

RFP NO: MPSEDC/CSC/2007-08/01

REQUEST FOR PROPOSAL

FOR

SELECTION OF SERVICE CENTRE AGENCIES TO SET UP,
MANAGE AND OPERATE COMMON SERVICES CENTERS IN
THE STATE OF MADHYA PRADESH

VOLUME 3:
MASTER SERVICE AGREEMENT

ISSUED BY
M. P. STATE ELECTRONICS DEVELOPMENT CORPN LTD
(A Govt of M P Undertaking)

147, ZONE-I, MP NAGAR, BHOPAL-462011
Phone: 0755-4299364, 4299370, Fax: 0755-4299369

www.mpsedc.com

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MASTER SERVICE AGREEMENT

This Master Service Agreement, hereinafter referred to as “**MSA**” is made this ___ day of _____ 2007 at [Place]

BY AND AMONG

The Governor of the State of Madhya Pradesh, in his executive capacity for the Government of the State of Madhya Pradesh, acting through the Principal Secretary, Government of Madhya Pradesh, Department of Information Technology, hereinafter referred to a “**GoMP**” (which term or expression, unless excluded by or repugnant to the subject or context, shall mean and include its successors-in office and assigns) of the First Part
AND

M.P. State Electronics Development Corporation Ltd, an undertaking of Government of M.P, registered under Indian Companies Act, 1956 and having its registered office at 147, Zone-I, M.P. Nagar, Bhopal-462011 has been appointed as the nodal agency for implementing the Scheme by the GoMP, hereinafter referred to as “**MPSEDC**” (which term or expression, unless excluded by or repugnant to the subject or context, shall mean and include its successors and assigns) of the Second Part
AND

AND

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

Each individually a “Party” hereto and collectively the “Parties”

Whereas,

- i. The GoMP intends to provide convenient and speedy Government Services, using Information & Communication Technologies (ICT) through Common Services Centers (CSCs).The CSCs will be utilized as efficient distribution channels through which the GoMP can offer its services, information and schemes etc. to citizens in a cost effective, sustainable and efficient manner. To undertake the delivery of Government Services on a Public Private Partnership basis, the GoMP intends to appoint Service Centre Agencies (SCAs) to roll out and manage the CSCs in the State of Madhya Pradesh and offer revenue support to the SCAs, as agreed and accepted by the MPSEDC through the SCA’s Financial Bid.
- ii. The SCA shall develop, finance, design, build, rollout, establish, manage, operate and maintain the CSCs for delivery of services to the customers in accordance with the provisions of this MSA on a Build, Own and Operate (BOO) basis; provided that the SCA shall be allowed to collect transaction charges for providing Government services as determined by GoMP/ MPSEDC and receive revenue support, as agreed to between the SCA and GoMP, vide this MSA by enabling the private and social sector to use this network for offering a host of IT and non-IT related services to customers and users.

Now therefore this agreement witnesseth as under –

1. Definitions, Interpretations and Other Terms

1.1 Definitions

- a) **Assets** means all Assets used in providing services in accordance with this Agreement and shall include:
 - i) Government Assets
 - ii) All upgradation/ enhancements and improvements to the above assets;
- b) **Bid** means the documents in their entirety comprising of the technical and commercial bid submitted by the successful bidder, the SCA herein, in response to the RFP, and accepted by the MPSEDC, signed for verification by the authorized representatives of the Parties, vide letter no. _____ dated _____;
- c) **B2C Services** means Business to Consumer services, or all non-Government Services offered through the CSCs;
- d) **B2B Services** means all Business to Business services offered through the CSCs;
- e) **Common Services Center(s) or CSC(s)** means the ICT enabled access points to be established by the SCA as per the specifications and requirements set forth in Vol.1 of the RFP and this MSA;

- f) **Confidential Information** means all information including GoMP data (whether in written, oral, electronic or other format) which relates to the technical, financial and business affairs, customers, suppliers, products, developments, operations, processes, data, trade secrets, design rights, know-how and personnel of each Party and its affiliates which is disclosed to or otherwise learned by the other Party in the course of or in connection with this MSA (including without limitation such information received during negotiations, location visits and meetings in connection with this MSA);
- g) **Customers** means all citizens and users who use the CSCs for Government as well as other services, either directly or through the SCA;
- h) **Deliverables** means all the activities related to the setting up and operations of Common Services Centers, as defined in Volume 1 of the RFP, and as required as per this MSA;
- i) **Division** means the minimum region, which the SCA has bid for and has been authorized to set up and operate the CSCs, vide letter no. _____ dated _____
- j) **Designated/Nominated Agency(s)** means any GoI/GoMP approved agency, including a Special Purpose Vehicle (SPV) formulated for the Scheme, as outlined in para 2.4 of this MSA.
- k) **Effective Date** means the date on which this MSA is executed;
- l) **Government Assets** means all assets made available to the SCA by the GoMP/MPSEDC or any person designated by the GoMP/MPSEDC;
- m) **Government Services or G2C services** means services that are offered by GoMP/GOI/or any of their departments and agencies/ undertakings, through the CSCs, as outlined in the Service Level Agreement(s) between the MPSEDC and SCA, vide Schedule 3 of this MSA;
- n) **GoMP data** means all proprietary data of GoMP or its departments, instrumentalities, corporations and agencies or the MPSEDC, but not restricted to user data which the SCA obtains, possesses or processes in the context of providing the Services to the users pursuant to this MSA;
- o) **MSA** means this Master Service Agreement (MSA), together with the recitals and all schedules and the contents, requirements, specifications and standards of the Volume I of the RFP (as may be amended, supplemented or modified in accordance with the provisions hereof) and the Bid. In the event of a conflict between this MSA and the Schedules, the terms of the MSA shall prevail;
- p) **Network Connectivity** means the appropriate communication network for interactive and online access to voice, data, and video based services, including wireless broadband connectivity that shall be deployed by the SCA to connect to the CSCs;
- q) **Operations or Operations and Management** means the operation, maintenance and management of the CSCs by the SCA;
- r) **Performance Security** means the irrevocable and unconditional Bank Guarantee provided by the SCA from a Scheduled Commercial Bank in favor of the MPSEDC for an amount specified in the Vol. 2 of the RFP;
- s) **Prime Bidder** means the Lead Bidder in accordance with the Volume 2 of the RFP;
- t) **Proprietary Information** means processes, methodologies and technical and business information, including drawings, designs, formulae, flow charts, data and computer programs already owned/ licensed by either Party or granted by third parties to a Party hereto prior/ subsequent to the execution of this MSA;
- u) **Required Consents** means the written consents, clearances and licenses, rights and other authorizations as may be required to be obtained by the SCA, for all activities/software/hardware under the CSC Scheme;
- v) **RFP** means the Request For Proposal released vide Bid Document no. _____ dated _____, and include all clarifications/addendums, explanations and amendments issued by the MPSEDC in respect thereof;
- w) **Replacement SCA** means any third party that the MPSEDC may appoint to replace the existing SCA upon expiry of the term or prior termination of this MSA;
- x) **SCA Data Centre** means the Data Centre that may be set up by the SCA with requisite ICT infrastructure that shall include but not be limited to servers, routers, switches, etc. for delivering the services through the CSCs to the customers;
- y) **Scheme** or **[Name of the Scheme in MP]** means the process of setting up, managing and operating the CSCs by the SCA;
- z) **Service Level(s)** means the performance criteria, which will apply, to the services delivered through the CSCs;
- aa) **Service Level Agreement(s)** means agreement(s) executed by and between GoMP, MPSEDC and the SCA for delivering various Government services through the CSCs, pursuant to the Schedule 3 of this MSA;

- bb) **Services** means the content and services delivered and to be delivered to the customers by the SCA through the CSCs, set up, managed and operated by the SCA and includes but not limited to the list of services specified in Volume 1 of the RFP or as may be specified in the subsequent Agreement/s;
- cc) **Users** means the citizens, businesses, GoMP including its departments, service providers, technology vendors, corporations and agencies and their employees, as the context admits or requires;
- dd) **State Data Centre** means State/District Data Centre, which will host the Government applications, backend infrastructure, including client server hardware, software, LAN access switch, server farm, firewall, core WAN router for connecting high speed internet connections and high-speed WAN links connecting to various departments, agencies and entities of the GoMP;
- ee) **Term** means the duration of this MSA;
- ff) **Third Party Systems** means systems (or any part thereof) in which the Intellectual Property Rights are owned by a third party and to which SCA has been granted a license to use and which are used in the provision of Services;
- gg) **Utility Service Provider** means the provider of a Utility Service designated by the GoMP/ MPSEDC;
- hh) **Village Level Entrepreneur** or **VLE** means the individual identified and retained by the SCA as employee or business associate/partner/franchisee in any other legal and contractual capacity for the day-to-day management, operations and maintenance of the CSCs so as to provide services to the customers;

1.2 Interpretations

- a) References to any statute or statutory provision include a reference to that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated and to all statutory instruments made pursuant to it;
- b) Words denoting the singular shall include the plural and vice-versa and words denoting persons shall include firms and corporations and vice versa;
- c) Unless otherwise expressly stated, the words "herein", "hereof", "hereunder" and similar words refer to this MSA as a whole and not to any particular Article, Schedule. The term Articles, refers to Articles of this MSA. The words "include" and "including" shall not be construed as terms of limitation. The words "day" and "month" mean "calendar day" and "calendar month" unless otherwise stated. The words "writing" and "written" mean "in documented form", whether electronic or hard copy, unless otherwise stated;
- d) The headings and use of bold type in this MSA are for convenience only and shall not affect the interpretation of any provision of this MSA;
- e) The Schedules to this MSA form an integral part of this MSA and will be in full force and effect as though they were expressly set out in the body of this MSA;
- f) Reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to such agreement, deed, instrument, license or other document as the same may be amended, varied, supplemented, modified or suspended at the time of such reference;
- g) References to "construction" or "roll out" includes, unless the context otherwise requires, design, development, implementation, engineering, procurement, delivery, transportation, installation, processing, fabrication, acceptance testing, certification, commissioning and other activities incidental to the construction or roll out, and "construct" or "roll out" shall be construed accordingly;
- h) Any word or expression used in this MSA shall, unless defined or construed in this MSA, bear its ordinary English language meaning;
- i) The damages payable by a Party to the other Party as set forth in this MSA, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and liquidated damages likely to be suffered and incurred by the Party entitled to receive the same and are not by way of liquidated damages;
- j) This MSA shall operate as a legally binding agreement specifying the master terms, which apply to the Parties under this agreement and to the provision of the services by the SCA;
- k) The MPSEDC may nominate a technically competent agency/individual for conducting acceptance testing and certification of the Scheme or carry out these tasks itself;
- l) The agency/individual nominated by the MPSEDC can engage professional organizations for conducting specific tests on the software, hardware, networking, security and all other aspects;
- m) The agency/individual will establish appropriate processes for notifying the SCA of any deviations from the norms, standards or guidelines at the earliest instance after taking cognizance of the same to enable the SCA to take corrective action;

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

1.3 Conditions Precedent

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

2. Rolling Out of the CSCs

2.1 Scope of the MSA

- a) The SCA is mandated to establish _____ [number] CSCs in _____ division(s) of the State of Madhya Pradesh. The GoMP will provide Government Services through the CSCs.
- b) The GoMP will extend revenue support to the SCA as agreed vide this MSA.
- c) This MSA shall be governed by the provisions of Deliverables of the SCA to GoMP and the MPSEDC, included in the RFP and the MSA. It is anticipated that new or renewal agreements may be undertaken by creating separate Service Level Agreements with schedules and exhibits, as required, under this MSA for each/set of Government Service(s). A copy of the Service Level Agreement is attached as Schedule 3 of this MSA.

2.2 Term of the MSA

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

2.3 Rollout of CSCs

- a) The SCA shall set up and operationalize the CSCs at its own cost and expense within 12 months in phases, from the Effective Date, as per the Deliverables outlined in the RFP document of this MSA.
- b) The SCA may enter into arrangements at its own cost and risk with the non-Government content and service providers for IT and non-IT based services delivered through the CSCs.
- c) The SCA shall identify, train, facilitate and enter into appropriate arrangements with the VLEs at its own cost and risk in accordance with the provisions of the RFP, and this MSA for establishing, managing, operating and maintaining the CSCs.

2.4 The Special Purpose Vehicle (SPV)

- a) A Special Purpose Vehicle has been proposed to be set up to undertake the day-to-day monitoring of the Scheme. The SPV may undertake the following key roles and responsibilities:
 - i Lay down operating and financial disciplines within the CSC system
 - ii Provide a framework for collaborative decision making process
 - iii Catalyze and maintain content aggregation on an on-going basis
 - iv Build a common "Identity" for the Scheme
- b) The SPV may also undertake all necessary audit, monitoring and financial management of the Scheme.
- c) The SCA if it so desires, may invest into the SPV as an equity shareholder in accordance with the terms to be agreed between the Parties

2.5 Scope and Provision of the Services

- a) The provision of Services to the citizens with certainty and speed is the essence of the MSA between the Parties. The SCA must build the competence to manage and provide a variety of Government and other Private services to customers. The SCA will keep abreast of the relevant technical, managerial and operational requirements applicable to the provision of the Services and best practices in this area and will share its knowledge with the GoMP and the MPSEDC, regarding matters which would assist the GoMP and the MPSEDC, in its use of the services, provided that SCA shall not be obligated to share other client information or Confidential Information of the SCA not relevant to this MSA. The

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

- b) The SCA shall operate and manage the CSCs in a good professional manner commensurate with existing industry and technical standards and innovations pursuant thereon, so as to comply with the applicable Service Levels, as laid out in Schedule 1 of this MSA, or as may be laid out in the individual Service Level Agreements for each service.
- c) The SCA shall be liable for ensuring compliance by the persons working for the SCA, including the VLEs, with the provisions of the RFP, the Bid, this MSA and the performance of their respective obligations and functions in accordance with the specifications and requirements and shall indemnify and keep indemnified the GoMP and the MPSEDC in this behalf.
- d) No Party to this MSA will at any time perform, or omit to perform, any act which it is aware, at the time of performance, will place the other Party in default under any insurance policy, mortgage or lease governing activities at any location provided by the GoMP.
- e) Except as otherwise provided for herein or with the prior written approval of GoMP / MPSEDC, the SCA shall not:
 - i. Systematically collect and use any GoMP data, Deliverable, Assets or GoMP contents/contents of G2C services and information, including the use of any data mining, or similar data gathering and extraction methods;
 - ii. Market, sell, or make commercial or derivative use of the GoMP Data, Deliverable or Assets, GoMP contents/contents of G2C services and information;
 - iii. Publish, publicly perform or display, or distribute to any third party any GoMP Data, Deliverables or GoMP contents/contents of Government services and information, including reproduction on any computer network or broadcast or publications media; or
 - iv. Use, frame, or utilize framing techniques to enclose any portion of the GoMP Data, Deliverables or GoMP contents/contents of G2C services and information (including images, any text or the layout/design, form or content of any page or otherwise).

2.6 Service Level Agreements

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

2.7 Approvals and Required Consents

- a) The Parties shall co-operate to procure, maintain and observe all relevant and customary regulatory and governmental licenses, clearances and applicable approvals (hereinafter the "Approval") necessary for the SCA to provide the Services. The costs of such Approvals shall be borne by the Party normally responsible for such costs according to local custom and practice in the locations where the Services are to be provided
- b) The GoMP and the MPSEDC shall endeavor to assist the SCA in obtaining the Required Consents. In the event that any Required Consent is not obtained, the SCA and the GoMP (along with the MPSEDC) will co-operate with each other in achieving a reasonable alternative arrangement as soon as practicable for the GoMP to continue to process its work with as minimal interruption to its business operations as is commercially practicable. The SCA shall not be relieved of its obligations to provide the Services and to achieve the Service Levels until the Required Consents are obtained if and to the extent that the SCA's obligations are dependent upon such required Consents/ Approvals.
- c) MPSEDC will co-ordinate and assist the SCA in meeting necessary integration requirements with SDC(when established/becomes functional) and MP Portal/ MP Online for delivery of services. Similarly, assist in establishing connectivity with MPSWAN (when becomes operational).

2.8 Use and Upkeep of GoMP Assets

During the Term the SCA shall:

- a) Take all reasonable and proper care of Assets;

- b) Provide permission to the GoMP and MPSEDC and any persons duly authorized by it/them to enter any land or premises on which the Assets are for the time being sited so as to inspect the same; and
- c) In the event of setting up CSCs in any GoMP location, the GoMP_ shall, to the extent necessary for the SCA to provide the Services, subject to compliance by the SCA with any safety and security guidelines which may be provided by the GoMP and notified to the SCA in writing, provide the SCA with: (i) reasonable access to the CSCs for customers as well as MPSEDC and its designated agencies, as well as GoMP_ personnel, as per mutually agreed specified timings and (ii) access to office equipment as mutually agreed and other related support services in such location and at such other GoMP location, if any, as may be reasonably necessary for the SCA to perform its obligations hereunder; and
- d) Agree that the grant of aforesaid access to the SCA to the GoMP locations shall be in the nature of a bare license and shall not confer or be deemed to have conferred on the SCA any right, title or interest whatsoever (whether in the nature of an easement or otherwise) in such locations, office equipment or support services or any part thereof and nothing in these presents contained shall be construed as a demise in law of such locations unto the SCA so as to give the SCA any legal interest therein. The SCA shall only have the right to enter upon such locations for the purpose of executing the Scheme in accordance with the terms hereof.
- e) Not part with or create any encumbrances whatsoever on the whole or any part of such locations, office equipment or support services made available by GoMP to the SCA.
- f) At all times, afford access to the CSC business (including the CSCs, SCA offices, systems, software, hardware, networks, sites, accounts, documents, records, contracts, materials, personnel, subcontractors, VLEs, etc.) to GoMP or the MPSEDC, as the case may be, their authorized officers, representatives, advisors, experts, auditors and monitoring or certifying entities, the representatives of any competent government authority having jurisdiction over the Scheme to inspect the CSCs and their roll out and operation and to investigate any matter within their authority and the SCA shall provide to such persons reasonable assistance necessary to carry out their respective duties and functions.
- g) The SCA shall at all times co-operate by providing reasonable access and services to the CSCs for customers as well as the MPSEDC and its designated agencies, as well as GoMP personnel, as per working hours specified in the RFP; and
- h) In case the State Government provides premises to the Service Centre Agency (SCA) to set up Common Services Centers, the SCA shall pay a license fee/rent as prescribed by the State Government. The premises so provided shall be on a bare License authorizing the SCA to enter upon the Kiosk for the purpose mentioned in the Master Service Agreement for the duration of this Agreement. The SCA shall not at any time -
 - (i) claim ownership or any right title or interest in the said premises either whole or in part
 - (ii) assign or transfer the said premises either whole or in part
 - (iii) claim tenancy or lease rights or adverse position in respect of the said premises

The SCA also agrees to ensure that its VLEs and to the extent possible the users, do not use such locations, services and items made available by GoMP for

- the transmission of any material which is defamatory, offensive or abusive or of an obscene or menacing character; or
 - Any act, which constitutes a violation or infringement of the rights of any person, firm or company (including but not limited to rights of copyright or other intellectual property right, confidentiality or privacy).
- i) The license granted is personal to the SCA and is not transferable. The premises shall not be sub-licensed and the SCA shall not enter into any partnership and/or create any third party interest in respect of the said premises.
 - j) The SCA shall maintain the premises with the same care as his own premises, the standard of care in no case being less than reasonable.
 - k) Without prejudice to the provisions of clause 4.2 of this Agreement, on expiry or sooner determination of this Agreement, the SCA shall remove all equipment and effects from the premises and make available the premises, to the GoMP/ MPSEDC or its designated agency, in the same condition in which they had been received

2.9 Requirements for the Prime Bidder

Other than the Prime Bidder, other consortium members may be changed but only after the full roll out of the CSCs in the Division/District has been achieved and with the prior written approval of the MPSEDC and/or its nominated agencies. Provided that in the event of any such approved change of consortium members, the entities (companies) replacing them shall have, to the reasonable satisfaction of MPSEDC, the same or higher financial, technical and legal qualifications as the outgoing entities. In the event the MPSEDC does not grant approval for the change of the non-principal bidders or suitably qualified replacement entities (companies) are not available/ found, the exit of the non-principal bidders shall constitute a breach of this MSA

2.10 Security and Safety

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

2.11 Co-operation

- a) Except as otherwise provided elsewhere in this MSA, each Party ("Providing Party") to this MSA, undertakes promptly to provide the other Party ("Receiving Party") with all such information and co-operation which the receiving Party reasonably requests, provided that such information and co-operation:
 - i. Does not require material expenditure by the Providing Party to provide; and
 - ii. Is reasonably required by the Receiving Party in order for it to comply with its obligations under this MSA; and
 - iii. Is not Confidential Information; and
 - iv. Is capable of being provided by the Providing Party.
- b) Each Party agrees to co-operate with the contractors and sub-contractors of the other Party as reasonably requested in order to accomplish the purposes of this MSA

3. Financial Provisions

3.1 Payments and Charges

- a) The *GoMP* will pay upto a maximum of Rs. _____ per CSC per month to the SCA, towards revenue support (for the bid unit), on a quarterly basis as per the financial bid of the SCA accepted by MPSEDC, vide letter no. _____ dated _____
- b) The SCA shall not be entitled to receive any capital support/subsidy from the *GoMP* and/or for undertaking the roll out of the Scheme and the SCA shall be required to finance the same through its own resources or funding arranged by it at its cost.
- c) The SCA shall be entitled to retain its specified share of the transaction charges, collected from the citizens pursuant to the provision of Government services under this MSA, through the CSCs, and receive the revenue support, as explained in the RFP, and as bid and accepted by the MPSEDC, from *GoMP* during the Term. Such revenue support shall be payable by *GoMP* to the SCA on a quarterly basis
- d) The SCA and its VLEs shall be authorized to collect the transaction charges from the users for the Government applications/services as specified in Appendix B of Schedule 3 and as may be revised from time to time, at rates fixed by *GoMP*. The SCA/its VLEs shall promptly deposit the *GoMP*'s or a Government utility service provider's share of such transaction charges, at the pre-agreed rates and within the time specified as maybe, along with the applicable/stipulated/mandatory fee, if any, relating to such application/service and the service tax, if any, in the respective designated bank account of the *GoMP* or the relevant utility

service provider, as the case may be, as notified in writing by the MPSEDC to the SCA from time to time. Unless otherwise specified to the contrary, the GoMP's share of the transaction charges, such applicable /stipulated fee and the service tax, if any, shall be deposited in the MPSEDC bank account, as notified in writing by the MPSEDC to the SCA. The transaction charges may be collected from the users by the VLEs and credited by SCA/VLE to the designated MPSEDC bank account or the bank account of the utility service provider, but as between the GoMP and the MPSEDC/relevant utility service provider on the one hand and the SCA on the other hand, the SCA shall be liable and responsible for all such operations and activities and ensuring to deposit the share of revenue of the Government and other Utility Service Providers as applicable.

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

f) The SCA would not be eligible for the revenue support unless the CSCs within the SCA's jurisdiction as per the mile stones prescribed (Division/Part of a State as per bidding package) have been rolled out within the specified time frame and are certified as operational by MPSEDC.

Once the SCA has set up and made operational 50% of the CSCs, he shall be eligible for 50% of the revenue support for these operational CSCs. The balance 50% shall be deferred till the roll out of the 100% CSCs. The time frame for completion of the complete roll out (100%) shall remain 12 months from the effective date (signing of the agreement with the State Government/MPSEDC). Subsequent to achievement of the 50% of the CSC target, for rest of the additional CSCs being set up, the eligible revenue support would also be 50% and paid on the quarterly basis. The deferred eligible revenue support in such cases also will however be paid after completion of the full roll out.”

g) SCA should provide a minimum revenue support of Rs.500/- (Rs. Five hundred only) or 50% of the revenue support quoted whichever is higher, every month to the Village Level Entrepreneurs. The terms & conditions of SCA-VLE relationship as proposed by SCA in the business plan and as agreed by MPSEDC (after changes if any) will be part of this MSA.

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

i) Except as otherwise provided for herein or as agreed between the Parties in writing, the GoMP/MPSEDC shall not be required to make any payments in respect of the Services other than those covered by the terms of payment as stated herein, including the Financial Provisions section of this MSA.

3.2 Invoicing and Settlement

a) As regards the revenue support quoted by the SCA in the financial bid as accepted by MPSEDC, the SCA shall submit its invoices in accordance with the following principles:

i. The SCA shall submit a certificate from the MPSEDC or its designated agencies certifying that all the CSCs in the allotted division/(bid unit) of the SCA have been rolled out and are operational to the satisfaction of the MPSEDC or its designated agencies. The SCA shall submit quarterly invoices for the revenue support along with a detailed MIS sheet in respect of the services delivered and a quarterly provisional financial statement indicating revenue generated from delivery of Government services. The SCA shall also provide a certificate by a Chartered Accountant every 6 month certifying the above statement. The SCA shall further submit audited statement of accounts annually.

- ii. At the end of fourth quarter, the SCA shall submit a detailed MIS sheet for all four quarters of the year in respect of the services delivered and an audited financial statement indicating revenue generated from delivery of Government services. The revenue support to be disbursed at the end of the fourth quarter will be adjusted to balance the total revenues generated in the complete year and the revenue support disbursed in the previous three quarters.
- b) The SCA shall invoice all payments for revenue support by the 10th working day of the month following the relevant quarter in which the Services were provided.
- c) Payment of the revenue support shall be made by GoMP/MPSEDC to the SCA within 30 working days of the receipt of invoice by the GoMP subject to adjustments for liquidated damages and set off against revenues generated out of Government Services through the CSCs and surplus payment(s) made, if any, during previous quarter(s)
- d) The GoMP shall be entitled to delay or withhold payment of any invoice or part of it delivered by the SCA where the GoMP disputes such invoice or part of it provided that such dispute is bona fide. The withheld amount shall be limited to that which is in dispute. The disputed amount shall be settled in accordance with the escalation procedure as set out in this MSA. Any exercise by the GoMP under this article shall not entitle the SCA to delay or withhold provision of the Government Services.

3.3 Tax

- a) The SCA/VLEs shall pay for all taxes under the applicable laws arising from its operations/activities/services/business under the MSA and/or in connection with the MSA.
- b) The GoMP/MPSEDC shall deduct withholding taxes as per the applicable laws from the amounts due and payable to the SCA wherever applicable.
- c) The Parties shall cooperate to enable each Party to accurately determine its own tax liability and to minimize such liability to the extent legally permissible.
- d) Service taxes as applicable shall be levied to and be payable by the customers over and above the transaction charges specified in the RFP

4. Breach and Rectification

4.1 Events of Default, Rectification and Termination

In case of breach which translates into default on any of the parameters specified in the service level metrics (enclosed as part of this MSA), will lead to charging of liquidated damages/ termination of contract as the case may be. How SDA will charge the liquidated damages/ termination of contract has been illustrated in the following points (a to d);

- (a) If there is breach which translates into default as per this MSA in provisioning of Government services and/or default as per this MSA in provisioning of Government services on account of matters related to the provision of other IT and non-IT services by the SCA under the Scheme/through the CSC network, continuously for more than seven days or more than a cumulative period of ten days in a month, except in conditions of force majeure, the same shall attract liquidated damages at the rate of 20% per CSC per week of the monthly revenue support sought OR Rs.1,000 per CSC per week, whichever is more. In case the rectification is not carried out within 30 days of the applicability of the inoperability clause, it would constitute a material breach by the SCA, which shall entitle MPSEDC to, at its sole option, forthwith terminate this MSA on the expiry of such stipulated period, unless the SCA has in the meantime rectified, removed or cured, as the case may be, such material breach. MPSEDC may at its sole option, debit or set off the amounts of liquidated damages/penalties, if any, against the payments as defined in the Payment and Charges section of this MSA, and/or through invocation or forfeiture of the Performance Security, in full or part, as the case may be
- (b) In the event the SCA fails to make timely deposit of the Government monies as stipulated, the SCA shall be required to pay liquidated damages at the rate of 20% of the total overdue amount due or Rs.1000 per week per CSC, whichever is more. In the event that such payment defaults occur for 3 consecutive weeks, the GoMP/MPSEDC shall be entitled to forthwith stop the SCA's access to State Data Centre, MP State Portal, MPSWAN, Government applications, as well as any

other Government support, whether physical or otherwise, and require the SCA to stop providing the Government services to the citizens through the CSCs including termination of the MSA. MPSEDC may at its sole option, debit or set off the amounts of liquidated damages due to it against the terms of payment as defined in the Financial Provisions section under this MSA and/or through invocation and forfeiture of the Performance Security, in full or part, as the case may be

- (c) In the event the SCA fails to make timely deposit of the Government utility provider's share of the gross amounts of the weekly transaction charges collected from the citizens in accordance with the RFP, the SCA shall be required to pay liquidated damages at the rate of 20% of the total overdue amount due or Rs.1000 per day per CSC, whichever is more. In the event that such payment defaults occur for 3 consecutive weeks, the GoMP/MPSEDC shall be entitled to forthwith stop the SCA's access to State Data Centre, MP State Portal, MPSWAN, Government applications, as well as any other Government support, whether physical or otherwise, and require the SCA to stop providing the Government services to the citizens through the CSCs, and may even terminate the MSA. MPSEDC may at its sole option, debit or set off the amounts of liquidated damages due to it against the terms of payment as defined in the Financial Provisions section of this MSA and/or through invocation and forfeiture of the Performance Security, in full or part, as the case may be
- (d) In the event of any invocation of the Performance Security by MPSEDC, the SCA shall be required to forthwith replenish or top up the existing Performance Security, failing which the same shall constitute a material breach by the SCA, which shall entitle MPSEDC to terminate this MSA. Failure to replenish/top up within 7 days will invite liquidated damages of Rs.1, 000 per day and penal interest @ 18% for the delayed period for the amount of deficit in the Performance Security. Failure to Replenish/top up beyond 30 days will be material breach and may lead to termination of agreement.

4.2 **Effects of Termination**

- a) The termination provisions set out in this MSA shall apply mutatis mutandis to the Service Level Agreements.
- b) Upon termination of this MSA, the Parties will comply with the Exit Management Schedule, as outlined in this MSA, in Schedule 2
- c) Upon the expiration or any termination of this MSA, SCA shall undertake the actions set forth in this MSA to assist the GoMP/MPSEDC to procure replacement services as provided hereunder:
- i. The SCA undertakes to negotiate in good faith with the GoMP/MPSEDC and any relevant Replacement SCA in respect of commercial terms applying to all SCA Intellectual Property Rights and which the GoMP/MPSEDC and any relevant Replacement SCA require to enable them to provide or receive services substantially equivalent to the Services hereunder
 - ii. In respect of SCA third party Intellectual Property Rights, SCA undertakes to assist the GoMP/MPSEDC to secure such consents or licenses from such third parties as are necessary to enable GoMP / MPSEDC / Replacement SCA to receive services substantially equivalent to the Services hereunder.
 - iii. The SCA shall hand over to the GoMP/ MPSEDC or its designated agency, at the appropriate time, in accordance with the terms of this MSA, any asset or deliverable, including the software, if any, (and including any data, ownership, source code and associated documentation which is the work product of the development efforts involved in the Scheme) in which the GoMP/MPSEDC has the right, title and interest and that is in the possession or control of the SCA

5. Warranties, Liabilities and Confidentiality

5.1 **Warranties**

The SCA warrants and represents to the GoMP and MPSEDC that:

It has full capacity and authority and all necessary approvals to enter into and to perform its obligations under this MSA;

This MSA is executed by a duly authorized representative of the SCA

It shall discharge its obligations under this MSA with due skill, care and diligence so as to comply, with this MSA in its entirety.

5.2 **Third Party Claims**

- a) The SCA (the "Indemnifying Party") undertakes to indemnify the GoMP and/or MPSEDC/their nominated agencies, as the case may be, (the "Indemnified Party") from and against all losses, claims or damages on account of bodily injury, death or damage to tangible personal property arising in favor of any person, corporation or other entity (including the Indemnified Party) attributable to the Indemnifying Party's performance or non-performance under this MSA
- b) The indemnities shall be subject to the following conditions:
 - i. the Indemnified Party, as promptly as possible, informs the Indemnifying Party in writing of the claim or proceedings and provides all relevant evidence, documentary or otherwise
 - ii. the Indemnified Party shall, at the cost of the Indemnifying Party, give the Indemnifying Party all reasonable assistance in the defense of such claim including reasonable access to all relevant information, documentation and personnel provided that the Indemnified Party may, at its sole cost and expense, reasonably participate, through its attorneys or otherwise, in such defense
 - iii. if the Indemnifying Party does not assume full control over the defense of a claim as provided in this Article, the Indemnifying Party may participate in such defence at its sole cost and expense, and the Indemnified Party will have the right to defend the claim in such manner as it may deem appropriate, and the cost and expense of the Indemnified Party will be included in losses
- c) The Indemnified Party shall not prejudice, pay or accept any proceedings or claim, or compromise any proceedings or claim, without the written consent of the Indemnifying Party
- d) All settlements of claims subject to indemnification under this MSA will: (a) be entered into only with the consent of the Indemnified Party, which consent will not be unreasonably withheld and include an unconditional release to the Indemnified Party from the claimant or plaintiff for all liability in respect of such claim; and (b) include any appropriate confidentiality agreement prohibiting disclosure of the terms of such settlement
- e) The Indemnified Party shall account to the Indemnifying Party for all awards, settlements, damages and costs (if any) finally awarded in favor of the Indemnified Party, which are to be paid to it in connection with any such claim or proceedings
- f) The Indemnified Party shall take steps that the Indemnifying Party may reasonably require to mitigate or reduce its loss as a result of such a claim or proceedings; and

5.3 **Limitation of Liability**

- a. There shall be no limitation of liability in respect of the SCA in case of any damages for bodily injury (including death) and damage to real property and tangible personal property, other than as applicable under the relevant laws.
- b. Neither this MSA nor the Agreements grants or creates any rights, benefits, claims, obligations or causes of action in, to or on behalf of any person or entity (including any third party) other than between the respective Parties to this MSA, as the case may be.
- c. Any claim or series of claims arising out or in connection with this MSA shall be time barred and invalid if legal proceedings are not commenced by the relevant Party against the other Party within a period of 3 years from the date when the cause of action first arose or within such longer period as may be permitted by applicable law without the possibility of contractual waiver or limitation.
- d. The GoMP/MPSEDC shall be entitled to claim the remedy of specific performance under this MSA

5.4 **Force Majeure**

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

- b) The Party seeking to rely on Force Majeure shall promptly, within seven (7) days, notify the other Party of the occurrence of a Force Majeure event as a condition precedent to the availability of this defence with particulars detail in writing to the other Party and shall demonstrate that it has and is taking all reasonable measures to mitigate the events of Force Majeure
- c) In the event the Force Majeure substantially prevents, hinders or delays the SCA's performance of Services, in over 20% CSCs, for a period in excess of thirty (30) days, the MPSEDC may declare this as an emergency situation. The MPSEDC will issue a notice to the SCA to resume normal services at all affected sites and for all operations within a period of fifteen (15) days. In the event that the SCA is not able to resume services within the next fifteen (15) days, the MPSEDC may obtain substitute performance from an alternate supplier/SCA.
- d) All payments pursuant to termination due to Force Majeure event shall be in accordance with the Financial Provisions section outlined in this MSA
- e) Notwithstanding the terms of this MSA, the failure on the part of the SCA to implement any disaster contingency planning and back-up and other data safeguards in accordance with the terms of the this MSA and subsequent Agreements, against natural disaster, fire, sabotage or other similar occurrence shall not be an event of Force Majeure

5.5 **Confidentiality**

- a) The GoMP/MPSEDC may permit the SCA to come into possession of confidential public records as per the needs of the Scheme and the SCA (including its VLEs, employees, contractors, agencies and representatives) shall maintain the highest level of secrecy, confidentiality and privacy with regard thereto.
- b) Additionally, the SCA shall keep confidential all the details and information with regard to the Scheme, including systems, facilities, operations, management and maintenance of the systems/ facilities to the extent necessary/required as per regulations/law
- c) The GoMP/MPSEDC shall retain all rights to prevent, stop and if required take the necessary punitive action against the SCA regarding any forbidden disclosure.
- d) The SCA shall ensure that all its employees, agents and sub-contractors execute individual non-disclosure agreements, which have been duly approved by the GoMP/MPSEDC, with respect to this Scheme
- e) The aforesaid provisions shall not apply to the information:
 - i. already in the public domain; and
 - ii. which has been received from a third party who had the right to disclose the aforesaid information; and
 - iii. Disclosed to the public due to a court order.

5.6 **Audit, Access and Reporting**

- a) The GoMP/MPSEDC/ nominated agency including the SPV, may carry out routine, random and periodic audits and inspections, by itself or through authorized representatives of all project/services related documents, data, locations, accounts, information at its own expense and cost; GoMP/MPSEDC/ nominated agency, shall endeavor to conduct such audits with the lowest levels of inconvenience and disturbance practicable being caused to the SCA or users
- b) The GoMP/MPSEDC/ nominated agency including the SPV, may carry out non-timetabled audits are necessary as a result of an act of fraud by the SCA, a security violation, or breach of confidentiality obligations by the SCA.
- c) The frequency of audits (time tabled) shall be 6 monthly, provided always that the GoMP/MPSEDC shall endeavor to conduct such audits with the lowest levels of inconvenience and disturbance practicable being caused to the SCA or users
- d) The audit and access rights contained within this section shall survive the termination or expiration of the MSA for a period of twenty-four (24) months.
- e) The SCA shall provide to the GoMP/MPSEDC/ nominated agency including the SPV, or its representatives reasonable access to the Service Delivery Channel Network, VLEs, employees, subcontractors, suppliers, agents, third party facilities, including leased premises used for Scheme/kiosks, documents, records and systems reasonably required for audit and shall provide all such persons with routine assistance in connection with the audits and inspections. The GoMP/MPSEDC/ nominated agency including the SPV, shall have the right

to copy and retain copies of any relevant records at its own expense and cost. The SCA shall extend full support to co-operate with them.

5.7 **Verification**

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

5.8 **Reporting**

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

5.9 **Empowered Committee**

- a) There shall be an Empowered Committee notified by the GoMP, with representatives from MPSEDC and other State Government Departments.
- b) The Empowered Committee shall perform the functions and in the manner more particularly described at Schedule 4 of the MSA

6. Intellectual Property

6.1 **Government IPR**

- a) Except to the extent otherwise expressly provided in this MSA, the GoMP/MPSEDC shall retain exclusive intellectual property rights to the forms, content, data and the compilations of the GoMP/MPSEDC to which the GoMP/MPSEDC has sovereign rights and nothing herein shall or will be construed or deemed to grant to the SCA any right, title, license, sub-license, proprietary right or other claim against or interest in, to or under (whether by estoppels, by implication or otherwise) to the aforesaid rights of GoMP/MPSEDC.
- b) Without limiting the generality of the above article, and except to the extent otherwise expressly agreed by the Parties to this MSA in writing, nothing contained in this MSA shall or will be construed or deemed to grant to the SCA any right, title, license or other interest in, to or under (whether by estoppels, by implication or otherwise) any logo, trademark, trade name, service mark or similar designations of CSC Scheme/GoMP/MPSEDC or its respective affiliates/nominees.
- c) Subject to any sole or exclusive rights granted by the GoMP to a third party prior to the Effective Date, the GoMP may, if required, grant to the SCA and any sub-contractors to the SCA solely for use in their performance of Services for GoMP/MPSEDC or its nominated agencies, non-exclusive, paid-up, royalty-free right and license during the Term of this MSA, but not the right to sub-license, to use the GoMP Data including the right to copy, perform, display, execute, reproduce, modify, enhance and improve the GoMP Data to the extent reasonably necessary or useful for the provision of Services hereunder
- d) The SCA shall indemnify, defend and hold harmless GoMP/MPSEDC and its respective officers, employees, successors and assigns, from and against any and all losses arising from claims by third parties that any Deliverables (or the access, use or other rights thereto) created by SCA pursuant to this MSA or any equipment, software, information, methods of operation or other intellectual property (or the access, use or other rights thereto) provided by SCA or sub-contractors to the SCA pursuant to this MSA:

- i. Infringes a copyright enforceable in India,
 - ii. Infringes a patent issued in India, or
 - iii. Constitutes misappropriation or unlawful disclosure or use of another Party's trade secret under the laws of the India (collectively, "Infringement Claims"); provided, however, that this will not apply to any Deliverable (or the access, use or other rights thereto) created by (A) GoMP/MPSEDC ; (B) third parties (i.e., other than SCA or SCA's sub-contractors) at the direction of GoMP/MPSEDC
- e) The GoMP/MPSEDC shall have no liability or obligation to SCA or any other Party above to the extent the Infringement Claim is based upon any use of the equipment, software, information, methods of operation or other intellectual property (or the access, use or other rights thereto) for the benefit of any Party (including any use by SCA or its nominees outside the scope of the Services) other than for the GoMP/MPSEDC.
- f) Notwithstanding any provisions of this MSA to the contrary, the foregoing remedies constitute the Parties' sole and exclusive remedies and each Party's entire liability, with respect to Infringement Claims

6.2 SCA IPR

- a) All right, title and interest in and to, and ownership in, Proprietary Information of GoMP which may, if required, be provided to SCA, and all modifications, enhancements and other derivative works of such GoMP Proprietary Information ("GoMP Proprietary Information"), as a result of Services rendered by the SCA hereunder shall remain solely with the GoMP. SCA shall be entitled to use such GoMP Proprietary Information only during the Term and only for the purposes of providing the Services or to the extent necessary for SCA's normal operational, repair and maintenance purposes related to the Services. The GoMP shall retain ownership of all Intellectual Property Rights related to GoMP Proprietary Information
- b) All right, title and interest in and to, and ownership in, Proprietary Information of SCA, which is provided to the GoMP/MPSEDC, and all modifications, enhancements and other derivative works of such SCA Proprietary Information ("SCA Proprietary Information"), shall remain solely with SCA. The SCA will upon the award of the Scheme in its favor, declare the status of all the SCA Proprietary Information along with documentary support sufficient to establish its sole legal rights in the aforesaid Proprietary Information to the GoMP/MPSEDC. This Proprietary Information shall refer to that which has been owned by the SCA prior to commencement of the MSA.
- c) Additionally, the GoMP/MPSEDC shall also consider any software that may be acquired from third parties by the SCA, solely for its own purpose, during the term of the MSA as SCA Proprietary Information. The GoMP/MPSEDC/its nominated agencies shall be entitled to use such SCA Proprietary Information only in connection with the Services or to the extent necessary for GoMP's/CSC Scheme's normal operational, repair and maintenance purposes related to the Services.

7. Miscellaneous

7.1 SCA duties

- a) The SCA shall not change the key personnel named by it in the Bid except with the prior written approval of the GoMP/MPSEDC and replace with personnel having similar or higher qualifications, such approval will not be unreasonably withheld, and will be processed within 7 days of the request being made
- b) The SCA shall ensure that G2C services are effectively and cordially provided to the citizens by the concerned VLEs. The SCA shall ensure that the VLE does not hinder/inhibit the objective of the CSC scheme by withholding information or refusing to deliver services as per demand of the citizens and available services.
- c) In providing the B2C/B2B services, the SCA shall ensure that:
 - i. which are opposed to public interest or public policy shall not be provided by it/under the Scheme;
 - ii. such services shall not be provided in a manner that has an adverse impact on the provision of Government Services to citizens or on the operations, functioning, performance, infrastructure and manpower requirements of the CSCs
 - iii. the provision of Services is carried out in accordance with the provisions and specification set out in the RFP, the Bid and this MSA.

- d) The SCA shall not transmit, cause to transmit or suffer transmission, under or pursuant to the Scheme, of any material which is defamatory, offensive or abusive or of an obscene or menacing character; or in a manner, which constitutes a violation or infringement of the rights of any person or entity (including but not limited to rights of copyright and other intellectual property rights, confidentiality or privacy).
- e) The SCA shall have the right to fix the charges for B2C/B2B services at market driven rates with a view that such rates are competitive and reasonable
- f) The SCA shall indemnify, continue to indemnify and hold harmless the GoMP/MPSEDC and its agencies from and against all costs (including attorney fees), liabilities of all types, claims, litigation, proceedings, damages, liquidated damages, etc arising or resulting from the provision of B2C/B2B services under and pursuant to this MSA/the Scheme. The GoMP/MPSEDC shall not be liable in any manner whatsoever to any person whomsoever in this behalf. All cost, risk and liability in this behalf shall exclusively be of the SCA and be borne solely by the SCA.
- g) The SCA shall comply with all necessary requirements in connection with Data Security and payment through electronic mechanism in the CSC Scheme as per the provisions of the IT Act.

7.2 Commitment for future Government Services

- a) The GoMP/MPSEDC shall provide and the SCA shall deliver, this being a mandatory obligation of the SCA, all future GoMP/MPSEDC Government services/applications under the Scheme/through the CSC channels.
- b) The transaction charges and also sharing of revenue with the Government, if any for such future GoMP/ MPSEDC Government services/applications shall be fixed by GoMP, on a mutually agreed basis, pursuant to Service Level Agreements

7.3 Independent Contractor

Nothing in this MSA shall be construed as establishing or implying any partnership or joint venture between the Parties to this MSA and, except as expressly stated in this MSA, nothing in this MSA shall be deemed to constitute any Parties as the agent of any other Party or authorizes either Party (i) to incur any expenses on behalf of the other Party, (ii) to enter into any engagement or make any representation or warranty on behalf of the other Party, (iii) to pledge the credit of or otherwise bind or oblige the other Party, or (iv) to commit the other Party in any way whatsoever.

7.4 Assignment

All terms and provisions of this MSA shall be binding on and shall ensure to the benefit of the GoMP, MPSEDC and the SCA and any assignment or transfer of this MSA or any rights hereunder by either Party shall be strictly prohibited.

7.5 Trademarks, Publicity

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

7.6 Notices

- a) Any notice or other document, which may be given by either Party under this MSA or under the Service Level Agreements, shall be given in writing in person or by pre-paid recorded delivery post or by facsimile transmission
- b) In relation to a notice given under this MSA, any such notice or other document shall be addressed to the other Party's registered office address as set out below:

MPSEDC Ltd
147, Zone-I,
Maharana Pratap nagar,
Bhopal.
Ph: 0755-4299364
FAX: 4299369

- c) In relation to a notice under this MSA, it shall specify the Parties' address for services of notices, any such notice to be sent to the Parties as the addresses set out in Article 7.6 (b).
- d) Any notice or other document shall be deemed to have been given to the other Party (or, if relevant, its relevant associated company) when delivered (if delivered in person) if delivered between the hours of 9.00 am and 5.00 pm at the address of the other Party set forth above or if sent by fax, provided the copy fax is accompanied by a confirmation of transmission, or on the next working day thereafter if delivered outside such hours, and 7 days from the date of posting (if by letter)
- e) Either Party to this MSA may change its address, telephone number, facsimile number and nominated contact for notification purposes by giving the other reasonable prior written notice of the new information and its effective date

7.7 Severability and Waiver

- a) If any provision of this MSA, or any part thereof, shall be found by any court or administrative body of competent jurisdiction to be illegal, invalid or unenforceable the illegality, invalidity or unenforceability of such provision or part provision shall not affect the other provisions of this MSA or the remainder of the provisions in question which shall remain in full force and effect. The relevant Parties shall negotiate in good faith in order to agree to substitute for any illegal, invalid or unenforceable provision a valid and enforceable provision which conforms to the greatest extent possible with the overall objects of the Scheme and parameters
- b) No failure to exercise or enforce and no delay in exercising or enforcing on the part of either Party to this MSA of any right, remedy or provision of this MSA shall operate or be construed as a waiver of such right, remedy or provision in any future application nor shall any single or partial exercise or enforcement of any right, remedy or provision preclude any other or further exercise or enforcement of such right, remedy or provision or the exercise or enforcement of any other right, remedy or provision

7.8 Compliance with Laws and Regulations

Each Party to this MSA accepts that its individual conduct shall (to the extent applicable to it) at all times comply with all applicable laws, rules, regulations and orders and that each party shall discharge all its liabilities/obligations and responsibilities in absolute conformity to applicable laws, rules, regulations and orders, etc.

7.9 Ethics

The SCA represents, warrants and covenants that it has given no commitments, payments, gifts, kickbacks, lavish or expensive entertainment, or other things of value to any employee or agent of the GoMP/ MPSEDC, or its nominated agencies in connection with this MSA and acknowledges that the giving of any such payment, gifts, entertainment, or other things of value is strictly in violation of GoMP's/MPSEDC's standard policies and may result in cancellation of this MSA and levy of any other liquidated damages including black-listing the organization, if so decided by the Government

7.10 Entire MSA

This MSA, all schedules appended thereto and the contents and specifications of the RFP and the Bid constitute the entire agreement between the Parties with respect to their subject matter, and as to all other representations, understandings or agreements which are not fully expressed herein.

7.11 Survivability

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

7.12 Insurance Cover

- a) On and from the date of execution of this MSA, the SCA shall maintain or cause to be maintained, insurance policies as are customarily and ordinarily available in India on commercially reasonable terms and reasonably required to be maintained consistent with projects and facilities of the size and type of this Scheme, including loss that is due to fire,

floods, earthquake, riots, civil commotion or acts of God and as may be required by the GoMP/MPSEDC.

- b) The premiums payable on insurance coverage as indicated above, including any costs and expenses incidental to the procurement and enforcement of such insurance coverage shall be borne by the SCA.

7.13 **Governing Law**

This MSA shall be governed by and construed in accordance with the laws of India and rules, regulations and orders made thereunder and the courts of Madhya Pradesh, shall have jurisdiction over all matters arising out of or in relation to this MSA.

8. Dispute Resolution

8.1 **Dispute Resolution**

- a) In case a Party is of the opinion that a dispute has arisen under this MSA, the Party shall notify the other Party of the detailed nature of the dispute, the right or obligation under this Agreement to which the dispute relates, and the relief sought by the Party raising the dispute.
- b) The Parties shall in the first instance attempt to resolve the dispute in good faith. In case, the Parties are unable to resolve the dispute, the matter shall be referred to the Empowered Committee set up in accordance to this Agreement.
- c) The Empowered Committee shall attempt to resolve the dispute in a meeting specially convened for the purpose. The representatives of all Parties shall be invited to participate in such meetings.
- d) The negotiations between the Parties and the proceedings before the Empowered Committee shall be kept confidential unless Parties agree otherwise.
- e) Each Party shall bear its own cost in relation to the dispute resolution as aforesaid.
- f) In case, the Empowered Committee is unable to resolve the dispute, the dispute shall be referred to arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996. The Arbitration proceedings will be held at [Capital City of State], India. The arbitration shall be conducted in English and all documents shall, if not already in English, shall be translated into English by the Party relying upon the document.
- g) The Principal Secretary/ Secretary in charge Information Technology, GoMP or an Officer of an equivalent rank nominated by the GoMP shall be the sole Arbitrator for the purpose of the arbitration proceedings.
- h) The provisions of the Arbitration and Conciliation Act, 1996 will be applicable and the award made thereunder shall be final and binding upon the parties hereto, subject to legal remedies available under the law.
- i) The Parties agree that any decision or award of the arbitrator pursuant to this clause shall be a domestic award and final, conclusive and binding upon the parties and any person(s) affected by it. The Parties also agree that any court of competent jurisdiction may enforce any arbitration award rendered pursuant to this clause.
- j) During any period of dispute resolution as hereinbefore provided, there shall be no suspension of this MSA.

8.2 **Amendment**

The Parties acknowledge and agree that amendment to this agreement shall be made in writing in accordance with the procedure this MSA is executed and signed.

9. Management Phase

9.1 **Governance**

The review and management process of this MSA shall be carried out in accordance with the Governance Schedule (Schedule No. 4) and shall cover all the management aspects as set out in Volume I of the RFP.

IN WITNESS WHEREOF the Parties have by duly authorized representatives set their respective hands and seal on the date first above written in the presence of:

For and on behalf of Governor of Madhya Pradesh

(Name and designation)

For and on behalf of MPSEDC

(Name and designation)

For and on behalf of SCA:

(Name and designation)

an authorized signatory duly nominated pursuant to Board Resolution No. _____ dated _____

[In case of Consortium, all members to sign]

Witnesses:

- i.
- ii.

Schedule 1: Service Level Metrics for Roll-out, Operations and Payments

S No.	Parameter	Liquidated damages for breach	Material Breach	Stipulated period for mitigating material breach conditions	Remedial performance required for non termination during stipulated period
1.	<p>Rollout of CSCs in phases as per the Scheme Rollout period specified A CSC will be deemed to be operational only after being certified by Go[Abbreviation of State Name] or its nominated agencies SCA will be required to establish and operationalize CSCs in phases as per the time schedule prescribed by the State Government/MPSEDC as under [<i>Roll-out Milestones as per agreed Implementation Plan approved by MPSEDC to be indicated here</i>] <i>for example,</i></p> <p>(1) -----% roll out by 5th month (2) --- % roll out by 7th month (3) ---% roll out by 9th month (4) ---% roll out by 12th month</p>	No revenue support to be granted during the delay period for any CSCs + Liquidated damages of Rs. 200 per CSC that has been delayed, per additional day of delay from the schedule	Rollout being delayed by 4 weeks as per the rollout schedule	1 month	Roll out of CSCs in the stipulated period for mitigating material breach as per the roll out schedule
2	<p>Inoperability of CSCs A CSC will be deemed inoperable if it is not offering available Government Services for a continuous period of seven days, or more than a cumulative period of ten days in a month. A CSC needs to offer Government Services for at least 300 days per year</p>	No Revenue support + 20% per CSC per week of monthly revenue support sought or Rs.1,000 per CSC per week, whichever is more	If a CSC is inoperable for more than 30 days	7 days	CSC needs to be operational and certified operational by [Name of Nodal Agency] or its designated agencies

S No.	Parameter	Liquidated damages for breach	Material Breach	Stipulated period for mitigating material breach conditions	Remedial performance required for non termination during stipulated period
3	Timely Deposit of Government Money Payments have to be made twice a week i.e. on every Tuesday (for the transactions held on Friday, Saturday, Sunday and Monday) and every Friday (for the transactions held Tuesday, Wednesday and Thursday)	20% of the total amount due OR Rs. 1000 per CSC per week, whichever is more	Default for 3 consecutive weeks	None	None
4	Timely Deposit of Money with Utility Providers Payments have to be made twice a week i.e. on every Tuesday (for the transactions held on Friday, Saturday, Sunday and Monday) and every Friday (for the transactions held Tuesday, Wednesday and Thursday)	20% of the total amount due OR Rs. 1000 per CSC per day, whichever is more	Default for 3 consecutive weeks	None	None
5	Mean time to repair any hardware at the Common Services Centers Any hardware problem has to be rectified within 5 working days	Would be deemed as inoperative and the liquidated damages as prescribed in Parameter 2 of this Schedule would apply	Same as Parameter 2 of this Schedule	Same as Parameter 2 of this Schedule	Same as Parameter 2 of this Schedule
6.	Replenish/top up of Performance Security	Failure to replenish/top up within 7 days will invite liquidated damages of Rs. 1000 per day and penal interest @ 18% for the delayed period for the amount of deficit in Performance Security.	Failure to Replenish/top up beyond 30 days will be material breach and may lead to termination of agreement	1 week	To top up the Performance Security or provide cash/ Demand Draft in lieu thereof

Schedule 2: Exit Management

1) SCA Assets

- a) The SCA shall be entitled to use the Assets for the duration of the exit management period, which shall be the four-month period from the date of expiry, or termination of the MSA as the case may be
- b) MPSEDC shall be entitled to serve notice in writing on the SCA at any time prior to the date that is 30 days prior to the end of the exit management period requiring the SCA to transfer and hand over the GoMP/ MPSEDC or its nominated agency at the appropriate time, in accordance with the terms of the MSA any Asset or Deliverable, in which the GoMP/ MPSEDC has the right, title and interest and that is in the possession and/ or control of the SCA.
- c) No compensation shall be payable whatsoever to the SCA in event of the expiry of the MSA by efflux of time or termination of the MSA due to the SCA being in breach of its obligations under this MSA
- d) MPSEDC shall be entitled to invoke the Performance Security in the event the MSA is terminated due to the SCA being in breach as stated above and MPSEDC shall return the Performance Security after necessary deductions/adjustment, if any, if the MSA is terminated due to the GoMP/ MPSEDC being in breach as stated above or due to a Force Majeure Event, or on normal expiry of this MSA.
- e) Upon service of a notice the following provisions shall apply:
 - i. all risk in and title to the Assets, other than those that are to be transferred to the GoMP/ MPSEDC, shall remain with the SCA after the last day of the exit management period.
 - ii. the GoMP shall pay to the SCA on the last day of the exit management period the amounts due for services already rendered in accordance with the Financial Provision Section of this MSA
 - iii. The GoMP/ MPSEDC shall withdraw all Government services and the SCA shall cease to have any right whatsoever to render such services under or pursuant to the CSC Scheme/this Agreement
- f) The employees of the SCA/its sub-contractors and the VLEs shall be dealt with by the SCA on its own and Government of Madhya Pradesh/ MPSEDC shall have no obligation whatsoever, in respect of such employees or the VLEs or sub-contractors
- g) The SCA shall ensure that the VLEs, sub-contractors, agents, representatives and respective associated entities carry out their respective obligations during the Exit Management Period
- h) Save as otherwise expressly provided in this MSA, the SCA shall be entitled to retain all physical infrastructure; hardware, software, technology, networks, connectivity, all contracts with any non-Government content and services providers belonging to/ owned by it

2) Transfer of Certain Agreements

During the exit management period the SCA shall hand over the GoMP/ MPSEDC proprietary materials, data and information to GoMP/ MPSEDC or its nominated agency, including information relating to the current Government services rendered and customer satisfaction surveys and performance data relating to the performance of sub contractors in relation to the Government services; provide training to the employees of GoMP/ MPSEDC in the operation and management of the Scheme, as applicable; vacate the GoMP/ MPSEDC sites and locations in good and satisfactory conditions; allow the GoMP/ MPSEDC access to information as may be required to define the then current mode of operation associated with the provision of the Government services and the associated systems; on request by the GoMP/ MPSEDC, the SCA shall effect such assignments, transfers, licenses and sub-licenses as the GoMP/ MPSEDC may require in favor of the GoMP/ MPSEDC, or its nominated agencies or the replacement SCA in relation to any equipment lease, maintenance or service provision agreement between SCA and third party lessors, vendors, and which are related to the Government services and reasonably necessary for the carrying out of replacement Government services by the GoMP/ MPSEDC or its nominated agencies or its replacement SCA. Failure to perform satisfactorily/dischage any of the obligations under this clause will invite liquidated damages of Rs. 2 lakhs per week to be recovered /adjusted against the performance security as the case may be.

3) Rights of Access to Premises

At any time during the Exit Management Period, where Assets are located at the SCA's premises, the SCA will be obliged to give reasonable rights of access to (or, in the case of Assets located on a third party's premises, procure reasonable rights of access to) the GoMP/ MPSEDC, its nominated agencies and/or any Replacement SCA in order to make an inventory of the Assets and other office functioning and/or operations that may be so required

The SCA shall also give the GoMP/ MPSEDC or its nominated agencies, or any Replacement SCA right of reasonable access to the SCA's premises and shall procure the GoMP/ MPSEDC or its nominated agencies and any Replacement SCA rights of access to relevant third party premises during the exit management period and for such

period of time following termination or expiry of the MSA as is reasonably necessary to transfer the Government services to the GoMP/ MPSEDC or its nominated agencies, or a Replacement SCA.

The SCA and its sub-contractors, agents and representatives shall on the last date of the Exit Management Period forthwith vacate and hand over, without any delay or demur, the GoMP/ MPSEDC locations, office equipment and support services in sound and working condition, to which the SCA has been given access by GoMP/ MPSEDC pursuant to this MSA

4) General Obligations of the SCA

The SCA shall provide all such information as may reasonably be necessary to effect as seamless a handover of the Government services as practicable in the circumstances to the GoMP/ MPSEDC or its nominated agencies or its Replacement SCA and which the SCA has in its possession and/ or control at any time during the Exit Management Period

For the purposes of this Schedule, anything in the possession or control of any SCA, associated entity, VLEs, or sub contractor will be deemed to be in the possession and/ or control of the SCA.

The SCA shall commit and provide adequate resources to comply with and discharge its obligations under this Exit Management Schedule

5) Exit Management Plan

a) The SCA shall provide the GoMP/ MPSEDC with a recommended Exit Management Plan ("Exit Management Plan") that shall deal with all the activities/functions to be undertaken in the Exit Management Period, in relation to this MSA

b) The SCA shall update the Exit Management Plan annually thereafter to ensure that it is kept relevant and up to date

c) Payments during the Exit Management period shall be made in accordance with the Financial Provisions section of this MSA

d) This Exit Management Plan shall be furnished in writing by the SCA to the GoMP/ MPSEDC or its nominated agencies within 90 days from the Effective Date of this MSA

Schedule 3: Model Service Level Agreement

THIS AGREEMENT is made this _____ day of _____ 2007_

BY AND AMONG

The Governor of the State of Madhya Pradesh in his executive capacity for the Government of the State of Madhya Pradesh, acting through the Principal Secretary, Department of Information Technology, Madhya Pradesh, hereinafter referred to as "*GoMP*" (which term or expression, unless excluded by or repugnant to the subject or context, shall mean and include its successors-in office and assigns) of the First Part

AND

Madhya Pradesh State Electronics Development Corporation Ltd, registered under Companies Act, 1952, having its registered office at 147, Zone-I, Maharana Pratap Nagar, Bhopal, which has been appointed as the nodal agency for implementing the Scheme by the GoMP, hereinafter referred to as "*State Designated Agency* or *MPSEDC*" (which term or expression, unless excluded by or repugnant to the subject or context, shall mean and include its successors and assigns) of the Second Part

AND

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

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

WHEREAS:

A. The GoMP, MPSEDC and [_____], the SCA have entered into a Master Service Agreement dated [_____] (hereinafter referred to as the "MSA").

- B. The SCA, vide the above MSA is authorized to offer Government Services through the CSCs. Each service has defined service levels that, if appropriately delivered, as per this agreement, can allow the SCA to collect the requisite transaction share as well as the revenue support from the GoMP against the delivery of Government Services
- C. In accordance with the provisions of the MSA, the GoMP, MPSEDC and SCA wish to enter into this Service-Level Agreement on the following terms:

Article I: Definitions and General Purpose

1. Definitions: In this Agreement unless the context requires otherwise:
 - a) "**Agreement/ Service Level Agreement**" means this Agreement, together with its Appendices;
 - b) "**Parties**" means GoMP, MPSEDC and SCA for the purposes of this Agreement and "Party" shall be interpreted accordingly;
 - c) "**Service Level**" means the level of service and other performance criteria(s), which will apply to the Services as, set out in the Agreement and effective during the Term of this Agreement including in respect of such other services as may be included in the subsequent agreement
 - d) "**Term**" means the duration of this Agreement, which expires with the expiry of the MSA Term
2. All Appendices and other attachments to this Agreement are hereby incorporated as a part of this Agreement by this reference.
3. References to any statute or statutory provision include a reference to that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated and to all statutory instruments made pursuant to it.
4. Words denoting the singular shall include the plural and vice versa and words denoting persons shall include firms and corporations and vice versa.
5. Unless otherwise expressly stated, the words "herein", "hereof", "hereunder" and similar words refer to this Agreement as a whole and not to any particular Article, Appendix or other subdivision. The terms Article and Appendix refer to Articles and Appendices of this Agreement. The words "include" and "including" shall not be construed as terms of limitation. The words "day" and "month" mean "calendar day" and "calendar month" unless otherwise stated. Where, because of a difference in time zone, the calendar day or calendar month in one Country differs from another Country, then the calendar day or calendar month shall be deemed to be the calendar day or calendar month applicable to India. The words "writing" and "written" mean "in documented form", whether electronic or hard copy, unless otherwise stated.
6. The headings and use of bold type in this Agreement are for convenience only and shall not affect the interpretation of any provision of this Agreement
7. The definitions/terms used in this Agreement (including the recitals above and the Annexures hereto) but not defined herein shall, unless the context otherwise requires, have the meaning assigned to them respectively in the Master Service Agreement.

Article 2: Objectives and Scope of Contract

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

Article 3: Commencement and Duration of this Agreement

1. The Agreement shall be executed along with the MSA or thereafter and commence from the Effective Date and shall, unless terminated earlier in accordance with its terms or unless otherwise agreed by the Parties, expire on the date on which the MSA expires,.
2. Terms of Payment & Liquidated Damages

In consideration of the Services and subject to the provisions of the MSA and this Agreement, the *GoMP* shall pay the revenue support to the SCA in accordance with the provisions of the MSA, including the Financial Provisions section of the MSA.

3. It is clarified here that the GoMP can also calculate a financial sum for the liquidated damages and debit the same against the terms of payment or recover as defined in the Financial Provision section of the MSA as a result of the failure of the SCA to meet the Service Levels as outlined in Annexure D to this Agreement, such sum being determined in accordance with the terms of the Agreement

Article 4: Applicability of the MSA

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

IN WITNESS WHEREOF the Parties have by duly authorized representatives set their respective hands and seal on the date first above written in the presence of:

For and on behalf of

Governor of MP
(Name and designation)

For and on behalf of MPSEDC

(Name and designation)

For and on behalf of SCA

(Name and designation)

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

Witnesses:

- (i)
- (ii)

Appendix A
List of Government Services

S.No.	List of Services for Immediate Delivery

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

Appendix B
Service Rates and Revenue Share

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

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

Appendix C
Service Level Metrics for Delivery of Services

Service Name	Service Description and Process	Minimum Service Levels Expected

Appendix D
Liquidated Damages for non-achievement of Service Levels

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

Schedule 4: Governance

1. Empowered Committee

- a. There shall be an Empowered Committee notified by the Govt. of Madhya Pradesh, with representatives from MPSEDC and other State Government Departments.
- b. The Empowered Committee shall consider all matters considered as management aspect as set out in Volume 1 of the RFP
- c. The Parties shall comply with the Audit, Access, and Reporting Schedule set forth by the Empowered Committee.
- d. The Empowered Committee may discuss and consider any mid course correction in the existing MSA in the interest of smooth and timely implementation of the CSC Scheme. Provided that only such mid-course corrections shall be considered as do not alter the quantum of revenue support to the Project or the cost of the Project.

- e. Upon completion of 90% CSC roll-out, the Empowered Committee may take a suitable decision with regard to release of the balance revenue support to the SCA

2. Governance Procedures

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

3. Dispute Resolution (Escalation Procedure)

- a. In case a Party is of the opinion that a dispute has arisen under this MSA, the Party shall notify the other Party of the detailed nature of the dispute, the right or obligation under this Agreement to which the dispute relates, and the relief sought by the Party raising the dispute.
- b. The Parties shall in the first instance attempt to resolve the dispute in good faith. In case, the Parties are unable to resolve the dispute, the matter shall be referred to the Empowered Committee set up in accordance to this Agreement.
- c. The Empowered Committee shall attempt to resolve the dispute in a meeting specially convened for the purpose. The representatives of all Parties shall be invited to participate in such meetings.
- d. The negotiations between the Parties and the proceedings before the Empowered Committee shall be kept confidential unless Parties agree otherwise.
- e. Each Party shall bear its own cost in relation to the dispute resolution as aforesaid.