

Department of Medical, Health and Family Welfare,
Government of Uttar Pradesh

REQUEST FOR PROPOSAL (RFP) DOCUMENT

FOR

**Selection of Service Provider for Operating Advanced Life Support (ALS) Ambulance
Services in Uttar Pradesh**

DRAFT CONTRACT AGREEMENT (ALONG WITH SCHEDULES): PART – II

Bid Ref. No.: 265/SPMU/ALS Ambu/2016-17/III



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28th November 2016

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AGREEMENT

This Agreement is entered into on this theday of, 20..... by and between

1. **Governor of Uttar Pradesh, acting through the Director General Medical and Health Services, Department of Medical Health & Family Welfare, Government of Uttar Pradesh** (hereinafter referred to as the “**Authority**”) of the First part,

AND

2. [**Name of the Service Provider**] a company/trust/ society registered under the provisions of theAct,/a consortium consisting of.....,, and represented by its Lead Member.....and having its registered office at [...]/ (hereinafter referred to as the “**Service Provider**” which expression shall unless repugnant to the context or meaning thereof include its successors) of the Second Part.

Authority and Service Provider are hereinafter referred to individually as “**Party**” and jointly as “**Parties**”.

WHEREAS

The Authority is desirous of engaging organizations with experience in the health sector and having social commitment to operate and manage Advanced Life Support (ALS) Ambulance Services in all the 75 districts of the State for the benefit of the general population.

The Authority had accordingly invited proposals by its Request for Proposal No. *** dated *** (the “**Request for Proposal**” or “**RFP**”) under a single-stage bid process from interested parties pursuant to which the Authority declared [Name(s) of the Bidders] as the Service Provider and issued the Letter of Intent No. dated (hereinafter called the “**LOI**”) to it.

The Service Provider accepted the LOI and returned to the Authority a duplicate copy of the LOI duly signed by its Authorized representative in token of acceptance thereof.

The Authority has agreed to enter into this Agreement with the Service Provider for execution of the Project on the terms and conditions set forth hereinafter, subject to the Service Provider also signing this Contract Agreement as the Confirming Party.

The Service Provider has complied or has undertaken to comply with all the conditions contained in the RFP enabling the signing of this Contract Agreement.

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

1 ARTICLE 1 - DEFINITIONS & INTERPRETATIONS

1.1 In this Agreement, unless the context otherwise requires the following expressions shall have the meaning assigned as under:

- a. **“Agreement” or “Contract Agreement”** shall include this Agreement; all Schedules hereto; the terms contained in the Request for Proposal as amended and clarified by Authority till the submission of the bid by the interested parties; the LOI dated []; the related agreements, inter-alia, including Bank Guarantee, undertaking and other instruments furnished by the Service Provider and the memorandums signed between the Service Provider and Authority from time to time in terms of this Agreement in regard to the Area of Operation and other matters, manner and method for implementation of the Project;
- b. **“Ambulance”** means a fully equipped ALS Ambulance in accordance with the provisions of this Agreement and has been registered, under the Applicable Laws, as an Ambulance with the relevant authority;
- c. **“Applicable Laws”** means the acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the State of Uttar Pradesh and as from time to time may be amended, modified, supplemented, extended or re-enacted;
- d. **“Area of Operation”** shall mean the entire State of Uttar Pradesh inclusive of 18 divisions/75 districts of the State and any new district(s) carved out of existing district(s);
- e. **“Authority”** is the Director General Medical and Health Services, Government of Uttar Pradesh
- f. **“Basic Life Support Ambulances”** or **“BLS Ambulances”** means an ambulance which carries basic and essential equipment and supplies for optimal emergency care at the scene and the ability to offer medical aid such as first aid, immobilization, oxygen therapy, and other equipment.
- g. **“Encumbrances”** means, any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, and shall include any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project Facilities.
- h. **“Final Commissioning Date”** shall mean the date on which the Authority certifies completion of Phase II of the Project as detailed in Schedule 2
- i. **“Agreement Period”** shall bear the meaning as ascribed to it under Article 4;
- j. **“Effective Date”** shall mean the date of signing this Contract Agreement;
- k. **“ALS Response Centre” or “ARC”** shall mean the centralized and integrated premises of call centre facility fully equipped in accordance with the Schedules 1

for receiving calls, through a twenty four (24) hour dedicated phone lines, from the general public, Chief Medical Superintendent (CMS), Chief Medical Officer (CMO), Mission Director, or National Health Mission, UP (hereinafter referred to as “Authority”) and from which the dispatch of the ALS Ambulances shall be controlled and in accordance with the terms and conditions of this Agreement;

- l. “**Manpower**” shall mean any or all employees, personnel, staff of the Service Provider whether sourced from outside or on the payroll of the Service Provider;
 - m. “**Nodal Authority**” is the Mission Director, National Health Mission, Uttar Pradesh
 - n. “**Project**” means the Implementation, Operation and Maintenance of Advanced Life Support (ALS) Ambulance Services in Uttar Pradesh in accordance with the provisions of this Agreement and Schedules;
 - o. “**Project Facilities**” shall bear the meaning as ascribed to it under Article 8 of this Agreement;
 - p. “**Service Provider**” shall mean a Company incorporated under the Companies Act, 1956 to execute this Contract Agreement and undertake the Project.
 - q. “**State**” shall mean the State of Uttar Pradesh;
 - r. “**Standard Operating Procedures**” shall mean the procedure for operation of the Project to be developed by the Service Provider and approved by the Authority as per the guiding principles laid down in Schedule 3.
 - t. “**Standard Ambulance Operating Protocol**” shall mean the protocol for operation of Ambulances to be developed by the Service Provider and approved by the Authority as per the guidelines and framework laid down in Schedule 3.2. The capitalised terms not specifically defined in this Agreement shall have the meaning as ascribed to them in the RFP.
- 1.2 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. words referring to a “**person**” shall be construed as a reference to any individual, firm, company, corporation, society, trust, or any association;
 - c. 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;
 - d. 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;

- e. any reference to any period of time shall mean a reference to that according to Indian Standard Time;
- f. any reference to day shall mean a reference to a calendar day;
- g. any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;
- h. references to a “**business day**” shall be construed as a reference to a day (other than a Sunday) on which banks in Lucknow are generally open for business;
- i. 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;
- j. the words importing singular shall include plural and vice versa;
- k. references to any gender shall include the other and the neutral gender;
- l. “**lakh**” means a hundred thousand (100,000) and “**crore**” means ten million (10,000,000);
- m. references to the “**winding-up**”, “**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;
- n. save and except as otherwise provided in this Agreement, 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;
- o. 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;
- p. 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;
- q. time shall be of the essence in the performance of the Parties’ respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence.

2 ARTICLE 2 – OBJECTIVE OF THIS AGREEMENT

- 2.1 The objective of this Agreement is to provide and manage Advanced Life Support (ALS) Ambulance Services in Area of Operation for responding to medical emergencies, providing advanced medical aid, and transporting the patient to the nearest referral hospital within the shortest possible time. The Ambulance services will be coordinated through an ALS Response Centre (ARC) which shall be accessible through dedicated phone lines.

- 2.2 The nature of the work requires the Service Provider to function for a social cause, reaching much needed emergency services to population at large in the Area of Operation.

3 ARTICLE 3 – ENGAGEMENT OF THE SERVICE PROVIDER

- 3.1 Subject to the terms and conditions contained in this Agreement, the Authority hereby engages the Service Provider and the Service Provider hereby accepts the engagement to provide the ALS Ambulance Services through the operation and maintenance of the Project Facilities in the Area of Operation.
- 3.2 The services to be provided and the work to be undertaken by the Service Provider are detailed in the **Schedules 1 and 2** hereto and shall, inter-alia, include:
- (i) fabrication and procurement of equipment for the Advanced Life Support Ambulances
 - (ii) operation, maintenance and management of the ALS Ambulances;
 - (iii) operation, maintenance and management of the ALS Response Centre, office, the storage facility and any other associated facilities;
 - (iv) operations and maintenance of equipment and, hardware required for ALS and ARC;
 - (v) designing, procurement, financing, operations and maintenance of software required for such ALS Ambulance services including setting up of the ARC; including refurbishing, renovation, equipment etc.
 - (vi) procurement, financing, stocking and maintaining of Inventories;
 - (vii) staffing and training of Manpower for the operation, maintenance and management of ALS Ambulance services;
 - (viii) reporting and maintenance of the database that is generated through operation, maintenance and management of ALS Ambulance services;
 - (ix) ensuring that the performance standards in relation to ALS Ambulance services are satisfied at all times;
 - (x) undertake IEC/IPC activities, promote/advertise this service to create awareness among the people it serves and thereby increase uptake of services.
 - (xi) to operate and maintain the ALS Ambulance services in a sustained manner.
 - (xii) The project will be executed in two phases – **Phase 1** to be completed in 30 days after signing the Contract Agreement and **Phase 2** after the commissioning, deploying and operating of 1 ALS Ambulance per district in Uttar Pradesh.

4 ARTICLE 4 – DURATION OF THIS AGREEMENT

- 4.1 This Agreement, unless otherwise terminated in accordance with the provisions of Article 17 herein, shall remain valid and in force for a fixed period of 60 (Sixty) months, which period shall be reckoned from the Effective Date (“Agreement Period”).

5 ARTICLE 5 – AREA OF OPERATION

- 5.1 The Service Provider shall provide the ALS Ambulance services only in the State of Uttar Pradesh.

6 ARTICLE 6 – COMMENCEMENT OF SERVICES

- 6.1 The Service Provider shall commence the services not later than three (3) months and fifteen (15) days from the Effective Date. Phasing of the commencement of services shall comply as per Schedule 2.
- 6.2 In the event the Service Provider fails to commence the services within the period specified above the Service Provider shall be subject to payment of penalty as provided for under Schedule 5.

7 ARTICLE 7 – CONSIDERATION AND PAYMENT TO SERVICE PROVIDER

- 7.1 The consideration provided in this Contract Agreement shall be the full and comprehensive consideration for all the services to be performed and the obligations undertaken by the Service Provider under this Contract Agreement and the Service Provider shall not directly or indirectly be entitled to any other sum either from the Authority, users of ALS Ambulance services or any other person, whatsoever.
- 7.2 Subject to the provisions of this Contract Agreement and in consideration of the Service Provider undertaking to perform and discharge its obligations in accordance with the terms, conditions and covenants set forth in this Contract Agreement, Authority agrees and undertakes to pay to the Service Provider the following amount with effect from Effective Date:
Rs. _____ (Rs. In words) per month per Ambulance.
- [Note: The monthly Fee **shall be based on values derived from Financial Proposal submitted by the Service Provider**].
- 7.3 The monthly payment of Fee shall be inclusive of all taxes other than Service Tax. Service Tax, if any, shall be payable by the Authority at the prevailing rate
- 7.4 The monthly payment shall be made on the calendar month basis. The fee payable for the first calendar month after the Effective Date shall be calculated pro-rata on the basis of number of days from the Effective Date to the end of said calendar month.
- 7.5 An annual escalation shall be applicable on the first anniversary of the Final Commissioning Date.
- 7.6 The Service Provider shall be required to submit invoices by 7th (seventh) day of every month, for the previous month, along with a declaration stating that it has performed all the activities and tasks envisaged under this Contract Agreement. The invoices shall be supported Monthly reports as per Schedule 7 of this Contract Agreement and any other Reports or Documents as may be mutually decided from time to time.
- 7.7 The Payment shall be made to the Service Provider upon verification of the invoices and claims of the Service Provider within 30 days from the date of receipt of invoice and after deducting: (i) any TDS or other taxes as required to be deducted under the Applicable Law, (ii) any penalties, that may be imposed by Authority, in accordance with Schedule 5 and (iii) any amounts recoverable by Authority under this Contract Agreement.
- 7.8 The Authority at its discretion may appoint any other external agency for verifying invoices/claims, monitoring of processing and handling the disbursement of Payments or any other amount payable to the Service Provider etc.
- 7.9 In case, the Authority is not able to make payment to the Service Provider within the stipulated time, it shall be liable to pay the Service Provider an interest of 1% (one per cent) on the unpaid amount for each month's delay.

- 7.10 Notwithstanding any verification made by the Authority or any external agency, if the invoices or claims made by the Service Provider are found to be incorrect, the Service Provider may be liable to refund to the Authority, solely at the discretion of the Authority, two times of the amount wrongly invoiced or claimed. This shall be without prejudice to the rights of the Authority to treat the Service Provider to be in material breach of this Agreement and proceed against the Service Provider as specified in this Contract Agreement.
- 7.11 It is hereby agreed that penalties imposed on the Service Provider in pursuance of Schedule 5 or any other amount payable by the Service Provider to the Authority shall be first sought to be adjusted against the Payments or any other amounts payable to the Service Provider by Authority.
- 7.12 Only where no payment is payable by the Authority to the Service Provider or the monthly Payment together with any other amounts payable to the Service Provider by Authority is less than the amount payable by the Service Provider, that such excess amounts and/or required deductions may be recovered through encashment of the Bank Guarantee.
- 7.13 The Service Provider shall provide the ALS Ambulances Services free of cost to the public.
- 7.14 The monthly payment of Fee shall be calculated on the basis of average number of Ambulances operating in a calendar month as per Schedule 2 of the Contract Agreement, after allowing for 5% non-operational Ambulances. In the event of number of operational Ambulances are less than 95% on any given day, the penalty as provided in Schedule 5 of this Contract Agreement, shall be applicable additionally.

8 ARTICLE 8 – PROJECT FACILITIES

- 8.1 “**Project Facilities**” shall mean and include all assets including the Ambulances fitted with medical equipment, other equipment, accessories, the ARC including the hardware and software, database and other materials used for the work and services under this Contract Agreement.
- 8.2 Ownership of all the Project Facilities (except the ARC with its hardware and software) for the purposes of the implementation of the Project shall vest with the Authority.
- 8.3 Ownership all databases as well as Intellectual property rights for the databases generated shall vest exclusively with the Authority.
- 8.4 The Service Provider has no right, title or interest or any form of ownership rights over any of the Project Facilities (except the ARC with its hardware and software). It is hereby clarified that the Service Provider shall not get any right, title or interest in the Ambulances or any equipment and material provided by Authority under this Agreement and the Service Provider has no right to create any right, interest or title or any Encumbrance in relation to the Project Facilities (except for ARC with its hardware and software) in favour of any third party.
- 8.5 The Service Provider shall ensure that all the Ambulance and ARC equipment and technology including software except for the Manpower that are procured for the purpose of providing ALS Ambulance services and implementation of the Project, shall be transferable, upon the expiry or earlier Termination of the Agreement, to Authority without any limitation and any additional burden, financial or otherwise on the Authority.
- 8.6 The Service Provider shall bear all costs and expenses relating to obtaining any user license in favour of Authority or for ensuring the due transfer of the equipment, software and technology to Authority upon the expiry or earlier Termination of the Agreement. The Service Provider shall ensure that all warranties and/or guarantees that may be valid and existing at the time of expiry and/or earlier Termination of the Agreement are also transferred to Authority with the relevant equipment hardware/software and/or technology, as the case may be without any cost to the Authority.

9 ARTICLE 9 – MANPOWER

- 9.1 The Service Provider acknowledges that it shall appoint and recruit Manpower and impart adequate training to the Manpower for performance of all its the obligations in accordance with the terms, conditions and covenants set forth in this Contract Agreement for the operation, maintenance and management of ALS Ambulance Services and Project Facilities. The Manpower appointed for operation of the ALS Ambulance services shall be the employees of the Service Provider or hired by Service Provider on contract and the Authority will not be liable for any acts of omission/ commission vis-à-vis the employee appointed by the Service Provider or hired by him on contract as the case may be.

10 ARTICLE 10 – MOBILIZATION ADVANCE

- 10.1 The Authority may provide as per the demand of the Service Provider an Interest Free Mobilization Advance up to the maximum sum of Rs. 7.8 Crores towards the capital expenditure for provision of ALS Ambulance services in the State of Uttar Pradesh. Another Rs. 1.95 Crores will be provided to the Service Provider after deployment of the last of the 150 ALS Ambulances.
- 10.2 The Service Provider shall be required to submit an unconditional and irrevocable Bank Guarantee to the Authority of Rs. 10.725 Cr, to avail the mobilization advance and the Authority within 15 days of receipt of such Bank Guarantee shall disburse the Mobilization Advance of an equivalent amount of the Bank Guarantee to the Service Provider. The Bank Guarantee shall be from a scheduled bank in favour of “**State Health Society, Uttar Pradesh**” and shall be valid for a period of three (3) months after the due date of the repayment of the last instalment of the Mobilisation Advance.
- 10.3 The Service Provider may repay the entire Mobilization Advance to the Authority in either of the following two ways:
1. two (2) equal half-yearly instalments. The first instalment for the repayment of the Mobilization Advance shall be due on or before the date falling 6 months after the release of mobilization advance,
OR
 2. four (4) equal half-yearly instalments, over a period of two (2) years. In this case the Service Provider shall furnish a Bank Guarantee (BG) of Rs.11.7 Cr as repayment of Mobilization Advance. The first instalment for the repayment of the Mobilization Advance shall be due on or before the date falling 6 months after the release of mobilization advance. Each of the remaining instalments would follow a 6-month schedule, with each instalment to be paid on or before 6 months of last instalment payment.
- 10.4 In the event, the Service Provider defaults to repay the mobilization advance within the stipulated time, it shall be liable to pay to the Authority, an interest @18% per annum on the amount due for repayment for that particular instalment.
- 10.5 Upon default by the Service Provider to repay the mobilization advance post 30 days from the instalment due, the Authority shall be entitled to invoke the Bank Guarantee mentioned in Article 10 (2) and encash therefrom an amount equal to the amount due from the Service Provider towards the instalment.
- 10.6 The Authority shall release the Bank Guarantee(s) mentioned in Article 10 (2) above to the Service Provider after full repayment of the Mobilization Advance from the Service Provider to the Authority.

11 ARTICLE 11 – COVENANTS OF THE SERVICE PROVIDER

11.1 Covenants of the Service Provider

- 1) The Service Provider agrees and undertakes to render ALS Ambulance services and other work and services under this Agreement with regularity throughout the Agreement Period.
- 2) The Service Provider shall be obliged to maintain the services and work at the cost and responsibility of the Service Provider by maintaining the ALS Ambulance services in working condition and deploying the Manpower required.
- 3) Subject to this Contract Agreement, the Service Provider shall be responsible to fabricate after due approval of the design by the Authority, procure and maintain all Medical Equipment for the Ambulance as per the specification contained in Schedule 6.
- 4) Subject to this Contract Agreement, the Service Provider shall be responsible to establish, procure, operate, manage and maintain the ARC as per the specification contained in Schedule 1, except for the dedicated phone lines and the incoming charges of dedicated phone lines, if any.
- 5) Develop suitable solution including Computer Technology, Voice logger system, legally valid Geographic Information Systems (GIS), Geographical Positioning Systems (GPS)/General Packet Radio Service (GPRS), Automatic vehicle Location & Tracking (AVLT), Computer Aided Dispatch (CAD) and mobile communication systems.
- 6) The Service Provider shall develop and provide the Application Software for the Project and hardware components. It shall also update the software periodically as per requirement. Any hardware which requires replacement/upgradability with respect to the latest technological advancement, which in turn enables to make the Emergency response service faster and more efficient should be done by the Service Provider during the Agreement period at their own cost.
- 7) The Service Provider shall operate the ALS Ambulance services and ensure that ambulance services are available on 24 hours per day and 365 days a year basis to the people without any charges being levied from the public. In the event of any repair or other factors affecting the Ambulances or the non-availability of any other Project Facility or Manpower deputed for any ALS service, the Service Provider at its cost and responsibility shall make arrangement for alternate Ambulances of similar nature, on hire to maintain the services as stipulated in this Agreement and shall intimate in writing to the Authority about the same. The Service Provider shall ensure that not more than 5% of the Ambulances shall be non-operational on any given day, after the Effective Date, during the Agreement Period. The Service Provider shall arrange alternative Ambulance of similar type to cover up for the shortfall, if any, in number of Ambulances below 95%.

- 8) The Service Provider agrees to ensure that all the Ambulances should be provided with legally valid GIS and GPS/GPRS device and one active mobile phone connection of any service provider with maximum local coverage.
- 9) The Service Provider shall duly maintain such records including log books as the Authority may require and furnish the same to the Authority in such manner and in such form as may be prescribed by Authority.
- 10) The Service Provider agrees that it shall cooperate and shall be obliged to give all the requisite information and details to the Authority or any other designated representative of Authority for the purpose of verification of its claims.
- 11) The Service Provider agrees and undertakes to render services incidental to the scope and conditions of work as contained in this Contract Agreement without any extra charges or payment provided that the quantum of such extra work does not result in extra expenditure to the Service Provider.
- 12) The Service Provider {A Single Bidder or in case of a Consortium, the Lead Member of the Consortium} acknowledges and agrees that it shall hold at least 51% (fifty-one per cent) stake of the consortium at all times until the end of Contract Agreement Period. The Service Provider shall take prior approval of the Authority in case of any Change in its Ownership.
- 13) The Service Provider hereby covenants that it shall at all times during the Agreement Period maintain such displays, promotional material and/or messages as may be directed or approved by Authority free of cost.
- 14) The Service Provider acknowledges and accepts that the technology and software that shall be financed, procured and/or developed by the Service Provider shall be provided to the Authority, free of cost, in accordance with the provisions of this Agreement, for the purposes of using the said software for the ALS Ambulance Service.
- 15) The Service Provider hereby covenants that it shall duly maintain the Project Facilities (except ARC with its hardware and software) free and clear of all liens, claims, and encumbrances and it shall not at any time create any charge, lien or encumbrances whatsoever over the Project Facilities (except ARC with its hardware and software) in favour of any other person. The Service Provider shall maintain the Project Facilities in good condition.
- 16) Service Provider hereby covenants that it or its Manpower shall not use the Project Facilities for any purpose other than for the purposes of this Contract Agreement.
- 17) The Service Provider shall duly insure and maintain at all times adequate comprehensive insurance cover in regard to the Project Facilities. The Insurance in respect of the 150 Ambulances and the equipment fitted therein shall be taken in the joint names of the Service Provider and the Authority. It is agreed that in the event of any insurance claim arising in respect of the Ambulances, the Service Provider shall lodge the claim with the Insurance Company and the Authority shall discharge the

insurance proceeds in favour of the Service Provider. The Service Provider shall restore the Ambulances to their original operable conditions.

- 18) The Service Provider hereby covenants to undertake IEC/IPC activities, promote/advertise this service to create awareness among the people it serves and thereby increase uptake of services.
- 19) All major and minor maintenance, servicing and replacement of spares and equipment in Ambulances shall be the responsibility of the Service Provider.
- 20) The Service Provider shall be responsible for fuelling of the Ambulances and providing un-interrupted power supply facility to the ARC to provide un-interrupted services.
- 21) The Service Provider acknowledges and accepts that response time for ALS Ambulance services and Ambulance as contained in Schedule 3 is the performance indicator for the purposes of this Agreement and is also the essence of this Contract Agreement. In case of breach of the said performance indicators as per Schedule 3, the Service Provider shall be liable to pay penalty in accordance with Schedule 5.
- 22) The Service Provider shall duly provide stabilization and first aid to the user of the ambulance services and shall be obliged to transport the user to the nearest government hospital or CHCs.
- 23) The Service Provider shall ensure that a chart marking availability of all Medical consumables in the Ambulance is maintained and updated by its Manpower at all times.
- 24) The Ambulance should be regularly serviced and maintained to reduce the risk of breakdown. The responsibility for maintenance will lie with the Service Provider for breakdown or repairs of Ambulances and other Project Facilities.
- 25) The Service Provider has to ensure that the staffing norms mentioned in the Schedules are adhered to and reported to Authority or any other agency appointed by the Authority.
- 26) The Service Provider shall share/provide a link to the Authority which will allow the Authority to access the GPS/GPRS, GIS and any other system procured for the Project for real time monitoring.
- 27) The Service Provider agrees that Authority or its representative shall at all times have access to all the data pertaining to this Project.
- 28) The Service Provider shall duly ensure that it will follow the Good Industry Practices in operation of the ALS Ambulance services.
- 29) The Service Provider agrees that it shall notify any technical fault of the dedicated phone lines during the period of Contract Agreement to the concerned service provider and the Authority immediately but not later than 15 minutes from the identification of such technical fault.

- 30) Data Confidentiality: No data pertaining to the Project should be leaked. The knowledge and/or confirmation of any violation of this clause, based on intelligence gathered, provisioned information or complaint received, shall lead to instant termination of the Contract and the Service Provider shall pay Liquidated Damages of INR 10,00,000, which would be appropriated per **Clause 13.3**.

12 ARTICLE 12 – COVENANTS OF THE AUTHORITY

- 12.1 The Authority shall be responsible for financing and procurement of all the Ambulances. From the Effective Date to the Final Commissioning Date, The Authority shall ensure that it provides Ambulances to the Service Provider 3(three) months prior to the date of the commissioning of such Ambulances as contained in Schedule 2. The Authority shall ensure that all vehicles should be registered and appropriate warranties are taken before transfer of the same to the Service Provider
- 12.2 The Authority shall be responsible for payment of the monthly fee mentioned in Article 7(2) of this Contract Agreement.
- 12.3 The Authority will procure the dedicated phone lines and bear all the expenses for the usage of the dedicated phone lines for the purpose of this Project during the Agreement Period.
- 12.4 The Authority shall be responsible for Promoting public awareness in emergency response through various State agencies and departments on the uptake of Ambulance services are incorporated into existing campaigns of the State wherever appropriate.
- 12.5 The Authority shall ensure that it will provide and facilitate the space to park the Ambulances.
- 12.6 The Authority shall provide appropriate assistance in implementation of the Project.
- 12.7 The Authority shall be responsible for the monitoring and evaluation of the Project and Project Activities.
- 12.8 On receipt of written communication from the Service Provider regarding achievement of each Phase of the Project, the Authority shall within fifteen days from the date of receipt of such communication, verify and issue a Certificate for Completion of each Phase to the Service Provider.
- 12.9 The Authority will instruct the Districts to provide all necessary assistance to the Service Provider and coordinate the smooth implementation and operation of the Project in the respective District. The Authority may also constitute a High Powered Committee to provide policy direction, assistance and regulations for the implementation and operation of the Project.

13 ARTICLE 13 – PERFORMANCE SECURITY

- 13.1 To ensure satisfactory performance of the services under this Contract Agreement, the Service Provider has furnished a Performance Security in the form of an irrevocable Bank Guarantee from a Scheduled bank details of which are given below:
- a. Name of issuing Bank-----
 - b. Amount of Bank Guarantee-----
 - c. Date of issue-----
 - d. In favor of-----
 - e. Validity period-----
- 13.2 The Bank Guarantee shall remain valid up till six months after the expiry of the Agreement Period
- 13.3 The Bank Guarantee shall be maintained and shall be available for Authority to enforce in case of any failure or default on the part of the Service Provider in performing the services under this Contract Agreement or otherwise to meet any claim against the Service Provider.
- 13.4 Without prejudice to the provisions of Article 13 (2) above, the Service Provider shall duly renew and maintain Bank Guarantee at all times during the Agreement Period.

14 ARTICLE 14 – APPOINTMENT OF COMMITTEES, AGENCIES, ETC.

- 14.1 Authority at its discretion may constitute committees or appoint external agencies for the monitoring of performance, processing and verifying invoices/claims, handling disbursement of funds, etc.
- 14.2 Authority may from time to time appoint and reconstitute appropriate committees and agencies, to monitor and coordinate the work and services of the Service Provider and undertake various studies, investigation, inquiries, verifications, etc. as may be considered appropriate.

15 ARTICLE 15 – REPRESENTATIONS AND WARRANTIES

15.1 The Service Provider represents and warrants that:

- (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or registration;
- (ii) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (iii) it has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Agreement;
- (iv) it has the requisite standing and capacity including to undertake the work under this Agreement;
- (v) this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (vi) all the information furnished in the Proposal is, and shall be, true and correct as on the Effective Date and the balance sheet and profit and loss account of the Service Provider for its every accounting year after the Effective Date furnished to the Authority shall give true and fair view of the affairs of the Service Provider;
- (vii) it shall furnish a copy of its audited accounts within 120 (one hundred twenty) days of the close of its every accounting year after the Effective Date and any material change subsequent to the date of such accounts shall be notified to the Authority by the Service Provider within 30 (thirty) days of its occurrence and warrants that the accounts and the information furnished as aforesaid shall be true and correct;
- (viii) the execution, delivery and performance of this Contract Agreement will not conflict with, result in the breach of, constitute a default under or any covenant, agreement, 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;
- (ix) there are no actions, suits, proceedings, or investigations pending or, to the Service Provider's 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 or constitute a default of the Service Provider under this Agreement or which individually or in the aggregate may result in any adverse effect on its business, properties or assets or its condition, financial or otherwise, or in any impairment of its ability to perform its obligations and duties under this Agreement;
- (x) 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

Governmental Agency which may result in any adverse effect or impairment of the Service Provider's ability to perform its obligations and duties under this Agreement;

- (xi) it has complied with all Applicable Laws 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 adverse effect on its financial condition or its ability to perform its obligations and duties under this Agreement;
- (xii) No representation or warranty by the Service Provider contained herein or in any other document furnished by it to the Authority, or to any Governmental Agency in relation to applicable permits contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- (xiii) it warrants that no sums, in cash or kind, have been paid or will be paid by or on behalf of the Service Provider, to any person by way of fees, commission or otherwise for securing or entering into this Agreement or for influencing or attempting to influence any officer or employee of Authority in connection therewith; and
- (xiv) it shall duly renew and maintain Bank Guarantee at all times up till six months after the expiry of the Agreement Period in full force and effect in accordance with the provisions of this Contract Agreement.

15.2 The Service Provider undertakes to observe the highest standard of ethics during the performance of the work under this Agreement without indulging in any Corrupt, Fraudulent, Collusive or Coercive Practices. For the purposes of this provision, the terms set forth below shall have the meaning assigned to them as follows:

- a. "Corrupt Practice" means the offering, giving receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any party in the procurement process or the execution of a contract;
- b. "Fraudulent Practice" means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract;
- c. "Collusive Practices" means a scheme or arrangement between two or more Service Providers, with or without the knowledge of Authority, designed to influence the action of any party in the procurement process or execution of the contract; and
- d. "Coercive Practices" means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of the contract.

15.3 The Service Provider acknowledges that prior to the submissions of the Proposal, the Service Provider had after a complete and careful examination made an independent evaluation of all the information provided by the Authority and had determined to the Service Provider's satisfaction the nature and extent of such difficulties, risks and

issues as are likely to arise or may be faced by the Service Provider in the course of performance of its obligations hereunder.

- 15.4 The Service Provider acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth above and hereby confirms that the Authority shall not be liable for the same in any manner whatsoever to the Service Provider.
- 15.5 The Service Provider Confirms that it has incorporated the Service Provider as Company to execute the Project according to the terms and conditions of this Contract Agreement and the Service Provider shall be liable for all the acts and omissions to the Project during the Agreement Period

16 ARTICLE 16 – FORCE MAJEURE

16.1 As used in this Agreement, the expression “**Force Majeure**” or “**Force Majeure Event**” shall mean occurrence in the State of any or all of Non-Political Event, Indirect Political Event and Political Event 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:

- (a) 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 originating from a source external to the Site);
- (b) strikes or boycotts (other than those involving the Service Provider or its respective employees/representatives, or attributable to any act or omission of any of them) interrupting ALS Ambulance services for a continuous period exceeding 7 (seven) days in an Accounting Year, and not being an Indirect Political Event;
- (c) any failure or delay on the part of an agent of the Service Provider but only to the extent caused by another Non-Political Event and which does not result in any offsetting compensation being payable to the Service Provider by or on behalf of such agent of the Service Provider;
- (d) any judgement or order of any court of competent jurisdiction or statutory authority made against the Service Provider in any proceedings for reasons other than (i) failure of the Service Provider 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;
- (e) the discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection; or
- (f) 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:

- (a) 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;
- (b) any Indirect Political Event that causes a Non-Political Event; or
- (c) 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:

- (a) compulsory acquisition in national interest or expropriation of any Project Facilities or rights of the Service Provider;

- (b) 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 Service Provider to perform its obligations under this Agreement; provided that such delay, modification, denial, refusal or revocation did not result from the Service Provider'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;
 - (c) any event or circumstance of a nature analogous to any of the foregoing.
- 16.5 Upon occurrence of a Force Majeure Event, the Affected Party shall by written notice report such occurrence to the other Party within 48 hours from such occurrence. Any notice pursuant hereto shall include full particulars of:
- (a) the nature and extent of each Force Majeure Event which is the subject matter for any claim for relief under this Article with evidence in support thereof;
 - (b) the estimated duration and the effect or probable effect which such Force Majeure Event is having or shall have on the Affected Party's performance of its obligations under this Agreement;
 - (c) the measures which the Affected Party is taking or proposes to take for mitigating the impact of such Force Majeure Event; and
 - (d) any other information relevant to the Affected Party's claim.
- 16.6 The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it has notified the other Party of the occurrence of the Force Majeure Event forthwith and in any event not later than 48 hours after the Affected Party knew, or ought reasonably to have known, of its occurrence,
- 16.7 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 reports containing information of the event and such other information as the other Party may reasonably request from the Affected Party.
- 16.8 After the Effective Date, if any Force Majeure Event occurs, the dates set forth in the Project Phasing under Schedule 2, at the sole discretion of Authority, may be extended by a period for which effect of such Force Majeure Event subsists.
- 16.9 If a Force Majeure Event subsists for a period of 180 (one hundred and eighty) days or more within a continuous period of 365 (three hundred and sixty five) days, Authority may in its discretion terminate this Agreement by issuing a termination notice to the other Party without being liable in any manner whatsoever, and upon issue of such termination notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith; provided that before issuing such termination notice, Authority shall inform the Service Provider and grant 15 (fifteen) days time to make a representation, and may after the expiry of such 15 (fifteen) days period in its sole discretion issue the termination notice.
- 16.10 The non-availability of the Manpower, Ambulances and/or other Project Facilities due to repair etc. shall not be considered as Force Majeure and it shall be the responsibility of the Service Provider to arrange for appropriate alternatives to maintain the services

and work as stipulated in this Contract Agreement. It shall be entirely the obligation of the Service Provider to maintain the Manpower, Ambulances and other Project Facilities required rendering the services and working under this Contract Agreement.

17 ARTICLE 17 – TERMINATION

17.1 This Agreement shall terminate by efflux of time on the expiry of the Agreement Period.

17.2 Authority may terminate this Agreement for the following Events of Default on the part of Service Provider:

- (a) The Service Provider is in material breach of this Agreement and in case such breach is rectifiable and the Service Provider fails to cure such breach within a period of 10 days from the receipt of notice from Authority;
- (b) The Service Provider transfers or creates any encumbrance, charge or lien over any of the Project Facilities in favour of any person / agency.
- (c) The Service Provider transfers or fails to perform any of its obligations specified under this Agreement;
- (d) The Service Provider collects fees in any form from the beneficiaries/users;
- (e) The Service Provider has failed to achieve the required milestones in accordance with Schedule 2 of this Agreement and delay is more than 90 days for achieving any of the milestones;
- (f) The Service Provider has failed to comply with the performance indicators namely Response Time Default and Non Response Default to the calls as provided in Schedule – 3 are found to be more than 0.1% of the cases in each Calendar Month and the default continues for a period of 6 months
- (g) There are more than 0.1% cases of failure by the Service Provider to adhere to the Standard Operating Procedures in each Calendar month and the default continues for a period of 6 months
- (h) There are more than 0.1% cases of failure by the Service Provider to adhere to the Standard Ambulance Operating Procedures in each Calendar month and the default continues for a period of 6 months
- (i) The Service Provider has failed to adhere to the performance standards for ARC (as mentioned in the Schedule 3 to this Agreement) and the default continues for a period of 6 months
- (j) The Service Provider does not maintain the Bank Guarantee or comprehensive insurance as provided in this Agreement
- (k) The Service Provider is adjudged bankrupt or insolvent or a trustee or receiver is appointed for the Service Provider or for any of its property that has a material bearing on the Project;
- (l) Petition for winding up of the Service Provider is admitted by a court of competent jurisdiction
- (m) The Service Provider abandons the operations of the Project for more than 15 (fifteen) consecutive days without the prior consent in writing of Authority, provided that the Service Provider shall be deemed not to have abandoned such operation if such abandonment was as a result of Force Majeure Event and is only for the period when such Force Majeure Event is continuing, and
- (n) The Service Provider repudiates this Agreement or otherwise evidences an intention not to be bound by this Contract Agreement.

- 17.3 Authority shall be entitled to enforce the Bank Guarantee and recover the amount due to it in respect of such claim, damages, rights or remedy without prejudice to its rights.
- 17.4 Notwithstanding anything to the contrary contained in this Agreement, termination of this Agreement shall be without prejudice to other rights of the Authority including its right to claim and recover damages and other rights and remedies which it may have in law or under this Contract Agreement.
- 17.5 The Service Provider may terminate this Agreement if the Authority defaults in performance of the Covenants mentioned in Clause (1) and (2) of Article 12 and such defaults continues for a period of sixty days.
- 17.6 Upon Expiry or earlier Termination of this Agreement, the Service Provider shall:
- (a) notify Authority forthwith about the location and particulars of all Project Facilities; and
 - (b) deliver forthwith the possession and control to Authority or any person designated by Authority of the 150 Ambulances and other Project Facilities excluding ARC in operable condition, free and clear of all encumbrances and execute such deeds, writings and documents as may be required by Authority and under Applicable Laws for fully and effectively divesting the Service Provider of all of the rights and interests in the Project Authority.

18 ARTICLE 18 – DISPUTE RESOLUTION

18.1 Amicable Resolution:

- (a) Save where expressly stated to the contrary in this Agreement, any dispute, difference or controversy of whatever nature howsoever arising under, out of or in relation to this Agreement including incompleteness of the Project, between the Parties and so notified in writing by either Party to the other (the “Dispute”) in the first instance shall be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Sub-clause (b) below.
- (b) In the event of any dispute between the Parties, either Party may call upon the Chief Secretary of the State of Uttar Pradesh to mediate and assist the Parties in arriving at an amicable settlement thereof. The Chief Secretary shall meet with the Service Provider not later than 15 (fifteen) days of the date of such request to discuss and attempt to amicably resolve the Dispute.
- (c) If the dispute is not amicably resolved pursuant to the above as evidenced by the signing of the written terms of settlement within 30 (thirty) working days of the aforesaid notice in writing or such longer period as may be mutually agreed by the Parties, then the dispute shall be referred to adjudication by the Arbitrators.

18.2 Arbitration:

- (a) Any Dispute, which is not resolved amicably as provided in Clause (1) of this Article 18 shall be finally decided by reference to arbitration by an Arbitral Tribunal of three - one to be appointed by each party and the two arbitrators so appointed to appoint the third arbitrator who shall act as the presiding arbitrator. The arbitration shall be subject to the provisions of the Arbitration and Conciliation Act, 1996.
- (b) The arbitrators shall issue a reasoned Award.
- (c) The venue of such arbitration shall be in Lucknow, Uttar Pradesh.
- (d) The Parties undertake to carry out any decision or award of the arbitrators (the “Award”) without delay. Awards relating to any Dispute shall be final and binding on the Parties as from the date they are made.
- (e) The Parties agree that an Award may be enforced against the Service Provider and/or Authority, as the case may be and their respective assets wherever situated.
- (f) This Agreement and rights and obligations of the Parties shall remain in full force and effect pending the award in any arbitration proceeding hereunder.

19 ARTICLE 19 – GOVERNING LAW AND JURISDICTION

19.1 This Agreement shall be construed and interpreted in accordance with and governed by the laws of India and the Courts at Lucknow, India shall have jurisdiction over all matters arising out of or relating to this Contract Agreement.

20 ARTICLE 20 – INDEMNITY

20.1 Indemnity by the Service Provider

The Service Provider shall indemnify and hold the Authority harmless, from any and all action, claims, suits and/or legal proceedings initiated by any person, third party or otherwise, that may be initiated or raised against Authority whether that may be in the nature of criminal, civil, medico-legal proceedings, proceedings under the Consumer Protection Act, 1986 or any Applicable Law that may arise under this Agreement

The Service Provider shall also indemnify and hold the Authority harmless from any and all actions, claims, liabilities, costs, damages and expenses of every kind and nature in respect of the sickness, injury or death of any person employed directly or indirectly by the Service Provider or any subcontractor and their respective employees and damage to or destruction of any property or equipment of the Service Provider or its subcontractors and their respective employees arising during or as a result of the performances or non-performance of this Agreement from any cause whatsoever provided that this Article shall not apply to injury, death, damage or destruction to the extent caused by the gross negligence, default or omission of the Authority or its employees.

20.2 Indemnity -Third Party

The Service Provider shall indemnify and hold the Authority harmless from any and all claims, liabilities, costs, damages, and expenses of every kind and nature in respect of the sickness, injury or death of any third party and the damage to or destruction of any property of any third party arising directly or indirectly as a result of any gross negligence, default or omission of the Service Provider or its employees.

20.3 Non-Compliance with Applicable Laws

The Service Provider shall indemnify and hold the Authority harmless from any fines, penalties and similar charges which may be attributed to or imposed or assessed against the Authority by reason of the failure of the Service Provider to comply fully with all Applicable Laws save to the extent such failure was caused by the gross negligence, default or omission of the Authority or its employees.

20.4 General Indemnity

The Service Provider shall indemnify and hold the Authority harmless for and against any and all claims, liabilities, costs, damages and expenses of whatsoever nature howsoever incurred by the Authority arising whether directly or indirectly as a result of the breach by the Service Provider of any of the Service Provider's obligations under this Agreement save to the extent such claims, liabilities, costs, damages and expenses were caused by the gross negligence, default or omission of the Authority or its employees.

Notwithstanding the termination of this Agreement, the Service Provider shall indemnify and hold the Authority harmless for and against any and all claims, liabilities, costs, damages and expenses of whatsoever nature incurred by the Authority during the subsistence of this Contract Agreement.

20.5 Enforcement

For the avoidance of doubt, nothing in this Article shall prevent or restrict a Party enforcing any obligation owed to it under this Contract Agreement.

20.6 Defence

The Authority shall promptly notify the Service Provider of any matter which may give rise to a right of the Authority to be indemnified under this Article 20.

The Service Provider may at its own cost conduct negotiations for the settlement of any claim made against it, and any litigation that may arise there from in such reasonable manner as the Authority shall from time to time approve (such approval not to be unreasonably withheld).

The Service Provider may not, however, conduct such negotiations or litigation before it has given the Authority such security as the Authority may reasonably require. The security shall be for an amount required by the Authority, which is its reasonable assessment of the amount for which it may become liable and which are the subject of the indemnities under this Article.

The Authority shall not make any admission which might be prejudicial to the Service Provider unless the Service Provider has failed to take over the conduct of the negotiations or litigation or provide security under this Article 20 within a reasonable time after having been so requested.

21 ARTICLE 21 – MISCELLANEOUS

21.1 Priority of Agreements and Errors/Discrepancies

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

- (a) this Contract Agreement (RFP Part II) read with Schedules;
- (b) Letter of Intent;
- (c) Request for Proposal; and
- (d) all other Agreements and documents executed by and between the Parties;

In-case of any discrepancy or conflict between the provisions of the above documents, the provisions of the documents mentioned prior in the above order shall prevail over the provisions of the documents mentioned subsequently in the above order.

21.2 Waiver:

Waiver by either Party of any default by other Party in the observance and performance of any provision of or obligations of or under this Agreement:

- (i) 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;
 - (ii) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
 - (iii) shall not affect the validity or enforceability of this Agreement in any manner.
- (a) 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 there under 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.

21.3 Entire Agreement:

This Agreement and together with the other contract documents and the Scheduled constitute complete and exclusive statement of the terms of this Agreement between the Parties on the subject hereof and no amendment or modification hereto shall be valid and effective unless expressly previously approved in writing by the Authority and executed by the person expressly authorised by a resolution of Authority in this behalf.

21.4 Notices:

Any notice or other communication to be given by one Party to the other Party under, or in connection with the matters contemplated by this Agreement shall be in writing and shall be given at the respective addresses given in Article 21 (11) below, by letter delivered by registered post to the person designated or the purpose in writing by the concerned party from time to time.

21.5 Severability:

If for any reason whatsoever 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.

21.6 Assignment:

The Service Provider cannot assign its rights and obligations under this Contract Agreement to any person.

21.7 Relationship of the Parties:

Nothing contained in this Agreement shall be construed or interpreted as constituting a partnership between the Parties. Neither Party shall have any authority to bind the other in any manner whatsoever. The Agreement is on Principal to Principal basis.

21.8 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.

21.9 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.

21.10 Counterparts:

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

21.11 Address for Correspondence:

For the Nodal Authority

Mission Director,

SPMU- NHM,
Vishal Complex, 19-A, Vidhan Sabha Marg,
Lucknow, Uttar Pradesh 226001

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

For the Service Provider
[.....]
[.....]

IN WITNESS WHEREOF THE, PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN

SIGNED SEALED AND DELIVERED

For and on behalf of
Governor of Uttar Pradesh

By:

_____ (Signature)

_____ (Name)

_____ (Designation)

SIGNED, SEALED AND DELIVERED

For and on behalf of
---- (Name of the Service Provider) ----:

By:

_____ (Signature)

_____ (Name)

_____ (Designation)

In the presence of:

- 1.
- 2.