

No \_\_\_\_\_

**SERVICE LEVEL AGREEMENT**

**Between**

**Government of .....  
(State Government)**

**And**

**.....  
(Name of the Concessionaire)**

**To Operate and Maintain Primary Health Centre and Sub Centre Facilities.**

# **Service Level Agreement**

## **1. BACKGROUND**

- 1.1** **GOVERNMENT OF <STATE>** with a view to providing competent clinical care and community outreach services including public health functions in certain areas in the State, considered it desirable to hand over the functions and responsibilities of maintaining and operating a few selected Primary Health Centres (PHCs) and its affiliated Sub Centres (SCs) in these areas to a concessionaire who would be allowed to maintain and operate such facilities in accordance with the terms and conditions laid down in this Service Level Agreement.
- 1.2** Government of <State> had for this purpose invited bids from eligible bidders. <Name of the Concessionaire > having submitted its bid in response to the tender enquiry and having been found technically qualified as per the conditions in the bid documents, has been awarded the concession by the competent authority in Government of <State> in respect of < Name of the PHC> and Sub Centres < Names of the Sub Centres>. <Name of the Concessionaire> has also performed required obligations after the award of agreement was communicated to it.
- 1.3** The Government of < State> by this agreement hereby agrees to hand over Primary Health Centre < Name> and Sub Centres < Names> to < Name of the Concessionaire> for maintaining and operating the facilities for an initial period of five years from the effective date.
- 1.4** Both Government of <State> and <Name of the Concessionaire> hereby willingly enter into this agreement and agree to abide by all obligations enjoined on them by this agreement.
- 1.5** The term “Facilities” in this agreement would mean < Name of the PHCs> and its Sub Centres <Names of the Sub Centres>. The term “Functions” would mean all clinical care functions, community outreach functions and other public health functions, which the Central Government, State Government or any other competent authority have enjoined the PHCs and SCs to perform.
- 1.6** This Service Level Agreement would in its scope and meaning would also be treated as a concession contract. A concession contract is a contract between the contracting authority (i.e. the Government of <State>) and the concessionaire (i.e. < Name of the Concessionaire>) that sets forth the terms and conditions for maintaining and operating the facilities.
- 1.7** The term “Concessionaire” means the legal person or entity which carries out the functions in terms of this agreement in the facilities. In this agreement, < Name of the Concessionaire> is the concessionaire.

## **2. PRINCIPLES OF THE ARRANGEMENT.**

- 2.1** Both the parties agree to view the arrangements enforced by this agreement as a Public Private Partnership in the Public Health System in India. Such a partnership is seen as a step towards strengthening the Public Health System and as a measure towards facilitating and building the capacity of the state to manage such facilities by demonstrating models for comprehensive PHC, with an emphasis on active community engagement.
- 2.2** Both parties recognize that the Public Health System in India, despite phenomenal improvements, faces significant challenges. Both parties also recognize that the spirit of such a Public Private Partnership is essentially to share risks and rewards in such a manner so that comprehensive primary health care can be provided to those who need these services. Government of <State> recognizes that such partnerships with organizations that have competence and credibility offers the governments avenues to leverage the knowledge and expertise of such organizations to improve management and delivery of comprehensive primary health care services.
- 2.3** Both parties are committed to enhance the health and well-being of residents of the area covered by the facilities in this Service Level Agreement by providing high quality service, innovation and development and to meet identified needs within the resources available to both the parties.
- 2.4** Government of <State> commits that Primary Health Centres with its Sub Centres run by such PPP arrangements will be treated no differently from other PHCs managed by Government of <State> in terms of financing, training and capacity building.
- 2.5** The concessionaire will, manage and maintain and ensure that the facilities are run in accordance with the Indian Public Health Standards (2012) attached to this agreement at Annexure A. In circumstances where IPHS standards cannot be met fully, the state government shall decide on the relaxation of the standards but ensure that facilities are in a working condition through annual inspection.
- 2.6** The concessionaire will establish a transparent and “open to public “ grievance redressal system within the facility.
- 2.7** For certain administrative powers such as the issuance of birth and death certificates, the state government would nominate the officer in charge of the nearest government managed facility as the issuing authority.
- 2.8** The concessionaire agrees that the concession granted will not be treated as a business venture and will not be used to make profits.
- 2.9** Both parties agree that no money would be collected from the users of the facilities for any clinical consultation and service, diagnostic services or any other service provided in the facilities.
- 2.10** The concessionaire commits that no new building/ extension to the existing building will be undertaken without the prior written approval of Government of <State>. Failure to adhere to this provision will lead to cancellation of this agreement forthwith and Government of <State> will take over the facilities without any notice.

- 2.11** The concessionaire commits that any land within the premises of the facilities will not be used in any manner without the prior written approval of Government of <State>. Failure to adhere to this provision will lead to cancellation of this agreement forthwith and Government of <State> will take over the facilities without any notice.
- 2.12** The concessionaire agrees that by signing this Service level agreement, no rights on the property and assets of the facilities will be transferred to him now or at any future date. The concessionaire will not claim any proprietary rights on land, buildings or any moveable or immovable assets situated on the land pertaining to the facilities or in use in the facilities.

### **3. SERVICE DESCRIPTION AND RESPONSIBILITIES**

- 3.1** The basic unit of service delivery would be the Primary Health Center and all sub centers affiliated to it. The services should include the comprehensive primary health care package encompassing all outreach, behavior change communication for promoting positive health, clinical and public health services. The conditions listed for preventive, promotive or curative action are to be broadly categorised into the following groups:
- (i) Care in pregnancy and child-birth. (the latter would be provided in specific facilities based on the state context).
  - (ii) Neonatal and infant health care services
  - (iii) Childhood and adolescent health care services including immunization.
  - (iv) Family planning, Contraceptive services and Other Reproductive Health Care services
  - (v) Management of Common Communicable Diseases and General Out-patient care for acute simple illnesses and minor ailments
  - (vi) Management of Communicable diseases: National Health Programmes
  - (vii) Screening and Management of Non-Communicable diseases including health education and promotion for life style related modifications.
  - (viii) Screening and Basic management of Mental health ailments
  - (ix) Care for Common Ophthalmic and ENT problems
  - (x) Basic Dental health care
  - (xi) Geriatric and palliative health care services
  - (xii) Trauma Care (that can be managed at this level) and Emergency Medical services

**3.1** List of Services to be provided at the PHC and Sub Centre level are given at Annexure B to agreement. Both parties agree that list is an indicative list and not an exhaustive list.

**3.2** The concessionaire hereby agrees that the scope of clinical, outreach and public health services to be provided by the facilities will not be less than the scope of such services to be provided by any similar institutions run by the Government.

- 3.3 The concessionaire hereby agrees to introduce any new clinical, outreach and public health services should Government of <State> introduce such new services in the PHCs run by it.
- 3.4 The concessionaire is encouraged to bring in innovative measures to improve the quality of such services.
- 3.5 The concessionaire is encouraged to use Information Technology to improve the quality of service as also for record management.
- 3.6 Government of <State> hereby commits to support innovative measures and use of Information Technology by the concessionaire and expresses its readiness to provide financial resources to the extent possible.
- 3.7 Government of <State> hereby commits that any measures taken across the board to improve the services of the PHCs and its Sub centres in the state would cover the PHC and Sub Centres run by the present partnership arrangement.
- 3.8 Government of <State> hereby commits that based on the quarterly requisition by the concessionaire, it will provide them with drugs, diagnostics, and other consumables within reasonable time. The Government further agrees that the concessionaire will be allowed to retain at any point of time at least three months' requirement of these items.
- 3.9 The Government further agrees that in case of emergency, the concessionaire may allow the Medical officer on duty to procure life saving drugs at reasonable prices by local purchase. Procurement of such drugs should not exceed 10 per cent of the total drugs and consumables consumed in a year in terms of value.
- 3.10 An indicative list of drugs and consumables to be supplied by the Government is at Annexure B to this agreement.
- 3.11 Both parties agree that timely availability of drugs and consumables are of greatest importance to provision of primary health care. Both parties would therefore try to resolve issues arising in this respect through mutual discussion.

#### **4. Transitional Arrangements**

- 4.1 Both parties agree that an effective date will be fixed in mutual consultation between the authorized representatives of Government of <State> and the concessionaire. Such date will be not later than 90 calendar days from the date of signing of this agreement. Government of <State> commits that all facilities will be handed over to the authorized representatives of the concessionaire on the effective date. The effective date is therefore the date of handing over the facilities to the concessionaire.
- 4.2 Within 5 calendar days from the date of signing of this agreement, both the parties will inform each other in writing the names of the authorized representatives.
- 4.3 Within 15 calendar days from the date of signing of the agreement, the authorized representatives will complete joint inspection of the facilities and prepare list of inventories which will include buildings, plant and machineries, furniture, equipment

and any other movable and immovable asset. The list will be signed by the authorized representatives

- 4.4 The expenses of such joint inspection will be borne by the respective parties.
- 4.5 Government of <State> hereby agrees that all minor repairs to the building, plants and machineries, equipment, furniture or any other asset will be carried out at its own expenses before the effective date.
- 4.6 Government of <State> hereby agrees that if it is determined by both the parties that if major repairs to the building are necessary, the Government will carry out such repairs before the effective date.
- 4.7 Government of <State> further agrees that if it is determined by both the parties that the facilities cannot be made functional unless the necessary major repairs are carried out, Government of <State> will consider extending the effective date beyond 90 calendar days by a reasonable number of days but not exceeding 365 calendar days from the date of signing of this agreement.
- 4.8 If the facilities cannot be handed over within 365 calendar days from the date of signing of this agreement, the Concessionaire has a right to withdraw.
- 4.9 For the purpose of determining major and minor repairs, the codal provisions of the State Public Works Department will be followed.
- 4.10 If the concessionaire is willing to carry out repairs on its own without any financial assistance from Government of <State>, Government of <State> will facilitate such repairs. No such repair either before handing over of the facilities or after the effective date can be carried out without written permission of the competent authority in Government of <State>. The competent authority for this purpose will be < Name of the competent authority>.
- 4.11 Both parties will make a list of drugs and consumables available in the facilities on the effective date. Such list will be kept on record and no financial adjustment will be carried out on account of these stores.
- 4.12. Notwithstanding the above provisions, the handing over and taking over will take place in the spirit of "as is where is" basis. No party will be required to financially compensate the other for any asset.

## **5. Financial Arrangements**

- 5.1 Both parties hereby reiterate their commitment not to charge fee for service from any user accessing services provided in the facilities.
- 5.2 Government of <State> hereby commits to provide financial assistance to the concessionaire to maintain and operate the facilities. The financial assistance will have two components namely "Component X" and "Component Y". "Component X"

is in the nature of fixed grant and “Component Y” is in the nature of incentive based on the patient load and performance. 50% of the component Y would be used to provide incentives to the team of service providers and facility management staff. The remainder would be used by the concessionaire for the upkeep of the facility and for further improvements in the facility.

- 5.3 “Component X” is the fixed sum earmarked for each PHC in the State plus 10 per cent of it. This amount will be paid in two advance instalments on 01 July and 01 January of the financial year. For the purpose of the first grant, the calculation will be done from effective date to 01 July or 01 January, whichever is earlier.
- 5.4 “Component Y” will be calculated annually and will be paid in two installments in a financial year. The gap between two installments will not be less than six months. The maximum amount of “Component Y” will be Rs 20 lakhs per annum for a 100% increase.
- 5.6 For the purpose of calculating the amount of “Component Y”, the following system will be followed:

***Weightage of the criteria***

- (i) Antenatal Care (weightage 20%) (Maximum available amount: Rs 4 lakhs per annum)
- (ii) Institutional delivery: (weightage 20%) (Maximum available amount: Rs 4 lakhs per annum)
- (iii) Immunization (weightage 20%) (Maximum available amount : Rs 4 lakhs per annum)
- (iv) OPD footfalls (weightage 5%) (Maximum available amount: Rs 1 lakh per annum)
- (v) Management of Tuberculosis; HIV, leprosy, Malaria, Kala-Azar, Filariasis, Other vector borne disease- prevention, identification, use of RDT/prompt treatment initiation, vector control measures (weightage 15%) (Maximum available amount : Rs 3 lakhs per annum)
- (vi) Percentage population screened for hypertension and diabetes (weightage: 5%) (Maximum available amount: Rs 1 lakh per annum)
- (vii) Percentage hypertensives/diabetics controlled (weightage: 5%) (Maximum available amount: Rs 1 lakh per annum)
- (viii) Percentage population reached with at least two message for life style change to prevent chronic disease (weightage: 10%) (Maximum available amount: Rs 2 lakh per annum)

***Method of calculation***

### **Antenatal Care**

$$P_{anc} = (CY_{anc} - BY_{anc}) / BY_{anc} * 100;$$
$$Y_{anc} = P_{anc} * .04 \text{ lakhs}$$

Where  $CY_{anc}$  is number of pregnant women who received ante natal care services in the current year;  $BY_{anc}$  is the number of pregnant women who received ante natal care services in the base year

### **Institutional Delivery**

$$P_{id} = (CY_{id} - BY_{id}) / BY_{id} * 100;$$
$$Y_{id} = P_{id} * .04 \text{ lakhs}$$

Where  $CY_{id}$  is number of institutional deliveries in the current year;  $BY_{id}$  is the number of institutional deliveries in the base year;

### **Immunisation**

$$P_{im} = (CY_{im} - BY_{im}) / BY_{im} * 100;$$
$$Y_{im} = P_{im} * .04 \text{ lakhs}$$

Where  $CY_{im}$  is number of immunization in the current year;  $BY_{im}$  is the number of immunization in the base year;

### **OPD footfalls**

$$P_{opd} = (CY_{opd} - BY_{opd}) / BY_{opd} * 100;$$
$$Y_{opd} = P_{opd} * .01 \text{ lakh}$$

Where  $CY_{opd}$  is number of OPD footfalls in the current year;  $BY_{opd}$  is the number of opd footfalls in the base year;

### **Vector borne Diseases**

$$P_{vb} = (CY_{vb} - BY_{vb}) / BY_{vb} * 100;$$
$$Y_{vb} = P_{vb} * .03 \text{ lakhs}$$

Where  $CY_{vb}$  is case load of vector borne diseases;  $BY_{vb}$  is the case load of vector borne diseases in the base year;

### **Diabetes and Hypertension Screening**

$$P_{dhs} = (CY_{dhs} - BY_{dhs}) / BY_{dhs} * 100;$$
$$Y_{dhs} = P_{dhs} * .01 \text{ lakh}$$

Where  $CY_{dhs}$  is number of people screened for diabetes and hypertension;  $BY_{dhs}$  is the number of people screened for diabetes and hypertension in the base year;

### **Diabetes and Hypertension Control**

$$P_{cdh} = (CY_{cdh} - BY_{cdh}) / BY_{cdh} * 100;$$

$$Y_{cdh} = P_{cdh} * .01 \text{ lakh}$$

Where  $CY_{cdh}$  is number of people with controlled diabetes and hypertension;  $BY_{cdh}$  is the number of people with controlled diabetes and hypertension in the base year;

### **Prevention of Chronic Diseases**

$$P_{pcd} = (CY_{pcd} - BY_{pcd}) / BY_{pcd} * 100;$$

$$Y_{pcd} = P_{pcd} * .02 \text{ lakh}$$

Where  $CY_{pcd}$  is number of people who received atleast two messages for life style change to prevent chronic diseases;  $BY_{pcd}$  is the number of people who received atleast two messages for life style change to prevent chronic diseases in the base year;

### **Component Y = $Y_{id} + Y_{opd} + Y_{im} + Y_{vb}$**

- 5.7 For the purpose of these calculations, the base year will be counted as 12 months preceding the effective date. The current year will begin from the effective date and the first year's data will be the data of 12 months beginning the effective date. Subsequently the base year and current year will be determined on the same principle.
- 5.8 If reasonably reliable data is not available for the base year, the calculation will be based on the current year's data minus 20 percent of the same.
- 5.9 Government of <State> will provide a refundable mobilization grant of Rs 20 lakhs on the effective date. The component Y will be adjusted against the inception grant. The interest earned on this grant, if any will be treated as income of the facilities.
- 5.10 The concessionaire hereby agrees to maintain such books of accounts as are commonly required in a commercial enterprise in respect of the facilities. Such books of accounts will commonly include cash book/ bank book; journal and ledger. The concessionaire is encouraged to use computerized software to maintain such accounts. The concessionaire agrees to keep record of all financial transactions pertaining to all activities of the facilities in separate identifiable form.
- 5.11 The concessionaire further agrees to preserve all books of accounts and supporting documents in respect of the facilities for a period of five financial years following the year in which the transaction has arisen.

- 5.12 The concessionaire agrees to adhere to the financial year beginning 01 April of a calendar year and ending 31 March of the following calendar year.
- 5.13 The concessionaire hereby agrees to allow its books of accounts to any annual inspection by any authorized representative of Government of <State>. In addition, the concessionaire agrees to allow its accounts pertaining to the facilities to audit by the Comptroller and Auditor General of India.
- 5.14 The concessionaire agrees to open separate bank accounts to transact business of the facilities. It further agrees that such bank accounts will not be used for any other facilities.
- 5.15 The concessionaire agrees that it would prepare annual financial statements comprising Balance Sheet, Income and Expenditure Account and Cash Flow Statement for each financial year. Such accounts will be prepared within three months of the expiry of the financial year.
- 5.16 The concessionaire further agrees that such accounts will be audited and certified by a competent chartered accountant within five months of the expiry of the financial year.
- 5.17 The concessionaire agrees that a copy of the annual financial statements, the audit report of the chartered accountant and the concessionaire's comments on the audit report will be submitted to Government of <State> within six months of the expiry of the financial year.
- 5.18 The concessionaire agrees that the authorized representative of Government of <State> on submission of a written request can inspect any financial document pertaining to the facilities. The concessionaire further commits to take corrective action on any point arising out of such inspection or any audit carried out by any of the above mentioned authorities.
- 5.19 The concessionaire on the effective date would intimate to Government of <State> in writing the names of individuals who would be responsible for maintaining the accounts.
- 5.20 The concessionaire hereby agrees that it would make all efforts and put all systems in place to ensure that money received in the facilities is spent lawfully for the purpose it is received.

## **6. Clinical and outreach services**

- 6.1 All clinical services will be led by a qualified medical officer.
- 6.2 Ailments which shall not normally require further referral/ specialist care will be treated at the facilities only. Patients will be investigated, (clinical and laboratory) treated and provided drugs free of cost. No charges of any kind will be recovered from the patients.

- 6.3 Services at the sub center (Health and Wellness Centers shall be provided by the Primary health Care team, supervised by the team at the Primary Health Centre. The sub center shall carry out the functions of outreach-Village Health and Nutrition Day (VHND), community mobilization, and support and supervision of the ASHA. Ideally the Concessionaire should be able to undertake the functions of support to the Village Health, Sanitation and Nutrition Committee and community based public health functions. If the concessionaire is not equipped to undertake such tasks, the concessionaire will be eligible to tie up with reliable organizations to provide outreach services. The concessionaire however agrees that the responsibility of providing such services will always rests with it and with no other organization.
- 6.4 The concessionaire agrees to inform Government of <State> in writing the names of such organizations with which such tie up is arranged. The names of office bearers of such organizations as also the names of individuals providing such outreach services should also be intimated to Government of <State>.
- 6.5 The concessionaire agrees to provide satisfactory replies to any queries raised by Government of <State> on any aspect of such tie ups.
- 6.6 The concessionaire agrees to terminate such arrangements forthwith without demur on instruction from State Government.
- 6.7 The concessionaire agrees that under no circumstances any of the services required to be provided would be sub contracted.

## **7. Referral Process and Eligibility**

- 7.1 Government of <State> hereby agrees to provide the concessionaire with an “information matrix” for nearest public health facilities or private facilities accredited by the state Government including their capacity in terms of existing Laboratory services, diagnostic services, and human resources available.
- 7.2 It will be the responsibility of the concessionaire to keep the Medical Officer(s) in charge informed of the information matrix. For services not available at the facilities, patients can be referred to nearest facility in accordance with the “information matrix”.
- 7.3 Both parties hereby agree that no patient will be referred to any private medical establishment either formally or informally without specific prior approval of the authorized representative of Government of <State>. Government of <State> will inform the concessionaire the name and designation of such authorized representative for the purpose of this clause.

## **8. INFORMATION AND REPORTING REQUIREMENTS**

- 8.1 The concessionaire hereby agrees to ensure that information, records and documentation necessary to monitor the agreement are maintained and are

available at all times to Government of <State> or its authorised representative for a minimum period of five years. The concessionaire hereby agrees that he and all his staff shall at all times co-operate with the reasonable processes of Government of <State> for monitoring, evaluation and carrying out quality audit and financial audit by any third party authorised by Government of <State>.

- 8.2** The concessionaire hereby agrees to maintain all relevant data and records of all patients treated at the facilities.
- 8.3** The concessionaire further agrees to maintain confidentiality of these data and records and commits that such data and records will not be shared with any third party for any purpose.
- 8.4** The concessionaire agrees that the premises of the facilities/ walls of the buildings / or any part of any equipment will not be used for advertisement or publicity for any product or organization. The authorized messages, posters and other publicity materials authorized by the Central or State Government bodies only will be displayed.
- 8.5** Government of <State> agrees that the following display in vernacular and Hindi will be allowed in big letters so that it can read from reasonable distance in vernacular and Hindi where applicable.

**Primary Health Centre < Name of the Place>**

**Run by**

**<Name of the concessionaire>**

**Agreement No <No of the Agreement>**

**Between Government of <Name of the State> and <Name of the Concessionaire>”**

- 8.6** The Concessionaire agrees to display copies of this agreement, list of medical equipment available with the facilities, stocks of drugs and consumables at prominent places in the facilities. The names of the Medical Officer and other personnel on duty must also be displayed during duty hours.

**9. STAFFING**

- 9.1** The concessionaire will have the option to continue with the Medical Officer(s) and other staff including contractual staff serving in the facilities on a day prior to the effective date. Should the concessionaire refuse this option, the State Government agrees to make alternative arrangements for such staff. This could apply to some or all of the staff. The decision will be based on mutual agreement between the Concessionaire and the staff.
- 9.2** Both sides agree to make sincere efforts to resolve issues relating to service conditions of the existing staff including contractual staff.
- 9.3** The roles of ASHA and ANMs and other voluntary staff working under any scheme of NHM would remain unchanged in respect of such facilities run by the concessionaire.

- 9.4** The Concessionaire commits to ensure that at all times, sufficient suitably trained staff will be posted in the facilities to ensure that services comply with all the statutory requirements and meet patient needs.
- 9.5 The Concessionaire agrees that it would ensure that a minimum complement of staff mentioned at Annexure A of this Agreement would be in position in the facilities.
- 9.6 The Concessionaire agrees that a record of qualifications of all staff shall be maintained and it will make such records available for inspection.
- 9.7 The Concessionaire hereby expresses its commitment to training and staff development and the maintenance of professional knowledge and competence.

## **10. PERFORMANCE**

- 10.1** A half yearly review meeting will be held and attended by appropriate levels of officials of the Government and Concessionaires to review the performance, the anticipated outcome of the agreement and future service developments and changes. Further meetings may be arranged at any time to consider significant variation in the terms or conduct of the agreement and where corrective action on either party is indicated.
- 10.2** Both the Government and Concessionaire agree to consider introduction of any further service in line with any new initiative of the government or in response to local demand which could not be anticipated earlier.
- 10.3** Both the Government and the Concessionaire agree that such additional services should be provided without extra cost. However, if it is felt by both the parties that the additional services would require additional resources/manpower, the Government agrees to consider reasonable increases in amount disbursed to the Concessionaire based on the cost of additional resources. It is agreed that the Concessionaire will be under no obligation to introduce the additional service unless a commitment to reimburse additional cost has been provided to him.

## **11 HEALTH AND SAFETY**

- 11.1** The Concessionaire agrees to adequately train, instruct and supervise staff to ensure as is reasonably practicable, the health and safety of all persons who may be affected by the services provided under the agreement.
- 11.2** The Concessionaire agrees that he would collect feedback from all in-patients and at least 25% of out patients through structured questionnaire at his cost. Responses to the questionnaire will be preserved at least for six months and would be available for scrutiny of the State Government or its authorized representative.
- 11.3** The concessionaire agrees to display telephone numbers where patients can lodge their complaints in the facilities.

## **12. DATA PROTECTION, CONFIDENTIALITY AND RECORD KEEPING**

- 12.1** All Service Users have a right to privacy and therefore all information and knowledge relating to them and their circumstances must be treated as confidential. The Concessionaire must advise all staff on the importance of maintaining confidentiality and implement procedures which ensure that Service User's affairs are only discussed with relevant people and agencies.
- 12.2** The Concessionaire shall comply with all legislations, which otherwise would have been applicable had the services been run directly by the Government agencies.

## **13. VARIATION**

- 13.1** This Service Level Agreement may not be varied unless a variation is agreed in writing and signed by all parties.

## **14. DISPUTES**

- 14.1** The agreement shall be governed by and interpreted in accordance with the laws of India for the time being in force. The Court located at the place of issue of agreement shall have jurisdiction to decide any dispute arising out of in respect of the agreement. It is specifically agreed that no other Court shall have jurisdiction in the matter.
- 14.2** Both parties agree to make their best efforts to resolve any dispute between them by mutual consultations.

## **15. ARBITRATION**

- 15.1** If the parties fail to resolve their dispute or difference by such mutual consultations within thirty days of commencement of consultations, then either the Government or the Concessionaire may give notice to the other party of its intention to commence arbitration, as hereinafter provided. The applicable arbitration procedure will be as per the Arbitration and Conciliation Act 1996 of India. In that event, the dispute or difference shall be referred to the sole arbitration of an officer as the arbitrator to be appointed by the Government. If the arbitrator to whom the matter is initially referred is transferred or vacates his office or is unable to act for any reason, he / she shall be replaced by another person appointed by the Government to act as Arbitrator.
- 15.2** Services under this agreement shall, notwithstanding the existence of any such dispute or difference, continue during arbitration proceedings and no payment due or payable by the Government shall be withheld on account of such proceedings unless such payments are the direct subject of the arbitration.
- 15.3** Reference to arbitration shall be a condition precedent to any other action at law.

**15.4** Venue of Arbitration: The venue of arbitration shall be the place from where the agreement has been issued.

## **16. TERMINATION**

**16.1** Either party may terminate this agreement by giving not less than 3 months' notice in writing to the other. This notice shall include reasons as to why the agreement is proposed to be terminated. This provision will however not be applicable for violations of Clauses 2.7 and 2.8 of this agreement.

**16.2** The Government may terminate the agreement, or terminate the provision of any part of the Services, by written notice to the Concessionaire with immediate effect if the Concessionaire is in default of any obligation under the agreement, where

- a. the default is capable of remedy but the Concessionaire has not remedied the default to the satisfaction of the Government within 30 days of at least two written advice after service of written notice specifying the default and requiring it to be remedied; or
- b. the default is not capable of remedy; or
- c. the default is a fundamental breach of the agreement

**16.3** If the Government terminates the agreement and then makes other arrangements for the provision of the Services, it shall be entitled to recover from the Concessionaire any loss that had to be incurred due to such sudden termination of agreement.

**16.4** Both the parties agree that no further payment would be made to the Concessionaire, even if due till settlement of anticipated loss as a result of premature termination of the agreement.

**16.5** The Government reserves the right to terminate the agreement without assigning any reason if services of the concessionaire create serious adverse publicity in media and prima facie evidence emerges showing negligence of the Concessionaire.

**16.6** At the time of termination, the concessionaire agrees to hand over all moveable and immoveable assets to the authorized representative of the State Government on a mutually agreed date on "as is where is" basis.

**16.7** The concessionaire agrees that no asset will be moved out of the premises or destroyed other than consumables used during the normal course of operation of the facilities, at any time during the period from the effective date to the date of termination without the prior written approval of the State Government.

**16.8** The concessionaire agrees that the date of handing over in terms of clause 16.6 above will not be more than 15 calendar days from the date of termination.

**17. Indemnity**

17.1 By this agreement, the Concessionaire indemnifies the Government of <State> against damages of any kind or for any mishap/injury/accident caused to any personnel/property of the facilities.

17.2 The Concessionaire agrees that all liabilities, legal or monetary, arising in any eventuality shall be borne by the Concessionaire.

**18. Compliance with existing laws**

18.1 The concessionaire agrees to abide by all laws of the land as will be applicable for operation and maintenance of the facilities.

**1. Signed for and on behalf of the Government of <State>**

Signed:.....

Name: .....

Designation:.....

Date:.....

**2. Signed for and on behalf of the Concessionaire:**

Signed:.....

Name: .....

Designation: .....

Date: .....

Witnesses:

1) \_\_\_\_\_

2) \_\_\_\_\_

3) \_\_\_\_\_