BID DOCUMENT No: CSC/July 2010

REQUEST FOR PROPOSALS

FOR

SELECTION OF SERVICE CENTRE AGENCY (SCA) TO SET UP,MANAGE AND OPERATE 2112 RURAL COMMON SERVICES CENTERS(CSC) IN THE STATE OF PUNJAB

VOLUME-III

DRAFT MASTER SERVICE AGGREMENT

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MASTER SERVICE AGREEMENT

This Master Service Agreement, hereinafter referred to as ***"MSA"*** is made this ___ day of _____ 200_ at [Place]

BY AND AMONG

The Governor of the State of Punjab in his executive capacity for the Government of the State of Punjab , acting through the Principal Secretary, to Govt of Punjab, Department of Information Technology, Punjab, hereinafter referred to a "*GoP*" (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

Punjab State E-Governance Society (PSEGS), under the _____[Name of the Legal Act and Year] having its registered office at Chandigarh, which has been appointed as the nodal agency for implementing the Scheme by the GoP ,hereinafter referred to as **"*State Designated Agency* or *the SDA*"** (which term or expression, unless excluded by or repugnant to the subject or context, shall mean and include its successors and assigns) of the Second Part

AND

M/s _____, a company/trust/society/[others as applicable] registered under the [Name of the Act], having its registered office at _____ and place of business at _____, hereinafter referred to as **"*Service Centre Agency* or *the SCA"*** (which term or expression, unless excluded by or repugnant to the subject or context, shall mean and include its successors and permitted assigns) of the Third Part

Each individually a "Party" hereto and collectively the "Parties"

Whereas,

i. The GoP intends to provide convenient and speedy Government Services, using Information & Communication Technologies (ICT) through Common Services Centers (CSCs) and The CSCs will be utilized as efficient distribution channels through which the GoP can offer its services, information and schemes etc. to citizens in a cost effective, sustainable and efficient manner. To undertake the delivery of Government Services on a Public Private Partnership basis, the GoP intends to appoint Service Centre Agencies (SCAs) to roll out and manage the

CSCs in the State of Punjab and offer revenue support to the SCAs, as agreed and accepted by the SDA through the SCA's Financial Bid.

ii. The SCA shall develop, finance, design, build, rollout, establish, manage, operate and maintain the CSCs for delivery of services to the customers in accordance with the provisions of this MSA on a Build, Own and Operate (BOO) basis; provided that the SCA shall be allowed to collect transaction charges for providing Government services as determined by GoP /SDA and receive revenue support, as agreed to between SCA and GoP ,vide this MSA by enabling the private and social sector to use this network for offering a host of IT and non-IT related services to customers and users.

Now therefore this agreement witnesseth as under –

1. Definitions, Interpretations and Other Terms

1.1 Definitions

a) ***Assets*** means all Assets used in providing services in accordance with this Agreement and shall include:

   i) Government Assets

   ii) All upgradation/ enhancements and improvements to the above assets;

b) ***Bid*** means the documents in their entirety comprised in the technical and commercial bid submitted by the successful bidder, the SCA herein, in response to the RFP, and accepted by the SDA, signed for verification by the authorized representatives of the Parties, vide letter no. _____dated_____;

c) ***B2C Services*** means Business to Consumer services, or all non-Government Services offered through the CSCs

d) ***B2B Services*** means all Business to Business services offered through the CSCs

e) ***Common Services Center(s)*** or ***CSC(s)*** means the ICT enabled access points to be established by the SCA as per the specifications and requirements set forth in Vol.1 of the RFP and this MSA;

f) ***Confidential Information*** means all information including GoP 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 in the course of or in connection with this MSA (including without limitation such information received during negotiations, location visits and meetings in connection with this MSA);

g) ***Customers*** means all citizens and users who use the CSCs for Government as well as other services, either directly or through the SCA;

h) ***Deliverables*** means all the activities related to the setting up and operations of Common Services Centers, as defined in Volume 1 of the RFP, and as required as per this MSA;

i) ***Zone*** means the minimum region, which the SCA has bid for and has been authorized to set up and operate the CSCs, vide letter no. ____dated_____

j) ***Designated/Nominated Agency(s)*** means any GoI/GoP approved agency, including a Special Purpose Vehicle (SPV) formulated for the Scheme, as outlined in para 2.4 of this MSA.

k) ***Effective Date*** means the date on which this MSA is executed;

l) ***Government Assets*** means all assets made available to the SCA by the GoP./SDA or any person designated by the GoP/SDA

m) ***Government Services or G2C services*** means services that are offered by GoP/GOI/or any of their departments and agencies, through the CSCs, as outlined in the Service Level Agreement(s) between the SDA and SCA, vide Schedule 3 of this MSA;

n) ***GoP Data*** means all proprietary data of GoP or its departments, instrumentalities, corporations and agencies or the SDA, but not restricted to user data which the SCA obtains, possesses or processes in the context of providing the Services to the users pursuant to this MSA;

o) ***MSA means this Master Service Agreement (MSA),*** together with the recitals and all schedules and the contents, requirements, specifications and standards of the Volume I of the RFP (as may be amended, supplemented or modified in accordance with the provisions hereof) and the Bid. In the event of a conflict between this MSA and the Schedules, the terms of the MSA shall prevail;

p) ***Network Connectivity*** means the appropriate communication network for interactive and online access to voice ,data and video based services, including wireless broadband connectivity that shall be deployed by the SCA to connect to the CSCs;

q) ***Operations*** or ***Operations and Management*** means the operation, maintenance and management of the CSCs by the SCA;

r) ***Performance Security*** means the irrevocable and unconditional Bank Guarantee provided by the SCA from a Scheduled Commercial Bank in favor of the SDA for an amount specified in the Vol. 2 of the RFP;

s) Prime Bidder means the Lead Bidder in accordance with the Volume 2 of the RFP;

t) ***Proprietary Information*** means processes, methodologies and technical and business information, including drawings, designs, formulae, flow charts, data and computer programs already owned/licensed by either Party or granted by third parties to a Party hereto prior/subsequent to the execution of this MSA;

u) ***Required Consents*** means the written consents, clearances and licenses, rights and other authorizations as may be required to be obtained by the SCA, for all activities/software/hardware under the CSC Scheme;

v) ***RFP*** means the Request For Proposal released vide Bid Document no. CSC/July 2010 dated July 7, 2010 and include all clarifications/addendums, explanations and amendments issued by the SDA in respect thereof;

w) ***Replacement SCA*** means any third party that the SDA may appoint to replace the existing SCA upon expiry of the term or prior termination of this MSA;

x) ***SCA Data Centre*** means the Data Centre that may be set up by the SCA with requisite ICT infrastructure that shall include but not be limited to servers, routers, switches, etc. for delivering the services through the CSCs to the customers;

y) ***Scheme*** or ***CSC Scheme*** means the process of setting up, managing and operating the CSCs by the SCA;

z) ***Service Level(s)*** means the performance criteria, which will apply, to the services delivered through the CSCs;

aa) ***Service Level Agreement(s)*** means agreement(s) executed by and between GoP, SDA and the SCA for delivering various Government services through the CSCs, pursuant to the Schedule 3 of this MSA;

bb) ***Services*** means the content and services delivered and to be delivered to the customers by the SCA through the CSCs, set up, managed and operated by the SCA and includes but not limited to the list of services specified in Volume 1 of the RFP or as may be specified in the subsequent Agreement/s;

a.1) ***Stakeholders*** or ***Users*** means the citizens, users, businesses, GoP including its departments, service providers, technology vendors, instrumentalities, corporations and agencies and their employees, as the context admits or requires;

b.1) ***State Data Centre*** means State/District Data Center, which will host the Government applications, backend infrastructure, including client server hardware, software, LAN access switch, server farm, firewall, core WAN router for connecting high speed internet connections and high-speed WAN links connecting to various departments, agencies and entities of the GoP

c.1) ***Term*** means the duration of this MSA;

d.1) ***Third Party Systems*** means systems (or any part thereof) in which the Intellectual Property Rights are owned by a third party and to which SCA has been granted a license to use and which are used in the provision of Services;

e.1) Utility Service Provider means the provider of a Utility Service designated by the GoP/SDA;

f.1) ***Village Level Entrepreneur*** or ***VLE*** means the individual identified and retained by the SCA as employee or business associate/partner/franchisee in any other legal and contractual capacity for the day-to-day management, operations and maintenance of the CSCs so as to provide services to the customers;

1.2 **Interpretations**

a) 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;

b) Words denoting the singular shall include the plural and vice-versa and words denoting persons shall include firms and corporations and vice versa;

c) Unless otherwise expressly stated, the words "herein", "hereof", "hereunder" and similar words refer to this MSA as a whole and not to any particular Article, Schedule. The term Articles, refers to Articles of this MSA. 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. The words "writing" and "written" mean "in documented form", whether electronic or hard copy, unless otherwise stated;

d) The headings and use of bold type in this MSA are for convenience only and shall not affect the interpretation of any provision of this MSA;

e) The Schedules to this MSA form an integral part of this MSA and will be in full force and effect as though they were expressly set out in the body of this MSA;

f) Reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to such agreement, deed, instrument, license or other document as the same may be amended, varied, supplemented, modified, novated or suspended at the time of such reference;

g) References to “construction” or “roll out” includes, unless the context otherwise requires, design, development, implementation, engineering, procurement, delivery, transportation, installation, processing, fabrication, acceptance testing, certification,

commissioning and other activities incidental to the construction or roll out, and "construct" or "roll out" shall be construed accordingly;

h) Any word or expression used in this MSA shall, unless defined or construed in this MSA, bear its ordinary English language meaning;

i) The damages payable by a Party to the other Party as set forth in this MSA, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and liquidated damages likely to be suffered and incurred by the Party entitled to receive the same and are not by way of liquidated damages;

j) This MSA shall operate as a legally binding agreement specifying the master terms, which apply to the Parties under this agreement and to the provision of the services by the SCA;

k) The SDA may nominate a technically competent agency/individual for conducting acceptance testing and certification of the Scheme or carry out these tasks itself;

l) The agency/individual nominated by the SDA can engage professional organizations for conducting specific tests on the software, hardware, networking, security and all other aspects;

m) The agency/individual will establish appropriate processes for notifying the SCA of any deviations from the norms, standards or guidelines at the earliest instance after taking cognizance of the same to enable the SCA to take corrective action;

n) Such an involvement of and guidance by the agency/person will not, however, absolve the SCA of the fundamental responsibility of designing, developing, installing, testing and commissioning the CSCs.

1.3 Conditions Precedent

The SCA will provide the Performance Security before the execution of this MSA to the SDA as specified in Vol. 2 of the RFP;

2. Rolling Out the CSCs

2.1 Scope of the MSA

a) The SCA is mandated to establish _____ [number] CSCs in _____(Zone) of the State of Punjab. The GoP will provide a variety of Government Services through the CSCs.

b) The GoP will extend revenue support to the SCA as agreed vide this MSA.

c) This MSA shall govern the provision of Deliverables of the SCA to GoP and the SDA, included in the RFP and the MSA. It is anticipated that new or renewal agreements may be undertaken by creating separate Service Level Agreements with schedules and exhibits, as required, under this MSA for each/set of Government Service(s). A draft of the Service Level Agreement is attached as Schedule 3 of this MSA.

2.2 Term of the MSA

This MSA shall come into effect on the Effective Date of signing of this MSA and shall continue and extend, unless terminated earlier in accordance with the provisions hereof, for a period of 4 years from the satisfactory completion of roll out of all the CSCs in the SCA's zone(s). The maximum period for completion of roll out of the CSCs by the SCA is 12 months from the Effective Date. The Parties may continue to implement the Scheme after expiry of the MSA on mutually agreed terms and conditions by executing a fresh MSA, as required or applicable

2.3 Rollout of CSCs

a) The SCA shall set up and operationalize the CSCs at its own cost and expense within 12 months in phases from the Effective Date, as per the Deliverables outlined in the RFP document of this MSA

b) The SCA may enter into arrangements at its cost and risk with the non-Government content and service providers for IT and non-IT based services delivered through the CSCs

c) The SCA shall identify, train, facilitate and enter into appropriate arrangements with the VLEs at its cost and risk in accordance with the provisions of the RFP, and this MSA for establishing, managing , operating and maintaining the CSCs

2.4 **The Special Purpose Vehicle (SPV)**: A national level SPV has been incorporated on 16th July 09 under the Companies Act, 1956, with the name "CSC e-Governance Services India

Ltd". The SPV would undertake the day-to-day monitoring of the CSC Scheme on behalf of the Government of India. The SPV would undertake the following key roles and responsibilities:

i Lay down operating and financial guidelines within the CSC system

ii Providing a framework for collaborative decision making process

iii Catalyzing and maintaining content aggregation on an on-going basis

iv Build a common "Identity" ,logo etc

- The SPV will coalesce diverse stakeholders to work through common institutional and contractual frameworks, facilitate Government outreach, monitor the outcomes being achieved by the CSCs, undertake capacity building, loop best practices, standardize design, content and processes into a replicable collaborative framework and so on. Thus the SPV would have a specific business mandate to leverage the CSC network for socio-economic development of the rural areas.
- Equity Structure of the SPV is as follows:
  - Central Government/ DIT - One Golden Share
  - State Governments - Up to 44.5%(including 1 Golden share of DIT)
  - SCAs - Up to 44.5%
  - Financial Institutes including Banks –Up to 11%
- The Equity Capital of the SPV, in part, may also be subscribed to by the SCAs if it so desires.
- The SPV may also undertake all the audit, monitoring and financial management of the Scheme and may verify and authorize the revenue support payments made to the SCA by the GoP

2.5 Scope and Provision of the Services

a) The provision of Services to the citizens with certainty and speed is the essence of the MSA between the Parties. The SCA has the competence to manage and provide a variety of Government and other Private services to customers. The SCA 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 its knowledge with the GoP and the SDA, regarding matters which would assist the GoP and the SDA, in its use of the services, provided that SCA shall not be obligated to share other client information or Confidential Information of the SCA not relevant to this MSA. The

Services shall be performed by the SCA pursuant to project engagements under the Service Level Agreements entered into in accordance with this MSA.

b) The SCA shall operate and manage the CSCs in a good professional manner commensurate with existing industry and technical standards and innovations pursuant thereon, so as to comply with the applicable Service Levels, as laid out in Schedule 1 of this MSA, or as may be laid out in the individual Service Level Agreements for each service

c) The SCA shall be liable for ensuring compliance by the persons working for the SCA or including the VLEs, with the provisions of the RFP, the Bid, this MSA and the performance of their respective obligations and functions in accordance with the specifications and requirements and shall indemnify and keep indemnified the GoP and the SDA in this behalf

d) No Party to this MSA will at any time perform, or omit to perform, any act which it is 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 GoP.

e) Except as otherwise provided for herein or with the prior written approval of GoP / SDA, the SCA shall not:

   i. Systematically collect and use any GoP Data, Deliverable, Assets or GoP contents/contents of G2C services and information, including the use of any data mining, or similar data gathering and extraction methods;

   ii. Market, sell, or make commercial or derivative use of the GoP Data, Deliverable or Assets, GoP contents/contents of G2C services and information;

   iii. Publish, publicly perform or display, or distribute to any third party any GoP Data, Deliverables or GoP contents/contents of Government services and information, including reproduction on any computer network or broadcast or publications media; or

   iv. Use, frame, or utilize framing techniques to enclose any portion of the GoP Data, Deliverables or GoP contents/contents of G2C services and information (including images, any text or the layout/design, form or content of any page or otherwise).

2.6 Service Level Agreements

Separate Agreements shall govern service levels for the Government services delivered through the CSCs, in pursuance of this MSA. The Service Level Agreements shall be executed along/separately with the MSA and commence from the Effective Date of the MSA or the Agreements and shall, unless terminated earlier in accordance with the terms hereof or thereof or unless otherwise agreed by the Parties, expire on the date on which this MSA expires. A model Service Level Agreement (SLA) is included herein as Schedule-3 along with Appendices as a part of this MSA

2.7 **Approvals and Required Consents**

a) The Parties shall co-operate to procure, maintain and observe all relevant and customary regulatory and governmental licenses, clearances and applicable approvals (hereinafter the "Approval") necessary for the SCA to provide the Services. The costs of such Approvals shall be borne by the Party normally responsible for such costs according to local custom and practice in the locations where the Services are to be provided

b) The GoP and the SDA shall use reasonable endeavors to assist the SCA in obtaining the Required Consents. In the event that any Required Consent is not obtained, the SCA and the GoP (along with the SDA) will co-operate with each other in achieving a reasonable alternative arrangement as soon as reasonably practicable for the GoP to continue to process its work with as minimal interruption to its business operations as is commercially reasonable until such Required Consent is obtained, provided that the SCA shall not be relieved of its obligations to provide the Services and to achieve the Service Levels until the Required Consents are obtained if and to the extent that the SCA's obligations are dependent upon such Required Consents.

c) GoP shall endeavor that the State Data Centre, the Punjab Portal and SWAN, as necessary for the provision of the services by the SCA, are installed, operated and maintained by it throughout the Term and shall facilitate the integration thereof with the CSCs

2.8 **Use and Upkeep of Assets**

During the Term the SCA shall:

a) take all reasonable and proper care of the Assets;

b) provide permission to the GoP and SDA and any persons duly authorized by it/them to enter any land or premises on which the Assets are for the time being sited so as to inspect the same;

c) and in the event of setting up CSCs in any GoP location, the GoP shall, to the extent necessary for the SCA to provide the Services, subject to compliance by the SCA with any safety and security guidelines which may be provided by the GoP and notified to the SCA in writing, provide the SCA with:

   i. reasonable access to the CSCs for customers as well as the SDA and its designated agencies, as well as GoP personnel, as per timings specified in the RFP; and

   ii. access to office equipment as mutually agreed and other related support services in such location and at such other GoP location, if any, as may be reasonably necessary for the SCA to perform its obligations hereunder; and

d) agree that the grant of aforesaid access to the SCA to the GoP locations shall be in the nature of a bare license and shall not confer or be deemed to have conferred on the SCA any right, title or interest whatsoever (whether in the nature of an easement or otherwise) in such locations, office equipment or support services or any part thereof and nothing in these presents contained shall be construed as a demise in law of such locations unto the SCA so as to give the SCA any legal interest therein. The SCA shall only have the right to enter upon such locations for the purpose of executing the Scheme in accordance with the terms hereof.

e) not part with or create any encumbrances whatsoever on the who or any part of such locations, office equipment or support services made available by GoP to the SCA.

f) agree that the GoP building locations, where available, from time to time, shall be made available to the SCA on an "as is, where is" basis by the GoP .The SCA agrees to ensure that its VLEs and to the extent possible the users, do not use such locations, services and items made available by GoP_for’

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

   ii. any act, which constitutes a violation or infringement of the rights of any person, firm or company (including but not limited to rights of copyright or other intellectual property right, confidentiality or privacy).

g) at all times, afford access to the CSC business (including the CSCs, SCA offices, systems, software, hardware, networks, sites, accounts, documents, records, contracts,

materials, personnel, subcontractors, VLEs, etc.) to GoP or the SDA, as the case may be, their authorized officers, representatives, advisors, experts, auditors and monitoring or certifying entities, the representatives of any competent government authority having jurisdiction over the Scheme to inspect the CSCs and their roll out and operation and to investigate any matter within their authority and the SCA shall provide to such persons reasonable assistance necessary to carry out their respective duties and functions.

h) The SCA shall at all times co-operate by providing reasonable access and services to the CSCs for customers as well as the SDA and its designated agencies, as well as GoP personnel, as per timings specified in the RFP; and

i) Incase the State Government provides premises to the Service Centre Agency (SCA) to set up Common Services Centers, the SCA shall pay a license fee/rent as prescribed by the State Government. The premises so provided shall be on a bare License authorizing the SCA to enter upon the Kiosk for the purpose mentioned in the Master Service Agreement for the duration of this Agreement. The SCA shall not at any time -
   (i) claim ownership or any right title or interest in the said premises either whole or in part
   (ii) assign or transfer the said premises either whole or in part
   (iii) claim tenancy or lease rights or adverse position in respect of the said premises

j) The license granted is personal to the SCA and is not transferable. The premises shall not be sub-licensed and the SCA shall not enter into any partnership and/or create any third party interest in respect of the said premises.

k) The SCA shall maintain the premises with the same care as his own premises, the standard of care in no case being less than reasonable.

l) Without prejudice to the provisions of clause 4.2 of this Agreement, on expiry or sooner determination of this Agreement, the SCA shall remove all equipment and effects from the premises and make available the Government premises, to the GoP / SDA or its designated agency, in the same condition in which they had been received

2.9 Requirements for the Prime Bidder

Other than the Prime Bidder, other consortium members may be changed but only after the full roll out of the CSCs in the Zone has been achieved and with the prior written approval of the SDA and/or its nominated agencies. Provided that in the event of any such approved change of consortium members, the entities (companies) replacing them shall have, to the reasonable satisfaction of the SDA, the same

or higher financial, technical and legal qualifications as the outgoing entities. In the event the SDA does not grant approval for the change of the non-principal bidders or suitably qualified replacement entities (companies) are not available/ found, the exit of the non-principal bidders shall constitute a breach of this MSA

2.10 **Security and Safety**

a) The SCA will comply with the directions issued from time to time by the *GoP* or the SDA and the standards related to the security and safety as stated in the RFP, insofar as it applies to the provision of the Government services.
b) Each Party to the MSA shall also comply with *GoP*'s/SDA's IT security and standards policies in force from time to time, which the GoP /the SDA makes the SCA aware in writing insofar as the same apply to the provision of the Government services
c) The Parties to the MSA shall use reasonable endeavors to report forthwith in writing to each other all identified attempts (whether successful or not) by unauthorized persons either to gain access to or interfere with the *GoP*'s data, facilities or Confidential Information
d) The Parties under the MSA shall promptly report in writing to each other any act or omission which they are aware that could have an adverse effect on the safety and information technology security at the CSC's/*GoP*'s facilities

2.11 **Co-operation**

a) Except as otherwise provided elsewhere in this MSA, each Party ("Providing Party") to this MSA, 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. Does not require material expenditure by the Providing Party to provide; and
   ii. Is reasonably required by the Receiving Party in order for it to comply with its obligations under this MSA; and
   iii. Is not Confidential Information; and
   iv. 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 MSA

3. Financial Provisions

3.1 Payments and Charges

a) The GoP will pay upto a maximum of Rs._____ per CSC per month to the SCA, towards revenue support, on a quarterly basis as per the financial bid of the SCA accepted by the SDA, vide letter no.____ dated _____

b) The SCA shall not be entitled to receive any capital support/subsidy from the GoP and/or for undertaking the roll out of the Scheme and the SCA shall be required to finance the same through its own resources or funding arranged by it at its cost.

c) The SCA shall be entitled to retain its specified share of the transaction charges, collected from the citizens pursuant to the provision of Government services under this MSA, through the CSCs, and receive the revenue support, as explained in the RFP, and as bid and accepted by the SDA, from GoP during the Term. Such revenue support shall be payable by GoP to the SCA on a quarterly basis

d) The SCA and its VLEs shall be authorized to collect the transaction charges from the users for the Government applications/services as specified in Appendix B of Schedule 3 and as may be revised from time to time, at rates fixed by GoP. The SCA/its VLEs shall promptly deposit the complete transaction charges as per the procedure prescribed by the Government, within the time specified as maybe, along with the applicable/stipulated/mandatory fee, if any, relating to such application/service and the service tax, if any, in the respective designated bank account of the GoP or the relevant utility service provider, as the case may be, as notified in writing by the SDA to the SCA from time to time. Unless otherwise specified to the contrary, the transaction charges, such applicable /stipulated fee and the service tax, if any, shall be deposited in the SDA bank account, as notified in writing by the SDA to the SCA. The transaction charges may be collected from the users by the VLEs and credited by them to the GoP bank account or the bank account of the utility service provider, but as between the GoP and the SDA/relevant utility service provider on the one hand and the SCA on the other hand, the SCA shall be liable and responsible for all such operations and activities and ensuring to deposit the revenue to the Government and other Utility Service Providers as applicable

e) The SCA shall ensure and be liable for the timely deposit of such monies as stated above by its VLEs and shall defend, hold harmless, indemnify and keep indemnified the GoP and the SDA/relevant utility service provider from and against any failure on its part/by VLEs in the timely deposit of such monies or failure to deposit such monies, in full or part. State/ Utility service provider shall reasonable endeavor that do not levy any remittance charges on deposits being made by VLE/SCA in their respective areas.

f) The SCA would not be eligible for revenue support unless the CSCs within the SCA's jurisdiction (zone/ zones) have been rolled out within the specified time frame as per the mile stones prescribed in the RFP and are certified as operational by SDA . The release of revenue support to the SCA would be as per the CSC rollout milestones 20%, 40%, 70% and 100%. Once the SCA has set up and made CSCs operational as per a particular roll out milestone, the SCA shall be eligible for the complete revenue support for the operational CSCs as per the rolled-out milestone.. .

g) For the purposes of determining the amount of support to be disbursed, there would be 100% deduction of SCA revenues actually generated from the delivery of Government Services and collection of government utility bills, from the revenue support bid accepted by the State. The SCA would be eligible for the revenue support upon tallying the MIS report generated by the SCA's Data Centre and the State Data Centre at the end of each quarter. G2C transactions executed through online State Portal would be considered for revenue support offset calculations.

h) The relationship between the SCA and the VLEs shall be decided by their mutual agreement adhering to the guidelines as specified in Vol 1, of the RFP

i) All payments are subject to the application of debits towards liquidated damages for delays and/or breaches by the SCA/its VLEs in meeting the Service Levels and performance standards in the provision of Services in accordance with the provisions hereof, at the rates specified in the applicable Agreements. It is clarified here that in case of the failure of the SCA to meet the Service Levels agreed to, the SDA may calculate a financial sum and debit the same against the payment to be made to the SCA, , such sum being determined in accordance with the terms of the Service level Agreements

j) Except as otherwise provided for herein or as agreed between the Parties in writing, the GoP/SDA shall not be required to make any payments in respect of the Services other

than those covered by the terms of payment as stated herein, including the Financial Provisions section of this MSA.

3.2 **Invoicing and Settlement**

a) As regards the revenue support quoted by the SCA in the financial bid as accepted by SDA, vide letter no. and dated_____, the SCA shall submit its invoices in accordance with the following principles:

i. The SCA shall submit a certificate from the SDA or its designated agencies certifying that all the CSCs in the allotted zone of the SCA have been rolled out and are operational to the satisfaction of the SDA or its designated agencies.

ii. The SCA shall submit quarterly invoices for the revenue support along with a detailed MIS sheet in respect of the services delivered and a quarterly provisional financial statement indicating revenue generated from delivery of Government services. The SCA shall also provide a certificate by a Chartered Accountant every 6 month certifying the above statement. The SCA shall further submit audited statement of accounts annually.

iii. At the end of fourth quarter, the SCA shall submit a detailed MIS sheet for all four quarters of the year in respect of the services delivered and an audited financial statement indicating revenue generated from delivery of Government services.

iv. The SCA shall invoice all payments for revenue support by the 10th working day of the month following the relevant quarter in which the Services were provided.

b) Payment of the revenue support shall be made by GoP to the SCA within 21 working days of the receipt of invoice by the GoP subject to adjustments for liquidated damages and set off against revenues generated out of Government Services through the CSCs and surplus payment(s) made, if any, during previous quarter(s)

c) The GoP shall be entitled to delay or withhold payment of any invoice or part of it delivered by the SCA where the GoP 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 this MSA. Any exercise by the GoP under this article shall not entitle the SCA to delay or withhold provision of the Government Services.

3.3 **Tax**

a) The SCA/VLEs shall pay for all taxes under the applicable laws arising from its operations/activities/services/business under the MSA and/or in connection with the MSA.

b) The GoP/SDA shall deduct withholding taxes as per the applicable laws from the amounts due and payable to the SCA wherever applicable.

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.

d) The transaction charges specified in the RFP payable by the customers/citizens are inclusive of all applicable Service taxes .

4. Breach and Rectification

4.1 Events of Default, Rectification and Termination

a) If there is breach which translates into default as per this MSA in provisioning of Government services and/or default as per this MSA in provisioning of Government services on account of matters related to the provision of other IT and non-IT services by the SCA under the Scheme/through the CSC network, continuously for more than seven days or more than a cumulative period of ten days in a month, except in conditions of force majeure, the same shall attract liquidated damages at the rate of 20% per CSC per week of the monthly revenue support sought OR Rs.1000 per CSC per week, whichever is more. In case the rectification is not carried out within 30 days of the applicability of the inoperability clause, it would constitute a material breach by the SCA, which shall entitle the SDA to, at its sole option, forthwith terminate this MSA on the expiry of such stipulated period, unless the SCA has in the meantime rectified, removed or cured, as the case may be, such material breach. The SDA may at its sole option, debit or set off the amounts of liquidated damages, if any, against the payments as defined in the Terms of Payment section of this MSA, and/or through invocation or forfeiture of the Performance Security, in full or part, as the case may be

b) In the event the SCA fails to make timely deposit of the GoP's share of the gross amounts of the weekly transaction charges collected from the citizens in accordance with the RFP, the SCA shall be required to pay liquidated damages at the rate of 20% of the total overdue amount due or Rs.1000 per week per CSC, whichever is more. In the event that such payment defaults occur for 3 consecutive weeks, the GoP/SDA shall be entitled to forthwith stop the SCA's access to State Data Centre, Punjab Portal ,Punjab SWAN, GoP applications, as well as any other Government support, whether physical or otherwise, and require the SCA to stop providing the Government services to the citizens through the CSCs. The SDA may at its sole option, debit or set off the amounts of liquidated damages due to it against the terms of payment as defined in the Terms of Payment section of this MSA and/or through invocation and forfeiture of the Performance Security, in full or part, as the case may be

c) In the event the SCA fails to make timely deposit of the Government utility provider's share of the gross amounts of the weekly transaction charges collected from the citizens in accordance with the RFP, the SCA shall be required to pay liquidated damages at the rate of 20% of the total overdue amount due or Rs.1000 per day per CSC, whichever is more. In the event that such payment defaults occur for 3 consecutive weeks, the GoP/SDA shall be entitled to forthwith stop the SCA's access to State Data Centre, Punjab Portal, Punjab SWAN GoP applications, as well as any other Government support, whether physical or otherwise, and require the SCA to stop providing the Government services to the citizens through the CSCs, and even terminate the MSA. The SDA may at its sole option, debit or set off the amounts of liquidated damages due to it against the terms of payment as defined in the Terms of Payment section of this MSA and/or through invocation and forfeiture of the Performance Security, in full or part, as the case may be

d) In the event of any invocation of the Performance Security by the SDA, the SCA shall be required to forthwith replenish or top up the existing Performance Security, failing which the same shall constitute a material breach by the SCA, which shall entitle the SDA to terminate this MSA. Failure to replenish/top up within 7 days will invite liquidated damages of Rs.1,000 per day and penal interest @ 18% for the delayed period for the amount of deficit in the Performance Security. Failure to Replenish/top up beyond 30 days will be material breach and may lead to termination of agreement.

e) Notwithstanding anything contained herein above and without prejudice to the right to terminate this MSA,if the SCA fails to set up and operationalize the CSCs in accordance with Article 2.3 above, The Government of Punjab/SDA may in its sole discretion, instead of terminating this MSA, engage another person to fulfill the remaining obligations (or part of the remaining obligations) as may be decided, at the risk and cost of the SCA. The additional cost incurred by the government shall be recoverable from the performance security or any amount payable or due to the SCA, and in case such Performance Security or amount is not adequate, the SCA schall make good the shortfall.

f) The action as provided in Artcle 4.2 above shall not be construed or treated as waiver of any right of GoP/SDA and the right to terminate this MSA shall subsist even if an action in accordance with Article 4.2 had been taken.

4.2 **Effects of Termination**

a) The termination provisions set out in this MSA shall apply mutatis mutandis to the Service level Agreements.

b) In the event that the SDA or the SCA terminates this MSA, depending on the event of default, compensation will be decided in accordance with the Terms of Payment outlined in Appendix E, Schedule 3 of this MSA.

c) Upon termination of this MSA, the Parties will comply with the Exit Management Schedule, as outlined in this MSA, in Schedule 2

d) Upon the expiration or any termination of this MSA, SCA shall undertake the actions set forth in this MSA to assist the GoP/SDA to procure replacement services as provided hereunder:

   i. The SCA undertakes to negotiate in good faith with the GoP/SDA and any relevant Replacement SCA in respect of commercial terms applying to all SCA Intellectual Property Rights and which the GoP/SDA and any relevant Replacement SCA require to enable them to provide or receive services substantially equivalent to the Services hereunder

   ii. In respect of SCA third party Intellectual Property Rights, SCA undertakes to assist the GoP/SDA to secure such consents or licenses from such third parties as are necessary to enable GoP / SDA / Replacement SCA to receive services substantially equivalent to the Services hereunder.

   iii. The SCA shall hand over to the GoP/ SDA or its designated agency in accordance with the terms of this MSA, assets or deliverables including the software, if any, (and including any data, ownership, source code and associated documentation which is the work product of the development efforts involved in the Scheme) in which the GoP/SDA has the right, title and interest and that is in the possession or control of the SCA. In all cases, all the IT and Physical infrastructure for which SCA has made capital expenditure as part the contract shall remain the property of the SCA and is not required to be handed over to GoP after the contract period unless until mutually agreed upon.

5. Warranties, Liabilities and Confidentiality

5.1 Warranties

The SCA warrants and represents to the GoP and SDA that:

a) It has full capacity and authority and all necessary approvals to enter into and to perform its obligations under this MSA;
b) This MSA is executed by a duly authorized representative of the SCA
c) It shall discharge its obligations under this MSA with due skill, care and diligence so as to comply, with this MSA

5.2 Third Party Claims

a) The SCA (the "Indemnifying Party") undertakes to indemnify the GoP and/or SDA/their nominated agencies, as the case may be, (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 MSA
b) The indemnities shall be subject to the following conditions:
    i. the Indemnified Party, as promptly as possible, 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 defence of such claim including reasonable access to all relevant information, documentation and personnel provided that the Indemnified Party may, at its sole cost and expense, reasonably participate, through its attorneys or otherwise, in such defence
    iii. if the Indemnifying Party does not assume full control over the defence of a claim as provided in this Article, the Indemnifying Party may participate in such defence at its sole cost and expense, and the Indemnified Party will have the right to defend the claim in such manner as it may deem appropriate, and the cost and expense of the Indemnified Party will be included in losses

c) 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

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

e) 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

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

5.3 **Limitation of Liability**

a) There shall be no limitation of liability in respect of the SCA in case of any damages for bodily injury (including death) and damage to real property and tangible personal property, other than as applicable under the relevant laws.

b) Neither this MSA nor the Agreements 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 MSA, as the case may be.

c) Any claim or series of claims arising out or in connection with this MSA shall be time barred and invalid if legal proceedings are not commenced by the relevant Party against the other Party within a period of 3 years from the date when the cause of action first arose or within such longer period as may be permitted by applicable law without the possibility of contractual waiver or limitation.

d) The GoP/SDA shall be entitled to claim the remedy of specific performance under this MSA

5.4 **Force Majeure**

a) Neither Party to this MSA 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 MSA

b) The Party seeking to rely on Force Majeure shall promptly, within seven (7) days, notify the other Party of the occurrence of a Force Majeure event as a condition precedent to the availability of this defence with particulars detail in writing to the other Party and shall demonstrate that it has 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 SCA's performance of Services, in over 20% CSCs, for a period in excess of 30 days, the SDA may declare this as an emergency situation. The SDA will issue a notice to the SCA to resume normal services at all affected sites and for all operations within a period of 15 days. In the event that the SCA is not able to resume services within the next 15 days, the SDA may obtain substitute performance from an alternate supplier/SCA.

d) All payments pursuant to termination due to Force Majeure event shall be in accordance with the Financial Provisions section outlined in this MSA

e) Notwithstanding the terms of this MSA, the failure on the part of the SCA to implement any disaster contingency planning and back-up and other data safeguards in accordance with the terms of the this MSA and subsequent Agreements, against natural disaster, fire, sabotage or other similar occurrence shall not be an event of Force Majeure

5.5 **Confidentiality**

a) The GoP/SDA may permit the SCA to come into possession of confidential public records as per the needs of the Scheme and the SCA (including its VLEs, employees, contractors, agencies and representatives) shall maintain the highest level of secrecy, confidentiality and privacy with regard thereto.

b) Additionally, the SCA shall keep confidential all the details and information with regard to the Scheme, including systems, facilities, operations, management and maintenance of the systems/ facilities.

c) The GoP/SDA shall retain all rights to prevent, stop and if required take the necessary punitive action against the SCA regarding any forbidden disclosure.

d) The SCA shall ensure that all its employees, agents and sub-contractors execute individual non-disclosure agreements, which have been duly approved by the GoP/SDA, with respect to this Scheme

e) The aforesaid provisions shall not apply to the information:

   i. already in the public domain; and

   ii. which has been received from a third party who had the right to disclose the aforesaid information; and

   iii. disclosed to the public due to a court order.

5.6 **Audit, Access and Reporting**

a) The GoP/SDA/ nominated agency like the SPV, may carry out routine, random and periodic audits and inspections, by itself or through authorized representatives of all project/services related documents, data, locations, accounts, information at its own expense and cost. GoP/SDA/ nominated agency like the SPV, shall endeavor to conduct such audits with the lowest levels of inconvenience and disturbance practicable being caused to the SCA or users

b) The GoP/SDA/ nominated agency like the SPV, may carry out non-timetabled audits are necessary as a result of an act of fraud by the SCA, a security violation, or breach of confidentiality obligations by the SCA.

c) The frequency of audits (time tabled) shall be 6 monthly, provided always that the GoP/SDA shall endeavor to conduct such audits with the lowest levels of inconvenience and disturbance practicable being caused to the SCA or users

d) The audit and access rights contained within this section shall survive the termination or expiration of the MSA for a period of twenty-four (24) months.

e) The SCA shall provide to the GoP/SDA/ nominated agency like the SPV, or its representatives reasonable access to the Service Delivery Channel Network, VLEs, employees, subcontractors, suppliers, agents, third party facilities, including leased premises used for Scheme/kiosks, 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 GoP/SDA/ nominated agency like the SPV, shall have the right to copy and retain copies of any relevant records at its own expense and cost. The SCA shall make every reasonable effort to co-operate with them.

5.7 **Verification**

a) The GoP/SDA/nominated agency like the SPV, shall have the right to, as shall be reasonably necessary, to verify:
   i. The security, integrity and availability of all GoP Data processed, held or conveyed by the SCA on behalf of GoP/SDA and the users and documentation related thereto
   ii. That the actual level of performance of the services is the same as specified in the Service Level Agreements
   iii. That the SCA has complied with the relevant technical standards, and has adequate internal controls in place; and
   iv. The compliance of the SCA with any other obligation under the MSA and/or the Agreements
b) The audit and access rights contained in the MSA shall survive the termination or expiration of the MSA for a period of 24 months

5.8 **Reporting**

a) The SCA will provide quarterly reports to the GoP/SDA/their nominated agencies regarding any specific aspects of the Scheme and in context of the audit and access information as required or such by the GoP/SDA or its nominated agencies.
b) For the purposes of audit, the SCA shall maintain true and accurate records in connection with the provision of the services and the SCA shall handover all the relevant records and documents upon the termination or expiry of the MSA.

5.9 **Empowered Committee**

a) There shall be an Empowered Committee notified by the GoP, with representatives from SDA and other State Government Departments, who shall meet at least once a month
b) The Empowered Committee shall perform the functions and in the manner more particularly described at Schedule 4 of the MSA

6. Intellectual Property

6.1 Government IPR

a) Except to the extent otherwise expressly provided in this MSA, the GoP /SDA shall retain exclusive intellectual property rights to the forms, content, data and the compilations of the GoP/SDA to which the GoP/SDA has sovereign rights and nothing herein shall or will be construed or deemed to grant to the SCA 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 of GoP/SDA.

b) Without limiting the generality of the above article, and except to the extent otherwise expressly agreed by the Parties to this MSA in writing, nothing contained in this MSA shall or will be construed or deemed to grant to the SCA any right, title, license or other interest in, to or under (whether by estoppels, by implication or otherwise) any logo, trademark, trade name, service mark or similar designations of CSC Scheme/GoP/SDA or its respective affiliates/nominees.

c) Subject to any sole or exclusive rights granted by the GoP to a third party prior to the Effective Date, the GoP may, if required, grant to the SCA and any sub-contractors to the SCA solely for use in their performance of Services for GoP/SDA or its nominated agencies, non-exclusive, paid-up, royalty-free right and license during the Term of this MSA, but not the right to sub-license, to use the GoP Data including the right to copy, perform, display, execute, reproduce, modify, enhance and improve the GoP Data to the extent reasonably necessary or useful for the provision of Services hereunder

d) The SCA shall indemnify, defend and hold harmless GoP/SDA and its respective officers, employees, successors and assigns, from and against any and all losses arising from claims by third parties that any Deliverables (or the access, use or other rights thereto) created by SCA pursuant to this MSA or any equipment, software, information, methods of operation or other intellectual property (or the access, use or other rights thereto) provided by SCA or sub-contractors to the SCA pursuant to this MSA:

    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 the 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) GoP/SDA ; (B) third parties (i.e., other than SCA or SCA's sub-contractors) & (C) SCA at the direction of GoP/SDA

e) The GoP/SDA shall have no liability or obligation to SCA or any other Party 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 SCA or its nominees outside the scope of the Services) other than for the GoP/SDA.

f) Notwithstanding any provisions of this MSA to the contrary, the foregoing remedies constitute the Parties' sole and exclusive remedies and each Party's entire liability, with respect to Infringement Claims

6.2 **SCA IPR**

a) All right, title and interest in and to, and ownership in, Proprietary Information of GoP which may, if required, be provided to SCA, and all modifications, enhancements and other derivative works of such GoP Proprietary Information ("GoP Proprietary Information"), as a result of Services rendered by the SCA hereunder shall remain solely with the GoP .SCA shall be entitled to use such GoP Proprietary Information only during the Term and only for the purposes of providing the Services or to the extent necessary for SCA's normal operational, repair and maintenance purposes related to the Services. The GoP shall retain ownership of all Intellectual Property Rights related to GoP Proprietary Information

b) All right, title and interest in and to, and ownership in, Proprietary Information of SCA, which is provided to the GoP/SDA, and all modifications, enhancements and other derivative works of such SCA Proprietary Information ("SCA Proprietary Information"), shall remain solely with SCA. The SCA will upon the award of the Scheme in its favor, declare the status of all the SCA Proprietary Information along with documentary support sufficient to establish its sole legal rights in the aforesaid Proprietary Information to the GoP/SDA. This Proprietary Information shall refer to that which has been owned by the SCA prior to commencement of the MSA.

c) Additionally, the GoP/SDA shall also consider any software that may be acquired from third parties by the SCA, solely for its own purpose, during the term of the MSA as SCA

Proprietary Information. The GoP/SDA/its nominated agencies shall be entitled to use such SCA Proprietary Information only in connection with the Services or to the extent necessary for GoP's/CSC Scheme's normal operational, repair and maintenance purposes related to the Services.

7. Miscellaneous

7.1 SCA duties

a) The SCA shall not change the key personnel named by it in the Bid except with the prior written approval of the GoP/SDA and replace with personnel having similar or higher qualifications, such approval will not be unreasonably withheld, and will be processed within 7 days of the request being made

b) The SCA shall ensure that G2C services are effectively and cordially provided to the citizens by the concerned VLEs. The SCA shall ensure that the VLE does not hinder/inhibit the objective of the CSC scheme by withholding infotoes not

Schedule 3: Model Service Level Agreement

THIS AGREEMENT is made this _____ day of _____ 200_

BY AND AMONG

The Governor of the State of Punjab in his executive capacity for the Government of the State of Punjab , acting through the Principal Secretary, to Govt of Punjab, Department of Information Technology, Punjab, hereinafter referred to a "*GoP*" (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

Punjab State E-Governance Society (PSEGS), under the _____[Name of the Legal Act and Year] having its registered office at Chandigarh, which has been appointed as the nodal agency for implementing the Scheme by the GoP ,hereinafter referred to as **"*State Designated Agency* or *the SDA*"** (which term or expression, unless excluded by or repugnant to the subject or context, shall mean and include its successors and assigns) of the Second Part

AND

M/s _____, a company/trust/society/[others as applicable] registered under the [Name of the Act], having its registered office at _____ and place of business at _____, hereinafter referred to as **"*Service Centre Agency* or *the SCA*"** (which term or expression, unless excluded by or repugnant to the subject or context, shall mean and include its successors and permitted assigns) of the Third Part

Each individually a "Party" hereto and collectively the "Parties"

WHEREAS:

A. The GoP ,SDA and [_____], the SCA have entered into a Master Service Agreement dated [_____] (hereinafter referred to as the "MSA").
B. The SCA, vide the above MSA is entitled to offer Government Services through the CSCs. Each service has defined service levels that, if appropriately delivered, as per this agreement, can allow the SCA to collect the requisite transaction share as well as the revenue support from the GoP against the delivery of Government Services
C. In accordance with the provisions of the MSA, the GoP ,SDA and SCA wish to enter into this Service-Level Agreement on the following terms:

Article I: Definitions and General Purpose

1. Definitions: In this Agreement unless the context requires otherwise:
   a) "***Agreement/ Service Level Agreement***" means this Agreement, together with its Appendices;
   b) "***Parties***" means *GoP* ,the SDA and SCA for the purposes of this Agreement and "Party" shall be interpreted accordingly;
   c) "***Service Level***" means the level of service and other performance criteria(s), which will apply to the Services as, set out in the Agreement and effective during the Term of this Agreement
   d) "***Term***" means the duration of this Agreement, which expires with the expiry of the MSA Term
2. All Appendices and other attachments to this Agreement are hereby incorporated as a part of this Agreement by this reference.
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.
4. Words denoting the singular shall include the plural and vice versa and words denoting persons shall include firms and corporations and vice versa.
5. 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, Appendix or other subdivision. The terms Article and Appendix refer to Articles and Appendices 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.
6. 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
7. The definitions/terms used in this Agreement (including the recitals above and the Annexures hereto) but not defined herein shall, unless the context otherwise requires, have the meaning assigned to them respectively in the Master Service Agreement.

Article 2: Objectives and Scope of Contract

1. The SCA is to perform Service Levels, which will ensure:
    i. provision of speedy and efficient services in conformity with the Service Level to the users without any discrimination on grounds of religion, race, caste or sex;
    ii. making it convenient for citizens and other stakeholders to interact with the Government;
    iii. educating the users about the relevant procedures;
2. To meet the aforesaid objectives the SCA shall provide the Service Levels in accordance with the performance metrics as more particularly described in Appendix C of this Agreement. Further this Agreement shall govern the provision of the contracted professional services to *GoP* ,SDA or nominated agencies after the Effective Date.

Article 3: Commencement and Duration of this Agreement

1. The Agreement shall be executed along with the MSA or thereafter and commence from 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 the MSA expires, which shall be four years from the Effective Date.
2. Terms of Payment & Liquidated Damages
   In consideration of the Services and subject to the provisions of the MSA and this Agreement, the *GoP* shall pay the revenue support to the SCA in accordance with the provisions of the MSA, including the Financial Provisions section of the MSA.
3. It is clarified here that the GoP can also calculate a financial sum for the liquidated damages and debit the same against the terms of payment as defined in the Financial Provisions section of the MSA as a result of the failure of the SCA to meet the Service Levels as outlined in Annexure D to this Agreement, such sum being determined in accordance with the terms of the Agreement

Article 4: Applicability of the MSA

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

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:

For and on behalf of

Governor of Punjab
(Name and designation)

For and on behalf of PSEGS

(Name and designation)

For and on behalf of SCA

(Name and designation)

an authorized signatory duly nominated
pursuant to Board Resolution No._____ dated_____
[In case of Consortium, all members to sign]

Witnesses:

(i)
(ii)

Appendix A

List of Government Services

S.No.	List of Services for Immediate Delivery

** Please refer Exhibit 15 of Volume 1 of RFP for IndicativeTransaction Rates*

Appendix B

Service Rates and Revenue Share

Name of Service	Transaction Rate	Revenue Share between SCA and the SDA/State Government
1.		

** Please refer Exhibit 15 of Volume 1 of RFP for Indicate Transaction Rates*

Appendix C

Service Level Metrics for Delivery of Services

Service Name	Service Description and Process	Minimum Service Levels Expected

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Appendix D

Liquidated Damages for non-achievement of Service Levels

Service Name	Liquidated Damages for breach of Service Levels	Material Breach	Stipulated period for mitigating material breach	Remedial performance required for non-termination during stipulated period

Schedule 4: Governance

1. Empowered Committee

a. There shall be an Empowered Committee notified by the GOVT OF PUNJAB-, with representatives from SDA and other State Government Departments, who shall meet at least once a month
b. The Empowered Committee shall consider all matters considered as management aspect as set out in Vol 1 of the RFP
c. The Parties shall comply with the Audit, Access, and Reporting Schedule set forth by the Empowered Committee.
d. The Empowered Committee may discuss and consider any mid course correction in the existing MSA in the interest of smooth and timely implementation of the CSC Scheme. Provided that only such mid-course corrections shall be considered as do not alter the quantum of revenue support to the Project or the cost of the Project.
e. Upon completion of 90% CSC roll-out, the Empowered Committee may take a suitable decision with regard to release of the balance revenue support to the SCA

2. Governance Procedures

(i) The SCA shall participate in the meeting of the Empowered Committee to which it is invited.
(ii) The Empowered Committee shall decide its own procedure.

3. Dispute Resolution (Escalation Procedure)

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

b The Parties shall in the first instance attempt to resolve the dispute in good faith. In case, the Parties are unable to resolve the dispute, the matter shall be referred to the Empowered Committee set up in accordance to this Agreement.

c The Empowered Committee shall attempt to resolve the dispute in a meeting specially convened for the purpose. The representatives of all Parties shall be invited to participate in such meetings.

d The negotiations between the Parties and the proceedings before the Empowered Committee shall be kept confidential unless Parties agree otherwise.

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