

SERVICE / CONTRACT AGREEMENT

This Service Agreement (hereinafter referred to as “**Agreement**”) is made and entered into on the [●]¹ day of [month], [year] by and between:

Mission Director, National Health Mission, Uttar Pradesh (OR Mission Director, National Health Mission, Uttar Pradesh designated Authorized Representative), established under the [●], represented by its [●] and having its principal offices at [●] (hereinafter referred to as the “**Authority**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) of the **First Part**;

AND

[●], a [●] incorporated under the provisions of the [●]² and having its registered office at [●], (hereinafter referred to as the “**Agency**” which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns and substitutes) of the **Second Part**.

WHEREAS

- A. The Authority had invited proposals vide Request for Proposal Document bearing No. [●] dated [●] (the “**Bid Notice**”) from Agencies for Hiring of Agency for Research, Evaluation (assessment of Schemes/Programs) and Documentation of NHM Programmes;
- B. After evaluation of the Bid(s) received, the Authority had accepted the Financial bid: <.....Financial Bid Quote of the Agency.....> of the Agency and issued a letter of acceptance No. [●] dated [●] (hereinafter called the “**LOA**”) to the Agency requiring, inter alia, the execution of this Agreement;
- C. The Agency has agreed to undertake and perform its obligations with respect to the Project, subject to and on the terms and conditions set forth hereinafter.
- D. The Agency has agreed to meet the requirements and terms and conditions of the Scope of the Project (Article 2) and has been successfully selected by the Authority as per the laid down bidding process in the RFP document.

NOW THEREFORE in consideration of the foregoing and the respective covenants and agreements set forth in this Agreement, the sufficiency and adequacy of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

¹ All project-specific provisions in this document have been enclosed in square parenthesis and may be modified suitably, as necessary

² Reference may be made alternatively to the type of company/society/trust which is setting up the Project



**NATIONAL HEALTH MISSION,
UTTAR PARDESH**



**REQUEST FOR QUALIFICATION (RFQ) CUM REQUEST
FOR PROPOSAL (RFP) BID DOCUMENT**

**HIRING OF AGENCY FOR RESEARCH, EVALUATION
AND DOCUMENTATION OF NHM PROGRAMMES**

PART II – Draft Contract Agreement

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Mission Director, NHM-UP**

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[•], 2017

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1 ARTICLE 1: DEFINITIONS AND INTERPRETATION

1.1 Definitions

The words and expressions beginning with capital letters and defined in this Agreement shall, unless the context otherwise requires, have the meaning ascribed thereto herein, and the words and expressions defined in the Schedules and used therein shall have the meaning ascribed thereto in the Schedules.

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

“Accounting Year” means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year;

“Affected Party” shall have the meaning set forth in Clause 16.1;

“Agency” shall have the meaning attributed thereto in the array of Parties hereinabove as being the Party signing the Contract Agreement with the Authority to provide the required services;

“Agency Default” shall have the meaning set forth in Clause 18.1.1;

“Agreement” means this Agreement, its Recitals, the Schedules hereto and any amendments thereto made in accordance with the provisions contained in this Agreement;

“ANC” means Ante Natal Care;

“Applicable Laws” means all laws, brought into force and effect by Government of India or the State Government of Uttar Pradesh including rules, regulations and notifications made thereunder, and judgements, decrees, injunctions, writs and orders of any court of record, applicable to this Agreement and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement;

“Applicable Permits” shall have the meaning set forth in Clause 23.1.1;

“Appointed Date” means the date on which the Conditions Precedent of both the Parties have been met and shall be deemed to be the date of commencement of the Term;

“Arbitration Act” means the Arbitration and Conciliation Act, 1996 and shall include modifications to or any re-enactment thereof, as in force from time to time;

“ASHA” means Accredited Social Health Activist;

“Assets” means (a) contractually acquired, need based permits for access to the field locations in the form of Authority provided authorization or otherwise; (b) Reports/data/literatures with respect to Studies/Initiatives/Campaigns; (c) assets such as software and licence(s), and Intellectual Properties; (d) all rights of the Agency under the Agreement; (e) financial assets, such as receivables, security deposits etc. (f) physical equipment owned and used by the Agency under this Agreement, and (g) insurance proceeds;

“Associate” or “Affiliate” means, in relation to either Party, a person who is under significant influence of such Party (as used in this definition, the expression “significant influence” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the total share capital of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise);

“Authority” means the Contracting Authority, which is Mission Director, National Health Mission, Uttar Pradesh (OR Authorized Representative designated by the Mission Director, National Health Mission, Uttar Pradesh);

“Authority Default” shall have the meaning set forth in Clause 18.2.1;

“Authority Representative” means such person or persons as may be authorised in writing by the Authority to act on its behalf under this Agreement and shall include any person or persons having Authority to exercise any rights or perform and fulfil any obligations of the Authority under this Agreement;

“AWW” means Anganwadi Worker;

“Bank” means a bank incorporated in India and having a minimum net worth of Rs. 1,000 crores (Rupees One Thousand Crore) or any other bank acceptable to Senior Lenders (if any), but does not include a bank in which any Senior Lender has an interest;

“Bank Rate” means the rate of interest specified by the Reserve Bank of India from time to time in pursuance of Section 49 of the Reserve Bank of India Act, 1934 or any replacement of such Bank Rate for the time being in effect;

“BCC” means Behaviour Change Communication;

“Bid” means the documents in their entirety comprised in the bid submitted by the Agency in response to the request for proposal (RFP) and the provisions thereof;

“Bid Notice” means a notice published on relevant media platform for inviting prospective bidders to participate in a Bid Process;

“Bid Security” means the security provided by the Agency to the Authority along with the Bid in a sum of Rs. [●] Lakh (Rupees [●] Lakh), in accordance with the Bid documents, and which is to remain in force until substituted by the Performance Security;

“CHC” means Community Health Centre;

“Company” means the Company acting as the Agency under this Agreement;

“Commissioning Date” shall mean the date on which the Agency shall commence the work, post the Appointed Date;

“Conditions Precedent” shall have the meaning set forth in Clause 4.1.1;

“Contingency” means a condition or situation that is likely to endanger the individuals within the territorial jurisdiction of the State of Uttar Pradesh;

“Contractor” means the person or persons, as the case may be, with whom the Agency has entered into any contract or any other agreement or contract for provision of the Services or matters incidental thereto, for and on behalf of the Agency. The Agency shall and will remain solely responsible to the Authority for the overall obligations and liabilities of the Contractor engaged under this Agreement;

“Cure Period” means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall:

- (a) commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice;
- (b) not relieve any Party from liability to pay Damages or compensation under the provisions of this Agreement; and
- (c) not in any way be extended by any period of Suspension under this Agreement; provided that if the cure of any breach by the Agency requires any reasonable action by the Agency that must be approved by the Authority hereunder, the applicable Cure Period shall be extended by the period taken by the Authority to accord their approval;

“Damages” shall have the meaning set forth in Sub-Clause (u) of Clause 1.2.1;

“Defect(s)” means any data or documentation error, deficiency or unauthorized action, whether latent or patent in the design, content or quality of services delivered to comply in all respects with the Agreement, including Applicable Laws, Applicable Permits, Performance Parameters and Good Industry Practices;

“Deliverable” shall have the meaning set forth in Clause 2.1;

“DH” means District Hospital;

“Dispute” shall have the meaning set forth in Clause 24.1.1;

“Dispute Resolution Procedure” means the procedure for resolution of Disputes set forth in Article 25;

“Document” or “Documentation” means documentation in printed or written form, or in tapes, discs, drawings, computer programmes, writings, reports, photographs, films, cassettes, or expressed in any other written, electronic, audio or visual form;

“EMTS” means Emergency Medical Transport Services;

“Equipment” means the physical tool or equipment which shall be used by the by the Agency in accordance to the requirement of the services with respect to the terms of this Agreement;

“eVIN” means electronic Vaccine Intelligence Network;

“Expected Output” shall have meaning set forth in Clause 2.1;

“Feedback” shall have the meaning set forth in Clause 2.2;

“FLW” means Frontline Workers;

“Force Majeure” or “Force Majeure Event” shall have the meaning ascribed to it in

Clause 16.1;

“GOI” means the Government of India;

“Good Industry Practice” means the practices, methods, techniques, designs, standards, skills, diligence, efficiency, reliability and prudence which are generally and reasonably expected from a reasonably skilled and experienced Agency engaged in the same type of services as envisaged under this Agreement and which would be expected to result in the performance of its obligations by the Agency in accordance with this Agreement, Applicable Laws and Applicable Permits in reliable, safe, economical and efficient manner;

“Government Instrumentality” means any department, division or sub-division of the Government or the Government of India and includes any commission, board, Government, agency or municipal and other local Government or statutory body including Panchayat under the control of the Government or the Government of India, as the case may be, and having jurisdiction over all or any part of the Equipment or the performance of all or any of the services or obligations of the Agency under or pursuant to this Agreement;

“HBNC” means Home Based Newborn Care;

“HH” means Household;

“IEC” means Information Education Communication;

“Indemnified Party” means the Party entitled to the benefit of an indemnity pursuant to Article 23;

“Indemnifying Party” means the Party obligated to indemnify the other Party pursuant to Article 23;

“Indirect Political Event” shall have the meaning set forth in Clause 16.3;

“Insurance Cover” means the aggregate of the maximum sums insured under the insurances taken out by the Agency pursuant to Article 15, and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable in relation to such act or event;

“JSSK” means Janani-Shishu Suraksha Karyakram;

“Lenders’ Representative” means the person duly authorised by the Senior Lenders to act for and on behalf of the Senior Lenders with regard to matters arising out of or in relation to this Agreement, and includes his successors, assigns and substitutes;

“LOA” means the Letter of Acceptance;

“LOI” means the Letter of Intent issued by the Authority to the Bidder with lowest bid quote in a particular cluster;

“Maintenance Requirements” shall have the meaning set forth in Article 10;

“Material Adverse Effect” means a material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the

provisions of this Agreement and which act or event causes a material financial burden or loss to either Party;

“MDR” means Maternal Death Review;

“Non-Political Event” shall have the meaning set forth in Clause 16.2;

“Maintenance” means the maintenance of the Equipment and includes all matters connected with or incidental to the provision of services in accordance with the provisions of this Agreement;

“NCD” means Non Communicable Diseases;

“NIPi” means National Iron plus Initiative;

“NHM” means National Health Mission;

“NHM, UP” means National Health Mission, Uttar Pradesh;

“NTP” means the ‘Notice to Proceed’ issued by the Authority to the Agency under Clause 4.1.7, to execute work under the Project;

“NQA Certification” means National Quality Assurance Certification;

“NRC” means Nutritional Rehabilitation Centres;

“Parties” means the parties to this Agreement collectively and “Party” shall mean any of the parties to this Agreement individually;

“Payment” or “Deliverables based Payment” or “Milestone based Payment” shall have the meaning set forth under 13.1;

“Payment Authority” shall have the Authority as set forth in Clause 13.1;

“Performance Parameters” shall mean the parameters set forth in Schedule B;

“Performance Security” shall have the meaning set forth in Clause 9.1;

“PHC” means Primary Health Centre;

“Political Event” shall have the meaning set forth in Clause 16.4;

“PPIUCD” means Postpartum Intrauterine Contraceptive Device;

“PRC” means Population Research Centers;

“Project” means the Research, Evaluation (assessment of Schemes/Programs) and Documentation of NHM Programmes in accordance with the provisions of this Agreement, and includes all works and services relating to or in respect of the Scope of the Project;

“PSU” means Primary Sample Unit;

“RBSK” means Rashtriya Bal Swasthya Karyakram;

“Re.”, “Rs.” or “Rupees” or “Indian Rupees” means the lawful currency of the Republic of India;

“RI” means Routine Immunization;

“RMNCH+A” means Reproductive, Maternal, Newborn, Child and Adolescent Health;

“RSK” means Rogi Kalyan Samiti;

“SAM” means Severe Acute Malnutrition;

“Safety Requirements” shall have the meaning set forth in Clause 11.1;

“Scope of the Project” shall have the meaning set forth in Clause 2.1;

“Services” means the Services to be provided by the Agency in accordance with the terms and conditions of the Agreement;

“SNCU” means Sick Newborn Care Unit;

“State” means the State of Uttar Pradesh and “State Government” means the government of that State;

“Suspension” shall have the meaning set forth in Clause 17.1;

“Target Audience” shall have the meaning set forth in Schedule A;

“Taxes” means any Indian taxes including excise duties, customs duties, value added tax, sales tax, local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, materials, equipment and services incorporated in and charged, levied or imposed by any Government Instrumentality, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporate income;

“Term” shall have the meaning set forth in Clause 3.1;

“Termination” means the expiry or earlier termination of this Agreement hereunder;

“Termination Notice” means the communication issued in accordance with this Agreement by one Party to the other Party terminating this Agreement;

“UPHSSP” means Uttar Pradesh Health System Strengthening Project;

“VHND” means Village Health Nutrition Day;

“VHNSC” means Village Health Sanitation & Nutrition Committee;

WIFS means Weekly Iron Folic Acid Supplementation;

“Zone” shall have the meaning set forth in Clause 2.1;

1.2 Interpretation

1.2.1 In this Agreement, unless the context otherwise requires,

- (a) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;
- (b) references to laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;
- (c) references to a “person” and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include successors and assigns;
- (d) the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;
- (e) the words “include” and “including” are to be construed without limitation and shall be deemed to be followed by “without limitation” or “but not limited to” whether or not they are followed by such phrases;
- (f) any reference to any period of time shall mean a reference to that according to Indian Standard Time;
- (g) any reference to day shall mean a reference to a calendar day;
- (h) references to a “business day” shall be construed as a reference to a day (other than a Sunday) on which banks in Lucknow, Uttar Pradesh are generally open for business;
- (i) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;
- (j) references to any date, period or project milestone shall mean and include such date, period or project milestone as may be extended pursuant to this Agreement;
- (k) any reference to any period commencing “from” a specified day or date and “till” or “until” a specified day or date shall include both such days or dates; provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;
- (l) the words importing singular shall include plural and vice versa;
- (m) references to any gender shall include the other and the neutral gender;
- (n) “lakh” means a hundred thousand (1,00,000) and “crore” means ten million

(10,000,000);

- (o) “indebtedness” shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;
 - (p) references to the “winding-up”, “dissolution”, “insolvency”, or “reorganisation” of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, arrangement, protection or relief of debtors;
 - (q) any reference, at any time, to any agreement, deed, instrument, licence or document of any description shall be construed as reference to that agreement, deed, instrument, licence or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this Sub-Clause shall not operate so as to increase liabilities or obligations of the Authority hereunder or pursuant hereto in any manner whatsoever;
 - (r) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effective only if it is in writing under the hand of a duly authorised representative of such Party, as the case may be, in this behalf and not otherwise;
 - (s) the Schedules and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
 - (t) references to Recitals, Articles, Clauses, Sub-Clauses or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-Clauses and Schedules of or to this Agreement, and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Agreement or of the Schedule in which such reference appears; and
 - (u) the damages payable by either Party to the other of them, as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the “Damages”).
- 1.2.2 Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the Agency to the Authority shall be provided free of cost and in three copies, and if the Authority is required to return any such Documentation with their comments and/or approval, they shall be entitled to retain two copies thereof.
- 1.2.3 The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply.
- 1.2.4 Any word or expression used in this Agreement shall, unless otherwise defined or construed in this Agreement, bear its ordinary English meaning and, for these purposes, the General

Clauses Act 1897 shall not apply.

1.3 Measurements and arithmetic conventions

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

1.4 Priority of agreements and errors/discrepancies

1.4.1 This agreement, and all other agreements and documents forming part of this agreement are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this agreement, the priority of this agreement and other documents and agreements forming part hereof shall, in the event of any conflict between them, be in the following order:

1.4.1.1 this agreement; and

1.4.1.2 all other agreements and documents forming part hereof;

i.e. the agreement at Clause 1.4.1.1 above shall prevail over the agreements and documents at Clause 1.4.1.2 above.

1.4.2 Subject to Clause 1.4.1, in case of ambiguities or discrepancies within this Agreement, the following shall apply:

1.4.2.1 between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;

1.4.2.2 between the Clauses of this agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail;

1.4.2.3 between any value written in numerals and that in words, the latter shall prevail.

2 ARTICLE 2: SCOPE OF THE PROJECT

2.1 Project Overview

The Agency shall have to deliver three deliverables which will require Research & Evaluation (assessment of Schemes/Programs), Documentation/Photo Documentation and Video Documentation of identified Best Practices/ Schemes/Programs of NHM, UP under RMNCH+A initiatives and National Programs.

For all deliverables, the Study Indicators shall represent facts and information at the State Level. The work needs to be carried across five (5) Zones of U.P - Western, Central, Eastern, Bundelkhand and Tarai belt. (Refer **Schedule D** for Zone-wise District details). Currently, most of Tarai belt is the part of Uttaranchal but there are districts of U.P. adjacent to Nepal border. The Agency shall execute the scope of work for each of the required Schemes/Programs and deliverables (as detailed under **Schedule A**).

Research, Evaluation (assessment of Schemes/Programs) and Documentation work could involve a combination of desk research, population surveys and analysis of literature / statistical data, or a methodology deemed appropriate to execute the Scope of Work, and would need to be carried out for the identified NHM programmes across all the required Health centres in a District (Sub Centres (SCs), Primary Health Centres (PHCs), Community Health Centres (CHCs), District Hospitals (DHs), etc.), and/or as deemed important to identify and address the required sample size.

The output quality for each deliverable shall rely on the creativity of the Agency in representing qualitative and quantitative data/literature as outcomes.

Summary of the three (3) key deliverables that the Agency will have to deliver is as follows:

- 2.1.1 **Deliverable 01:** Research & Evaluation (Assessment of 13 Schemes/Programs) of NHM UP on RMNCH+A and National Programs.
- 2.1.2 **Expected Output:** A Study report with qualitative and quantitative data compilation with anecdotes and Case studies for each Schemes/Programs. Each Study Report should present complex concepts and findings in an accessible and engaging manner, should have the same “Look and Feel” and should have clear branding and incorporate Logo defined by the Authority. The report shall be submitted in Hard and Soft Copy (.cdr file, .pdf and .docx format), should be of 7,500 – 10,000 words (excluding Annexures) for each of the 13 Schemes/Programs
- 2.1.3 **Deliverable 02:** Evidence based Documentation/Photo Documentation of best practices of NHM, UP on RMNCH+A and National Programs for 10 Schemes/Programs
- 2.1.4 **Expected Output:** A Well designed document based on detailed evidence based information, process details, anecdotes, Case studies/stories for each Schemes/Programs. Each Document should present complex concepts and findings in an accessible and engaging manner, should incorporate Visual Contents, should have the same “Look and Feel” and should have clear branding and incorporate Logo defined by the Authority. The document shall be submitted in Hard and Soft Copy (.cdr file, .pdf and .docx format) & 200 High Resolution pictures (Each Photograph should have clear branding and incorporate Logo defined by the Authority) in .jpeg file format (in

digital format) need to be submitted for each of the 10 Schemes/Programs.

2.1.5 **Deliverable 03:** Video Documentation of best practices of 07 NHM, UP Schemes/Programs

2.1.6 **Expected Output:** A 5-8 minutes short, crisp, well edited, very creative video with clear messages for each Schemes/Programs. Each Video should have the same “Look and Feel” or “Visual Concept and Interpretation” and should have clear branding and incorporate Logo defined by the Authority. The video shall be submitted in .mp4 format and in a format compatible for uploading into the Websites, YouTube, Social media sites and need to be of at least 1080p resolution (Full High Definition) for each of the 07 Schemes/Programs.

The detailed List of Schemes/Programs for Deliverables 01, 02 & 03 has been mentioned in **Schedule A**. This shall be the part of Scope of Work. The Authority depending on requirement and in consultation with the Agency, may amend the list of Schemes/Programs, without changing the total number of Schemes/Programs for each Deliverable.

2.2 Scope of Work

The obligations of the Agency under this contract shall include following service activities and commitments.

2.2.1 Detailed Scope of Work for Deliverable 01: Research & Evaluation (Assessment of 13 Schemes/Programs)

The Agency shall have to perform the following steps for each of the 13 Schemes/Programs in consideration:

2.2.1.1 Review of Literature and Study Design

2.2.1.1.1 Desk review and collection of data/literature/reports/documents/audio-video data from the Authority or its Authorized representative(s)

2.2.1.1.2 Review the collected data and submit a Brief Report to the Authority or its Authorized representative(s)

2.2.1.1.3 Submission of a detailed Study Design [which should include the following: Objective, Target Audience, Coverage Area, Sample Size, Methodology, Outcome indicators, considering the Standard protocols/method/indicators of Research] to the Authority or its Authorized representative(s). The Agency shall proceed with this deliverable only after written approval from the Authority or its Authorized representative(s).

2.2.1.2 Research and Survey (Qualitative & Quantitative)

2.2.1.2.1 Development of Final Study Design and Tools for Qualitative and Quantitative Research for each of the 13 Schemes/Programs to be performed at District, Block, Facility, and Community Levels in consultation with Authority or its Authorized representative(s)

2.2.1.2.2 The Agency would need to conduct Field Survey Visits as per the approved Study Design

- 2.2.1.2.3 To get authorization and approval for the Field Visit Plan for each of the 13 Schemes/Programs from Authority or its Authorized representative(s)
- 2.2.1.2.4 Field visits, Qualitative and Quantitative Data Collection from the selected/identified District, Block, Facility, and Community Levels
- 2.2.1.2.5 Entry of Collected Data in a Standard Data collection format and use of Statistical and Analytical Software Packages for in-depth analysis
- 2.2.1.3 Analysis of Data and Draft Report
 - 2.2.1.3.1 Prepare an Analysis Plan for Tool
 - 2.2.1.3.2 Review and analysis of findings of Qualitative and Quantitative Research
 - 2.2.1.3.3 Development of Draft Outline of the report in consultation with Authority or its Authorized representative(s)
 - 2.2.1.3.4 Development and submission of first draft of Report for Feedback to Authority or its Authorized representative(s)
 - 2.2.1.3.5 Incorporation of Feedback received from Authority or its Authorized representative(s) and submission of Second Designed Draft Report for Feedback and Finalization to Authority or its Authorized representative(s)
- 2.2.1.4 Finalization of Document and Final Submission
 - 2.2.1.4.1 Incorporation of Feedback received from Authority or its Authorized representative(s) and submission of Final Designed Document as per the mentioned format(s)
- 2.2.2 **Detailed Scope of Work for Deliverable 02: Evidence based Documentation/Photo Documentation**

The Agency shall have to perform the following steps for each of the 10 Schemes/Programs in consideration:

 - 2.2.2.1 Collection of Content, Review of literature, Outline of Report
 - 2.2.2.1.1 Collection of data/literature/reports/document/audio-video data from the Authority or its Authorized representative(s)
 - 2.2.2.1.2 Review the collected data and submit a Brief Report to the Authority or its Authorized representative(s)
 - 2.2.2.1.3 Submission of a detailed Outline of Report [which should at least include: Layout, Structure, Coverage Area, Sample Size, Methodology, Target Audience for Case Studies and Stories] to the Authority or its Authorized representative(s). The Agency shall proceed with this deliverable only after written approval from the Authority or its Authorized representative(s).

2.2.2.2 Field Visit for Case Studies, Stories, Data from Field

2.2.2.2.1 Prepare Field Visit Plan to collect data, capture Case Studies and stories from selected/identified District, Block, Facility, and Community Levels in consultation with Authority or its Authorized representative(s)

2.2.2.2.2 To get authorization and approval for the Field Visit Plan from Authority or its Authorized representative(s)

2.2.2.2.3 Field Visits and Data collection from District, Block, Facility, and Community Levels

2.2.2.3 Photo-shoot

2.2.2.3.1 Prepare Photo-shoot Plan to capture High Resolution Photographs about the Schemes/Programs at selected/identified District, Block, Facility, and Community Levels in consultation with Authority or its Authorized representative(s)

2.2.2.3.2 To get authorization and approval for the Photo-shoot Plan and Schedule of Field Visit from Authority or its Authorized representative(s)

2.2.2.3.3 Photo-shoot to capture High Resolution Photographs about the Schemes/Programs as per the Shoot Plan at District, Block, Facility, and Community Levels

2.2.2.3.4 Post processing/editing of captured High Resolution Photographs as per the standard industry practices

2.2.2.4 Analysis of Data and First Draft Report

2.2.2.4.1 Review, collation and analysis of findings of Field Visit

2.2.2.4.2 Development of Draft Outline of the report in consultation with Authority or its Authorized representative(s)

2.2.2.4.3 Development and submission of first draft of Report and Photographs for Feedback to Authority or its Authorized representative(s)

2.2.2.4.4 Incorporation of Feedback received from Authority or its Authorized representative(s) and submission of Second Designed Draft Report and Photographs for Feedback and Finalization to Authority or its Authorized representative(s)

2.2.2.5 Finalization of Document and Final Submission

2.2.2.5.1 Incorporation of Feedback received from Authority or its Authorized representative(s) and submission of Final Designed Document and High Resolution Photographs (in digital format) as per the mentioned format(s).

2.2.2.5.2 The Final Submitted Photographs should be well organized, properly labelled with description of the captured Schemes/Programs, along with description of place and individual(s) whose Photograph has been taken (This should match with the consent form of individual(s) whose Photograph has been taken)

2.2.2.5.3 For Example: The Description of the Photograph(s) captured for Janani Shishu Suraksha Yojna (JSSY) at Kanpur, CHC-Nawabpur of Ms. Urmila Devi shall be labelled as JSSY_KANPUR_CHC_NAWABPUR_URMILA_DEVI_01, JSSY_KANPUR_CHC_NAWABPUR_URMILA_DEVI_02 etc

2.2.3 Detailed Scope of Work for Deliverable 03: Video Documentation

The Agency shall have to perform the following steps for each of the 07 Schemes/Programs in consideration:

2.2.3.1 Review of Literature provided by Authority to develop the Script Outline and Shoot Plan

2.2.3.1.1 Collection of data/literature/reports/document/audio-video data from the Authority or its Authorized representative(s)

2.2.3.1.2 Review the collected data and submit a Brief Report to the Authority or its Authorized representative(s)

2.2.3.1.3 Submission of a detailed Script Outline [which should at least include: Layout, Structure, Coverage Area, Sample Size, Methodology, Target Audience for Case Studies and Stories] to the Authority or its Authorized representative(s). The Agency shall proceed with this deliverable only after written approval from the Authority or its Authorized representative(s).

2.2.3.1.4 Prepare Shoot Plan at selected/identified District, Block, Facility, and Community Levels in consultation with Authority or its Authorized representative(s)

2.2.3.1.5 To get authorization and approval for the Shoot Plan and Schedule of Field Visit from Authority or its Authorized representative(s)

2.2.3.2 Video Documentation and submission of Story board and First cut of video

2.2.3.2.1 Video Recording about the Activity/Capture as per the Shoot Plan at District, Block, Facility, and Community Levels

2.2.3.2.2 Development of Story Board of the video in consultation with Authority or its Authorized representative(s)

2.2.3.2.3 Post processing/Editing/Mixing of the recorded videos as per the standard industry practices and submission of First cut of video for Feedback to Authority or its Authorized representative (s)

2.2.3.2.4 Incorporation of Feedback received from Authority or its Authorized representative(s) and submission of Second cut of well edited & creative video for Feedback and Finalization to Authority or its Authorized representative(s)

2.2.3.3 Finalization of Deliverable and Final Submission of the Videos

2.2.3.3.1 Incorporation of Feedback received from Authority or its Authorized representative(s) and submission of Final Video(s) (in at least 1080p resolution) (Full High Definition) as per the mentioned format(s)

2.2.4 Formats of the Final Submission of Report/Documents/Photographs/Videos:

2.2.4.1 The Agency shall submit each designed document/report [should be of 7,500 – 10,000 words (excluding Annexures) with normal readable Font size] in Hard and Soft Copy (.cdr file, .pdf and .docx format) for each of the 13 Schemes/Programs mentioned in Deliverable 01 and of each of the 10 Schemes/Programs mentioned in Deliverable 02

2.2.4.2 The Agency shall submit at least 200 High Resolution pictures in .jpeg file format (in digital format) for each of the 10 Schemes/Programs mentioned in Deliverable 02

2.2.4.3 The Final Submitted Photographs should be well organized, properly labelled with description of the captured Schemes/Programs, along with description of place and individual(s) whose Photograph has been taken (This should match with the consent form of individual(s) whose Photograph has been taken)

2.2.4.4 For Example: The Description of the Photograph(s) captured for Janani Shishu Suraksha Yojna (JSSY) at Kanpur, CHC-Nawabpur of Ms. Urmila Devi shall be labelled as JSSY_KANPUR_CHC_NAWABPUR_URMILA_DEVI_01, JSSY_KANPUR_CHC_NAWABPUR_URMILA_DEVI_02 etc

2.2.4.5 The Agency shall submit the video in .mp4 format and in a format compatible for uploading into the Websites, YouTube, Social media sites and need to be of at least 1080p resolution (Full High Definition) for each of the 07 Schemes/Programs mentioned in Deliverable 03

2.2.5 As a part of Scope of Work, the Agency

2.2.5.1 Shall be responsible to develop the documentation, study plan and sample design, data collection, field visit, compilation and analysis for the identified issues on RMNCH+A required for the State that they are assigned to implement

2.2.5.2 Shall be responsible to share and get a written approval of all study plan, draft reports outline and any scripts from Authority or its Authorized representative(s) for quality check before going into field

2.2.5.3 Shall be responsible for getting Applicable Permits based upon the submitted Field Visit Work from the Authority or its Authorized representative(s). The Agency shall not be allowed to go ahead with the field visit work without any prior approvals/applicable permits.

2.2.5.4 Shall sort out on its own, in-case any issue which may arise relating to Field Visit. Authority or its authorized representatives will not be responsible for it unless and until it channelled through appropriate authority.

2.2.5.5 Shall be responsible for payment of toll/octroi tax or any other tax as applicable by law of the land.

2.2.5.6 Shall MANDATORILY get prior consent in writing from each individual who shall be the part of the Photographs or Videos.

2.2.5.7 Shall be allowed to hire External Consultant / Domain Expert for providing relevant

expertise before Bid Submission date.

- 2.2.5.8 Shall ensure that it deploys sufficient number of qualified human resources to complete all deliverables within specified timelines.
- 2.2.5.9 Shall submit, in a staggered manner, the ‘first draft of report’ and ‘Finalization of document and final submission’ for the Schemes/Programs for Deliverables 01 & 02, in order to facilitate thorough review by the Authority and/or its representatives.
- 2.2.5.10 Shall submit, in a staggered manner, the ‘first cut of shoot’ and ‘Finalization of deliverable’ for the Schemes/Programs for Deliverable 03, in order to facilitate thorough review by the Authority and/or its representatives.

2.3 Change of Scope

- 2.3.1 The Authority may, notwithstanding anything to the contrary contained in this Agreement, either require the provision of additional Services with respect to the whole project at large or any particular facility, which is not included in the Scope of the Project under this Agreement or decide to delete any service from the Scope with respect to the whole project at large or any particular facility (“**Change of Scope**”).
- 2.3.2 In the event of the Authority determining that a Change of Scope is necessary, it shall issue to the Agency a notice specifying in reasonable detail the services contemplated thereunder (the “**Change of Scope Notice**”).
- 2.3.3 In the event that a Change of Scope Notice is issued, the Agency shall communicate in writing to the Authority, within 15 days, the resultant impact (increase or decrease) on the Delivery Milestone and Deliverable Payment payable to the Agency with respect to the work to be executed under Change of Scope Notice. Upon receipt of the said communication in writing from the Agency, the Authority shall analyse the impact on work and cost, and, the Parties shall, not later than 30 days from the date of issuance of Change of Scope Notice, agree on the terms regarding the execution of work under Change of Scope Notice.

3 ARTICLE 3: TERM OF AGREEMENT

3.1 Term

- 3.1.1 Subject to and in accordance with the provisions of this Agreement, the Applicable Laws and the Applicable Permits and Good Industry Practice, the Authority hereby grants to the Agency and the Agency hereby accepts the exclusive right, license and authority to provide the required Services as per the Scope of Work defined in this Agreement, during the subsistence of this Agreement for a period of **1 (One) year** (or early termination by a Termination Notice in accordance with this Agreement) commencing from the Appointed Date (the “**Term**”), and to exercise and/or enjoy the rights, power, privileges and entitlements as set forth in this Agreement and implement the Project, subject to and in accordance with the terms and conditions set forth herein.

4 ARTICLE 4: CONDITIONS PRECEDENT

4.1 Conditions Precedent

- 4.1.1 Save and except as expressly provided in this Agreement, the respective rights and obligations of the Parties under this Agreement shall come into effect upon the satisfaction in full of the conditions precedent specified in this Clause 4.1 (the “**Conditions Precedent**”).
- 4.1.2 The Agency may, upon fulfilling the Conditions Precedent in Clause 4.1 require the Authority to satisfy any or all of the Conditions Precedent set forth in Clause 4.1.3 within a period of 21 (Twenty-one) days of receiving of notice for Award of Contract or the Letter of Intent (LOI).
- 4.1.3 The Conditions Precedent required to be satisfied by the Authority shall be deemed to have been fulfilled when the Authority shall have issued to the Agency a Notice to Proceed (“**NTP**”), to begin work under the Agreement
- 4.1.4 The Conditions Precedent required to be satisfied by the Agency shall be deemed to have been fulfilled when the Agency shall have provided Performance Security to the Authority;
- 4.1.5 Upon request in writing by any of the parties, the other party may, in its discretion, waive any of the Conditions Precedent set forth in this Article 4 or permit additional time to meet any of the Conditions Precedent set forth in this Article 4;
- 4.1.6 Each Party shall promptly inform the other Party when any Condition Precedent for which it is responsible has been satisfied.
- 4.1.7 The date on which the Condition Precedents are satisfied by the Authority and Agency shall be the “Appointed Date” for the Agreement.

5 ARTICLE 5: RIGHTS AND OBLIGATIONS OF THE AGENCY

5.1 Obligations of the Agency

- 5.1.1 Subject to and on the terms and conditions of this Agreement, the Agency shall at its cost and expense undertake to fulfil all the requirements of Scope of the Project, as per Article 2, and observe, fulfil, comply with and perform all its obligations set out in this Agreement or arising hereunder.
- 5.1.2 The Agency shall comply with all Applicable Laws and Applicable Permits (including renewals as required) in the performance of its obligations under this Agreement.
- 5.1.3 Subject to Clauses 5.1.1 and 5.1.2, the Agency shall discharge its obligations in accordance with Good Industry Practices and as a reasonable and prudent person.
- 5.1.4 The Agency hereby accepts and agrees to discharge obligations herein and provide the Services, subject to and in accordance with the terms and conditions set forth herein
- 5.1.5 Shall not conduct any other business while performing its tasks during the Field visit work, outside the nature and scope of work under this Agreement.
- 5.1.6 Shall not misuse the Information / Data / Photographs / Video gathered from Fields, Research, Analysis or from the outcome of findings in the final Report / Document / Photo Documentation / Video Documentation.
- 5.1.7 Shall not express or confirm to any view or opinion externally, on the findings or outcomes of the project deliverables
- 5.1.8 Subject to and in accordance with the provisions of this Agreement, the Agency shall be obliged or entitled (as the case may be) to:
- 5.1.8.1 Right of Way, “only contractually required and need based” access rights and permits to the locations of work, as per requirement of this Agreement for the purpose of and to the extent conferred by the provisions of this Agreement for performing and fulfilling all of the Agency’s obligations under this Agreement;
- 5.1.8.2 The Agency shall provide Services as per the terms and conditions of this Agreement, Applicable Laws, Applicable Permits Performance Parameters and Good Industry Practice.
- 5.1.8.3 Bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations of the Agency under this Agreement;
- 5.1.8.4 On and from the date of commencement of services and during the Term, the Agency shall have the right to demand, charge, retain, appropriate ‘Payment’, based on deliverables / delivery milestones and in accordance with the provisions of this Agreement;
- 5.1.8.5 Perform and fulfil all of the Agency's obligations in accordance with this Agreement including any mentioned Specifications and Standards, Applicable Laws, Applicable

Permits and Good Industry Practice;

- 5.1.8.6 Exercise such other rights and obligations as the Authority may determine as being necessary or desirable, for the purpose incidental and necessary for implementing the Project.
- 5.1.8.7 The Agency shall mandatorily deploy the Project Leader and Core Team Members, whose experience has been claimed by the Agency in Technical Evaluation. No change in Project Leader and/or Core Team Members is allowed, only exception being an Employee leaving employment with the Agency. In-case the Project Leader and/or any of the Core Team Members leave employment with the Agency, then they shall be replaced by another resource having same qualification and experience.
- 5.1.9 The Agency shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this Agreement:
- 5.1.9.1 make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars and details, as may be required for obtaining all Applicable Permits and obtain and keep in force and effect such Applicable Permits in conformity with the Applicable Laws;
- 5.1.9.2 procure, as required, the appropriate proprietary rights, licences, agreements and permissions for materials, methods, processes and systems used or incorporated in the Project and in line with the scope of work detailed in Article 2;
- 5.1.9.3 provide Services as per Service and Operations Requirements defined in Schedule B of this Agreement;
- 5.1.9.4 make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Contractors in connection with the performance of its obligations under this Agreement;
- 5.1.9.5 ensure and procure that its Contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the Agency's obligations under this Agreement;
- 5.1.9.6 not do or omit to do any act, deed or thing which may in any manner be in violation of any of the provisions of this Agreement;
- 5.1.9.7 support, cooperate with and facilitate the Authority in the implementation and operation of the Project in accordance with the provisions of this Agreement.

5.2 Employment of Foreign Nationals

The Agency acknowledges, agrees and undertakes that employment of foreign personnel by the Agency and/or its Contractors and their sub- contractors shall be subject to grant of requisite regulatory permits and approvals including employment/residential visas and work permits, if any required, and the obligation to apply for and obtain the same shall and will always be of the Agency and, notwithstanding anything to the contrary contained in this Agreement, refusal of or inability to obtain any such permits and approvals by the Agency or any of its Contractors or sub-contractors shall not constitute Force Majeure Event, and

shall not in any manner excuse the Agency from the performance and discharge of its obligations and liabilities under this Agreement. In the event the Agency fails to comply with this clause, it shall be subject to Indemnity Clause under Article 23.

5.3 Employment of trained personnel

The Agency shall ensure that the personnel engaged by it in the performance of its obligations under this Agreement are at all times properly trained and skilled for their respective functions.

6 ARTICLE 6: OBLIGATIONS OF THE AUTHORITY

6.1 Obligations of the Authority

- 6.1.1 The Authority shall, at its own cost and expense, undertake, comply with, and perform all its obligations set out in this Agreement or arising hereunder.
- 6.1.2 The Authority agrees to facilitate project delivery and provide support to the Agency and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and the Applicable Laws, the following:
- 6.1.2.1 Upon written request from the Agency, and subject to the Agency complying with Applicable Laws, provide all reasonable support and assistance to the Agency in procuring Applicable Permits required from any Government Instrumentality for implementation of the Project;
- 6.1.2.2 Undertake to coordinate with the concerned authorities and other departments to issue appropriate instructions to the field officers of these departments for making available required assistance and resources to the Agency towards the discharge of its obligations as per this Agreement;
- 6.1.2.3 Not do or omit to do any act, deed or thing which may in any manner be in violation of any of the provisions of this Agreement;
- 6.1.2.4 Support, cooperate with and discharge its obligations to facilitate the Agency in performing its obligations in accordance with the provisions of this Agreement; and
- 6.1.2.5 Upon written request from the Agency, provide reasonable assistance to the Agency or its Contractors to obtain applicable visas and work permits for the purposes of discharge by the Agency or its Contractors their obligations under this Agreement.
- 6.1.2.6 Ensure timely payments to the Agency in accordance with the provisions of this Agreement;
- 6.1.2.7 Provide information, data and relevant reports of the Schemes/Programs of NHM, UP on RMNCH+A and National Programs to the Agency;
- 6.1.2.8 Appoint a Project Management Committee (PMC) which shall,
- 6.1.2.8.1 Review and approve Methodology for Documentation and Study Design;
- 6.1.2.8.2 Review and provide approvals for the Study Plan, Draft Report Outline and Script of the Agency for Quality Check;
- 6.1.2.8.3 Provide feedback upon submission of Draft Documentation / Reports / Photograph / Videos to the Agency within a desirable timeframe;
- 6.1.2.8.4 Approve the Final submission of Documentation / Reports / Photograph / Videos as required for each Schemes/Programs, which shall make basis for Payment to the Agency.

- 6.1.2.9 Provide required approval and permission to Agency for Field Visit, Interviews, Surveys, Photography or Videography as per the requirement.

7 ARTICLE 7: REPRESENTATIONS AND WARRANTIES

7.1 Representations and Warranties of the Agency

The Agency represents and warrants to the Authority that:

- 7.1.1 it is duly organised and validly existing under the laws of India, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- 7.1.2 it has taken all necessary corporate and other actions under Applicable Laws to authorise the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- 7.1.3 it has the financial standing and capacity to undertake the Project and discharge obligations hereunder, in accordance with the terms of this Agreement;
- 7.1.4 this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;
- 7.1.5 it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunder including any obligation, liability or responsibility hereunder;
- 7.1.6 the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its Memorandum and Articles of Association or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- 7.1.7 there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;
- 7.1.8 it has not violated or committed any default, or has no knowledge of any violation or default, with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any material, adverse effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;
- 7.1.9 it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Agreement;
- 7.1.10 no representation or warranty by it contained herein or in any other document furnished by it to the Authority or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will

omit to state a material fact necessary to make such representation or warranty; and

- 7.1.11 no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the Project or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Authority in connection therewith.

7.2 Representations and Warranties of the Authority

The Authority represents and warrants to the Agency that:

- 7.2.1 it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;
- 7.2.2 it has taken all necessary actions under the Applicable Laws to authorise the execution, delivery and performance of this Agreement;
- 7.2.3 it has the financial standing and capacity to perform its obligations under the Agreement;
- 7.2.4 this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- 7.2.5 there are no actions, suits or proceedings pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the default or breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform its obligations under this Agreement;
- 7.2.6 it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on the Authority's ability to perform its obligations under this Agreement;
- 7.2.7 it has complied with Applicable Laws in all material respects;
- 7.2.8 all information provided by it in the Bid Notice and invitation to bid in connection with the Project is, to the best of its knowledge and belief, true and accurate in all material respects;
- 7.2.9 upon the Agency submitting the Performance Security and performing the covenants herein, it shall not at any time during the term hereof, interfere with peaceful exercise of the rights and discharge of the obligations by the Agency, in accordance with this Agreement.

7.3 Disclosure

In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any obligation of either Party under this Agreement.

8 ARTICLE 8: DISCLAIMER

8.1 Disclaimer

- 8.1.1 The Agency acknowledges that prior to the execution of this Agreement, the Agency has, after a complete and careful examination, made an independent evaluation of the Bid Notice, Scope of the Project, local conditions, and all information provided by the Authority or obtained procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. Save as provided in Clause 7.2, the Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy and/or completeness of the information provided by it and the Agency confirms that it shall have no claim whatsoever against the Authority in this regard.
- 8.1.2 The Agency acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above and hereby acknowledges and agrees that the Authority shall not be liable for the same in any manner whatsoever to the Agency or any person claiming through or under any of them.

9 ARTICLE 9: PERFORMANCE SECURITY

9.1 Performance Security

The successful bidder shall furnish within 21 days of receiving of Notice for Award of Contract a Performance Security in the form of an irrevocable and unconditional Bank Guarantee issued by a Nationalized Bank/Scheduled Bank in favour of the **State Health Society, Uttar Pradesh** for an amount of **Rs. 15,00,000 (Rupees Fifteen Lakhs)**.

Until such time (i.e. within 21 days of receiving of Notice for Award of Contract) that the Performance Security is provided by the Agency pursuant hereto and the same comes into effect, the Bid Security shall remain in force and effect, and upon such provision of the Performance Security pursuant hereto, the Authority shall release the Bid Security to the Agency.

The Bank Guarantee shall be as per proforma given in “**Schedule C**” and **will remain in force up to and including 180 (One Hundred and Eighty) days** after the end of contract. Failing the submission of Performance Security within 21 days of receiving of Notice for Award of Contract, the EMD may be forfeited and the Contract may be cancelled.

Population Research Centers (PRCs) or any such Agency/Organization, being fully funded (grants-in-aid) and recognized by the MoHFW, Govt. of India/State Govt., are exempted from submission of Performance Security. Consortium where the Lead Member is a Population Research Center (PRC) or Consortium where the Lead Member is any such Agency/Organization, being fully funded (grants-in-aid) by the MoHFW, Govt. of India/State Govt., shall also be exempted from submission of Performance Security.

9.2 Appropriation of Performance Security

Upon occurrence of an Agency Default during the Term, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the Performance Security as Damages/Liquidated Damages for such Agency Default. Upon such encashment and appropriation from the Performance Security, the Agency shall, within 30 (thirty) days thereof, replenish, in case of partial appropriation, to its original level the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, and the Agency shall, within the time so granted, replenish or furnish fresh Performance Security as aforesaid failing which the Authority shall be entitled to terminate this Agreement in accordance with Article 18. Upon replenishment or furnishing of a fresh Performance Security, as the case may be, as aforesaid, the Agency shall be entitled to an additional Cure Period of 30 (thirty) days for remedying the Agency Default, and in the event of the Agency not curing its default within such Cure Period, the Authority shall be entitled to encash and appropriate such Performance Security as Damages/Liquidated Damages, and to terminate this Agreement in accordance with Article 18.1.

9.3 Release of Performance Security

The Performance Security shall be released within **180 (One Hundred and Eighty) days**, post expiry of the Term.

10 ARTICLE 10: MAINTENANCE OF EQUIPMENT

10.1 Maintenance Obligations of the Agency

During the Term of the Agreement, or any extension thereof, the Agency shall be required to maintain, repair and replace any Equipment it is using for performing its duties, at its own cost. The Authority shall not bear any cost or resultant loss associated for maintenance, repair or replacement of the Equipment used by the Agency.

11 ARTICLE 11: SAFETY REQUIREMENTS

11.1 Safety Requirements

The Agency shall comply with the provisions of this Agreement, Applicable Laws and Applicable Permits and conform to Good Industry Practice for securing the safety of the deployed staff of Agency and its supporting equipment. The Agency shall also ensure that the execution of this Contract doesn't create safety concerns or hazards for those involved with the work or for the surroundings of work.

11.2 Expenditure on Safety Requirements

All costs and expenses arising out of or relating to Safety Requirements shall be borne by the Agency to the extent such costs and expenses form part of the works and services included in the Scope of the Project, and works and services, if any, not forming part of the Scope of the Project shall be undertaken in accordance with the provisions of Article 10. Costs and expenses on works and services not covered hitherto before and arising out of Safety Requirements (per **Clause 11.1**) shall be borne by the Authority.

12 ARTICLE 12: MONITORING OF SERVICES

12.1 Monitoring of Services

- 12.1.1 The Authority shall review and approve, the Study Design / Methodology for proper sampling / Outline of Report / Field Visit Plan and its Schedule / Script Outline submitted by the Agency. The Agency shall proceed its further work only upon approval from Authority.
- 12.1.2 The Authority shall review and provide timely feedback for each submission of Reports / Documents / Photo Documentation / Video Documentation by the Agency. If the Authority is unable to provide feedback within 21 days of such submission, it shall be deemed accepted and approved by Authority.

13 ARTICLE 13: PERIODICITY AND METHODOLOGY OF PAYMENT

13.1 Payment Terms

13.1.1 The Mission Director, NHM, UP will be the Paying Authority.

13.1.2 “Payment” will be linked to the following delivery milestones. The milestones may be achieved in any logical order of completion.

S.No.	Deliverables	Timeline (in months)	Payment %
1	<i>Deliverable 01: Research & Evaluation (assessment of Schemes/Programs)</i>	<i>T+10</i>	<i>50%</i>
1.1	Review of literature, Study design and development of tools	T+1	5%
1.2	Research and Survey (Qualitative & Quantitative)	T+7	10%
1.3	Analysis of data and first draft report	T+9	15%
1.4	Finalization of document and final submission	T+10	20%
2	<i>Deliverable 02: Documentation/Photo Documentation</i>	<i>T+6</i>	<i>25%</i>
2.1	Collection of content, Review of literature, Outline of report	T+1	2.5%
2.2	Field Visit for case studies, stories, data from field	T+2	5%
2.3	Photo-shoot	T+3	5%
2.4	Analysis of data and first draft report	T+5	5%
2.5	Finalization of document and final submission	T+6	7.5%
3	<i>Deliverable 03: Video Documentation</i>	<i>T+4</i>	<i>25%</i>
3.1	Review of literature, Script Outline and shoot plan	T+1	5%
3.2	Video Documentation and submission of story board and first cut of shoot	T+3	10%
3.3	Finalization of Deliverable	T+4	10%

Note:

- (i) *T will be the day on which the selected Agency shall commence the work, which shall be within Thirty (30) days of signing of Contract Agreement between Authority and the successful Bidder.*
- (ii) **Deliverable 02: Agency will submit first draft report of minimum 2 (two) Schemes/Programs within two months of commencement of work (T), and shall make final submission after incorporation of feedback from Authority or its Authorized representatives for the 2 (two) Schemes/Programs within three months of commencement of work (T).*
- (iii) ***Deliverable 03: Agency will submit first cut of shoot, of minimum 2 (two) Schemes/Programs within one month of commencement of work (T) and final submission after incorporation of feedback from Authority or its Authorized Representatives for the 2 (two) Schemes/Programs within two months of commencement of work (T).*
- (iv) *The 2 (two) Schemes/Programs each for Deliverable 02 and 03, have been asked earlier, in order to review the quality of Deliverables being produced by the Agency and to address any major gaps and align the Agency to Authority’s expectations, early on in the Project.*

13.1.3 The Agency shall submit a Self-Declaration Form after completion of each milestone, along with the corresponding Reports/Documents/Photographs/Videos and invoice to the Paying

Authority.

- 13.1.4 The Paying Authority can raise objection within 07 days of receipt of Self-Declaration Form along with the corresponding Reports/Documents/Photographs/Videos and invoice and subsequent to which the verification claim will be considered approved if no objection is raised.
- 13.1.5 In case objection is raised by the Paying Authority, it can investigate the concerns with its authorized representative(s) and the same will have to be addressed by the Agency before its claim can be considered to be approved.
- 13.1.6 After receipt of approved verification report and receipt of invoice from the authorized representative(s), Self-Declaration Form and corresponding Report/ Document from the Agency, the Paying Authority shall make **90%** of the corresponding milestone linked payment within 30 days of receipt of verification report & invoice or after 30 days of resolution of dispute, whichever is later.
- 13.1.7 10% of the corresponding milestone linked payment will be withheld and will be released after successful completion of milestones “Finalization of Document and Final submission” for Deliverables 01 or 02 or “Finalization of Deliverable and Final Submission of the Videos” for Deliverable 3 AND Adjustment for penalties, if any.
- 13.1.8 The payment will be subject to all Statutory Taxes, Tax Deducted at Source (TDS), as per prevailing Applicable taxes and laws.
- 13.1.9 The Agency hereby acknowledges and agrees that it is not entitled to any revision of the Payment Terms or other relief from the Authority except in accordance with the express provisions of this Agreement.
- 13.1.10 In case the Authority discovers that any overpayment has been made to the Agency, the Authority shall be entitled to seek adjustment/reimbursement of such overpayments from the Payment due for the deliverable/delivery milestone.

13.2 Penalty due to non-conformance to the Service Requirements:

- 13.2.1 The Authority would be entitled to deduct amount due to the Agency for the Term of this Agreement, as per Schedule B, if the Agency fails to meet the Service Requirements set out in this Agreement (with performance specific parameters under Schedule B).

14 ARTICLE 14: INTELLECTUAL PROPERTY RIGHTS

- 14.1** The Authority shall be and remain the owner of all the ideas and/or content conceptualized, created, and implemented by the Agency under this Project. All Intellectual Property Rights in the said ideas and/or content whether in tangible or intangible form shall belong to the Authority and the Agency has no right to assign, Licence, sell, or use, create third party interest in respect of, or transfer in any manner any content conceptualized, created and implemented under this Contract Project and/or the intellectual property therein, to any third party under any circumstances.
- 14.2** All the content conceptualized, created and implemented by the Agency whether in tangible or intangible form shall bear relevant Copyright notices as instructed by the Authority.
- 14.3** The Agency shall take all such appropriate legal actions to safeguard violation of the Authority's Intellectual Property Rights, if any.

15 ARTICLE 15: INSURANCE

15.1 Insurance during Term

The Agency shall effect and maintain at its own cost, during the Term, such insurances for such maximum sums as may be required under the Applicable Laws, and such insurances as may be necessary or prudent in accordance with Good Industry Practice (the “Insurance Cover”). The Agency shall also effect and maintain such insurances as may be necessary for mitigating the risks that may devolve on the Authority as a consequence of any act or omission of an act by the Agency or omission by any Third Party during the Term.

15.2 Waiver of subrogation

All insurance policies in respect of the insurance obtained by the Agency pursuant to this Article 15 shall include a waiver of any and all rights of subrogation or recovery of the insurers thereunder against, inter alia, the Authority, and its assigns, successors, undertakings and their subsidiaries, affiliates, employees, insurers and underwriters, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.

15.3 Agency’s waiver

The Agency hereby further releases, assigns and waives any and all rights of subrogation or recovery against, inter alia, the Authority and its assigns, undertakings and their subsidiaries, affiliates, employees, successors, insurers and underwriters, which the Agency may otherwise have or acquire in or from or in any way connected with any loss, liability or obligation covered by policies of insurance maintained or required to be maintained by the Agency pursuant to this Agreement (other than third party liability insurance policies) or because of deductible Clauses in or inadequacy of limits of any such policies of insurance.

16 ARTICLE 16: FORCE MAJEURE

16.1 Force Majeure

As used in this Agreement, the expression “Force Majeure” or “Force Majeure Event” shall mean occurrence in India of any or all of Non-Political Event, Indirect Political Event and Political Event, as defined in Clauses 16.2, 16.3 and 16.4 respectively, if it affects the performance by the Party claiming the benefit of Force Majeure (the “Affected Party”) of its obligations under this Agreement and which act or event (i) is beyond the reasonable control of the Affected Party, and (ii) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (iii) has Material Adverse Effect on the Affected Party.

16.2 Non-Political Event

A Non-Political Event shall mean one or more of the following acts or events:

- 16.2.1 act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionising radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion);
- 16.2.2 strikes or boycotts or arson or theft (other than those involving the Agency, Contractors or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting services for a continuous period of 24 (twenty-four) hours and an aggregate period exceeding 7 (seven) days in an Accounting Year, and not being an Indirect Political Event set forth in Clause 16.3;
- 16.2.3 any failure or delay of a Contractor but only to the extent caused by another Non-Political Event and which does not result in any offsetting compensation being payable to the Agency by or on behalf of such Contractor;
- 16.2.4 any judgement or order of any court of competent jurisdiction or statutory Authority made against the Agency in any proceedings for reasons other than (i) failure of the Agency to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Authority; or
- 16.2.5 any event or circumstances of a nature analogous to any of the foregoing.

16.3 Indirect Political Event

An Indirect Political Event shall mean one or more of the following acts or events:

- 16.3.1 an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;
- 16.3.2 industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty-

four) hours and exceeding an aggregate period of 7 (seven) days in an Accounting Year;

16.3.3 any failure or delay of a Contractor to the extent caused by any Indirect Political Event and which does not result in any offsetting compensation being payable to the Agency by or on behalf of such Contractor;

16.3.4 any Indirect Political Event that causes a Non-Political Event; or

16.3.5 any event or circumstances of a nature analogous to any of the foregoing.

16.4 Political Event

A Political Event shall mean one or more of the following acts or events by or on account of any Government Instrumentality:

16.4.1 compulsory acquisition in national interest or expropriation of rights of the Agency;

16.4.2 unlawful or unauthorised or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, licence, permit, authorisation, no objection certificate, consent, approval or exemption required by the Agency to perform its obligations under this Agreement; provided that such delay, modification, denial, refusal or revocation did not result from the Agency's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, licence, authorisation, no objection certificate, exemption, consent, approval or permit;

16.4.3 any failure or delay of a Contractor but only to the extent caused by another Political Event and which does not result in any offsetting compensation being payable to the Agency by or on behalf of such Contractor; or

16.4.4 any event or circumstance of a nature analogous to any of the foregoing.

16.5 Duty to report Force Majeure Event

16.5.1 Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:

16.5.1.1 the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article 17 with evidence in support thereof;

16.5.1.2 the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Agreement;

16.5.1.3 the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and

16.5.1.4 any other information relevant to the Affected Party's claim.

16.5.2 The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event not later than 7 (seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement.

16.5.3 For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 16.5.1, and such other information as the other Party may reasonably request the Affected Party to provide.

16.6 Effect of Force Majeure Event on the Agreement

16.6.1 Upon the occurrence of any Force Majeure Event prior to the Appointed Date, the Conditions Precedent Period as set forth in Article 4 shall be extended by a period equal in length to the duration of the Force Majeure Event.

16.6.2 At any time after the Appointed Date, if any Force Majeure Event occurs whereupon the Agency is unable to provide the Services during the period for which Force Majeure exists, no Payment shall be made by the Authority to the Agency and appropriate deductions shall be made by the Authority at the time of settling the amounts due towards the deliverables based Payment. However, the Agency shall not be liable to pay any damages to the Authority in case it is unable to provide the Services on account of any Force Majeure Event.

16.7 Allocation of costs arising out of Force Majeure

16.7.1 Upon occurrence of any Force Majeure Event prior to the Appointed Date and during the Term, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof.

16.7.2 Save and except as expressly provided in this Article 17, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereto.

16.8 Termination Notice for Force Majeure Event

If a Force Majeure Event subsists for more than a continuous period of 90 (ninety) days or for a total/cumulative time period of more than 360 (three hundred and sixty) days during the Term, either Party may in its discretion terminate this Agreement by issuing a Termination Notice of 30 days to the other Party without being liable in any manner whatsoever, save as provided in this Article 17, and upon issue of such Termination Notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith after expiry of the said notice period; provided that before issuing such Termination Notice, the Party intending to issue the Termination Notice shall inform the other Party of such intention and grant 15 (fifteen) days' time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

16.9 Termination Payment for Force Majeure Event

16.9.1 If Termination is on account of any of the Force Majeure Events, the Authority shall return the Performance Security to the Agency. The Agency shall take appropriate insurance cover for hedging risks associated with the events of Force Majeure.

16.10 Dispute resolution

In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force Majeure Event, such Dispute shall be finally settled in accordance with the Dispute Resolution Procedure; provided that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Party claiming relief and/or excuse on account of such Force Majeure Event.

16.11 Excuse from performance of obligations

If the Affected Party is rendered wholly or partially unable to perform its obligations under this Agreement because of a Force Majeure Event, it shall be excused from performance of such of its obligations to the extent it is unable to perform on account of such Force Majeure Event; provided that:

16.11.1 the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

16.11.2 the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and

16.11.3 when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

17 ARTICLE 17: SUSPENSION OF AGENCY RIGHTS

17.1 Suspension upon Agency Default

Upon occurrence of an Agency Default, the Authority shall be entitled, without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to (i) suspend all rights of the Agency under this Agreement including the Agency's right to receive Payment for a specified period, and (ii) exercise such rights itself or authorise any other person to exercise the same on its behalf during such suspension (the "Suspension"). Suspension hereunder shall be effective forthwith upon issue of notice by the Authority to the Agency and may extend up to a period not exceeding 90 (ninety) days from the date of issue of such notice; provided that upon written request from the Agency and the Lenders' Representative, the Authority shall extend the aforesaid period of 90 (ninety) days by a further period not exceeding 60 (sixty) days.

17.2 Authority to act on behalf of Agency

- 17.2.1 During the period of Suspension, the Authority shall not be obliged to pay any Payment to the Agency.
- 17.2.2 During the period of Suspension hereunder, all things done or actions taken, including expenditure incurred by the Authority for discharging the obligations of the Agency under and in accordance with this Agreement, shall be deemed to have been done or taken for and on behalf of the Agency and the Agency undertakes to indemnify the Authority for all costs incurred during such period.

17.3 Revocation of Suspension

- 17.3.1 In the event that the Authority shall have rectified or removed the cause of Suspension within a period not exceeding 45 (forty-five) days from the date of Suspension, it shall revoke the Suspension forthwith and restore all rights of the Agency under this Agreement.
- 17.3.2 Upon the Agency having cured the Agency Default within a period not exceeding 45 (forty-five) days from the date of Suspension, the Authority shall revoke the Suspension forthwith and restore all rights of the Agency under this Agreement.

17.4 Termination

- 17.4.1 At any time during the period of Suspension under this Article 17, the Agency may make a representation to the Authority in writing, to revoke the Suspension and elect to issue a Termination Notice under Article 18. The Authority may, within 15 (fifteen) days of receipt of such representation in writing, terminate this Agreement in accordance with Article 18.
- 17.4.2 Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 90 (ninety) days from the date of Suspension hereunder or within the extended period, if any, set forth in Clause 17.1, the Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, *mutatis mutandis*, to such Termination as if a Termination Notice had been issued by the Authority upon occurrence of an Agency Default.

18 ARTICLE 18: TERMINATION

18.1 Termination for Agency Default

18.1.1 The Authority may terminate the contract under following circumstances:

If the successful bidder withdraws its bid after its acceptance or fails to submit the required Performance Securities for the initial contract and or fails to fulfil any other contractual obligations. In that event, the Authority will have the right to purchase the services from next eligible bidder and the extra expenditure on this account shall be recoverable from the defaulter. The Earnest Money and the Performance Security deposited by the defaulter shall also be recovered to pay the balance amount of extra expenditure incurred by the Authority.

The following conditions will be treated as failure to fulfil the key contractual obligation:

1. Criminal Indictment and excess and/or forged billing to the Authority
2. Insolvency
3. Failure to commence the services even after breaching the maximum Liquidated Damages which is equal to the performance security amount

The Agency will be served a notice of termination by the Authority and will be require to rectify its defaults within 30 days of receipt of Notice on such default, failing which the services will be treated as Terminated.

18.1.2 Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the Agency fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 30 (thirty) days from recorded date of occurrence of such default or Notice of occurrence of such default issued by Authority, the Agency shall be deemed to be in default of this Agreement (an “Agency Default”), unless the default has occurred solely as a result of any breach of this Agreement by the Authority or due to Force Majeure. The defaults referred to herein shall include:

18.1.2.1 the Performance Security has been encashed and appropriated in accordance with Clause 9.2 and the Agency fails to replenish or provide fresh Performance Security within a Cure Period of 30 (thirty) days;

18.1.2.2 subsequent to the replenishment or furnishing of fresh Performance Security in accordance with Clause 9.2, the Agency fails to cure, within a Cure Period of 30 (thirty) days, the Agency Default for which whole or part of the Performance Security was appropriated;

18.1.2.3 the Agency is in material breach of its obligations as laid down in this Agreement;

18.1.2.4 the Agency is in breach of the Service and Operations Requirements;

18.1.2.5 the Agency repudiates this Agreement or otherwise takes any action or evidences or conveys an intention not to be bound by the Agreement;

18.1.2.6 there is a transfer, pursuant to law either of (i) the rights and/or obligations of the Agency under the Agreement, or of (ii) all or part of the assets or undertaking of the Agency, and such transfer causes a Material Adverse Effect;

18.1.2.7 an execution levied on any of the assets of the Agency has caused a Material Adverse Effect;

18.1.2.8 the Agency is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the

Agency or for the whole or material part of its assets that has a material bearing on the Project;

- 18.1.2.9 the Agency has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a Material Adverse Effect;
- 18.1.2.10 a resolution for winding up of the Agency is passed, or any petition for winding up of the Agency is admitted by a court of competent jurisdiction and a provisional liquidator or receiver is appointed and such order has not been set aside within 90 (ninety) days of the date thereof or the Agency is ordered to be wound up by Court except for the purpose of amalgamation or reconstruction; provided that, as part of such amalgamation or reconstruction, the entire property, assets and undertaking of the Agency are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Agency under this Agreement, and provided that:
- 18.1.2.10.1 the amalgamated or reconstructed entity has the capability and operating experience necessary for the performance of its obligations under this Agreement;
- 18.1.2.10.2 the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and has a credit worthiness at least as good as that of the Agency as at the Appointed Date; and
- 18.1.2.11 any representation or warranty of the Agency herein contained which is, as of the date hereof, found to be materially false or the Agency is at any time hereafter found to be in breach thereof;
- 18.1.2.12 the Agency submits to the Authority any statement which has a material effect on the Authority's rights, obligations or interests and which is false in material particulars;
- 18.1.2.13 the Agency has failed to fulfil any obligation, for which failure Termination has been specified in this Agreement; or
- 18.1.2.14 the Agency commits a default in complying with any other provision of this Agreement if such a default causes a Material Adverse Effect on the Authority.

18.1.3 Without prejudice to any other rights or remedies which the Authority may have under this Agreement, upon occurrence of an Agency Default, the Authority shall be entitled to terminate this Agreement by issuing a Termination Notice to the Agency; provided that before issuing the Termination Notice, the Authority shall by a notice inform the Agency of its intention to issue such Termination Notice and grant 15 (fifteen) days to the Agency to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice, subject to the provisions of Clause 18.1.3.

18.1.4 The Authority shall, if there be Senior Lenders, send a copy of its notice of intention to issue a Termination Notice referred to in Clause 18.1.2 to inform the Lenders' Representative

18.2 Termination for Authority Default

18.2.1 In the event that any of the defaults specified below shall have occurred, and the Authority fails to cure such default within a Cure Period of 30 (thirty) days or such longer period as has been expressly provided in this Agreement, the Authority shall be deemed to be in default of this Agreement (the "Authority Default") unless the default has occurred as a result of any breach of this Agreement by the Agency or due to Force Majeure. The defaults referred to herein shall

include:

- 18.2.1.1 The Authority commits a material default in complying with any of the provisions of this Agreement and such default has a Material Adverse Effect on the Agency;
- 18.2.1.2 the Authority has failed to make any certified and undisputed payment to the Agency within the period specified in this Agreement;
- 18.2.1.3 the Authority repudiates this Agreement or otherwise takes any action that amounts to or manifests an irrevocable intention not to be bound by this Agreement; or
- 18.2.2 Without prejudice to any other right or remedy which the Agency may have under this Agreement, upon occurrence of an Authority Default, the Agency shall, be entitled to terminate this Agreement by issuing a Termination Notice to the Authority; provided that before issuing the Termination Notice, the Agency shall by a notice inform the Authority of its intention to issue the Termination Notice and grant 15 (fifteen) days to the Authority to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

18.3 Termination Payment – on any Default would be as per Article 26

18.4 Other rights and obligations of the Authority

Upon Termination for any reason whatsoever,

- 18.4.1 The Authority shall take possession of all the data/reports/photo documentation/video documentation from the Agency;
- 18.4.2 The Authority shall be entitled to restrain the Agency and any person claiming through or under the Agency from use of its data/reports/photo documentation/video documentation;

18.5 Survival of rights

Notwithstanding anything to the contrary contained in this Agreement, any Termination pursuant to the provisions of this Agreement shall be without prejudice to the accrued rights of either Party including its right to claim and recover money damages, insurance proceeds, security deposits, and other rights and remedies, which it may have in law or contract. All rights and obligations of either Party under this Agreement shall survive the Termination to the extent such survival is necessary for giving effect to such rights and obligations.

19 ARTICLE 19: SERVICE CONTINUITY REQUIREMENTS

19.1 Service Continuity

Notwithstanding Article 19, upon Termination, the Agency shall comply with and conform to the following:

- 19.1.1 Submit to the Authority, all the Data / Research Work / Reports /RAW Footage collected for Report / Documentation / Photographs / Video, along with a Plan outlining the handover and subsequent usage procedures for the Authority

20 ARTICLE 20: DEFECTS LIABILITY AND ASSIGNMENT

20.1 Liability for defects

The Agency shall be responsible for remedying and removing all Defects during the Term, and it shall have the obligation to repair or rectify, at its own cost, all Defects arising during the Term or observed by the Authority in the Report/Documents/Photographs/Videos during the aforesaid period. Such a defect shall be rectified by Agency within a period of 15 (fifteen) days from the date of communication in the form of Feedback by the Authority in this regard. Any default by the Agency in repairing/rectifying such a defect shall be dealt as per the applicable Service and Operations Requirements described in Schedule B.

20.2 Assignment

20.2.1 Restrictions on Assignment

This Agreement shall not be assigned, sub-contracted, or sub-let by the Agency to any person or entity, save and except with prior consent in writing of the Authority, which Authority shall be entitled to decline without assigning any reason.

20.2.2 Assignment by the Authority

Notwithstanding anything to the contrary contained in this Agreement, the Authority may, after giving 60 (sixty) days' notice to the Agency, assign any of its rights and benefits and/or obligations under this Agreement; to an assignee who is, in the reasonable opinion of the Authority, capable of fulfilling all of the Authority's then outstanding obligations under this Agreement.

21 ARTICLE 21: CHANGE IN LAW

21.1 Change in Cost for Agency

If, as a result of Change in Law (confined to Applicable Law), the Agency incurs an increase in costs or reduction in net amount after-tax return (with reference to all prevailing Statutory taxes – example: Service Tax), or other financial burden, the Authority shall not be able to revise any Payment Terms of this Contract Agreement because of the same.

22 ARTICLE 22: INDEMNITY

22.1 General indemnity

- 22.1.1 The Agency will indemnify, defend, save and hold harmless the Authority and its officers, servants, agents, Authority Instrumentalities and Authority owned and/or controlled entities/enterprises, including the Authority (“the Indemnified Persons”) against any and all suits, proceedings, actions, demands and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of or in connection with the Performance of Contract by Agency including in relation to accuracy of reports (ref: any breach by the Agency of any of its obligations under this Agreement), or any related agreement or on account of any Defect in the provision of services by the Agency, except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any negligent act or omission, or breach of this Agreement on the part of the Indemnified Persons.
- 22.1.2 The Authority will indemnify, defend, save and hold harmless the Agency against any and all suits, proceedings, actions, demands and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of breach by the Authority of any of its obligations under this Agreement or any related agreement, which materially and adversely affect the performance by the Agency of its obligations under this Agreement, save and except that where any such claim, suit, proceeding, action, and/or demand has arisen due to a negligent act or omission, or breach of any of its obligations under any provision of this Agreement or any related agreement and/or breach of its statutory duty on the part of the Agency, its subsidiaries, affiliates, Contractors, servants or agents, the same shall be the liability of the Agency.

22.2 Indemnity by the Agency

- 22.2.1 Without limiting the generality of Clause 22.1, the Agency shall fully indemnify, hold harmless and defend the Authority and the Indemnified Persons from and against any and all loss and/or damages arising out of or with respect to:
- 22.2.1.1 failure of the Agency to comply with Applicable Laws and Applicable Permits;
- 22.2.1.2 payment of taxes required to be made by the Agency in respect of the income or other taxes of the Agency’s Contractors and representatives; or
- 22.2.1.3 non-payment of amounts due as a result of materials or services furnished to the Agency or any of its Contractors which are payable by the Agency or any of its Contractors.
- 22.2.2 Without limiting the generality of the provisions of this Article 23, the Agency shall fully indemnify, hold harmless and defend the Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any materials, information, design or process used by the Agency or by the Agency’s Contractors in performing the Agency’s obligations or in any way incorporated in or related to the Project. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Agency shall make every effort, by giving a satisfactory bond or otherwise, to secure the revocation or suspension of the injunction or restraint order. If, in any such suit, action, claim or proceedings, the final deliverables, or use of any part thereof, is held to constitute an infringement of any third party’s intellectual property rights and its use is permanently enjoined, the Agency shall promptly make every reasonable effort to secure for

the Authority a licence, at no cost to the Authority, authorising continued use of the knowledge/technical documentation/documented deliverable content. If the Agency is unable to secure such licence within a reasonable time, the Agency shall, at its own expense, either replace the impacted content/knowledge thereof with non-infringing content/knowledge/deliverables, or modify the same so that it no longer infringes the said intellectual property rights.

22.3 Notice and contest of claims

In the event that either Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 23 (the “Indemnified Party”) it shall notify the other Party (the “Indemnifying Party”) within 15 (fifteen) days of receipt of the claim or demand and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim or demand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction.

22.4 Defence of claims

- 22.4.1 The Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and reasonable costs and expenses thereof shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party in respect of loss to the full extent provided by this Article 23, the Indemnifying Party shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding, liabilities, payments and obligations at its expense and through the counsel of its choice; provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defence. The Indemnifying Party shall not be entitled to settle or compromise any claim, demand, action, suit or proceeding without the prior written consent of the Indemnified Party, unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure the loss to be indemnified hereunder to the extent so compromised or settled.
- 22.4.2 If the Indemnifying Party has exercised its rights under Clause 22.3, the Indemnified Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).
- 22.4.3 If the Indemnifying Party exercises its rights under Clause 22.3, the Indemnified Party shall nevertheless have the right to employ its own counsel, and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party, when and as incurred, unless:
- 22.4.3.1 the employment of counsel by such party has been authorised in writing by the Indemnifying Party; or
- 22.4.3.2 the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defence of such action; or
- 22.4.3.3 the Indemnifying Party shall not, in fact, have employed independent counsel reasonably

satisfactory to the Indemnified Party, to assume the defence of such action and shall have been so notified by the Indemnified Party; or

22.4.3.4 the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:

22.4.3.4.1 that there may be specific defences available to it which are different from or additional to those available to the Indemnifying Party; or

22.4.3.4.2 that such claim, action, suit or proceeding involves or could have a material adverse effect upon it beyond the scope of this Agreement:

Provided that if Sub-Clauses 22.4.3.2, 22.4.3.3 or 22.4.3.4 of this Clause 22.4.3 shall be applicable, the counsel for the Indemnified Party shall have the right to direct the defence of such claim, demand, action, suit or proceeding on behalf of the Indemnified Party, and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.

22.5 No consequential claims

Notwithstanding anything to the contrary contained in this Article 23, the indemnities herein provided shall not include any claim or recovery in respect of any cost, expense, loss or damage of an indirect, incidental or consequential nature, including loss of profit, except as expressly provided in this Agreement.

22.6 Survival on Termination

The provisions of this Article 23 shall survive Termination.

23 ARTICLE 23: APPLICABLE ACCESS PERMITS

23.1 Applicable Permits

- 23.1.1 For the purpose of this Agreement and the covenants and warranties on the part of the Agency herein contained, the Authority, in accordance with the terms and conditions set forth herein and/or under this Agreement, shall grant Applicable Permits or Access to the Agency to certain specified locations, based on the Field Visit Plans submitted by the Agency. The Applicable Permits shall be valid as per the schedule and only for locations mentioned in the submitted Field Visit Plans. The Authority may, upon its own discretion, and in the best interest of the Project, may request the Agency for any modification to the submitted Field Visit Plan.
- 23.1.2 It is expressly agreed that the Permits granted hereunder shall terminate automatically and forthwith, without the need for any action to be taken by the Authority to terminate the Agreement, upon the Termination of this Agreement or expiry of Term of Agreement, for any reason whatsoever.
- 23.1.3 The Agency hereby irrevocably appoints the Authority (or its nominee) to be its true and lawful attorney, to execute and sign in the name of the Agency a transfer or surrender of the Permit granted hereunder at any time after the Term has expired or has been terminated earlier in terms hereof, a sufficient proof of which will be the declaration of any duly authorised officer of the Authority, and the Agency consents to it being registered for this purpose.

23.2 Restriction on Sub-Licensing

The Agency shall not sub-license its rights hereunder, save and except as may be expressly set forth in this Agreement; provided that nothing contained herein shall be construed or interpreted as restricting the right of the Agency to appoint Contractors for the performance of its obligations hereunder.

24 ARTICLE 24: DISPUTE RESOLUTION

24.1 Dispute resolution

- 24.1.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the “Dispute”) shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 24.2.
- 24.1.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

24.2 Conciliation

In the event of any Dispute between the Parties, either Party may call upon the Authority to mediate and assist the Parties in arriving at an amicable settlement thereof. Failing mediation by the Authority, either Party may require such Dispute to be referred to the Chairman of the Authority and the Chairman of the Board of Directors of the Agency for amicable settlement, and upon such reference, the said persons shall meet no later than 7 (seven) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 7 (seven) day period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 23.1.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 24.3.

24.3 Arbitration

- 24.3.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 24.2, shall be finally decided by reference to arbitration in accordance with Clause 24.3.2. Such arbitration shall be held in accordance with the provisions of the Arbitration Act. The venue of such arbitration shall be Lucknow, and the language of arbitration proceedings shall be English.
- 24.3.2 Each Party shall appoint one arbitrator and the two appointed arbitrators shall appoint a third arbitrator in accordance with the Arbitration Act.
- 24.3.3 The arbitrators shall make a reasoned award (the “Award”). Any Award made in any arbitration held pursuant to this Article 25 shall be final and binding on the Parties as from the date it is made, and the Agency and the Authority agree and undertake to carry out such Award without delay.
- 24.3.4 The Agency and the Authority agree that an Award may be enforced against the Agency and/or the Authority, as the case may be, and their respective assets wherever situated.
- 24.3.5 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

25 ARTICLE 25: MISCELLANEOUS

25.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and subject to Clause 24.3, the courts at Lucknow, Uttar Pradesh shall have jurisdiction over matters arising out of or relating to this Agreement.

25.2 Confidentiality

- a) Any information pertaining to Authority, including its business, to which the Agency is exposed as a result of this Agreement shall be considered to be “Confidential Information.” Agency shall not disclose any Confidential Information to any person or entity, without the express written consent of the Authority.
- b) Subject to the generality of sub clause (a) above, all the documents, papers, information, data submitted by Authority to the Agency shall remain confidential in nature and Agency shall not disclose the said Confidential Information to any third party without prior written consent of the Agency. Agency shall not use this information, data, papers, documents etc. without prior written approval of the Authority. Further, by virtue of this Agreement, Agency shall not be authorized or entitled to use the Trade Mark / Name / Logo etc., of the Authority except as expressly provided under this Agreement.
- c) Notwithstanding anything contained in this Agreement, the provisions of this clause shall continue to be applicable to and to bind the parties, without limit in point in time except and until such information enters public domain.

25.3 Waiver of immunity

Each Party unconditionally and irrevocably:

- 25.3.1 agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
- 25.3.2 agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Party with respect to its assets;
- 25.3.3 waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
- 25.3.4 consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

25.4 Delayed payments

The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such

period is specified, within 30 (thirty) days of receiving a demand along with the necessary particulars. In the event of delay beyond such period, save and except otherwise expressly provided in this Agreement, the defaulting Party shall pay interest @ SBI PLR per annum for the period of delay for such amount and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.

25.5 Waiver

25.5.1 Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:

25.5.1.1 shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;

25.5.1.2 shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and

25.5.1.3 shall not affect the validity or enforceability of this Agreement in any manner.

25.5.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

25.6 Exclusion of implied warranties etc.

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

25.7 Survival

25.7.1 Termination shall:

25.7.1.1 not relieve the Agency or the Authority as the case may be, of any obligations hereunder which expressly or by implication survive Termination hereof; and

25.7.1.2 except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

25.8 Entire Agreement

This Agreement and the Schedules together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn.

25.9 Severability

If for any reason whatever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to the Dispute Resolution Procedure set forth under this Agreement or otherwise.

25.10 No partnership

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party, and neither Party shall have any right, power or Authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

25.11 Third Parties

This Agreement is intended solely for the benefit of the Parties, and their respective successors and permitted assigns (if any), and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.

25.12 Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns (if any).

25.13 Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

- 25.13.1 in the case of the Agency, be given by email, facsimile and/or by letter delivered by hand to the address given and marked for attention of the person set out below or to such other person and number (in case of facsimile) as the Agency may from time to time designate by notice to the Authority; provided that notices or other communications to be given to an address, are subsequently confirmed by sending a copy thereof by registered acknowledgement due, by air mail or courier
- 25.13.2 in the case of the Authority, be given by email, facsimile and/or by letter delivered by hand and be addressed to the Authority with a copy delivered to the Authority Representative or such other person as the Authority may from time to time designate by notice to the Agency; and
- 25.13.3 any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post, it ought to have been delivered.

25.14 Language

All notices required to be given by one Party to the other Party and all other communications, Documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

25.15 Counterparts

This Agreement may be executed in two counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement.

25.16 Address for Correspondence

For the Authority (Contract Signing)

[.....]
[.....]
[.....]
[.....]

For the Nodal Authority/Tender Authority

[.....]
[.....]
[.....]
[.....]

For the Service Provider

[.....]
[.....]
[.....]
[.....]

26 ARTICLE 26: COMPENSATION UPON TERMINATION

26.1 Termination due to Force Majeure Event

If the termination is due to a Force Majeure Event, compensation payable to the Agency shall be as per the following:

- a. Return of the Performance Security submitted, after adjusting for applicable deductions/ Liquidated Damages as per the provisions of this Agreement.
- b. Disbursement of Deliverables based Payment due

LESS

any deductions/penalties as per provisions under this Agreement

26.2 Termination due to Agency Default:

If the termination is due to Agency Default, no Termination compensation shall be due or payable by the Authority to the Agency and the entire Performance Security would be forfeited.

26.3 Termination due to Authority Default:

If the termination is due to an Authority Default, the compensation payable by the Authority to the Agency shall be as per the following:

- a. Return of the Performance Security submitted, after adjusting for applicable deductions/ Liquidated Damages as per the provisions of this Agreement.
- b. Disbursement of Deliverables based Payment due

LESS

any deductions/penalties as per provisions under this Agreement

26.4 No Compensation on Expiry of Contract Agreement Period:

In the event of expiry of this Contract Agreement, by efflux of time (the Contract term / period having run its full course), the Agency shall not be entitled for any payment from Authority.

26.5 Delayed Payment of Compensation

If for any reasons, other than those attributable to the Agency, the Authority fails to pay the compensation on the date of end of Contract or completion of Contract Agreement period, the Authority shall be liable to pay interest@ SBI PLR per annum thereon from the date of end of Contract or completion of Contract Agreement period till payment thereof. Provided, nothing contained in this Article shall be deemed to authorise any delay in payment of compensation in accordance with this Agreement.

26.6 Remedies Cumulative

The exercise of right by either Party to terminate this Agreement, as provided herein, shall not preclude, such Party from availing any other rights or remedies that may be available to it under law. All remedies available to the Parties shall be cumulative and the exercise or failure thereof of one or more remedies by any Party shall not limit or preclude the exercise of or constitute a waiver of any other remedies by such Party.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN.

SIGNED, SEALED AND
DELIVERED

For and on behalf of AUTHORITY by:

Signature)
(Name)
(Designation)

SIGNED, SEALED AND
DELIVERED

For and on behalf of AGENCY by:

Signature)
(Name)
(Designation)

In the presence of

- 1.
- 2.

SCHEDULE A: LIST OF SCHEMES/PROGRAMS FOR DELIVERABLES 01, 02 & 03

Deliverable 01: Research & Evaluation (Assessment of 13 Schemes/Programs) of NHM UP on RMNCH+A and National Programs

Expected Output: A Study report with qualitative and quantitative data compilation with anecdotes and Case studies for each Schemes/Programs. Each Study Report should present complex concepts and findings in an accessible and engaging manner, should have the same “Look and Feel” and should have clear branding and incorporate Logo defined by the Nodal Authority. The report shall be submitted in Hard and Soft Copy (.cdr file, .pdf and .docx format), should be of 7,500 – 10,000 words (excluding Annexures) for each of the 13 Schemes/Programs.

List of Schemes/Programs for Deliverable 01				
S. No.	Division/ program	Schemes/Programs Indicators domain	Target groups	Design
1.	PPIUCD Scheme Assessment	Discontinuation rate FP counselling	Women who adopted PPIUCD in last 7 days	<ul style="list-style-type: none"> • Assuming 50% discontinuation rate (CBTS-2015) within 6 month & lost to follow up cases, a minimum sample size of 350 in each zone (total 350x5=1750) is required. • Required number of facilities will be selected from each zone using PPS and individual women who had adopted PPIUCD will be followed up at certain intervals (3 times) for 6 months to compute the discontinuation rate. The factors associated with the discontinuation rate, individual level, community level and facility level (counselling & other quality of services), will be assessed through structured interview of women and facility assessment. Life table/survival methods will be used to calculate discontinuation rate and adjusted hazard ratio will be computed to identify the factors associated with discontinuation. • The service statistics data from these facilities will also compiled (from HMIS and registers) to see the change in service uptake before & after introduction of counselling session to assess whether there is any effect on counselling on service uptake. The quality of counselling will also be assessed interviewing 5 women from each facility (for all method) to provide reasonable estimates of quality of counselling by type of method, total sample (400 clients).
2.	FP counselling	Assessment of Counsellor's counselling at the Facilities on Family Planning		
3.	Hausla Saaghedaari	Performance of service providers Clients satisfaction	Private providers (from web)	<ul style="list-style-type: none"> • 80 providers will be selected randomly using PPS based on the number of sterilization cases, across

List of Schemes/Programs for Deliverable 01				
S. No.	Division/program	Schemes/Programs Indicators domain	Target groups	Design
			portal) & Clients who adopted female sterilization or IUCD on the day of assessment	<p>all five cultural zones. In addition, booster sampling will be used to select additional providers required for IUCD cases. The quality of care will be assessed using a standard checklist following the GoI guidelines.</p> <ul style="list-style-type: none"> For each of the providers 5 number of clients will be selected for client satisfaction, total 400 clients will be interviewed for assessing level of clients' satisfaction.
4.	Effect of Condom distribution program on Family Planning	Distribution of Condom and actual use	ASHA and men received condoms in last one month	<ul style="list-style-type: none"> Required number of ASHAs will be selected, randomly, from each of the 5 zones (approx. 100 per zone). The stock and distribution will be assessed from her register. Selected number of beneficiaries (2-3) will be visited to assess their behaviour on condom use, exposure to program, information and counselling.
5.	Effectivity of ANC Check-up scheme	Effect of incentive provided to ANC	ASHA	<ul style="list-style-type: none"> In 5 zones around 15-20 in depth interview will be conducted, in each zone, among the ASHAs to identify the role of ASHA incentive on ANC check-up, issues and problems related to incentives. It will also be explored what are the other factors that motivates ASHAs to mobilize women for ANC check-up.
6.	MDR Scheme Assessment	Re-validation of Maternal Death Audit	ASHA, ANM, MOICs, CMOs and DMs	<ul style="list-style-type: none"> The detail analysis of the existing MDR data will be done to identify the data quality gaps by an expert team (Statistician & Clinical). Followed by that the team will also conduct in depth interviews among ASHA (15), ANM (15), MOICs (10), CMOs (10) and DMs (10) to understand the barriers and challenges in identifying, reporting and conducting maternal death audits.
7.	JSSK	Relation between JSSK and case fatality rate	Facility & Women who delivered in last one year	<ul style="list-style-type: none"> The historical data on utilization of JSSK funding and beneficiaries (HMIS and other report) will be used from 10 facilities (10 DH and 10 CHC) across five zones to understand and per capita utilization of JSSK, bed utilization, referral & drop back facilities. The data on maternal and new born mortality will be retrieved
8.	NIPI	Assessment of NIPI Scheme		
9.	IEC	Assessment of Mass Media Activities and Campaigns		

List of Schemes/Programs for Deliverable 01				
S. No.	Division/program	Schemes/Programs Indicators domain	Target groups	Design
10.	VHND	Assessment of VHND Scheme		<p>from hospital records to compute CFR. The data quality assessment should also be done.</p> <ul style="list-style-type: none"> A community level survey will also be conducted in the catchment areas of the selected facilities covering 2500 (500 from each zone) who delivered in these facilities in last one year to measure the OPE who delivered in the facility.
11.	NRC program	Assessment of post discharge (follow-up) care to the children Impact on Morbidity Rate Linkages between SNCUs discharge and NRC Improvement of SAMs and severally underweight children	NRC	<ul style="list-style-type: none"> Around 2000 (400 per zone) new born and children admitted in the NRC in last one year will be followed up to track their nutritional & survival status at the community. The NRC assessment will also be conducted to assess the availability and quality of care at NRCs.
12.	SNCU	CFR rate Quality of care Referral and follow up mechanism	SNCU	<ul style="list-style-type: none"> Total 10 SNCUs will be selected based on the admission load. The CFR will be compared for last two years using facility records. The SNCU assessment will also be conducted to understand the quality of care and service in the SNCUs.
13.	Sampoorna clinic	Availability of HR, equipment, drugs in the clinics Quality of care	Women who sought services <i>Sampoorna</i> clinics	<ul style="list-style-type: none"> Five clinics will be selected in the five zones and facility records will be assessed to compute indicators such as: Identification, treatment, referral and follow up rate, cancer cure rate, and other critical indicators. A client's satisfaction survey will also be carried out covering 100 clients.

Deliverable 02: Evidence based Documentation/Photo Documentation of best practices of NHM, UP on RMNCH+A and National Programs for 10 Schemes/Programs

Expected Output: A Well designed document based on detailed evidence based information, process details, anecdotes, Case studies/stories for each Schemes/Programs. Each Document should present complex concepts and findings in an accessible and engaging manner, should incorporate Visual Contents, should have the same "Look and Feel" and should have clear branding and incorporate Logo defined by the Nodal Authority. The document shall be submitted in Hard and Soft Copy (.cdr file, .pdf and .docx format) & 200 High Resolution pictures (Each Photograph should have clear branding and incorporate Logo defined by the Nodal Authority) in .jpeg file format (in digital format) need to be submitted for each of the 10 Schemes/Programs.

List of Schemes/Programs for Deliverable 02		
S.No.	Division / Program	Schemes / Programs / Topic of Assessment
1.	Child Health	NRC
2.	Child Health / Community Process	HBNC
3.	Community Process	VHIR
4.		RSK and Hospital Management
5.	NCD	Sampoorna Clinic
6.	Quality Assurance	Kaayakalp
7.	Child Health	SNCUs (Sick New Born Care Unit)
8.	UPHSSP	Free Diagnostics and Dialysis Scheme
9.	EMTS	102/108 Ambulance
10.	Family Planning	PPIUCD

Deliverable 03: Video Documentation of best practices of 07 NHM, UP Schemes/Programs

Expected Output: A 5-8 minutes short, crisp, well edited, very creative video with clear messages for each Schemes/Programs. Each Video should have the same “Look and Feel” and should have clear branding and incorporate Logo defined by the Nodal Authority. The video shall be submitted in .mp4 format and in a format compatible for uploading into the Websites, YouTube, Social media sites and need to be of at least 1080p resolution (Full High Definition) for each of the 07 Schemes/Programs.

List of Schemes/Programs for Deliverable 03		
S.No.	Division / Program	Schemes / Programs / Topic of Assessment
1.	Child Health	NRC
2.	NCD	Sampoorna Clinic
3.	Quality Assurance	Kaayakalp
4.	Child Health / Community Process	HBNC
5.	Community Process	RSK and Hospital Management
6.		VHND
7.	Family Planning	Counselling and Fixed Day services on FP at facility level

SCHEDULE B: SERVICE REQUIREMENTS

1. Liquidated Damages:

- 1.1 The Selected Agency shall have to commence work within Thirty (30) days of Appointed Date, failing which Liquidated Damages will be applicable at the rate of Rs 10,000 per day for first ONE month of delay, Rs 20,000 per day for second ONE month of delay and Rs 30,000 per day after TWO months of delay.
- 1.2 This will be recoverable from the Performance Security, and up to a maximum of Rs. 15 Lakhs (Maximum Value). Upon reaching the Maximum Value, this contract will be terminated as per termination procedure.

2. Penalty for non-compliance to Timelines:

- 2.1 Authority or its representatives may impose penalty of up to 5% for non-compliance to timelines for the milestones “Finalization of Document and Final submission” for Deliverables 1 or 2 or “Finalization of Deliverable and Final Submission of the Videos” for Deliverable 3 for the respective Schemes/Programs. The same will be deducted from the pending corresponding Deliverable linked payment or Performance Security.
- 2.2 For Example: In case of Deliverable 1, Evaluation needs to be carried out for 13 Schemes/Programs. Payment linked to this deliverable is 50%. If there is delay in completion of the milestone “Finalization of Document and Final submission” in case of 1 of the 13 Schemes/Programs, corresponding penalty for non-compliance to timelines shall be up to: $5\% \times 50\% \times (1/13)$.

3. Penalty for non-compliance to Quality Indicators:

- 3.1 Authority or its representatives may impose penalty of up to 5% for non-compliance to quality indicators as mentioned in point 3.3 for the milestones “**Finalization of Document and Final submission**” for Deliverables 1 or 2 or “**Finalization of Deliverable and Final Submission of the Videos**” for Deliverable 3 for the respective Schemes/Programs. The same will be deducted from the pending corresponding deliverable linked payment or Performance Security.
- 3.2 For example: In case of Deliverable 1, Evaluation needs to be carried out for 13 Schemes/Programs. Payment linked to this deliverable is 50%. If there is non-compliance to quality indicators in case of 1 of the 13 Schemes/Programs, corresponding penalty for non-compliance to quality indicators shall be up to: $5\% \times 50\% \times (1/13)$.

3.3 Quality Indicators:

- 3.3.1 Quality Indicators for Deliverable 01
Each Final Submitted Report,
 - 3.3.1.1 Should be based on facts, verified information (Qualitative and Quantitative Data) and valid proofs and supported with citations
 - 3.3.1.2 Should present complex concepts and findings in an accessible and engaging manner, should have the same “Look and Feel” and should have clear branding and incorporate Logo defined by the Authority
 - 3.3.1.3 Should address and incorporate feedback received from the Authority or its authorized representatives
 - 3.3.1.4 Should have maximum 7,500- 10,000 words (excluding Annexures) with normal readable font size
- 3.3.2 Quality Indicators for Deliverable 02
Each Final Submitted Document,
 - 3.3.2.1 Should be based on facts, verified information, valid proofs and supported with citations
 - 3.3.2.2 Should present complex concepts and findings in an accessible and engaging manner, should

incorporate Visual Contents, should have the same “Look and Feel” and should have clear branding and incorporate Logo defined by the Authority

3.3.2.3 Should address and incorporate feedback received from the Authority or its authorized representatives

3.3.2.4 Should have 7,500- 10,000 words (excluding Annexures) with normal readable font size

Each Final Submitted Photograph,

3.3.2.5 Should be of High Resolution, well edited and in .jpeg file format (in digital format)

3.3.2.6 Should address and incorporate feedback received from the Authority or its authorized representatives

3.3.2.7 Should have clear branding and incorporate Logo defined by the Authority.

3.3.2.8 Should be well organized, properly labelled with description of the captured Schemes/Programs, along with description of place and individual(s) whose Photograph has been taken. This should match with the consent form of individual(s) whose Photograph has been taken.

3.3.3 Quality Indicators for Deliverable 03

Each Final Submitted Video,

3.3.3.1 Should be of at least 1080p resolution (Full High Definition) and should be in .mp4 format or a format compatible for uploading on the Websites, YouTube, Social media sites

3.3.3.2 Should address and incorporate feedback received from the Authority or its authorized representatives

3.3.3.3 Should have the same “Look and Feel” and should have clear branding and incorporate Logo defined by the Authority.

3.3.3.4 Should be between 5-8 minutes of duration.

SCHEDULE C: FORMAT OF PERFORMANCE SECURITY

Dated [●]

Authority

.....
.....
.....
.....

Dear Sir,

1. We understand that [●], (the “Agency”) has entered into a Service Agreement dated [●] (the “**Agreement**”), with the Authority, whereby the Agency has undertaken to provide the Services, subject to and in accordance with provisions of the Agreement.
2. The Agreement requires the Agency to furnish a Performance Security to the Authority in a sum of Rs. [●] (Rupees [●] Lakh) (the “**Guarantee Amount**”) as security for due and faithful performance of its obligations, under and in accordance with the Agreement, during the Term as per the provisions of the Agreement.
3. We [●], through our Branch at [●] (the “**Bank**”) have agreed to furnish this Bank Guarantee by way of Performance Security

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful performance of the Agency’s obligations during the Term, under and in accordance with the Agreement, and agrees and undertakes to pay to the Authority, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Agency, such sum or sums up to an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.
2. A letter from the Authority, under the hand of an Officer duly authorized by the Chairman of the Authority, that the Agency has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Agency is in default in due and faithful performance of its obligations during the Term under the Agreement and its decision that the Agency is in default shall be final, and binding on the Bank, notwithstanding any differences between the Authority and the Agency, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Agency for any reason whatsoever.
3. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Agency and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
4. It shall not be necessary, and the Bank hereby waives any necessity, for the Authority to

proceed against the Agency before presenting to the Bank its demand under this Guarantee.

5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfilment and/ or performance of all or any of the obligations of the Agency contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Authority against the Agency, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Authority, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the Agency or any other forbearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.
6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Agreement or for the fulfilment, compliance and/or performance of all or any of the obligations of the Agency under the Agreement.
7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force for the period specified in paragraph 8 below and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee, not later than 6 (six) months from the date of expiry of this Guarantee, all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.
8. The Performance Security shall cease to be in force and effect till the subsistence of the Agreement and provided the Agency is not in breach of this Agreement. On successful completion of Term and upon request made by the Agency for release of the Performance Security along with the particulars required hereunder, duly certified by a statutory auditor of the Agency, the Authority shall release the Performance Security forthwith.
9. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing, and declares that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
10. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred Branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.
11. This Guarantee shall come into force with immediate effect and shall remain in force and effect for a period of [●] years or until it is released earlier by the Authority pursuant to the

provisions of the Agreement.

Signed and sealed this Day of 2017

SIGNED, SEALED AND DELIVERED

For and on behalf of the BANK

by:

Signature:

Name:

Designation:

Address:

SCHEDULE D: ZONE-WISE DISTRICT DETAILS

Zone Name	District Name
Western UP	<ol style="list-style-type: none"> 1. Saharanpur 2. Muzaffar Nagar 3. Bijnor 4. Moradabad 5. Rampur 6. Bareilly 7. Shahjahanpur 8. Badaun 9. Sambhal 10. Amroha 11. Meerut 12. Shamli 13. Baghpat 14. Ghaziabad 15. Hapur 16. Bulandshahar 17. Gautam Buddha Nagar 18. Aligarh 19. Kasganj 20. Kannauj 21. Hathras 22. Mathura 23. Agra 24. Firozabad 25. Etawah
Central UP	<ol style="list-style-type: none"> 26. Auraiya 27. Etah 28. Mainpuri 29. Farukhabad 30. Hardoi 31. Sitapur 32. Barabanki 33. Lucknow 34. Unnao 35. Kanpur Nagar 36. Kanpur Dehat 37. Fatehpur 38. Raebareli
Eastern UP	<ol style="list-style-type: none"> 39. Basti 40. Sant Kabir Nagar 41. Gorakhpur 42. Kushi Nagar 43. Deoria 44. Ballia 45. Mau 46. Azamgarh

Zone Name	District Name
	47. Ambedkar Nagar 48. Sultanpur 49. Amethi 50. Pratapgarh 51. Jaunpur 52. Varanasi 53. Ghazipur 54. Chandauli 55. Sonbhadra 56. Mirzapur 57. Bhadohi 58. Allahabad 59. Kaushambi 60. Faizabad
Bundelkhand	61. Jalaun 62. Jhansi 63. Lalitpur 64. Mahoba 65. Hamirpur 66. Banda 67. Chitrakoot
Tarai Belt	68. Gonda 69. Pilibhit 70. Lakhimpur Kheri 71. Bahraich 72. Shravasti 73. Balrampur 74. Siddharth Nagar 75. Maharajganj