementation Agency>>; performing the covenants herein, it shall not at any time during the term hereof, interfere with peaceful exercise of the rights and discharge of the obligations by the << Implementation Agency >> in accordance with this Agreement.

## **6 Obligations of OCAC or its Nominated Agencies**

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

- To provide any support through personnel to test the system during the Term.
- 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;
- OCAC shall provide the data (including in electronic form wherever available) to be migrated.
- To authorize the << Implementation Agency >> to interact for implementation of the Project with external entities such as the state treasury, authorized banks, trademark database etc.

## **7 Obligations of the Implementation Agency**

- It shall provide to OCAC or its nominated agencies, the Deliverables as set out in Annexure B of this Agreement.
- It shall perform the Services as set out in this Agreement and in a good 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.
- It shall ensure that the Services are being provided as per the project timelines set out as Annexure B to this Agreement.

## **8 Approvals and Required Consents**

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

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

## **9 Use of assets by the <<Implementation Agency>>**

During the Term the <<Implementation Agency>> shall:

- take all reasonable and proper care of the entire hardware and software, network or any other information technology infrastructure components used for the Project and other facilities leased / owned / operated by the <<Implementation Agency>>; exclusively in terms of ensuring their usability for the delivery of the Services as per this Agreement (hereinafter the "Assets") in proportion to their use and control of such Assets; and
- keep all the tangible Assets in as good and serviceable condition (reasonable wear and tear excepted) as at the date the <<Implementation Agency>> takes control of and/or first uses the Assets and during the entire term of the Agreement.
- ensure that any instructions or manuals supplied by the manufacturer of the Assets for use of the Assets and which are provided to the <<Implementation Agency>> will be followed by the <<Implementation Agency>> and any person who will be responsible for the use of the Assets;
- take such steps as may be properly recommended by the manufacturer of the Assets and notified to the <<Implementation Agency>> or as may, in the reasonable opinion of the Implementation Agency, be necessary to use the Assets in a safe manner;

- ensure that the Assets that are under the control of the <<Implementation Agency>> are kept suitably housed and in conformity with applicable law.
- procure permission from OCAC 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;
- 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.

## **10 Access to OCAC or its Nominated Agencies Locations**

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

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

Access to locations, office equipments and services shall be made available to the <<Implementation Agency>>; on an “as is, where is” basis by OCAC as the case may be or its nominated agencies. The <<Implementation Agency>> agrees to ensure that its employees and agents shall not use the location, services and equipment referred to in RFP for the following purposes:

- for the transmission of any material which is defamatory, offensive or abusive or of an obscene or menacing character; or
- 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).

## **11 Management Phase**

### **11.1 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.

### **11.2 Use of Services**

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

### 11.3 Changes

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

### 11.4 Security and Safety

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

### 11.5 Cooperation

Except as otherwise provided elsewhere in this Agreement or the SLA, each Party (**“Providing Party”**) to this Agreement or to the SLA undertakes promptly to provide the other Party (**“Receiving Party”**) with all such information and co-operation which the Receiving Party reasonably requests, provided that such information and co-operation:

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

## 12 Financial Matters

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

- In consideration of the Services and subject to the provisions of this Agreement and of the SLA, OCAC shall pay the <<"Implementing Agency">>; for the Services rendered in pursuance of this agreement, in accordance with the Terms of Payment Schedule set out in this Agreement.
- 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 OCAC will pay the service credits as stated in accordance with the Schedule VI of this Agreement and OCAC 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 <<"Implementing Agency">>; to meet the Service Level as defined in SLA. OCAC (on request from successful bidders) can look at having a separate mechanism for settling penalties/service credits rather than the set off against the invoice as this could revenue recognition issues. However, the successful bidder has to ensure that such settlement happens within a stipulated timeframe]
- Save and except as otherwise provided for herein or as agreed between the Parties in writing, OCAC shall not be required to make any payments in respect of the Services (or, without limitation to the foregoing, in respect of the <<"Implementing Agency">>; 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.

### 12.2 Invoicing and Settlement

- Subject to the specific terms of the SLA, the <<"Implementing Agency">>; shall submit its invoices in accordance with the following principles:
- OCAC shall be invoiced by the <<"Implementing Agency">>; for the Services. Generally and unless otherwise agreed in writing between the Parties or expressly set out in the SLA, the <<"Implementing Agency">> shall raise an invoice as per Schedule VI of this Agreement; and
- Any invoice presented in accordance with this Article shall be in a form agreed with OCAC.
  - The <<"Implementing Agency">>; 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 <<"Implementing Agency">>; shall waive any charge for a Service that is not invoiced within six months after the end of the month in which the change relating to such Service is (i) authorized or (ii) incurred, whichever is later.

- OCAC shall be entitled to delay or withhold payment of any invoice or part of it delivered by the <<“Implementing Agency”>>; under Schedule VI of this Agreement where OCAC 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 OCAC under this Clause shall not entitle the <<“Implementing Agency”>>; to delay or withhold provision of the Services.
  - OCAC shall be entitled to delay or withhold part of the payment of any invoice which is under a dispute. 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 OCAC under this Clause shall not entitle the <<“Implementing Agency”>>; to delay or withhold provision of the Services.

### 12.3 Tax

- OCAC or its nominated agencies shall be responsible for withholding taxes from the amounts due and payable to the <<“Implementing Agency”>>; wherever applicable.
- The <<“Implementing Agency”>>; shall pay for all other taxes in connection with this Agreement, SLA, scope of work and any other engagement required to be undertaken as a part of this Agreement, including, but not limited to, property, sales, use, excise, value-added, goods and services, consumption and other similar taxes or duties.
- OCAC or its nominated agencies shall provide <<“Implementing Agency”>>; with the original tax receipt of any withholding taxes paid by OCAC or its nominated agencies on payments under this Agreement. The <<“Implementing Agency”>>; agrees to reimburse and hold OCAC 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 OCAC or its nominated agencies and the <<“Implementing Agency”>>.
- If, after the date of this Agreement, there is any change of rate of levy under the existing applicable laws of India with respect to taxes and duties, which are directly payable by OCAC for providing the services i.e. service tax or any such other applicable tax from time to time, which increase or decreases the cost incurred by the SI in performing the Services, then the remuneration and reimbursable expense otherwise payable to OCAC under this Agreement shall be increased or decreased accordingly by correspondence between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Schedule VI. However, in case of any new or fresh tax or levy imposed after submission of the proposal the <<“Implementing Agency”>>; shall be entitled to reimbursement on submission of proof of payment of such tax or levy.
- 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:
  - any resale certificates.

- o any relevant information regarding out-of-state or use of materials, equipment or services; and
- o Any direct pay permits, exemption certificates or information reasonably requested by the other Party.

## 13 Termination

### 13.1 Material Breach

- 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, OCAC or <<"Implementing Agency">> as the case may be will have the option to terminate the Agreement. Any notice served pursuant to this Clause shall give reasonable details of the Material Breach, which could include the following events and the termination will become effective:
- If the <<"Implementing Agency">>; is not able to deliver the services as per the SLAs defined in RFP which translates into Material Breach, then OCAC may serve a 30 days written notice for curing this Material Breach. In case the Material Breach continues, after the expiry of such notice period, OCAC will have the option to terminate this Agreement. Further, OCAC may after affording a reasonable opportunity to the <<"Implementing Agency">>; to explain the circumstances leading to such a breach.
- If there is a Material Breach by OCAC or its nominated agencies which results in not providing support for effecting data migration or not providing the certification of User Acceptance, and / or failing to make payment of undisputed amount within 30 from date of submission of invoice, then the <<"Implementing Agency">>; will give a one month's notice for curing the Material Breach to OCAC. After the expiry of such notice period, the <<"Implementing Agency">> will have the option to terminate the Agreement
- OCAC may by giving a one month's written notice, terminate this Agreement if a change of control of the <<"Implementing Agency">>; has taken place.
- In the event that <<"Implementing Agency">>; undergoes such a change of control, OCAC may, as an alternative to termination, require a full Performance Guarantee for the obligations of <<"Implementing Agency">>; by a guarantor acceptable to OCAC or its nominated agencies. If such a guarantee is not furnished within 30 days of OCAC demand, OCAC may exercise its right to terminate this Agreement in accordance with this Clause by giving 15 days further written notice to the <<"Implementing Agency">>;.
- The termination provisions set out in this Clause shall apply mutatis mutandis to the SLA.

### 13.2 Effects of termination

- In the event that OCAC terminates this Agreement pursuant to failure on the part of the <<"Implementing Agency">>; to comply with the conditions as contained in this Clause and depending on the event of default, Performance Guarantee furnished by <<"Implementing Agency">>; may be forfeited.
- Upon termination of this Agreement, the Parties will comply with the Exit Management Schedule set out as Schedule III of this Agreement.

- In the event that OCAC or the <<"Implementing Agency">>; terminates this Agreement, the compensation will be decided in accordance with the Terms of Payment Schedule set out as Schedule VI of this Agreement.
- OCAC agrees to pay <<"Implementing Agency">>; for I) all charges for Services <<"Implementing Agency">>; provides and any Deliverables and/or system (or part thereof) <<"Implementing Agency">>; delivers through termination, and ii) reimbursable expenses <<"Implementing Agency">>; incurs through termination. If OCAC terminates without cause, OCAC also agrees to pay any applicable adjustment expenses <<"Implementing Agency">>; incurs as a result of such termination (which <<"Implementing Agency">>; will take reasonable steps to mitigate).

### **13.3 Termination of this Agreement due to bankruptcy of <<"Implementing Agency">>;**

OCAC may serve written notice on <<"Implementing Agency">>; at any time to terminate this Agreement with immediate effect in the event that the <<"Implementing Agency">> reporting an apprehension of bankruptcy to OCAC or its nominated agencies

## **14 Indemnification & Limitation of Liability**

Subject to clauses below, <<'Implementing Agency'>> (the "Indemnifying Party") undertakes to indemnify OCAC (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 negligence or wilful default in performance or non-performance under this Agreement. If the Indemnified Party promptly notifies Indemnifying Party in writing of a third party claim against Indemnified Party that any Service provided by the Indemnifying Party infringes a copyright, trade secret or patents incorporated in India of any third party, Indemnifying Party will defend such claim at its expense and will pay any costs or damages that may be finally awarded against Indemnified Party. Indemnifying Party will not indemnify the Indemnified Party, however, if the claim of infringement is caused by:

Indemnified Party's misuse or modification of the Service.

- (a) Indemnified Party's failure to use corrections or enhancements made available by the Indemnifying Party.
- (b) Indemnified Party's use of the Service in combination with any product or information not owned or developed by Indemnifying Party.
- (c) Indemnified Party's distribution, marketing or use for the benefit of third parties of the Service; or
- (d) Information, direction, specification or materials provided by Indemnified Party or any third party contracted to it. If any Service is or likely to be held to be infringing, Indemnifying Party shall at its expense and option either
  - (i) procure the right for Indemnified Party to continue using it,
  - (ii) replace it with a non-infringing equivalent,
  - (iii) modify it to make it non-infringing. The foregoing remedies constitute Indemnified Party's sole and exclusive remedies and Indemnifying Party's entire liability with respect to infringement.

The indemnities set out above shall be subject to the following conditions:



- 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.
- the Indemnified Party shall, at the cost of the Indemnifying Party, give the Indemnifying Party all reasonable assistance in the Defence 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 Defence;
- if the Indemnifying Party does not assume full control over the Defence of a claim as provided in this Article, the Indemnifying Party may participate in such Defence 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;
- 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;
- all settlements of claims subject to indemnification under this Clause will:
  - 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
  - include any appropriate confidentiality agreement prohibiting disclosure of the terms of such settlement.
- 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.
- 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.
- in the event that the Indemnifying Party is obligated to indemnify an Indemnified Party pursuant to this Article, the Indemnifying Party will, upon payment of such indemnity in full, be subrogated to all rights and defences of the Indemnified Party with respect to the claims to which such indemnification relates; and
- if a Party makes a claim under the indemnity set out 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).

The liability of <<"Implementing Agency">>; (whether in contract, tort, negligence, strict liability in tort, by statute or otherwise) for any claim in any manner related to this Agreement, including the work, deliverables or Services covered by this Agreement, shall be the payment of direct damages only which shall in no event in the aggregate exceed the amount specified in the contract.

In no event shall either party be liable for any consequential, incidental, indirect, special or punitive damage, loss or expenses (including but not limited to business interruption, lost business, lost profits, or lost savings) nor for any third party claims even if it has been advised of their possible existence.

The allocations of liability in this Section 14 represent the agreed and bargained-for understanding of the parties and compensation for the Services reflects such allocations. Each Party has a duty to mitigate the damages and any amounts payable under an indemnity that would otherwise be

recoverable from the other Party pursuant to this Agreement by taking appropriate and commercially reasonable actions to reduce or limit the amount of such damages or amounts.

## 15 Force Majeure

### 15.1 Definition of Force Majeure

The <<"Implementing Agency">>; or OCAC 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").

### 15.2 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:

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

#### Such events include: Non-Political Events

- 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.
- radioactive contamination or ionizing radiation or biological contamination except as may be attributable to the <<"Implementing Agency">>;'s use of radiation or radio-activity or biologically contaminating material;
- 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 <<"Implementing Agency">>; and which affect the timely implementation and continued operation of the Project; or
- Any event or circumstances of a nature analogous to any of the foregoing.

#### Political Events

- Change in Law, other than any Change in Law for which relief is provided under this Agreement.
- expropriation or compulsory acquisition by OCAC or any of their nominated agencies of any material assets or rights of the <<"Implementing Agency">>;;
- unlawful or unauthorised revocation of, or refusal by OCAC or any of their nominated agencies, GoI or any of its agencies to renew or grant any clearance or Required Consents required by the <<"Implementing Agency">>; to perform its obligations without valid cause, provided that such delay, modification, denial, refusal or revocation did not result from the <<"Implementing Agency">>;'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;
- any judgment or order of any court of competent jurisdiction or statutory authority in India made against the <<"Implementing Agency">> in any proceedings for reasons other

than failure of the <<“Implementing Agency”>>; 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;

- expropriation or compulsory acquisition by OCAC or any of their nominated agencies of any material assets or rights of the <<“Implementing Agency”>>;;
- unlawful or unauthorized revocation of, or refusal by any authority other than OCAC or any of their nominated agencies to renew or grant any Required Consents required by the
- <<“Implementing Agency”>> to perform its obligations without valid cause, provided that such delay, modification, denial, refusal or revocation did not result from the <<“Implementing Agency”>>;’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;
- any requisition of the Project by any other authority; or
- Any requisition of the Project by OCAC or any of their nominated agencies.
- 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 <<“Implementing Agency”>>; under this Agreement or the SLA to implement any disaster contingency planning and back-up and other data safeguards in accordance with the terms of this Agreement or the SLA against natural disaster, fire, sabotage or other similar occurrence shall not be deemed to be a Force Majeure event. For the avoidance of doubt, it is further clarified that any negligence in performance of Services which directly causes any breach of security like hacking aren’t the forces of nature and hence wouldn’t be qualified under the definition of “Force Majeure”. In so far as applicable to the performance of Services, Service Provider will be solely responsible to complete the risk assessment and ensure implementation of adequate security hygiene, best practices, processes and technology to prevent any breach of security and any resulting liability there from (wherever applicable).

### **15.3 Notification procedure for Force Majeure**

- 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
- 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.

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

- 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.

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 Agency”>>; and to the extent Force Majeure costs exceed such Insurance Cover, one half of such excess amount shall be reimbursed by OCAC to the <<“Implementing Agency”>>; (optional clause – to be used, if relevant.)
- Upon occurrence of a Political Event, all Force Majeure Costs attributable to such Political Event shall be reimbursed by OCAC to the <<“Implementing Agency”>> 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.

### **15.5 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.

## **16 Confidentiality**

- I. OCAC or its nominated agencies shall allow the <<“Implementing Agency”>> to review and utilize highly confidential public records and the <<“Implementing Agency”>>; shall maintain the highest level of secrecy, confidentiality and privacy with regard thereto.
- II. Additionally, the <<“Implementing Agency”>>; shall keep confidential all the details and information with regard to the Project, including systems, facilities, operations, management and maintenance of the systems/facilities.
- III. OCAC or its nominated agencies shall retain all rights to prevent, stop and if required take the necessary punitive action against the <<“Implementing Agency”>>; regarding any forbidden disclosure..
- IV. The <<“Implementing Agency”>> shall ensure that all its employees and agents execute individual non-disclosure agreements, which have been duly approved by OCAC with respect to this Project. (Optional)

- V. 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 <<“Implementing Agency”>>;
  - 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.

## **17 Audit, Access and Reporting**

The <<“Implementing Agency”>> shall allow access to OCAC or its nominated agencies to all information which is in the possession or control of the <<“Implementing Agency”>>; and which relates to the provision of the Services as set out in the Audit, Access and Reporting Schedule and which is reasonably required by OCAC to comply with the terms of the Audit, Access and Reporting Schedule set out as Schedule IV of this Agreement.

## **18 Intellectual Property Rights**

Subject to terms of this Agreement, <<Implementing Agency>> hereby grants OCAC perpetual and non-transferable rights to use the solution developed and any deliverable solely for the purpose of this agreement. <<Implementing Agency>> will share the source code of deployed solution with OCAC. <<Implementing Agency>> will provide all solution upgrades, enhancements, and functionalities during the contract period free of cost. Except for rights expressly granted under this agreement, each party will retain exclusive interest in, and ownership of its intellectual property developed before this agreement or developed outside of this agreement. Any intellectual property developed solely by a party under this agreement without the participation of the other party is and will remain the sole and exclusive property of the developing party.

## **19 Warranty**

### **19.1 Standard:**

The <<“Implementing Agency”>> warrants that the Project, including all the system(s) and other Services provided, shall be free from any defect or deficiency in the material, design, engineering, and performance/workmanship that prevent the Project and/or any of its systems(s) from fulfilling the technical requirements or that limit in a material fashion the performance, reliability, or extensibility of the Project and/or any of its system(s) as per the performance guarantee / warranty period defined in the Schedule. If during the warranty period any defect or deficiency is found in the material, design and performance/workmanship of the Project and other Services provided by the <<“Implementing Agency”>>, the <<“Implementing Agency”>> shall promptly, in consultation and agreement with OCAC, and at the <<“Implementing Agency”>>’s sole cost repair, replace, or otherwise make good (as the <<“Implementing Agency”>> shall, at its discretion, determine) such default, defect or deficiency as well as any damage to the Project caused by such default, defect or deficiency.

Any defective system that has been replaced by the <<“Implementing Agency”>> shall remain the property of the <<“Implementing Agency”>>. If the Project or any of its System cannot be used by reason of such default, defect or deficiency and/or making good of such default, defect or deficiency, the warranty period for the Project shall be extended by a period equal to the period during which the Project or any of its system could not be used by OCAC because of such defect and/or making good of such default, defect or deficiency.

## **19.2 Implied Warranty:**

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

The <<"Implementing Agency">>; shall have no liability in the case of breach of this warranty due to (i) use of the deliverables on any environment (hardware or software) other than the environment recommended or approved by the <<"Implementing Agency">>;, (ii) the combination, operation, or use of some or all of the deliverables with information, software, specifications, instructions, data, or materials not approved by the <<"Implementing Agency">>;, (iii) the deliverables having been tampered with, altered or modified by OCAC without the written permission of the <<"Implementing Agency">>;, or (iv) use of the deliverables otherwise than in terms of the relevant documentation.

## **20 Liquidated Damages**

Time is the essence of the Agreement and the delivery dates are binding on the <<"Implementing Agency">> In the event of delay or any gross negligence, for causes attributable to the Implementing Agency, in meeting the deliverables, OCAC shall be entitled at its option to recover from the <<"Implementing Agency">> as agreed, liquidated damages, a sum of 0.5% of the value of the deliverable which suffered delay or gross negligence for each completed week or part thereof subject to a limit of 5% of the relevant deliverable value.

## **21 Insurance Cover**

### **21.1 Obligation to maintain insurance**

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

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

- public liability.
- either professional indemnity or errors and omissions.
- product liability.
- workers" compensation as required by law; and
- any additional types specified in Schedule I; and

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

### **21.2 Certificates of currency**

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

### **21.3 Non-compliance**

OCAC or its nominated agencies may, at its election, terminate this Agreement upon the failure of <<"Implementing Agency">>, or notification of such failure, to maintain the required insurance coverage. Inadequate insurance coverage for any reason shall not relieve <<"Implementing Agency">>; of its obligations under this Agreement.

## 22 Miscellaneous

### 22.1 Personnel

- (a) The personnel assigned by <<"Implementing Agency">>; to perform the Services shall be employees of <<"Implementing Agency">>; and under no circumstances shall such personnel be considered employees of OCAC or its nominated agencies. The <<"Implementing Agency">>; shall have the sole responsibility for the supervision and control of the personnel deployed in the Project and for payment of such personnel's compensation, including salary, withholding of income taxes and social security taxes, worker's compensation, employee and disability benefits and the like and shall be responsible for all obligations of an employer subject to Applicable Law.
- (b) The <<"Implementing Agency">> shall use its best efforts to ensure that sufficient <<"Implementing Agency">>; personnel are assigned to perform the Services and that such personnel have appropriate qualifications to perform the Services. After discussion with <<"Implementing Agency">>;, OCAC or its nominated agencies shall have the right to require the removal or replacement of any <<"Implementing Agency">>; personnel performing work under this Agreement based on bonafide reasons. In the event that OCAC or its nominated agencies requests that any <<"Implementing Agency">>; personnel be replaced, the substitution of such personnel shall be accomplished pursuant to a mutually agreed upon schedule.
- (c) In the event that OCAC and <<"Implementing Agency">> identify any personnel of <<"Implementing Agency">>; as "Key Personnel", then the <<"Implementing Agency">>; shall not remove such personnel from the Project without the prior written consent of OCAC or its nominated agencies unless such removal is the result of an unavoidable circumstance including but not limited to resignation, termination, medical leave, etc.
- (d) Except as stated in this Clause, nothing in this Agreement or the SLA will limit the ability of <<"Implementing Agency">>; to freely assign or reassign its employees; provided that <<"Implementing Agency">>; shall be responsible, at its expense, for transferring all appropriate knowledge from personnel being replaced to their replacements. OCAC or its nominated agencies shall have the right to review and approve <<"Implementing Agency">>;'s plan for any such knowledge transfer. <<"Implementing Agency">>; shall maintain the same or higher standards for skills and professionalism among replacement personnel as in personnel being replaced.
- (e) Each Party shall be responsible for the performance of all its obligations under this Agreement or the SLA as the case may be and shall be liable for the acts and omissions of its employees and agents in connection therewith.
- (f) Neither Party will solicit for employment or knowingly hire an employee of the other Party with whom such Party has contact pursuant to project engagements under this Agreement. This restriction shall not apply to employees of either Party responding to advertisements in job fairs or news media circulated to the general public.

### 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.

### 22.3 Assignment

- (a) All terms and provisions of this Agreement shall be binding on and shall inure to the benefit of OCAC and their respective successors and permitted assigns.
- (b) <<"Implementing Agency">> shall not be permitted to assign its rights and obligations under this Agreement to any third party.
- (c) OCAC may assign or novate all or any part of this Agreement and Schedules/Annexure, and the <<"Implementing Agency">>; shall be a party to such novation, to any third party contracted to provide outsourced services to OCAC or any of its nominees.

### 22.4 Trademarks, Publicity

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

### 22.5 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:
  - << Address of Client>>
  - Tel:
  - Fax:
  - Email:
  - Contact:

With a copy to:

  - <<"Implementing Agency">>; 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) when delivered (if delivered in person) if delivered between the hours of 9.00 am and 5.00 pm at the address of the other Party set forth above or if sent by fax, provided the copy fax is accompanied by a confirmation of transmission, or on the next working day thereafter if delivered outside such hours, and 7 days from the date of posting (if by letter).
- (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.

## **22.6 Variations and Further Assurance**

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

## **22.7 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.

## **22.8 Compliance with Applicable Law**

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

## **22.9 Professional Fees**

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

## **22.10 Ethics**

The <<"Implementing Agency">> represents, warrants and covenants that it has given no commitments, payments, gifts, kickbacks, lavish or expensive entertainment, or other things of value to any employee or agent of OCAC 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 OCAC standard policies and may result in cancellation of this Agreement, or the SLA.

## **22.11 Entire Agreement**

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

## **22.12 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.

## **23 Governing Law and Dispute Resolution**

- I. This Agreement shall be governed by and construed in accordance with the laws of India, without giving effect to conflict of law rules. The parties expressly agree to exclude the application of the U.N. Convention on Contracts for the International Sale of Goods (1980) to this Agreement and the performance of the parties contemplated under this Agreement, to the extent that such convention might otherwise be applicable.
- II. 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.
- III. In case the escalations do not help in resolution of the problem within 3 weeks of escalation, both the parties should agree on a mediator for communication between the two parties. The process of the mediation would be as follows:
  - a. Aggrieved party should refer the dispute to the identified mediator in writing, with a copy to the other party. Such a reference should contain a description of the nature of the dispute, the quantum in dispute (if any) and the relief or remedy sought suitable.
  - b. The mediator shall use his best endeavours to conclude the mediation within a certain number of days of his appointment.
  - c. If no resolution can be reached through mutual discussion or mediation within 30 days then the matter should be referred to Experts for advising on the issue.
- IV. In case the mediation does not help in resolution and it requires expertise to understand an issue, a neutral panel of 3 experts, agreeable to both parties should be constituted. The process of the expert advisory would be as follows:

- a. Aggrieved party should write to the other party on the failure of previous alternate dispute resolution processes within the timeframe and requesting for expert advisory. This is to be sent with a copy to the mediator.
  - b. Both parties should thereafter agree on the panel of experts who are well conversant with the issue under dispute
  - c. The expert panel shall use his best endeavors to provide a neutral position on the issue.
  - d. If no resolution can be reached through the above means within 30 days then the matter should be referred to Arbitration.
- V. Any dispute or difference whatsoever arising between the parties to this Contract out of or relating to the construction, meaning, scope, operation or effect of this Contract or the validity of the breach thereof shall be referred to a sole Arbitrator to be appointed by mutual consent of both the parties herein. If the parties cannot agree on the appointment of the Arbitrator within a period of one month from the notification by one party to the other of existence of such dispute, then the Arbitrator shall be appointed by the Honourable High Court of Odisha. 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 Bhubaneswar, Odisha, India. Any legal dispute will come under the sole jurisdiction of Odisha, India.

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

WITNESSES:

Signed by:

(Name and designation) For and on behalf of OCAC

(FIRST PARTY)

Signed by:

(Name and designation)

<<'Implementing

Agency'>>

(SECOND PARTY)

(Name and designation) For and on behalf of <<"Implementing Agency">>;

Signed by:

## Schedules

### SCHEDULE – I – DEFINITIONS

<b>Adverse Effect</b>	<p>means material adverse effect on</p> <p>(a) the ability of the &lt;&lt;“Implementing Agency”&gt;&gt;; to exercise any of its rights or perform/discharge any of its duties/obligations under and in accordance with the provisions of this Agreement and/or</p> <p>(b) the legal validity, binding nature or enforceability of this Agreement;</p>
<b>Agreement</b>	<p>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 RFP;</p>
<b>Applicable Law(s)</b>	<p>means any statute, law, ordinance, notification, rule, regulation, judgment, order, decree, bye-law, approval, directive, guideline, policy, requirement or other governmental restriction or any similar form of decision applicable to the relevant party and as may be in effect on the date of the execution of this Agreement and during the subsistence thereof, applicable to the Project;</p>
<b>Software</b>	<p>means the software designed, developed / customized, tested and deployed by the &lt;&lt;“Implementing Agency”&gt;&gt;; for the purposes of the Project and includes the source code (in case of Bespoke development) along with associated documentation, which is the work product of the development efforts involved in the Project and the improvements and enhancements effected during the term of the Project, but does not include the third party software products (including the COTS products used for the product), proprietary software components and tools deployed by the &lt;&lt;“Implementing Agency”&gt;&gt;;</p>
<b>Confidential Information</b>	<p>means all information including OCAC Data (whether in written, oral, electronic or other format) which relates to the technical, financial and business affairs, dealers, suppliers, products, developments, operations, processes, data, trade secrets, design rights, know-how, plans, budgets and personnel of each Party and its affiliates which is disclosed to or otherwise learned by the other Party in the course of or in connection with this Agreement (including without limitation such information received during negotiations, location visits and meetings in connection with this Agreement);</p>
<b>Control</b>	<p>means, in relation to any business entity, the power of a person to secure</p> <p>(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</p> <p>(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;</p>

<b>Deliverables</b>	means the services agreed to be delivered by the <<“Implementing Agency”>>; in pursuance of the agreement as defined more elaborately in the RFP, Implementation and the Maintenance phases and includes all documents related to the user manual, technical manual, design, process and operating manuals, service mechanisms, policies and guidelines (such as security related), inter alia payment and/or process related etc., source code and all its modifications;
<b>OCAC Data</b>	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 <<“Implementing Agency”>>; obtains, possesses or processes in the context of providing the Services to the users pursuant to this Agreement;
<b>User Acceptance Test</b>	After achieving following numbers of transactions, UAT shall deemed to be declared: <ol style="list-style-type: none"> <li>1) 100% of beneficiary data records imported from identified source databases to the unverified database.</li> <li>2) 3 lac SPIDs created.</li> <li>3) 24 no. of identified phase 1 schemes successfully integrated with SPDP.</li> <li>4) 480 no. of user registrations.</li> </ol>
<b>Force Majeure</b>	shall have the same meaning ascribed to it in Clause 15;
<b>Gol</b>	means the Government of India;
<b>Intellectual Property Rights</b>	means all rights in written designs and copyrights, moral rights, rights in databases and Bespoke Software / Pre-existing work including its up- gradation systems and compilation rights (whether or not any of these are registered and including application for registration);
<b>Insurance Cover</b>	<ul style="list-style-type: none"> <li>- Public liability insurance for an insured amount of [INR insert amount] per occurrence and not less than [INR insert amount] in aggregate</li> <li>- Either professional indemnity or errors and omissions insurance for an insured amount of [INR insert amount] per occurrence and not less than [INR insert amount] in aggregate.</li> <li>- Product liability for an insured amount of [INR insert amount] per occurrence and not less than [INR insert amount] in aggregate.</li> <li>- Workers compensation as required by law</li> </ul> <p>[insert amount required of any other type of insurance specified at “additional insurance” definition above]</p>
<b>Additional Insurance</b>	[Insert any additional types of insurance the Service Provider is required to maintain. Otherwise insert “not applicable”]
<b>Material Breach</b>	means a breach by either Party (OCAC or <<“Implementing Agency”>>;) of any of its obligations under this Agreement which has or is likely to have an Adverse Effect on the Project which such Party shall have failed to cure;

<b>Required Deliverables</b>	shall have the same meaning ascribed to it in Annexure B of this Agreement;
<b>Parties</b>	means OCAC and <<“Implementing Agency”>>; for the purposes of this Agreement and “Party” shall be interpreted accordingly;
<b>Performance Guarantee</b>	Means the guarantee provided by a Nationalized Bank in favour of the <<“Implementing Agency”>>;. The amount of Performance Security shall be 10% of the overall cost of the project. This performance security shall be valid for stipulated period of the project plus 90 days;
<b>Planned Application Downtime</b>	means the unavailability of the application services due to maintenance activities such as configuration changes, up gradation 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 OCAC as applicable;
<b>Project Timelines</b>	shall have the same meaning ascribed to in Annexure B;
<b>Replacement &lt;&lt;‘Implementing Agency’&gt;&gt;</b>	means any third party that OCAC or its nominated agencies appoint to replace <<“Implementing Agency”>>; upon expiry of the Term or termination of this Agreement to undertake the Services or part thereof;
<b>Required Consents</b>	means the consents, waivers, clearances and licenses to use OCAC Intellectual Property Rights, rights and other authorizations as may be required to be obtained for the software and other items that OCAC or their nominated agencies are required to make available to <<“Implementing Agency”>>; pursuant to this Agreement;
<b>Services</b>	means the services delivered to the Stakeholders of OCAC or its nominated agencies, employees of OCAC or its nominated agencies, and to professionals, using the tangible and intangible assets created, procured, installed, managed and operated by the <<“Implementing Agency”>>; including the tools of information and communications technology and includes but is not limited to the list of services specified in this MSA;
<b>Service Level</b>	means the level of service and other performance criteria which will apply to the Services delivered by the <<“Implementing Agency”>>;
<b>SLA</b>	means the Performance and Maintenance SLA executed as part of this Master Service Agreement;
<b>Stakeholders</b>	means Beneficiaries, OCAC or its nominated agencies, employees and the Departments of State Government;
<b>Term</b>	shall have the same meaning ascribed to it in Clause 3;
<b>Third Party Systems</b>	means systems (or any part thereof) in which the Intellectual Property Rights are not owned by OCAC or <<“Implementing Agency”>> and to which <<“Implementing Agency”>> has been granted a license to use and which are used in the provision of Services;

<b>Unplanned Application Downtime</b>	means the total time for all the instances where services in the software requirement specification document prepared by the <<„Implementing Agency”>> are not available for more than 5 consecutive minutes;
<b>Application Downtime</b>	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;

## **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 <<“Implementing Agency”>>; and changes to the terms of payment as stated in the Terms of Payment Schedule.

OCAC and IA recognize that frequent change is an inevitable part of delivering services and that a significant element of this change can be accomplished by re-organizing processes and responsibilities without a material effect on the cost. The IA will endeavour, wherever reasonably practicable, to effect change without an increase in the terms of payment as stated in the Terms of Payment Schedule and OCAC or its nominated agencies will work with the <<“Implementing Agency”>>; to ensure that all changes are discussed and managed in a constructive manner. This Change Control Schedule sets out the provisions which will apply to all the changes to this agreement and other documents.

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

### **CHANGE MANAGEMENT PROCESS**

#### **1. 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 IA and OCAC or its nominated agencies, during the Project Implementation Phase and OCAC or its nominated agencies during the Operations and Management Phase and while preparing the CCN, shall consider the change in the context of the following parameter, namely whether the change is beyond the scope of Services including ancillary and concomitant services required and as detailed in the RFP and is suggested and applicable only after the testing, commissioning and certification of the Pilot Phase and the Project Implementation Phase as set out in this Agreement.
- It is hereby also clarified here that any change of control suggested beyond 25 % of the value of this Project will be beyond the scope of the change control process and will be considered as the subject matter for a separate bid process and a separate contract. It is hereby clarified that the 25% of the value of the Project as stated in herein above is calculated on the basis of bid value submitted by the <<“Implementing Agency”>>; and

accepted by OCAC or its nominated agencies or as decided and approved by OCAC or its Nominated Agencies.

## **2. QUOTATION**

- The IA shall assess the CCN and complete Part B of the CCN, in completing the Part B of the CCN the IA shall provide as a minimum:
  1. a description of the change
  2. a list of deliverables required for implementing the change.
  3. a timetable for implementation.
  4. an estimate of any proposed change
  5. any relevant acceptance criteria
  6. an assessment of the value of the proposed change.
  6. material evidence to prove that the proposed change is not already covered within the Agreement and the scope of work
- Prior to submission of the completed CCN to OCAC, or its nominated agencies, the Service Provider will undertake its own internal review of the proposal and obtain all necessary internal approvals. As a part of this internal review process, the IA shall consider the materiality of the proposed change in the context of the MSA and the Project Implementation affected by the change and the total effect that may arise from implementation of the change.

## **3. COSTS**

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

## **4. OBLIGATIONS**

The IA shall be obliged to implement any proposed changes once approval in accordance with above provisions has been given, with effect from the date agreed for implementation and within an agreed timeframe. IA will not be obligated to work on a change until the parties agree in writing upon its scope, price and/or schedule impact.

## **SCHEDULE – III - EXIT MANAGEMENT SCHEDULE**

### **1. PURPOSE**

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

### **2. TRANSFER OF ASSETS**

2.1 OCAC shall be entitled to serve notice in writing on the IA at any time during the exit management period as detailed hereinabove requiring the IA to provide OCAC with a complete and up to date list of the Assets within 30 days of such notice. OCAC shall then be entitled to serve notice in writing on the IA at any time prior to the date that is 30 days prior to the end of the exit management period requiring the IA to sell the Assets, if any, to



be transferred to OCAC or its nominated agencies at book value as determined as of the date of such notice in accordance with the provisions of relevant laws.

2.2 In case of contract being terminated by OCAC, OCAC reserves the right to ask IA to continue running the project operations for a period of 6 months after termination orders are issued.

2.3 Upon service of a notice under this Article the following provisions shall apply:

- i. in the event, if the Assets to be transferred are mortgaged to any financial institutions by the IA, the IA shall ensure that all such liens and liabilities have been cleared beyond doubt, prior to such transfer. All documents regarding the discharge of such lien and liabilities shall be furnished to OCAC.
- ii. All risk in and title to the Assets to be transferred / to be purchased by OCAC pursuant to this Article shall be transferred to OCAC, on the last day of the exit management period.
- iii. OCAC shall pay to the IA on the last day of the exit management period such sum representing the Net Block (procurement price less depreciation as per provisions of Companies Act) of the Assets to be transferred as stated in the Terms of Payment Schedule.
- iv. Payment to the outgoing IA shall be made to the tune of last set of completed services / deliverables, subject to SLA requirements.
- v. The outgoing IA will pass on to OCAC and/or to the Replacement IA, the subsisting rights in any leased properties/ licensed products on terms not less favourable to OCAC/ Replacement IA, than that enjoyed by the outgoing IA.

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

3.1 During the exit management period:

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

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

4.1 The <<"Implementing Agency">>; will promptly on the commencement of the exit management period supply to OCAC or its nominated agency the following:

- i. information relating to the current services rendered.
- ii. documentation relating to Computerization Project's Intellectual Property Rights.

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

4.2 Before the expiry of the exit management period, the <<"Implementing Agency">>; shall deliver to OCAC 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 <<"Implementing Agency">>; shall be permitted to retain one copy of such materials for archival purposes only.

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

## 5. EMPLOYEES

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

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

5.3 To the extent that any Transfer Regulation does not apply to any employee of the <<"Implementing Agency">>;, department, or its Replacement <<"Implementing Agency">>; may make an offer of employment or contract for services to such employee of the <<"Implementing Agency">>; and the <<"Implementing Agency">> shall not enforce or impose any contractual provision that would prevent any such employee from being hired by the Chairperson, PIU or any Replacement <<"Implementing Agency">>;.

## 6. TRANSFER OF CERTAIN AGREEMENTS

On request by OCAC or its nominated agency the <<"Implementing Agency">>; shall effect such assignments, transfers, licences and sub-licences as the Chairperson, PIU may require in favour of the Chairperson, PIU, or its Replacement <<"Implementing Agency">>; in relation to any equipment lease, maintenance or service provision agreement between <<"Implementing Agency">>; and third party lessors, vendors, and which are related to the services and reasonably necessary for the carrying out of replacement services by OCAC or its nominated agency or its Replacement <<"Implementing Agency">>;.

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

- 7.1 At any time during the exit management period, where Assets are located at the <<"Implementing Agency">>'s premises, the <<"Implementing Agency">> will be obliged to give reasonable rights of access to (or, in the case of Assets located on a third party's premises, procure reasonable rights of access to) OCAC or its nominated agency and/or any Replacement <<"Implementing Agency">> in order to make an inventory of the Assets.
- 7.2 The <<"Implementing Agency">> shall also give OCAC or its nominated agency or its nominated agencies, or any Replacement <<"Implementing Agency">>; right of reasonable access to the Implementation Partner's premises and shall procure OCAC or its nominated agency or its nominated agencies and any Replacement <<"Implementing Agency">>; rights of access to relevant third party premises during the exit management period and for such period of time following termination or expiry of the MSA as is reasonably necessary to migrate the services to OCAC or its nominated agency, or a Replacement <<"Implementing Agency">>;.

## **8. GENERAL OBLIGATIONS OF THE <<"Implementing Agency">>**

- 8.1 The <<"Implementing Agency">> shall provide all such information as may reasonably be necessary to effect as seamless a handover as practicable in the circumstances to OCAC or its nominated agency or its Replacement <<"Implementing Agency">>; and which the <<"Implementing Agency">> has in its possession or control at any time during the exit management period.
- 8.3 The <<"Implementing Agency">> shall commit adequate resources to comply with its obligations under this Exit Management Schedule.

## **9. EXIT MANAGEMENT PLAN**

- 9.1 The <<"Implementing Agency">> shall provide OCAC or its nominated agency with a recommended exit management plan ("Exit Management Plan") which shall deal with at least the following aspects of exit management in relation to the MSA as a whole and in relation to the Project Implementation, and the Operation and Management SLA.
- i. A detailed program of the transfer process that could be used in conjunction with a Replacement <<"Implementing Agency">>; including details of the means to be used to ensure continuing provision of the services throughout the transfer process or until the cessation of the services and of the management structure to be used during the transfer;
  - ii. (if applicable) proposed arrangements for the segregation of the <<"Implementing Agency">>'s networks from the networks employed by OCAC and identification of specific security tasks necessary at termination;
  - iii. Plans for provision of contingent support to OCAC, and Replacement <<"Implementing Agency">>; for a reasonable period after transfer.
- 9.2 The <<"Implementing Agency">> shall re-draft the Exit Management Plan annually thereafter to ensure that it is kept relevant and up to date.
- 9.3 Each Exit Management Plan shall be presented by the <<"Implementing Agency">>; to and approved by OCAC or its nominated agencies.
- 9.4 The terms of payment as stated in the Terms of Payment Schedule include the costs of the <<"Implementing Agency">>; complying with its obligations under this Schedule.
- 9.5 In the event of termination or expiry of MSA, and Project Implementation, each Party shall comply with the Exit Management Plan.

- 9.6 During the exit management period, the <<"Implementing Agency">>; shall use its best efforts to deliver the services.
- 9.7 Payments during the Exit Management period shall be made in accordance with the Terms of Payment Schedule.
- 9.8 This Exit Management plan shall be furnished in writing to OCAC or its nominated agencies within 90 days from the Effective Date of this Agreement.

## **SCHEDULE – IV AUDIT, ACCESS AND REPORTING**

### **1. PURPOSE**

This Schedule details the audit, access and reporting rights and obligations of OCAC or its nominated agency and the <<"Implementing Agency">>;

### **2. AUDIT NOTICE AND TIMING**

- 2.1 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, OCAC or its nominated agency and thereafter during the operation Phase, OCAC or its nominated agency shall conduct routine audits in accordance with such agreed timetable and shall not be required to give the <<"Implementing Agency">>; any further notice of carrying out such audits.
- 2.2 OCAC or its nominated agency may conduct non-timetabled audits at his/ her own discretion if it reasonably believes that such non-timetabled audits are necessary as a result of an act of fraud by the <<"Implementing Agency">>;, a security violation, or breach of confidentiality obligations by the <<"Implementing Agency">>;, provided that the requirement for such an audit is notified in writing to the <<"Implementing Agency">>; a reasonable period time prior to the audit (taking into account the circumstances giving rise to the reasonable belief) stating in a reasonable level of detail the reasons for the requirement and the alleged facts on which the requirement is based. If the <<"Implementing Agency">>; considers that the non-timetabled audit was not appropriate, the matter shall be referred to the escalation procedure as set out in the Governance Schedule.
- 2.3 The frequency of audits shall be a (maximum) half yearly, provided always that OCAC or its nominated agency shall endeavour to conduct such audits with the lowest levels of inconvenience and disturbance practicable being caused to the <<"Implementing Agency">>;. Any such audit shall be conducted by with adequate notice of 2 weeks to the <<"Implementing Agency">>
- 2.4 OCAC will ensure that any 3<sup>rd</sup> party agencies (except CAG) appointed to conduct the audit will not be the competitor of <<"Implementing Agency">>; and will be bound by confidentiality obligations.

### **3. ACCESS**

The <<"Implementing Agency">>; shall provide to OCAC or its nominated agency reasonable access to employees, suppliers, agents and third party facilities as detailed in the RFP, documents, records and systems reasonably required for audit and shall provide all such persons with routine assistance in connection with the audits and inspections. The Chairperson, PIU / Steering Committee shall have the right to copy and retain copies of any relevant records. The <<"Implementing Agency">>; shall make every reasonable effort to cooperate with them.

### **4. AUDIT RIGHTS**

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

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

## **5. AUDIT RIGHTS OF SUPPLIERS AND AGENTS**

- 5.1 The <<"Implementing Agency">> shall use reasonable endeavors to achieve the same audit and access provisions as defined in this Schedule with suppliers and agents who supply labour, services, equipment or materials in respect of the services. The <<"Implementing Agency">>; shall inform OCAC or its nominated agency prior to concluding any sub-contract or supply agreement of any failure to achieve the same rights of audit or access.
- 5.2 REPORTING: The <<"Implementing Agency">>; will provide quarterly reports to the Chairperson, PIU / Steering committee regarding any specific aspects of the Project and in context of the audit and access information as required by OCAC or its nominated agency.

## **6. ACTION AND REVIEW**

- 6.1 Any change or amendment to the systems and procedures of the <<"Implementing Agency">>; where applicable arising from the audit report shall be agreed within thirty (30) calendar days from the submission of the said report.
- 6.2 Any discrepancies identified by any audit pursuant to this Schedule shall be immediately notified to OCAC or its nominated agency and the <<"Implementing Agency">>; Project Manager who shall determine what action should be taken in respect of such discrepancies in accordance with the terms of the MSA.

## **7. TERMS OF PAYMENT**

The terms of payment are exclusive of any costs of the <<"Implementing Agency">> for all reasonable assistance and information provided under the MSA, the Project Implementation, Operation and Management SLA by the <<"Implementing Agency">>; pursuant to this Schedule.

## **8. RECORDS AND INFORMATION**

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

## **SCHEDULE – V - GOVERNANCE SCHEDULE**

### **1. PURPOSE**

The purpose of this Schedule is to:

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

## **2. GOVERNANCE STRUCTURE**

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

**2.2 Resource:** Within 7 days following the Effective Date, OCAC or its nominated agencies and the <<"Implementing Agency">>; shall each appoint a Project Manager. In the event that either Party wishes to substitute its Project Manager it will do so in manner in which the original appointment is made and notify the other Party of such substitution as soon as reasonably practicable but at the latest within 7 days of the substitution.

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

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

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

## **3. GOVERNANCE PROCEDURES**

**3.1** The <<"Implementing Agency">>; shall document the agreed structures in a procedures manual.

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

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

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

- 3.5 In order formally to submit a Disputed Matter to the aforesaid for a, one Party ("Claimant") shall give a written notice ("Dispute Notice") to the other Party. The Dispute Notice shall be accompanied by (a) a statement by the Claimant describing the Disputed Matter in reasonable detail and (b) documentation, if any, supporting the Claimant's position on the Disputed Matter.
- 3.6 The other Party ("Respondent") shall have the right to respond to the Dispute Notice within 7 days after receipt of the Dispute Notice. In the event that the parties are unable to resolve the Disputed Matter within a further period of 7 days, it shall refer the Disputed Matter to next level of the dispute resolution for action.
- 3.7 All negotiations, statements and / or documentation pursuant to these Articles shall be without prejudice and confidential (unless mutually agreed otherwise).
- 3.8 If the Disputed Matter is having a material effect on the operation of the Services (or any of them or part of them) the Parties will use all their respective reasonable endeavors to reduce the elapsed time in reaching a resolution of the Disputed Matter.

## **SCHEDULE – VI - PAYMENT SCHEDULE**

Component-wise payments shall be released to the selected IA as per following terms. Taxes will be paid extra as per the rate prevalent at time of billing. Legitimate payment shall be made within 30 working days of the receipt of invoice along with supporting documents subject to penalties, if any.

### **Application Development**

- a) 20% cost of Application will be paid on UAT completion of the application, with all 24 phase 1 schemes integrated.
- b) 60% will be paid after successfully running of application for a period of Three (3) months from the date of go-live of application with 24 phase 1 schemes.
- c) The remaining 20% cost of application will be paid equally in 8 QGRs.

### **Training and Capacity Building**

Cost of training and capacity building will be paid on completion of training for participants from all the 30 batches as provided in RFP.

### **Post Implementation Support - Operations & Maintenance (O&M)**

Cost of Post Implementation Support (operation and management) will be paid equally in 20 QGRs (QGR start will be made from the date of Go-live with 24 phase 1 schemes).

### **Security Audit**

100% cost of the security audit will be released after submission of auditors' report and Safe-to-Host Certificate of respective audit.

### **Onsite Resource**

100% of the onsite resources will be paid on quarterly basis.

### **Third-party Software License**

100% cost of the third-party software license procured, if any, shall be paid after submission of license.

### **Change Request**

100% cost of Change Request shall be paid after 1 month from UAT of respective Change Request.

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

<b>Change Control Note</b>		<b>CCN Number:</b>	
<b>Part A: Initiation</b>			
Title:			
Originator:			
Sponsor:			
Date of Initiation:			
<b>Details of Proposed Change</b>			
(To include reason for change and appropriate details/specifications. Identify any attachments as A1, A2, and A3 etc.)			
Authorised by OCAC		Date:	
Name:			
Signature:			
Received by the		Date:	
IA			
Name:			
Signature:			
<b>Change Control Note</b>		<b>CCN Number:</b>	
<b>Part B : Evaluation</b>			
(Identify any attachments as B1, B2, and B3 etc.)			
Changes to Services, charging structure, payment profile, documentation, training, service levels and component working arrangements and any other contractual issue.			
<b>Brief Description of Solution:</b>			
Impact:			
Deliverables:			
Timetable:			
Charges for Implementation: (including a schedule of payments)			
Other Relevant Information: (including value-added and acceptance criteria)			
Authorised by the <<'Implementing Agency'>>		Date:	
Name:			
Signature:			
<b>Change Control Note</b>		<b>CCN Number:</b>	
<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)	
Approved	
Rejected	
Requires Further Information (as follows, or as Attachment 1 etc.)	
For OCAC and its nominated agencies	For the <<'Implementing Agency'>>
Signature	Signature
Name	Name
Title	Title
Date	Date

**ANNEXURE B - REQUIRED DELIVERABLES AND ASSOCIATED TIMELINES**

S. #	Milestone	Timeline (Months)
1	Submission and acceptance of System Requirement Specifications (SRS) report	T+2
2	Submission and acceptance of Design Report for SPDP	T+2
3	Finalization of solution architecture	T+2.5
4	Data standardization and localization with respect to LGD	T+2.5
5	Development of platform components and toolkit components	T+3.5
6	Integration of SPDP with Odisha SDG framework and Odisha One framework	T+3.5
7	Completion of integration of scheme management systems of identified Phase-I schemes (24 nos.) with SPDP	T+4
8	Completion of User Acceptance Test (UAT) for Phase I schemes (24 nos.)	T+4.5
9	SSL certification	T+5
10	Third party Security Audit and obtain safe to host certification	T+5.5
11	Completion and acceptance of training and capacity building program for stakeholders from departments and field offices of Phase-I schemes (24 nos.).	T+5.5
12	Completion and acceptance of SPDP use cases roll out with Phase 1 pilot schemes (3 nos.) in all the districts.	T+6
13	Completion and acceptance of SPDP use cases roll out with Phase-I remaining schemes (21 nos.) in all the districts.	T+8
14	Quarterly Operations and Maintenance Reports for 5 years (20 Quarters).	T+8-68

**ANNEXURE C – COST COMPONENTS**

**To be attached as per the “Commercial Bid” of the Selected IA.**

## **ANNEXURE D - ROLES AND RESPONSIBILITIES OF THE PARTIES**

### **Roles and Responsibilities of <<'Implementing Agency'>>**

- Preparation of a detailed project plan in line with the overall plan provided in the RFP. The same should be prepared in consultation with OCAC.
- Meet the defined SLAs for the performance of the system.
- Develop / customize, deploy and maintain the requisite SPDP solution as per the requirements of OCAC at appropriate locations.
- Provide necessary support for the resolution of bugs, patches & upgrades of the software solution.
- Provide necessary manpower for managing the Change Requests.
- Design various manuals like User manual, Trouble Shooting manual etc. for the system.
- Maintain the business continuity.
- Deploy the required manpower to manage the operations.
- Ensuring the SLAs for downtime of system.
- Management and quality control of all services.
- Any other services which is required for the successful execution of the project.
- Regular backup as per the schedule and Disaster Recovery.
- Generation of MIS reports as per the requirements of OCAC.
- Generation of the report for the monitoring of SLAs.

### **Roles and Responsibilities of OCAC**

- Provide adequate space at OCAC's HQ for software development and other activities to be carried out by the Bidder.
- Coordination between all the stakeholders for providing necessary information for the study and development / customization of the necessary solution.
- Co-ordination with SWAN operator and other state agencies to assist the selected bidder in execution of the project.
- Coordinate with Bidder for conducting workshops for the Stakeholder departments.
- Ensure that data backups are being taken regularly by bidder as per the schedule agreed upon.
- Monitoring of overall timelines, SLAs and calculation of penalties accordingly.
- Facilitate conducting UAT for the SPDP solution developed.
- Issuing the Acceptance Certificate on successful deployment of the software application.
- Any other requirements that could arise during operations for effective governance and to meet any administrative requirement.
- To create internal capacity for execution of the project after takeover from the bidder.
- Ensuring the scheme department stakeholders attend training programs as per the schedule defined by OCAC.
- Provide sign off on the deliverables of the project including SRS, design documents etc.

## ANNEXURE E – DEFINITIONS

<b>Agreement</b>	means this Service Level agreement together with all Articles, Annexure, Schedules and the contents and specifications of the RFP;
<b>Applicable Law(s)</b>	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 OCAC as may be in effect on the date of the execution of this Agreement and during the subsistence thereof, applicable to the Project;
<b>Effective Date</b>	shall have the same meaning ascribed to it in Clause 3;
<b>Parties</b>	means the Buyer and Implementing Agency for the purposes of this Agreement “Party” shall be interpreted accordingly.
<b>Service Level</b>	means the level of service and other performance criteria which will apply to the Services as set out in the SLA parameters effective during the Term of this Agreement;
<b>Term or Agreement Period</b>	Means the duration of this Agreement as set out in Clause 3 of this Agreement.
<b>Application Response Time</b>	Defined as time the system takes to fetch requested (a form or a report) from the server.

## ANNEXURE F – SERVICE LEVELS

The following table presents the required service level management framework for the IT application to be proposed by IA. The IA shall consider following metrics while architecting the systems.

S. No.	Service Parameter	Service level	Measurement Metrics	Penalty		
<b>A) Project Implementation SLAs</b>						
1	Timely delivery	All the milestones defined in the Section 7 of this RFP should be implemented on time (with no delay).	To be measured (with reference to the approved timelines), in number of weeks of delay from the target date as defined in the implementation schedule	<b>Type</b>	<b>Metric</b>	<b>Penalty</b>
				Baseline	Achieving of the Milestone as per the timeline	None
				Lower performance	Per week delay in achieving the milestone	0.5% per week of the contract price of delayed/undelivered services
					More than 4 weeks of delay in achieving the milestone	0.75% per week of the contract price of delayed/undelivered services
	Breach	More than 3 months delay in achieving the milestone	1% per week of the contract price of the delayed/undelivered stores/services			
Note: 1. The maximum value of the Liquidated Damages being not higher than 10% of the value of delayed stores/services						
2	Quality of training	In each of the training imparted by SI to the users, the feedback given by the trainees on the trainer should be 6 or more (on a scale of 10)	a) Baseline: Feedback greater than or equal to 6 b) Lower performance: Feedback equal to 5 c) Breach: Feedback less than 5	<b>Type</b>	<b>Metric</b>	<b>Penalty</b>
				Baseline	Average feedback $\geq 6$	None
				Lower performance	Average feedback = 5	2% of that particular session cost
				Breach	Average feedback less than 5	5% of that particular session cost and repeat the session
Note: The feedback shall be received by OCAC after each training session. IA shall repeat the training if average feedback rating from participants is						

				less than 5 for a particular training program and repeat that training till the average feedback rating is >=6.												
<b>B) Operation Level SLAs</b>																
During O&M phase, penalties which can be levied on IA each quarter will be capped at 10% of the total O&M per quarter. For the purpose of calculation of penalties, a quarter starts from the day the Operations & Maintenance (O&M) phase starts and ends after 3 months from the start of the O&M phase.																
<b>1</b>	Application / Web page load time	Page loading time = Less than or equal to 5 seconds during business hours averaged on a quarterly basis	<p>a) Baseline: Page loading time: Less than or equal to 5 seconds</p> <p>b) Lower performance: Page loading time: Between 6- and 8-seconds</p> <p>c) Breach: Page loading time: More than 8 seconds</p>	<table border="1"> <thead> <tr> <th>Type</th> <th>Metric</th> <th>Penalty</th> </tr> </thead> <tbody> <tr> <td>Baseline</td> <td>Page loading time: Less than or equal to 5 seconds</td> <td>None</td> </tr> <tr> <td>Lower performance</td> <td>Page loading time: Between 6 and 10 seconds</td> <td>1% of the Quarterly payment</td> </tr> <tr> <td>Breach</td> <td>Page loading time: More than 10 seconds</td> <td>3% of the Quarterly payment</td> </tr> </tbody> </table> <p>Note: The page selected to test the “page loading time” shall necessarily pass through web, application and database servers.</p> <p>) The request - response time (as recorded in entry point of the server infrastructure) for loading a page will be taken as input for computing the time taken for page loading.</p>	Type	Metric	Penalty	Baseline	Page loading time: Less than or equal to 5 seconds	None	Lower performance	Page loading time: Between 6 and 10 seconds	1% of the Quarterly payment	Breach	Page loading time: More than 10 seconds	3% of the Quarterly payment
Type	Metric	Penalty														
Baseline	Page loading time: Less than or equal to 5 seconds	None														
Lower performance	Page loading time: Between 6 and 10 seconds	1% of the Quarterly payment														
Breach	Page loading time: More than 10 seconds	3% of the Quarterly payment														
<b>2</b>	Application Availability	SPDP application over internet should be greater than 98% during business hours	<p>a) Baseline: Greater than 98% during business hours</p> <p>b) Lower performance: 95% - 98% during business hours</p> <p>c) Breach: Less than 95% during business hours</p>	<table border="1"> <thead> <tr> <th>Type</th> <th>Metric</th> <th>Penalty</th> </tr> </thead> <tbody> <tr> <td>Baseline</td> <td>Greater than 98% during business hours</td> <td>None</td> </tr> <tr> <td>Lower performance</td> <td>95% - 98% during business hours</td> <td>3% of the Quarterly payment</td> </tr> <tr> <td>Breach</td> <td>Less than 95% during business hours</td> <td>5% of the Quarterly payment</td> </tr> </tbody> </table> <p>Note:</p> <p>1) The extent of availability will be computed on a quarterly basis.</p> <p>2) Definition of business hours is 0600 hours - 2200 hours on all working days of the client.</p>	Type	Metric	Penalty	Baseline	Greater than 98% during business hours	None	Lower performance	95% - 98% during business hours	3% of the Quarterly payment	Breach	Less than 95% during business hours	5% of the Quarterly payment
Type	Metric	Penalty														
Baseline	Greater than 98% during business hours	None														
Lower performance	95% - 98% during business hours	3% of the Quarterly payment														
Breach	Less than 95% during business hours	5% of the Quarterly payment														
<b>3</b>	Reestablishment of application in case of failure	IA shall reestablish the complete application is	a) Baseline: Resolved within 5 business	<table border="1"> <thead> <tr> <th>Type</th> <th>Metric</th> <th>Penalty</th> </tr> </thead> <tbody> <tr> <td>Baseline</td> <td>Resolved within 5 business</td> <td>None</td> </tr> </tbody> </table>	Type	Metric	Penalty	Baseline	Resolved within 5 business	None						
Type	Metric	Penalty														
Baseline	Resolved within 5 business	None														

		reported within 5 business hours of receipt of the request	hours of receipt of the request b) Lower performance: Resolved within 5-7 business hours of receipt of the request c) Breach: resolved beyond 7 business hours of receipt of the request	Lower performance Breach	hours of receipt of the request Resolved between 5 - 7 working hours of receipt of the request Resolved in more than 7 business hours of receipt of the request	1.25% of the Quarterly payment per fault 2.5% of the Quarterly payment per fault
				<p>Note:</p> <p>1) Business hours taken for this SLA computation is 0600 hours - 2200 hours on all working days of client.</p> <p>2) A fault which had occurred in the system can be reported by one or many users. If root cause of issues reported by many users at a point in time remains the same, such will be considered as single fault for SLA computation purposes.</p> <p>3) IA is required to give a monthly report on all the issues and their resolution time.</p> <p>4) Penalties will be calculated on a per fault basis. Hence, IA can be penalized for bad performance for more than one critical fault in a quarter.</p>		
4	Quality of training	In each of the training imparted by SI to the users, the feedback given by trainees on the trainer should be 6 or more (on a scale of 10)	a) Baseline: Feedback greater than or equal to 6 b) Lower performance: Feedback equal to 5 c) Breach: Feedback less than 5	<b>Type</b> Baseline Lower performance Breach	<b>Metric</b> Average feedback $\geq 6$ Average feedback = 5 Average feedback less than 5	<b>Penalty</b> None 2% of that session cost 5% of that session cost and repeat the session till average feedback $\geq 6$
				<p>Note:</p> <p>1. The feedback shall be received by OCAC officials after each training session.</p> <p>2. IA shall repeat the training if average feedback rating from the participants is less than 5 for a particular training program and repeat that training till the average feedback rating is <math>\geq 6</math>.</p>		