

**CITIZEN SERVICE BUREAUS  
MASTER SERVICE AGREEMENT**



**DEPARTMENT OF INFORMATION TECHNOLOGY  
GOVERNMENT OF NCT OF DELHI**



# Draft Master Service Agreement

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## PREAMBLE

### One-Stop Citizen Services in Delhi

The I.T. Policy of Government of Delhi envisages setting up of citizen service centers to facilitate payment of utility bills/ taxes/ fees and filing of applications for various services offered by government departments/agencies like issue of certificates/licenses, etc. at one location. The first step in this regard was taken by Municipal Corporation of Delhi in October 2002 when it invited applications from private operators to set up and run such centers, called 'Citizen Service Bureaus' or CSB/SUGAM KENDRAS on 'Build Own Operate (BOO) basis. M/s. ECIL, a public sector enterprise of Government of India was selected to execute this BOO project for a period of 5 years based on open bidding. As on date on 13 CSB/SUGAM KENDRAS are functional one each in all zonal offices and one at the headquarters of MCD at Town Hall, Chandni Chowk. At this stage following services are being provided through the CSB/SUGAM KENDRAS:

- Payment of property tax
- Issue of birth/death certificate
- Booking of parks/community halls for marriage, etc.
- Renewal of factory license, rickshaw license, etc.

The present number of CSB/SUGAM KENDRA/SUGAM KENDRAS in a city like Delhi with a population of 1.4 crores is highly inadequate. Ideally speaking CSB/SUGAM KENDRAS should be available to citizens within a radius of 3-4 Kms from their residence/ work place. MCD has accordingly taken a decision to increase the number of CSB/SUGAM KENDRAS to 134 so that each ward of Corporation has one CSB/SUGAM KENDRA.

People visit government offices either to deposit taxes, utility bills, and fees or to submit application for obtaining certificates/licenses or permits. They also have to visit government offices to renew such licenses/permits at regular intervals. In many cases, people need to visit government offices to get certified copies of orders/policy, guidelines or their own land records. Since, these services are provided by different department/agencies, they have to visit different offices, which function only on working days for few hours leading to congestion/overcrowding at counters and delay and dissatisfaction of people.

The MCD's CSB/SUGAM KENDRAS have become quite popular as they bring convenience of getting all services at one place, across the counter in a better environment by a more courteous staff which is operating from 9.30 A.M. to 5 P.M. Bringing services of other departments/agencies under these centers will mean making all government services available at

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one location. Of course the timings will have to be extended to make it easier for people to avail these services.

Today people needing certificate/license/permit have to visit government offices 3-4 times

- for submission of filled up form
- for enquiry on status
- for receiving the certificates/license/permit

Availability of application forms in these centers, assistance in filling up the forms, submission of filled up forms in their centers will lead to reduction of trips to government offices.

With this intent the services offered by various other departments/agencies of Government of Delhi are being brought under the CSB/SUGAM KENDRA project of Municipal Corporation of Delhi for which the master service agreement is being signed.

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**THIS AGREEMENT** is made this \_\_\_\_ day of \_\_\_\_\_ (month), 2005, by and between:

1. **Municipal Corporation of Delhi constituted under the Delhi Municipal Corporation Act 1957 (Act No. 66 of 1957)** having its Headquarter at Town Hall, Delhi, through **Shri Rakesh Mehta, Commissioner, Municipal Corporation of Delhi**, having its office at Town Hall Delhi, hereinafter referred to as MCD. (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. **Electronic Corporation of India Limited, Hyderabad**, a public sector enterprise under Department of Atomic Energy, Govt. of India, and their consortium partner **SARK Systems India Limited, Hyderabad**, hereinafter referred to as Partner a companies incorporated under the Indian Companies Act 1956, having its corporate office at Hyderabad and represented by Chairman & Managing Director Shri. G. P. Srivastava for ECIL and Shri. Muralikrishan for SARK Systems India Limited (hereinafter referred to as "Partner") of the SECOND PART.

**AND**

3. **Respective Department of Government of National Capital Territory of Delhi, (Government of Delhi)**, having its office at <Address> hereinafter referred to as <Respective Department>" which term or expression unless excluded by or repugnant to the subject or context shall mean included its successors in office and assigns) of the THIRD PART;

WHEREAS

- a) The MCD undertook selection of a suitable Partner, adopting a Public Private Partnership model, through competitive bidding for implementing the CSB/SUGAM KENDRA Project;
- b) The Partner has been selected by MCD as the successful bidder to undertake the CSB/ SUGAM KENDRA Project involving the development of the total solution, roll out and sustained operations and provide the consulting and staffing services along with other technology partners to permit the dissemination of best practices relating to the Services and the CSB/ SUGAM KENDRA project has been operational for more than 2 years.

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- c) In recognition of the services of the partner to MCD, MCD intends to accord to the aid of Partner of MCD the right to undertake and implement the CSB/SUGAM KENDRA Project on the terms and conditions set forth below for a period of FOUR years with an extension of further four years to co-exist with competing channels from the Project Implementation Completion Date ("Term") to (a) build, develop, construct, commission, operate and maintain the CSB/SUGAM KENDRA Project for all the Departments and Agencies of GOVERNMENT OF DELHI; and (b) at the end of the term transfer back the bespoke software, hardware, equipment to MCD or any agency nominated by it.
- d) The Partner in pursuance of its bid undertakes to implement the CSB/SUGAM KENDRA Project during the aforesaid period stated in Recital E hereinabove.

**NOW THEREFORE, IN VIEW OF THE MUTUAL PROMISES AND CONSIDERATION SET OUT HEREIN, GOVERNMENT OF DELHI** and the Partner (each individually a "Party" hereto and collectively the "Parties") have agreed to enter into this Master Services Agreement ("MSA") to govern the way in which the Partner will build and manage the facilities and deliver the services specified under this Agreement and the Service Level Agreement ("SLA") in accordance with roles and responsibilities of the GOVERNMENT OF DELHI, Secretary of CSB/SUGAM KENDRA Project and its nominated agencies and the Partner as set forth in this agreement:

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## 1. Article I – Definitions & Interpretation

### 1.1. DEFINITIONS

#### a) In this Agreement, unless the context requires otherwise:

- I. "Agreement" means this Agreement together with all Schedules and the contents and specifications of the Functional and Technical Specification document. In the event of a conflict between this Agreement and the Schedules, the terms of the Agreement shall prevail;
- II. "**Bespoke Software**" means the software designed, developed, tested and deployed by the Partner for the purposes of rendering the Services to the Stakeholders of the CSB/SUGAM KENDRA Project and includes the source code along with associated documentation, which is the work product of the development efforts involved in the CSB/SUGAM KENDRA Project and the improvements and enhancements effected during the term of the CSB/SUGAM KENDRA 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 Partner and which shall be solely owned by the Director, CSB/SUGAM KENDRA Project;
- III. "**Confidential Information**" means all information including CSB/SUGAM KENDRA 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);
- IV. "**CSB/SUGAM KENDRA Project Data**" means all proprietary data of CSB/SUGAM KENDRA PROJECT or its nominated agencies generated out of CSB/SUGAM KENDRA PROJECT operations and transactions, documents and related information including but not restricted to user data which the Partner obtains, possesses or processes in the context of providing the Services to the users pursuant to this Agreement and the SLA;



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- V. **"Deliverables"** means the products, infrastructure and services agreed to be delivered by the Partner in pursuance of the agreement as defined more elaborately in Annexure I 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;
- VI. **"Effective Data"** means the date on which this MSA is executed;
- VII. **"Intellectual Property Rights"** means and includes all rights in the Bespoke Software, its improvements, up gradations 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;
- VIII. **"Performance Guarantee"** shall mean the guarantee provided by a Nationalized Bank in favor of the Partner for an amount specified in the Annexure II;
- IX. **"Project/CSB/SUGAM KENDRA PROJECT"** means Project Implementation, and Operation and Maintenance of CSB/SUGAM KENDRA Project, and includes the expansion of the project to establish more CSB/SUGAM KENDRA Service Centres, to integrate more Departments and agencies, and to provide more services to the Citizens;
- X. **"Project Engagement Definition"** means a written document in the form of a purchase order or a letter of engagement issued to the Partner by the Director, CSB/SUGAM KENDRA Project, or any other written document approved from time to time by the Director, CSB/SUGAM KENDRA Project to evidence the Parties' intention to engage the Partner to provide Services to CSB/SUGAM KENDRA PROJECT under the SLA in accordance with this Agreement and to describe the services to be performed;
- XI. **"Project Implementation"** means Project Implementation as per the testing standards and acceptance criteria prescribed in the Annexure I;
- XII. **"Project Implementation Completion date"** means the date on which the acceptance testing of the Project has been successfully completed on all sites;

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- XIII. **"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, the SLA, or a Project Engagement Definition;
- XIV. **"Replacement Partner"** means any third party that the Director, CSB/SUGAM KENDRA PROJECT may **appoint** to replace the Partner upon expiry of the Term or other 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 any applicable Project Engagement Definition;
- XVI. **"Service Level Agreement (SLA)"** means the Operation and Maintenance SLA, executed by and between **Partners**, in terms of the Model SLA set out in Schedule VIII;
- XVII. **"Services"** means the services delivered to the Stakeholders of CSB/SUGAM KENDRA PROJECT, namely, the Citizens, Businesses, Departments, Agencies and their employees using the tangible and intangible assets created, procured, installed, managed and operated by the Partner including the tools of information and communications technology and includes but is not limited to the list of services specified in Annexure I;
- XVIII. **"Stakeholders"** means the **Citizens**, Businesses, Departments, Agencies of GOVERNMENT OF DELHI and their employees;
- XIX. **"Third Party Systems"** means Systems (or any part thereof) in which the Intellectual Property Rights are owned by a third party and to which Partner has been granted a license to use and which are used in the provision of Services;
- XX. "Partner" means Company /**Firm**/Individual or any body corporate individually or through some mutual association come together to form an association for discharge of duties assigned through this agreement for the Service of this project.
- XXI. "Director CSB/SUGAM KENDRA" means an individual who is working in the State Government as Grade A **officer** (IAS/DANIAS Cadre), who is nominated by official

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gazette notification by the State Government to be Director CSB/SUGAM KENDRA Project or his successor;

- 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 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 Partner to CSB/SUGAM KENDRA PROJECT under the duly executed SLA.
- b) The Parties shall execute the SLA, where required, to implement a Project Engagement Definition.
- c) The SLA in respect of the Operation and Maintenance is being entered into concurrently with this Agreement between the Partner and CSB/SUGAM KENDRA PROJECT. In respect of any future SLAs entered into between the Parties, each of the Parties shall observe and perform the obligations set out herein.

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- d) In the event of a change of Control of the Partner during an active Project Engagement Definition, Partner shall promptly notify the Director, CSB/SUGAM KENDRA Project of the same and in the event that the net worth of the surviving entity is less than that of Partner prior to the change of Control, the Director, CSB/SUGAM KENDRA Project may within 30 days of his/ her becoming aware of the change in Control, require a replacement of existing Performance Guarantee furnished by the Partner from a guarantor acceptable to the Director, CSB/SUGAM KENDRA Project (which shall not be Partner or any of its associated entities). If such a guarantee cannot be obtained within 30 days of the Director, CSB/SUGAM KENDRA Project 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 Partner 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.
- e) The SLA shall be a separate divisible contract in respect of this Agreement.
- f) Each project engagement under the SLA will be defined in a Project Engagement Definition. The Parties will establish the terms of each Project Engagement Definition in accordance with the terms of the SLA.

### 1.3. Conditions Precedent

Subject to express terms to the contrary, the rights and obligations under this Agreement shall take effect only upon fulfillment of all the Conditions Precedent set out in Articles 1.3.1 and 1.3.2 on the same date as the completion of the project implementation. However, the Director, CSB/SUGAM KENDRA Project, may at any time at its sole discretion waive fully or partially any of the Conditions Precedent for the Partner.

#### 1.3.1. Conditions for Partner

The Partner shall have to fulfill Conditions, which are as follows:

- a) Provide the Director, CSB/SUGAM KENDRA Project certified true copies of its constitutional documents and board resolutions authorizing the execution, delivery and performance of this Agreement with the Director, CSB/SUGAM KENDRA PROJECT; and

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- b) Shall have completed/achieved the acceptance testing and certification and commissioning, of the CSB/SUGAM KENDRA project at GOVERNMENT OF DELHI and providing the Services to the Stakeholders in conformity to this Agreement, successfully and to the satisfaction of the Director, CSB/SUGAM KENDRA Project as stated in Governance Schedule.
- c) The Partner shall make every effort for fulfilling the conditions positively.

### **2. Article II – Initialization Phase**

#### **2.1. SCOPE OF CONTRACT**

This Agreement shall govern the provision of the contracted professional services under the SLA to the Director, CSB/SUGAM KENDRA Project. All such services will be included in this Agreement through Project Engagement Definitions under the SLA. 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.

#### **2.2. COMMENCEMENT AND DURATION OF THIS AGREEMENT**

This agreement shall come into effect on \_\_\_\_-2005 (hereinafter called the “Effective Date”) and shall continue till the completion of the Operations and Maintenance phase to the satisfaction of the Director, CSB/SUGAM KENDRA Project.

#### **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 Partner represents that it is a competent provider of a variety of information technology and business process management services. Partner 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 Director, CSB/SUGAM KENDRA Project, regarding matters which would assist the Director, CSB/SUGAM KENDRA Project, in its use of the Services, provided that Partner shall not be obligated to share other client information or Confidential Information of Partner not relevant to this Agreement.

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- c) The Services shall be performed by the Partner pursuant to project engagements under the SLA entered into in accordance with this Agreement.
- d) The Partner 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, if any, in accordance with the terms of the applicable Project Engagement Definition.
- 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 Director, CSB/SUGAM KENDRA Project.

### **2.4. COMMENCEMENT AND DURATION OF THE SLA**

- a) The Operation and Maintenance SLA will commence from the date when the Project Implementation has been completed to the satisfaction of the Director, CSB/SUGAM KENDRA Project, and certified in accordance with the terms of this Agreement and shall run for a period of 8 (Eight) years unless terminated as provided herein. The agreement will be for a period of four years with an extension of four years to co-exist with competing channels.
- b) The SLA shall commence on the date on which it is fully executed by the Director, CSB/SUGAM KENDRA Project and the Partner 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.

### **2.5. APPROVALS AND REQUIRED CONSENTS**

- a) The Parties shall cooperate to procure, maintain and observe all relevant and customary regulatory and governmental licenses, clearances and applicable approvals (hereinafter the "Approvals") necessary for the Partner 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) Both parties will give each other all co-operation and information reasonably required to meet their respective obligations under this Agreement.

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- c) The Director, CSB/SUGAM KENDRA Project shall use reasonable endeavors to assist Partner obtain the Required Consents. In the event that any Required Consent is not obtained, the Partner and the Director, CSB/SUGAM KENDRA Project will co-operate with each other in achieving a reasonable alternative arrangement as soon as reasonably practicable for the Director, CSB/SUGAM KENDRA Project 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 Partner 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 Partner's obligations are dependent upon such Required Consents.

### **2.6. USE AND ACQUISITION OF ASSETS**

#### **During the Term the Partner 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 Partner 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 upgradation/ enhancements and improvements to meet the current needs of the Project; and
- b) keep all the tangible Assets in as good and serviceable condition (reasonable wear and tear excepted) and/or the intangible Assets suitably upgraded subject to the relevant standards as stated in the agreement as at the date the Partner takes control of and/ or first uses the Assets and during the entire Term of the Agreement. Pursuant to technological obsolescence, upgradation will be required; and
- c) ensure that any instructions or manuals supplied by the manufacturer of the Assets for use of the Assets and which are provided to the Partner will be followed by the Partner 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 Partner or as may, in the reasonable opinion of the Partner, be necessary to use the Assets in a safe manner; and
- e) to the extent that the Assets are under the control of the Partner, keep the Assets suitably housed and in conformity with any statutory requirements from time to time applicable to them; and

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- f) provide permission to the Director, CSB/SUGAM KENDRA Project 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 in any way contrary to law; and
- h) use the Assets exclusively for the purpose of providing the Citizen Services as appropriate includes but is not limited to the list of services specified in Annexure I;
- i) maintain standard forms of comprehensive insurance including liability insurance, system and facility insurance and any other insurance for the personnel, Assets of the partner, data, software.; and
- j) transfer the ownership of the Assets (not already with the Director, CSB/SUGAM KENDRA Project which shall include the solution and Bespoke Software including the source code and associated documentation which is the work product of the development efforts involved in the Project.) to the Director, CSB/SUGAM KENDRA Project at the appropriate time, in accordance with the terms of this agreement; and
- k) to 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 CSB/SUGAM KENDRA PROJECT in an efficient and speedy manner; and
- l) to provide a well-prepared documentation for users in form of a user's manual, a clear plan for training, educating and hand holding the users and shall form part of handholding phase until bringing up to speed; and
- m) train the team identified by the Director, CSB/SUGAM KENDRA Project, which will be in place during hand-holding and it will be responsible for trouble shooting all post-implementation and maintenance activities; and
- n) a sign off from the Director, CSB/SUGAM KENDRA Project at each stage is essential to close each of the above considerations.



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### 2.7. ACCESS TO CSB/SUGAM KENDRA PROJECT OR ITS NOMINATED AGENCIES LOCATION

- a) For so long as the Partner provides Services from any CSB/SUGAM KENDRA PROJECT location on a non-permanent basis and to the extent necessary for the Partner to provide the Services and at no cost to the Partner, the Director, CSB/SUGAM KENDRA Project, shall, subject to compliance by the Partner with any safety and security guidelines which may be provided by the Director, CSB/SUGAM KENDRA Project and notified to the Partner in writing, provide the Partner with:
- i) reasonable access, in the same manner granted to CSB/SUGAM KENDRA PROJECT employees, to CSB/SUGAM KENDRA 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 CSB/SUGAM KENDRA PROJECT location, if any, as may be reasonably necessary for the Partner to perform its obligations hereunder and under the agreement.
- b) Locations and items shall be made available to the Partner in suitable condition to provide Citizen Services by the Director, CSB/SUGAM KENDRA Project. The Partner 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 and shall cover all the management aspects as set out in Schedule I for the services introduced by Government of Delhi only

### 3.2. USE OF SERVICES

- a) The Director, CSB/SUGAM KENDRA Project, or its nominated agencies will undertake and use the Services in accordance with any instructions or procedures as per the acceptance criteria as set out in the SLA that may be agreed by the Parties from time to time.

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- b) The Director, CSB/SUGAM KENDRA Project, or its nominated agencies shall be responsible for the operation and use of the Deliverables resulting from the Services.

### **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

### **3.4. SECURITY AND SAFETY**

- a) The Partner will comply with the directions issued from time to time by the Director, CSB/SUGAM KENDRA Project and the standards related to the security and safety as stated in the Functional and Technical Specification document, insofar as it applies to the provision of the Services.
- b) Each Party to the SLA shall also comply with CSB/SUGAM KENDRA Project's information technology security and standards policies in force from time to time at each location of which the Director, CSB/SUGAM KENDRA Project makes the Partner aware in writing insofar 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 CSB/SUGAM KENDRA Project's data, facilities or Confidential Information.
- d) The Partner shall upon reasonable request by the Director, CSB/SUGAM KENDRA Project 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 CSB/SUGAM KENDRA PROJECT's Facilities.

### **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

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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 Agreement or the SLA; 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 Agreement.

### **4. ARTICLE 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 Director, CSB/SUGAM KENDRA Project shall pay the Partner for the Services rendered in pursuance of this agreement, in accordance with the Terms of Payment Schedule.
- b) All payments are subject to the application of service credits and debits as may be provided for in any applicable Project Engagement Definition. It is clarified here that the Director, CSB/SUGAM KENDRA Project will pay for the service credits as stated in accordance with the Terms of Payment Schedule and the Director, CSB/SUGAM KENDRA Project 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 Partner to meet the Service Level under the affected Project Engagement Definition, such sum being determined in accordance with the terms of the Project Engagement Definition.
- c) Except as otherwise provided for herein or as agreed between the Parties in writing, the Director, CSB/SUGAM KENDRA Project 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.

#### **4.2. INVOICING AND SETTLEMENT**

The provisions of the Invoicing Schedule shall apply.

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### 4.3. TAX

- a) The Director, CSB/SUGAM KENDRA Project shall be responsible for withholding taxes from the amounts due and payable to the Partner wherever applicable. The Partner shall pay for all other taxes in connection with this Agreement, SLA, and any other Project Engagement Definition including, but not limited to, property, sales, use, excise, value-added, goods and services, consumption and other similar taxes or duties. The Director, CSB/SUGAM KENDRA Project shall provide Partner with the original tax receipt of any withholding taxes paid by CSB/SUGAM KENDRA PROJECT on payments under this Agreement. The Partner agrees to reimburse and hold the Director, CSB/SUGAM KENDRA Project harmless from any deficiency (including penalties and interest) relating to taxes that are its responsibility under this paragraph. For purposes of this Agreement, taxes shall include taxes incurred on transactions between and among the Director, CSB/SUGAM KENDRA Project, the Partner and third party subcontractors. Service Tax if applicable shall be paid extra either by increase in transaction fee or by reimbursement by CSB/SUGAM KENDRA Director.
- 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 Government of Delhi.
- 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.

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### **5. ARTICLE V - BREACH AND RECTIFICATION**

- a) In the event that either Party believes that the other is in Material Breach of its obligations under this Agreement or the SLA or Project Engagement Definition under this Agreement, such aggrieved Party may terminate this Agreement or the SLA or Project Engagement Definition 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 Partner as per the SLA, Project Engagement Definition, and this Agreement, continuously for more than one week, then the Director, CSB/SUGAM KENDRA Project, will serve a seven days notice for curing this Material Breach. In case the Material Breach continues after the notice period, the Director, CSB/SUGAM KENDRA Project will have the option to terminate the Agreement.
  - ii) If there is a delay of more than 4 weeks in the Project Implementation Phase by the Partner prior to the acceptance testing and certification stage for any of the project engagements, the Director, CSB/SUGAM KENDRA Project may apply penalties for delay after affording a reasonable opportunity to the partner to explain the circumstances leading to such a delay and give reasonable time to take corrective action.
  - iii) If there is a Breach by the Director, CSB/SUGAM KENDRA Project which results in terms of not handing over the location in time, not providing support for integration of CSB/SUGAM KENDRA system with the IT systems of the participating Departments and agencies of GOVERNMENT OF DELHI, or not providing the certification of the Implementation Phase, then the Partner may give a one month's notice for curing the Material Breach. In the event the Breach continues, the Partner will have the option to terminate the Agreement and claim penalty from Government of Delhi..

#### **5.1. TERMINATION**

- a) The Director, CSB/SUGAM KENDRA Project may serve written notice on Partner to terminate this Agreement with immediate effect in the event of a reasonable apprehension of bankruptcy of the Partner:

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- i) Partner shall in the event of an apprehension of bankruptcy immediately inform the Director, CSB/SUGAM KENDRA Project well in advance (at least 3 months) about such a development;
  - ii) Conversely if the Director, CSB/SUGAM KENDRA Project apprehend a similar event regarding the Partner, 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 Director, CSB/SUGAM KENDRA Project will decide the appropriate course of action.
- c) The termination provisions set out in Article V and VA of this Agreement shall apply mutandis to the SLA and this Agreement shall be deemed to refer to the SLA.

### **5.2. EFFECT SOFT TERMINATION**

- a) In the event that the Director, CSB/SUGAM KENDRA Project, or the Partner, 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.
- b) Upon termination of this Agreement, the Parties will comply with the Exit Management Schedule. 13

## **6. ARTICLE VI - PROTECTION AND LIMITATIONS**

### **6.1. WARRANTIES**

- a) The Partner warrants and represents to the Director, CSB/SUGAM KENDRA Project 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 Partner;
  - III) written notice of fifteen days on the Partner.
  - IV) it shall discharge its obligations under this Agreement with due skill, care and diligence so as to comply with Article 2.3.
- b) In the case of the SLA, the Partner warrants and represents to the Director, CSB/SUGAM KENDRA Project, that:

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- I) the Partner 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 Partner;
  - III) the Partner 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 2.3;
  - IV) The Services will be provided and rendered by appropriately qualified, trained and experienced personnel;
  - V) Partner 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) Partner 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
  - V) if Partner 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 the extent possible. In the event that such warranties cannot be enforced by the Director, CSB/SUGAM KENDRA Project, the Partner will enforce such warranties on behalf of the Director, CSB/SUGAM KENDRA Project and pass on to the Director, CSB/SUGAM KENDRA Project, 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 Partner is unable to meet the obligations pursuant to the implementation of the Project implementation, Operations and Maintenance Services and any related scope of work as stated in this Agreement and the Schedules attached herein, the Director, CSB/SUGAM KENDRA Project will have the option to invoke the Performance Guarantee after serving a written notice of fifteen days on the partner.

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### 6.2. LIMITATION OF LIABILITY

- a) 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 for those actions in which the partner is involved
- b) 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.
- c) 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 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 Director, CSB/SUGAM KENDRA Project shall be entitled to claim the remedy of specific performance under this Agreement or the SLA.

### 6.3. 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 Government of Delhi 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 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 Partner's performance of Services necessary for the operation of CSB/SUGAM KENDRA PROJECT 's critical business functions for a period in excess of 5 days, the Director, CSB/SUGAM KENDRA Project may declare that an emergency exists. The Director, CSB/SUGAM KENDRA Project will issue a notice to the Partner to resume normal services at all affected



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- sites and for all operations within a period of seven days. In the event that the Partner is not able to resume services within the next 7 days, the Director, CSB/SUGAM KENDRA Project may terminate the Agreement and/or obtain substitute performance from an alternate supplier. However, the event of force Majeure is to be reviewed under two categories i.e. prior to commencement of operations and post commencement of operations respectively.
- d) **Prior to commencement of operations** If the event of Force Majeure occurs prior to commencement of operations and continues for a period in excess of ten days, then the Director, CSB/SUGAM KENDRA Project will grant a period of 7 days to the Partner to a resume normal activities under this Agreement. In case the default continues, then the Director, CSB/SUGAM KENDRA Project may discuss the issue with the Partner and revise the existing timelines for the Project. If the Partner does not complete the Project Implementation in accordance with the revised time, the Director, CSB/SUGAM KENDRA Project will have the option to invoke the Performance Guarantee and/or terminate this Agreement.
- e) **Post commencement of operations:** If the event of Force Majeure occurs post commencement of operations and continues for a period in excess of five days, then the Director, CSB/SUGAM KENDRA Project will grant a period of 7 days to the Partner to resume normal services under this Agreement. In case the default continues, the Director, CSB/SUGAM KENDRA Project may grant an extension of time to the Partner for rectifying the situation. However, the Director, CSB/SUGAM KENDRA Project will deduct for each day of the extension period a percentage proportionate to the number of days and the affected areas/s from the next payable Monthly Transaction Charges. If there is any further delay despite the extended period, the Director, CSB/SUGAM KENDRA Project will have the option to invoke the Performance Guarantee and/or terminate the Agreement.
- f) All payments pursuant to termination due to Force Majeure event shall be in accordance with the Terms of Payment Schedule.
- g) Notwithstanding the terms of this Article, the failure on the part of the Partner under the SLA or Project Engagement Definition 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 Project Engagement Definition against natural disaster, fire, sabotage or other similar occurrence shall not be an event of force Majeure.

### 6.4. DATA PROTECTION

- a) In the course of providing the Services the Partner may be compiling, processing and storing proprietary CSB/SUGAM KENDRA PROJECT Data relating to the users.

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- b) The Partner and each user are responsible for complying with its respective obligations under the applicable data protection laws and regulations governing the CSB/SUGAM KENDRA PROJECT Data.
- c) The Partner is required to perform or adhere to only those security measures concerning the CSB/SUGAM KENDRA PROJECT Data which were in place (i) as of the Effective Date; and (ii) those made available to it in writing from time to time in accordance with a Project Engagement Definition in the SLA.
- d) As a processor of CSB/SUGAM KENDRA PROJECT Data, the Partner will process CSB/SUGAM KENDRA PROJECT Data in accordance with the Project Engagement Definition under the SLA.
- e) The Partner shall not transfer any CSB/SUGAM KENDRA PROJECT, Data across GOVERNMENT OF DELHI unless otherwise authorized by the Director, CSB/SUGAM KENDRA Project in this regard.
- f) 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 CSB/SUGAM KENDRA 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.

### 6.5. CONFIDENTIALITY

- a) The Director, CSB/SUGAM KENDRA Project may permit the Partner to come into possession of confidential public records as per the needs of the project and the Partner shall maintain the highest level of secrecy, confidentiality and privacy with regard thereto.
- b) Additionally, the Partner shall keep confidential all the details and information with regard to the Project, including systems, facilities, operations, management and maintenance of the systems/ facilities.
- c) The Director, CSB/SUGAM KENDRA Project shall retain all rights to prevent, stop and if required take the necessary punitive action against the Partner regarding any forbidden disclosure.
- d) The Partner shall ensure that all its employees, agents and sub-contractors execute individual nondisclosure agreements, which have been duly approved by the Director, CSB/SUGAM KENDRA Project, with respect to this Project.

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- 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.

### 6.6. AUDIT, ACCESS AND REPORTING

- a) The Parties shall comply with the Audit, Access and Reporting Schedule.
- b) The Partner shall, on request, allow access to the Director, CSB/SUGAM KENDRA Project and its nominees to all information which is in the possession or control of the Partner, 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 Director, CSB/SUGAM KENDRA Project shall retain exclusive intellectual property rights to the forms and the compilations of the CSB/SUGAM KENDRA PROJECT to which the Director, CSB/SUGAM KENDRA Project has sovereign rights and nothing herein shall or will be construed or deemed to grant to the Partner any right, title, licence, sub-licence, proprietary right or other claim against or interest in, to or under (whether by estoppel, by implication or otherwise) to the aforesaid rights.
- b) 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 Partner any right, title, licence 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 CSB/SUGAM KENDRA PROJECT or its respective affiliates/nominees or any confusingly similar designations of CSB/SUGAM KENDRA PROJECT.

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- c) Subject to any sole or exclusive rights granted by the Director, CSB/SUGAM KENDRA Project to a third party prior to the Effective Date, the Director, CSB/SUGAM KENDRA Project grants to the Partner and any sub-contractors to the Partner solely in their performance of Services for CSB/SUGAM KENDRA PROJECT or its nominated agencies, non-exclusive, paid-up, royalty-free right and licence during the Term of this Agreement, but not the right to sublicense, to use the CSB/SUGAM KENDRA PROJECT Data including the right to copy, perform, display, execute, reproduce, modify, enhance and improve the CSB/SUGAM KENDRA PROJECT Data to the extent reasonably necessary or useful for the provision of Services hereunder.
- d) Partner shall not use the CSB/SUGAM KENDRA PROJECT Data to provide services for the benefit of any third party, as a service bureau.
- e) Partner shall indemnify, defend and hold harmless CSB/SUGAM KENDRA PROJECT 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 Partner pursuant to this Agreement, the SLA and/or any Project Engagement Definition under the SLA or any equipment, software, information, methods of operation or other intellectual property (or the access, use or other rights thereto) provided by Partner or sub-contractors to the Partner pursuant to this Agreement the SLA or a Project Engagement Definition under 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 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) CSB/SUGAM KENDRA PROJECT ; (B) third parties (i.e., other than Partner or Partner's sub-contractors) at the direction of CSB/SUGAM KENDRA PROJECT .
- f) The Director, CSB/SUGAM KENDRA Project shall have no liability or obligation to Partner 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 Partner or its nominees outside the scope of the Services) other than for CSB/SUGAM KENDRA PROJECT .

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- g) 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.
- h) If Partner 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 Director, CSB/SUGAM KENDRA Project 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 Director, CSB/SUGAM KENDRA Project, the Partner will enforce such warranties on the Director's behalf and account to the Director, CSB/SUGAM KENDRA Project for so doing.
- i) All right, title and interest in and to, and ownership in, Proprietary Information of CSB/SUGAM KENDRA PROJECT which is provided to Partner, and all modifications, enhancements and other derivative works of such CSB/SUGAM KENDRA PROJECT Proprietary Information ("CSB/SUGAM KENDRA PROJECT Proprietary Information"), as a result of Services rendered by the Partner hereunder shall remain solely with the Director, CSB/SUGAM KENDRA Project. Partner shall be entitled to use such CSB/SUGAM KENDRA PROJECT Proprietary Information only during the Agreement Term and only for the purposes of providing the Services or to the extent necessary for Partner's normal operational, repair and maintenance purposes related to the Services. The Director, CSB/SUGAM KENDRA Project shall retain ownership of all Intellectual Property Rights related to CSB/SUGAM KENDRA PROJECT Proprietary Information.
- j) All right, title and interest in and to, and ownership in, Proprietary Information of Partner, which is provided to the Director, CSB/SUGAM KENDRA Project, and all modifications, enhancements and other derivative works of such Partner Proprietary Information ("Partner Proprietary Information"), shall remain solely with Partner. The Partner will upon the award of the Project in its favor for Delhi Government Department/agencies, declare the status of all the Partner Proprietary Information along with documentary support sufficient to establish its sole legal rights in the aforesaid Proprietary Information to the Director, CSB/SUGAM KENDRA Project. This Proprietary Information shall refer to that which has been owned by the Partner prior to commencement of the MSA. Additionally, any software that may be acquired from third parties during the term of the MSA and that which may be developed by the Partner during the course of the Agreement specifically for CSB/SUGAM KENDRA PROJECT shall also not be considered as Partner Proprietary Information by the CSB/SUGAM KENDRA PROJECT. The Director, CSB/SUGAM KENDRA Project shall be

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entitled to use such Partner Proprietary Information only in connection with the Services or to the extent necessary for CSB/SUGAM KENDRA Project's normal operational, repair and maintenance purposes related to the Services. To the extent that the Partner Proprietary Information is incorporated within the Deliverables, Partner and its employees engaged hereby grant to the Director, CSB/SUGAM KENDRA Project a worldwide, perpetual, irrevocable, non-exclusive, transferable, paid-up right and license to use, copy, modify (or have modified), transport to CSB/SUGAM KENDRA PROJECT facilities, and prepare from them, use and copy derivative works for the benefit of and internal use of CSB/SUGAM KENDRA PROJECT such Partner Proprietary Information. The Director, CSB/SUGAM KENDRA Project's rights pursuant to the preceding sentence include the right to disclose such Partner Proprietary Information to third party contractors solely for use on CSB/SUGAM KENDRA PROJECT provided that all such third party contractors execute, deliver and comply with any customary confidentiality and nondisclosure agreements reasonably required by the Director, CSB/SUGAM KENDRA Project.

- k) With respect to ownership of the Deliverables, the Parties agree that the following shall apply:
- i) The Deliverables shall be identified as being either: Category A Deliverables and Category B Deliverables in the Project Engagement Definition. If not so identified, the Deliverables shall be considered Category A Deliverables for the purposes of this Agreement.
  - ii) **Category A** Deliverables are those Deliverables provided to CSB/SUGAM KENDRA PROJECT by Partner during the course of its performance under this Agreement, the SLA and/or a Project Engagement Definition 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 Partner and the Director, CSB/SUGAM KENDRA Project, immediately upon creation vest in the Director, CSB/SUGAM KENDRA PROJECT. To the extent that the Partner Proprietary Information is incorporated within the Deliverables, Partner and its employees engaged hereby grant to the Director, CSB/SUGAM KENDRA Project a worldwide, perpetual, irrevocable, non-exclusive, transferable, paid-up right and license to use, copy, modify (or have modified), transport to CSB/SUGAM KENDRA PROJECT facilities, and prepare from them, use and copy derivative works for the benefit of and internal use of CSB/SUGAM KENDRA PROJECT, of such Partner Proprietary Information.

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- iii) **Category B** Deliverables are those Deliverables provided to the Director, CSB/SUGAM KENDRA Project by Partner during the course of its performance under this Agreement and the SLA, in which the Partner retains the rights to but grants to the Director, CSB/SUGAM KENDRA Project, subject to the foregoing provisions of this Article a worldwide, perpetual, irrevocable, non-exclusive, transferable, paid-up right and license to the Deliverables including the right to use, copy, modify (or have modified), transport to CSB/SUGAM KENDRA PROJECT at the locations provided by CSB/SUGAM KENDRA PROJECT, and prepare from them, use and copy derivative works for the benefit of and internal use of CSB/SUGAM KENDRA PROJECT. If Partner proceeds to apply for, or assign to any third party, any patent rights relating to such Category B Deliverables, Partner will ensure that the Director, CSB/SUGAM KENDRA Project's rights as provided herein are preserved.
  
- l) The Director, CSB/SUGAM KENDRA Project hereby grants to Partner a non-exclusive right and license to access and use the CSB/SUGAM KENDRA PROJECT Proprietary Information solely for the purpose of providing Services to CSB/SUGAM KENDRA PROJECT. Such right and license shall terminate upon the expiration or termination of this Agreement.
  
- m) Upon the expiration or any termination of this Agreement (and also in respect of the SLA), Partner shall undertake the actions set forth below in this Article to assist the Director, CSB/SUGAM KENDRA Project to procure replacement services equivalent to Services provided hereunder.
  - i) Further the Partner undertakes to negotiate in good faith with the Director, CSB/SUGAM KENDRA Project and any relevant Replacement Partner in respect of commercial terms applying to all Partner Intellectual Property Rights and which the Director, CSB/SUGAM KENDRA Project and any relevant Replacement Partner require to enable them to provide or receive services substantially equivalent to the Services hereunder.
  
  - ii) In respect of Partner third party Intellectual Property Rights, Partner undertakes to assist the Director, CSB/SUGAM KENDRA Project to secure such consents or licenses from such third parties as are necessary to enable CSB/SUGAM KENDRA PROJECT to receive services substantially equivalent to the Services hereunder. The obligations of the Partner under this Article shall be considered part of the services performed by the Partner under the Exit Management Services.

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## 8. ARTICLE VIII - MISCELLANEOUS

### 8.1. CONFIDENTIALITY

- a) The Partner 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 Partner. Disclosure or usage of the data by any such recipient may constitute a breach of applicable laws causing harm not only to the company whose data is used but also to its shareholders, directors and other officers. The function of the Director, CSB/SUGAM KENDRA Project requires the Partner, its Subcontractors and agents to demonstrate utmost care, sensitivity and strict confidentiality. Any breach of this Article will result in the Director, CSB/SUGAM KENDRA Project and its nominees receiving a right to seek injunctive relief and damages without any limit, from the Partner.
- 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 the SLA or as otherwise permitted by the Discloser in writing; and
  - iii. 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
  - iv. not, without the Discloser's prior written consent, to disclose, transfer, publish or communicate the Confidential Information in any manner to any person except as permitted under this Agreement or the SLA.



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- 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, 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; 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 licence with respect to the other Party's Confidential Information otherwise than as is expressly set out in this Agreement.

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- 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) Parties agree that monetary damages would not be a sufficient remedy for any breach of this Article by the other Party and that the Director, CSB/SUGAM KENDRA Project and Partner, 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, Partner may from time to time undertake one or more quality assessment reviews for the purpose of improving CSB/SUGAM KENDRA PROJECT. In order for such reviews to be frank and candid, for the greatest benefit to both the Director, CSB/SUGAM KENDRA PROJECT and Partner, 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 Partner which is licensed to CSB/SUGAM KENDRA PROJECT 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 Partner related to this Agreement or the Services.

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### 8.2. PERSONNEL

- a) Personnel assigned by Partner to perform the Services shall be employees of Partner, and under no circumstances will such personnel be considered employees of CSB/SUGAM KENDRA PROJECT. Partner 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) Partner shall use its best efforts to ensure that sufficient Partner personnel are employed to perform the Services, and that such personnel have appropriate qualifications to perform the Services. The Director, CSB/SUGAM KENDRA Project shall have the right to require the removal or replacement of any Partner personnel performing work under this Agreement. In the event that the Director, CSB/SUGAM KENDRA Project requests that any Partner 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 Partner shall also be responsible to train certain employees of CSB/SUGAM KENDRA PROJECT with regard to the Services being provided by the Partner as and when required by CSB/SUGAM KENDRA PROJECT during the Term of this Project. The parameters of the training required for these employees of CSB/SUGAM KENDRA PROJECT shall be communicated by the Director, CSB/SUGAM KENDRA Project to the Partner periodically and shall be in accordance with the latest procedures and processes available in the relevant areas of work.
- d) In the event the Director, CSB/SUGAM KENDRA Project identifies any personnel of Partner as "Key Personnel", then the Partner shall not remove/accept his resignation of such personnel without the prior written consent of the Director, CSB/SUGAM KENDRA Project under the applicable Project Engagement Definition.
- e) Except as stated in this Article, nothing in this Agreement or the SLA will limit the ability of Partner or any Partner freely to assign or reassign its employees; provided that Partner shall be responsible, at its expense, for transferring all appropriate knowledge from personnel being replaced to their replacements. The Director, CSB/SUGAM KENDRA Project shall have the right to review and approve Partner's plan for any such knowledge transfer. Partner shall maintain the same standards for skills and professionalism among replacement personnel as in personnel being replaced.

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- 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 partnership or joint venture between the Parties to this Agreement or the SLA and, except as expressly stated in this Agreement or the SLA, nothing in this Agreement or the SLA shall be deemed to constitute any Parties as the agent of any other Party or authorizes either Party (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**

Partner shall not subcontract any work related to the following works related to the implementation of CSB/SUGAM KENDRA PROJECT to be performed under this Agreement without the Director, CSB/SUGAM KENDRA Project's prior written consent.

- a) Design, development and Installation of CSB/SUGAM KENDRA Application Software.
  - b) Design, development , Installation and Management of CSB/SUGAM KENDRA Data Centres.
- However, any other sub-contractors may be hired by the Partner without the Director, CSB/SUGAM KENDRA Project's prior written consent in respect of other works. It is clarified that the Partner shall be the principal employer for all claims arising from the liabilities statutory or otherwise, concerning the subcontractors. The Partner undertakes to indemnify the Director, CSB/SUGAM KENDRA Project or its nominated agencies from any claims on the grounds stated hereinabove.

### **8.5. ASSIGNMENT**

All terms and provisions of this Agreement shall be binding on and shall inure to the benefit of the Director, CSB/SUGAM KENDRA Project, Partner and any assignment or transfer of this Agreement or the SLA or any rights hereunder by either Party shall be strictly prohibited.

### **8.6. 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

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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.

### 8.7. 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

CSB/SUGAM KENDRA PROJECT :

The Commissioner, Municipal Corporation of Delhi,

Tel: \*\*\*

Fax: \*\*\*

Contact:\*\*\*

Partner:\*\*\*

Tel:\*\*\*

Fax:\*\*\*

Contact:\*\*\*

- 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 at the address of the other Party set forth above or if sent by fax, provided the copy fax is accompanied by a confirmation of transmission, or on the next working day thereafter if delivered outside such hours, and 7 days from the date of posting (if by letter).
- d) Either Party to this Agreement or to the SLA may change its address, telephone number, facsimile number and nominated contact for notification purposes by giving the other reasonable prior written notice of the new information and its effective date.

### 8.8. 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

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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.

### **8.9. 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.

### **8.10.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.

### **8.11.ETHICS**

Partner 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 CSB/SUGAM KENDRA PROJECT, 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 CSB/SUGAM KENDRA PROJECT 's standard policies and may result in cancellation of this Agreement, the SLA and the Project Engagement Definitions.

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## **8.12. ENTIRE AGREEMENT**

This Agreement, the SLA and the Project Engagement Definitions, all schedules appended thereto and the contents and specifications of the functional and technical annexure to MSA 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.

## **8.13. 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 LAW**

### **9.1. DISPUTE RESOLUTION**

- a) Any dispute arising out of or in connection with this Agreement or the SLA shall in the first instance be dealt with in accordance with the escalation procedure as set out in the Governance Schedule.
- b) Any dispute or difference whatsoever arising between the parties to this Contract out of or relating to the construction, meaning, scope, operation or effect of this Contract or the validity of the breach thereof, which can not be resolved through the application of the provisions of the Governance Schedule, shall be referred to a sole Arbitrator to be appointed by mutual consent of both the parties herein. If the parties cannot agree on the appointment of the Arbitrator within a period of one month from the notification by one party to the other of existence of such dispute, then the Arbitrator shall be nominated by the Secretary, Department of Law, Government of Delhi, ("Law Secretary"). The provisions of the Arbitration and Conciliation Act, 1996 will be applicable and the award made thereunder shall be final and binding upon the parties hereto, subject to legal remedies available under the law. Such differences shall be deemed to be a submission to arbitration under the Indian Arbitration and Conciliation Act, 1996, or of any modifications, Rules or re-enactments thereof. The Arbitration proceedings will be held at Delhi, India.



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## AMENDMENT

The Parties acknowledge and agree that amendment to this agreement shall be made 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:

Signed by:

(Name and designation)

For and on behalf of  
Commissioner, MCD  
(FIRST PARTY  
Signed by:

(Name and designation)

an authorized signatory duly nominated

pursuant to Board Resolution No. \_\_\_\_\_ dated \_\_\_\_\_  
(PARTNER)



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## SCHEDULE I-CHANGE CONTROL SCHEDULE

### 1. CHANGE CONTROL PROCEDURE

This Schedule describes the procedure to be followed in the event of any proposed change to the Master Service 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 Partner and changes to the terms of payment as stated in the Terms of Payment Schedule.

The Director, CSB/SUGAM KENDRA Project and the Partner 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 Partner will endeavour, wherever reasonably practicable, to effect change without an increase in the terms of payment as stated in the Terms of Payment Schedule and the Director, CSB/SUGAM KENDRA Project will work with the Partner to ensure that all changes are discussed and managed in a constructive manner.

This Change Control Schedule sets out the provisions which will apply to changes to (a) the MSA; (b) the Project Implementation; and (c) Operation and Management SLA.

#### 1.1 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 hereto. CCNs will be presented to the other Party's Project Manager who will acknowledge receipt by signature of the CCN.
- b) The Partner and the Director, CSB/SUGAM KENDRA Project, 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 this agreement and is suggested and applicable only after the testing, commissioning, certification and the Project Implementation Phase as set out in this Agreement.

#### 1.2 QUOTATION

- a) The Partner shall assess the CCN and complete Part B of the CCN. In completing Part B of the CCN the Partner shall provide as a minimum:

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- 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 Director, CSB/SUGAM KENDRA Project, or its nominated agencies, the Partner will undertake its own internal review of the proposal and obtain all necessary internal approvals. As a part of this internal review process, the Partner 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 Director, CSB/SUGAM KENDRA Project and the Partner'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.

### 1.3 COSTS

Each Party shall be responsible for its own costs incurred in the quotation, preparation of CCNs and in the completion of its obligations described in this process provided the Partner meets the obligations as set in the CCN. In the event the Partner 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 Partner.

### 1.4 REPORTING

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

### 1.5 OBLIGATIONS

The Partner shall be obliged to implement any proposed changes once approval in accordance with Article above has been given, with effect from the date agreed for implementation.

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## SCHEDULE II - EXIT MANAGEMENT SCHEDULE

### 2. EXIT MANAGEMENT

#### 2.1 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.

#### 2.2 TRANSFER of ASSETS

- a) The Partner shall be entitled to use the Assets for the duration of the exit management period, which shall be the four month period from the date of expiry, or termination of the MSA.
- b) The Director, CSB/SUGAM KENDRA Project shall be entitled to serve notice in writing on the Partner at any time during the exit management period as detailed hereinabove requiring the Partner and/or its sub contractors to provide the Director, CSB/SUGAM KENDRA Project with a complete and up to date list of the Assets within 30 days of such notice. The Director, CSB/SUGAM KENDRA Project shall then be entitled to serve notice in writing on the Partner at any time prior to the date that is 30 days prior to the end of the exit management period requiring the Partner to sell any of the Assets to be transferred to CSB/SUGAM KENDRA PROJECT at market value (as determined as of the date of such notice).
- c) Upon service of a notice under Article the following provisions shall apply:
  - i. the Director, CSB/SUGAM KENDRA Project shall pay to the Partner on the last day of the exit management period such sum representing the market value of the Assets to be transferred as stated in the Terms of Payment Schedule.

#### 2.3 COOPERATION AND PROVISION OF INFORMATION

##### During the exit management period:

- a) the Partner will allow the Director, CSB/SUGAM KENDRA Project access to information reasonably required to define the then current mode of operation associated with the provision of the services to enable the Director, CSB/SUGAM KENDRA Project to assess the existing services being delivered;

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- b) promptly on reasonable request by the Director, CSB/SUGAM KENDRA Project, the Partner 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, the Operation and Management SLA relating to any material aspect of the services (whether provided by the Partner or sub contractors appointed by the Partner). The Director, CSB/SUGAM KENDRA Project shall be entitled to copy all such information. Such information shall include details pertaining to the services rendered and other performance data. The Partner shall permit the Director, CSB/SUGAM KENDRA Project and/or any Replacement Partner to have reasonable access to its employees and facilities as reasonably required by the Director, CSB/SUGAM KENDRA Project to understand the methods of delivery of the services employed by the Partner and to assist appropriate knowledge transfer.

### 2.4 CONFIDENTIAL INFORMATION, SECURITY AND DATA

- a) The Partner will promptly on the commencement of the exit management period supply to the Director, CSB/SUGAM KENDRA Project 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 CSB/SUGAM KENDRA Project's Intellectual Property Rights;
  - iii. CSB/SUGAM KENDRA PROJECT data and confidential information;
  - iv. documentation relating to sub-contractors;
  - v. all current and updated CSB/SUGAM KENDRA PROJECT data as is reasonably required for purposes of CSB/SUGAM KENDRA PROJECT or its nominated agencies transitioning the services to its Replacement Partner in a readily available format nominated by the Director, CSB/SUGAM KENDRA Project;
  - vi. all other information (including but not limited to documents, records and agreements) relating to the services reasonably necessary to enable CSB/SUGAM KENDRA PROJECT or its nominated agencies, or its Replacement Partner to carry out due diligence in order to transition the provision of the Services to CSB/SUGAM KENDRA PROJECT or its nominated agencies, or its Replacement Partner (as the case may be).
- b) Before the expiry of the exit management period, the Partner shall deliver to the Director, CSB/SUGAM KENDRA Project all new or up-dated materials from the categories set out in Article above and shall not retain any copies thereof.

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- c) Before the expiry of the exit management period, unless otherwise provided under the MSA, the Director, CSB/SUGAM KENDRA Project shall deliver to the Partner all forms of Partner confidential information, which is in the possession or control of CSB/SUGAM KENDRA PROJECT or its users.

### **2.5 EMPLOYEES**

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

### **2.6 TRANSFER OF CERTAIN AGREEMENTS**

On request by the Director, CSB/SUGAM KENDRA Project, the Partner shall effect such assignments, transfers, licences and sub-licences as the Director, CSB/SUGAM KENDRA Project may require in favor of the Director, CSB/SUGAM KENDRA Project, or its Replacement Partner in relation to any equipment lease, maintenance or service provision agreement between Partner and third party lessors, vendors, and which are related to the services and reasonably necessary for the carrying out of replacement services by the Director, CSB/SUGAM KENDRA Project or its Replacement Partner.

### **2.7 RIGHTS OF ACCESS TO PREMISES**

- a) At any time during the exit management period, where Assets are located at the Partner's premises, the Partner 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

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- Director, CSB/SUGAM KENDRA Project, and/or any Replacement Partner in order to make an inventory of the Assets.
- b) The Partner shall also give the Director, CSB/SUGAM KENDRA Project or its nominated agencies, or any Replacement Partner right of reasonable access to the Partner's premises and shall procure the Director, CSB/SUGAM KENDRA Project or its nominated agencies and any Replacement Partner 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 Director, CSB/SUGAM KENDRA Project or its nominated agencies, or a Replacement Partner.

### 2.8 GENERAL OBLIGATIONS OF THE PARTNER

- a) The Partner shall provide all such information as may reasonably be necessary to effect as seamless a handover as practicable in the circumstances to the Director, CSB/SUGAM KENDRA Project or its nominated agencies or its Replacement Partner and which the Partner 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 Partner, associated entity, or sub contractor is deemed to be in the possession or control of the Partner.
- c) The Partner shall commit adequate resources to comply with its obligations under this Exit Management Schedule.

### 2.9 EXIT MANAGEMENT PLAN

- a) The Partner shall provide the Director, CSB/SUGAM KENDRA Project with a recommended exit management plan ("Exit Management Plan") which shall deal with at least the following aspects of exit management in relation to the MSA as a whole and in relation to the Project Implementation, and the Operation and Management SLA.
- i. A detailed program of the transfer process that could be used in conjunction with a Replacement Partner 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 Partner's sub contractors, staff, suppliers, customers and any related third party as are necessary to avoid any material detrimental impact on CSB/SUGAM KENDRA Project's operations as a result of undertaking the transfer;

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- iii. (if applicable) proposed arrangements for the segregation of the Partner's networks from the networks employed by CSB/SUGAM KENDRA PROJECT and identification of specific security tasks necessary at termination;
- iv. plans for provision of contingent support to CSB/SUGAM KENDRA PROJECT, and Replacement Partner for a reasonable period after transfer.
- v. The Partner shall re-draft the Exit Management Plan annually thereafter to ensure that it is kept relevant and up to date.
- vi. Each Exit Management Plan shall be presented by the Partner to and approved by the Director, CSB/SUGAM KENDRA Project or its nominated agencies.
- vii. The terms of payment as stated in the Terms of Payment Schedule include the costs of the Partner complying with its obligations under this Schedule.
- viii. 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.
- ix. During the exit management period, the Partner shall use its best efforts to deliver the services.
- x. Payments during the Exit Management period shall be made in accordance with the Terms of Payment Schedule.
- xi. This Exit Management plan shall be furnished in writing to the Director, CSB/SUGAM KENDRA Project or its nominated agencies within 90 days from the Effective Date of this Agreement.

### **SCHEDULE III - AUDIT, ACCESS AND REPORTING**

#### **3.1 PURPOSE**

This Schedule details the audit, access and reporting rights and obligations of the Director, CSB/SUGAM KENDRA Project and the Partner under the MSA, Project Implementation, Operation and Management SLA.

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### 3.2 AUDIT NOTICE AND TIMING

- a) As soon as reasonably practicable after the Effective Date, the Parties shall use their best endeavors to agree to a timetable for routine audits during the Project Implementation Phase and the Operation and Management Phase. Such timetable may be reviewed every 3 months. During the Implementation Phase, the Director, CSB/SUGAM KENDRA Project and thereafter during the Operation Management Phase, the Director, CSB/SUGAM KENDRA Project shall conduct routine audits in accordance with such agreed timetable and shall not be required to give the Partner any further notice of carrying out such audits.
- b) The Director, CSB/SUGAM KENDRA Project 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 a Partner, a security violation, or breach of confidentiality obligations by the Partner, provided that the requirement for such an audit is notified in writing to the Partner 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 Partner considers that the non-time tabled audit was not appropriate, the matter shall be referred to the escalation procedure as set out in the Governance Schedule.
- c) The frequency of audits shall be 6 monthly, provided always that the Director, CSB/SUGAM KENDRA Project shall endeavour to conduct such audits with the lowest levels of inconvenience and disturbance practicable being caused to the Partner.
- d) The audit and access rights contained within this Schedule shall survive the termination or expiration of the MSA for a period of twenty-four (24) months. For the avoidance of doubt, this right of audit shall not apply to data and records returned to CSB/SUGAM KENDRA PROJECT or destroyed in accordance with Exit Management Schedule.

### 3.3 ACCESS

The Partner shall provide to the Director, CSB/SUGAM KENDRA Project reasonable access to employees, subcontractors, suppliers, agents, third party facilities, including leased premises used for CSB/SUGAM KENDRA Service Centres as detailed in the functional and technical specifications document, documents, records and systems reasonably required for audit and shall provide all such persons with routine assistance in connection with the audits and inspections.



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The Director, CSB/SUGAM KENDRA Project shall have the right to copy and retain copies of any relevant records. The Partner shall make every reasonable effort to co-operate with them.

### 3.4 AUDIT RIGHTS

- a) The Director, CSB/SUGAM KENDRA Project shall have the right to audit and inspect suppliers, agents, third party facilities, including leased premises used for CSB/SUGAM KENDRA Service Centres (as detailed in Functional and Technical specification document), 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 CSB/SUGAM KENDRA PROJECT data processed, held or conveyed by the Partner on behalf of CSB/SUGAM KENDRA 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 Partner has complied with the relevant technical standards, and has adequate internal controls in place; and
  - iv. The compliance of the Partner 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 Partner's profit margins or overheads associated with any obligation under the MSA.

### 3.5 AUDIT RIGHTS OF SUB-CONTRACTORS, SUPPLIERS AND AGENTS

- a) The Partner shall use reasonable endeavors to achieve the same audit and access provisions as defined in this Schedule with sub-contractors, suppliers and agents who supply labour, services, equipment or materials in respect of the services. The Partner shall inform the Director, CSB/SUGAM KENDRA Project prior to concluding any sub-contract or supply agreement of any failure to achieve the same rights of audit or access.
- b) **REPORTING:** The Partner will provide quarterly reports to the Director, CSB/SUGAM KENDRA Project regarding any specific aspects of the Project and in context of the audit and access information as required by the Director, CSB/SUGAM KENDRA Project.

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### **3.6 ACTION AND REVIEW**

- a) Any change or amendment to the systems and procedures of the Partner, 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 Director, CSB/SUGAM KENDRA Project or the appropriate CSB/SUGAM KENDRA PROJECT Manager and the Partner Project Manager who shall determine what action should be taken in respect of such discrepancies in accordance with the terms of the MSA.

### **3.7 TERMS OF PAYMENT**

The Director, CSB/SUGAM KENDRA Project and the Partner 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 Partner and the subcontractor, for all reasonable assistance and information provided under the MSA, the Project Implementation, Operation and Management SLA by the Partner pursuant to this Schedule.

### **3.8 RECORDS AND INFORMATION**

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

## **SCHEDULE IV - GOVERNANCE SCHEDULE**

### **4.1 PURPOSE**

The purpose of this Schedule is to (i) establish and maintain the formal and informal processes for managing the relationship between the Director, CSB/SUGAM KENDRA PROJECT and the Partner (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.

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### 4.2 GOVERNANCE STRUCTURE

- a) **Project Managers:** The relationship under this Agreement will be managed by the Project Managers appointed by each Party, who will provide the interface between the executive management of the respective Parties.
- b) **Project Management Committee:** Within one month following the Effective Date, the Director, CSB/SUGAM KENDRA Project or its nominated agencies and the Partner shall each appoint a Project Manager and one representative from the CSB/SUGAM KENDRA Project's nominated agencies (hereinafter the Project Manager). In the case of CSB/SUGAM KENDRA PROJECT, the Project Manager will be an individual who is appointed by CSB/SUGAM KENDRA PROJECT. In the case of the Partner, the Project Manager will be an individual who is an organizational peer of CSB/SUGAM KENDRA PROJECT Manager. In the event that either Party wishes to substitute its Project Manager it will do so in manner in which the original appointment is made and notify the other Party of such substitution as soon as reasonably practicable but at the latest within fourteen days of the substitution.
- c) **The Project Managers** shall have responsibility for maintaining the interface and communication between the Parties.
- d) GOVERNMENT OF DELHI will appoint a Project Management Committee within 2 weeks of the Effective Date.
- e) The Management Committee will meet formally on a quarterly basis at a time and location to be agreed between them. These meetings will cover, as a minimum, the following agenda items: (i) consideration of Quarterly Performance Reports; (ii) consideration of matters arising out of the Change Control Schedule; (iii) issues escalated in accordance with the escalation procedure as set out in the Governance Schedule; (iv) matters to be brought before the Management Committee in accordance with the MSA and the Schedules; (v) any matter brought before the Management Committee by the Partner under this Article; and (vi) any other issue which either Party wishes to add to the agenda.
- f) In the event that there is any material factor which affects the delivery of the Services or the terms of payment as stated in the Terms of Payment Schedule, the Parties agree to discuss in the 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

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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.

### 4.3 GOVERNANCE PROCEDURES

- a) The Partner shall document the agreed structures in a procedures manual.
- b) The agenda for each meeting of the 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 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 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.

### 4.4 LIAISON BETWEEN THE SUB CONTRACTORS

- a) The Partner shall participate in the meetings with other sub-contractors, approved by the Director, CSB/SUGAM KENDRA Project and coordinate the receipt and delivery of the Services in a regular program of liaison between the Project Manager or any other representative of CSB/SUGAM KENDRA PROJECT and each of the subcontractors.
- b) **Arbitration:** The Parties shall first submit any dispute or disagreement between the Parties arising out of or relating to and/or in connection with this Agreement or any Service Level Agreement or Statement of Work which is not a Material Breach as stated in Article V of this Agreement (a "Disputed Matter") to the Secretary Law, Government of Delhi. In case the Disputed Matter remains unresolved, the same shall be then submitted to Management Committee.
  - i. In order formally to submit a Disputed Matter to the aforesaid fora, one Party ("Claimant") shall give a written notice ("Dispute Notice") to the other Party. The

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Dispute Notice shall be accompanied by (a) a statement by the Claimant describing the Disputed Matter in reasonable detail and (b) documentation, if any, supporting the Claimant's position on the Disputed Matter.

- ii. The other Party ("Respondent") shall have the right to respond to the Dispute Notice within 7 days after receipt of the Dispute Notice. In the event that the fora is unable to resolve the Disputed Matter within a further period of 7 days, it shall refer the Disputed Matter to next level of the dispute resolution for action.
- iii. All negotiations, statements and/or documentation pursuant to these Articles shall be without prejudice and confidential (unless mutually agreed otherwise).
- iv. If the Disputed Matter is having a material effect on the operation of the Services (or any of them or part of them) the Parties will use all their respective reasonable endeavors to reduce the elapsed time in reaching a resolution of the Disputed Matter.

### **SCHEDULE V - INVOICING AND SETTLEMENT SCHEDULE**

- a) In respect of its remuneration for the Services the Partner shall be eligible to receive payment in two parts one payment on escrow account with the participating bank on daily basis (DB) and other on Monthly Basis (MB) calculated in accordance with the Terms of Payments Schedule. Subject to the specific terms of each Service Level Agreement, the Partner submit its invoices in accordance with the following principles:
  - i) The Director, CSB/SUGAM KENDRA Project shall be invoiced by the Partner for the Services. Generally and unless otherwise agreed in writing between the Parties or expressly set out in the Service Level Agreement, the Partner shall raise an invoice as per the terms of payment as stated in the Terms of Payment Schedule monthly in arrears.
  - ii) Any invoice presented in accordance with this Article shall be in a form agreed with the Director, CSB/SUGAM KENDRA Project.
- b) The Partner shall invoice all payments for MB by the fifth (5) working day of the month after that in which the Services were provided. 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 monthly payment within four weeks of the receipt of the previous month's invoice. The Partner 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.

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- c) Payment of the MB shall be made within 14 working days of the receipt of Invoice by the Director, CSB/SUGAM KENDRA PROJECT subject to adjustments for the previous month's performance.
- d) The Director, CSB/SUGAM KENDRA Project shall be entitled to delay or withhold payment of any invoice or part of it delivered by the Partner under this Schedule where the Director, CSB/SUGAM KENDRA Project 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. Any exercise by the Director, CSB/SUGAM KENDRA Project under this Article shall not entitle the Partner to delay or withhold provision of the Services.
- e) The Director, CSB/SUGAM KENDRA Project shall be entitled to delay or withhold payment of any invoice or part of it delivered by a Partner under this Schedule where CSB/SUGAM KENDRA PROJECT disputes any previous invoice or part of it that it had not previously disputed under Article 4 provided that such dispute is bona fide. The withheld amount shall be limited to that which is in dispute. The disputed amount shall be referred to the escalation procedure as set out in the Governance Schedule. Any exercise by the Director, CSB/SUGAM KENDRA Project under this Article shall not entitle the Partner to delay or withhold provision of the Services.
- f) The Partner shall pay all their sub-contractors in a timely fashion in accordance with a mechanism, which will not prejudice the objective of CSB/SUGAM KENDRA PROJECT.

### **SCHEDULE VI : Terms of Payment**

- a) CSB/SUGAM KENDRA Project is a service project and not a project involving supply of goods and construction of works. Hence, basically the payment will be made only if services are rendered by the Partner to the Citizens.
- b) 90% of the transaction fee would be paid to the PPP partner on daily basis and is routed through escrow account. The balance 10% of transaction fee is subject SLA performance and would be paid to the PPP Partner on monthly grossing, within 5 working days of the receipt of the claim, by the Director, CSB/SUGAM KENDRA. The net amount payable will be arrived at after deducting the penalties for lower performance and awarding incentives for higher performance. The net amount so arrived at, would be paid to the PPP Partner within 5 working days from the date of receiving a claim by the Director, CSB/SUGAM KENDRA.
- c) In the event of the premature termination of the agreement the partner would be eligible to be paid for the cost of Hardware, Software and Networking that might be taken over by the Director, CSB/SUGAM KENDRA pursuant to the provisions of the agreement, calculating the cost of the Assets at the depreciated book value.

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### SCHEDULE VII - SERVICE LEVEL AGREEMENT

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_ 2005.

#### **Between**

1. The Director, CSB/SUGAM KENDRA Project, acting through Commissioner, Municipal Corporation of Delhi, <Address> , hereinafter referred to as "Director" (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. Electronic Corporation of India (ECIL) a company registered under the Indian Companies Act, 1956 having a registered office at Hyderabad and having a place of business at \_\_\_\_\_ and their consortium partner SARK Systems India Limited (hereinafter referred to as "partner/ SECOND PART").

#### **AND**

3. Respective Department of Government of National Capital Territory of Delhi, (Government of Delhi), having its office at <Address> hereinafter referred to as <Respective Department>" which term or expression unless excluded by or repugnant to the subject or context shall mean included its successors in office and assigns) of the THIRD PART;

#### **WHEREAS:**

- A. The Director, CSB/SUGAM KENDRA PROJECT and [ \_\_\_\_\_ ] have entered into a Master Services Agreement dated [ \_\_\_\_\_ ] (the "MSA").

- B. In accordance with the MSA, CSB/SUGAM KENDRA PROJECT



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and Partner wish to enter into this Service-Level Agreement (Agreement/SLA) on the following terms.



Service Level Metrics

SI No	Service Metic Parameters	Baseline Performance		Lower Performance		Breach		Basis of Measurement	Remarks
		Metric	Credit	Metric	Credit	Metric	Credit		
	<b>I. Service - Related, Citizen - facing (65)</b>								
1	Average wait period at Delhi CSB peak dates, peak hours	<15 min	9	15-25 min	7	>30	(2)	<p>1. Average for 1 month for each service centre.</p> <p>2. Measured from the time a token is issued to the time it is called for (indicating that an agent is ready to attend).</p> <p>3. The peak dates and the peak and non-peak hours will be specified in the Project engagement definition or buy special notification by CSB Director.</p> <p>4. Some citizens may avail several transactions at the same counter. The computation of average will be based on the number of visitors.</p>	<p>1. Must use an Electronic Queue Management System (EQMS), which provides programmatic interface to obtain the necessary data.</p> <p>2. The metrics will be applied Service Centre wise, based on the number of transactions occurring during the relevant periods.</p>
2	Average time for service at Delhi CSB - Peak dates, peak hours for (Type A Services)	<4 min	15	4-5 min	11	>6 min	(2)		
3	Average time for service at Delhi CSB - Peak dates, peak hours for (Type B Services)	<4 min	15	4-5 min	11	>6 min	(2)		
4	Average time for service at Delhi CSB - Peak dates, peak hours for (Type C Services)	<4 min	15	4-5 min	11	>6 min	(2)		

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5	Availability of agreed services over the Internet	99.00%	8	99.0 to 98%	6	<95.0%	(1)	Online analysis of event log performed by Delhi CSB through use of relevant tools and methods	
6	Average CSB Portal page loading	7 sec	3	7 to 10 sec	1	>15 sec	(1)	Measured over a leased circuit or equivalent - at 64kb/s bandwidth	To facilitate quick page loading over low bandwidth connections
<b>Technology Metrics Parameters</b>									
II-Technology, performance-related 15									
7	Capacity of the Application Server	Equivalent of capacity to handle 10000 service transactions per hour	6	No toleration for lower performance. No credit will be given for performance below baseline		<6000 transactions per hour	(0.25)	Server logs maintained by DBA of Delhi CSB Project	

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8	Capacity of the Database Server	Equivalent of capacity to handle 10000 service transactions per hour	6			< 6000 transactions per hour	(0.25)		
9	Concurrent connects to Application Server	>750	3			< 500	(0.5)		
	III-Technology, maintenance-related 20								
10	Uptime of Data Centre	>99%	8	No toleration for lower performance. No credit will be given for performance below baseline		96%	(1)	System logs maintained by DBA	1. The uptime will be calculated based on the working hours fixed for the Delhi CSB and the downtime observed during such working hours in a month. 2. Planned maintenance shall be done during non working hours.
11	Uptime of Service Centre	>99%	4			95%	(1)		
12	Time to restore Data Centre from failure	< 1 hr	5			< 3hrs	(1)		

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13	Time to restore Data Centre from failure	< 2 hrs	3		< 5hrs	(1)		
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The following points clarify the manner in which the SLA metrics operate.

- a. Average waiting time will be measured on periodic basis to facilitate planning of number of terminals to be operated next month/fortnight/week for effective delivery of citizen services.
- b. Director, CSB/SUGAM KENDRA and the Project Director from service provider will review and plan on continuous basis to ensure average waiting time of a citizen is with in 30 minutes.
- c. Service time mentioned in the above matrix is indicative. Each project engagement definition document will specify the permissible transaction service time based on the nature of transaction.
- d. A set of 13 parameters has been identified as key to the successful implementation of DELHI CSB PROJECT project. Payment of 60% of the Monthly Transaction Charges (MTC) payable to the operator, is linked to the compliance with the SLA metrics laid down in this table.

The 13 parameters are classified as

- a. Service-related, citizen-facing (65% weightage),
- b. Technological, Performance-related (15%),
- c. Technological, Maintenance-related (20%).
- d. Monthly Transaction Charges MTC is balance 10% of Transaction fee left in escrow account. On this 10% balance Transaction fee the following metric will apply.
- e. The matrix specifies four levels of performance, namely, Baseline, Low, High and Breach. The operator will get 100% of 60% MTC if the baseline performance metrics are complied. The operator will get lesser payment namely, upto a minimum of 42% of the 60% of EQI in case of the lower performance on all parameters. It may be noted that in respect of the technological parameters (nos 9 to 13), there is no lower performance level. In other words, the operator will have to necessarily comply with the SLA metrics and will not get any payment in respect of any parameter for which the baseline is not met.

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- f. The higher performance is rewarded only in respect of items 1,2,3,4 and 5 of the Matrix to encourage better performance on peak-dates and peak hours.
- g. If the performance of the operator in respect of any parameter falls below the prescribed tolerance limit, a penalty is imposed for the breach. The penalty can be upto 'minus 69' points.
- h. The positive and negative points earned during each month will be added to compute the net score out of 100. This percentage will be applied to the 60% of MTC to arrive at the amount payable to the operator for that month. 40% of the MTC will be payable without linking to the SLA, so as to reduce the risk perception of the PPP partner.
- i. Seven of the parameters (1,2,5 and 12 to 15) have been identified as critical to the Delhi CSB Project . A breach on account of these items will result in a , which can result in issue of a **material breach** notice period of 7 days for rectification of the breach, followed, if not so rectified, by a show-cause notice for termination of the contract with a period of 15-days for the termination to take effect.
- j. A cumulative debit point totaling 20 would also be resulting in a material breach.



## **ARTICLE 1 - DEFINITIONS AND GENERAL PURPOSE**

### **a. DEFINITIONS**

In this agreement unless the context requires otherwise:

“Agreement/ Service Level Agreement/ SLA” means this Agreement, together with its Appendices;

“CSB/SUGAM KENDRA Project Data” means all proprietary data of CSB/SUGAM KENDRA PROJECT, which a Partner obtains, possesses or processes in the context of providing the Services to the users pursuant to this SLA;

“Parties” means the Director, CSB/SUGAM KENDRA PROJECT, and Partner for the purposes of this SLA;

- b. All Appendices and other attachments to this SLA are hereby incorporated as a part of this SLA by this reference.
- c. 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.
- d. Words denoting the singular shall include the plural and vice versa and words denoting persons shall include firms and corporations and vice versa.
- e. 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 terms Article and Appendix refer to Articles and Appendices of this SLA. 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.
- f. 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.

## **STRUCTURE**

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 Partner to the Director, CSB/SUGAM KENDRA Project under this SLA and the MSA.

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## ARTICLE II - INITIALISATION PHASE

### OBJECTIVES AND SCOPE OF CONTRACT

The Partner is to conform to the specified Service Levels, which will ensure:

- a. providing speedy and efficient services to the citizens, business organizations, Departments and Agencies of GOVERNMENT OF DELHI and their employees;
- b. making it convenient for citizens and other stakeholders to interact with Government;
- c. educating the citizens, business organizations and other stakeholders involved in the relevant procedures;
- d. To meet the aforesaid objectives the Partner will provide the Service Levels in accordance with the performance metrics as more particularly described in Appendix A of this SLA. Further this SLA shall govern the provision of the contracted professional services to MCD or its nominees after the Effective Date.

### COMMENCEMENT AND DURATION OF THIS SLA

This SLA shall commence on the date on which it is fully executed by the Director, CSB/SUGAM KENDRA Project, and the Partner (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 five years from the Effective Date of this SLA.



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## ARTICLE III: FINANCIAL ISSUES

### TERMS OF PAYMENT AND SERVICE CREDITS AND DEBITS

- a. In consideration of the Services and subject to the provisions of the MSA and this SLA, the Director, CSB/SUGAM KENDRA Project shall pay the Transaction Charges (TC) to the Partner in accordance with the Terms of Payment Schedule of the MSA.
- b. It is clarified here that the Director, CSB/SUGAM KENDRA Project can also calculate a financial sum and debit the same against the terms of payment as defined in the Terms of Payment Schedule of the MSA as a result of the failure of the Partner to meet the Service Level under the affected Project Engagement Definition, such sum being determined in accordance with the terms of the Project Engagement Definition



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## ARTICLE IV INTERPRETATION

### APPLICABILITY OF THE MSA

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. The agreement entered into by MCD and the partner shall mutadis mutandis applicable to the MSA for clear interpretation and understanding of the parties.

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:

Signed by:

(Name and designation)

For and on behalf of

Municipal Corporation of Delhi  
(FIRST PARTY)

Signed by:

(Name and designation)

an authorized signatory duly nominated  
Pursuant to Board Resolution No. dated

(SECOND PARTY/PARTNER)

Signed by:

(Name and designation)

For and on behalf of

Respective Department  
(THIRD PARTY)

WITNESSES: