REQUEST FOR PROPOSAL
FOR
SELECTION OF SYSTEM INTEGRATOR
OF
PRIMARY SECTOR PACKAGE - e-Pragati IN ANDHRA
PRADESH STATE
Volume III

Andhra Pradesh Technology Services Limited
4th Floor, B-Block, BRKR Bhavan
Tankbund Road, Hyderabad – 500 063.
RFP Structure

This RFP is meant to invite proposals from interested companies capable of delivering the services described herein. The content of this RFP has been documented as a set of three volumes explained below:

**Volume I: Functional, Technical and Operational Requirements (Multiple sub-volumes)**
Volume I of RFP intends to bring out all the details with respect to solution and other requirements that ITE&C department deems necessary to share with the potential bidders. The information set out in this volume has been broadly categorized as Functional, Technical, and Operational covering multiple aspects of the requirements.

**Volume II: ITB, SSC and Commercial and Bidding Terms & Forms**
Volume II of RFP purports to detail out all that may be needed by the potential bidders to understand the Terms & Conditions, project implementation approach, commercial terms and bidding process details.

**Volume III: Contractual and Legal Specifications**
Volume III of RFP is essentially devoted to explain the contractual terms that ITE&C department wishes to specify at this stage. It also includes a draft of Master Services Agreement.

*This volume is Volume III.*
Introduction

e-Pragati, the Andhra Pradesh State Enterprise Architecture, is this new paradigm. It is a Whole-of-Government framework and adopts a mission-centric approach to implementation. e-Pragati seeks to help realize the vision of Sunrise AP 2022 by enabling design and delivery of services in a coordinated, integrated, efficient, and equitable way that citizens and businesses deserve.

e-Pragati is not a project. It is large Program, with a long term vision for creating a sustainable eco-system of e-Governance, attempted on scale like this by very few Governments in the world like Korea, Estonia and Singapore. The Vision of e-Pragati is stated below:
"e-Pragati is a new paradigm in governance based on a Whole-of-Government framework, transcending the departmental boundaries. It adopts a Mission-centric approach in its design and implementation and seeks to realize the Vision of Sunrise AP 2022, by delivering citizen-centric services in a coordinated, integrated efficient and equitable manner."

e-Pragati is a framework the tool to provide integrated services to citizens through a free flow of information, and to usher in an era of good governance, characterized by efficiency, effectiveness, transparency, and foresight. The vision of e-Pragati is described below:

As a first step in designing the e-pragati, ITE&C dept. engaged the M/s Wipro for studying the existing system and the global best practices and for making suitable recommendations on establishing a redesigned system that can fulfill the objective.

To implement the above recommendations, ITE&C dept. has decided that it will engage a professional agency that will implement the proposed system as well as operate & maintain it on a PPP basis as specified in this RFP. It is to be emphasized here that is looking at this engagement as a set of complete services to be provided by the selected agency and not as a supply of hardware & software. To that end the specifications laid out in this RFP are indicated as the minimum requirement whereas the bidders are expected to focus on the objectives of this project and formulate their solution offerings in a manner that enables achieving those objectives both in letter as well as spirit.
GLOSSARY OF TERMS

The definitions of various terms that have been used in this RFP are as follows:

- **“Request for Proposal (RFP)”** means the Volume and its annexure and any other documents provided along with this RFP or issued during the course of the selection of bidder, seeking a set of solution(s), service(s), materials and/or any combination of them.

- **“Contract/ Agreement/ Contract Agreement/ Master Service Agreement”** means the Agreement to be signed between the successful bidder and <<System Integrator (SI)>>, including all attachments, appendices, all documents incorporated by reference thereto together with any subsequent modifications, the RFP, the bid offer, the acceptance and all related correspondences, clarifications, presentations.

- **“Bidder”** means any firm offering the solution(s), service(s) and/or materials as required in the RFP. The word Bidder when used in the pre-award period shall be synonymous with parties bidding against this RFP, and when used after award of the Contract shall mean the successful party with whom the agreement is signed for rendering of services for implementation of this project.

- **“Proposal/ Bid”** means the Pre-Qualification, Technical and Commercial bids submitted for this project against this RFP.

<table>
<thead>
<tr>
<th>ACRONYM</th>
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<tbody>
<tr>
<td>A&amp;E</td>
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<td>Additional Central Assistance</td>
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<td>Andhra Pradesh Government Life Insurance</td>
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<td>API</td>
<td>Application Programming Interface</td>
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<td>Business Continuity Plan</td>
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<td>Budget Estimate</td>
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<td>BOM</td>
<td>Bill of Material</td>
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<td>CCN</td>
<td>Change Control Note</td>
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<td>CFMS</td>
<td>Comprehensive Financial Management System</td>
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<td>Date-wise Monthly Statement</td>
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<td>Directorate of Treasuries and Accounts</td>
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<td>District Treasury Office/ Officer</td>
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<td>FIFO</td>
<td>First In First Out</td>
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<td>Functional Requirement Specifications</td>
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<td>GoAP</td>
<td>Government of Andhra Pradesh</td>
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<td>GPF</td>
<td>General Provident Fund</td>
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<td>HOD</td>
<td>Head of Department</td>
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<td>HOO</td>
<td>Head of the Office</td>
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<td>HRMS</td>
<td>Human Resource Management System</td>
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<td>ICT</td>
<td>Information and Communications Technology</td>
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<td>INR</td>
<td>Indian Rupee</td>
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<td>ISO</td>
<td>International Organization for Standardization</td>
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<td>IT</td>
<td>Information Technology</td>
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<td>LAN</td>
<td>Local Area Network</td>
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<td>Letter of Credit</td>
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<td>MIS</td>
<td>Management Information System</td>
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<td>Original Equipment Manufacturer</td>
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<td>Requirements Traceability Matrix</td>
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<td>SAN</td>
<td>Storage Area Network</td>
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<td>SDDO</td>
<td>Self-Drawing and Disbursing Officer</td>
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<td>SDLC</td>
<td>Systems Development Life Cycle</td>
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<td>SI</td>
<td>System Integrator</td>
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<td>SLA</td>
<td>Service Level Agreement</td>
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<td>SMS</td>
<td>Short Messaging Service</td>
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<td>SNMP</td>
<td>Simple Network Management Protocol</td>
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<td>SOP</td>
<td>Standard Operating Procedure</td>
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<td>SP</td>
<td>Service Provider</td>
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<td>SQL</td>
<td>Structured Query Language</td>
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<td>SRS</td>
<td>System Requirement Specifications</td>
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<td>STO</td>
<td>Sub-Treasury Officer/ Officer</td>
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<td>SWAN</td>
<td>State Wide Area Network</td>
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<td>TB</td>
<td>Tera Byte</td>
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<td>UAT</td>
<td>User Acceptance Testing</td>
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<td>Utilization Certificate</td>
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<td>Voucher Level Computerization</td>
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<td>Virtual Private Network</td>
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<td>WAN</td>
<td>Wide Area Network</td>
</tr>
<tr>
<td>XML</td>
<td>Extensible Mark-up Language</td>
</tr>
</tbody>
</table>
Contents

1 Draft Master Services Agreement.................................................................10
  1.1 DEFINITIONS............................................................................................ 11
  1.2 STRUCTURE.............................................................................................. 14
  1.3 CONDITIONS PRECEDENT....................................................................... 14
    1.3.1 Conditions Precedent for Service Provider ........................................... 14
    1.3.2 Non-fulfilment of Conditions Precedent ............................................... 15
2 ARTICLE II – INITIALIZATION PHASE................................................................15
  2.1 SCOPE OF CONTRACT.............................................................................. 15
  2.1 PERIOD OF CONTRACT............................................................................ 16
  2.2 COMMENCEMENT AND DURATION OF THIS AGREEMENT......................... 16
  2.3 SCOPE AND PROVISION OF THE SERVICES............................................. 16
  2.4 COMMENCEMENT AND DURATION OF THE SLA.................................... 17
  2.5 APPROVALS AND REQUIRED CONSENTS................................................. 17
  2.6 USE AND ACQUISITION OF ASSETS....................................................... 17
  2.7 Access To Service Provider Or Its Nominated Agencies and to the APTS/ITE&C
      DEPT To Project Location / hosting location of each other.......................... 18
3 ARTICLE III - MANAGEMENT PHASE............................................................19
  3.1 GOVERNANCE .......................................................................................... 19
  3.2 USE OF SERVICES.................................................................................... 19
  3.3 CHANGES .................................................................................................. 19
  3.4 SECURITY AND SAFETY.......................................................................... 19
  3.5 CO-OPERATION......................................................................................... 20
4 ARTICLE IV - FINANCIAL ISSUES...................................................................20
  4.1 TERMS OF PAYMENT AND SERVICE CREDITS AND DEBITS.................. 20
  4.2 INVOICING AND SETTLEMENT............................................................... 21
  4.3 TAX........................................................................................................... 21
5 ARTICLE V - BREACH, RECTIFICATION & TERMINATION.............................21
  5.1 Material Breach ........................................................................................ 21
  5.2 Company name change.......................................................................... 22
  5.3 TERMINATION .......................................................................................... 22
  5.4 EFFECTS OF TERMINATION ................................................................. 22
  5.5 Fraud by SP’s personnel ......................................................................... 22
6 ARTICLE VI - PROTECTION AND LIMITATIONS........................................23
  6.1 WARRANTIES............................................................................................. 23
RFP for Selection of System Integrator for Implementation e-Pragati Primary Sector Modules volume III

6.2 THIRD PARTY CLAIMS ........................................................................................................... 24
6.3 LIMITATION OF LIABILITY ................................................................................................. 25
6.4 FORCE MAJEURE .................................................................................................................. 25
6.5 DATA PROTECTION ............................................................................................................. 26
6.6 CONFIDENTIALITY ............................................................................................................... 26
6.7 AUDIT, ACCESS AND REPORTING .................................................................................... 27

7 ARTICLE VII - INTELLECTUAL PROPERTY ........................................................................... 27
7.1 INTELLECTUAL PROPERTY ............................................................................................... 27

8 ARTICLE VIII – MISCELLANEOUS ......................................................................................... 30
8.1 CONFIDENTIALITY ............................................................................................................... 30
8.2 PERSONNEL ........................................................................................................................ 32
8.3 INDEPENDENT CONTRACTOR ......................................................................................... 33
8.4 SUB-CONTRACTORS ............................................................................................................ 33
8.5 RESPONSIBILITY IN CASE OF CONSORTIUM ................................................................. 33
8.6 ASSIGNMENT ...................................................................................................................... 34
8.7 TRADEMARKS, PUBLICITY ............................................................................................... 34
8.8 NOTICES ............................................................................................................................. 34
8.9 VARIATIONS AND FURTHER ASSURANCE ..................................................................... 35
8.10 SEVERABILITY AND WAIVER ......................................................................................... 35
8.11 COMPLIANCE WITH LAWS AND REGULATIONS ......................................................... 35
8.12 ETHICS .............................................................................................................................. 36
8.13 ENTIRE AGREEMENT ....................................................................................................... 36
8.14 SURVIVABILITY .................................................................................................................. 36

9 ARTICLE IX - DISPUTES AND AMENDMENTS .................................................................... 36
9.1 DISPUTE RESOLUTION ....................................................................................................... 36
9.2 AMENDMENT ..................................................................................................................... 37

10 Roles & Responsibilities ....................................................................................................... 39
10.1 Role of APTS/ITE&C DEPT. ............................................................................................ 39
10.2 Role of Service Provider(SP) / System Integrator(SI) ...................................................... 40

11 Program Governance Structure .......................................................................................... 41
11.1 Program Governance Approach ...................................................................................... 41

12 Service Level Agreements ................................................................................................... 43
12.1 Service Level Objectives ................................................................................................. 43
12.2 SLA Definition & Measurement .................................................................................... 44
12.3 Modules of Primary Sector Package under e-pragati Services Project - SLA Metrics 45
12.4 SLA Monitoring .......................................................... 45

13 SCHEDULE I ................................................................. 46
  13.1 PURPOSE .................................................................. 46
  13.2 CHANGE CONTROL NOTE ("CCN") ............................... 46
  13.3 QUOTATION ............................................................. 46
  13.4 COSTS ..................................................................... 47
  13.5 REPORTING ............................................................... 47
  13.6 OBLIGATIONS ........................................................... 47

14 SCHEDULE II .................................................................... 47
  14.1 PURPOSE .................................................................. 47
  14.2 TRANSFER of ASSETS ................................................ 48
  14.3 COOPERATION AND PROVISION OF INFORMATION ...... 48
  14.4 CONFIDENTIAL INFORMATION, SECURITY AND DATA .... 49
  14.5 EMPLOYEES ............................................................... 49
  14.6 TRANSFER OF CERTAIN AGREEMENTS ....................... 50
  14.7 RIGHTS OF ACCESS TO PREMISES ............................... 50
  14.8 GENERAL OBLIGATIONS OF THE SERVICE PROVIDER .... 50
  14.9 EXIT MANAGEMENT PLAN ......................................... 51

15 SCHEDULE III - AUDIT, ACCESS AND REPORTING SCHEDULE ....... 51
  15.1 PURPOSE .................................................................. 51
  15.2 AUDIT NOTICE AND TIMING ...................................... 51
  15.3 ACCESS ................................................................... 52
  15.4 AUDIT RIGHTS .......................................................... 52
  15.5 AUDIT RIGHTS OF SUB-CONTRACTORS, SUPPLIERS AND AGENTS ..... 53
  15.6 ACTION AND REVIEW ............................................... 53
  15.7 TERMS OF PAYMENT FOR COST OF AUDIT .................... 53
  15.8 RECORDS AND INFORMATION ..................................... 53

16 SCHEDULE IV - GOVERNANCE SCHEDULE .............................. 53
  16.1 PURPOSE .................................................................. 53
  16.2 GOVERNANCE STRUCTURE ......................................... 54
  16.3 GOVERNANCE PROCEDURES ....................................... 54

17 SCHEDULE V - INVOICING AND SETTLEMENT SCHEDULE ........... 55

18 SCHEDULE VI - TERMS OF PAYMENT SCHEDULE ...................... 55

Andhra Pradesh State-wide rollout of the e-Pragati Primary Sector
| 19 | SCHEDULE VII - CHANGE CONTROL NOTICE ..........................................................57 |
| 20 | SCHEDULE VIII ........................................................................................................59 |
| 21 | MODEL OPERATION MANAGEMENT & SERVICE LEVEL AGREEMENT ...............59 |
| 21.1 | Service Provider of Modules of Primary Sector Package under e-pragati Services Project59 |
| 21.2 | INDEX.........................................................................................................................59 |
| 21.3 | MODEL SERVICE LEVEL AGREEMENT ................................................................. 60 |
| 22 | SCHEDULE IX - IMPLEMENTATION SCHEDULE ...............................................72 |
| 23 | NON - DISCLOSURE AGREEMENT ........................................................................77 |
| 24 | Project Scope Change Request - format ............................................................84 |
1 Draft Master Services Agreement

Project Director, ITE&C dept. intends to sign 2 Agreements with the successful bidder for the design, development, implementation, Operations and maintenance of the Modules of Primary Sector Package under e-pragati Services Project – a Master Services Agreement (MSA) and a Service Level Agreement (SLA). Given below is a draft of the MSA. Schedule VIII of the MSA provides a draft SLA. Any changes required to be made to these two drafts shall be communicated to all the bidders, within a period of 30 days or before the date of submission of the bids whichever is earlier from the date of issue of this RFP. Any changes in the MSA / SLA after the submission of the bids shall be communicated only to the selected bidder.

Master Services Agreement (MSA)

THIS AGREEMENT is made this day of ______ two Thousand and ______, by and between:

(i) The Managing Director, Andhra Pradesh Technology Services Limited, 4th Floor, B-Block, BRKR Bhavan, Tank Bund Road, Hyderabad 500063, India, (hereinafter called “the Client”) on behalf of the Secretary, ITE&C Department, Government of Andhra Pradesh, Hyderabad (hereinafter called the ‘APTS/ITE&C DEPT.’ or ‘Project Director, Modules of Primary Sector Package under e-pragati Services Project’); AND

(ii) ___<name of the company>___, a company registered under the Indian Companies Act, 1956 having its registered office at ___<address>___ and place of business at ___<address>___ (hereinafter referred to as “Service Provider / System Integrator”, which expression, unless excluded or the context otherwise required hereof includes its successors, administrators and assigns) represented through its ___<designation of authorized person>___, who is duly authorized by the Service Provider to execute this agreement of the SECOND PART.

WHEREAS

A. APTS/ITE&C DEPT. intends to enable and augment the Design, Development, and Implementation, Management & Maintenance of Modules of Primary Sector Package under e-pragati Services Project in PPP mode involving the Development of Software, Supply & Installation of System Software, Hardware, and Networks & Maintenance of Modules of Primary Sector Package under e-pragati System in Andhra Pradesh with the ultimate objective of providing all Modules of Primary Sector Package under e-pragati-related services to the citizens in an efficient, convenient and transparent manner.

B. APTS/ITE&C DEPT. undertook selection of a suitable Service Provider, adopting an open tender process, through competitive bidding for implementing the Modules of Primary Sector Package under e-pragati Services Project and issued a Request for Proposal (RFP) dated [14/122015];

C. The Service Provider has been selected as the successful bidder to undertake the Modules of Primary Sector Package under e-pragati Services Project involving the development of the total solution, roll out and maintenance to achieve the defined objectives and desired service levels for Modules of Primary Sector Package under e-pragati issuance in India;

D. APTS/ITE&C DEPT. intends to accord to the Service Provider the license to undertake and implement the Modules of Primary Sector Package under e-pragati Services Project on the terms and conditions set forth below.

E. The Service Provider in pursuance of its proposal undertakes to implement the Modules of...
NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS AND CONDITIONS HEREIN CONTAINED, IT IS HEREBY AGREED between the Parties as follows:

APTS/ITE&C DEPT. and the Service Provider (each individually a “Party” hereto and collectively the “Parties”) have agreed to enter into this Agreement to govern the way in which the Service Provider will design, develop, implement & manage the solution and facilities and deliver the services specified under this Agreement and the Service Level Agreement (“SLA”) in accordance with roles and responsibilities of ITE&C dept. and its nominated agencies and the Service Provider as set forth in this agreement.

1. ARTICLE 1 - DEFINITIONS & INTERPRETATION

1.1 DEFINITIONS

a. In this Agreement, unless the context requires otherwise:

i. “Agreement” means this Agreement together with all the Schedules and the contents and specifications of all the volumes of the RFP. In the event of a conflict between this Agreement and the Schedules, the terms of the Agreement shall prevail;

ii. “Asset” means any data, information, deliverable, solutions, services, products and materials tangible or intangible that are procured, produced, developed, installed, maintained and serviced in due course of delivering the scope of Service provided by the Service Provider / System Integrator as per the requirements of the Volume I, II, III of this RFP

iii. “PROJECT” means Modules of Primary Sector Package under e-pragati Services Project involving the Modules of Primary Sector Package under e-pragati System Design, Development, Implementation, Operations, Management and Maintenance across all the locations of ITE&C dept. as per the terms and conditions laid down in the RFP and provision of Modules of Primary Sector Package under e-pragati-related services in conformance to the SLA;

iv. “Bespoke Software” means the software designed, developed, tested and deployed by the Service Provider for the purposes of rendering the Services to the Stakeholders of the Project and includes the source code 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 (except for the customization components on such products), proprietary software components and tools deployed by the Service Provider, and which, i.e, the bespoke software, shall be solely owned by the Project Director, APTS/ITE&C DEPT. ;

v. “Confidential Information” means all information including Project Data (whether in written, oral, electronic or other format) which relates to the technical, financial and business affairs, customers, suppliers, products, developments, operations, processes, data, trade secrets, design rights, know-how and personnel of each Party and its affiliates which is disclosed to or otherwise learned by the other Party (whether a Party to this Agreement or to the SLA) 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 or to the SLA);
v. **“PROJECT Data”** means all proprietary data of the PROJECT generated out of PROJECT operations and transactions, documents and related information including but not restricted to user data which the Service Provider obtains, possesses or processes in the context of providing the Services to the users pursuant to this Agreement and the SLA;

vi. **“Deliverables”** means the products, infrastructure and services agreed to be delivered by the Service Provider in pursuance of the agreement as listed in Volumes I, II, III of the RFP and defined more elaborately in Volumes I and II of the RFP in relation to the Implementation Phase and the Operations and Maintenance Phase and includes all documents related to the solution, user manual, technical manual, design, process and operating manuals, service mechanisms, policies and guidelines and source code and all its modifications;

vii. **“Effective Date”** means the date on which this Agreement becomes effective.

viii. **“Intellectual Property Rights”** means and includes all rights in the Bespoke Software, its improvements, upgrades, enhancements, modified versions that may be made from time to time, database generated, compilations made, source code and object code of the software, the said rights including designs, copyrights, trademarks, patents, trade secrets, moral and other rights therein;

ix. **“Performance Guarantee” and “Performance Bank Guarantee”** shall mean the guarantee provided by a Nationalized / Scheduled Bank to ITE&C dept. on behalf of the Service Provider for the amount specified as specified in respective sections of the Volume II of the RFP

x. **“Project Implementation”** means Project Implementation as per the testing standards and acceptance criteria prescribed in the respective section of the Volume II of the RFP;

xi. **“Project Implementation Completion date” / “Go-Live”** means the date on which the proposed Modules of Primary Sector Package under e-pragati System is completely operational as per the functional, technical and operational requirements specified in the Volume I of the RFP and all the acceptance tests & certifications as defined in the respective sections of the Volume I & II of the RFP) are successfully concluded to the satisfaction of APTS/ITE&C DEPT. .

xii. **“Proprietary Information”** means processes, methodologies and technical and business information, including drawings, designs, formulae, flow charts, data and computer programs already owned by, or granted by third parties to a Party hereto prior to its being made available under this Agreement, or the SLA;

xiii. **“RFP” or “Request for Proposal”** means the documents containing the Technical, Functional, Operational, Commercial and Legal Specifications for the implementation of the Project, issued in 3 volumes (referred to as Volume I, Volume II and Volume III) and includes the clarifications, explanations and amendments issued by ITE&C dept. from time to time.

xiv. **“Replacement Service Provider”** means any third party that the Project Director, ITE&C dept. may appoint to replace the Service Provider upon expiry of the Term or otherwise termination of this Agreement or the SLA to undertake the Services or part thereof;

xv. **“Service Level”** means the level of service and other performance criteria which will apply to the Services as set out in the SLA;
xvi. “Service Level Agreement (SLA)” means the Operation and Maintenance SLA, executed by and between Service Provider and APTS/ITE&C DEPT., in terms of the Service Level Requirements as per the model set out in Schedule VIII of this Agreement;

xvii. "Services" means the services delivered to the Stakeholders of PROJECT, namely, the citizens seeking Modules of Primary Sector Package under e-pragati, the employees of ITE&C dept. and other stakeholders as defined in the respective sections of Volume I, II and III of the RFP, using the tangible and intangible assets created, procured, installed, managed and operated by the Service Provider including the tools of information and communications technology and includes but is not limited to the list of services specified in Volume I & II of the RFP herein;

IV. xviii. Service Provider (SP) means the selected bidder along with any or all consortium members who are signatory to the MSA and have direct or indirect relation to provide the services mentioned in Volume I, II, III of this RFP.

xix. System Integrator (SI) is synonymous with Service Provider.

xx. “Stakeholders” means citizens, APTS/ITE&C DEPT., all the state government departments of AP directly or indirectly related to the e-Pragati project, all the national level GoI departments / offices who are directly or indirectly related to the e-Pragati project, all third parties involved by the Government of AP in relation to e-Pragati project implementation, other related Agencies and departments of Government (center and states) and their employees;

xxi. “Third Party Systems” means Systems (or any part thereof) in which the Intellectual Property Rights are owned by a third party and to which Service Provider has been granted a license to use and which are used in the provision of Services;

xxii. “Project Director, APTS/ITE&C DEPT. “, means an Officer of appropriate rank as per the Government rules & regulations of the GoAP, appointed by APTS/ITE&C DEPT., to be responsible for discharging all the responsibilities under the Modules of Primary Sector Package under e-pragati Services Project.

b. References to any statute or statutory provision include a reference to that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated and to all statutory instruments made pursuant to it.

c. Words denoting the singular shall include the plural and vice versa and words denoting persons shall include firms and corporations and vice versa.

d. Unless otherwise expressly stated, the words "herein", "hereof", "hereunder" and similar words refer to this Agreement as a whole and not to any particular Article, Schedule. The term Articles, refers to Articles of this Agreement. The words "include" and "including" shall not be construed as terms of limitation. The words "day" and "month" mean "calendar day" and "calendar month" unless otherwise stated. Where, because of a difference in time zone, the calendar day or calendar month in one Country differs from another Country, then the calendar day or calendar month shall be deemed to be the calendar day or calendar month applicable to India. The words "writing" and "written" mean "in documented form", whether electronic or hard copy, unless otherwise stated. Any reference to attorneys’ fees shall include reasonable fees of the professional assistants of such attorneys.

e. The headings and use of bold type in this Agreement are for convenience only and shall not affect the interpretation of any provision of this Agreement.
1.2 STRUCTURE

a. This Agreement shall operate as a legally binding services agreement specifying the master terms which apply to the Parties under this Agreement and to the provision of the Services by the Service Provider to the stakeholders of the PROJECT under the duly executed SLA.

b. The SLA in respect of the Operation and Maintenance is being entered into concurrently with this Agreement between the Service Provider and Project Director, APTS/ITE&C DEPT. In respect of any future SLAs entered into between the Parties, each of the Parties shall observe and perform the obligations set out herein.

c. In the event of a change of Control of the Service Provider during the currency of this Agreement, Service Provider shall promptly notify the Project Director, ITE&C dept. of the same and in the event that the net worth of the surviving entity is less than that of Service Provider prior to the change of Control, the Project Director, ITE&C dept. may within 30 days of his/ her becoming aware of the change in Control, require a replacement of existing Performance Guarantee furnished by the Service Provider from a guarantor acceptable to the Project Director, ITE&C dept. (which shall not be Service Provider or any of its associated entities). If such a guarantee cannot be obtained within 30 days of the Project Director, ITE&C dept. becoming aware of the change in Control, he/ she may exercise its right to terminate the SLA within a further 30 days by written notice, to become effective when specified in such notice. Pursuant to termination, the consequences of termination as set out in Article 5.2 will become effective. The internal reorganization of the Service Provider shall not be deemed an event of a change of Control for purposes of this Article unless the surviving entity is of less net worth than the predecessor entity.

1.3 CONDITIONS PRECEDENT

Subject to express terms to the contrary, the rights and obligations under this Agreement shall be effective (at any point of time during the course of the Agreement) only upon fulfillment of all the Conditions Precedent set out in Articles 1.3.1 and 1.3.2. However, the Project Director, APTS/ITE&C DEPT. may at any time at its sole discretion waive fully or partially any of the Conditions Precedent for the Service Provider.

1.3.1 Conditions Precedent for Service Provider

The Service Provider shall have to fulfill Conditions Precedent, which are as follows:

a. Submit the Performance Bank Guarantee as specified in the respective sections of the Volume I,II,II of this RFP and the Security Deposit, in the form of a Bank Guarantee for an amount of XXXXX as specified to the Project Director, ITE&C dept. within 15 days of issue of LOI

b. Provide the Project Director, ITE&C dept. certified true copies of its constitutional documents and board resolutions authorizing the execution, delivery and performance of this Agreement and the SLA with the Project Director, APTS/ITE&C DEPT.

c. Deploy the team as required and ensure the project kickoff within one fifteen calendar days of the issue of LOI to the Service Provider, and submit the project inception report within 20 mandays of the issue of the LOI
1.3.2 Non-fulfilment of Conditions Precedent

a. In the event that any of the Conditions Precedent relating to Service Provider has not been fulfilled within 30 days of the time limit prescribed for each condition, and the same has not been waived by the Project Director, ITE&C dept. fully or partially, this Agreement shall cease to have any effect as of that date.

b. In the event that the Agreement fails to come into effect on account of non-fulfilment of the Service Provider's Conditions Precedent, the Project Director, ITE&C dept. shall not be liable in any manner whatsoever to the Service Provider and the Project Director, ITE&C dept. shall forthwith invoke the Performance Guarantee and forfeit the guaranteed amount.

c. In the event that vacant possession of any of the PROJECT facilities and/or PROJECT Data has been delivered to the Service Provider prior to the fulfillment in full of the Conditions Precedent, upon the termination of this Agreement such Project facilities and Project data shall immediately revert to the Project Director, APTS/ITE&C DEPT. , free and clear from any encumbrances or claims.

d. Instead of terminating this Agreement as provided in paragraph 1.3.2(a) above, the Project Director, APTS/ITE&C DEPT. , may extend the time for fulfilling the Conditions Precedent and the Term of this Agreement. It is clarified that any extension of time shall be subject to imposition of agreed liquidated damages on the Service Provider linked to the delay in fulfilling the Conditions Precedent.

2 ARTICLE II – INITIALIZATION PHASE

2.1 SCOPE OF CONTRACT

This Agreement shall govern the provision of the professional services, listed hereunder and more fully described in Volume I & II of the RFP, in conformance with the SLA, to all the stakeholders of the Modules of Primary Sector Package under e-pragati Services Project. It is anticipated that new or renewal agreements may be undertaken by creating a separate SLA, with schedules and exhibits as required, under this Agreement for each engagement.

Services to be provided by the Service Provider (SP) under the contract:

a. Subject to the requirements specified in this RFP, SP will be responsible for providing the below but not limited to:

i. All Services (hardware, software including bespoke, customised and relevant product licences as applicable, networking & PCs of the entire Modules of Primary Sector Package under e-pragati system as specified in this RFP as a Software as a service (SAAS) model

ii. Maintenance and operations of all the IT and non-IT assets

iii. Training on the application software, training on general computer skills, soft skills, and customer service & delivery

iv. Change management and communication strategy & implementation

v. Obtaining ISO (9001, 27001, 20000) certifications for the Modules of Primary Sector Package under e-pragati system

vi. Compliance with the SLAs
vii. Call center & grievance handling system

viii. All scope of work as mentioned in the Volume I, II and III of the RFP.

b. SP shall provide professional services to the Stakeholders of the Project in respect of the following Modules of Primary Sector Package under e-pragati-related services, more precisely defined in the respective sections of Volume I & II of the RFP:

   i. Issue of Fresh Modules of Primary Sector Package under e-pragati

   ii. Re-issue of Modules of Primary Sector Package under e-pragati

   iii. Issue/ Reissue of Modules of Primary Sector Package under e-pragati under Tatkaal Scheme

   iv. Change of name/ other particulars in Modules of Primary Sector Package under e-pragati

c. SP shall implement the Modules of Primary Sector Package under e-pragati system and then operate & maintain it for XX years from the ‘Go Live’ date.

d. SP Shall strictly adhere to the schedule for implementation of the project, as specified in the Implementation Schedule (Schedule IX of this Agreement).

2.1 PERIOD OF CONTRACT

The term of the permission/license under the MSA shall be for a period of X years from the date of “Go Live” of the Project at all the implementation sites. However, ITE&C dept. may choose to extend the term for further period of X years, with all the terms and conditions being the same as for original term. A fresh tender shall be called at the end of the term/ extended term. The bid process for the second term shall commence one year before the expiry of the first term/extended first term.

2.2 COMMENCEMENT AND DURATION OF THIS AGREEMENT

This agreement shall come into effect on fulfillment of the conditions precedent specified in section 1.3.1 and certified as such by the Project Director, ITE&C dept. (Hereinafter called the “Effective Date”) and shall, subject to the maximum time limit of 3 years, continue till the completion of the Operations and Maintenance phase, subject to fulfillment of the rights and obligations of the parties under the Agreement.

2.3 SCOPE AND PROVISION OF THE SERVICES

a. The provision of Services to the Stakeholders with certainty and speed is the essence of the Agreement between the Parties.

b. The Service Provider represents that it is a competent and efficient provider of a variety of information technology and business process management services. Service Provider will keep abreast of the relevant technical, managerial and operational requirements applicable to the provision of the Services and best practices in this area and will share their knowledge with the Project Director, APTS/ITE&C DEPT., regarding matters which would assist the Project Director, APTS/ITE&C DEPT., in its use of the Services, provided that Service Provider shall not be obligated to share other client information or Confidential Information of Service Provider not relevant to this Agreement.

c. The Services shall be performed by the Service Provider pursuant to terms under the SLA to be entered into in accordance with this Agreement.
d. The Service Provider shall perform the Services (a) in a good professional manner commensurate with professional industry and technical standards which are generally in effect for international projects and innovations pursuant thereon similar to those contemplated by this Agreement, (b) so as to comply with the applicable Service Levels, in accordance with the terms set out in this Agreement and the SLA.

e. No Party to this Agreement or to the SLA will at any time perform, or omit to perform, any act which they are aware, at the time of performance, will place the other Party in default under any insurance policy, mortgage or lease, governing activities at any location provided by the Project Director, APTS/ITE&C DEPT.

2.4 COMMENCEMENT AND DURATION OF THE SLA

a. The Operation and Maintenance (O&M) SLA will commence from the date when the Project Implementation has been completed (in case of module wise release, each module wise release shall be considered as the commencement of the O&M SLA) to the satisfaction of the Project Director, APTS/ITE&C DEPT. and certified in accordance with the terms of this Agreement and shall run for a period coterminous with the MSA.

b. The SLA shall commence on the date on which it is fully executed as specified above in section 2.4 (a) or as decided by the Project Director, IT&E dept. and the Service Provider as the case may be depending on the project requirements and shall, unless terminated earlier in accordance with its terms or unless otherwise agreed by the Parties, expire on the date on which this Agreement expires or terminates for any reason. However such automatic cessation of the SLA do not qualify in case the various handover of the assets created under this RFP is not completed, settlement of the disputes on SLA, support from the SP to host the applications in the Government decided location and making the services operational as required to the fullest satisfaction of the Project Director, IT&E dept. In all these cases, SLA would be continued for the extended period and would also be associated with an extension of MSA as required by the Project Director, IT&E dept.

2.5 APPROVALS AND REQUIRED CONSENTS

a. The Parties will cooperate reasonably to obtain, maintain and observe all relevant and customary regulatory and governmental licenses, clearances and applicable approvals (hereinafter the “Approvals”) necessary for the Service Provider to provide the Services. The costs of such Approvals shall be borne by the Service Provider.

b. Both parties will give each other all co-operation and information reasonably required to meet their respective obligations under this Agreement.

c. The Project Director, IT&E dept. shall use reasonable endeavors to assist Service Provider obtain the Approvals. In the event that any Approval is not obtained, the Service Provider and the Project Director, IT&E dept. will co-operate with each other in achieving a reasonable alternative arrangement as soon as reasonably practicable for the Project Director, APTS/ITE&C DEPT. to continue to process its work with as minimal interruption to its business operations as is commercially reasonable until such Approval is obtained, provided that the Service Provider shall not be relieved of its obligations to provide the Services and to achieve the Service Levels until the Approvals are obtained if and to the extent that the Service Provider’s obligations are dependent upon such Approvals.

2.6 USE AND ACQUISITION OF ASSETS

During the Term of the MSA, the Service Provider shall:

a. take all reasonable and proper care of the entire hardware and software, network or any other information technology infrastructure components used for the Project and other facilities leased / owned by the Service Provider exclusively in terms of the delivery of the Services as per this Agreement (hereinafter the “Assets”) in proportion to their use and
control of such Assets which will include all upgrades/ enhancements and improvements to meet the current needs of the Project; and

b. Keep all the tangible Assets in as good and serviceable condition and/or the intangible Assets suitably upgraded subject to the relevant standards as stated in Volume I of the RFP as at the date the Service Provider takes control of and/or first uses the Assets and during the entire Term of the Agreement; and

c. ensure that any instructions or manuals supplied by the manufacturer of the Assets for use of the Assets and provided to the Service Provider will be followed by the Service Provider and any person who will be responsible for the use of the Assets; and

d. take such steps as may be properly recommended by the manufacturer of the Assets and notified to the Service Provider or as may, in the reasonable opinion of the Service Provider, be necessary to use the Assets in a safe manner; and

e. to the extent that the Assets are under the control of the Service Provider, keep the Assets suitably housed and in conformity with any statutory requirements from time to time applicable to them; and

f. provide permission to the Project Director, ITE&C dept. and any persons duly authorized by him/ her 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; and

g. not knowingly or negligently use or permit any of the Assets to be used in contravention of any statutory provisions or regulation or contrary to law; and

h. use the Assets exclusively for the purpose of providing the Services as appropriate; and

i. not sell, offer for sale, assign, mortgage, pledge, sub-let or lend out any of the Assets; and

j. use the Assets only in accordance with the terms hereof and those contained in the SLA; and

k. obtain and/ or maintain standard forms of comprehensive insurance policy including liability insurance, system and facility insurance and any other insurance for the personnel, Assets, data, software, etc.; and

l. transfer the ownership of all the Assets (not already with the Project Director, APTS/ITE&C DEPT , including but not limited to the project documentation which is the work product of the development efforts involved in the Project) within 30 days of the acceptance of the same by Project Director upon testing and/ or audit , to the Project Director, ITE&C dept. in accordance with the terms of this agreement; and

m. ensure the integration of the software with hardware to be installed and the current Assets in order to ensure the smooth operations of the entire solution architecture to provide efficient services to all the Stakeholders of PROJECT in an efficient and speedy manner; and

n. An approval ( i.e sign off) from the Project Director, ITE&C dept. at each stage is essential to close each of the above considerations.

2.7 Access To Service Provider Or Its Nominated Agencies and to the APTS/ITE&C DEPT To Project Location / hosting location of each other

a. For so long as the Service Provider provides Services from any Project location (Public Cloud within India) and to the extent necessary for the Service Provider to provide the Services and
at no cost to the Service Provider, the Project Director, APTS/ITE&C DEPT., shall, have the rights access and inspect subject to compliance by the Service Provider with any safety and security guidelines which may be notified to the Project Director, ITE&C dept. in writing, provide the ITE&C dept with:

(i) reasonable access, in the same manner granted to PROJECT employees, to PROJECT locations twenty-four hours a day, seven days a week; and

(ii) Access to office equipment as mutually agreed and other related support services in such location and at such other PROJECT location, if any, as may be reasonably necessary for the ITE&C dept to perform its audit and related functions hereunder and under the SLA.

b. Locations and items shall be made available to the Service Provider on an "as is, where is" basis by the Project Director, APTS/ITE&C DEPT. The Service Provider agrees to ensure that its employees, agents and contractors do not use the location, services and items:

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

(ii) In a manner which constitutes a violation or infringement of the rights of any person, firm or company (including but not limited to rights of copyright or confidentiality).

3  ARTICLE III - MANAGEMENT PHASE

3.1 GOVERNANCE

The review and management process of this Agreement shall be carried out in accordance with the Governance Schedule (Schedule IV of this Agreement) and shall cover all the management aspects as set out in the RFP.

3.2 USE OF SERVICES

a. The Project Director, APTS/ITE&C DEPT., or its nominated agencies / other stakeholders will undertake and use the Services in accordance with the business requirements of this RFP and shall be guided generally by the government procedures wherever applicable. Service provider shall formulate instructions or procedures as required by the business for such usage and mutually agreed by the Parties from time to time.

b. The Project Director, APTS/ITE&C DEPT., or its nominated agencies shall be responsible for the operation and use of the Deliverables resulting from the Services provided by or on behalf of the SP.

3.3 CHANGES

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

3.4 SECURITY AND SAFETY

a. The Service Provider will comply with the directions issued from time to time by the Project Director, ITE&C dept. and the standards related to the security and safety as stated in the respective sections of the RFP Volumes I, II and III, in so far as it applies to the provision of the Services.

b. Each Party to the SLA shall also comply with Project’s information technology security
standards and policies in force from time to time at each location of which the Project Director, ITE&C dept. makes the Service Provider aware in writing in so far as the same apply to the provision of the Services.

c. The Parties to the SLA shall use reasonable endeavors to report forthwith in writing to each other all identified attempts (whether successful or not) by unauthorized persons (including unauthorized persons who are employees of any Party) either to gain access to or interfere with the Project’s data, facilities or Confidential Information.

d. The Service Provider shall upon reasonable request by the Project Director, ITE&C dept. or its nominee(s) participate in regular meetings when safety and information technology security matters are reviewed.

e. The Parties under the SLA shall promptly report in writing to each other 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 Project’s Facilities.

f. The Service Provider shall facilitate the Third Party Auditing of the services provided by the Service Provider from time to time by an agency nominated by ITE&C dept to ensure the security and safety

3.5 CO-OPERATION

a. 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:

(i) is reasonably required by the Receiving Party in order for it to comply with its obligations under this Agreement or the SLA; and

(ii) is not Confidential Information; and

(iii) is capable of being provided by the Providing Party.

b. Each Party agrees to co-operate with the contractors and sub-contractors of the other Party as reasonably requested in order to accomplish the purposes of this Agreement.

4 ARTICLIE IV - FINANCIAL ISSUES

4.1 TERMS OF PAYMENT AND SERVICE CREDITS AND DEBITS

a. In consideration of the Services and subject to the provisions of this Agreement and of the SLA, the Project Director, ITE&C dept. shall pay the Service Provider for the Services rendered in pursuance of this agreement, in accordance with the Terms of Payment Schedule (Schedule VI of this Agreement).

b. All payments are subject to the application of service credits/ debits and liquidated damages defined and provided for in this Agreement and the SLA. It is clarified here that the Project Director, ITE&C dept. will pay for the service credits as stated in accordance with the Terms of Payment Schedule (Schedule VI of this Agreement) and the Project Director, ITE&C dept. can also calculate a financial sum and debit the same against the terms of payment as defined in the Terms of Payment Schedule as a result of the failure of the Service Provider to meet the Service Level under the SLA, such sum being determined in accordance with the terms set out in this Agreement and the SLA.

c. Except as otherwise provided for herein or as agreed between the Parties in writing, the Project Director, ITE&C dept. shall not be required to make any payments in respect of the
Services other than those covered by the terms of payment as stated in the Terms of Payment Schedule (Schedule VI of this Agreement).

4.2 INVOICING AND SETTLEMENT

The provisions of the Invoicing & Settlement Schedule (Schedule V of this Agreement) shall apply.

4.3 TAX

a. The Project Director, ITE&C dept. shall be responsible for withholding taxes from the amounts due and payable to the Service Provider wherever applicable. The Service Provider shall pay for all other taxes in connection with this Agreement, and SLA including, but not limited to, property, sales, use, excise duty, value-added, goods and services, consumption and other similar taxes or duties. The Project Director, ITE&C dept. shall provide Service Provider with the original tax receipt of any withholding taxes paid by PROJECT on payments under this Agreement. The Service Provider agrees to reimburse and hold the Project Director, ITE&C dept. harmless from any deficiency (including penalties and interest) relating to taxes that are its responsibility under this paragraph. For the purposes of this Agreement, taxes shall include taxes incurred on transactions between and among the Project Director, APTS/ITE&C DEPT., the Service Provider and any third party subcontractors.

b. In the event of any increase or decrease of the rate of taxes due to any statutory notification/s during the Term of the Agreement the consequential effect shall be to the account of the Service Provider. However, this will exclude Service Tax on the service charge that a Modules of Primary Sector Package under e-pragati service applicant will pay to SP, as specified in Schedule VI of the MSA., wherein any increase or decrease shall be to the account of citizen seeking that particular service.

c. 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 (i) any resale certificates, (ii) any relevant information regarding use of out-of-state materials, equipment or services and (iii) any exemption certificates or information reasonably requested by the other Party.

5 ARTICLE V - BREACH, RECTIFICATION & TERMINATION

5.1 Material Breach

In the event that either Party is in Material Breach of its obligations under this Agreement or the SLA, the aggrieved Party may terminate this Agreement or the SLA upon notice to the other Party. Any notice served pursuant to this Article shall give reasonable details of the Material Breach, which could include the following events and the termination will become effective:

(i) If there is Breach which translates into default in providing Services by the Service Provider as per this Agreement or the SLA, continuously for more than one week, then the Project Director, APTS/ITE&C DEPT., will serve a seven days notice for curing such Material Breach. In case the Material Breach continues after the notice period, the Project Director, ITE&C dept. will have the option to terminate the Agreement.

(ii) Because time is the essence of the contract, in case, for reasons prima facie attributable to the Service Provider, there is a delay of more than 4 weeks in the Project Implementation Phase by the Service Provider prior to the acceptance testing and certification stage, the Project Director, ITE&C dept. may terminate this contract.
after affording a reasonable opportunity to the Service Provider to explain the circumstances leading to such a delay. Further, the Project Director, ITE&C dept. may also invoke the Performance Guarantee of the Service Provider.

(iii) If there is a Breach by the Project Director, ITE&C dept. not providing support for integration of ITE&C dept. system with the IT systems of the other departments that interface the Modules of Primary Sector Package under e-pragati system or other agencies (if any), or not providing the certification of the Implementation Phase without any valid reason, then the Service Provider may give a one month’s notice for curing the Material Breach. In the event the Breach continues, the Service Provider will have the option to terminate the Agreement subject to the Clause 5.4 (Termination) and of the provisions of the Exit management Schedule (Schedule II of this Agreement).

5.2 Company name change

Where a change of control of the Service Provider has occurred whereby the Service Provider-company has merged, amalgamated or been taken over, due to which the majority shareholding of the Service Provider has been transferred to another entity, the Project Director, ITE&C dept. can by a 70 days written notice, terminate this Agreement and such notice shall become effective at the end of the notice period.

5.3 TERMINATION

a. The Project Director, ITE&C dept. may serve written notice on Service Provider at any time to terminate this Agreement with immediate effect in the event of a reasonable apprehension of bankruptcy of the Service Provider:

   (i) Service Provider shall in the event of an apprehension of bankruptcy immediately inform the Project Director, ITE&C dept. well in advance (at least 3 months) about such a development;

   (ii) Conversely if the Project Director, ITE&C dept. apprehend a similar event regarding the Service Provider, he/she can exercise the right of termination in the manner stated hereinabove.

b. On termination of this Agreement for any reason, the SLA shall automatically terminate forthwith and the Project Director, ITE&C dept. will decide the appropriate course of action.

c. The termination provisions set out in Article V of this Agreement shall apply to the SLA and “this Agreement” shall be deemed to refer to the SLA.

5.4 EFFECTS OF TERMINATION

a. In the event that the Project Director, APTS/ITE&C DEPT., or the Service Provider, terminates this Agreement pursuant to Article 5.1 and depending on the event of default, compensation will be decided in accordance with the Terms of Payment Schedule (Schedule VI of this Agreement).

b. Upon termination of this Agreement, the Parties will comply with the Exit Management Schedule (Schedule II of this Agreement).

5.5 Fraud by SP’s personnel

APTS/ITE&C DEPT. reserves its right to initiate criminal action against the agents/employees of the SP for fraud or misappropriation, besides stringent penalties. The management of the SP
would also be made liable for action in case of fraud, under the applicable laws and ITE&C dept. may call for termination of the contract if ITE&C dept. finds it necessary to do so.

6 **ARTICLE VI - PROTECTION AND LIMITATIONS**

6.1 **WARRANTIES**

a. The Service Provider warrants and represents to the Project Director, ITE&C dept. that:

   (i) it has full capacity and authority and all necessary approvals to enter into and to perform its obligations under this Agreement;

   (ii) this Agreement is executed by a duly authorized representative of Service Provider;

   (iii) it shall discharge its obligations under this Agreement with due skill, care and diligence so as to comply with Article 2.4.

b. In the case of the SLA, the Service Provider warrants and represents to the Project Director, APTS/ITE&C DEPT., that:

   (i) the Service Provider has full capacity and authority and all necessary approvals to enter into and perform its obligations under the SLA and to provide the Services;

   (ii) the SLA has been executed by a duly authorized representative of the Service Provider;

   (iii) the Service Provider is experienced in managing and providing works similar to the Services and that it will perform the Services with all due skill, care and diligence so as to comply with Article 2.4;

   (iv) the Services will be provided and rendered by appropriately qualified, trained and experienced personnel;

   (v) Service Provider has and will have all necessary licenses, approvals, consents of third parties and all necessary technology, hardware and software to enable it to provide the Services;

   (vi) the Services will be supplied in conformance with all applicable laws, enactments, orders and regulations;

   (vii) Service Provider will use its reasonable endeavors to ensure that the equipment, software and hardware supplied and/or used in the course of the provision of the Services, save for the Assets, are operational and functional; and

   (viii) if Service Provider uses, in the course of the provision of the Services, components, equipment, software and hardware manufactured by any third party which are embedded in the Deliverables or are essential for the successful use of the Deliverables, it will pass through third party manufacturer's warranties relating to those components, equipment, software and hardware to ITE&C dept. to the extent possible.

   In the event that such warranties cannot be enforced by the Project Director, APTS/ITE&C DEPT., the Service Provider will enforce such warranties on behalf of the Project Director, ITE&C dept. and pass on to the Project Director, APTS/ITE&C DEPT., the benefit of any other remedy received in relation to such warranties.

c. Notwithstanding what has been stated elsewhere in this Agreement and the Schedules
attached herein, in the event the Service Provider is unable to meet the obligations pursuant to the implementation of the Pilots, Projects, Operations and Maintenance Services and any related scope of work as stated in this Agreement and the Schedules attached herein, the Project Director, ITE&C dept. will have the option to invoke the Performance Guarantee after serving a written notice fifteen days in advance on the Service Provider.

6.2 THIRD PARTY CLAIMS

a. Subject to Article 6.2b below, Service Provider (the "Indemnifying Party") undertakes to indemnify the Project Director, ITE&C dept. (the "Indemnified Party") from and against all losses, claims or damages on account of bodily injury, death or damage to tangible personal property arising in favor of any person, corporation or other entity (including the Indemnified Party) attributable to the Indemnifying Party's performance or non-performance under this Agreement or the SLA.

b. The indemnities set out in Articles 6.2a shall be subject to the following conditions:

(i) the Indemnified Party, as promptly as practicable, informs the Indemnifying Party in writing of the claim or proceedings and provides all relevant evidence, documentary or otherwise;

(ii) the Indemnified Party shall, at the cost of the Indemnifying Party, give the Indemnifying Party all reasonable assistance in the defense of such claim including reasonable access to all relevant information, documentation and personnel provided that the Indemnified Party may, at its sole cost and expense, reasonably participate, through its attorneys or otherwise, in such defense;

(iii) if the Indemnifying Party does not assume full control over the defense of a claim as provided in this Article, the Indemnifying Party may participate in such defense at its sole cost and expense, and the Indemnified Party will have the right to defend the claim in such manner as it may deem appropriate, and the cost and expense of the Indemnified Party will be included in Losses;

(iv) the Indemnified Party shall not prejudice, pay or accept any proceedings or claim, or compromise any proceedings or claim, without the written consent of the Indemnifying Party;

(v) all settlements of claims subject to indemnification under this Article will: (a) be entered into only with the consent of the Indemnified Party, which consent will not be unreasonably withheld and include an unconditional release to the Indemnified Party from all liability in respect of such claim; and (b) include any appropriate confidentiality agreement prohibiting disclosure of the terms of such settlement;

(vi) the Indemnified Party shall account to the Indemnifying Party for all awards, settlements, damages and costs (if any) finally awarded in favor of the Indemnified Party which are to be paid to it in connection with any such claim or proceedings;

(vii) the Indemnified Party shall take legally permissible steps that the Indemnifying Party may reasonably require to mitigate or reduce its loss as a result of such a claim or proceedings; and

(viii) in the event that the Indemnifying Party is obligated to indemnify an Indemnified Party pursuant to this Article, the Indemnifying Party will, upon payment of such indemnity in full, be subrogated to all rights and defenses of the Indemnified Party with respect to the claims to which such indemnification relates;
6.3 LIMITATION OF LIABILITY

a. Notwithstanding any other term, there shall be no limitation of liability in case of any damages for bodily injury (including death) and damage to real property and tangible personal property and willful fraud.

b. In all other cases not covered by ‘a’ above, the total financial liability of the Service Provider shall be limited to the value of the contract, arrived at as the sum of Capital Expenditure (CapEx) incurred by the Service Provider till the relevant date on which such liability is to be calculated and Operational Expenditure (OpEx) for a year, the CapEx being determined on the basis of the original purchase value of all the assets being considered for CapEx calculation less depreciation and OpEx being determined in accordance with the market rate, prevailing as on the relevant date, for all service elements being considered for OpEx calculation. SP will provide the list of CapEx and OpEx items with their respective costs when asked by ITE&C dept. for the same and ITE&C dept. will have the right to get that list verified by any 3rd Party agency (ies) before accepting it.

c. Neither this Agreement nor the SLA grants or creates any rights, benefits, claims, obligations or causes of action in, to or on behalf of any person or entity (including any third party) other than between the respective Parties to this Agreement or the SLA, as the case may be.

d. Any claim or series of claims arising out or in connection with this Agreement or the SLA shall be time barred and invalid if legal proceedings are not commenced by the relevant Party against the other Party within such period as may be permitted by applicable law without the possibility of contractual waiver or limitation.

e. The Project Director, ITE&C dept. shall be entitled to claim the remedy of specific performance under this Agreement or the SLA.

6.4 FORCE MAJEURE

a. Neither Party to this Agreement or to the SLA shall be liable to the other for any loss or damage which may be suffered by the other due directly to the extent and for the duration of any cause beyond the reasonable control of the Party unable to perform (“Force Majeure”) events such as but not limited to acts of God not confined to the premises of the Party claiming the Force Majeure, flood, drought, lightning or fire, earthquakes, strike, lock-outs beyond its control, labour disturbance not caused at the instance of the Party claiming Force Majeure, acts of government or other competent authority, war, terrorist activities, military operations, riots, epidemics, civil commotions etc. No failure, delay or other default of any contractor or sub-contractor to either Party shall entitle such Party to claim Force Majeure under this Article.

b. The Party seeking to rely on Force Majeure shall promptly, within 2 days, notify the other Party of the occurrence of a Force Majeure event as a condition precedent to the availability of this defense with particulars detailed in writing to the other Party and shall demonstrate that it has taken and is taking all reasonable measures to mitigate the events of Force Majeure.

c. In the event the Force Majeure substantially prevents, hinders or delays the Service Provider's performance of Services necessary for project’s implementation or the operation of PROJECT’S critical business functions for a period in excess of 5 days, the Project Director,1 may declare that an emergency exists. However, when the situation arising out of force majeure comes to an end in the assessment of Project Director, APTS/ITE&C DEPT. , the following conditions shall apply:

i. Prior to commencement of operations: If the event of Force Majeure had occurred prior to commencement of operations, upon its coming to an end the Service Provider shall
resume normal activities under this agreement immediately. The Project Director, APTS/ITE&C DEPT., if he considers it necessary, may grant an extension of time to the Service Provider for resuming normal activities under this agreement. If the Service Provider does not resume normal activities immediately or within the extended period, if any, granted by the Project Director, APTS/ITE&C DEPT., the Project Director, ITE&C dept. will have the option to invoke the Performance Guarantee, levy liquidated damages as per section 3.2 of Volume II of RFP, obtain substitute performance from an alternate supplier at the cost of Service Provider and/or terminate this Agreement.

ii. Post commencement of operations: If Force Majeure had occurred post commencement of operations, upon its coming to an end, the Service Provider shall resume normal services under this agreement immediately. The Project Director, APTS/ITE&C DEPT., if he considers it necessary, may grant an extension of time to the Service Provider for resuming normal services under this agreement. However, the Project Director, ITE&C dept. will deduct for each day of the extension period a percentage proportionate to the number of days and the volume(s) (measured in terms of ratio to the overall volume as recorded in the previous month) expected in the affected area(s) from the next payable amount as per Payment Schedule. If normal services are not resumed immediately or within the extended time, the Project Director, ITE&C dept. will have the option to invoke the Performance Guarantee and/or terminate the Agreement.

d. All payments pursuant to termination due to Force Majeure event shall be in accordance with the Terms of Payment Schedule (Schedule VI of this Agreement).

e. Notwithstanding the terms of this Article, the failure on the part of the Service Provider under the SLA or terms under the SLA to implement any disaster contingency planning and back-up and other data safeguards in accordance with the terms of the SLA or this Agreement against natural disaster, fire, sabotage or other similar occurrence shall not be an event of Force Majeure.

6.5 DATA PROTECTION

a. In the course of providing the Services the Service Provider may be compiling, processing and storing proprietary PROJECT Data relating to the users.

b. The Service Provider and each user are responsible for complying with its respective obligations under the applicable data protection laws and regulations governing the PROJECT Data.

c. As a processor of PROJECT Data, the Service Provider will process PROJECT Data in accordance with the terms of this Agreement or the SLA.

d. The Service Provider shall not transfer any PROJECT Data unless otherwise authorized by the Project Director, ITE&C dept. in this regard.

e. Upon reasonable written request from a Party to the SLA, the other Party to the SLA will provide the requesting Party with such information that it has regarding the PROJECT, Data and its processing which is necessary to enable the requesting party to comply with its obligations under the applicable data protection law or regulation.

6.6 CONFIDENTIALITY

a. The Project Director, ITE&C dept. may permit the Service Provider to come into possession of confidential public records as per the needs of the project and the Service Provider shall maintain the highest level of secrecy, confidentiality and privacy with regard thereto.
b. Additionally, the Service Provider shall keep confidential all the details and information with regard to the Project, including systems, facilities, operations, management and maintenance of the systems/facilities.

c. Service Provider shall be prohibited from using the Modules of Primary Sector Package under e-pragati-related data in whatever manner, for purposes other than handling transactions through the Modules of Primary Sector Package under e-pragati system. Service Provider shall undertake, on behalf of its agents and employees, that no Modules of Primary Sector Package under e-pragati-related data shall be copied in any manner (paper, electronic, or human memory) and transferred to any entity (human or machine) other than that being through the Modules of Primary Sector Package under e-pragati system for delivering job responsibilities defined for each individual.

d. The Project Director, ITE&C dept. shall retain all rights to prevent, stop and if required take the necessary punitive action against the Service Provider regarding any forbidden disclosure.

e. The Service Provider shall ensure that all its employees, agents and sub-contractors execute individual non-disclosure agreements, which have been duly approved by the Project Director, APTS/ITE&C DEPT., with respect to this Project.

f. The aforesaid provisions shall not apply to the information:

(i) already in the public domain; and
(ii) Disclosed to the public due to a court order or under the Right to Information Act; and
(iii) Information required to be furnished to the Parliament and/or its Committees

6.7 AUDIT, ACCESS AND REPORTING

a. The Parties shall comply with the Audit, Access and Reporting Schedule provided in Schedule III.

b. The Service Provider shall, on request, allow access to the Project Director, ITE&C dept. and its nominees to all information which is in the possession or control of the Service Provider, which relates to the provision of the Services as set out in the Audit, Access and Reporting Schedule and is reasonably required to comply with the terms of the Audit, Access and Reporting Schedule.

7 ARTICLE VII - INTELLECTUAL PROPERTY

7.1 INTELLECTUAL PROPERTY

a. Except to the extent otherwise expressly provided in this Agreement, the Project Director, ITE&C dept. shall retain exclusive intellectual property rights to the bespoke software, forms and the compilations of the PROJECT to which the Project Director, ITE&C dept. has sovereign rights and nothing herein shall or will be construed or deemed to grant to the Service Provider any right, title, license, sub-license, proprietary right or other claim against or interest in, to or under (whether by estoppels, by implication or otherwise) to the aforesaid rights.

b. The IPR on the Modules of Primary Sector Package under e-pragati application shall vest with the APTS/ITE&C DEPT., as soon as the system is certified by a 3rd Party. A copy of the source code shall be kept in the custody of the APTS/ITE&C DEPT. / PMU on a monthly basis, with proper version control.
c. Without limiting the generality of Article 7.1a and except to the extent otherwise expressly agreed by the Parties to this Agreement or the SLA in writing, nothing contained in this Agreement or the SLA shall or will be construed or deemed to grant to the Service Provider any right, title, license or other interest in, to or under (whether by estoppel, by implication or otherwise) any logo, trademark, trade name, service mark or similar designations of PROJECT or its respective affiliates/nominees or any confusingly similar designations of PROJECT.

d. Subject to any sole or exclusive rights granted by the Project Director, ITE&C dept. to a third party prior to the Effective Date, the Project Director, ITE&C dept. grants to the Service Provider and any sub-contractors to the Service Provider solely in their performance of Services for PROJECT or its nominated agencies, non-exclusive, paid-up, royalty-free right and license during the Term of this Agreement, but not the right to sub-license, to use the PROJECT Data including the right to copy, perform, display, execute, reproduce, modify, enhance and improve the PROJECT Data to the extent reasonably necessary or useful for the provision of Services hereunder.

e. Service Provider shall not use the PROJECT Data to provide services for the benefit of any third party, as a service bureau.

f. Service Provider shall indemnify, defend and hold harmless PROJECT DIRECTOR and their respective officers, employees, successors and assigns, from and against any and all losses arising from claims by third parties that any Deliverable (or the access, use or other rights thereto) created by Service Provider pursuant to this Agreement, and/or the SLA, or any equipment, software, information, methods of operation or other intellectual property (or the access, use or other rights thereto) provided by Service Provider or sub-contractors to the Service Provider pursuant to this Agreement or the SLA (i) infringes a copyright enforceable in India, (ii) infringes a patent issued in India, or (iii) constitutes misappropriation or unlawful disclosure or use of another Party's trade secret under the laws of India (collectively, "Infringement Claims"); provided, however, that this will not apply to any Deliverable (or the access, use or other rights thereto) created by (A) PROJECT DIRECTOR; (B) third parties (i.e., other than Service Provider or Service Provider's sub-contractors) at the direction of PROJECT DIRECTOR.

g. The Project Director, ITE&C dept. shall have no liability or obligation to Service Provider or any other Party under Article 7.1e above to the extent the Infringement Claim is based upon any use of the equipment, software, information, methods of operation or other intellectual property (or the access, use or other rights thereto) for the benefit of any Party (including any use by Service Provider or its nominees outside the scope of the Services) other than for PROJECT.

h. Notwithstanding any provisions of this Agreement to the contrary, the foregoing remedies constitute the Parties’ sole and exclusive remedies and each Party's entire liability, with respect to Infringement Claims.

i. If Service Provider uses in the course of the provision of the Services any Third Party System it will use all commercially reasonable endeavors to pass through to the Project Director, ITE&C dept. such third party's warranties relating to such Third Party Systems. In the event that such warranties cannot be passed through to or enforced by the Project Director, APTS/ITE&C DEPT., the Service Provider will enforce such warranties on APTS/ITE&C DEPT.’s behalf and account to ITE&C dept. for so doing.

j. All rights, title and interest in and to, and ownership in, Proprietary Information of PROJECT which is provided to Service Provider, and all modifications, enhancements and other derivative works of such PROJECT Proprietary Information ("PROJECT Proprietary Information"), as a result of Services rendered by the Service Provider hereunder shall remain solely with the Project Director, APTS/ITE&C DEPT. Service Provider shall be entitled to use such PROJECT Proprietary Information only during the Agreement Term and
only for the purposes of providing the Services or to the extent necessary for Service Provider's normal operational, repair and maintenance purposes related to the Services. The Project Director, ITE&C dept. shall retain ownership of all Intellectual Property Rights related to PROJECT Proprietary Information.

k. All rights, title and interest in and to, and ownership in, Proprietary Information of Service Provider, which is provided to the Project Director, APTS/ITE&C DEPT., and all modifications, enhancements and other derivative works of such Service Provider Proprietary Information (“Service Provider Proprietary Information”), shall remain solely with Service Provider. The Service Provider will upon the award of the Project in its favor, declare the status of all the Service Provider Proprietary Information along with documentary support sufficient to establish its sole legal rights in the aforesaid Proprietary Information to the Project Director, APTS/ITE&C DEPT.. This Proprietary Information shall refer to that which has been owned by the Service Provider prior to commencement of the Agreement. Additionally, any software that may be acquired from third parties during the term of the agreement and that which may be developed by the Service Provider during the course of the Agreement specifically for PROJECT shall also not be considered as Service Provider Proprietary Information by the PROJECT. The Project Director, ITE&C dept. shall be entitled to use such Service Provider Proprietary Information only in connection with the Services or to the extent necessary for Project’s normal operational, repair and maintenance purposes related to the Services. To the extent that the Service Provider Proprietary Information is incorporated within the Deliverables, Service Provider and its employees engaged hereby grant to the Project Director, ITE&C dept. a worldwide, perpetual, irrevocable, non-exclusive, transferable, paid-up right and license to use, copy, modify (or have modified), transport to PROJECT facilities, and prepare from them, use and copy derivative works for the benefit of and internal use of PROJECT such Service Provider Proprietary Information. The Project Director, APTS/ITE&C DEPT. ’s rights pursuant to the preceding sentence include the right to disclose such Service Provider Proprietary Information to third party contractors solely for use on PROJECT provided that all such third party contractors execute, deliver and comply with any customary confidentiality and nondisclosure agreements reasonably required by the Project Director, APTS/ITE&C DEPT..

l. With respect to ownership of the Deliverables, the Parties agree that the following shall apply:

(i) All the deliverables provided to ITE&C dept. by Service Provider during the course of its performance under this Agreement, and/or the SLA which includes but is not limited to Bespoke Software as defined in this Agreement, in which, subject to the foregoing provisions of this Article, all right, title and interest in and to such Deliverables, shall, as between Service Provider and APTS/ITE&C DEPT., immediately upon creation vest in APTS/ITE&C DEPT.. To the extent that the Service Provider Proprietary Information is incorporated within the Deliverables, Service Provider and its employees engaged hereby grant to ITE&C dept. a worldwide, perpetual, irrevocable, non-exclusive, transferable, paid-up right and license to use, copy, modify (or have modified), transport to ITE&C dept. at facilities and locations provided by APTS/ITE&C DEPT., and prepare from them, use and copy derivative works for the benefit of and internal use of PROJECT, of such Service Provider Proprietary Information.

(ii) If Service Provider proceeds to apply for, or assign to any third party, any patent rights relating to Service Provider Proprietary Information referred to in the above clause, Service Provider will ensure that APTS/ITE&C DEPT. ’s rights as provided herein are preserved.

m. The Project Director, ITE&C dept. hereby grants to Service Provider a non-exclusive right and license to access and use the PROJECT Proprietary Information solely for the purpose of providing Services to APTS/ITE&C DEPT.. Such right and license shall terminate upon the
expiration or termination of this Agreement.

n. Upon the expiration or any termination of this Agreement (and also in respect of the SLA), Service Provider shall undertake the actions set forth below in this Article to assist the Project Director, ITE&C dept. to procure replacement services equivalent to Services provided hereunder.

(i) The Service Provider undertakes to negotiate in good faith with the Project Director, ITE&C dept. and any relevant Replacement Service Provider in respect of commercial terms applying to all Service Provider Intellectual Property Rights and which the Project Director, ITE&C dept. and any relevant Replacement Service Provider require to enable them to provide or receive services substantially equivalent to the Services hereunder.

(ii) In respect of Service Provider’s usage of third party Intellectual Property Rights, Service Provider undertakes to assist the Project Director, ITE&C dept. to secure such consents or licenses from such third parties as are necessary to enable PROJECT to receive services substantially equivalent to the Services hereunder. The obligations of the Service Provider under this Article shall be considered part of the services performed by the Service Provider under the Exit Management Services.

8 ARTICLE VIII – MISCELLANEOUS

8.1 CONFIDENTIALITY

a. The Service Provider recognizes that during the term of this Agreement and the SLA, sensitive data will be procured and made available to it, its Sub contractors and agents and others working for or under the Service Provider. Disclosure or usage of the data by any such recipient may constitute a breach of applicable laws causing harm to the concerned citizens. The function of the Project Director, ITE&C dept. requires the Service Provider, its Subcontractors and agents to demonstrate utmost care, sensitivity and strict confidentiality. Any breach of this Article will result in the Project Director-APTS/ITE&C DEPT. and its nominees receiving a right to seek injunctive relief and damages without any limit, from the Service Provider and/or also seek termination.

b. Each Party agrees as to any Confidential Information disclosed by a Party to this Agreement or the SLA (the "Discloser") to the other Party to this Agreement or the SLA (the "Recipient"):

(i) to take such steps necessary to protect the Discloser’s Confidential Information from unauthorized use, reproduction and disclosure as the Recipient takes in relation to its own Confidential Information of the same type, but in no event less than reasonable care; and

(ii) to use such Confidential Information only for the purposes of this Agreement or the SLA or as otherwise expressly permitted or expressly required by this Agreement or

(iii) the SLA or as otherwise permitted by the Discloser in writing; and

(iv) not, without the Discloser’s prior written consent, to copy the Confidential Information or cause or allow it to be copied, directly or indirectly, in whole or in part, except as otherwise expressly provided in this Agreement or the SLA, or as required in connection with Recipient’s use as permitted under this Article, or as needed for the purposes of this Agreement or the SLA, provided that any proprietary legends and notices (whether of the Discloser or of a Third Party) are not removed or obscured; and
c. The restrictions of this Article shall not apply to Confidential Information that:

(i) is or becomes generally available to the public through no breach of this Article by the Recipient; and

(ii) was in the Recipient's possession free of any obligation of confidence prior to the time of receipt of it by the Recipient hereunder; and

(iii) is developed by the Recipient independently of any of Discloser’s Confidential Information; and

(iv) is rightfully obtained by the Recipient from third parties authorized at that time to make such disclosure without restriction; and

(v) is identified in writing by the Discloser as no longer proprietary or confidential; or

(vi) is required to be disclosed by law, regulation or Court Order or under the Right to Information Act, or to be furnished to the Parliament and/or its Committees, provided that the Recipient gives prompt written notice to the Discloser of such legal and regulatory requirement to disclose so as to allow the Discloser reasonable opportunity to contest such disclosure.

d. To the extent that such disclosure is required for the purposes of this Agreement or the SLA, either Party may disclose Confidential Information to:

(i) its employees, agents and independent contractors and to any of its affiliates and their respective independent contractors or employees but all of them should in turn be bound to maintain the confidentiality referred to herein on their part; and

(ii) its professional advisors and auditors, who require access for the purposes of this Agreement or the SLA, whom the relevant Party has informed of its obligations under this Article and in respect of whom the relevant Party has used commercially reasonable efforts to ensure that they are contractually obliged to keep such Confidential Information confidential on terms substantially the same as set forth in this Article. Either Party may also disclose Confidential Information to any entity with the other Party’s prior written consent.

e. The provisions of this Article shall survive the expiration or any earlier termination of this Agreement.

f. Confidential Information shall be and remain the property of the Discloser and nothing in this Article shall be construed to grant either Party any right or license with respect to the other Party’s Confidential Information otherwise than as is expressly set out in this Agreement.

g. Subject as otherwise expressly provided in this Agreement all Confidential Information in tangible or electronic form under the control of the Recipient shall either be destroyed, erased or returned to the Discloser promptly upon the earlier of: (i) the written request of the Discloser, or, (ii) termination or expiry of this Agreement or, in respect of the SLA, the termination or expiry of the SLA. Notwithstanding the forgoing, both Parties may retain, subject to the terms of this Article, a reasonable number of copies of the other Party’s Confidential Information solely for confirmation of compliance with the confidentiality obligations of this Agreement.

h. Neither Party is restricted by the provisions of Article 8.1 from using (including using to
provide products or perform services on behalf of third parties) any ideas, concepts, know how and techniques that are related to the Recipient's business activities and which are retained in unaided memories of the Recipient's employees or agents (and not intentionally memorized for the purpose of later recording or use) (collectively, the "Residuals"). This Article shall not permit the disclosure or use by either Party of any financial (including business plans), statistical, product, personnel or customer data of the other Party. Each Party agrees not to disclose the source of the Residuals.

i. Both Parties agree that monetary damages would not be a sufficient remedy for any breach of this Article by the other Party and that the Project Director, ITE&C dept. and Service Provider, as appropriate, shall be entitled to equitable relief, including injunction and specific performance as a remedy for any such breach. Such remedies shall not be deemed to be the exclusive remedies for a breach by a Party of this Article, but shall be in addition to all other remedies available at law or equity to the damaged Party.

j. In connection with the Services, Service Provider may from time to time undertake one or more quality assessment reviews for the purpose of improving PROJECT. In order for such reviews to be frank and candid, for the greatest benefit to ITE&C dept. and Service Provider, they shall be kept confidential to the greatest extent possible. The Parties agree that any documentation created in connection with such quality assessment reviews shall be Confidential Information of Service Provider which is licensed to ITE&C dept. for any internal use except that in no event shall such documentation or the results of such reviews be discoverable or admissible (or used for any purpose) in any arbitration or legal proceedings against Service Provider related to this Agreement or the Services.

8.2 PERSONNEL

a. Personnel assigned by Service Provider to perform the Services shall be employees of Service Provider, and under no circumstances will such personnel be considered employees of PROJECT. Service Provider shall have the sole responsibility for supervision and control of its personnel and for payment of such personnel's entire 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 employer obligations under all applicable laws.

b. Service Provider shall use its best efforts to ensure that sufficient Service Provider personnel are employed to perform the Services, and also that such personnel have appropriate qualifications to perform the Services. The Project Director, ITE&C dept. shall have the right to require the removal or replacement of any Service Provider personnel performing work under this Agreement. In the event that the Project Director, ITE&C dept. requests that any Service Provider personnel be replaced, the substitution of such personnel shall be accomplished pursuant to a mutually agreed upon schedule but not later than 3 working days.

c. The Service Provider shall also be responsible to train certain employees of PROJECT with regard to the Services being provided by the Service Provider as and when required by PROJECT during the Term of this Project. The parameters of the training required for these employees of PROJECT shall be communicated by the Project Director, ITE&C dept. to the Service Provider periodically and shall be in accordance with the latest procedures and processes available in the relevant areas of work.

d. In the event the Project Director, ITE&C dept. identifies any personnel of Service Provider as "Key Personnel", then the Service Provider shall not remove such personnel without the prior written consent of the Project Director, ITE&C dept. under the applicable terms of this Agreement and/or SLA.
e. Except as stated in this Article, nothing in this Agreement or the SLA will limit the ability of Service Provider or any Service Provider freely to assign or reassign its employees; provided that Service Provider shall be responsible, at its expense, for transferring all appropriate knowledge from personnel being replaced to their replacements. The Project Director, ITE&C dept. shall have the right to review and approve Service Provider’s plan for any such knowledge transfer. Service Provider shall maintain the same standards for skills and professionalism among replacement personnel as in personnel being replaced.

f. Each Party shall be responsible for the performance of all its obligations under this Agreement or the SLA and shall be liable for the acts and omissions of its employees and agents in connection therewith.

8.3 INDEPENDENT CONTRACTOR

Nothing in this Agreement or the SLA shall be construed as establishing or implying any Service Providership 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 (i) to incur any expenses on behalf of the other Party, (ii) to enter into any engagement or make any representation or warranty on behalf of the other Party, (iii) to pledge the credit of or otherwise bind or oblige the other Party, or (iv) to commit the other Party in any way whatsoever without in each case obtaining the other Party's prior written consent.

8.4 SUB-CONTRACTORS

Service Provider shall not subcontract (to other parties not forming part of proposed consortium, if any) any work related to the following works related to the implementation of PROJECT to be performed under this Agreement without the Project Director, APTS/ITE&C DEPT. ’s prior written consent.

(a) Design, Development and Installation of Modules of Primary Sector Package under e-pragati Application Software

(b) Installation and Management of Modules of Primary Sector Package under e-pragati system Infrastructure

(c) Setup, Operation and Maintenance of IT Infrastructure relating to Modules of Primary Sector Package under e-pragati Facilitation Centers, Data Center, Disaster Recovery Center, and Central Modules of Primary Sector Package under e-pragati Printing Facility

However, any other sub-contractors may be hired by the Service Provider without the Project Director, APTS/ITE&C DEPT. ’s prior written consent in respect of other works. It is clarified that the Service Provider shall be the principal employer for all claims arising from the liabilities statutory or otherwise, concerning the sub-contractors. The Service Provider undertakes to indemnify the Project Director, ITE&C dept. or its nominated agencies from any claims on the grounds stated hereinabove.

8.5 RESPONSIBILITY IN CASE OF CONSORTIUM

(i) The sole responsibility under the contract will be that of the prime bidder

(ii) Prime bidder’s business relationships with the consortium partners will be his responsibility solely and
(iii) Any conflict or disagreement within the consortium, at any point of time during the currency of the project, shall be resolved by Prime bidder in such a way that the project work is not affected in any manner with respect to any deliverable, milestone, operations, and SLA as per the provisions of the contract. Any such conflict or disagreement shall not be invoked by the Prime Bidder to justify non-fulfillment of any of the obligations under this contract.

(iv) Notwithstanding anything contained in this agreement, all the members of the Consortium of Companies, entrusted with the responsibilities of the Project, shall be jointly and severally responsible to ITE&C dept. in respect of meeting the financial liabilities of the Service Provider arising out of the Project.

8.6 ASSIGNMENT

All terms and provisions of this Agreement shall be binding on and shall inure to the benefit of ITE&C dept. and Service Provider and any assignment or transfer of this Agreement or the SLA or any rights hereunder by either Party shall be strictly prohibited.

8.7 TRADEMARKS, PUBLICITY

Neither Party may use the trademarks of the other Party without the prior written consent of the other Party. Except as required by law or the rules and regulations of each stock exchange upon which the securities of one of the Parties is listed, neither Party shall publish or permit to be published either along or in conjunction with any other person any press release, information, article, photograph, illustration or any other material of whatever kind relating to this Agreement, the SLA or the business of the Parties without prior reference to and approval in writing from the other Party, such approval not to be unreasonably withheld or delayed.

8.8 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 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:

PROJECT DIRECTOR, ITE&C dept.

Address: …………………
Tel: ………………………
Fax: ……………………..
Email: …………………..

Service Provider:

Address: …………………
Tel: ………………………
Fax: ………………………
Email: ………………………

c. Any 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 on a working day at the address of the other Party set forth above or if sent by fax, provided the copy fax is accompanied by a confirmation of transmission, or on the next working day thereafter if delivered outside such hours, and 7 days from the date of posting (if by letter).

d. Either Party to this Agreement or to the SLA may change its address, telephone number, facsimile number and nominated email for notification purposes by giving the other reasonable prior written notice of the new information and its effective date.

8.9 VARIATIONS AND FURTHER ASSURANCE

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

b. Each Party to this Agreement or the SLA agrees to enter into or execute, without limitation, whatever other agreement, document, consent and waiver and to do all other things which shall or may be reasonably required to complete and deliver the obligations set out in this Agreement or the SLA.

8.10 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.

8.11 COMPLIANCE WITH LAWS AND REGULATIONS

Each Party to this Agreement and the SLA accepts that its individual conduct shall (to the extent applicable to it) at all times comply with all applicable laws, rules and regulations. For the avoidance of doubt, the obligations of the Parties to this Agreement and the SLA are subject to their respective compliance with all applicable laws and regulations.
8.12 ETHICS

Service Provider 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 APTS/ITE&C DEPT., 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 APTS/ITE&C DEPT.’s standard policies and may result in cancellation of this Agreement, and the SLA.

8.13 ENTIRE AGREEMENT

This Agreement, and the SLA, all schedules appended thereto and the contents and specifications of all the Volumes 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.

8.14 SURVIVABILITY

The termination or expiry of this Agreement or the SLA for any reason shall not affect or prejudice any terms of this Agreement, or the rights of the Parties under them which are either expressly or by implication intended to come into effect or continue in effect after such expiry or termination.

9 ARTICLE IX - DISPUTES AND AMENDMENTS

9.1 DISPUTE RESOLUTION

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 (Schedule IV of this Agreement).

Any dispute or difference whatsoever arising between the parties to this Agreement out of or relating to the construction, meaning, scope, operation or effect of this Agreement or the validity of the breach thereof, which can not be resolved through the application of the provisions of the Governance Schedule, shall be dealt in accordance with the provisions set forth herein.

a. Scope of Dispute Resolution

Except where otherwise provided in the agreement, all questions and disputes relating to the meaning of the specifications, design, drawings and instructions here-in before mentioned and as to the quality of workmanship or materials used on the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of or relating to the agreement, designs, drawings, specifications, estimates, instructions, orders or these conditions or otherwise concerning the services and deliverables or the execution or failure to execute the same whether arising during the progress of the Project or after the cancellation, termination, completion or abandonment thereof shall be dealt with as mentioned hereinafter:

b. Dispute Resolution Board

If any dispute arises between ITE&C dept. and the Service Provider in connection with, or arising out of, the agreement or the execution of the Project, whether during the execution of the Project or after its completion and whether before or after the repudiation or other termination of the agreement, including any disagreement by either party with any action, inaction, opinion,
instruction, determination, certificate or valuation, the matter in dispute shall, in the first place, be referred to the Dispute Resolution Board here in after called “the Board.”

For purposes of this agreement, the Program Management Committee referred to under section 3.1 of Volume III of the RFP, shall act as the Board. The board at its discretion may co-opt any other officer if in its opinion it may help in resolving the dispute. Either party may refer a dispute to the Board. The board shall give a decision in writing within 30 days of reference of dispute. Either party may refer a written decision of the board to arbitration. If neither party refers the disputes to arbitration within 30 days of the date of such decision, the Board’s decision will be final and binding.

APTS/ITE&C DEPT. at its discretion may change any of the members of the board.

c. Arbitration
In case, a dispute is referred to arbitration, the arbitration shall be under the Indian Arbitration and Conciliation Act, 1996 and any statutory modification or re-enactment thereof. Such disputes shall be referred to an Arbitral Tribunal consisting of 3 (three) arbitrators, one each to be appointed by ITE&C dept. and the Service Provider, the third arbitrator shall be chosen by the two arbitrators so appointed by the parties and shall act as Presiding Arbitrator. In case of failure of the two arbitrators, appointed by the parties to reach a consensus regarding the appointment of the third arbitrator within a period of 30 days from the date of appointment of the two arbitrators, the Presiding Arbitrator shall be appointed by the Foreign Secretary.

Arbitration proceedings shall be held in Delhi and the language of the arbitration proceedings and that of all documents and communications between the parties shall be English.

The decision of the majority of arbitrators shall be final and binding upon both parties. The expenses of the arbitrators as determined by the arbitrators shall be shared equally by ITE&C dept. and the Service Provider. However, the expenses incurred by each party in connection with the preparation, presentation shall be borne by the party itself. All arbitration awards shall be in writing and shall state the reasons for the award.

9.2 AMENDMENT

The Parties acknowledge and agree that amendments to this agreement shall be made through mutual agreement between the parties in writing in accordance with the procedure this Agreement is executed and signed.

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:

1. (Name, Designation, Organization, and Signature)

2. (Name, Designation, Organization, and Signature)
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By: _____ (signature) ______

_____ (Name and designation) ______

An authorized signatory duly nominated pursuant to Board Resolution No._______
dated_______ of the [Service Provider]
10 Roles & Responsibilities

10.1 Role of APTS/ITE&C DEPT.

As facilitator owner of the Project, the role of ITE&C dept. is in the successful implementation of Modules of Primary Sector Package under e-pragati system includes discharging the following responsibilities:

a. Laying down the metrics of success of the Project.

b. Owning the core and critical assets of the Project and Modules of Primary Sector Package under e-pragati system and exercising Strategic Control over the Project

c. Laying down the policies relating to issuance of Modules of Primary Sector Package under e-pragati s

d. Approving the budget and releasing the funds required for the project

e. Facilitate and/or approve the deputation of employees of the GoI to the Modules of Primary Sector Package under e-pragati Services Project

f. Constituting a Special Purpose Vehicle (SPV) for managing the implementation and operation of the Project.

g. Constituting a Program Management Unit (PMU) for facilitating smooth implementation of Modules of Primary Sector Package under e-pragati Services Project.

h. Reviewing the performance of the Service Provider through SPV and PMU

i. Issuing directions to the SPV, PMU and SP as may be needed

j. Reviewing the performance of the Modules of Primary Sector Package under e-pragati Offices and their staff and ensure compliance with the requirements of the system.

k. Approving a productivity-based incentive scheme for the employees of ITE&C dept.

l. Ensuring that all the divisions and constituent organizations of CPV/
ITE&C dept. take active part in the project.

m. Identifying & nominating appropriate personnel from CPV/ITE&C dept. and constituent organizations to participate in the Acceptance Testing.

n. Engaging a third party for acceptance testing and audit of security & controls of the application & infrastructure established for Modules of Primary Sector Package under e-pragati system.

o. Facilitate the training programs that will be conducted by the SP and other agencies at all the implementation sites.

p. Facilitate Change Management efforts by Issuing of circulars, instructions, etc., to effect changes to existing roles and responsibilities of employees, adoption of reengineered processes in participating divisions/constituent organizations and such other matters as may be necessary from time to time.

q. Coordinating with the Ministries of IT, Home Affairs, Finance, the State Governments and other agencies for the smooth operations relating to Modules of Primary Sector Package under e-pragati issuance.

r. Ensuring that all the legal amendments are carried out where occasioned by the re-designed processes.

s. Facilitate the communication program that will be conducted by the SP for popularizing the new Modules of Primary Sector Package under e-pragati system and for encouraging Modules of Primary Sector Package under e-pragati seeking public to access Modules of Primary Sector Package under e-pragati Portal for availing various services.

t. Periodic review and testing of SLA Monitoring System implemented by SP for accuracy and completeness in the reports generated from the system.

10.2 Role of Service Provider(SP) / System Integrator(SI)

a. Subject to the requirements specified in this RFP, SP will be responsible for providing:

i. All hardware, software, networking & PCs of the entire
RFP for Selection of System Integrator for Implementation e-Pragati Primary Sector Modules volume III

Modules of Primary Sector Package under e-pragati system as specified in this RFP

ii. Maintenance and operations of all the above

iii. Training on the application software, training on general computer skills, soft skills, and customer service & delivery

iv. Change management and communication strategy & implementation

v. Obtaining ISO (9001, 27001, 20000) certifications for the Modules of Primary Sector Package under e-pragati system

vi. Compliance with the SLAs

vii. Call center & grievance handling

b. SP to implement the Modules of Primary Sector Package under e-pragati system and then operate & maintain it for 6 years

11 Program Governance Structure

11.1 Program Governance Approach

The Program Management activity is a theme that will run right across the phases of the project implementation, from the selection of Service Provider to the implementation and stabilization stage. It comprises administrative and facilitation steps and tasks to be performed to support the implementation of this project. The objectives of the program management activity are:

- Monitor the project plan to ensure that all the activities have commenced and completed as per the phase-wise plan drawn by SP

- Report the project progress to the Program Management Committee and/or Empowered committee

- Identify risks and facilitate SP in developing mitigation strategies and implementing them

The proposed Program Governance Structure can be segregated into two levels viz. at Program level and at Project level as detailed below:
At the Program Level

- Empowered Committee, constituted by ITE&C dept. Would be responsible for taking all decisions related to overall vision and policy matters.

- A Program Management Committee, headed by a Mission Leader (as assigned by APTS/ITE&C DEPT. ) would be responsible for the overall time bound implementation of the Program.

- A Technical Committee, to be established by APTS/ITE&C DEPT. , would act as the Technical Expert Group responsible for providing the technology related expertise required during project’s currency.

- A Program Management Unit to be managed by the Program Management Committee and act as an implementation secretariat to the Program Management Committee.

At the Project Level

- A Project Team, headed by the Modules of Primary Sector Package under e-pragati Officer, would be responsible for facilitating the project implementation work of SP at the Modules of Primary Sector Package under e-pragati Office level. It would include the following three components:

  o Site and Facilities Team responsible for monitoring the site preparation.

  o A Functional Team responsible for implementation assistance and ownership of the new system and MIS requirements at the Modules of Primary Sector Package under e-pragati Office level.

  o A Technical Team responsible for supervision of application development for the core modules.

Service Provider’s PM structure requirement

SP is required to establish a well defined and properly staffed PM team structure in place for ensuring a smooth implementation of the project. The focus should be to have the right mix of personnel in the PM team with respect to both the area of expertise as well as the relevant experience in that area. It may be noted that the PMUs to be established by APTS/ITE&C DEPT. , as detailed in sections 2.1 & 3.1 above, should not be construed as a substitute for the responsibility of the SP to establish a full-fledged PM team at its own initiative and cost.
As part of manpower deployment scheme that the SP will have to propose in its technical bid, the description for PM team should come out very clearly. PM team design will go a long way in setting the right communication lines, winning APTS/ITE&C DEPT. ’s confidence in SP and facilitating smooth coordination in regular project functioning as well as in resolving issues.

SP will have to describe the PM team design and structure keeping the following aspects in view:

   a. Implementation phase requirements
   b. Operations & Maintenance phase requirements
   c. Coordination matrix requirements

SP is required to adopt the OPM3 guidelines while designing and managing the PM team.

12 Service Level Agreements

Following table outlines the key service level requirements for Modules of Primary Sector Package under e-pragati system, which needs to be ensured by the SP during the operations and maintenance period. These performance requirements shall be strictly imposed and a third party audit/certification agency shall be deployed for certifying the performance of the SP against the target performance metrics as outlined in the table below. The SLA monitoring shall be performed/reviewed on a monthly basis. During the contract period, it is envisaged that there could be changes to the SLA, in terms of addition, alteration or deletion of certain parameters, based on mutual consent of both the parties i.e. CPV/ ITE&C dept. and SP.

12.1 Service Level Objectives

The following Service Level Objectives have been identified for governing the SLA in Modules of Primary Sector Package under e-pragati Services Project:

Citizen perspective:

   i. Convenience (choice of time, place & channel)
   ii. Comfort (layout, ambience, amenities)
   iii. Quality of Treatment (responsiveness)
   iv. Query/ Grievance redressal
   v. Transparency (queue management, status tracking)
Employee perspective:

i. Working condition (layout, ambience, amenities)
ii. Availability (of system)
iii. Response time (of system)
iv. Support systems

Ministry/Division perspective:

i. Quality (error-free) service
ii. Efficiency
iii. Employee satisfaction
iv. Security
v. Availability
vi. Financial efficiency
vii. Scalability
viii. Support systems

12.2 SLA Definition & Measurement

As this project is a purely service-oriented project, the operational portion of the Agreement between ITE&C dept. and the selected SP will be in the form of a Service Level Agreement, a model of which is provided in Schedule VIII of the Master Services Agreement (MSA) in this Volume of the RFP. The SLA specifies the expected levels of service to be provided by the SP to the various stakeholders of the Project. This expected level is also called the baseline service level. Payment of the Quarterly Transaction Charges (QTC) payable to the SP is linked to the compliance with the SLA metrics laid down in the table provided as Appendix A to Schedule VIII of the MSA. The table also specifies the limits and metrics for lower / higher performance and breach levels.

The following points clarify the manner in which the SLA metrics operate:

a. A set of 15 parameters has been identified as key to ensuring the desired performance level of Modules of Primary Sector Package under e-Pragati system.

b. The table lists out the baseline performance level, method of measurement and how low / high performances will be treated.

c. The SP will get 100% of QTC if the baseline performance metrics are complied. The SP will get lesser payment in case of a lower performance on any parameter.
For the purpose of SLA measurement, hours will be defined as below (unless specified otherwise):

i. PH – Peak Hours (a span of 2 hours to be identified by SP in consultation with ITE&C dept. at the beginning of each year)

ii. NPH – Non Peak Hours (All hours other than the above)

e. The performance of the system shall be measured both in PH, NPH for the purpose of computing the SLA score.

12.3 Modules of Primary Sector Package under e-pragati's Services Project - SLA Metrics

The Service Level metrics that define the Service Levels, the method of measurement of each SLA and the credits or SLA scores for the baseline, lower performance and higher performance are specified in Appendix A of the Model SLA, incorporated as Schedule VIII of the MSA, in this Volume III of the RFP. The SP shall comply with the Service Levels specified in the said Appendix A.

12.4 SLA Monitoring

The aforementioned SLA parameters shall be measured on a daily/weekly/monthly/quarterly basis as per the individual SLA parameter requirements, through appropriate SLA Measurement tools to be designed by the SP for the purpose and audited by a 3rd party for accuracy and reliability. If the performance of the system/services is degraded significantly at any given point in time during the contract and if the immediate measures are not implemented and issues are not rectified to the complete satisfaction of CPV/ITE&C dept. or an agency designated by them, then ITE&C dept. will have the right to take appropriate corrective actions including termination of the contract. It is to be noted that if the overall penalty applicable in any quarter during the currency of the contract exceeds 20%; then ITE&C dept. shall have the right to terminate the contract.

The SLAs defined in Schedule VIII of the MSA, shall be reviewed on an annual basis as ITE&C dept. decides after taking the advice of the SP, PMU and other agencies. All the changes would be made by ITE&C dept. after consultation with the SP. The changes made should not result in undue financial advantage to the SP.
13 SCHEDULE I

CHANGE CONTROL SCHEDULE

13.1 PURPOSE

This Schedule applies to and describes the procedure to be followed in the event of any proposed change to the Master Services Agreement ("MSA"), Project Implementation Phase, and Operation and Management SLA. Such change shall include, but shall not be limited to, changes in the scope of services provided by the Service Provider and changes to the terms of payment as stated in the Terms of Payment Schedule (Schedule VI of this Agreement).

The Project Director, ITE&C dept. and the Service Provider 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 Service Provider will endeavor, wherever reasonably practicable, to effect change without an increase in the terms of payment as stated in the Terms of Payment Schedule and the Project Director, ITE&C dept. will work with the Service Provider to ensure that all changes are discussed and managed in a constructive manner.

13.2 CHANGE CONTROL NOTE ("CCN")

a. Change requests in respect of the MSA, the Project Implementation, or the Operation and Management SLA 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 Schedule VII hereto. CCNs will be presented to the other Party's Project Manager who will acknowledge receipt by signature of the CCN.

b. The Service Provider and the Project Director, APTS/ITE&C DEPT. , 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 Sections 6 to 14 of Volume I of the RFP and is suggested and applicable only after the testing, commissioning and certification of the Pilot Phase and the Project Implementation Phase as set out in this Agreement.

c. It is hereby also clarified that the payment for the changes brought in after project certification and ‘Go Live’ date will be calculated on the basis of man-month rate quoted by the Service Provider in its bid and estimated man-month effort to be submitted by the Service Provider prior to taking up the change of control event and accepted by the Project Director, APTS/ITE&C DEPT. .

13.3 QUOTATION

a. The Service Provider shall assess the CCN and complete Part B of the CCN. In completing Part B of the CCN the Service Provider shall provide as a minimum:

i. a description of the change;
ii. a list of deliverables required for implementing the change;

iii. a timetable for implementation;

iv. an estimate of any proposed change;

v. any relevant acceptance criteria;

vi. an assessment of the value of the proposed change;

vii. Material evidence to prove that the proposed change is not already covered within the scope of the project, SLA, or MSA.

b. Prior to submission of the completed CCN to the Project Director, APTS/ITE&C DEPT. , 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 Service Provider shall consider the materiality of the proposed change in the context of the MSA, the Project Implementation, Operation and Management SLA affected by the change and the total effect that may arise from implementation of the change.

c. Materiality criteria will be established by the Project Director, ITE&C dept. and the Service Provider's Project Manager. Changes requiring no escalation of authority can be implemented. Discussion and agreement as to materiality will be held in accordance with the Governance Schedule (Schedule IV of this Agreement).

13.4 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 Service Provider meets the obligations as set in the CCN. In the event the Service Provider 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 Service Provider.

13.5 REPORTING

Change requests and CCNs will be reported monthly to each Party's Project Managers who will prioritize and review progress.

13.6 OBLIGATIONS

The Service Provider 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.

14 SCHEDULE II

EXIT MANAGEMENT SCHEDULE

14.1 PURPOSE

a. This Schedule sets out the provisions, which will apply on expiry or termination of the MSA, the Project Implementation, Operation and Management SLA.
b. In the case of termination of the Project Implementation and/or Operation and Management SLA due to illegality, the Parties shall agree at that time whether, and if so during what period, the provisions of this Schedule shall apply.

c. The Parties shall ensure that their respective associated entities carry out their respective obligations set out in this Exit Management Schedule.

14.2 TRANSFER of ASSETS

a. The Project Director, ITE&C dept. shall be entitled to serve notice in writing on the Service Provider at any time during the exit management period as detailed hereinabove requiring the Service Provider and/or its sub contractors to provide the Project Director, ITE&C dept. with a complete and up to date list of the Assets within 30 days of such notice. The Project Director, ITE&C dept. shall then be entitled to serve notice in writing on the Service Provider at any time prior to the date that is 30 days prior to the end of the exit management period requiring the Service Provider to sell any of the Assets to be transferred to PROJECT at book value as determined as of the date of such notice in accordance with the provisions of relevant laws.

b. In case of contract being terminated by APTS/ITE&C DEPT., ITE&C dept. reserves the right to ask SP to continue running the project operations for a period of 6 months after termination orders are issued.

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

   (i) in the event, if the Assets to be transferred are mortgaged to any financial institutions by the Service Provider, the Service Provider shall ensure that all such liens and liabilities have been cleared beyond doubt, prior to such transfer. All documents regarding the discharge of such lien and liabilities shall be furnished to the Project Director, APTS/ITE&C DEPT.

   (ii) all risk in and title to the Assets to be transferred / to be purchased by the Project Director, ITE&C dept. pursuant to this Article shall be transferred to PROJECT, on the last day of the exit management period.

   (iii) the Project Director, ITE&C dept. shall pay to the Service Provider 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 SP shall be made to the tune of last set of completed transactions, subject to SLA requirements and for any Capex component that has been accepted by ITE&C dept. but is pending for payment.

   (v) The outgoing SP will pass on to ITE&C dept. and/or to the Replacement SP, the subsisting rights in any leased properties/ licensed products on terms not less favorable to APTS/ITE&C DEPT. / Replacement SP, than that enjoyed by the outgoing SP.

14.3 COOPERATION AND PROVISION OF INFORMATION

During the exit management period:

a. The Service Provider will allow the Project Director, ITE&C dept. access to information reasonably required to define the then current mode of operation associated with the
provision of the services to enable the Project Director, ITE&C dept. to assess the existing services being delivered;

b. promptly on reasonable request by the Project Director, APTS/ITE&C DEPT. , the Service Provider shall provide access to and copies of all information held or controlled by them which they have prepared or maintained in accordance with the MSA, the Project Implementation, and the Operation and Management SLA relating to any material aspect of the services (whether provided by the Service Provider or sub contractors appointed by the Service Provider). The Project Director, ITE&C dept. shall be entitled to copy all such information. Such information shall include details pertaining to the services rendered and other performance data. The Service Provider shall permit the Project Director, ITE&C dept. and/or any Replacement Service Provider to have reasonable access to its employees and facilities as reasonably required by the Project Director, ITE&C dept. to understand the methods of delivery of the services employed by the Service Provider and to assist appropriate knowledge transfer.

14.4 CONFIDENTIAL INFORMATION, SECURITY AND DATA

a. The Service Provider will promptly on the commencement of the exit management period supply to the Project Director, ITE&C dept. the following:

(i) information relating to the current services rendered and customer satisfaction surveys and performance data relating to the performance of sub contractors in relation to the services;

(ii) documentation relating to Project’s Intellectual Property Rights;

(iii) PROJECT data and confidential information;

(iv) documentation relating to sub-contractors;

(v) all current and updated PROJECT data as is reasonably required for purposes of PROJECT or its nominated agencies transitioning the services to its Replacement Service Provider in a readily available format specified by the Project Director, APTS/ITE&C DEPT. ;

(vi) all other information (including but not limited to documents, records and agreements) relating to the services reasonably necessary to enable PROJECT or its nominated agencies, or its Replacement Service Provider to carry out due diligence in order to transition the provision of the Services to PROJECT or its nominated agencies, or its Replacement Service Provider (as the case may be).

b. Before the expiry of the exit management period, the Service Provider shall deliver to the Project Director, ITE&C dept. all new or up-dated materials from the categories set out in Article above and shall not retain any copies thereof.

c. Before the expiry of the exit management period, unless otherwise provided under the MSA, the Project Director, ITE&C dept. shall deliver to the Service Provider all forms of Service Provider confidential information, which is in the possession or control of PROJECT or its users.

14.5 EMPLOYEES

a. Promptly on reasonable request at any time during the exit management period, the Service Provider shall, subject to applicable laws, restraints and regulations (including in particular those relating to privacy) provide to the Project Director, ITE&C dept. a list of all employees
(with job titles) of the Service Provider dedicated to providing the services at the commencement of the exit management period;

b. To the extent that any Transfer Regulation does not apply to any employee of the Service Provider, PROJECT, or its Replacement Service Provider may make an offer of employment or contract for services to such employee of the Service Provider and the Service Provider shall not enforce or impose any contractual provision that would prevent any such employee from being hired by the Project Director, ITE&C dept. or any Replacement Service Provider.

c. APTS/ITE&C DEPT. or Replacement SP designated by it shall retain the right for hiring a minimum of 5 key personnel of the outgoing SP spearheading the project, as identified by APTS/ITE&C DEPT. , so as to provide for continuity. SP is hence required to incorporate suitable provisions/ conditions in the appointment orders issued to its personnel, including a service bond to this effect.

14.6 TRANSFER OF CERTAIN AGREEMENTS

On request by the Project Director, APTS/ITE&C DEPT. , the Service Provider shall effect such assignments, transfers, licenses and sub-licenses as the Project Director, ITE&C dept. may require in favor of the Project Director, APTS/ITE&C DEPT. , or its Replacement Service Provider in relation to any equipment, lease, maintenance or service provision agreement between Service Provider and third party lessors, vendors, and which are related to the services and reasonably necessary for the carrying out of replacement services by the Project Director, ITE&C dept. or its Replacement Service Provider.

14.7 RIGHTS OF ACCESS TO PREMISES

a. At any time during the exit management period, where Assets are located at the Service Provider's premises, the Service Provider will be obliged to give reasonable rights of access to (or, in the case of Assets located on a third party's premises, procure reasonable rights of access to) the Project Director, APTS/ITE&C DEPT. , and/or any Replacement Service Provider in order to make an inventory of the Assets.

b. The Service Provider shall also give the Project Director, ITE&C dept. or its nominated agencies, or any Replacement Service Provider right of reasonable access to the Service Provider's premises and shall procure the Project Director, ITE&C dept. or its nominated agencies and any Replacement Service Provider rights of access to relevant third party premises during the exit management period and for such period of time following termination or expiry of the MSA as is reasonably necessary to migrate the services to the Project Director, ITE&C dept. or its nominated agencies, or a Replacement Service Provider.

14.8 GENERAL OBLIGATIONS OF THE SERVICE PROVIDER

a. The Service Provider shall provide all such information as may reasonably be necessary to effect as seamless a handover as practicable in the circumstances to the Project Director, ITE&C dept. or its nominated agencies or its Replacement Service Provider and which the Service Provider has in its possession or control at any time during the exit management period.

b. For the purposes of this Schedule, anything in the possession or control of any Service Provider, associated entity, or sub contractor is deemed to be in the possession or control of the Service Provider.

c. The Service Provider shall commit adequate resources to comply with its obligations under this Exit Management Schedule.
14.9 EXIT MANAGEMENT PLAN

a. An Exit Management plan shall be furnished by Service Provider in writing to the Project Director, ITE&C dept. or its nominated agencies within 90 days from the Effective Date of this Agreement, 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 Service Provider including details of the means to be used to ensure continuing provision of the services throughout the transfer process or until the cessation of the services and of the management structure to be used during the transfer;

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

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

(iv) Plans for provision of contingent support to PROJECT, and Replacement Service Provider for a reasonable period after transfer.

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

c. Each Exit Management Plan shall be presented by the Service Provider to and approved by the Project Director, ITE&C dept. or its nominated agencies.

d. The terms of payment as stated in the Terms of Payment Schedule include the costs of the Service Provider complying with its obligations under this Schedule.

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

f. During the exit management period, the Service Provider shall use its best efforts to deliver the services.

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

15 SCHEDULE III - AUDIT, ACCESS AND REPORTING SCHEDULE

15.1 PURPOSE

This Schedule details the audit, access and reporting rights and obligations of the Project Director, ITE&C dept. and the Service Provider under the MSA, Project Implementation, Operation and Management SLA.

15.2 AUDIT NOTICE AND TIMING

a. As soon as reasonably practicable after the Effective Date, the Parties shall use their best
endeavors to agree to a timetable for routine audits during the Project Implementation Phase and the Operation and Management Phase. During the Implementation Phase, the Project Director, ITE&C dept. and thereafter during the Operation Management Phase, the Project Director, ITE&C dept. shall conduct routine audits in accordance with such agreed timetable and shall not be required to give the Service Provider any further notice of carrying out such audits.

b. The Project Director, ITE&C dept. may conduct non-timetabled audits at his/ her own discretion if he/ she reasonably believes that such non-timetabled audits are necessary as a result of an act of fraud by the Service Provider, a security violation, or breach of confidentiality obligations by the Service Provider, provided that the requirement for such an audit is notified in writing to the Service Provider 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 Service Provider 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 (Schedule IV of this Agreement).

c. The frequency of audits shall be 6 monthly, provided always that the Project Director, ITE&C dept. shall endeavor to conduct such audits with the lowest levels of inconvenience and disturbance practicable being caused to the Service Provider.

d. In addition to the above, there will be audits conducted by statutory bodies (e.g. CAG) as and when they are required to do it. Notwithstanding any condition given in the MSA, Service Provider will have to provide these statutory bodies access to all the facilities, infrastructure, documents and artifacts of the Project as required by them and approved by the Project Director, APTS/ITE&C DEPT., in writing.

15.3 ACCESS

The Service Provider shall provide to the Project Director, ITE&C dept. reasonable access to employees, subcontractors, suppliers, agents and third party facilities, 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 Project Director, ITE&C dept. shall have the right to copy and retain copies of any relevant records. The Service Provider shall make every reasonable effort to co-operate with them.

15.4 AUDIT RIGHTS

a. The Project Director, ITE&C dept. shall have the right to audit and inspect suppliers, agents and third party facilities, 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 PROJECT data processed, held or conveyed by the Service Provider on behalf of PROJECT 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 Service Provider has complied with the relevant technical standards, and has adequate internal controls in place; and

(iv) The compliance of the Service Provider with any other obligation under the MSA and SLA.
b. For the avoidance of doubt the audit rights under this Schedule shall not include access to the Service Provider's profit margins or overheads associated with any obligation under the MSA.

15.5 AUDIT RIGHTS OF SUB-CONTRACTORS, SUPPLIERS AND AGENTS

a. The Service Provider shall use reasonable endeavors to achieve the same audit and access provisions as defined in this Schedule with sub-contractors, suppliers and agents who supply labor, services, equipment or materials in respect of the services. The Service Provider shall inform the Project Director, ITE&C dept. prior to concluding any sub-contract or supply agreement of any failure to achieve the same rights of audit or access.

b. REPORTING: The Service Provider will provide quarterly reports to the Project Director, ITE&C dept. regarding any specific aspects of the Project and in context of the audit and access information as required by the Project Director, APTS/ITE&C DEPT.

15.6 ACTION AND REVIEW

a. Any change or amendment to the systems and procedures of the Service Provider, or sub-contractors, where applicable arising from the audit report shall be agreed within thirty (30) calendar days from the submission of the said report.

b. Any discrepancies identified by any audit pursuant to this Schedule shall be immediately notified to the Project Director, ITE&C dept. or the appropriate PROJECT Manager and the Service Provider Project Manager who shall determine what action should be taken in respect of such discrepancies in accordance with the terms of the MSA.

15.7 TERMS OF PAYMENT FOR COST OF AUDIT

The Project Director, ITE&C dept. and the Service Provider and its sub-contractors, if any, shall bear their own costs of any audits and inspections. The terms of payment are inclusive of any costs of the Service Provider and the sub-contractor, for all reasonable assistance and information provided under the MSA, the Project Implementation, Operation and Management SLA by the Service Provider pursuant to this Schedule.

15.8 RECORDS AND INFORMATION

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

16 SCHEDULE IV - GOVERNANCE SCHEDULE

16.1 PURPOSE

The purpose of this Schedule is to (i) establish and maintain the formal and informal processes for managing the relationship between the Project Director, ITE&C dept. and the Service Provider (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.

16.2 GOVERNANCE STRUCTURE

a. The Program Governance Structure to be put in place by ITE&C dept. will have the following units:

i. Empowered Committee
ii. Program Management Committee
iii. Special Purpose Vehicle to be constituted by ITE&C dept.
iv. Program Management Units
v. Project Team at each Regional Modules of Primary Sector Package under e-pragati Office

The composition of each of the above units will be in line with the approach described in Section 3 of Volume III of the RFP or as decided by APTS/ITE&C DEPT.

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

c. Within one month following the signing of this agreement, the Project Director, ITE&C dept. or its nominated agencies and the Service Provider shall each appoint a Project Manager and one representative from the Project’s nominated agencies (hereinafter the Project Manager.). In the case of PROJECT, the Project Manager will be an individual who is appointed by PROJECT Director. In the case of the Service Provider, the Project Manager will be an individual who is an organizational peer of PROJECT Manager. In the event that either Party wishes to substitute its Project Manager it will do so in the 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 fourteen days of the substitution.

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

e. Program Management Committee: ITE&C dept. will appoint a Program Management Committee within 2 weeks of the signing of this agreement.

f. The Program Management Committee will meet formally on, at least, a monthly 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 monthly 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 this Schedule; (iv) matters to be brought before the Program Management Committee in accordance with the MSA and the Schedules; (v) any matter brought before the Program Management Committee by the Service Provider under this Article; and (vi) any other issue which either Party wishes to add to the agenda.

g. 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 (Schedule VI of this Agreement), the Parties agree to discuss in the Program Management Committee 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 (Schedule I of this Agreement).

16.3 GOVERNANCE PROCEDURES

a. The Service Provider shall document the agreed structures in a procedures manual.
b. The agenda for each meeting of the Program Management Committee 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 Program Management Committee, along with relevant pre-reading material, shall be distributed at least one week in advance of the relevant meeting.

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

d. The Parties shall ensure as far as reasonably practicable that the Program Management Committee 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.

17 SCHEDULE V - INVOICING AND SETTLEMENT SCHEDULE

a. In respect of its remuneration for the Services the Service Provider shall be eligible to receive payments in accordance with the Terms of Payment Schedule (Schedule VI of this Agreement). Subject to the specific terms of each Service Level Agreement, the Service Provider submit its invoices in accordance with the following principles:

(i) The Project Director, ITE&C dept. shall be invoiced by the Service Provider for the Services. Generally and unless otherwise agreed in writing between the Parties or expressly set out in the Service Level Agreement, the Service Provider shall raise an invoice as per the terms of payment as stated in this Schedule.

(ii) Any invoice presented in accordance with this Article shall be in a form agreed with the Project Director, APTS/ITE&C DEPT..

b. Invoices shall be accurate and all adjustments to or changes in the terms of payment as stated in the Terms of Payment Schedule shall be applied to the next payment invoice. The Service Provider shall waive any charge for a Service that is not invoiced within six months after the end of the month in which the terms of payment as stated in the Terms of Payment Schedule relating to such Service are authorized or incurred, whichever is later.

c. Payments invoiced shall be made within 45 days of the receipt of invoice by the Project Director, ITE&C dept. subject to adjustments if any for the previous performance.

d. The Project Director, ITE&C dept. shall be entitled to delay or withhold payment of any invoice or part of it delivered by the Service Provider under this Schedule where the Project Director, ITE&C dept. disputes 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 amount shall be settled in accordance with the escalation procedure as set out in the Governance Schedule (Schedule IV of this Agreement). Any exercise by the Project Director, ITE&C dept. under this Article shall not entitle the Service Provider to delay or withhold provision of the Services.

e. The Service Provider shall pay all their sub-contractors in a timely fashion in accordance with a mechanism, which will not prejudice the objective of PROJECT.

f. If any amount is due and payable by the SP to APTS/ITE&C DEPT. / Government, the same shall be recoverable as arrears of land revenue, in addition to other avenues legally available under this agreement.

18 SCHEDULE VI - TERMS OF PAYMENT SCHEDULE

1. Modules of Primary Sector Package under e-pragati Services Project is a service-based
project and not simply a project involving supply of goods and construction of works. Hence, basically the payment will be on a BOOT model with deferred payment over a period of 3 years.

2. All the payments to the Service Provider will be made as per the following terms of payment

The capex cost shall be paid on a quarterly basis post the solution go-live over a period of 1 year. The payment shall be made module wise basis go live of each module. The opex cost shall be paid over a period of rest of the years (after go-live of each module) on quarterly basis post deductions if any after applying SLA, and any other deductions.

a. Government departments/ agencies (e.g. Immigration, Emigration, Police and others), as may be authorized by APTS/ITE&C DEPT, shall be allowed to access Modules of Primary Sector Package under e-pragati system or its components like database subject to such rights & privileges as ITE&C dept. may decide from time to time. No service charges shall be payable to SP for enabling such an access.

b. However, in case allowing such an access will have implications of enhancing the capacity of the Modules of Primary Sector Package under e-pragati system established by SP, the SP may raise a CCN which will be handled by ITE&C dept. in terms of the provisions for Change Control specified in Schedule I of Volume III of the RFP.

c. Bidders should separately factor for the service tax component on the service charge rates they quote; and should not include the same in the quoted rates as SP will be allowed to collect service tax on his service charge as per applicable rates.

d. Citizens will be suitably notified about the schedule of service charges and SP will provide appropriate publicity to this.

e. SP shall be paid by ITE&C dept. at the end of each quarter depending upon the number of transactions logged in that quarter for each of the above categories of service and subject to SLA terms specified in this RFP and/or the agreement between SP and APTS/ITE&C DEPT.

f. Cost of 3rd Party audit – initial and annual audits - shall be completely borne by ITE&C dept.

3. In the event of premature termination of the agreement prior to the launch of Project, the Service Provider shall not be eligible to receive any compensation or payment.

4. In the event of the premature termination of the agreement post-commencement of the operations, the Service Provider would be eligible to be paid for the cost of the components installed by the Service Provider and which might be taken over by the Director, ITE&C dept. pursuant to the provisions of the agreement, calculating the cost of the Assets at the discounted book value.
19 **SCHEDULE VII - CHANGE CONTROL NOTICE**

<table>
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<th>Change Control Note</th>
<th>CCN Number:</th>
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### Part A: Initiation

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<td>Originator:</td>
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<tr>
<td>Sponsor:</td>
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<td>Date of Initiation:</td>
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#### Details of Proposed Change

(To include reason for change and appropriate details/specifications. Identify any attachments as A1, A2, and A3 etc.)

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<tr>
<th>Authorized by APTS/ITE&amp;C DEPT.</th>
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<td>Name:</td>
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<td>Signature:</td>
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<th>Received by the Service Provider</th>
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<th>Change Control Note</th>
<th>CCN Number:</th>
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### Part B: Evaluation

(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.

**Brief Description of Solution:**

**Impact:**
Deliverables:

Timetable:

Charges for Implementation:

(including a schedule of payments)

Other Relevant Information:

(including value-added and acceptance criteria)

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<th>Authorized by the Service Provider</th>
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<th>Change Control Note</th>
<th>CCN Number:</th>
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**Part C : Authority to Proceed**

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

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<th>Approved</th>
<th>Rejected</th>
<th>Requires Further Information (as follows, or as Attachment 1 etc.)</th>
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**For ITE&C dept. and its nominated agencies**

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<th>Signature</th>
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<th>Title</th>
<th>Date</th>
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**For the Service Provider**

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<th>Title</th>
<th>Date</th>
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SCHEDULE VIII

MODEL OPERATION MANAGEMENT & SERVICE LEVEL AGREEMENT

21.1 Service Provider of Modules of Primary Sector Package under e-pragati Services Project

INDEX

BACKGROUND

ARTICLE I – DEFINITIONS AND GENERAL PURPOSE

1. DEFINITIONS
2. STRUCTURE

ARTICLE II – INITIALISATION PHASE

1. OBJECTIVES AND SCOPE OF CONTRACT
2. COMMENCEMENT AND DURATION OF THIS SLA

ARTICLE III – FINANCIAL ISSUES

1. TERMS OF PAYMENT AND SERVICE CREDITS

ARTICLE IV – INTERPRETATION

1. APPLICABILITY OF THE MSA
21.3 MODEL SERVICE LEVEL AGREEMENT

THIS AGREEMENT is made this _______________ day of _______________ 2007.

BETWEEN:

1. The President of India, acting through Joint Secretary (Consular Modules of Primary Sector Package under e-pragati Visa), Ministry of External Affairs, Government of India, Patiala House, Tilak Marg, New Delhi-110001 (hereinafter called the ‘APTS’), which term or expression unless excluded by or repugnant to the subject or context shall mean and include its successors-in-office and assigns of the FIRST PART;

   AND

2. __<name of the company>__, a company registered under the Indian Companies Act, 1956 having its registered office at __<address>__ and place of business at __<address>__ (hereinafter referred to as "Service Provider", which expression, unless excluded or the context otherwise required hereof includes its successors, administrators and assigns) represented through its __ <designation of authorized person>__, who is duly authorized by the Service Provider to execute this agreement of the SECOND PART.

WHEREAS:

A. APTS and [_______________] have entered into a Master Services Agreement dated [___________] (the "MSA").

B. In accordance with Article 1.2 (b) of the MSA, ITE&C dept. and Service Provider wish to enter into this Service-Level Agreement ("Agreement/SLA") on the following terms.

ARTICLE 1 – DEFINITIONS AND GENERAL PURPOSE

1.1 DEFINITIONS

1.1.1 In this Agreement, unless the context requires otherwise:
AGREEMENT, TOGETHER WITH ITS APPENDICES; "ITE&C dept. DATA" MEANS ALL PROPRIETARY DATA OF ITE&C dept. WHICH THE SERVICE PROVIDER OBTAINS, POSSESSSES OR PROCESSES IN THE CONTEXT OF PROVIDING THE SERVICES TO THE USERS PURSUANT TO THIS SLA;

"PARTIES" MEANS ITE&C dept. AND SERVICE PROVIDER FOR THE PURPOSES OF THIS SLA, AND "PARTY" SHALL BE INTERPRETED ACCORDINGLY;

"SERVICE LEVEL" MEANS THE LEVEL OF SERVICE AND OTHER PERFORMANCE CRITERIA WHICH WILL APPLY TO THE SERVICES AS SET OUT IN APPENDIX A, IN THE FORM OF SLA METRICS, EFFECTIVE DURING THE TERM OF THIS SLA;

"TERM" MEANS THE DURATION OF THIS SLA AS DEFINED IN ARTICLE 2.2 OF THIS SLA;

"TERMS OF PAYMENT" MEANS CHARGES FOR THE SERVICES IN ACCORDANCE WITH THE TERMS OF PAYMENT SCHEDULE

1.1.2 All Appendices and other attachments to this SLA are hereby incorporated as a part of this SLA by this reference.

1.1.3 References to any statute or statutory provision include a reference to that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated and to all statutory instruments made pursuant to it.

1.1.4 Words denoting the singular shall include the plural and vice versa and words denoting persons shall include firms and corporations and vice versa.

1.1.5 Unless otherwise expressly stated, the words "herein", "hereof", "hereunder" and similar words refer to this SLA as a whole and not to any particular Article, Appendix or other subdivision. The words "include" and "including" shall not be construed as terms of limitation. The words "day" and "month" mean "calendar day" and "calendar month" unless otherwise stated. Where, because of a difference in time zone, the calendar day or calendar month in one Country differs from another Country, then the calendar day or calendar month shall be deemed to be the calendar day or calendar month applicable to India. The words "writing" and "written" mean "in documented form", whether electronic or hard copy, unless otherwise stated.

1.1.6 The headings and use of bold type in this SLA are for convenience only and shall not affect the interpretation of any provision of this SLA.
2. STRUCTURE

2.1 THIS SLA SHALL OPERATE AS A LEGALLY BINDING SERVICES AGREEMENT SPECIFYING TERMS WHICH APPLY TO THE PARTIES AND TO THE PROVISION OF THE SERVICES BY THE SERVICE PROVIDER TO ITE&C dept. UNDER THIS SLA AND THE MSA.

ARTICLE II – INITIALISATION PHASE

2.1.1 OBJECTIVES AND SCOPE OF CONTRACT

2.1.1 The Service Provider hereby agrees to provide Services to APTS, conforming to the specified Service Levels, which will ensure:

(a) Delivery of speedy and efficient services to the citizens, and the employees of APTS, in relation to all the Modules of Primary Sector Package under e-pragati-related services

(b) Train the existing ITE&C dept. employees to assist them discharge their duties effectively and efficiently

(c) Encourage and help to improve the adoption rate for the usage of the Modules of Primary Sector Package under e-pragati Services System, by employing traditional as well as innovative techniques. To that end, implement measures:

(i) for making it convenient for citizens to utilize the services,

(ii) educating the citizens in the relevant procedures,

To meet the aforesaid objectives the Service Provider will provide the Service Levels in accordance with the performance metrics as more particularly described in Appendix A of this SLA, on the date on which it is executed by the ITE&C dept. and the Service Provider (hereinafter the “Effective Date”) and shall, unless terminated earlier in accordance with its terms or unless otherwise agreed by the Parties, expire on the date on which this SLA expires or terminates for any reason, which shall be six years from the Effective Date of this SLA. The SLA shall be coterminous with the MSA.

4. APPLICABILITY OF THE MSA

4.1 Apart from the provisions as set out hereinabove, the terms and conditions stated in the MSA shall apply mutatis mutandis to this SLA. In the event of a conflict in interpretation of any Article in the MSA and the SLA, the provisions of the MSA shall prevail.

IN WITNESS WHEREOF the PARTIES HAVE BY DULY AUTHORISED REPRESENTATIVES SET THEIR RESPECTIVE HANDS AND SEAL ON THE DATE
FIRST ABOVE WRITTEN IN THE PRESENCE OF:

WITNESSES:

1. 

2. 

SIGNED BY:

(NAME AND DESIGNATION)

FOR AND ON BEHALF OF PRESIDENT OF INDIA

(FIRST PARTY)

SIGNED BY:

(NAME AND DESIGNATION)

(SERVICE PROVIDER)
Appendix A to SLA
<table>
<thead>
<tr>
<th>SLA No</th>
<th>SLA Parameter</th>
<th>Baseline Metrics</th>
<th>Lower Performance</th>
<th>Higher Performance</th>
<th>Breach</th>
<th>Method of Measurement</th>
</tr>
</thead>
</table>
| 1     | Average turn around time of application - Modules of primary sector package under e-Pragati | <5 Seconds       | >=5 seconds       | 2                  | >8 Seconds | 1. End-user measurement system (automated measurement as part of SLA tool) will be adopted and frequency of measurement shall be 4 test transactions per hour during 6 AM to 11 PM.  
2. Measured as the elapsed time between the action link/button being clicked and its response appearing on portal.  
3. Measured over a leased circuit or equivalent of 64kb/s with attachments of 300 Kb for each test case.  
4. Test data to be identified distinctly and path taken by test data to be similar to real transaction.  
5. DNS servers should simulate access by end user and not answered locally |
| 2     | Average Turnaround time for transactions involving document upload on Portal  | <45 seconds      | >=45 seconds      | 2                  | >60 seconds | 1. End-user measurement system (automated measurement as part of SLA tool) will be adopted and frequency of measurement shall be 1 test transaction per hour during 6 AM to 11 PM.  
2. Measured as the elapsed time between the action link/button being clicked and its response appearing on portal.  
3. Measured over a leased circuit or equivalent of 64kb/s with attachments of 300 Kb for each test case.  
4. Test data to be identified distinctly and path taken by test data to be similar to real transaction.  
5. DNS servers should simulate access by end user and not answered locally |
### 3. Average request-response cycle time at department offices for workflow interaction

<table>
<thead>
<tr>
<th>&lt;3 Seconds</th>
<th>&gt;=3 Seconds</th>
<th>&gt;6 Seconds</th>
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<tbody>
<tr>
<td>7</td>
<td>3</td>
<td></td>
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</table>

1. Average of all cycles invoked for Modules of Primary Sector Package under e-pragati application in a quarter will be computed for measuring compliance.

2. Measured as the elapsed time between the time an action link/button is clicked and the time its response appears.

3. SLA measuring tool will capture the time taken data for all the clients across all the transactions for measuring this metric. 1. Average of all cycles invoked for downloading an application and its attachments in a quarter will be computed for measuring compliance.

2. Measured as the elapsed time between the time a request is submitted and the time the documents appear.

3. SLA measuring tool will capture the time taken data for all the clients across all the transactions for measuring this metric.
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</table>
| 4 | Average response time at department offices for interaction involving document download from Central Server | <4 Seconds | 8 | >=4 Seconds | 4 | >6 Seconds | 1. Average of all cycles invoked for downloading an application and its attachments in a quarter will be computed for measuring compliance.  
2. Measured as the elapsed time between the time a request is submitted and the time the documents appear.  
3. SLA measuring tool will capture the time taken data for all the clients across all the transactions measuring this metric. |
| 5 | Availability of ALL Services over Internet | >99.9% | 5 | <=99.9% | 2 | <99% | 1. The statistics from EMS, analysis of event log shall be used to determine availability of online services over the Internet (For this purpose the number of connection failures for the sessions initiated by the internal users shall also be considered).  
2. SP shall ensure that all such errors are logged and such logs should be accessible for Review/report through EMS.  
3. End-to-end loop back mechanism must be established for checking the availability of services.  
4. Even one service being not available will mean no service being available. |
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<tr>
<th></th>
<th><strong>Answering of call within 3 rings by the Call Centre</strong></th>
<th>&gt;99.9%</th>
<th>2</th>
<th>&lt;=99.9%</th>
<th>1</th>
<th>&lt;95%</th>
<th>Statistics from call logging and tracing system to be set up by SP</th>
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</table>
| 7 | **Resolution/ closure of a service call by the Call Centre** | <2 Minutes | 2 | >=2 Minutes | 1 | >5 minutes | 1. Records and logs maintained by SP  
2. PMU to check the above records every quarter  
3. PMU to conduct random surveys of citizen each quarter |
<p>| 8 | <strong>Quality (error-free) Modules of Primary Sector Package under e-pragati services, to the extent of SP’s responsibility</strong> | 100% | 5 | &lt;100% | 0 | &lt;99.999% | Citizen Feedback Survey by 3rd Party |</p>
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<tr>
<th></th>
<th>Description</th>
<th>Score 1</th>
<th>Score 2</th>
<th>Score 3</th>
<th>Score 4</th>
<th>Score 5</th>
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<tbody>
<tr>
<td>9</td>
<td>Availability of ALL Services at ALL line department offices</td>
<td>&gt;99.9%</td>
<td>&lt;=99.9%</td>
<td>2</td>
<td>&lt;99%</td>
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<td>1. The statistics from EMS, analysis of event log shall be used to determine</td>
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<td>number of connection failures for the sessions initiated by the internal</td>
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<td></td>
<td>users shall also be considered).</td>
<td></td>
<td></td>
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<td></td>
<td>2. SP shall ensure that all such errors are logged and such logs should be</td>
<td></td>
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<tr>
<td></td>
<td>accessible for Review/ report through EMS.</td>
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<td></td>
<td>3. End-to-end loop mechanism must established for checking the availability</td>
<td></td>
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<td></td>
<td>of services.</td>
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<td></td>
<td>4. Even one service being not available will mean no service being available.</td>
<td></td>
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</tr>
<tr>
<td>10</td>
<td>Submission of CCN to PMU/ APTS, from the time of request for enhancement/</td>
<td>&lt;15 days</td>
<td>&gt;=15 days</td>
<td>0</td>
<td>&gt;21 days</td>
<td></td>
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<tr>
<td></td>
<td>change</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1. Records maintained by APTS/PMU / e-Pragati team</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>11</td>
<td>Timeliness of implementation of Change from the date of approval of CCN/</td>
<td>100%</td>
<td>&lt;100%</td>
<td>0</td>
<td>&lt;95%</td>
<td></td>
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<tr>
<td></td>
<td>non-CCN, within the agreed time</td>
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<td></td>
<td>1. Records maintained by APTS/PMU / e-Pragati team</td>
<td></td>
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<tr>
<td></td>
<td>Requirement Description</td>
<td>Threshold</td>
<td>Pass</td>
<td>Fail</td>
<td>Remarks</td>
<td></td>
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<td>----------------------------------------------</td>
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</tr>
<tr>
<td>12</td>
<td>Employee satisfaction with SP’s services (Line departments)</td>
<td>&gt;80%</td>
<td>2</td>
<td>&lt;=80%</td>
<td>Employee Survey by PMU</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Availability of Modules of Primary Sector Package under e-pragati System at each location (Line departments at each location across AP)</td>
<td>&gt;99.9%</td>
<td>5</td>
<td>&lt;=99.9%</td>
<td>Measured from the logs generated by EMS Server.</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Availability of ALL systems at Cloud</td>
<td>&gt;99.99%</td>
<td>5</td>
<td>&lt;=99.9%</td>
<td>Measured from the logs generated by EMS Server.</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Availability of SecuritySolution at Cloud</td>
<td>100%</td>
<td>2</td>
<td>&lt;100%</td>
<td>Measured using EMS (24x7x365 days).</td>
<td></td>
</tr>
</tbody>
</table>
Note:

1. If the measurement tool and/or data equivalent to more than 5% of sample size is missing or unavailable for a particular SLA metric or if the tool is found to be unreliable then the quarterly credit for that metric would be counted as Zero. Further, if such lapses occur in any of the consecutive quarters then this would be treated as breach.

2. The SLA measurement tool designed & developed by SP shall be tested and certified for its accuracy, reliability and completeness by a 3rd Party before it is deployed.

3. With respect to SLA metrics 1 to 4 in the above table; the amounts payable to the SP towards service charges shall be computed department wise basing on the performance of each department office against SLA.
## SCHEDULE IX - IMPLEMENTATION SCHEDULE

<table>
<thead>
<tr>
<th>SNO</th>
<th>MILESTONE</th>
<th>DELIVERABLES FROM SUPPLIER</th>
<th>TIMELINES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Signing of the Contract</td>
<td>Performance Bank Guarantee for 10 % of total contract value.</td>
<td>Effective date of the Contract (T)</td>
</tr>
<tr>
<td>2</td>
<td>Submission of Project Work Plan document</td>
<td>Detailed Project Work Plan / Inception report for Design, Development &amp; Implementation of solution</td>
<td>T+ 1 Week</td>
</tr>
<tr>
<td>3</td>
<td>Submission of SRS</td>
<td>System Requirement Specifications (SRS) With Traceability with Functional Requirement.</td>
<td>T + 1.5 Months</td>
</tr>
<tr>
<td>4</td>
<td>Submission of Solution Design Document</td>
<td>Technical/ Solution Design Document including but not limited to:</td>
<td>T + 2.5 Months</td>
</tr>
<tr>
<td></td>
<td></td>
<td>a. Design of the detailed application system, including modular structure, usage of third party API,</td>
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<td></td>
<td>b. User interface designs;</td>
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<td></td>
<td>c. Database structures including ER, Data Dictionaries and DFD diagrams, if any.</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>d. Security architecture &amp; policies subject to e-Highway, SDC, APSWAN, IT security policy</td>
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<tr>
<td></td>
<td></td>
<td>e. Network architecture</td>
<td></td>
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<td></td>
<td></td>
<td>f. Data backup &amp; recovery strategy</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>g. Integration/ interface design mechanism with other Departments</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>h. Integration with e-mail, help desk Services of Govt. of AP.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>i. Software/ Hardware deployment model;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>j. Software/ Hardware configuration management;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>k. Database backup and management policies;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>l. Quality Assurance Plan;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>m. Testing Plan/ Strategy and test cases</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>n. Exit Management Plan</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Delivery / provision &amp; deployment of the required IT equipment</td>
<td>Readiness’ Report of the ICT infrastructure Installation Certificate and commissioning report</td>
<td>T + 3 Months</td>
</tr>
</tbody>
</table>

**PILOT IMPLEMENTATION**
<p>| | | |</p>
<table>
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</thead>
</table>
| 6. | Development of Solution | Application Readiness Report, Development completion report including minimum following:  
  a. Source code (soft copy)  
  b. Report formats (soft copy)  
  c. Test script (soft copy)  
  d. Database (soft copy)  
  e. Data digitized and Migrated (soft copy)  
  f. Executable file (soft copy)  
  g. Product CD"s  
  h. Others relevant documents deemed necessary.  
  Functional Requirement Traceability Report  
  Technical documentation to explain Source Code and solution design  
  Maintenance manuals for Data Center, Software, Networks, server and other hardware. | T + 4.0 Months |
|   |   |   |
| 7. | Data Migration and Digitization | Data digitization and migration strategy report. | T + 4.0 Months |
|   |   |   |
| 8. | Solution Testing by the Supplier and Modification | Reports on Various Tests performed along with the results & resolution reports for the issues identified during Testing. | T + 4.5 Months |
|   |   |   |
  Network Diagrams for Data Center and Networks.  
  Documentation of IP and Subnet Addressing Scheme, Routing Tables and ACL deployed for Intranet. | T + 5.0 Months |
|   |   |   |
| 10. | Delivery / provision & deployment of the required IT equipment suggested as part of technical solution at end user pilot | Delivery Report of the ICT infrastructure for all locations Installation Certificate and commissioning report  
  Pilot Summary report | T + 5.5 Months |
<p>| | | |</p>
<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>11.</td>
<td>3rd party security Audit</td>
<td>Audit report</td>
</tr>
<tr>
<td>12.</td>
<td>Compliance with Third party security Audit</td>
<td>Compliance audit report And audit certification</td>
</tr>
<tr>
<td>13.</td>
<td>Capacity Building &amp; Change Management</td>
<td>Training Plan &amp; material for various kind of trainings Completion of Training for all the users at least at Pilot locations in terms of: Application administration training; Pilot Phase Functional User Training (On Job training/ Pilot locations) etc.. Training and change management Report on user feedback and duly filled in User Feedback form.</td>
</tr>
<tr>
<td>14.</td>
<td>Certification by Govt. Dept. / ePragati / APTS</td>
<td>Application Audit and Security certification from respective agency.</td>
</tr>
<tr>
<td>15.</td>
<td>User Acceptance Testing by Govt. Dept. / ePragati / APTS</td>
<td>UAT Reports for Phase I including a. Various Tests performed b. Test results Resolution reports for the issues identified during Testing</td>
</tr>
<tr>
<td>16.</td>
<td>Go-Live (Pilot)</td>
<td>Go-Live Certificate</td>
</tr>
<tr>
<td>ROLLOUT</td>
<td></td>
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</tr>
<tr>
<td>17.</td>
<td>Delivery &amp; deployment of the required IT equipment suggested as part of technical solution at end user locations</td>
<td>Delivery Report of the ICT infrastructure for all locations Installation Certificate</td>
</tr>
<tr>
<td>19.</td>
<td>Capacity Building &amp; Change Management.</td>
<td>Training Plan &amp; material for various kind of trainings Completion of Training for all the users</td>
</tr>
<tr>
<td>20.</td>
<td>Certification by Govt. Dept. / ePragati / APTS</td>
<td>Application Audit and Security certification from respective agency.</td>
</tr>
<tr>
<td>21.</td>
<td>User Acceptance Testing</td>
<td>UAT Reports for Phase I including a. Various Tests performed b. Test results Resolution reports for the issues identified during Testing</td>
</tr>
<tr>
<td>23.</td>
<td>Operational Acceptance by Purchaser</td>
<td>Operational Acceptance Certificate from the Purchaser.</td>
</tr>
<tr>
<td>24.</td>
<td>Go-Live</td>
<td>Go-Live Certificate from Purchaser</td>
</tr>
<tr>
<td>26.</td>
<td>Technology Upgrade/ Refresh</td>
<td>Report on Technology Upgrade/ Refresh for the hardware including Server, Storage, Networking, Desktop etc. at Data Centre, NDR, DR and End user site(s) to ensure increased efficiency in overall performance of the System (taking into consideration increased no. of transactions, higher volume of database, future requirements at that point in time, etc.)</td>
</tr>
</tbody>
</table>

**OPERATION & MAINTENANCE**

<p>| 27. | Quarterly Operations &amp; Maintenance Support. | Quarterly Report for Operations and Maintenance Activities carried out during the quarter, including: Post Implementation Support to Purchaser. Software change logs, etc. Annual Certification stating all patches/ upgrades/ service releases have been properly installed Other Reports as mentioned in the Scope of work. | T + 12 Months To commence from T + 12 Months till T + 24 Months |
| 28. | Up-gradation of Solution with change requests | Application Readiness Report. - Quarterly | T + 12 Months |</p>
<table>
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</table>
| **29.** | Updation of Project Documentation | Technical, Operational and User Manuals for operation of the deployed solution - Quarterly  
  o User Manual,  
  o Training Manual,  
  o Operations Manual,  
  o Maintenance Manual,  
  o Administrator Manual,  
  o Security Policy, etc.  
  • Technical documentation to explain Source Code and solution design  
  Maintenance manuals for Data Center, Software, Networks, server and other hardware.  
  • Network Diagrams for Data Center and Networks.  
  • Documentation of all device configurations such as firewall, routers, servers, etc. | T + 12 Months |
| **30.** | Up-gradation (if any) of IT equipment suggested as part of technical solution for DC, DR and NDR. | Upgraded Software and Hardware for implementation and performance, reliability and security testing- Quarterly  
 Updated Installation Certificate on software and hardware installation including list of items, locations, warranties, maintenance requirement, etc.  
 Delivery Report of the ICT infrastructure for all locations (including Make, model, Date of purchase, warranty etc.)  
 Documentation of IP and Subnet Addressing Scheme, Routing Tables and ACL deployed for Intranet.  
 Updated Installation Certificate and commissioning report | T + 12 Months |
| **31.** | Capacity Building & Change Management | Training Plan & material for various kind of trainings  
 Completion of Training for all the users at least at Pilot locations in terms of:  
 a. Application administration training;  
 b. Phase II Functional User Training (On Job training/ Offsite).  
 Report on user feedback and duly filled in User Feedback form. | T + 12 Months |
<p>| | | | |</p>
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</thead>
<tbody>
<tr>
<td>32.</td>
<td>Supporting User Acceptance Testing</td>
<td>UAT Reports for Phase I including a. Various Tests performed b. Test results Resolution reports for the issues identified during Testing</td>
<td>T + 12 Months</td>
</tr>
<tr>
<td>33.</td>
<td>Certification by third party</td>
<td>Application Audit and Security certification from third party agency.</td>
<td>T + 12 Months</td>
</tr>
</tbody>
</table>

**T**, as referred above, is the date of EITHER the ‘award of contract’ notification issued by ITE&C dept. to selected Service Provider OR the signing of contract between selected Service Provider and ITE&C dept. OR the meeting conducted by ITE&C dept. to kick-off the project; whichever happens the earliest.

* For each week of delay in achieving the milestones (indicated as * in the above table), ITE&C dept. shall levy a penalty of Rupees Two Lakhs. If the final Go-Live is delayed beyond two months, or any particular milestone is delayed beyond one month, then ITE&C dept. may subject the contract for termination and will also reserve the right to invoke the entire

## 23 NON - DISCLOSURE AGREEMENT

THIS AGREEMENT is made on the .............................2015 BETWEEN:

(1) ________________________________ (hereinafter referred to as "Disclosing Party" which expressions shall unless repugnant to the context include its successors and assigns),

and

(2) ______________ a company incorporated under ___________ having its registered office at __________________________, hereinafter referred to as "Receiving Party", which expressions shall unless repugnant to the context include its successors and assigns);

The Disclosing Party and the Receiving Party shall hereinafter jointly be referred to as the “Parties”.

WHEREAS
The Disclosing Party is in possession of certain information defined hereunder as Confidential Information, and has agreed to disclose to the Receiving Party the Confidential Information on a strictly confidential basis for the purpose of ______________ as per document no. ______________ including amendment thereof (“Purpose”) and on the terms and conditions set out below.

NOW IT IS HEREBY AGREED as follows:-

1. CONFIDENTIAL INFORMATION

1.1 Definition: The term “Confidential Information” for the purpose of this Agreement shall mean any and all information and other materials disclosed, furnished, communicated or supplied by the Disclosing Party to the Receiving Party, including the Receiving Party’s directors, officers, employees, affiliates, or its expressly authorized representatives or agents (collectively referred to as “Representatives”). For avoidance of doubt, “Confidential Information” shall be deemed to include (without limitation) the following types of information and other information of a similar nature marked as ‘Confidential’, whether or not set forth in writing: any technical, commercial and financial information, improvement, inventions, know how, innovations, technology, trade secrets, professional secrets, technical specifications, copyrights and any other intellectual property, discoveries, ideas, concepts, papers, software in various stages of development, techniques, models, data, source code, object code, documentation, manuals, flow charts, research, process, procedures, functions, customer names and other information related to customers, price lists and pricing policies.

1.2 Not Within Definition: Notwithstanding any other provision of this Agreement, the Parties hereto acknowledge that Confidential Information shall not include any information that :-

   a) is now or subsequently becomes publicly known or available without breach of this Agreement;

   b) was previously in the possession of the Receiving Party without any obligation of confidentiality and which was not acquired from, provided, given, sold or otherwise disclosed (directly or indirectly) by the Disclosing Party;

   c) subject to the provisions of Clause 5 is required to be disclosed by law.

1.3 Confidential information shall not be deemed to be publicly available by reason only that it is known to a few of those people to whom it might be of commercial interest, and a combination of two or more portions of the Confidential Information shall not be deemed to be publicly available by reason only of each separate portion being so available.

2. OBLIGATION OF CONFIDENTIALITY

2.1 General Obligation: In consideration of the disclosure and release of the Confidential Information by or on behalf of the Disclosing Party to the Receiving Party, the Receiving Party hereby agrees to use and to procure that it or its Representatives, use such measures and/or procedures as it uses in relation to its own confidential information.
and trade secrets to hold and keep in confidence any and all such Confidential Information and comply with the terms of this Agreement.

2.2 **Purpose:** The Receiving Party undertakes that it and its Representatives shall make use of the Confidential Information solely for the Purpose of the Agreement or such other purposes from time to time agreed or consented to by the Disclosing Party as evidenced in writing. The Confidential Information received by the Disclosing Party is subject to confidentiality obligations and the Receiving Party shall also be subject to the confidentiality obligations with respect to such information. Save as expressly provided hereunder, nothing in this Agreement shall be construed, implicitly or otherwise, as being the granting of a license to use the Confidential Information disclosed by the Disclosing Party. All information and other materials disclosed, furnished, communicated or supplied by the Disclosing Party to the Receiving Party, including the Receiving Party’s directors, officers, employees, affiliates, or its expressly authorized representatives or agents are strictly confidential and shall not be divulged by receiving party to any third party during the term of this contract or thereafter for a period of ____ years without Disclosing Party’s prior written consent.

However the Receiving Party can disclose the confidential information to such Third Party to whom the Confidential Information is required to be disclosed for enabling the Receiving Party for discharge of services to Disclosing Party including amendment thereof by the Disclosing Party. However the Receiving Party while making disclosure of such information to Third Party shall ensure that the Confidential Information is being disclosed purely on need-to-know basis.

2.3 **Representatives and Third Party (ies):** The Receiving Party shall take all reasonable steps and measures to minimize the risk of disclosure of the Confidential Information by ensuring that only such Representatives who are expressly authorized by it to and whose duties require them to possess the Confidential Information shall have access to the Confidential Information on a need-to-know basis.

Prior to making any disclosure of such Confidential Information as permitted under this Agreement, the Receiving Party will procure that the Representatives and/or Third Party are under a prior written obligation to maintain such information confidential and to use such information only for Purpose.

The Receiving Party shall be solely responsible for any breach of the terms of this Agreement by any of its Representatives or the Third Party and any act or omission by any of its Representatives or the Third Party which would constitute a breach of the terms of this Agreement and shall take all reasonable measures to restrain such Representatives or the Third Party from unauthorised disclosure or use of the Confidential Information and that Receiving Party acknowledges and agree that Disclosing Party shall have right to pursue all its legal remedy directly against Receiving Party as if such breach is made by the Receiving Party itself without proceeding at the first instance against Representatives or the Third Party.

2.4 **Reproduction:** Except for the purposes of this Agreement, the Receiving Party shall ensure that the Confidential Information will not be copied or reproduced or
2.5 **Control, Storage and Return**: The Receiving Party shall use its best efforts to keep separate all Confidential Information from all documents and other records of the Receiving Party. The Receiving Party shall also use its best efforts to ensure the security and control of any Confidential Information by using such measures and/or procedures as it uses in relation to its own confidential information and trade secrets. The Receiving Party shall procure that all persons to whom it has disclosed Confidential Information shall, at the Receiving Party’s expense, within fourteen (14) working days of written notice from Disclosing Party:

2.5.1 return to Disclosing Party all original and copy documents containing Confidential Information (including analyses, studies, compilation and other materials derived from the Confidential Information but excluding all documents produced by the Receiving Party for record and reporting purposes);

and

2.5.2 permanently remove all Confidential Information from any computer disk or other device containing Confidential Information.

3. **PROPERTY OF THE PARTIES**

All Confidential Information disclosed pursuant to this Agreement shall be and remain the property of the Disclosing Party. Nothing in this Agreement shall be construed as granting or conferring any rights whatsoever (including without limitation any intellectual property rights), whether expressly, impliedly or otherwise, in respect of the Confidential Information to the Receiving Party, and the Confidential Information will be used only for the purposes of this Agreement.

4. **DISCLOSURE SUBJECT TO THE DISCRETION OF THE DISCLOSING PARTY**

Nothing in this Agreement shall be construed as requiring the Disclosing Party to disclose any Confidential Information to the Receiving Party or its Representatives. It is within the absolute discretion of the Disclosing Party to determine (in its sole opinion) whether Confidential Information is suitable or necessary to be so disclosed.

5. **DISCLOSURE DUE TO COURT ORDER/GOVERNMENTAL ACTION**

In the event that the Receiving Party or any of its Representatives are obligated to disclose any Confidential Information as a result of a court order or pursuant to governmental action or other requirement of law, the Receiving Party shall, immediately give a written notice the Disclosing Party prior to such disclosure so that the Disclosing Party is given an opportunity to object to or make recommendations for such disclosure, which shall be binding on the Receiving Party.

6. **REPORTING UNAUTHORISED DISCLOSURE, MISAPPROPRIATION OR MISUSE OF CONFIDENTIAL INFORMATION**
The Receiving Party shall immediately inform the Disclosing Party of any unauthorized use or disclosure, misappropriation or misuse by any person of any Confidential Information, upon the Receiving Party having notice or knowledge of the same.

7. **NO REPRESENTATION, WARRANTY OR GUARANTEE**
   No Confidential Information received by the Receiving Party from the Disclosing Party shall constitute representations, warranties guarantees upon which the Receiving Party may rely and the Disclosing Party shall assume no responsibility, obligation nor liability in this regard to the Receiving Party.

8. **ASSIGNMENT**
   The Receiving Party shall not have the right to assign this Agreement (or any part hereof) without the prior written consent of the Disclosing Party. Any assignment without such consent shall be void and is a material breach of this Agreement. Subject to the foregoing, this Agreement shall inure to the benefit and be binding upon the parties named herein and their respective successors and assigns.

9. **REMEDY FOR BREACH**
   Damages for breach of contract by one party consist of a sum equal to the loss suffered by the other Party as a consequence of the breach, including loss of business opportunity, costs of business interruption, charges, expenses, damages or loss which may be incurred or suffered by the other party. The Receiving Party (for itself and behalf of its Related Persons) acknowledges and agrees that damages alone may not be an adequate remedy for breach by the Receiving Party or any of its Representatives, and that the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of the provisions of this Agreement by the Receiving Party and/or any of its Representatives may be more appropriate remedies.

10. **EFFECTIVE DATE OF AGREEMENT**
    This Agreement shall be effective upon its execution by both Parties.

11. **NOTICES**
    Any communication in connection with this Agreement must be in writing and be delivered personally, or by registered mail receipt acknowledged, facsimile or e-mail (if receipt of the complete facsimile or electronic mail is confirmed in writing by the recipient) to the address set out at the beginning of this Agreement.

12. **WAIVER**
    Failure delay or neglect by the Disclosing Party to enforce at any time any of the provisions hereof shall not be construed nor be deemed to be a waiver of the Disclosing Party’s rights hereunder nor in any way affect the validity of the whole or any part of this Agreement nor prejudice the Disclosing Party’s rights to take subsequent action. No remedy conferred by any of the provisions of this Agreement is intended to be exclusive of any other remedy which is otherwise available at law, in equity, by statute or otherwise, and each and every other remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law, in equity, by
statute or otherwise. The election of any one or more of such remedies by a Party shall not constitute a waiver by such party of the right to pursue any other available remedies.

13. **SEVERABILITY**

If any provision (or part thereof) of this Agreement is held to be a violation of any applicable law, the same shall be deemed to be deleted from this Agreement. The remainder of this Agreement shall remain in full force and effect as if such provision (or part thereof) had not originally been contained in this Agreement. Notwithstanding the foregoing, the Parties shall negotiate in good faith to agree on the terms of a mutually acceptable alternative provision in place of the provision so deleted.

14. **ENTIRE AGREEMENT**

14.1 This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof, and supersedes any and all prior agreements, communications and understandings (both written and oral) regarding such subject matter. This Agreement shall not be modified or any rights under it waived except by a written document executed by all parties.

14.2 This Agreement is signed in two counterparts, each of which is an original and both of which taken together constitutes one and the same instrument.

15. **GOVERNING LAW AND JURISDICTION**

15.1 This Agreement shall be governed by and construed in accordance with the laws of India. subject to Clause 15.2 below, the courts of _____________ shall have exclusive jurisdiction over any disputes between the Parties arising out of or in relation to this Agreement.

15.2 In the event any dispute amongst the Parties, arising out of or in connection with this Agreement cannot be resolved between parties, the dispute shall be then referred to and finally resolved by a sole arbitrator in accordance with the Arbitration and Conciliation Act, 1996 or any statutory modifications or re-enactment thereof. The venue for arbitration shall be ___________. The arbitration shall be in English and shall be binding on both the Parties.

16. **AGREEMENT NOT TO NON-CIRCUMVENT**

The parties and/or their affiliates of whatsoever nature shall not, in any manner, solicit and/or accept any business from sources that have been made available by and through the parties hereto, nor in any manner shall access, solicit and/or conduct any business with said sources, without the specific permission of the Party who made the said sources available. For avoidance of doubt, this restriction shall apply only to business related to the Assignment which is the subject matter of this agreement and not to any other Assignment or business.
IN WITNESS WHEREOF the parties hereto have caused their duly authorized representatives to set their hands the day and year first above written.

SIGNED by …………………
for and on behalf of
Disclosing Party

Name :
Title :

In presence of :-

Name:
Title:

SIGNED by …………………
for and on behalf of
Receiving Party

Name :
Title :

In presence of :-

Name:
Title:
24 Project Scope Change Request - format

<table>
<thead>
<tr>
<th>Project Name</th>
<th>ePragati-Primary Sector Package</th>
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<td>Organization</td>
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<td>Requested by</td>
<td>Organization</td>
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<td>Submitted by</td>
<td>Date Requested</td>
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<td>Evaluated by</td>
<td>Date Evaluated</td>
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<td>Decided by</td>
<td>Date Decided</td>
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**Change Request Identification**

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**Change Request Details**

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**Evaluation**

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<td>Evaluator's priority</td>
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<td>Alternatives and recommendation</td>
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**Implementation Options**
Decision/Rationale: (Sponsor and/or customer)

☐ Approved
☐ Denied
☐ Place on Hold

*Describe the rationale for the decision and who was involved.*

**Change Request Decision Signatures**

**Project Manager**

______________________________                          __________________________

(Signature)                          (Date)

Name
Position
Organization

**Decision Maker**

______________________________                          __________________________

(Signature)                          (Date)

Name
Position
Organization